

Washington Suburban Sanitary Commission

14501 Sweitzer Lane • Laurel, Maryland 20707-5902

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GENERAL MANAGER
Jerry N. Johnson

March 4, 2010

Re: Request for Proposals for Solicitation No. 5773 for
Remittance Processing System Replacement

To All Interested Offerors:

Sealed Proposals are hereby invited, addressed to the Acquisition Office, Washington Suburban Sanitary Commission, for

SOLICITATION NO. 5773 FOR REMITTANCE PROCESSING SYSTEM REPLACEMENT

as described in this Request for Proposals. The Proposals will be received in the Acquisition Office of the Washington Suburban Sanitary Commission, Richard G. Hocevar Building, Eighth Floor, 14501 Sweitzer Lane, Laurel, Maryland 20707 until

WEDNESDAY, MARCH 24, 2010 AT 10:00 A.M.

Please be advised that the Commission has adopted a Minority Procurement Policy and an Ethics Policy. The award of this Contract may be subject to the terms and provisions of these Policies, copies of which are attached.

All Proposals must be submitted upon the attached forms, must give the price in figures for the proposed purchase, and must be signed by the Offeror with his/her name and address. Each Proposal must be enclosed in a sealed envelope and have written on the face of the envelope:

SOLICITATION NO. 5773 FOR REMITTANCE PROCESSING SYSTEM REPLACEMENT

If forwarded by mail, the sealed envelope containing the Proposal, marked as directed above, must be enclosed in another envelope addressed as specified above and sent to the **Washington Suburban Sanitary Commission, Acquisition Office, 8th Floor - 14501 Sweitzer Lane, Laurel, Maryland 20707-902**, preferably by registered mail. This Request for Proposal is prepared in two parts: Part One contains General Provisions. Part Two contains Special Provisions, Specifications, and all forms which the Offeror must complete, such as affidavits, bonds, and price submissions. Part One should be retained by the Offeror. A copy of Part Two should be retained by the Offeror and the original of Part Two forwarded to the Washington Suburban Sanitary Commission as indicated above.

Sincerely,

Rosa M. Wilson
Acquisition Consultant I

PART ONE

WASHINGTON SUBURBAN SANITARY COMMISSION

ACQUISITION OFFICE

REQUEST FOR PROPOSALS

SOLICITATION NO. 5773

FOR

REMITTANCE PROCESSING SYSTEM REPLACEMENT
FOR OFFERORS

GENERAL CONDITIONS AND INSTRUCTIONS FOR BIDDERS OR OFFERORS

1. **COMPLIANCE WITH COMMISSION PROCUREMENT MANUAL:** Unless stated elsewhere in this Contract, the policies and procedures established in the Commission's Procurement Manual are hereby incorporated into and made a part of this Contract by reference. The Procurement Manual is available in the Commission's Acquisition Office.
2. **DEFINITIONS:** Whenever the following words occur in this Contract, they shall have the following meanings:
 - A. COMMISSION or WSSC shall mean the Washington Suburban Sanitary Commission.
 - B. GENERAL MANAGER shall mean the General Manager of the Washington Suburban Sanitary Commission or any duly authorized agent, acting within the scope of the particular duties entrusted to such agent. Notwithstanding anything to the contrary that may be contained in this Contract, the General Manager shall be the final authority in the exercise of responsibility and in the interpretation of all provisions of this Contract.
 - C. ACQUISITION DIRECTOR shall mean the Acquisition Director of the Washington Suburban Sanitary Commission, having the authority to enter into, administer, and/or terminate contracts, as the agent of the General Manager of the Commission.
 - D. CONTRACTOR or CONSULTANT shall mean any individual, company, firm, corporation, partnership, or other organization to whom contract award is made by the Commission.
 - E. When the word DIRECTED, REQUIRED, ORDERED, DESIGNATED, PRESCRIBED, or any word of like import is used, it shall be understood that the direction, requirement, order, designation, or prescription of the General Manager is intended. Similarly, when the word, APPROVED, ACCEPTED, SATISFACTORY, PERMITTED, or any word of like import is used, it shall mean approved by, accepted by, satisfactory to, or permitted by the General Manager.
 - F. INVITATION, INVITATION FOR BIDS, or IFB shall mean the Commission's Invitation for Bids, which becomes a part of this Contract upon award by the Commission.
 - G. REQUEST, REQUEST FOR PROPOSALS, or RFP shall mean the Commission's Request for Proposals, which becomes a part of this Contract upon award by the Commission.
 - H. SOLICITATION shall mean the written or oral manner in which a procurement process is initiated. An Invitation for Bids (IFB), Request for Proposals (RFP), or a telephonic request for Bids is each a form of solicitation.
3. **IFB/RFP TERMINOLOGY:** Whenever any one or more of the General Conditions and Instructions for Bidders or Offerors applies to a Request for Proposals, the words INVITATION FOR BIDS, IFB, BID, BIDDER, or words of like import are used, they shall mean REQUEST FOR PROPOSALS, RFP, PROPOSAL, or OFFEROR, respectively.
4. **PREPARATION OF BIDS:** Each Bidder shall submit his Bid using the Invitation for Bids form provided by the Commission. Each Bidder shall state in his Bid, a unit price typewritten or written in ink for each of the separate items called for in the Invitation. Erasures or other changes to a Bid must be initialed by the person signing the Bid. For the Bid to be responsive there must be no question about what the Bidder intended.

Each Bidder is required to fill out the "Total Price" column and total his Bid, so that the total Bid figure is evident. Any error in computation will be corrected by the Acquisition Director or his representative. In case of an error between the unit price and its extension, the unit price shall govern.

Each Bid must be signed by the Bidder or his agent, and must include the address and telephone number of the Bidder.
5. **EXPLANATION OF SOLICITATION PROVISIONS TO PROSPECTIVE BIDDERS:** Any prospective Bidder must carefully examine the solicitation, its terms and General Conditions, etc. In case doubt shall arise as to the meaning or intent of anything contained in the Invitation, inquiry shall be made of the Contract Administrator before the Bid is submitted.

Any information given to a prospective Bidder by the Commission will be furnished to all prospective Bidders through the issuance of an amendment to the solicitation, if that information is necessary in submitting Bids, or if the lack of such information would be prejudicial to other prospective Bidders. Submission of a Bid shall be considered prima facie evidence that the Bidder has familiarized himself with and understands the solicitation, its terms and General Conditions, etc., under which this Contract will be awarded, administered, and performed.

6. **SUBMISSION OF BIDS:** Each Bid, with guaranty if required, must be received by the Acquisition Office in a sealed envelope prior to the time set for the receipt of Bids. The Bid shall be so marked as to clearly indicate its contents without requiring it to be opened. If submitted by mail, this sealed envelope shall be enclosed in another envelope addressed to the Acquisition Office at the address specified in the Invitation. The Bid must be delivered to the exact location designated in the IFB, including floor and/or room number, if indicated.

Upon receipt by the Acquisition Office, each bid shall be stamped with the time and date received; but it shall not then be opened. The only acceptable evidence to establish the time of receipt is the time/date stamp on the envelope or other documentary evidence of receipt maintained by the Acquisition Office. Each Bid shall be stored unopened in a secure place until the time set for bid opening.

Any Bid received after the exact time for receipt will not be considered for award. However, an exception may be made when a late Bid would have been timely but for the action or inaction of Acquisition Office personnel.

7. **MODIFICATION OR WITHDRAWAL OF BIDS:** A Bidder may modify or withdraw his Bid after it has been received by or deposited with the Commission any time prior to the exact time set for receipt of such Bids. The withdrawal must be made in person by the Bidder or an authorized representative, who must sign a receipt for the Bid.
8. **ACKNOWLEDGEMENT OF AMENDMENTS TO INVITATIONS FOR BIDS:** Each Bidder shall acknowledge receipt of any amendment to this solicitation (a) by signing and returning the amendment(s) or (b) by letter. Failure of the Commission to receive acknowledgement of the amendment(s) prior to the time and place specified for receipt of Bids may render the Bid nonresponsive.
9. **OPENING OF BIDS:** This General Condition is not applicable to Requests for Proposals.) Bids will be received until the date and time for receipt stated in the Invitation for Bids. Bids will be publicly opened and read at the place, time, and date stated. No responsibility will attach to the Commission for the premature opening of a Bid not properly addressed and identified. Bidders and their authorized agents are invited to be present at the opening of the Bids.
10. **IRREGULAR BIDS:** This General Condition is not applicable to Requests for Proposals.) Bids made on other than the documents furnished by the Commission will not be considered.

A Bid which contains minor informalities or irregularities, as determined by the Acquisition Director, may be deemed responsive. A minor informality or irregularity is one that is merely a matter of form and not of substance. It also pertains to some immaterial defect in the Bid or a variation of the Bid from the exact requirements of the Invitation that can be corrected or waived without being prejudicial to other Bidders. The Acquisition Director either may give the Bidder an opportunity to cure the informality or irregularity or waive the informality or irregularity, whichever is to the advantage of the Commission.

Irregularities which affect price, performance, quality, quantity or delivery aspects of the Bid or which limit the Bidder's liability, as determined by the Acquisition Director, shall not be deemed minor and will render the Bid nonresponsive.

11. **PERIOD FOR ACCEPTANCE OF BIDS:** In compliance with the solicitation, the Bidder agrees, if his Bid is accepted within 60 calendar days (or any extension thereof agreed to by the parties) from the date specified in the solicitation for opening of bids or the receipt of proposals, to furnish any and all goods and services upon which prices are bid at the price set opposite each item, delivered to the designated point(s), within the time specified. No bids may be withdrawn during this 60-day period.
12. **RESPONSIBILITY OF BIDDERS:** The Commission may require any Bidder to present satisfactory evidence that he has the necessary competency, capability, capacity, credit, integrity, perseverance and tenacity to complete this Contract.

13. **RIGHT TO ACCEPT OR REJECT BIDS:** The Commission hereby reserves the right to accept or reject all or part of any or all Bids, item by item, and to advertise for new Bids, as the interests of the Commission may require.
14. **DEBRIEFING:** Any unsuccessful Bidder may obtain a debriefing from the WSSC Contracting Officer. This will only be done after award of the contract and in response to a written request from the Bidder. All requests for a debriefing shall be sent to the Director of Acquisition.
15. **DELIVERY TO BE MADE A BASIS FOR AWARD:** Award may be based upon delivery as well as price, whichever serves the best interests of the Commission.
16. **SMALL, LOCAL AND MINORITY BUSINESS STATUS MAY BE A BASIS FOR AWARD:** Award may be based upon small, local and minority status in accordance with the Commission's Small, Local and Minority Business Enterprise policies, which is hereby incorporated into and is a part of this IFB/Contract by reference.
17. **SUBMISSION OF BIDDER LITERATURE AND ANY COMMISSION QUESTIONNAIRE:** Failure to submit published literature and specifications as called for in the Invitation may be cause for rejection of the Bid. Any questionnaire provided in the Invitation must be filled out completely and in a neat, legible manner. The failure to do so may cause the rejection of the Bid.
18. **ECONOMIC PRICE ADJUSTMENT:**
- A. Any language contained in the Invitation for Bids addressing "economic price adjustment" or "price escalation" shall be considered to mean price increases as well as price decreases, unless otherwise stipulated.
 - B. Where an Invitation for Bids does not contain a price escalation provision:
 - 1) Any Bid received which contains a provision for price escalation with a ceiling limitation shall be evaluated at the maximum possible escalation of the bid price;
 - 2) Any Bid received which contains a provision for price escalation without a ceiling limitation shall be rejected unless, in the judgment of the Acquisition Director, a clear basis for evaluation exists;
 - 3) Bids received which provide for price escalation based upon a method other than a percentage factor shall be rejected unless, in the judgment of the Acquisition Director, a clear basis for evaluation exists.
 - C. Where an Invitation for Bids contains a price escalation provision:
 - 1) Bids shall be evaluated on the basis of the bid prices without consideration of the allowable escalation;
 - 2) Bids which increase the ceiling limitation stipulated in the IFB or limit the deescalation provisions of the IFB shall be rejected as nonresponsive;
 - 3) Bids which delete the escalation clause shall be rejected as nonresponsive;
 - 4) Bids which decrease the ceiling limitation stipulated in the IFB shall be evaluated at the base price in the same manner as those Bids which do not reduce the stipulated ceiling limitation. If the Bidder offering a decreased ceiling limitation is ultimately awarded the Contract, the lower ceiling shall be incorporated into the Contract.
19. **PROMPT PAYMENT DISCOUNTS:** Prompt payment discounts offered will be considered in evaluating Bid prices. After award, the time for discount purposes shall be computed from the date of inspection and acceptance at destination or from the date a correct invoice is received from the Contractor, whichever date is later. Discounts for a period of less than twenty (20) days shall not be considered in determining the low Bid.
20. **MULTIPLE BIDS:** No Bidder will be permitted to offer more than one price for each item even though he believes he has two or more products that will meet specifications. If a Bidder submits more than one price for any item, all prices for that item may be rejected at the discretion of the Acquisition Director. Further, the Bid may be considered nonresponsive in its entirety and not considered for award.
21. **ALTERNATE BID:** (This General Condition is not applicable to Requests for Proposals.) Bidders who have other items they wish to offer in lieu of or in addition to that required by this proposed Contract, may submit a separate Bid. Such Bid shall be marked "ALTERNATE BID FOR CONTRACT NO. ____" on the face of

the envelope(s) and on the Pricing Page in the area indicated for exceptions. Alternate Bids shall be automatically deemed nonresponsive and may not be considered for award of this Contract. Alternate Bids will, however, be examined prior to awarding this Contract and may result in either (a) cancellation of the Invitation and rejection of all Bids to permit modification of this Invitation to include the alternate item in a rebid, or (b) the alternate item may be considered for future requirements.

22. **BID GUARANTY:** If required by the Invitation, each Bid must be accompanied by a certified check or a satisfactory Bidder's bond for the amount stated in the Invitation, payable to the Washington Suburban Sanitary Commission. If the required Bid guaranty is not submitted with the Bid, the Bid may be deemed nonresponsive.
23. **CORPORATIONS LEGALLY OPERATING WITHIN MARYLAND:** All Maryland corporations contracting with the Commission must be properly formed in accordance with Section 2-102 of the Corporation and Associations Article of the Annotated Code of Maryland. Foreign corporations must be registered to do business in accordance with Section 7-202 of the Corporation and Associations Article of the Annotated Code of Maryland in order to contract with the Commission.
24. **AFFIDAVIT OF NON-CONVICTION:** Article 16-202 of the State Finance and Procurement Article of the Annotated Code of Maryland requires each Bidder to complete an affidavit of non-conviction, stating whether or not the individual or business entity has ever been convicted of bribery. This is included on the Contractor Certification Form which must be completed and returned with bid.
25. **AFFIDAVIT OF NON-COLLUSION:** The Commission is cooperating with the U.S. Department of Justice in a program designed to preclude collusive bidding and to enforce the antitrust laws in the area of public procurement. The Bidder must complete form and submit it with his Bid.
26. **FALSE STATEMENTS AND FRAUDULENT MISREPRESENTATIONS:** Bidders must provide full, accurate and complete information as required by the solicitation and its attachments. False statements and fraudulent misrepresentations by the Bidder will render any resultant Contract voidable by the Commission.

The remedy set forth herein is in addition to any other rights and remedies provided by law or under any other provision of the resultant Contract.

27. **CONTRACT AWARD--IFB:** After Bid opening, a Contract will be awarded by the Commission, by written acceptance within the time for acceptance specified in the Bid or in any extension thereof agreed to by the parties. Unless all Bids are rejected or the solicitation is canceled, the Contract is to be awarded to the lowest responsible and responsive Bidder whose Bid meets the requirements and criteria set forth in the solicitation. The Bid as submitted shall serve as the final Contract acceptance document. No Bid shall be considered binding upon the Commission until a Contract has been awarded. A written acceptance of a Bid mailed or otherwise furnished to the successful Bidder shall result in a binding Contract, without further action by either party.
28. **FURNISHING OF (a) COST OR PRICING DATA AND (b) RELATED CERTIFICATE:** Each Contractor shall submit cost or price information to the Acquisition Director for (a) any negotiated Contract over \$100,000 or (b) any change order or modification in any amount of any Contract over \$100,000. Such Contractor shall also certify that, to the best of his knowledge and belief, the information submitted is current, accurate, and complete. Such "Certificate of Current Cost or Pricing Data" shall be effective as of the date the parties reach agreement on price.

If a negotiated Contract, or any covered Contract change order or modification, was increased in price because the Contractor furnished cost or pricing data that was not current, accurate, and complete as certified in the Certificate of Current Cost or Pricing Data, then the price or costs shall be reduced accordingly and the Contract shall be modified to reflect the reduction.

The remedies provided in this General Condition are in addition to any other rights and remedies provided by law or under any other provision of this Contract.

The Contractor shall complete the form, "Certification for Cost or Pricing Data," if applicable, as found in Part Two of this solicitation.

29. **BOND SUBMISSION:** The Bidder to whom this Contract is awarded shall submit any required Bond(s) to the Acquisition Office within 14 calendar days after notification of award by the Commission. Failure to submit the required bond(s) within the time period specified may be cause for termination for default.
30. **CONTRACT SOLE AGREEMENT:** This Contract constitutes the sole and entire agreement with the Contractor.

