

LINK 1 - PROCUREMENT PROCEDURE

A. AFFIRMATIVE ACTION

The City of Lincoln-Lancaster County Purchasing Division provides equal opportunity for all firms and encourages minority businesses and women's business enterprises to participate in the RFP process.

B. RFP APPROACH

The RFP process is designed to be a competitive negotiation platform, where price is not considered; the Owner has the flexibility to negotiate with a select firm to arrive at a mutually agreeable relationship. All awarded proposers will be required to submit their labor and expense rates at time of award recommendation. All labor and expense rates must be fair and reasonable and comparable to charges for other local and State entities.

No increase in any of the negotiated rates for the first year will be approved prior to the contract renewal date. Any request for an increase shall be made at the time of renewal. The City reserves the right to reject rate increases throughout the term of the contract and renewal.

The Owner reserves the right to accept or reject any or all offers, parts of offers; request rebids; waive irregularities and technicalities in offers; such as shall best serve the requirements and interests of the Owner.

C. SELECTION COMMITTEE

A Selection Committee will be assigned the task of reviewing the proposals received.

1. The Selection Committee may request documentation from Proposer(s) of any information provided in their proposal response or require the Proposer to clarify or expand qualification statements.
2. The Selection Committee may also require a site visit and/or verbal interview with a Proposer or select group of Proposers to clarify and expand upon the proposal response.

D. PROPOSAL PROCEDURE

All responses will be made electronically in the Ebid system and will be completed as outlined in this document.

Proposer shall submit a complete set of the RFP documents as a PDF file, and all supporting material as indicated in this document.

Proposal responses submitted by a firm other than a corporation must include the name and address of each member. A response by a corporation must be signed in the name of such corporation by a duly authorized official thereof. Any person signing a response for a company, corporation, or other organization must show evidence of his/her authority so to bind such company, corporation, or organization.

Proposals received after the time and date established for receiving offers/proposals will be rejected.

E. PROPOSER'S OFFER AND REPRESENTATION

The signed proposal shall be considered an offer on the part of the proposer. Such offer shall be deemed accepted upon issuance by the Owner(s) of purchase orders or other contract documents appropriate to the work.

No offer shall be withdrawn for a period of one hundred twenty (120) calendar days after the time/date established for receiving proposals, and each proposer agrees in submitting an offer.

Each proposer by signing and submitting an offer, represents that he/she has read and understands the proposal documents, and the offer has been made in accordance therewith.

Each offer represents the proposer is familiar with the local conditions under which the work will take place and has correlated observations with the RFP requirements.

F. INDEPENDENT PROPOSAL DETERMINATION

By signing and submitting this RFP, the proposer certifies that the proposal offered has been arrived at independently, without consultation, communication or agreement, for the purpose of restricting competition, with any other Proposer/Competitor; unless otherwise required by law, the proposal submitted by the successful Firm that is associated with this offer has not been knowingly disclosed by the Proposer prior to RFP opening directly or indirectly to any other competitor; no attempt has been made, or will be made, by the Proposer to induce any person or Firm to submit, or not to submit, a response for the purpose of restricting competition.

G. PROTECTION OF PROPRIETARY AND TRADE SECRET INFORMATION

Data contained in any proposal or bid (hereinafter "Submission") and all documentation provided therein, become the property of the City of Lincoln. Upon receipt of any Submission by the City of Lincoln, all data and documentation becomes a public record and is subject to disclosure by the City of Lincoln to any party initiating a public records request under Nebraska Revised Statutes § 84-712 et seq. In response to a public records request, the City of Lincoln may include the entire proposal or response. The City of Lincoln has no duty to protect proprietary or commercial information and/or trade secrets.

If the Proposer/Bidder wishes to have any information withheld from a public records request, such information must fall within the definition of "proprietary or commercial information" contained within Nebraska Public Records Statutes as defined by Nebraska Revised Statute § 84-712.05(3) and/or must be considered "trade secrets" as defined by Nebraska Revised Statutes §§ 87-501 to 87-507. Any and all information the Proposer/Bidder wishes the City of Lincoln to withhold from public disclosure must be submitted in a sealed package which:

1. Is separate from the remainder of the Submission;
2. Is clearly marked "*proprietary or commercial information*" and/or "*trade secrets*" on the outside of the package;
3. Individually identifies each separate page as confidential;
4. Contains supporting documentation specifically enumerating why the information in such documents are marked and qualify as proprietary or commercial information/trade secrets. Under Nebraska law, in order for such information to be protected, the information, if released, would give competitors an advantage **and** serve no public purpose.

FAILURE TO STRICTLY COMPLY WITH THESE INSTRUCTIONS WILL RESULT IN DISCLOSURE OF INFORMATION DECLARED BY THE BIDDER/PROPOSER TO BE PROPRIETARY OR COMMERCIAL INFORMATION AND/OR TRADE SECRETS. NO NOTICE OF FAILURE TO COMPLY WILL BE PROVIDED.