31. **CONTRACT MODIFICATIONS:** No modifications, alterations or changes to the terms of this Contract shall be valid or binding upon the Commission unless made in writing and signed by the Acquisition Director. Such modifications shall be made by formal Contract Amendment.
32. **SUBCONTRACTING OR ASSIGNMENT:** The benefits and obligations hereunder shall inure to and be binding upon the parties hereto and neither this Contract nor the obligations or services to be performed thereunder shall be subcontracted, assigned, or otherwise disposed of, either in whole or in part, except with the prior written consent of the Acquisition Director. Written consent of the Commission's Acquisition Director is also necessary for substitution of a previously approved subcontractor or assignee.
33. **UNIFORM COMMERCIAL CODE APPLICATION:** The parties to this Contract recognize that the provisions of the Uniform Commercial Code do not normally apply to the performance of services as distinguished from transactions in goods. However, the parties explicitly agree that for purposes of this Contract the provisions of the Uniform Commercial Code shall apply and any dispute arising under this Contract shall be resolved in accordance with the provisions of the Code, unless the UCC provisions are in conflict with the General Conditions and Instructions set forth herein or any documents or provisions incorporated by reference.
34. **PATENTED DEVICES, MATERIALS AND PROCESSES:** If the Contractor is required or desires to use any design, device, material, or process covered by letters of patent or copyright, he shall provide for such use by suitable legal agreement with the patentee or owner and a copy of such agreement shall be filed with the Commission. The Contractor shall indemnify and save harmless the Commission and its officers, agents and employees against liability, including costs, for infringement of any patent, trademark or copyright arising out of the manufacture or delivery of supplies, the performance of services, or the construction, alteration, modification or construction work (i.e., repair of real property), under this Contract, or out of the use and disposal by or for the account of such supplies or construction work.
35. **PROTESTS AND DISPUTES:** Any protest concerning the solicitation or the Contract award, and any dispute concerning performance under this Contract which is not disposed of by agreement shall be decided by the Acquisition Director.
- A. Protests
- Protests shall be made in writing to the Acquisition Director and shall be filed within 15 calendar days after the protestor knows or should have known of the facts giving rise thereto. Protests based upon solicitation improprieties, however, will not be accepted after the time and date for bid opening or the closing date for the receipt of proposals.
- A protest is considered filed when received by the Acquisition Director. The written protest shall include the name and address of the protestor, identification of the Acquisition, a statement of the specific reasons for the protest and supporting exhibits, unless not available within the filing time, in which case the expected availability date shall be indicated.
- B. Disputes
- All claims relating to this Contract shall be submitted to and decided by the Acquisition Director. A "claim," as used in this General Condition, means a written demand seeking the payment of money, the adjustment or interpretation of Contract provisions, or other relief relating to the Contract.
- The Contractor shall proceed diligently with the performance of this Contract pending final resolution of any claim or appeal relating to the Contract and will comply with any decision of the Acquisition Director.
- C. Decision on The Protest or Dispute
- The Acquisition Director's decision on the protest or dispute shall be evidenced in writing and mailed via certified mail or otherwise furnished to the Bidder or Contractor. The decision of the Acquisition Director shall be final and conclusive unless within 15 calendar days from receipt of the decision, the Bidder or Contractor mails or otherwise furnishes a written appeal to the Mission Support Team Chief. The decision of the Mission Support Team Chief shall be final and binding. The Commission may suspend award of a solicitation or performance of the Contract pending its decision on a protest if it believes that it is in the Commission's best interests to do so.
- D. Appeal of the Acquisition Director's Decision

Appeals of the Acquisition Director's decision should be addressed to: Mission Support Team Chief, Washington Suburban Sanitary Commission, c/o Acquisition Director, 14501 Sweitzer Lane, Laurel, Maryland 20707.

This Protests and Disputes General Condition does not preclude consideration of legal questions in connection with the decision provided.

36. **CHANGES:** The Acquisition Director may, at any time, without prior consent of the Contractor, and without notice to sureties, by written order designated or indicated to be a change order, make any change in the work within the general scope of this Contract.

If the Contractor intends to assert a claim for an equitable adjustment under this General Condition he must submit his claim for adjustment within thirty (30) calendar days after receipt of a written change order.

If the change order causes an increase or decrease in the cost of, or the time required for, performance of any part of the work under this Contract, the Acquisition Director, upon receipt of the Contractor's claim, may make an equitable adjustment in the Contract price, the delivery schedule, or both, and shall modify the Contract in writing.

Failure of the parties to agree to an adjustment shall be a dispute under the "Protests and Disputes" General Condition. However, nothing in this General Condition shall excuse the Contractor from proceeding with the Contract as changed. By proceeding with the work, the Contractor shall not be deemed to have prejudiced any claim for additional compensation, or an extension of time for completion.

No claim by the Contractor for an equitable adjustment hereunder shall be allowed if asserted after final payment under this Contract.

37. **MATERIAL AND WORKMANSHIP:** All equipment, materials, and components incorporated into the work covered by this Contract shall be new and of the most suitable grade for the purpose intended, unless otherwise specifically provided in this Contract. References in the specifications to equipment, materials, articles, or patented processes by trade name, make, or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition. The Contractor may, as his option, use any equipment, material, article, or process that, in the judgment of the Acquisition Director, is equal to that named in the specifications, unless otherwise specifically provided in this Contract.

All work under this Contract shall be performed in a workmanlike manner. The Acquisition Director may require, in writing, that the Contractor remove from work any employee the Acquisition Director deems incompetent, careless, or otherwise objectionable.

38. **AUTHORITY OF THE GENERAL MANAGER AND THE ACQUISITION DIRECTOR:** The General Manager, with the assistance of the Acquisition Director, shall decide all questions in relation to this Contract and the Contractor's obligations and performance thereunder.

39. **PAYMENTS:** Payment will be made upon receipt of a properly executed invoice(s) and in accordance with the provisions of this Contract.

40. **TAXES:** The Commission is exempt from all federal excise and state sales and use taxes, including the District of Columbia Sales and Use Taxes. Tax exemption documentation will be furnished to the Contractor as necessary.

41. **DELAY OF WORK:** If the performance of all or any part of the work of this Contract is delayed or interrupted (a) by an act of the Acquisition Director in the administration of this Contract that is not explicitly or implicitly authorized by this Contract, or (b) by a failure of the Acquisition Director to act within the time specified in this Contract, or within a reasonable time if not specified, an adjustment (excluding profit) shall be made for any increase in the cost of performance of this Contract caused by the delay or interruption and the Contract shall be modified in writing accordingly. Adjustment shall also be made in the delivery or performance dates and any other Contractual provision affected by the delay or interruption.

However, no adjustment shall be made under this General Condition for any delay or interruption to the extent that performance would have been delayed or interrupted by any other cause, including the fault or negligence of the Contractor, or for which an adjustment is provided or excluded under any other provision of this Contract.

A claim under this General Condition shall not be allowed (a) for any costs incurred more than twenty (20) calendar days before the Contractor shall have notified the Acquisition Director in writing of the act or failure to act involved, and (b) unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the delay or interruption, but not later than the day of final payment under the Contract.

42. **SUSPENSION OF WORK:** The Commission may, at any time, suspend, delay, interrupt or stop the performance of any or all of the work of this Contract by written notice to the Contractor. Suspension of work orders shall not exceed ninety (90) calendar days and, as soon as feasible after a suspension of work order is issued, either the Contract will be terminated or the suspension of work order will be canceled or extended in writing for a reasonable time beyond the period specified in the order. If an extension of the suspension of work order is necessary, it must be evidenced by a unilateral written modification to the Contract issued by the Commission.

In the event of such suspension of work for an unreasonable period of time, all allowable costs (excluding profit) which are deemed by the Acquisition Director as reasonably and necessarily incurred by the Contractor in suspending the work shall be paid by the Commission, including all costs incurred during the period of suspension and additional costs incurred in reactivating the work. Such payment shall not duplicate costs included under any prior progress payments. The Contractor must (a) itemize the costs involved, (b) provide satisfactory documentation as required by the Commission, and (c) demonstrate that such work as was provided during the suspension was in direct support of overall work to be performed.

Both parties also recognize that the Commission may implicitly suspend the work by reasonable delays in its review, comment and action on the submitted data, plans, reports and other documents transmitted to the Commission, for which there shall be no additional compensation.

The Commission's right to suspend this Contract is in addition to and not in substitution for the Commission's right to terminate as stated herein.

43. **ETHICS:** Personnel of the Acquisition Office shall be guided in their actions by the WSSC Code of Ethics; Resolution No. 2003-1669 adopted June 11, 2003. Additionally, standards for ethical, professional procurement behavior as established by the Institute for Supply Management (formally NAPM) entitled Principles and Standards of "Ethical Supply Management Conduct" are to be followed. Both documents are available for review in the Acquisition Office. See abstract in the attachment section entitled "Ethics in Public Contracting".

44. **COMMISSION EMPLOYEES NOT TO BENEFIT:** No officer or employee of the Commission shall be admitted to any share or part of this Contract or any benefit that may arise therefrom. Also, any Contract entered into by the Commission in which any officer or employee of the Commission shall be personally interested shall be void, and no payment shall be made thereon by the Commission or any officer thereof.

45. **BRIBERY:** A bribe or attempt to bribe any officer or employee of the Commission by the Contractor shall be considered as execution of this Contract in bad faith, and shall thus empower the Commission to (a) terminate the Contract and/or have the work completed by another Contractor and (b) deduct the entire cost thereof from any monies due or to become due the Contractor under this Contract.

Similarly, it shall be considered an execution of this Contract in bad faith for a person to be retained, or to retain a person, to solicit or secure a Commission Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.

The rights and remedies of the Commission provided in this General Condition are non-exclusive and are in addition to any other rights or remedies provided by law or under any other provision of the Contract.

46. **HOLIDAYS:** The Commission observes the following holidays: New Year's Day, Martin Luther King Jr.'s Birthday, President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day and the day after, Christmas Day, General Election Day (even numbered years) and Inauguration Day. Access to Commission facilities will be denied on these days. It is the responsibility of the Contractor to determine on which dates these holidays are observed by the Commission.

47. **FAILURE TO PERFORM:** Failure of the Contractor to (a) deliver or perform the required goods or services within the time specified or within a reasonable time as interpreted by the Acquisition Director or (b) to make replacements of rejected articles immediately or as directed by the Acquisition Director shall constitute authority for the Acquisition Director to purchase in the open market goods or services of comparable grade to replace the goods or services not delivered or rejected. On all such purchases, the Contractor

shall reimburse the Commission within a reasonable time as specified by the Acquisition Director for any expense incurred in excess of Contract prices, including any administrative costs.

Should public necessity demand it, the Commission reserves the right to use or consume articles delivered or services performed which are substandard in quality, subject to an adjustment in price to be determined by the Acquisition Director. The Contractor shall not be liable for any excess costs if acceptable evidence has been submitted to the Acquisition Director that failure to perform this Contract was due to causes beyond the control and without the failure or negligence of the Contractor.

The remedies provided in this General Condition are in addition to any other rights and remedies provided by law or under any other provisions of this Contract.

48. TERMINATION OF CONTRACT:

- A. Termination for Default: The performance of work under this Contract may be terminated by the Acquisition Director in accordance with this General Condition, in whole or in part, in writing whenever the Commission shall determine that the Contractor has failed to meet the performance requirement(s) of this Contract.

The Commission has the right to terminate for default if:

- 1) the Contractor fails to make delivery of acceptable supplies or to perform the services in an acceptable manner within the time specified in this Contract; or
- 2) the Contractor fails to satisfactorily perform any other term or condition of this Contract; or
- 3) the Contractor fails to make progress so as to endanger performance of this Contract.

Any termination for default shall be effected by written notice to the Contractor of the termination, specifying the acts or omissions of the Contractor constituting the default, that the Contractor will be held liable for any excess costs for those supplies or services, that the Contractor has the right to appeal such decision under the Protests and Disputes General Condition, and the effective date of the termination.

Termination for default under this Contract may result in debarment not to exceed three (3) years.

The Contractor shall not be liable if the failure to perform the Contract arises from causes beyond the control and without the fault or negligence of the Contractor. The Contractor will be liable for default of any subcontractor, regardless of tier. However, if the cause is beyond the control of both the Contractor and subcontractor and without the fault of either, the Contractor will not be liable for the failure to perform, unless the supplies or services could have been obtained from other sources in sufficient time for the Contractor to meet the required delivery or performance schedule.

After a termination for default, the Commission may acquire, under the terms and in the manner the Acquisition Director considers appropriate, supplies or services similar to those terminated, and the Contractor will be liable to the Commission for the excess cost of those supplies or services. However, the Contractor shall continue the work not terminated.

All finished or unfinished supplies or services provided by the Contractor and not yet delivered, rendered, and accepted by the Commission shall, at the Commission's option, become the Commission's property. The Commission shall pay the Contractor fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by the Contractor's breach. If the Contractor fails to agree with the Acquisition Director's decision of what is fair and equitable compensation, the Contractor may appeal the Acquisition Director's decision under the "Protests and Disputes" General Condition. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and the Commission can affirmatively collect such damages. The term "damages" as used in this paragraph includes, but is not limited to, attorney's fees of fifteen percent (15%).

If after termination it is found that the Contractor was not in default under the provisions of this General Condition, or that the delay was excusable, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the "Termination for Convenience" sub-paragraph of this General Condition.

The rights and remedies of the Commission in this General Condition are in addition to any other rights and remedies provided by law or under any other provision of this Contract.

B. Termination for Convenience: The performance of work under this Contract may be terminated by the Acquisition Director in accordance with this General Condition, in whole or in part, whenever, in his sole discretion, it is in the Commission's best interests. Any such termination shall be effected by a written notice of termination to the Contractor specifying the extent to which performance of the work under the Contract is terminated and the effective date of the termination.

- 1) After receipt of a notice of termination and except as otherwise directed, the Contractor shall:
 - a) stop all work on the date indicated and to the extent specified;
 - b) place no further orders or subcontracts for materials, services or facilities except as necessary for the completion of such portion(s) of the work not terminated;
 - c) terminate any and all vendors' and subcontractors' agreements and, with the approval of the Commission, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts;
 - d) if directed by the Commission, transfer title and deliver to the Commission the Contractor's work in process, finished supplies and other material produced or acquired for the work terminated and any completed or partially completed plans, drawings, information and other property that, if the Contract had been completed, would be required to be furnished to the Commission. If the Commission does not exercise this right, the Contractor shall use his best efforts to sell such supplies and materials in accordance with the standards of Uniform Commercial Code Section 2-706;
 - e) complete performance of the work not terminated;
 - f) submit to the Acquisition Director a termination claim in the form prescribed by the Acquisition Director. The Contractor shall not be reimbursed for and waives any right to receive anticipatory profits not earned up to the effective date of termination. The Contractor shall have the right to appeal under the General Condition of this Contract entitled, "Protests and Disputes," any determination made by the Acquisition Director except the right to terminate for convenience or lack of appropriation.
- 2) The Contractor shall be entitled to recover the following costs as a result of termination for convenience:
 - a) the Contract price for completed supplies or services accepted by the Commission but not previously paid for;
 - b) costs already incurred in the performance of the work terminated;
 - c) a fair and reasonable profit on the costs incurred in the performance of the work terminated;
 - d) the reasonable costs of settlement expenses for the work terminated; and
 - e) the cost of settling and paying any termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the Contract.
- 3) In arriving at the amount due the Contractor, the following shall be deducted:
 - a) all unliquidated, advance or other payments to the Contractor under the terminated portion of the Contract; and
 - b) any claim which the Commission has against the Contractor under this or any other Contract.

- C. Termination for Lack of Appropriation: If funds are not appropriated or if funds are not otherwise made available to the Commission for continued performance of this Contract for any fiscal period covered by this Contract, this Contract shall be automatically terminated as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; however, this will not affect either the Commission's rights or the Contractor's rights under any other termination provision in this Contract. The effect of termination of this Contract under this General Condition will be to discharge both the Commission and the Contractor from future performance of this Contract, but not from their obligations existing at the time of termination. The Contractor shall be reimbursed for any nonrecurring costs incurred but not amortized in the price of the commodities and/or services delivered under this Contract.
49. **GOVERNING LAW:** This Contract shall be governed by and construed according to the laws of the State of Maryland.
50. **RIGHT TO AUDIT:** The Contractor shall retain and maintain all books, accounting records and documents relating to the supplies or services to be delivered or rendered under this Contract and shall make them available at all reasonable times for inspection and audit for compliance with the requirements of this Contract, including those concerning the Commission's Minority Procurement Policy, if applicable. The accounting records and all supportive documentation shall be maintained in such a manner that they will provide for a separation between direct and indirect costs. Should the Commission permit subcontracting, a similar "Right to Audit" provision, approved by the Commission, shall be included in all subcontracts. Such records and access thereto shall be maintained for a period of four (4) years following completion and acceptance of the work performed under this Contract.
51. **COMPLIANCE WITH LAWS:** The Contractor hereby represents and warrants:
- A. that it is qualified to do business in the State of Maryland and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;
 - B. that it is not in arrears with respect to the payment of any monies due and owing the Commission, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Contract;
 - C. that it shall comply with all Federal, State and local laws, ordinances, rules, and regulations applicable to its activities and obligations under this Contract; and
 - D. that it shall procure, at its own expense, all licenses, permits, insurance, bonding, and governmental approval, if any, necessary to the performance of its obligations under this Contract.
52. **WARRANTY FOR PROFESSIONAL SERVICES:** To the extent that professional services are provided under this Contract, the Contractor acknowledges that he is aware that the services provided herein are furnished to the Commission with the understanding that the Commission, in accepting these services, relies upon the Contractor's particular skill and expertise. Accordingly, the Contractor warrants that the services provided are of a professional quality and that such services meet or exceed the prevailing practices and standards of the trade from which the services are provided.
53. **INDEMNIFICATION:** The Contractor shall defend, indemnify and save harmless the Commission from all suits, actions and damages or costs of every name and description to which the Commission may be subject or put by reason of injury to persons (bodily injury including death, or any personal injury) or property damage as a result of the work, to the extent caused or alleged to be caused, by the negligence, carelessness or willfulness on the part of the Contractor, his servants or agents, or other cause. Monies due, or to become due, the Contractor under the Contract as may be considered necessary by the Commission shall be retained by the Commission until such suits or claims for damages shall have been settled or otherwise disposed of and satisfactory evidence to that effect has been furnished to the Commission.
54. **CONTRACTOR DAMAGE:** Should any damage to property be caused by the Contractor or his employees or agents, the Contractor will be required to make repairs immediately. The Commission may, however, elect to make repairs or replacement of damaged property and deduct the cost of such from monies due or to become due the Contractor under this or any other Contract with the Commission.
55. **FORCE MAJEURE:** Neither party shall be considered in default in the performance of its obligations hereunder to the extent that performance of such obligations is delayed, hindered or prevented by any cause which is beyond the reasonable control of such party (hereinafter called "Force Majeure"). Force Majeure includes but is not limited to any of the following, if reasonably beyond the control of the party claiming Force Majeure: delays caused by the other party, war (declared or undeclared), blockades, hostilities,

riots, strikes, lockouts or other labor disturbances, epidemics, fires, storms, delays or interruptions in transportation, or any laws, regulations or ordinances of any government, governmental agency or court having or claiming to have jurisdiction over any part of the Contract, or any other causes (whether or not of kinds specifically mentioned herein). Notwithstanding anything in this Contract, Force Majeure does not include the Contractor's failure to obtain the necessary permits, licenses, exceptions, or other authorizations required to perform this Contract.