If the instructions above for designating proprietary or commercial information and/or trade secrets are strictly followed, the City of Lincoln will provide the bidder/proposer with reasonable notice that a public records request has been made that may include the information designated as proprietary and commercial or a trade secret. It is the sole responsibility of the Proposer/Bidder to take actions necessary to protect the information claimed as proprietary or commercial, or a trade secret.

Proposers/Bidders may not mark their entire Submission as *proprietary or commercial information and/or trade secrets*. Proposer's/Bidder's cost proposals may not be marked as proprietary or commercial information/trade secrets, and are deemed to be a public record in the State of

Nebraska. Failure of the Proposer/Bidder to follow the instructions for submitting proprietary or commercial information/trade secrets may result in the material being viewed by other proposers/bidders and/or the public.

“Proprietary or commercial information” is defined as trade secrets, academic and scientific research work which is in progress and unpublished, and other information which if released would give advantage to business competitors and serve no public purpose. (see Neb. Rev. Stat. § 84-712.05(3)).

“Trade Secrets” is defined as information, including, but not limited to, a drawing, formula, pattern, compilation, program, device, method, technique, code, or process that:
Derives independent economic value, actual or potential, from not being known to, and not being ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.
(See Neb. Rev. Stat. § 87-502 (4)(a)(b))

In accordance with the Nebraska Attorney General Opinions 92068 and 97033, Proposers/Bidders submitting information as proprietary or commercial information/trade secrets may be required to prove specific competitor(s) by name who would be advantaged by release of the information and the specific advantage the competitor(s) would receive

H. COPYRIGHT AND POSTING WAIVER

Any individual or entity awarded a contract, or who submits a proposal or response to this RFP, specifically waives any copyright or other protection the contract, proposal, or response to the RFP may have; and, it shall be implied that they have the ability and authority to enter into such waiver. This reservation and waiver is a prerequisite for submitting a proposal or response to this RFP, and award of a contract. Failure to agree to the reservation and waiver will result in the proposal or response to the RFP being found non-responsive and rejected.

To facilitate public postings, except for proprietary information, the City of Lincoln/Lancaster County reserves a royalty-free, nonexclusive, and irrevocable right to copy, reproduce, publish, post to a website, or otherwise use any contract, proposal, or response to this RFP for any purpose, and to authorize others to use the documents.

Any entity awarded a contract or submitting a proposal or response to the RFP agrees not to sue, file a claim, or make a demand of any kind, and will indemnify and hold harmless the City of Lincoln/Lancaster County and its employees, volunteers, agents, and its elected and appointed officials from and against any and all claims, liens, demands, damages, liability, actions, causes of action, losses, judgments, costs, and expenses of every nature, including investigation costs and expenses, settlement costs, and attorney fees and expenses, sustained or asserted against the City of Lincoln/Lancaster County, arising out of, resulting from, or attributable to the posting of the contract or the proposals and responses to the RFP, awards, and other documents

Proposers shall verify addendum receipt electronically in Ebid prior to RFP closing or RFP may be rejected.

I. PRE-PROPOSAL MEETING

There will not be a pre-proposal conference for this RFP.

J. SCOPE AND FEES/COMPENSATION

The Negotiating Committee shall meet with the top-ranked firms ranked to negotiate terms, conditions and compensation. If an agreement with the top-ranked firm cannot be reached, the negotiations with that firm shall be terminated and the next highest firm shall enter the negotiation phase.

The negotiations procedure shall be repeated with each firm in order of ranking, provided factors for ranking have not changed, until an agreement is reached or until negotiations with all firms fail. In all cases where the negotiations were terminated, the reasons and facts surrounding those negotiations shall be recorded in writing by the Negotiation Committee and submitted to the Mayor and the Director directly related to the project. If an agreement cannot be reached with any of the firms, the Purchasing Agent may start the selection process again by issuing a new RFP.

Awarded Firms will be required to submit hourly rates and expense rates for all portions of work to be done under this contract. Hourly rates and expense rates must be within the range of what is being charged to other government entities for similar work and deemed fair and reasonable by the City. The City reserves the right to reject requests for reimbursement of some expenses that may be requested by Firm.

N. WRITTEN CLARIFICATIONS

Formal request(s) for written clarification may be made to one or more Proposers during the written evaluation period which are specific to an individual Proposer.

Written clarifications are intended to occur prior to any oral interviews being held and will outline the specific elements of the RFP response. The purpose of obtaining written clarification is to assist the Selection Committee members in determining if the RFP response submitted meets the RFP requirements and if the Proposer will move forward in the evaluation process. If deemed necessary, written clarification requests may also occur after Oral Interviews.