Either party hereto shall give notice promptly within seven (7) calendar days of the nature and extent of any Force Majeure claimed to delay, hinder, or prevent performance under this Contract. Failure to do so shall constitute a waiver of any claim hereunder.

56. **PUNITIVE DAMAGES:** In any action by the Contractor against the Commission or its agents, there shall be no liability for punitive damages.
57. **PUBLIC INFORMATION ACT NOTICE:** Bidders must specifically identify those portions of their bids, if any, which they deem to contain confidential or proprietary information or trade secrets and must provide any justification why such materials, upon request, should not be disclosed by the Commission under the Maryland Public Information Act, State Government Article, Sections 10-611, et. seq., of the Annotated Code of Maryland.
58. **PROVISION FOR OTHER AGENCIES:** Unless expressly stated otherwise in his Bid, the Bidder agrees that he will make available to other governmental agencies, as indicated below, the goods and/or services indicated herein at the same prices, terms and conditions. This provision may be exercised by Montgomery County, Montgomery College, Maryland-National Capital Park and Planning Commission, municipalities and agencies of Montgomery County, Montgomery County Public Schools, Prince George's County, Prince George's County Public Schools, municipalities and agencies of Prince George's County, State of Maryland, agencies of the State of Maryland, and any participating members of the Metropolitan Washington Council of Governments.
59. **CONTRACTOR ABUSE, USE, SALE OR POSSESSION OF DRUGS OR INTOXICANTS:** The use, possession, sale or distribution of drugs or intoxicants by the Contractor, Subcontractor, or any of their employees while on Commission premises or while actively representing or performing work for the Commission is prohibited. It shall be the responsibility of the Contractor to prevent such activities and to remove any employee or subcontractor employee whose ability to perform appears to be affected by the use of drugs or intoxicants. Failure of the Contractor to comply with this provision may result in termination of the Contract.
60. **SMOKING:** It shall be the responsibility of the Contractor to observe the conditions of the Commission's Smoking Policy within Commission-operated facilities and within Commission-owned motor vehicles. The Project Manager will indicate to the Contractor the restricted areas. Failure to comply with the provisions of the policy may result in removal of the Contractor's employees or termination of the contract.
61. **LEGAL ADDRESS:** The address given in the Bid shall be the legal address of the Contractor. Such address may be changed at any time by notice in writing delivered to the Acquisition Director. The mailing of any notice to this legal address, postage pre-paid to the Contractor, shall be deemed to be a legal and sufficient service upon the Contractor.
62. **SECURITY:** Prior to beginning work on any Washington Suburban Sanitary Commission project, Contractor must complete and submit to the Commission a completed background investigation, to include work, driving and criminal history, for all participants in the project, regardless of whether subjects will be participating in the project at Commission facilities or off-site. Contractor shall submit original results of background investigations to the Commission's Contract Administrator. Copies will not be accepted. Background investigations shall be completed by investigative agencies, which have been approved by the Commission in advance. Investigative results will be reviewed by the Commission to determine the suitability to work on Commission property or projects. Like investigations must be submitted for all replacement participants prior to beginning work. The Commission reserves the right to reject any employee, sub-contractor or the Contractor as a result of the findings of background investigations.

Commission will additionally be provided with the name, address, home phone number, and date of birth for all the Contractor's project participants prior to the project's commencement. The list shall be updated regularly to accurately reflect the current complement.

The Contractor's project participants shall be issued photo identification cards. Identification cards must be worn at all times while on any Commission property. Contractor employees found on-site without proper identification will be immediately removed from Commission property. The design of identification cards shall be reviewed and approved by the Commission prior to issuance. Identification cards for employees who are no longer associated with the project, for any reason, will be immediately recovered

by the Contractor. The Contractor is responsible to control and inventory all identification cards issued so that cards are not obtained or used by unauthorized individuals.

All project participants needing either electronic or hardcopy documents dealing with critical facilities or sensitive information will be required to make application with, and receive approval from the Commission prior to receiving this information. Permission to receive said documents (herein referred to as "sensitive") will pertain only to the individual approved. Sensitive documents received from the Commission must be handled consistent with the terms of non-disclosure required for application. Contractor is responsible to restrict use of sensitive documents to project participants only and shall take appropriate measures to prevent distribution of sensitive documents to anyone inside or outside of the Contractor's company except Contractor's project participants. After completion of project, all sensitive documents remaining in the Contractor's possession shall continue to be governed under the terms of non-disclosure and must continue to be stored in a secure manner.

- 63. EQUAL OPPORTUNITY EMPLOYER:** Contractor and Consultant hereby represents and warrants: (A) that it is an Equal Opportunity Employer and does not discriminate in any manner against any employee or applicant for employment on the basis of sex, race, creed, color, age, mental or physical handicap, sexual orientation, or national origin; and (B) that a similar non-discrimination clause will be included in any subcontract executed as a result of this Contract.
- 64. ORDER OF PRECEDENCE:** In the event of a conflict between or among the provisions of this Contract, the following order of precedence shall govern:
- A. The Signature Page
 - B. The Pricing Page(s)
 - C. The Small Local Business Enterprise Policy; or
 - D. The Minority Business Enterprise Policy
 - E. The Special Provisions
 - F. The Specifications
 - G. The General Conditions
 - H. The Procurement Manual

PART TWO

WASHINGTON SUBURBAN SANITARY COMMISSION

ACQUISITION OFFICE

REQUEST FOR PROPOSALS

FOR

SOLICITATION NO. 5773

FOR

REMITTANCE PROCESSING SYSTEM REPLACEMENT

NAME OF OFFEROR: _____

OFFERORS ARE CAUTIONED TO CHECK THEIR PROPOSAL VERY CAREFULLY TO COMPLY WITH THE NOTICE TO PROSPECTIVE OFFEROR LETTER INCLUDED WITH THE SOLICITATION:

PROPOSAL DUE DATE AND TIME: Wednesday, March 24, 2010 at 10:00 a.m.

TABLE OF CONTENTS
PART TWO
SPECIAL PROVISIONS
FOR
SOLICITATION NO. 5773
FOR
REMITTANCE PROCESSING SYSTEM REPLACEMENT

<u>Clause No/Title</u>	<u>Page#</u>
1. Background	4
2. Scope	4
3. Contract Administrator	5
4. Project Manager	5
5. Project Overview	5
6. Project Objective	5
7. Business Constraints	6
8. Glossary	6
9. Solution Overview	7
10. Proposed Business Process (Solution Features)	10
11. Assumptions	11
12. Dependencies	11
13. Business Requirements	11
14. Acceptance	18
15. Warranty	19
16. Maintenance	19
17. Rules of Engagement	21
18. Exclusion	21
19. Dissemination of Information	21
20. Ownership Rights	21
21. Intellectual Property Copyright	21
22. Subcontracting	22
23. Submission of Proposals	24
24. Proposal Evaluation	24
25. Evaluation Criteria	24
26. References	27
27. Interviews	28
28. Offer and Acceptance Period	28
29. Contract Agreement	28
30. Contract Term	28
31. Conditions of Award	28
32. Termination	28
33. Basis of Award	28
34. Notice of Award	28
35. Notice to Proceed	28
36. Payment	28

37.	Invoices	29
38.	Insurance	29
39.	Security	29

Documents/Forms

Pricing Pages.....	30
Signature Page.....	31
Contract Certification Affidavit	32
Insurance Requirements	34
References	36
Minority Business Enterprise Policy.....	38
Small Local and/or Minority Business Subcontracting Certification.....	44
Ethics in Public Contracting.....	45

SPECIAL PROVISIONS
FOR
SOLICITATION NO. 5773
FOR
REMITTANCE PROCESSING SYSTEM REPLACEMENT

- 1. BACKGROUND:** The Washington Suburban Sanitary Commission (Commission) is one of the few combined water and wastewater public utilities in the nation, serving two counties in Maryland - Montgomery and Prince George's. The utility serves nearly 1.7 million customers across a 1,000 square mile district. The Commission employs nearly 1,500 employees and has an annual budget of about \$750 million (USD).

The Commission dispatches approximately 140,000 (One Hundred Forty Thousand) printed bills each month to its customers (the rate payers) for water and wastewater services, and processes up to nearly 5,000 (Five Thousand) payments (i.e. 5,000 checks and 5,000 coupons) at its in-house 'remittance processing' facility. During certain high volume processing days (usually beginning of the month and towards month-end) the Commission could process up to 12,000 checks and 12,000 coupons per day.

The existing remittance processing system was procured and deployed at the Commission in 1998 and although serviceable, the existing legacy remittance processing system is not equipped to adopt the technological advancements of the highly evolved remittance processing systems available today. Consequently, to improve its business operations and take advantage of technological advancements to minimize cost, the Commission has decided to replace the existing legacy remittance processing system.

- 2. SCOPE:** The Commission's Remittance Processing Replacement initiative aims to:

- Replace existing remittance processing hardware/equipment and software
- Replace existing mail processing hardware/equipment and software
- Implement all-in-one mail-room extraction and remittance processing solution, with integrated image capture and retention capability
- Provide groundwork to facilitate implementation of Remote Deposit capabilities using ACR or Check 21 processing

Solicitation Timeline	
March 4, 2010	Solicitation posted on the Commission's Centralized Bidder's Registration (CBR) System
March 15, 2010	Last day to submit questions (must be submitted in writing by 5:00 p.m.)
March 17, 2010	Answers to questions posted on CBR

March 24, 2010	Proposals due
April 13, 2010	Interviews, if necessary
The above dates are subject to change at the sole option and discretion of the Commission	

Questions to this solicitation may be submitted in writing by email to Rosa Wilson, Contract Administrator at rwilson@wsscwater.com prior to **March 15, 2010 at 5:00 p.m. No additional questions will be accepted or addressed by the Commission after this date and time.**

Responses to all questions will be posted on the Commission's Centralized Bidder's Registration (CBR) system by March 17, 2010.

Proposals may be submitted at any time prior to the due date and in accordance with the requirements set forth in this document. All submitted copies of proposals shall become the property of the Commission.

The Commission will evaluate the written responses to this solicitation to select the vendor whose approach represents the best overall value to the Commission in terms of best fit by experience, approach to the project, current capability, vendor's past performance, and overall cost.

3. **CONTRACT ADMINISTRATOR:** This Contract will be administered by Rosa Wilson, Acquisition Consultant I, 14501 Sweitzer Lane, Laurel, Maryland 20707-5902, telephone number (301) 206-8040; electronic mail address, rwilson@wsscwater.com. Question pertaining to this Contract, before and after award, shall be directed to Ms. Wilson.
4. **PROJECT MANAGER:** The Contract will be performed under the direction, inspection and supervision of the Commission's Project Manager who will be identified after award of solicitation. Any reference to Project Manager in this solicitation shall mean the Commission's Project Manager or designated representative.
5. **PROJECT OVERVIEW:** Although, the existing remittance processing system is capable of handling the Commission's day-to-day requirement it is a legacy system running on legacy software. Unlike the latest sophisticated hardware and software, the existing remittance system is incapable of handling large volumes at faster pace executed with optimal computerized precision. Furthermore, the existing remittance system uses separate equipments for mail processing and remittance processing which are not designed for the most efficient workflow. With the existing legacy remittance system the Commission is limited in its technical and infrastructure ability to adopt the modernized remittance technologies; such as, Remote Deposit capability that can improve Commission's business processes at effective cost.

With the successful execution of the Remittance System Replacement initiative the Commission intends to deploy an industry-qualified advanced remittance processing hardware and software with integrated mail-room capabilities to improve business operational processes, thereby, maximizing investment and minimizing cost.

6. **PROJECT OBJECTIVE:** With the successful implementation of the Remittance Processing Replacement initiative, the Commission aims to achieve the following benefits:
 - Progress to latest sophisticated technology, i.e. vendor supported versions of hardware/equipment and software

- Obtain efficiency in business operational processes by performing uninterrupted mail-room extraction and remittance activities, at a faster speed in reduced time
 - Achieve high-level of automation for improved business operational processes; for example, minimize manual intervention for validation and verification, and adjustment activities thereby maximize staff expertise
 - Achieve improved check transfer time to the bank for faster credit of funds, with the possibility of added advantage of negotiating multiple deposits option with our bankers
 - Equip technology infrastructure to implement ARC and or Check 21 processing, seamlessly, when the Commission is ready to adopt the Remote Deposit capabilities
 - Reduce overall operating costs (equipment maintenance cost, energy cost, etc)
7. **BUSINESS CONSTRAINTS:** An attempt to address the Commission’s business constraints, documented below, will result in deploying the most optimal solution that meets all the Commission’s requirements for the proposed remittance processing system.
- Inability to update user account information in Customer Support Information System (CSIS): With the existing remittance processing system, the bill payment updates for window transactions are merely flagged within the software interface however; the updates are not reflected within the CSIS database until the batch jobs are executed.
 - Sequence Numbering process for window transactions: Due to the limitations of the existing remittance processing system the transaction sequence number cannot be assigned to the bill payments window transactions and/or tallied in the CSIS database until the batch jobs are executed.
 - Efficient Batch Management: The Remittance staff runs multiple batch jobs to process different types of check payment transactions. A single-pass processing system with intelligence to execute various types of transactions within a common batch will improve efficiency by reducing batch jobs.

8. GLOSSARY:

A. Proposed Remittance Processing System:

Proposed Remittance Processing System implies mail-room extraction hardware and software, all remittance processing hardware (including check and stub processor(s) and cashiering equipment) and all software.

B. Awarded vendor:

Awarded vendor is the entity who has been awarded the contract to procure and implement the proposed remittance processing system at the Commission.

C. Coupon:

The portion of the bill - containing customer account information and amount - that is returned with the check is referred to as the 'coupon.'

D. Check:

For the purpose of this document, the word 'check' implies bank account checks, money orders, traveler's checks and Western Union checks.

E. Cash Letter:

A report of the payment transactions processed in a specific batch job that is sent to the bank with the physical checks. A cash letter lists the total number of transactions, transaction amount, transaction ID, batch ID, check number and the sum total amount of all transactions in a batch job.

F. Cash Letter Recap Report:

A summary of all batch jobs executed for that day. A cash letter recap lists each batch job, total number of payments in batch job, batch amount, batch ID and the grand total of all the batch jobs.

G. Substitute Coupon:

Document used for payment stub created by the Revenue Unit staff when the original bill payment coupon is not available. Sometimes, even an envelope containing payment check is used as a substitute coupon.

9. SOLUTION OVERVIEW:

A. Current Business Process

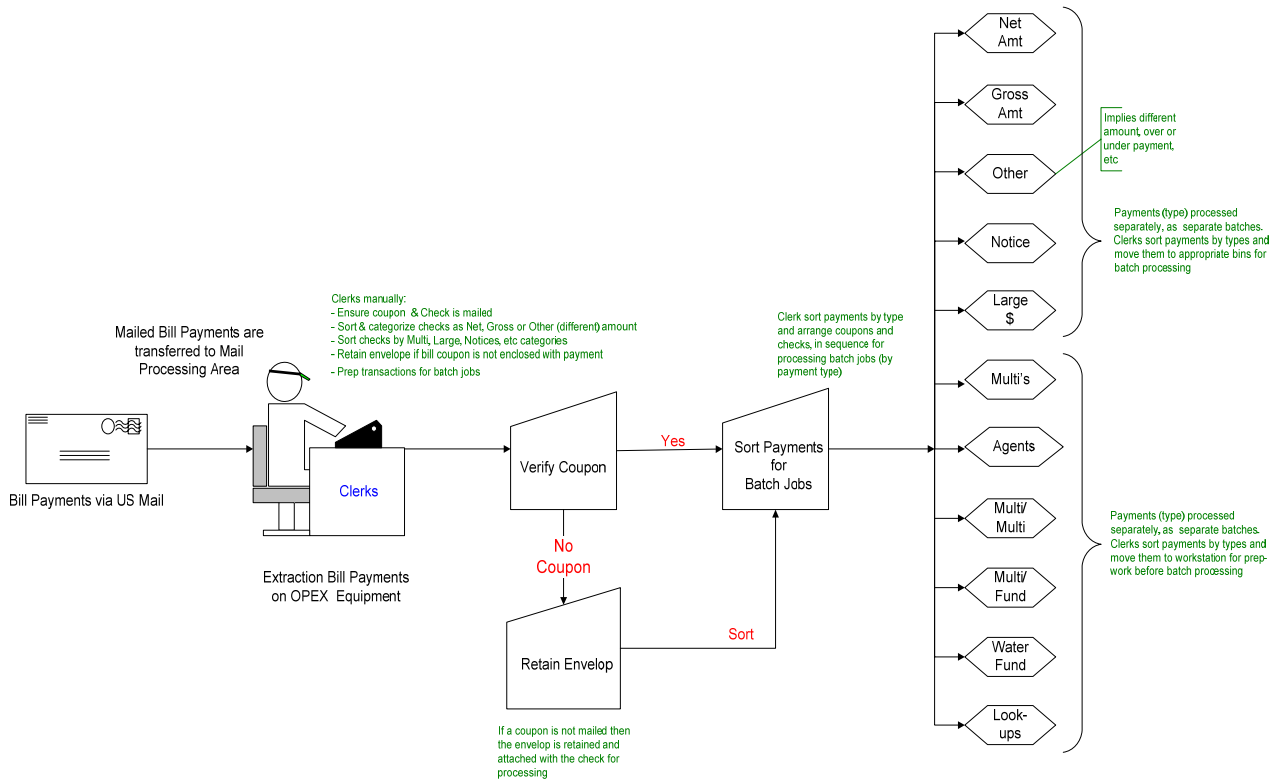
The Commission's current remittance process is a semi-automated process involving 'opening, categorizing and processing' of payment checks with high amount of manual intervention.

B. Mail-room Processing

The Commission's current mail-room processing is a semi-automated process, independent of image capture and remittance processing activity. Consequently, the current process requires manual intervention for mail sorting; check and coupon extraction, staple removal, segregation of checks - based on net and gross amount, different amount, multiple payments, multiple coupons, water fund contribution, etc - for batch job execution, ensuring appropriate orientation of the check and coupon (check and coupon face same way) for image capture, etc.

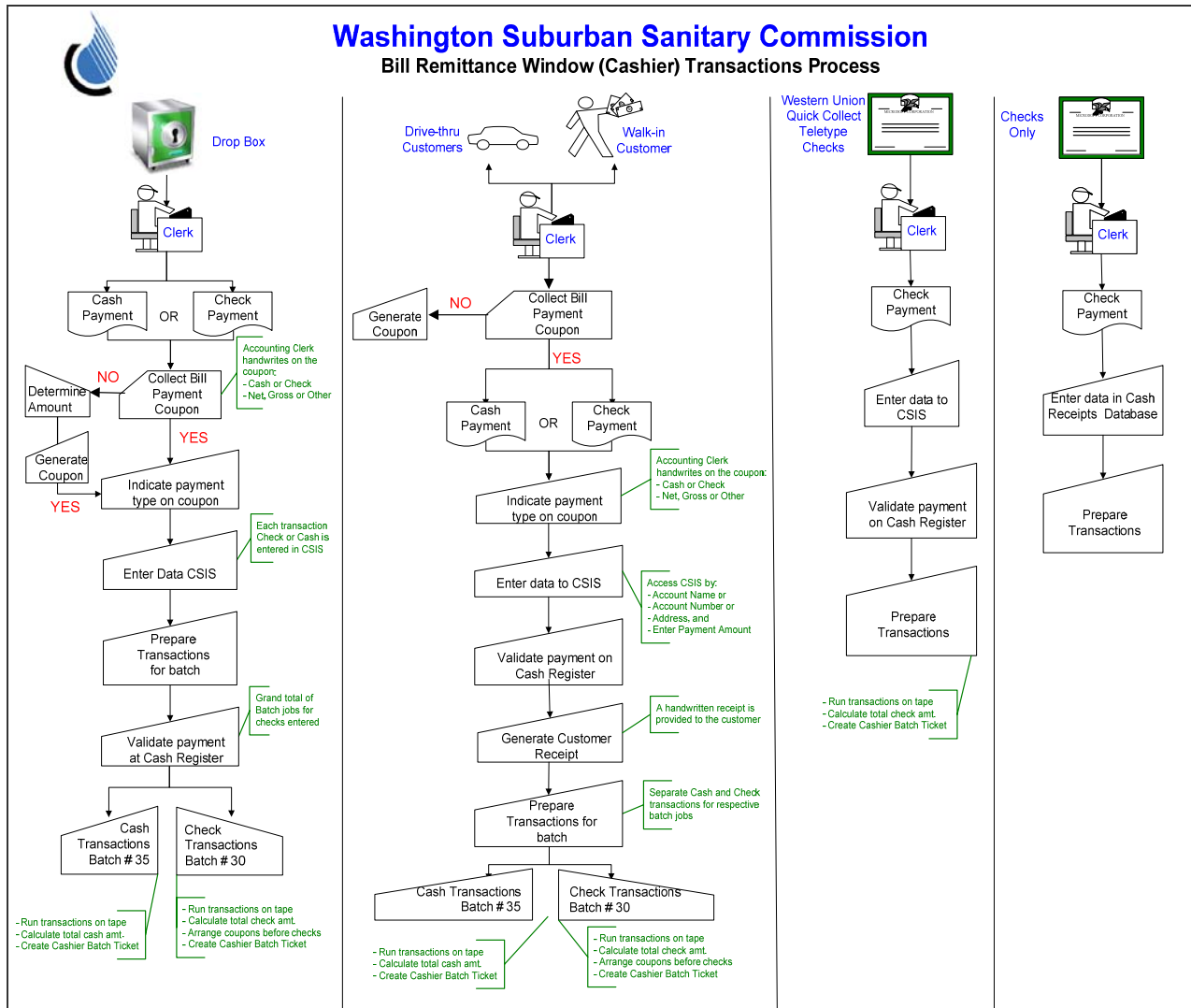


Washington Suburban Sanitary Commission US Mail Extraction and Sorting Process



C. Window Transactions:

Window transactions include walk-in/drive-up customers, drop-box bill payment transactions paid via cash or check (money order or traveler's check) and Western Union Quick Collect payments (checks). Upon receipt of the payment the cashier posts the payment to flag the CSIS database record. However, although it is flagged the CSIS record is not updated until the final balancing operation is performed and the posting file is uploaded to the Mainframe at close of business (COB). The segregated checks and coupons are processed through various batch jobs depending on their payment type (checks, cash and Western Union Quick Collect. In addition, a "Checks Only" (billed revenue, etc) batch is prepared for batch job run.

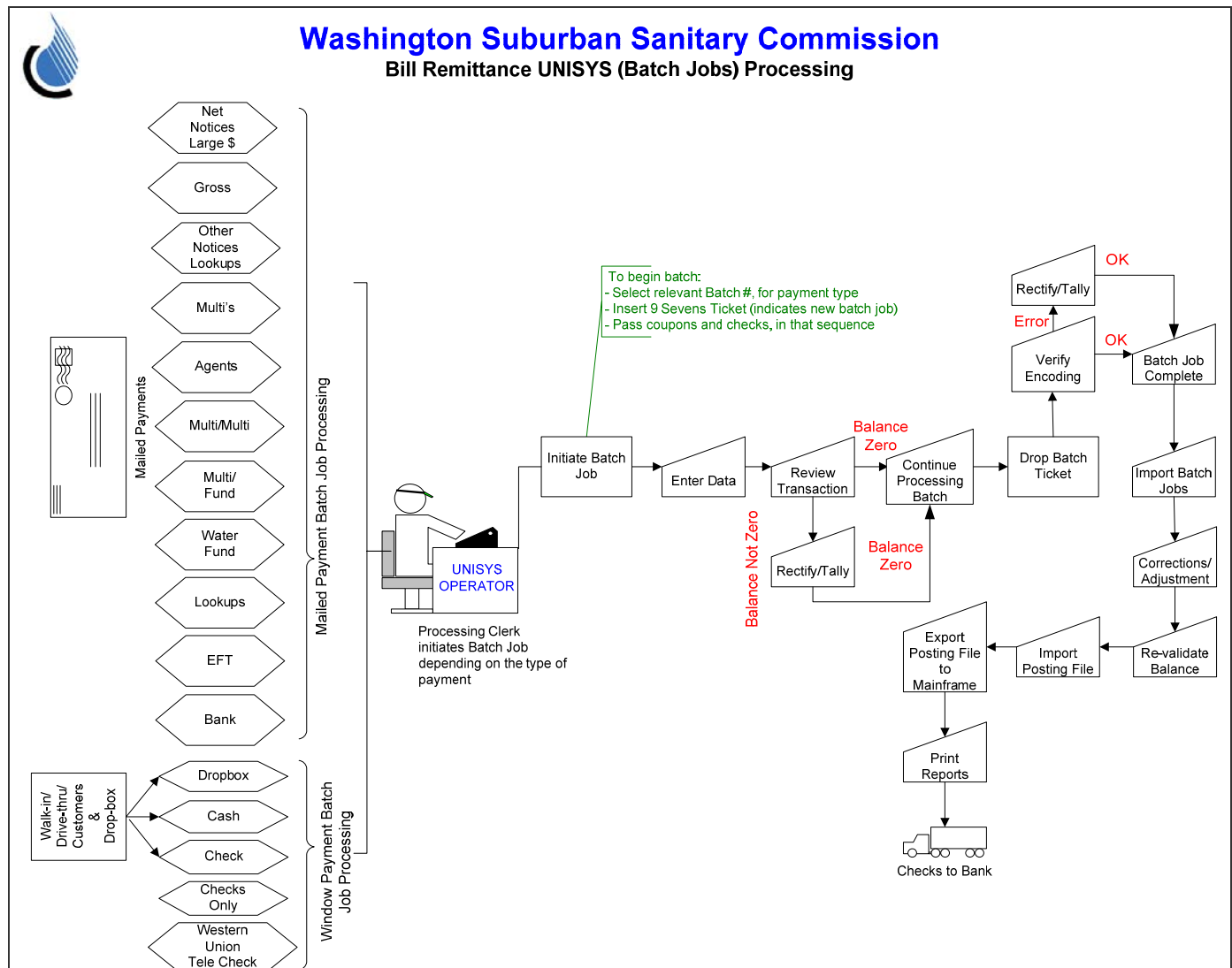


D. Remittance Processing Operation

Remittance processing is completed via various batch job executions. The existing batch jobs are defined in the system based on various business scenarios for check processing - net and gross amount, different amount, multiple payments, multiple coupons, water fund contribution, etc. An identifying ticket is dropped at the beginning of each batch and the checks and the coupons are dropped for processing. The system captures images for indexing and data retention and continues to processes valid transactions. If an exception (specific batch job) is received, the system allows the remittance clerk to extract the coupon/check, make the adjustments and re-process the coupon/check. At the completion of the batch job, the batch ticket is dropped (encodes batch job total); batch ticket is placed in front of checks in tray that is delivered to bank.

Upon successful execution of all batch jobs a data file is imported and reports are executed to tally all batch jobs. Batch jobs can be re-processed or deleted if tally errors are identified. Once balancing is completed the data file is exported to the Mainframe to update CSIS database. Two (2) copies of the Cash Letter Recap Report and (2) copies of the cash letters

(bank copy and Commission copy), are generated. Cash Letter Recap Report is attached to a set of the cash letters and placed in tray with the checks to be couriered to the bank.



10. PROPOSED BUSINESS PROCESS (SOLUTION FEATURES): With the implementation of the proposed remittance processing system the Commission aims to automate the 'categorizing' process and thus, improve the business operation process to consist of 'opening and processing' check payments. This desired business process will enable channeling the manual expertise to concentrate on verification and validation tasks for improved productivity.

A. Combined Mail-room & Remittance Processing

The Commission's desired remittance processing system will have a built-in intelligence to extract, sort, capture and process checks (rectification and adjustment) within a single-pass operation - based on net and gross amount, different amount, multiple payment, multiple coupons, water fund contribution, etc - with manual intervention limited to verification and validation and rectification and adjustment activities only.

Additionally, the proposed remittance system will provide the capability to transfer electronic images of check to the bank for Remote Deposit via Check 21 and/or ACR.

B. Automated Window Transactions

The proposed remittance processing system will employ an automated cashiering module to process bill payment transactions performed via check (money order, Western Union check and traveler's check) and cash with the ability to perform immediate adjustments and balancing thereby, eliminating batch jobs processing. The cashier module will have integrated image capture capacity to capture check and coupon images for check transactions, and coupon images for cash transactions.

Note: Awarded vendor may be required to perform some interface programming.

11. ASSUMPTIONS: The successful implementation of the Remittance Processing System replacement initiative is based on the following assumptions:

- The awarded vendor has the facility, expertise and experience required to procure, deploy and support and maintain a remittance processing system to support the Commission's remittance operations.
- The awarded vendor will conduct an assessment of the current WSSC remittance processing system and business operations to provide most optimal solution to meet the Commission's business objectives.
- The awarded vendor will procure, deploy, test and release the proposed remittance processing system within a period of two (2) to a maximum of six (6) months from issuance of Notice to Proceed.
- The proposed remittance processing system will employ the latest hardware and software with the capabilities to be scalable as per the Commission's compatibility requirements (listed in Clause 12 "Dependencies")
- The awarded vendor's proposal for the replacement of the Commission's remittance processing system will consider environmental factors such as available floor space, floor stability, and ventilation as well as support the Green initiative.

12. DEPENDENCIES: The business dependencies listed here may affect the project team's ability to execute the project:

- Remittance processing software must have Mainframe compatibility and ability to integrate with CSIS database.
- Remittance processing software must have the compatibility to integrate with Oracle database versions/releases 11g and above.
- Remittance processing software must have the compatibility to integrate with Oracle Utilities applications namely; Customer Care and Billing (CC&B) and Work Asset Management (WAM).

13. BUSINESS REQUIREMENTS:

A. Systems Requirement:

- i. **Mainframe Platform Compatibility:** Approximately 90% of WSSC business software applications run on Mainframe operating environment - z/OS v1.9.

Current WSSC remittance software communicates to the CSIS database running on Mainframe to access customer information. The proposed remittance software must be compatible with Mainframe z/OS Operating Systems and CSIS database.

- ii. **Microsoft Windows Compatibility:** To be considered as a potential Commission remittance software application the proposed software must satisfy the following Microsoft compatibility criteria:

- o 100% compatibility with current Windows Operating System (XP or higher)
- o Software vendor must be Microsoft Certified Partner to ensure compatibility with future Windows releases

- iii. **Oracle Compatibility:**

Oracle Utility Applications: CC&B and WAM.

The Commission's Customer Care group intends to employ Oracle Utilities Customer Care and Billing for maintaining and managing customer accounts and relationship. The proposed remittance software must be compatible with Oracle Utilities CC&B and WAM applications.

Oracle Database:

In approximately three (3) years from now the Commission's enterprise objective is to transition the proposed remittance software databases from a Mainframe database solution to an Oracle database solution.

- iv. **General Software and Hardware Standards:** The proposed software must comply with the following general standards:

- o Software must be native to the PC environment
- o Software must be compatible with WSSC Networking environment
- o Software must be able to print documents directly to PC networked printers

B. Equipment Requirement:

- i. **Physical Requirement:** The awarded vendor shall recommend, procure and implement the proposed remittance processing system that shall meet the industry standards to qualify as a system with latest technology, capable of performing start-to-end remittance processing operations as per the requirements stated within this document.

The proposed remittance processing system shall have the most current version and engineering release level, manufactured of good quality material for the Commission's use and free of any defects.

- ii. **Logistic Requirement**

Proposed Remittance System Transport and Set-up

The awarded vendor shall consider all the logistic requirements to facilitate successful transport of the proposed remittance equipment to the Commission facility and its set-up at final destination within the facility.

Legacy Remittance System Decommission Credit

Additionally, the awarded vendor shall be responsible for the ‘decommissioning and removal’ of the existing legacy remittance system (all mail-room and remittance processing equipment) and provide the Commission a fair credit for the decommissioned legacy equipment.

iii. Technical Requirement

The awarded vendor is required to provide all technical information thus listed:

- Technical Specifications: The technical information shall include all the following details and all other technical specifications that must be complied to, in order to successfully deploy the proposed remittance processing system:
 - o Dimensions and weight for all equipment
 - o Electric power
 - o Data network connectivity
 - o Host server specifications, Hardware specifications, software specifications
 - o Client (Workstation) specifications
 - o Data storage (extrapolation)
- Failure Rate: This information shall disclose manufacturer’s stated failure rate and known Mean time between failures (MTBF) for all hardware and software.
- Performance Capability: The proposed remittance system shall satisfy the following performance capacity requirements:
 - o The Host Server shall be robust enough to handle the level of transactions as stated in Section 1 “Background”. Additionally, it shall be scalable to accommodate future growth
 - o The Cashier workstations and all other associated workstations shall have the ability to initiate transactions successfully
 - o The proposed remittance system software shall have the ability to scan single, multiple, damaged (frayed, discolored, etc) checks, coupons and or documents. The software shall have the capability to recognize LAR/CAR, key codes and characters, scan line, barcodes, MICR line, etc. The software shall have the capability to recognize

and accept substitute bill payment coupons (generated by cashiers for transactions without original bill coupons); and recognize and discard faux checks

- o The proposed remittance system equipment shall have the capacity to handle three (3) times of the present volume to open and process bill payments
- o Performance Reliability: The proven uptime of the unit/system and the unit/system's ability for auto-correction must be clearly and explicitly stated. In addition, the awarded vendor shall observe and fulfill the following requirements:
- o Outage Management: The awarded vendor shall agree and adhere to the outage management protocol outline as follows:
 - Thirty (30) minutes acknowledgement by the awarded vendor upon notification of a problem or issue with the proposed remittance system hardware and/or software
 - A maximum one (1) hour Turnaround Time to resolve software related problem or issue and restore system to its full functionality
 - Four (4) hours Turnaround Time to resolve hardware related problem or issue and restore system to its full functionality
 - More than four (4) to eight (8) hours of system downtime shall entitle WSSC to Service Level Agreement (SLA) credit
 - Eight (8) hours plus downtime shall entitle WSSC to a 10% discount in the renewal cost for the proposed remittance processing system
- o Security Module: The awarded vendor shall ensure that the proposed remittance system meets the following security requirements and clearly states the mechanism employed for each of the following:
 - Security Access Control
 - System Security
 - Transaction Security
 - Data Security

C. Environment Requirements

The awarded vendor shall comply with the following environmental requirements:

- Equipment weight: The awarded vendor shall perform an assessment to determine the capacity of the Commission's Remittance facility floor to accommodate all the proposed remittance processing hardware/equipment
- Equipment size as it relates to the Commission's Remittance facility (ease of mobility): The awarded vendor shall perform an assessment to determine the floor layout and area, entry door(s) width and height, elevator cabin and door

dimensions to determine ease of mobility for all the proposed remittance processing hardware/equipment(s). The proposed remittance equipment must fit within the existing space i.e. 15'6" in length and 12'6" in width.

- Heat, Noise and Ventilation: The awarded vendor shall ensure that the heat and noise output produced by the proposed remittance processing system is within the acceptable OSHA/MOSH levels. Similarly, the awarded vendor shall also ensure that the equipment emission factor is compliant with EPA ventilation requirements.

D. System Disaster Recovery Requirements

The awarded vendor shall document and provide a System Disaster Recovery Plan which shall clearly document the vendor's strategy and turnaround time to restore the proposed remittance processing system to full functionality in the event of a hardware and/or software failure.

E. Documentation Requirements

i. Implementation Documentation

The awarded vendor shall document, clearly and precisely, the entire remittance processing system deployment procedure performed by the vendor (and its contractors) at the WSSC facility. This document shall include all technical information along with illustrations, where necessary.

ii. WSSC End-User Documentation

The awarded vendor shall provide the following type of end-user reference documentation to assist the WSSC Revenue Group staff (who will be the end-users of the proposed remittance processing system):

- o Customized User Manuals
- o Training Materials
- o Product Literature

iii. Troubleshooting Documentation

The awarded vendor shall provide a System Troubleshooting documentation to assist WSSC team to troubleshoot commonplace errors and mal-functions occurring within the proposed remittance processing system software and hardware.

F. Training Requirements

As part of the deliverable, in addition to the user manual and training material, the awarded vendor shall provide a formal training workshop to selected WSSC Revenue Group staff to educate them to utilize the proposed remittance system with efficiency.

G. Remittance Business Requirements

i. Audit Trail

The proposed remittance processing system shall be equipped to capture a time-sequential record of the remittance transaction from start to finish for security audit purposes. The audit trail shall capture chronological record of the system resource usage including user login to track any actual or attempted security violations.

The proposed remittance system shall have the ability to, at minimum, capture the following records:

- o Sign-in: capture user credentials
- o Batch Number: assign batch number to identify each batch transaction
- o Transaction Number (Bill Coupon): assign a unique transaction number to identify each bill coupon scanned
- o Transaction Number (Check): assign a unique transaction number to identify each check transaction
- o Chain of Custody: maintain a chain of custody for each transaction

ii. Check and Coupon Capture and Processing

The proposed remittance processing system shall be equipped to:

- o Read utility coupons with high rate of accuracy
- o Read utility checks with high rate of accuracy
- o Upload data to the host computer individually or via batch jobs
- o Process the following types of check transactions within the same batch:
 - Single Coupon/Single Check: One bill payment coupon with one check, for one account
 - Multiple Coupons/Single Check: Two (2) or more bill payment coupons with one check for multiple accounts
 - Single Coupon/Multiple Checks: One bill payment coupon for a single account with multiple checks
 - Multiple Coupons/Multiple Checks: Multiple checks with multiple bill payment coupons
 - Black Listed Customer Accounts: System shall detect checks drawn on (customer) bank accounts that have been blacklisted as “defaulter” in the Commission’s records
 - Water Fund Round-up: System shall appropriately identify and read bill payment coupons indicating contribution to WSSC Water Fund and appropriately process enclosed checks
 - Incorrect Coupon/Correct Check: System shall detect transactions with incorrect coupon (not WSSC) enclosed with checks payable to WSSC

- Correct Coupon/Incorrect Check: System shall detect transactions with WSSC bill payment coupon enclosed with incorrect checks (not payable to WSSC)
- Net and Gross Amount: System shall detect gross amount applicable towards late bill payment. This will be a one-key toggle option
- Overpayment/ Underpayment: System shall be equipped to process checks for over payment as well as under payment
- Substitute coupon processing: System shall be equipped to process substitute coupon (in the absence of printed bill payment coupon with check)
- Checks Only processing: System shall be equipped to process payments received for revenue other than water/sewer bills
- Bank (deposit slip): System shall be equipped to process bill payment coupon(s) with a bank deposit
- o Courtesy (legal) Amount Recognition & Figure Amount Recognition (CAR/LAR): System shall be equipped to accurately read courtesy (legal) amount and the figure amount on handwritten checks
- Single-pass processing using CAR/LAR: System shall use CAR/LAR to allow single-pass mixed processing of multiple checks, single checks, partial payments, without manual sorting
- o Capture front and rear images of checks and bill payment coupons
- o Archive and retrieve scanned bill payment coupon and check images for research and record management

iii. Additional Business Rules and Requirements

The proposed remittance processing system shall meet the business rules and requirements defined below. The proposed remittance processing system shall have the ability to:

- o Support Multiple OCR fonts
- o Print or electronically endorse the checks for deposit
- o Print audit trail information on the checks
- o Generate file formats compatible with Mainframe z/OS v1.9 and CSIS database
- o Identify transaction types based on the conditions identified in Section 13.G.ii “Check and Coupon Capture and Processing”
- o Satisfy the ‘number of checks per batch’ requirement as dictated by the WSSC bankers
- o Define batch transaction parameters; such as, transaction type (as defined above in section 13.G.ii “Check and Coupon Capture and Processing”), transaction breaker criteria, maximum and minimum number of checks/batch, etc

- o Provide customized Batch and Deposit reports, with capacity to configure additional reports as deemed necessary
- o Identify and separate documents, correspondences, etc other than checks and bill payment coupons
- o Read and classify coupon and check images indicating change in customer information, and notify Customer Service
- o Ensure that the new process and input/output file(s) is(are) compatible with Oracle Utilities CC&B application
- o Handle future transition of bill payment coupon and enhancements to bill formats
- o Facilitate various window (cashiering) transaction scenarios; such as, different form of payment, bill payment without coupon, etc
- o Process up to five (5) amount fields and add amount fields automatically
- o Enable check amount corrections, deletions and adjustments (handle overpayment and underpayment scenario)
- o Offer the option of Remote Deposit capability using ARC or Check 21
- o Offer the option of an integrated Over-The-Counter scanning and/or cashiering system (window transactions)

14. ACCEPTANCE:

A. Acceptance Criteria

The proposed remittance processing system shall satisfy the following acceptance criteria:

- The System shall be capable of handling the Commission's current and projected transaction volume, as stated in Section 1 "Background"
- The minimum System lifecycle shall be at least Seven (7) years
- The System shall satisfy all the Warranty and Maintenance criteria as stated in Sections 15 and 16 "Warranty and Maintenance" respectively
- The System shall be compatible with the Commission's IT environment (Windows XP and WIN2K3, Linux, Mainframe z/OS v1.9, IDMS and Oracle)
- The System must comply with, and satisfy, all the business requirements, business rules and additional requirements as stated within Section 13.G "Remittance Business Requirements"

- All documentation requirements, as defined in section 13.E “Documentation Requirements” must be fulfilled.

B. Acceptance Period

The proposed remittance processing system shall be under an acceptance period for forty-five (45) business days to determine that the system meets the requirements of the contract/agreement. The system shall be validated against the acceptance criteria established within the document.

During the acceptance period the proposed remittance processing system shall be assessed for post-implementation business process improvement and rectification.

During the acceptance period the Commission users must be able to place a direct call to the awarded vendor for system support between 8:00 AM to 9:00 PM, Mondays through Fridays. A vendor technician or representative shall maintain contact with the Commission’s point of contact until the issue/problem is agreeably resolved.

15. WARRANTY: The proposed remittance processing system shall be under warranty for a minimum of sixty (60) months (five (5) years) to begin from the date of acceptance from the Commission. If the manufacturer’s warranty exceeds the Commission’s warranty requirements, the manufacturer’s warranty period shall replace the Commission’s warranty requirements.

16. MAINTENANCE: The maintenance period under this Contract shall begin at the expiration date of the warranty period and shall continue for five one-year periods, renewable in one-year options, at the Commission's sole option and discretion. Maintenance shall be performed on-site within the time specified. Maintenance shall be performed as requested and stated under the Statement of Work, at a price agreed between the Commission and the awarded vendor, and shall be all inclusive covering all maintenance (preventive and corrective), parts, labor, supervision, etc.

Additionally, the awarded vendor shall perform preventive maintenance, as required, at no additional charge to the Commission during the Warranty period. The awarded vendor shall be responsible for removal of the defective or failed parts and their replacement at no cost to the Commission. The Commission reserves the right to perform all or any part of the work itself or have all or any part of the work performed by others and deduct any costs from moneys due or to become due to the awarded vendor.

C. Maintenance & Support Service Level Agreement (SLA)

The awarded vendor shall work with the WSSC Project Manager to draw a Service Level Agreement stating the terms of the maintenance and support services of the proposed remittance processing system. The SLA shall speak to the following terms in addition to the awarded vendor’s standard terms of service:

- System resolution time
- Software application resolution time
- Hardware replacement time

- Over-the-phone and on-site support services
- Turnaround time

After the acceptance period, the Commission must be able to call a toll-free telephone service for system support during the Commission's business hours between 8:00 AM to 5:00 PM, Mondays through Fridays. A vendor technician or representative shall maintain contact with the Commission's point of contact until the issue/problem is agreeably resolved.

D. Post-Warranty Routine Maintenance

The awarded vendor shall provide preventive maintenance, based on a schedule every quarter or three months at 'no additional cost' to the Commission excluding defects out of warranty or not covered under support services. Additionally, the awarded vendor shall utilize the scheduled maintenance window to determine upgrades or enhancements that may be essential or that may increase the system's efficiency.

After the Post-Warranty period the Commission must be able to call a toll-free telephone service for system support during the Commission's business hours between 8:00 AM to 5:00 PM, Mondays through Fridays.

E. Maintenance Log

The awarded vendor shall furnish and maintain a System Support Maintenance Log for the proposed remittance processing system which shall be available to the Commission upon request. This log shall include, at a minimum, the following: (a) date and time the awarded vendor was notified; (b) date and time of arrival of the maintenance personnel at the site; (c) type and model number(s) of equipment subject to maintenance; (d) total time equipment was not available to the Commission for use; (e) total time required for maintenance and repair, description of malfunction, including cause(s), if known; and (g) corrective action taken, including replacement parts used.

F. Cost

The renewable annual maintenance cost for the proposed remittance processing system hardware and software shall not exceed 5% of the current yearly cost.

17. RULES OF ENGAGEMENT

A. Cleanup

The awarded vendor shall keep all work areas in an uncluttered condition by the frequent removal of debris upon completion and prior to the final inspection of work. The Contractor shall remove from Commission property, all debris and unused materials and leave the area in a condition similar to the condition of the area before any work was performed.

B. Transfer of Micro-code

If the Commission sells, rents, leases or otherwise disposes off any of the equipment containing Micro-code, the awarded vendor agrees that they shall recognize and honor the transfer without charge to the Commission or its transferee and not require contractual

obligations of the transferee. The Commission shall have no obligation or liability regarding the transferred Micro-code.

18. EXCLUSION

The following business processes and/or procedures are outside the scope of Remittance Processing System Replacement initiative:

- Business Continuity
- Disaster Recovery
- M&T Bank Lockbox Processing services

- 19. DISSEMINATION OF INFORMATION:** The Contractor shall NOT release any information relating to the services or performance of the services under any resulting contract nor publish any final reports or documents without the prior written consent of the Commission's Project Manager.

The Contractor shall indemnify and hold harmless the Commission, its officers, agents and employees, from any and all liability which may be incurred by reason of dissemination, publication, distribution or circulation, in any manner whatsoever, of any information, data, documents or materials pertaining in any way to any resulting Contract by the Contractor, his agents or employees.

- 20. OWNERSHIP RIGHTS:** All reports, computer programs, program modifications, parameters and coding, or any other products of work delivered to the Commission hereunder in the performance of the Contract shall be the sole property of the Commission. The Offerors agrees neither to assert any rights at common law or equity nor to assert or establish any claim to statutory copyright or ownership in such reports.

- 21. INTELLECTUAL PROPERTY COPYRIGHT:** The Offerors and their employees hereby irrevocably transfer, assign, and convey to the Commission all rights, titles and interests, including the sole exclusive and complete copyright interest in any and all copyrightable works created pursuant to the Contract. The Offerors and their employees further agree to execute such documents as the Commission may request to affect such transfer or assignment.

Further, the Offerors and their employees agree that the rights granted to the Commission by this Clause are irrevocable. No termination of the Contract shall have the effect of rescinding, terminating, or otherwise invalidating the rights acquired pursuant to the provisions of this "Intellectual Property Copyright" Clause.

The use of subcontractors or third parties in developing or creating input into any copyrightable materials produced as part of the Contract is prohibited unless such subcontractors or third parties agree to include the provision of this Clause as part of any Contract they enter into with the Offerors for work related to work pursuant to the Contract.

- 22. SUBCONTRACTING:**

- A. **Mandatory Minority Subcontracting:** In accordance with the Commission's Minority Business Enterprise Program this WSSC Contract requires that any **non-minority-owned** Prime Contractor utilize **local certified minority-owned subcontractor(s)** for a minimum of ten percent (10%) of the contract value. This amount must be directly paid to the minority-owned subcontractor(s) by the Prime Contractor. See Minority Business Enterprise Program Section 4. N. for the definition of local minority-owned firm.

Each **non-minority** Offeror must submit, **at the time of Proposal**, an executed Minority Subcontracting Certification Form (attached) for each proposed **local certified minority-owned firm**. This subcontracting certification form must include a brief subcontracting plan to include, at a minimum, the following information:

1. Name(s), Address(es) and Telephone Number(s) of the proposed local certified minority-owned firm.
2. The type of minority ownership represented, as defined by the attached Commission's Minority Procurement Policy.
3. Copy of the minority certification agency letter form for each proposed minority subcontractor.
4. The type of services/commodities that will be performed or provided by each local certified minority-owned subcontractor, the expected dollar value, and percentage of the total contract.

Failure to submit a completed Minority Subcontracting Certification Form(s) for each proposed minority subcontractor at the time of Proposal, totaling a minimum of ten percent (10%) of the contract value, may render the Proposal non-responsive, and the Proposal may not be considered for award.

If a non-minority Offeror has been unable to achieve the minimum of ten percent (10%) required minority subcontracting, the Offeror may request a full or partial waiver of the minority subcontracting provisions by submitting, with their Proposal, a request for a waiver. The submission of documented adequate evidence (Form MBE-B) of "Good Faith Efforts" as defined in Section IV. M of the Minority Business Enterprise Program **and** prior consultation with the Commission's Small, Local & Minority Business Enterprise (SLMBE) Group at (301) 206-8800, 14501 Sweitzer Lane, Laurel, Maryland, 20707, **are required**.

The SLMBE Officer may permit the use of non-local, certified, minority-owned firms where local, certified, minority-owned firms are shown to be unavailable, or waive the subcontracting requirements completely where both local, and non-local, certified minority-owned firms are shown to be unavailable.

- B. **Subcontracting:** The Commission requires all Offerors to identify all subcontractor(s) to be utilized under this Contract. Each Offeror must complete subcontracting certification forms (see Attachment Section) for each subcontractor and shall include the following information:

1. **Name(s), address(es), and telephone numbers of the proposed subcontractor(s).**
2. Type of work that will be performed by the subcontractor(s) and the expected dollar value and percentages for each.

All Offerors are required to submit executed subcontracting certification forms for small local, minority and non-minority subcontractors at the time of Proposal. Copies of these forms appear in the Attachment Section of this Contract. Failure of an Offeror to submit the forms at the time of Proposal may cause an Offeror to be determined non-responsive and his Proposal may be excluded from consideration for award.

- C. **Compliance Reporting Requirement:** The Commission will require all Prime Contractors to report subcontractor/supplier payments on a monthly basis utilizing the Commission's web-enabled tracking and compliance system. The Prime Contractor shall enter all payment information within 30 days of receipt of payment from WSSC until final payment, and the subcontractor(s)/supplier(s) shall validate payment received within 30 days of receipt of payment from the Prime until final payment. Instructions on entering data are located on WSSC's website at http://www.wsscwater.com/business/slmbe_program.cfm.

Subcontract plans must be entered and approved in the web-based compliance system within seven days of receipt of notice of award of the contract or the prime contractor will be found to be non-compliant.

Upon verification of entry of subcontracting plans in the tracking and compliance system, a Contract Notice to Proceed will be issued.

Failure to report payments on the web-enabled system as described above will result in delay in payment(s) to the Prime. Final payment will not be made until all subcontractor payment(s) are reported and verified.

Failure to comply with the requirements of this Clause will be considered in the evaluation of the Contractor's responsibility in performing future contracts.

Failure to comply with this requirement may result in this Contract being terminated in accordance with Clause No. 48, "Termination of Contract," of Part One of the General Conditions.

- D. **Subcontract Limitation:** If this solicitation is awarded to a certified minority business under the Commission's Minority Business Enterprise Policy (see Attachment Section) the Contractor shall not subcontract work for more than 40% of the dollar amount of this Contract to a non-certified minority firm.
- E. **Subcontractor and Supplier Approval:** The Commission reserves the right to reject any subcontractor and/or supplier who fails to meet the qualifications outlined herein. No substitution for any subcontractor, supplier, person, or entity previously approved by the Commission shall be made by the Contractor without prior written

approval by the Commission. All substitutions shall be submitted to the Contract Administrator upon the certification form as previously submitted.

23. **SUBMISSION OF PROPOSALS:** Each Proposal must be submitted with an original and five (5) copies, submitted in writing and signed by an officer, or officers, authorized to execute legal documents on behalf of the Offeror, all of which must include the information requested herein. This includes Contract Certification Affidavit, Signature Page, and any Subcontracting Certification Forms, if applicable. Proposal submittals shall be labeled referencing the aforementioned forms and the required documents as outlined within this solicitation. Any proposal not including the required copies and/or forms may be deemed as non-responsive.

Prices quoted in the proposal shall be firm for the duration of the Contract. Proposals submitted in any other form, unit measurement, or quantity, are subject to disqualification as non-responsive.

All proposals must be received in a sealed envelope in the Acquisition Office of the Washington Suburban Sanitary Commission, Richard G. Hoyer Building, 14501 Sweetzer Lane, 8th floor, Laurel, Maryland 20707. All Proposals must be date stamped by the Acquisition Office by 10:00 a.m. on Wednesday, March 31, 2010. Any proposal received after this time and date will not be accepted.

Only one proposal per Offeror shall be accepted.

The total cost as provided on the pricing page should be completed and submitted with the original proposal in a separate sealed envelope labeled proposal cost.

24. **PROPOSAL EVALUATION:** This solicitation has been developed in a Request For Proposals (RFP) format, rather than an Invitation For Bids (IFB) format. Accordingly, Offerors should take note that a number of factors will be considered by the Commission in awarding the Contract. PRICE WILL NOT BE THE SOLE DETERMINING CRITERION.

25. **EVALUATION CRITERIA:** All proposals received will be evaluated by a Proposal Evaluation Committee chaired by the Contract Administrator, on the following major criteria, listed in order of importance:

A. Technical Skills

B. Cost

C. Background/Experience

D. Past Performance

E. Minority Business Enterprise

Evaluation Criteria	
A. Technical Skills	
1.	Consistent with IT standards for protocols, operating systems, network operating systems, disk storage mediums, and other technologies.
2.	Ability to upload data from stubs into WSSC Mainframe individually or by batches.
3.	Flexibility to modify transaction data to be in a format which can be accepted by our Mainframe system.
4.	Support Multiple OCR/OMR and display image for data entry.
5.	Process multiple types of transactions either in separate batches or mixed within a batch.
6.	CAR/LAR (Courtesy Amount Recognition/Legal Amount Recognition) to read handwritten amounts.
7.	Online Retrieval of Images; Retrieval and database indexing of images stored is required.

8. All subsystems can deliver data to and accept data from other automated systems.
9. Documentation for Installation, Maintenance, System, Operating, and Training is regularly updated and distributed.

GENERAL TECHNICAL & SUPPORT STANDARDS

- to ensure compatibility, software Vendor must be Microsoft Certified Partner
- 100% compatible with Windows NT, 2000 or XP Operating System
- Software native to the PC environment
- Software compatible with WSSC Networking environment
- Software able to print documents direct to PC networked printers
- Software currently supported with no plans for phase out
- Software adheres to widely accepted industry standards, and has passed independent audit testing
- Software is easy to use and has a Graphical User Interface (GUI)
- Adequate security features that include the ability to set access controls at Multiple levels
- Software includes built-in back up features, and data recovery if processing is disrupted due to power loss or other interruptions
- Custom Report capabilities where applicable
- Documentation with on-line help, as well as printed user manuals
- Customer support, with a toll free support line, and available email and remote diagnostics during normal business hours. Optional extended hour coverage (up to 7 X 24) must be available
- Ability to utilize customized forms used by WSSC
- Read and endorse utility stubs
- Read and encode utility checks
- Upload data from stubs into host computer individually or by batches
- Support Multiple OCR Fonts
- Must display image for data entry and allow zooming in to amount field in a single keystroke
- Process Multiple Types of batches
 - Process the following types of transactions, either in separate batches, or mixed within a batch:
 - Single stub/single check
 - Multiple checks/single stub
 - Multiple stubs/single check
 - Multiple stubs/multiple checks
 - Power encode
 - Exceptions
 - Check only processing
- Key amount or full amount processing
- CAR/LAR to read handwritten amounts
- Use of CAR/LAR to allow one pass mixed processing of multi/single/partial payments without sorting
- Net amount/gross amount (late payment) processing, with one key toggle
- Automatic skip of exception transactions (e.g. payment on a credit balance) when in power encode mode
- Substitute stub processing
- Automatic feeding (at least 500 document capacity) or hand feeding
- PC to Host Communication
 - In order to allow the transaction data to be uploaded to the host accounts receivable system, the data will need to be in a format, which can be accepted by that system
- Automatic check encoding and endorsement
- Complete audit trail
- Reporting/Inquiry Module

■ Audit Report ■ Daily Activity Detail Report ■ Generate Daily Balancing ■ Batch Reports ■ Sort Options At a minimum 3 pockets (minimum 250 document capacity each) will be required to accommodate: ■ Processed stubs ■ Processed checks ■ Exceptions/rejects Availability of upgrades to a total of 12 pockets is desirable. ■ Online Retrieval of Images Retrieval and database indexing of images stored is required. Sufficient storage space for a front image of a check (and/or the stub) is required for 30 to 60 days work. Optional image Archiving and Retrieval for longer term storage and permanent archive records using a CD-ROM or Optical Disk storage must be available. Images being viewed must be able to be enlarged by “zooming” in on areas of interest with a simple mouse click ■ Check/Stub Images must be able to be reprinted ■ Archive Capabilities must be available ■ Console with Autofeed Hopper is required ■ MICR encoding of the customers checks ■ Endorsement of the checks for deposit ■ Print audit trail information on the checks ■ Provide Batch and Deposit reports ■ Provide account and payment information for upload ■ Provide image capture and retrieval of checks and payment stubs

B. COST

Cost estimates for each phase of the project as outlined within this solicitation

C. Background/Experience

1. Provide a company profile, length of time in business and core competencies.
2. Vendor’s references and current clients, particularly if they are in a similar industry or business sector to our organization.
3. Quality standards and customer communications that the vendor has achieved and the proof of success in similar organization provided.
4. Evidence of financial viability;
 - a. Number of new customers in last 24 months.
 - b. Number of customers using this product.
 - c. Number of releases (functional enhancements) for this product in last 5 years.
 - d. Number of these releases still being supported.
5. No significant cautions in financial statement notes (e.g., legal actions, tax assessments, contingent losses or gains, large lump sums due).
6. Active user group exists for each product and user group influences release of the product.

D. Past Performance (Provide on Company Letterhead)

1. Vendor has the resources to handle the Commission’s system implementation, or does vendor outsource implementation to another firm.
2. Qualification and availability of the vendor’s key personnel and other staff resources.

3. Vendor has successfully completed similar projects and has the qualifications necessary to undertake this project.
4. Disaster recovery and/or contingency plan for prolonged outages; the ability to produce an exceptional task and provide the recovery mechanism to ensure data integrity to the business function level.
5. The specific equipment the vendor suggests has high processing and accurate rate (such as 250 document capacity each); planned enhancements or upward compatibility for future growth.
6. Warranty/support/maintenance continues after a product function or the entire product is discontinued.
7. Level, quality and type of training and technical assistance provided and whether program can be customized to meet specific Commission requirements.
8. Customer support, with a toll free support line, and available email and remote diagnostics during normal business hours. Optional extended hour coverage (up to 24/7) must be available.
9. Supports timely updating of information; critical updates take place immediately.

E. Minority Business Enterprise (MBE)

26. **REFERENCES:** The Offeror shall provide a list of at least three satisfactory references, including the names and telephone numbers of a contact person for each (form attached). These references must be for projects/jobs that are in progress or completed within the last two years and are similar in scope to the work to be performed under this Contract. At least two of the three references shall be from sources other than the Commission. The Commission reserves the right to request additional references as it deems necessary.
27. **INTERVIEWS:** The highest ranked Offeror(s) may, at the sole option of the Evaluation Committee, be invited for in-person interviews. The Offeror(s) employees or sub-contractors who will be assigned to this project must be in attendance at the interview.
28. **OFFER AND ACCEPTANCE PERIOD:** In order to allow for an adequate evaluation, the Commission requires a proposal submitted in response to this solicitation to be valid and irrevocable for 120 calendar days after the proposal submittal due date and time. This provision takes precedence over General Conditions and Instructions for Bidders or Offers, Part One, Clause No. 11 "Period for Acceptance of Bid."
29. **CONTRACT AGREEMENT:** If a contract agreement cannot be reached with the highest evaluated Offeror, other qualified Offerors(s) will be selected in order of final ratings, until the Commission can reach an agreement with a qualified Offeror. The Commission reserves the right to withdraw this Solicitation, or not award a contract, at any time due to unforeseen circumstances. All submitted copies of proposals shall become the property of the Commission.
30. **CONTRACT TERM:** The Contract shall commence on the date specified in the Notice to Proceed.
31. **CONDITIONS OF AWARD:** The performance of the contract shall be governed solely by the terms and conditions as set forth in the Contract notwithstanding any language contained on any invoice, shipping order, bill of lading or other document furnished. The acceptance by the Commission

of any goods or services furnished hereunder shall not be constructed as acceptance by the Commission of any terms or conditions which are inconsistent with the terms and conditions here stated. All terms and conditions under the solicitation, any amendments thereto, are made part of this Contract. Any different or additional terms other than those herein are not acceptable.

32. **TERMINATION:** The Commission reserves the right to terminate any resulting contract in accordance with the Commission's General Conditions and Instructions; Clause 48 "Termination of Contract", Part One, Page 11 of 14.
33. **BASIS OF AWARD:** Any contract resulting from this solicitation shall be awarded to the most responsive and responsible Offeror receiving the highest ranking score; based on the evaluation criteria herein, oral interviews and live demonstration, and is deemed in the best interest of the Commission.
34. **NOTICE OF AWARD:** The successful Offeror will be notified by letter, giving Notice of Award, of the Commission's acceptance of the Proposal.
35. **NOTICE TO PROCEED:** Upon receipt and acceptance of the Contractor's Certificate of Insurance, subcontracting plan, and background check, the Commission will issue a Notice to Proceed to the Contractor. The Contractor shall not begin any work on the Contract until such time as a Notice to Proceed has been issued by the Contract Administrator, at which time the Contractor shall proceed with the work to be performed.
36. **PAYMENT:** All of the work performed under the Contract must be done in a satisfactory manner. Partial performance is not acceptable. Payment will be authorized upon receipt of a properly itemized invoice for work completed, accepted and approved by the Commission's Project Manager. Prompt payment discounts shall be applicable from the date of acceptance or the date of receipt of the invoice, whichever is later.
37. **INVOICES:** Invoices shall be submitted in duplicate to Disbursements Accounting Section, Washington Suburban Sanitary Commission, 14501 Sweitzer Lane, Laurel, Maryland 20707-5902.
38. **INSURANCE:** The Contractor shall be required to maintain insurance as specified in the section of this Contract entitled, "Insurance Requirements." A Certificate of Insurance shall be submitted to the Contract Administrator within 7 days after receipt of Notice of Award. Failure to do so may result in the termination of the Contract for default.
39. **SECURITY:** The Contractor's employees must comply with all Commission security rules and regulations with regards to parking, signing in and out of buildings, and the Contractor's employees are prohibited from bringing into or taking out of any facility any personal handheld bags, luggage, backpacks, cartons or containers of any type. If personal luggage is found to be in the facility or on the person of the Contractor's employees, the Commission security staff has the authority to search any and all personal luggage. Refusal by the Contractor's employees to allow search of personal luggage shall be grounds for directing the removal of the Contractor's employees.

Prior to beginning work on any Washington Suburban Sanitary Commission project, Contractor must complete and submit to the Commission a completed background investigation, to include work, driving and criminal history, for all participants in the project, regardless of whether subjects will be participating in the project at Commission facilities or off-site. Background investigations shall be completed by investigative agencies, which have been approved by the Commission in advance. Investigative results will be reviewed by the Commission to determine

the suitability to work on Commission property or projects. Like investigations must be submitted for all replacement participants prior to beginning work. The Commission reserves the right to reject any employee, sub-contractor or the Contractor as a result of the findings of background investigations.

SOLICITATION NO. 5773

PRICING PAGE

FOR

REMITTANCE PROCESSING SYSTEM REPLACEMENT

ITEM NO.	DESCRIPTION	TOTAL COST
1	Remittance Processing System Replacement Project	\$
	TOTAL	

Note: Submit in separate sealed envelope with original proposal only. An itemize list for each phase of the project must be included.

Payment Terms: Prompt Payment Discount: _____ %-20, net 30 Days.

Contract Person for this Contract: _____

Address: _____

Phone Number: Toll-Free or Local Number: _____

Fax Number: _____

Email: _____

WASHINGTON SUBURBAN SANITARY COMMISSION

CONTRACT NO. 5773

SIGNATURE PAGE

The following document which is included or referenced in the Invitation for Bids/Request for Proposals Part One shall be incorporated in the resulting Contract by reference and shall become a part of said Contract:

General Conditions and Instructions for Bidders or Offerors.

Submission of the Bid/Proposal shall be considered as prima facie evidence that the Bidder/Offeror has familiarized himself with and understands the conditions under which the Contract will be awarded, performed and administered.

Name of Bidder/Offeror must be shown in full if an individual; and if a partnership, full names of all partners must be shown. If Bidder/Offeror is a corporation, impress corporate seal and furnish name of state where incorporated. If joint venture, all parties must sign. If limited liability company, the managing member must sign and furnish the state of organization.

Bidder/Offeror represents that his firm does business as (check one) ____ an individual, ____ a partnership, ____ a joint venture, ____ limited liability company or ____ a corporation. The Bidder/Offeror hereby agrees that if accepted by the Commission he will well and faithfully perform as specified.

Incorporated or organized in the State of _____

Name of Bidder / Offeror (type or print)

Accepted this date _____
for the WASHINGTON SUBURBAN
SANITARY COMMISSION

Signature

Signature / Acquisition Director

Printed Name and Title

WITNESS:

Signature

Business address (type or print)

WITNESS / ATTEST:

Firm's Telephone No.: _____

Signature

WASHINGTON SUBURBAN SANITARY COMMISSION

CONTRACT NO. 5773

CONTRACT CERTIFICATION AFFIDAVIT

1. I HEREBY CERTIFY that I am the _____ and the duly
(Title)
authorized representative of the firm of _____
(Name of Firm)
and that I possess the legal authority to make this certification on behalf of myself and the firm for which I am acting.
2. I HEREBY FURTHER CERTIFY that neither I nor, to the best of my knowledge, information and belief, the above firm nor any of its other representatives I here represent have:
- (a) Agreed, conspired, connived or colluded to produce a deceptive show of competition in the compilation of the bid or offer being submitted herewith;
 - (b) In any manner, directly or indirectly, entered into any agreement, participated in any collusion to fix the bid price or price proposal of the bidder or offeror herein or any competitor, or otherwise taken any action in restraint of free competitive bidding in connection with this Contract of which the within bid or offer is submitted.
3. I HEREBY FURTHER CERTIFY AND AFFIRM that neither I nor to the best of my knowledge, information and belief, the above firm, nor any of its subsidiaries, affiliates, parent corporations, or other businesses related to the above firm by common ownership or management (collectively "related businesses"); or any officers, directors, members, partners, or employees of the above firm or the related businesses:
- (a) Has been convicted of or has pleaded nolo contendere to, under the laws of any state or of the federal government,
 - (1) bribery, attempted bribery, or conspiracy to bribe;
 - (2) any other criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract;
 - (3) fraud, embezzlement, theft, forgery, falsification or destruction of records, or receiving stolen property;
 - (4) making a payment of a gratuity to, or supplementing the salary of, a public official or similar offenses relating to the public graft;
 - (5) a criminal violation of an antitrust statute;
 - (6) a violation of the Racketeer Influenced and Corrupt Organization Act, or the Mail Fraud Act, for acts in connection with the submission of bids or proposals for a public or private contract;
 - (7) a violation of § 14-308 [Minority Business Participation Program] of the State Finance and Procurement Article, Annotated Code of Maryland; or
 - (8) conspiracy to commit any act or omission that would constitute grounds for conviction under any of the laws or statutes described above in this section (a);
 - (b) during the course of an official investigation or other proceeding has admitted, in writing or under oath, acts or omissions that would constitute bribery, attempted bribery, or conspiracy to bribe, under the laws of the State, another state or the United States; or
 - (c) has been found civilly liable under an antitrust statute of the State, another state, or the United States for acts or omissions in connection with the submission of bids or proposals for a public or private contract;

except as otherwise expressly stated herein. [If applicable, check this box ☐ and submit any such statement, with full particulars, on a separate sheet of paper.]

4. I HEREBY FURTHER CERTIFY AND AFFIRM that the above firm shall not knowingly enter into a contract with the Washington Suburban Sanitary Commission (WSSC) under which a person or business debarred or suspended under State procurement law or WSSC regulations will provide, directly or indirectly, supplies, services, architectural services, construction related services, leases of real property, or construction.

I acknowledge that this certification is required by the State Finance and Procurement Article, Section 16-201, et. seq. of the Annotated Code of Maryland. I acknowledge that, if the representations set forth in this certification are not true and correct, the Washington Suburban Sanitary Commission may terminate the Contract awarded and take any other appropriate action.

5. I HEREBY FURTHER CERTIFY that to the best of my knowledge and belief, the cost or pricing data submitted in support of the bid submitted herewith are current, accurate and complete.
5. I FURTHER DECLARE AND AFFIRM that the firm named above is a domestic ___ foreign ___ corporation ___ limited liability company ___ registered in accordance with the Corporations and Associations Article, Annotated Code of Maryland, and that it is in good standing and has filed all its annual reports together with its filing fees with the Maryland State Department of Assessments and Taxation, and that the name and address of its resident agent filed with the Maryland Department of Assessments and Taxation is:

Name: _____

Address: _____

MD Dept. of Assessments & Taxation I.D. Number _____

6. I FURTHER CERTIFY that this firm, its officers, directors, members, partners and employees, and the representative agent agrees to abide by the enclosed Article 4 "Ethics in Public Contracting" of the WSSC's Code of Ethics which took effect on November 1, 2003.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS CERTIFICATION ARE TRUE AND CORRECT.

DATE: _____ BY _____
SIGNATURE

PRINTED NAME/TITLE: _____

NAME OF FIRM: _____

FIRM'S EMPLOYER IDENTIFICATION NO.: _____

FIRM'S TELEPHONE NO. : _____

FIRM'S FACSIMILE NO. : _____

FIRM'S E-MAIL ADDRESS: _____

Subscribed and sworn to before me this _____ day of _____, 20____.

Notary Public

INSURANCE REQUIREMENTS

1. **INSURANCE:** The Contractor shall instruct his insurance agent or carrier to furnish to the Washington Suburban Sanitary Commission a certificate of insurance attesting to the issuance of insurance policies affording coverage's as required and listed below. Please note that such certificate of insurance and any required bonds must be issued and then approved by the Washington Suburban Sanitary Commission prior to the issuance of a Notice to Proceed by the Contract Administrator.
2. **TYPES OF COVERAGE:** The Contractor shall furnish and keep in full force the following insurance noted as mandatory during the term of this Contract:

X EQUALS MANDATORY

<u>X</u>	<u>Commercial General Liability Insurance</u>	\$500,000 Each Occurrence
	Occurrence Form With No Limiting or Exclusion Endorsements, Including, But Not Limited to:	
<u>X</u>	Blanket Contractual Coverage	
<u>X</u>	Independent Contractor Coverage	
<u>X</u>	Products and Completed Operations Coverage	
<u>X</u>	Personal Injury Coverage	
<u>X</u>	Broad Form Property Damage Coverage	
<u>X</u>	<u>Business Auto Liability Insurance</u>	\$500,000 Per Accident
	Applying to <u>ALL</u> Owned, Non-Owned and Hired Vehicles	
<u>X</u>	Worker's Compensation and <u>Employer's Liability Insurance</u>	Statutory Limits of State in which work is to be performed
	Employers Liability Limits	
	Bodily Injury by Accident - \$100,000 Each Accident	
	Bodily Injury by Disease - \$500,000 Policy Limit	
	Bodily Injury by Disease - \$100,000 Each Employee	
	Liability Insurance	\$100,000 Each Occurrence
	<u>Pollution Hazard Liability Coverage</u>	\$500,000 Per Occurrence, Claim or Loss
	<u>Errors and Omissions Liability Coverage</u>	\$500,000 Per Occurrence, Claim or Loss
<u>X</u>	Employee Dishonesty Coverage	\$ _____ Limit of Insurance
	Underground Explosion Coverage	
	Assault/Battery Coverage	

3. **NAMED INSURED:** The Commission shall be named as an additional insured (Form B broader form) on the Commercial General Liability insurance policy.
4. **SUBROGATION:** The Workers Compensation and the Business Auto insurance must each contain the following provision: "WAIVER OF SUBROGATION APPLICABLE TO THE COMMISSION AND ITS EMPLOYEES WHILE SUCH EMPLOYEES ARE PERFORMING WORK FOR OR ON BEHALF OF THE COMMISSION."
5. **PREMIUM PAYMENTS AND COMMISSION ACCEPTANCE:** The premium to be expended for all of the above enumerated policies of insurance shall be paid by the Contractor. The policies of insurance, certificates of insurance and the insurance company or insurance companies issuing such certificates or policies of insurance must be acceptable to this Commission.
6. **DESIGNATION AS TO APPLICABILITY:** All policies or certificates of insurance must be issued indicating that such policies or certificates are applicable to work being performed under a specific Contract or to all work performed by the Contractor for the Washington Suburban Sanitary Commission.
7. **NOTIFICATION OF ALTERATION OR MATERIAL CHANGE OR CANCELLATION:** A minimum of thirty days written notification must be given by an insurer of any alteration, material change or cancellation affecting any certificates or policies of insurance as required under this Contract. Such required notification must be sent via Registered or Certified Mail to the address indicated below:

Washington Suburban Sanitary Commission
Acquisition Office – 8th floor
14501 Sweitzer Lane
Laurel, Maryland 20707-5902.
8. **CERTIFICATES OF INSURANCE:** Certificates of insurance should be issued immediately after the Contractor receives notification of Award and prior to the Notice to Proceed. It should be clearly understood that the Contractor is not to commence any work under such Contract until a written Notice to Proceed is issued by the Commission's Contract Administrator.

REFERENCES

SOLICITATION NO. 5773

OFFEROR'S NAME: _____

1. a) Name and address of customer.

- b) Name, title, and telephone number of customer contact.

Name: _____

Title: _____

Telephone Number: _____

- c) Description of work performed.

Contract title: _____

Contract dates: _____

Price range: (over or under \$) _____

2. a) Name and address of customer.

- b) Name, title, and telephone number of customer contact.

Name: _____

Title: _____

Telephone Number: _____

REV. 3/07

REFERENCES

SOLICITATION NO. 5773

OFFEROR'S NAME: _____

- c) Description of work performed.

Contract title: _____

Contract dates: _____

Price range: (over or under \$) _____

3. a) Name and address of customer.

- b) Name, title, and telephone number of customer contact.

Name: _____

Title: _____

Telephone Number: _____

- c) Description of work performed.

Contract title: _____

Contract dates: _____

Price range: (over or under \$) _____

REV. 3/07

THE FOLLOWING SECTIONS CONSTITUTE A VERBATIM EXTRACT FROM THE COMMISSION'S MINORITY BUSINESS ENTERPRISE PROGRAM, ADOPTED BY THE COMMISSION ON APRIL 10, 1996 AND EFFECTIVE JULY 1, 1997. THIS EXTRACT REPRESENTS THOSE PORTIONS RELEVANT TO THE COMMISSION'S PROCUREMENT FUNCTIONS. THE NUMBERING SEQUENCE OF THIS EXCERPT DOES NOT REFLECT THE SAME NUMBERING SEQUENCE AS THE MINORITY BUSINESS ENTERPRISE PROGRAM.

MINORITY PROCUREMENT POLICY

I. STATEMENT OF PURPOSE

The following establishes the procedures by which Article 29, Sections 3-102(d) and 109(f) of the Annotated Code of Maryland will be implemented to administer the Minority Business Enterprise (MBE) Program for competitively bid Construction contracts, and Architecture and Engineering, Procurement, and Professional Services contracts at the Washington Suburban Sanitary Commission.

General guidelines are explained in Sections II through XI, and XIII through XX. Differences in the implementation requirements of each program are summarized in Section XII.

II. STATEMENT OF POLICY

The Washington Suburban Sanitary Commission is committed to increasing the participation of local, certified enterprises owned by minorities in its procurement of commodities and services, architecture/engineering (A&E) services, construction contracting and professional services, in order to remedy the effects of prior discrimination on these businesses. It is the desire of the Commission to encourage active participation by certified, minority-owned businesses, to render effective assistance to them, and to facilitate the development of certified, minority-owned businesses that are able to compete for contracts in the open marketplace without the assistance of this program.

III. POLICY OBJECTIVES

To meet this policy, the WSSC is committed to:

- A. increasing the number of local, certified, minority-owned firms responding to Commission contracting and consultant requirements;
- B. increasing the dollar value of awards to local enterprises owned by minorities;
- C. awarding to local, certified, minority-owned firms, a minimum of 20 percent for Construction to a minimum of 28 percent for Procurement (as specified in Section X, A through D of this policy), of the total dollar value of contracts and agreements awarded.
 - 1. The Minority Business Enterprise (MBE) Officer, with the support of Program Directors, will actively search for and identify certified minority-owned firms which provide commodities and services required by the Commission.
 - 2. To achieve this goal, Program Directors and the MBE Officer will utilize minority civic and private organizations, as well as the Small Business Administration, the Maryland Department of Transportation, the Maryland Department of General Services, and other resources. The Program Directors and MBE Officer also will actively encourage such firms to submit expressions of interest in contracts offered by the Commission.

IV. DEFINITIONS

- A. Minority Person - A minority person under this policy is defined as a member of one of the following groups: African American, Hispanic, Asian, female or the physically or mentally disabled.
- B. Minority-owned firm/Minority Business Enterprise (MBE) - any legal entity that is organized to engage in commercial transactions, which is at least fifty-one percent (51%) owned and controlled by one or more minority persons; and which has been certified as minority-owned by the Maryland Department of Transportation, Prince George's County Government Minority Business Development Division, the Minority Business Opportunity Commission of the District of Columbia, or any governmental certification agency which substantially duplicates the requirements of the Maryland Department of Transportation, and which is approved by the Minority Business Enterprise Office (MBEO). A current listing of approved certification agencies is available from the MBEO.
- C. Bidder - A firm submitting a price, or proposal in response to an Invitation for Bid (IFB) or Request for Proposal (RFP).
- D. Prime Contractor - A firm that has been awarded a contract as a result of a bid or proposal.
- E. Points - The quantitative assignment of value for a specific evaluation criteria in the selection process.

- F. MBE Participation Plan - The plan as identified on Form MBE-A which describes how the prime contractor intends to comply with the minority participation requirements of the contract.
- G. MBE Unavailability Certification - Proper completion of Form MBE-B which demonstrates a bidder's unsuccessful efforts to meet the minority participation requirements of the contract.
- H. MBE Execution Certification - The certification as depicted on Form MBE-C verifying that an MBE agreement has been executed between the bidder and the MBE.
- I. MBE Utilization Report - A properly prepared Form MBE-D that reflects the percentage and dollar amount of subcontractor utilization on the contract on a monthly basis.
- J. MBE Directory - A compilation of minority businesses which is available from any of the approved certification organizations that can be used by contractors to identify subcontractors, material suppliers, etc.
- K. Joint Venture - A partnership between two or more firms established for a specific purpose with substantial control of the venture held by minority-owned firms. For competitively bid contracts, the minority-owned firm must have 51% control in order for the joint venture to be considered MBE controlled. For Request for Proposals (RFPs), the minority-owned firm must have at least 40% control. A joint venture with the required substantial control by a local minority-owned firm is a local joint venture.
- L. Program Directors - The persons responsible for the administration and oversight of the Minority Business Enterprise Program in their respective areas, i.e., the Directors of the Planning and Design, and Construction Bureaus; the Director of the Procurement Division; and designated Program Managers.
- M. "Good Faith" Efforts - Documentation of the bidders' intent to comply with MBE Program goals, and evaluation of that intent from a review of, but not limited to, the following:
 - 1. Demonstration that the bidder timely advertised in general circulation, trade association, and minority-focused media concerning the subcontracting and/or joint venture opportunities;
 - 2. Assessment of the names and addresses of each MBE subcontractor contacted and referred, and the actions taken with respect to contracting, and the results of the contacts;
 - 3. Identification of any actions taken by the bidder to subdivide the work in order to enhance the potential to subcontract with MBEs;
 - 4. Submission of a copy of information about the plans, specifications, and requirements of the contract provided to each interested MBE contacted;
 - 5. Evidence that the bidder did not reject interested MBEs as subcontractors without sound reasons;
 - 6. Demonstration of efforts made by the bidder to assist interested MBEs in obtaining bonding or insurance required by the bidder;
 - 7. Demonstration of bidder's efforts to use the services of available minority community organizations; minority business and contractor's groups; local, state and federal MBE development organizations; and other organizations that provide assistance in the placement of MBEs.
- N. Local MBE/Minority-owned Firm - A minority-owned firm with a place of business in the Washington Suburban Sanitary District Metropolitan Area. This area includes Anne Arundel, Calvert, Frederick, Baltimore, Carroll, Harford, Howard, Charles, Montgomery, Prince George's, Arlington, Prince William, Fairfax, and Loudoun Counties, and the cities of the District of Columbia, Baltimore, Alexandria, Fairfax, Falls Church, Manassas and Manassas Park.
- O. Minority Business Enterprise (MBE) Officer - The person responsible for the oversight, tracking, monitoring, administration, and implementation of the MBE program, ensuring that compliance with contract participation is maintained, and overall program goals and objectives are met.

V. UTILIZATION OF NON-MINORITY SUBCONTRACTORS

Any certified, minority-owned firm awarded a Commission contract under this policy as a prime contractor shall not subcontract more than 40% of the contract value to a firm other than a certified MBE. It is the intent of this provision to ensure that certified minority-owned firms are the recipients of at least 60% of the contract funds. **This provision does not apply to Procurement Program commodity contracts.**

VI. UTILIZATION OF MINORITY SUBCONTRACTORS

- A. Non-minority prime contractors are expected to fully comply with the provisions of this policy in utilizing minority-owned subcontractors by submitting a full MBE Participation Plan to the Program Director. The failure of the prime contractor to meet the mandatory minority subcontracting requirements may be grounds for terminating the contract, debarment from future work with the Commission, or any other sanctions specified in Section VII of this document, or contained in individual contract documents.
- B. **Certified MBE prime contractors and consultants are not required to subcontract to other certified MBE firms; however, the Commission encourages such subcontracting.**
- C. A bidder may request a full or partial waiver of the minority subcontracting provisions by submitting the MBE Unavailability Certification (Form MBE-B) at the time the MBE Execution Certification (Form MBE-C) is required under the Information for Bidders (IFB) if the bidder is unable to obtain a minority subcontractor or meet the minimum MBE participation requirement and presents adequate evidence of its **"GOOD FAITH" EFFORTS** to meet the subcontracting requirements. The Minority Business Enterprise Officer may permit the use of non-local, certified, minority-owned firms where local, certified, minority-owned firms are shown to be unavailable, or waive the subcontracting requirements completely where both local, and non-local minority-owned firms are shown to be unavailable. The MBE Officer will render a decision on the offeror's request based on the following criteria:
 - 1. that "good faith" efforts, as defined herein, have been made to subcontract with certified MBEs;
 - 2. that subcontracting would be inappropriate or would diminish the purpose or performance of the contract;
 - 3. that there are no certified MBEs available and/or capable of providing the goods or services.
- D. Should the MBE Officer determine that the bidder has satisfied the requirement for "Good Faith" Efforts, the waiver will be granted and the award process shall proceed. Should the MBE Officer determine the bidder did not satisfy the requirement, the bidder's request for a waiver will be denied. Waiver denials may be appealed in writing to the General Manager or Acting General Manager as stipulated in the solicitation documents.
- E. Whenever a majority prime contractor (after Notice of Award) becomes aware that it will be unable to comply with an approved MBE Execution Certification (MBE-C Form), the prime contractor shall, in a timely manner, submit a revision of the MBE Participation Plan, and a written statement of "Good Cause" for non-use of the MBE of record to the MBE Officer. The MBE Officer will determine if the bidder's revised MBE Participation Plan is in accordance with the Program's goals. If the revised MBE Participation Plan is in compliance with Program goals, the bidder shall be required to submit a new MBE-C Form(s) that meets the requirements of the approved Plan. If the revised Plan is determined not to be in compliance with Contract requirements, the MBE Officer shall reject the plan, and allow the Prime Contractor an additional seven (7) days to submit a new plan. If the Prime Contractor fails to submit a new plan, or submits a plan that does not comply with MBE requirements, the MBE Officer shall reject the new plan and recommend to the General Manager that appropriate action be taken. After a hearing before the General Manager or Acting General Manager, appropriate action may include, but is not limited to:
 - 1. stoppage of the contract until compliance is met;
 - 2. acceptance of the Prime Contractor's revised MBE Plan, and "Good Cause" statement; or
 - 3. debarment of the Prime Contractor from participation in future Commission contracts.

VII. VIOLATION OF MINORITY BUSINESS ENTERPRISE POLICY

Should the Internal Auditor, MBE Officer, or Program Directors, at any time during the course of a contract, or after the completion of a contract, find any firm or individual that has not complied with the MBE Execution Certification (MBE-C Form), failed to obtain a waiver, misrepresented services rendered by minority-owned or non-minority-owned firms awarded contracts pursuant to this policy, or violated any provision of this policy shall, after a hearing before the General Manager or his designee, be subject to any of the following:

- A. Termination of the contract for default, debarment of the prime contractor, suspension of the prime contractor/subcontractor, and/or declaration that the prime contractor/subcontractor is ineligible for further WSSC contract/subcontract awards for a period up to and including three years.
- B. Referral by the MBE Officer to the appropriate certification agency for investigation and possible decertification of the minority-owned firm.
- C. Referral by the General Counsel to the appropriate law enforcement office for possible prosecution for committing a felony and, upon conviction, the minority business enterprise, or non-minority business enterprise could be subject to a fine and/or imprisonment.

VIII. MBE SUBCONTRACTOR REQUIREMENTS

- A. Commission contracts shall contain language which allows MBE subcontractors to further subcontract the work credited under this program. This allowance shall, however, prohibit:
 - 1. further subcontracting any work under the contract except to other local certified, minority-owned firms;
 - 2. utilizing goods, equipment, services, or employees procured, rented, or leased from the prime contractor, or a company owned in part or wholly by the prime contractor; and/or
 - 3. subcontracting without knowledge or approval of the Commission.
- B. Subcontractors identified in the MBE Participation Plan must be prepared to work at the time the Plan is submitted. Prior to submission of a Plan by a firm, any proposed minority subcontractor must have obtained approved minority certification as indicated in Section IV.B. of this policy.

IX. MBE SELECTION CRITERIA

The Program Directors, with the concurrence of the MBE Officer, will consider the following criteria whenever possible in selecting one or more of the minority contracting methods prior to awarding a contract under this program:

- A. Whether the method selected is likely to increase the number of local, certified, minority-owned firms in the future.
- B. Whether the method selected is likely to increase the dollar value of awards to local, certified, minority-owned firms in the future.
- C. Whether the method selected is the least restrictive alternative available under this policy, which will provide for meeting the goals of this program.

Section IX does not apply to the Construction Program.

X. MBE PROGRAM GOALS

The MBE Program **minimum** goals shall be as follows:

	<u>Program</u>	<u>Goal</u>
A.	A&E	24% of the total dollars awarded
B.	Construction	20% of the total dollars awarded
C.	Procurement	28% of the total dollars awarded
D.	Professional Services	20% of the total dollars awarded

XI. MBE PROGRAM LOCATION

Article 29, Section 3-109 requires the geographic location and principal place of business of the MBE firm be a consideration for participation in the Architecture and Engineering, Procurement, and Professional Services Programs. Montgomery County businesses and Prince George's County businesses shall each have a targeted percentage of at least 40 percent of any contracts.

The Program Directors and the Minority Business Enterprise (MBE) Officer will actively search for and identify certified, minority-owned firms with a place of business primarily in the Washington Suburban Sanitary District Metropolitan Area. This area includes Anne Arundel, Calvert, Frederick, Baltimore, Carroll, Harford, Howard, Charles, Montgomery, Prince George's, Arlington, Prince William, Fairfax and Loudoun Counties, and the cities of the District of Columbia, Baltimore, Alexandria, Fairfax, Falls Church, Manassas and Manassas Park.

XII. MBE PROCUREMENT PROGRAM IMPLEMENTATION

In accordance with applicable sections of the Commission procurement policies outlined in the Procurement Manual, the Commission shall utilize one or more of the methods listed below in the order of least restrictive to more restrictive:

- A. Encourage small firms to bid on WSSC contracts; provide outreach efforts for small firms which include but are not limited to conducting workshops on how to do business with WSSC.

- B. For solicitations or requests for proposal, waive the corporate experience requirement for a minority-owned firm provided that the firm has at least a year's relevant corporate experience, and the firm's principals have considerable relevant experience prior to forming or joining the firm.
- C. Waive or reduce all or part of the Commission's bonding and/or insurance requirements for minority-owned firms, if the Commission judges that the requirements would deny the minority-owned firm an opportunity to perform the contract which the firm has shown itself otherwise capable of performing.
- D. Award additional points to minority or other joint venture arrangements in response to a request for proposal. (See Section XII.G.)
- E. Include in contracts, when appropriate, a mandatory minority subcontractor utilization clause requiring at least 20% of the contract's total value be subcontracted to local, certified, minority-owned firms.
- F. Award contracts to local, certified, minority-owned firms and joint ventures submitting a bid within 5% (inclusive) of a low bid by a majority-owned firm, or (if it results in a low bid) to non-local minority-owned firms and joint ventures submitting a bid within 3% of a low bid by a majority-owned firm. No preference shall be applied under this section if the low bidder is a minority-owned firm. Minority Business Enterprise awards within 3 or 5% of a low bid by a majority-owned firm as described above, do not apply when: (a) the manufacturer supplying the subject minority company also bids independently on the same contract; or (b) the award to the minority-owned firm or joint venture would result in a total contract cost of \$50,000 or more annually in excess of the low bid.
- G. Offers received in response to a Request for Proposals (RFP) shall be subject to an evaluation procedure that awards additional points for participation by local, certified, minority-owned firms that exceeds the required minimum participation (if any) in the solicitation documents. For subcontracting arrangements, the number of points awarded shall be directly proportionate to the percentage of minority business participation; a maximum of 15% of the total points may be awarded. For joint venture arrangements involving at least 40% minority participation, a maximum of 20% of the total points may be awarded. For joint venture arrangements involving 51% or greater minority participation, or for proposals submitted wholly by minority-owned firms, a maximum of 25% of the total points may be awarded.
- H. Limit competition to certified, minority-owned firms for certain contracts. This procedure may not be utilized until all less restrictive remedies and race neutral remedies such as assistance with bonding requirements, financing, or bidding procedures for small firms have been used and found to be ineffective. If fewer than three MBEs bid on a contract, the contract shall be awarded under the procedure for granting preferences of up to the lesser of 5 percent or \$50,000 to MBEs in evaluating bids and proposals. The Procurement Director will ensure that awards made under the restricted bidding provisions of this policy are reasonable in price. Normally, reasonable price is considered to be no more than 10% over prevailing market prices.

XIII. SUBMITTAL REQUIREMENTS - PROCUREMENT

- A. MBE participation shall be submitted at time of bid on all contracts over \$15,000.

XIV. GRADUATION

It is the Commission's intent to assist the MBE financially (through contract dollars) and experientially (through years of program participation) to compete in the open marketplace; therefore the following graduation provision will apply to:

A. A & E, PROCUREMENT, AND PROFESSIONAL SERVICES PROGRAMS:

The Commission shall provide for the graduation of a minority business enterprise from the program after **five** years from the date of first award after July 1, 1992; however, if a minority firm has not received at least three contracts or \$50,000 in awarded contracts during the **five-year** period, the firm may apply for and receive a single two-year extension of participation in the program.

B. CONSTRUCTION PROGRAM:

A bidder may not count towards its MBE participation the amount subcontracted to an MBE, which has either graduated or has been temporarily suspended from the program as follows:

- 1. An MBE is graduated from the program after it has been awarded **seven million dollars** of WSSC work, and at least **five** separate contracts (cumulative) since July 1, 1992, as prime contractor, and/or subcontractor.
- 2. An MBE is temporarily suspended for the balance of any fiscal year after it has been awarded **three million dollars** (for that year) of WSSC contract work as a prime contractor and/or subcontractor.
- C. The MBE Office will provide written notice to the MBE upon graduation.

XV. POLICY/PROGRAM REVIEW

- A. The MBE Officer shall monitor the implementation of the policy and progress of the program. The MBE Officer shall report through the General Manager to the Commission on progress in achieving the goals established for awards to certified, minority-owned firms, reporting both dollars awarded and expended.
- B. After award, the Commission shall require the prime contractor to submit monthly Minority Utilization Reports (Form MBE-D) for contracts **\$25,000 and over**, stating the percentage and dollar amounts of subcontractor utilization for that month. **MBEs will be requested to submit similar reports to allow for verification of payments made and received.** The Program Directors will forward monthly copies to the Minority Business Enterprise Office. Separate figures showing the amounts actually paid by the prime contractor shall be given for each minority subcontractor. Supportive documentation, such as checks and/or invoices, shall be kept by the prime contractor and made available for audit upon request.
- C. The Commission shall periodically review the program to determine whether the Minority Business Enterprise Program is achieving its stated goals and objectives, whether the program remains necessary to remedy the effects of past discrimination, and whether any changes are necessary. The Commission will conduct a public hearing at least once every two years in order to solicit public comments on the Program. This Program shall terminate on July 1, 2012, without any further action by the Commission.

XVI. WAIVER

The Commission, through the General Manager, or Acting General Manager, reserves the right to waive all or part of this policy for a specific contract where it determines that the application of this policy conflicts with the overall objectives and responsibilities of the Commission.

XVII. SEVERABILITY

In the event that any portion of this MBE Policy is declared illegal or unenforceable, it shall affect no other provision, and the remainder of this MBE policy shall be valid and enforceable.

XVIII. APPLICABILITY TO PRIOR POLICY

This policy supersedes Commission Resolution Number 95-01; and takes precedence over applicable sections of the Commission's Construction, Procurement, and Architecture and Engineering policies as outlined in the respective manuals.

XIX. EFFECTIVE DATE

These procedures shall become effective for contracts awarded after June 21, 2007.

XX. SUNSET

Under the authority of Article 29, Section 3-102(d) and 109(f), of the Annotated Code of Maryland, the provisions of this program shall become null and void after July 1, 2012.

**WASHINGTON SUBURBAN SANITARY COMMISSION
SMALL LOCAL AND/OR MINORITY BUSINESS SUBCONTRACTING CERTIFICATION**

The undersigned certifies that they have entered into a subcontracting agreement to provide the services/commodities described herein for the percentage of the Contract value stated herein.

W.S.S.C. Contract No.: _____ Contract Value: \$ _____

Contract Title: _____

Please check the appropriate business classification of the Subcontractor:

- ☐ Certified Minority Business Enterprise Firm
☐ Approved Small Local Business Enterprise Firm

Is this a mandatory subcontracting requirement (circle one option)? Yes or No

Value of Subcontracted Services/Commodities: \$ _____

Percentage of Contract Value: _____ %

Small Local **and/or** Minority Business Enterprise Subcontractor's Name

Address

City

County

State

Minority Certifying Agency: _____

Minority Certification No.: _____

Expiration Date

Minority Type

Detailed Description of Subcontracted Services/Commodities: _____

Signed and sealed this _____ day of _____, 20____.

Printed Name of Contractor

Printed Name of Subcontractor

By: _____ (Seal)

By: _____ (Seal)

Authorized Signature

Authorized Signature

Printed Name/Title

Printed Name/Title

Witness/Attest:

Witness/Attest:

Signature/Title

Signature/Title

EIN No.: _____

Firm's Telephone No. : _____

Firm's Facsimile No. : _____

Firm's E-Mail Address: _____

ETHICS IN PUBLIC CONTRACTING
(EXCERPTS FROM THE WSSC CODE OF ETHICS)

Section 1-3. Definitions.

In this Code of Ethics, unless the context clearly indicates otherwise, the following words or phrases have the meanings stated:

- (a) **Board** means the WSSC Board of Ethics.
- (b) **Business** means any for-profit or not-for profit enterprise, including a corporation, general or limited partnership, sole proprietorship, joint venture, association, firm, institute, trust, or foundation. **Business** does not include a governmental entity.
- (c) **Commission** means the Washington Suburban Sanitary Commission and **Commissioner** means a member of the **Commission** appointed under Article 29 of the Annotated Code of Maryland.
- (d) **Compensation** means any money or thing of value, regardless of form, including the sale or delivery of tangible or intangible property, that an **employer** pays or agrees to pay for services rendered.
- (f) **Employee** means any **person** employed by **WSSC** whether or not employed on a merit, non-merit, contract, temporary, permanent, or part-time basis.
- (h) **Employment** or **Employ** means engaging in an activity for **compensation**.
- (i) **Entity** means a **person** or government or instrumentality of a government.
- (k) **Gift** means the transfer of anything of economic value, regardless of form, without an exchange of consideration of at least equal value. **Gift** does not include a transfer regulated by state or federal law governing political campaigns or elections.
- (n) **Interest** means any source of income or any other legal or equitable economic interest, whether or not subject to an encumbrance or a condition, which is owned or held, in whole or in part, jointly or severally, directly or indirectly. **Interest** does not include:
 - (1) an interest in a time deposit or demand deposit in a financial institution;
 - (2) an interest in an insurance policy, endowment policy, or annuity contract under which an insurance company promises to pay a fixed number of dollars either in a lump sum or periodically for life or some other specified period;
 - (3) an interest in a mutual fund or exchange-traded fund(ETF);
 - (4) an interest held in the capacity of agent, custodian, fiduciary, personal representative, or trustee, unless the holder has an equitable interest in the subject matter; or
 - (5) an interest in a deferred compensation plan that:
 - (A) has more than 25 participants; and
 - (B) the Internal Revenue Service has determined qualifies as a trust under section 401, 457, and 501 of the Internal Revenue Code.

(r) **Person** means an individual, receiver, trustee, guardian, personal representative, fiduciary, representative of any kind and any partnership, firm, association, corporation, or other entity.

(u) **WSSC** means the Washington Suburban Sanitary Commission

Section 4-1. Reporting of Suspected Collusive or Fraudulent Bidding or Negotiation.

- (a) *Notification to the General Counsel.* When for any reason, collusion or fraud is suspected among any bidders or offerors, a written notice of such suspicion must be transmitted by a **Commissioner** or **employee** to the General Counsel.
- (b) *Retention of all documents.* All documents involved in any procurement in which collusion is suspected must be retained until the General Counsel determines otherwise. All retained documents must be made available to the General Counsel or designee upon request.

Section 4-2. Illegal Gifts and Kickbacks.

- (a) *Gifts.* A bidder, offeror, or contractor must not make or offer to make a **gift** to a **Commissioner** or **employee** that the **Commissioner** or **employee** is prohibited from accepting under Article 3 of the WSSC Code of Ethics or other law.
- (b) *Kickbacks.*
- (1) In these regulations, a kickback means any money, fee, commission, credit, **gift**, or **compensation** of any kind which is provided directly or indirectly to a prime contractor, a prime contractor employee, a subcontractor, a subcontractor employee, a **Commissioner** or **employee**, or other **person** for the purpose of obtaining or rewarding favorable treatment in the award of a prime contract or a subcontract in connection with a contract awarded by **WSSC**.
- (2) A **person** must not:
- (A) provide, attempt to provide, or offer to provide a kickback;
- (B) solicit, accept, or attempt to accept a kickback;
- (C) include, directly or indirectly, the amount of a kickback in the price charged by the subcontractor to the contractor, or by the prime contractor in the price charged by the prime contractor, to **WSSC**; or
- (D) claim that the unlawfully induced contract or subcontract fulfills any legal, regulatory, or contractual requirement.
- (3) **WSSC** may offset the amount of a kickback from any sum owed to the prime contractor by **WSSC**.

Section 4-3. Ethics; Contractor Conduct.

- (a) During the conduct of a procurement, a bidder or offeror, or any officer, **employee**, representative, agent, or consultant of any bidder or offeror, may not knowingly:
 - (1) make any offer or promise of future **employment** or business opportunity to, or engage in any discussion of future **employment** or business opportunity with, any **WSSC employee** or **Commissioner** involved in the procurement;
 - (2) offer, give, or promise to offer or give any money, gratuity, or other thing of value to any **WSSC employee** or **Commissioner** involved in the procurement; or
 - (3) solicit or obtain from any **employee** or **Commissioner** of **WSSC** before the award of a contract, any proprietary or source selection information regarding the procurement.
- (b) A contractor providing an analysis or recommendation to **WSSC** concerning a particular matter must not, without first obtaining the written consent of the General Manager, after comment from the **Board**:
 - (1) assist:
 - (A) another party in the matter; or
 - (B) another **person** if the **person** has a direct and substantial **interest** in the matter; or
 - (2) seek or obtain an economic benefit from the matter in addition to payment to the contractor by **WSSC**.
- (c) A contractor must not use confidential information obtained in relation to performing a contract except as expressly authorized in the contract or by the General Manager.
- (d) In connection with a contract with **WSSC**, a **person** must not willfully:
 - (1) falsify, conceal, or suppress a material fact by any scheme or device;
 - (2) make a false or fraudulent statement or representation of material fact; or
 - (3) use a false writing or document that contains a false or fraudulent statement or entry of a material fact.
- (e) A **person** may not aid or conspire with another **person** to commit an act under subsection (d).

Section 4-4. Participation in Procurement.

- (a) An individual or **entity** that employs an individual who assists **WSSC** in the drafting of specifications, an invitation for bids, a request for proposals for a procurement, or the selection or award made in response to an invitation for bids or a request for proposals may not:
 - (1) submit a bid or proposal for that procurement; or
 - (2) assist or represent another person, directly or indirectly, who is submitting a bid or proposal for that procurement.
- (b) For purposes of subsection (a) of this section, assisting in the drafting of specifications does not include:

- (1) providing descriptive literature such as catalogue sheets, brochures, technical data sheets, or standard specification “samples”, whether requested by **WSSC** or provided on an unsolicited basis;
- (2) submitting written comments on a specification prepared by **WSSC** or on a solicitation or bid or proposal when comments are solicited from two or more persons as part of a request for information or a pre-bid or pre-proposal process;
- (3) providing specifications for a sole source procurement made in accordance with the Procurement Manual; or
- (4) providing architectural and engineering services for programming, master planning, or other project planning services.

Section 4-5. Consultants-Conflicts of Interest Affidavit; Non-Conviction Affidavit.

- (a) Each invitation for bids or requests for proposals for a contract that will involve the selection of a consultant who is to assist **WSSC** in the formation, award, or execution of any **WSSC** contract shall require that a bidder or offeror provide **WSSC** with an affidavit that discloses any actual or potential conflict of interest of which the bidder or offeror knows, or reasonably can be expected to know.
- (b) Requirements for disclosure of conflicts of interests under this section shall be consistent with those applicable to State agency consultants under Md. Ann. Code, State Finance and Procurement Article, §13-212.
- (c) Except as may be provided in **WSSC** procurement regulations, each **person**, upon submitting a bid or proposal or other application for a contract with **WSSC** shall submit an affidavit of non-conviction (and related affirmation) in accordance with Md. Ann. Code, State Finance and Procurement Article §16-311. The affidavit additionally shall cover any convictions of making a payment of a gratuity to, or supplementing the salary of, a public official or similar offenses relating to public graft. The affidavit shall cover any conviction by any officer, director, partner, or **employee** of the **person** or, if the **person** is a **business**, the **business** itself. To the extent known, the affidavit shall also cover convictions of any officer, director, partner, employee of, and including a **business**, related by common ownership or management control, including subsidiaries, affiliates, or parent corporations.
- (d) Conviction, including an accepted plea of nolo contendere, of any of the offenses set forth in subsection (c) may be grounds for debarment or a determination by **WSSC** that a bidder or offeror is not responsible to perform the contract.
- (e) This section is not intended to preclude **WSSC** from imposing similar conflict of interest requirements as conditions in its other contracts.

Section 4-6. Disclosure of Procurement Information.

- (a) After a solicitation is issued and until a recommendation is made by a procurement officer or a project manager, the procurement officer, project manager or any other **WSSC employee** or **Commissioner** involved in the procurement may only disclose to a **person** outside **WSSC**:
 - (1) whether a decision has been made regarding the solicitation; and

- (2) information that is available to the public under the Maryland Public Information Act.
- (b) After a solicitation is issued, a procurement officer or project manager shall record and include in the procurement file the following information from a source outside **WSSC**:
 - (1) the date and time of the inquiry or communication;
 - (2) the name and affiliation of the person making the inquiry or communication; and
 - (3) the substance and nature of the inquiry or communication.
- (c) After a recommendation is made by a procurement officer or project manager, but before final action on the procurement, a **WSSC** employee or **Commissioner** responsible for approving or recommending the contract award shall provide the procurement officer or project manager, for inclusion in the procurement file, a written summary of any inquiries or communications from a source outside **WSSC** in the manner provided in subsection (b) of this section.
- (d) This section is not intended to cover inquiries or communications in the course of activities clearly contemplated under **WSSC's** procurement procedures such as pre-bid conferences, proposal evaluation interviews, competitive or sole source negotiation, or the negotiation and execution of contracts.

Section 4-7. Prohibited Contingent Fees.

- (a) A **person** must not retain another to secure a contract from **WSSC** under an agreement that in exchange for the contract, the **person** will pay another a commission, percentage of the contract, or a contingent fee.
- (b) This section does not apply to:
 - (1) a bona fide **employee** or commercial selling agency retained by the **person** for the purpose of securing **business**; or
 - (2) an attorney rendering professional legal services consistent with applicable canons of ethics.

Section 4-8. Civil or Administrative Remedies Against Those Who Violate Ethical Standards.

- (a) Violation of the provisions of this Article may result in the voiding by **WSSC** of the applicable contract, suspension, debarment, or a determination that a bidder or offeror is not responsible to perform a contract. Any civil and administrative remedies for violations of ethical standards which are codified elsewhere in law or regulation, or which are applicable by contract, are not impaired.
- (b) The value of anything received by any **person** for a violation of the ethical standards contained in this Article are recoverable from the **person** by **WSSC** by setoff, attachment, garnishment, or other appropriate legal action. A **person** who, for the purpose of defrauding **WSSC**, acts in collusion with another person in connection with procurement process is liable for damages equal to three times the value of the loss to

WSSC that is attributable to the collusion under Md. Ann. Code, State Finance and Procurement Article §11-205.

- (c) If a **person** makes a kickback in connection with the award of a contract, subcontract or order, **WSSC** is entitled to presume conclusively that the amount of the kickback was included in the price of the contract, subcontract, or order and ultimately borne by **WSSC**. The amount of the kickback may be recovered from the:
 - (1) recipient; or
 - (2) **person** making the kickback.

Section 4-9. Penalties.

- (a) Any criminal penalties for violations of ethical standards codified elsewhere by law or regulation are not impaired.
- (b) Following a final criminal conviction of an **employee** for violation of a provision of this Article, **WSSC** must release the convicted **employee**. Pending completion of any criminal proceedings, the **WSSC** may suspend, with or without pay, the accused **employee**.