Such requests shall be provided to the Proposer through a written request for clarification sent via email, and will detail the specific items of the RFP response requiring clarification.

Failure of a Proposer to submit the written clarification response with all the information requested by the date requested may result in the Proposer being deemed non-responsive and exclude the Proposer from receiving further consideration of their RFP response.

A written copy or summary of the presentation, and demonstrative information (such as briefing charts, et cetera) may be offered by the firm, but the owner reserves the right to refuse or not consider the offered materials. Firms shall not be allowed to replace their written proposal information by altering or amending the proposals in the interview process.

Once the oral interviews/presentations and/or demonstrations have been completed the Owner reserves the right to make an award without any further discussion with the proposers regarding the proposals received.

Any cost incidental to the oral interviews/presentations and/or demonstrations shall be borne entirely by the firm and will not be compensated by the Owner.

The Owner will contact the awarded proposer, by email, after all the interviews have been completed and the Owner has had sufficient time and information to discuss and rank the proposers.

P. AWARD AND NEGOTIATIONS

The resulting contracts from this RFP will be awarded to the Proposer who has been deemed responsible, responsive to the requirements outlined herein, received the highest-ranking scores,

and whose services have been determined by the Selection Committee to be the most advantageous to the Owner.

Such determination that identified the highest ranked Proposer offering shall be based on the selection committee's resulting scores from the evaluation criteria set forth in **Section IV**. and, proposers' performance in any oral interviews conducted.

The Owner also reserves the right to seek additional information from Proposers through various methods such as, but not limited to, multiple rounds of Oral Interviews, demonstrations, written clarification, information, and research at various stages of the process for the Selection Committee to make a final decision. All awards will be made in a manner deemed in the best interest of the Owner.

If the Owner is unable to arrive at an agreement with the top ranked proposers, the Owner retains the sole right to move on to negotiations with the next highest ranked proposers. Contract to be executed will be based on a cost plus fixed fee. Each project will include negotiations for exact scope and fee with City Engineers.

Q. SECRETARY OF STATE/TAX COMMISSIONER REGISTRATION REQUIREMENTS

Firm shall respond to the Attribute in Ebid regarding Sole Proprietorship and complete all documentation as required by the State of Nebraska as instructed.

R. ETHICS IN GOVERNMENT CONTRACTING

The Owner(s) reserves the right to reject proposals, overturn an award notification and/or terminate a contract if it is discovered that a Proposer commits or has committed ethical violations, such as but not limited to, the following offenses:

1. Offering or giving, directly or indirectly, a bribe, fee, commission, compensation, gift, gratuity, or anything of value to any person or entity in an attempt to influence the procurement process;
2. Utilize the services of lobbyists, attorneys, political activists, or consultants to influence or subvert the procurement process.
3. Being considered for, presently being, or becoming debarred, suspended, ineligible, or excluded from contracting with any local, state or federal entity;
4. Submitting a proposal on behalf of another party or entity; and
5. Collusion with any person or entity to influence the procurement process, submit sham proposals, preclude bidding, fix pricing or costs, create an unfair competitive advantage, subvert the RFP or prejudice the Owners.

S. DEVIATIONS FROM THE REQUEST FOR PROPOSAL

Proposer must include any deviations from the RFP and the proposed replacement language on company letterhead and attach to the section as required in the Submittal portion outlined herein. Failure to include deviations will be interpreted to infer that Proposer agrees to all terms as outlined in the Specifications and RFP documents with no exceptions.

The Owner reserves the right to accept or reject the deviations according to the best interests of the Owner.

Deviations that are not acceptable to the Owner and are not negotiable by the Proposer may result in the Proposer being deemed as "Non-responsive" and rejection of RFP response.

T. ANTI-LOYBBYING PROVISION

During the period between the advertised date and the contract award, firms, including their agents and representatives, shall not directly discuss or promote their proposal with any City/County Elected Official or Owner Staff except in the course of Owner-sponsored inquiries, briefings, interviews, or presentations sent or provided directly to the City/County Purchasing Department

U. SITE VISITATION

Proposers shall inform themselves of the conditions under which work is to be performed, including: site of work, the structures or obstacles which may be encountered and all other relevant matters concerning work performance. The Proposer will not be allowed any extra compensation by or for any condition which he/she might fully have informed themselves of prior to submitting the offer.

If the project site is in a designated non-public area, Proposers are not allowed to visit work sites during the RFP process except for a Pre-Proposal Meeting or upon written approval by the City/County Purchasing Department.

V. REFERENCE CHECKS

By submitting a proposal in response to this RFP, the proposer grants to the Owner the right to perform reference and/or credit checks to verify characteristics, such as but not limited to, experience, skills, reputation, judgement and/or the capacity to perform the contractual obligations resulting from this RFP. The Owner shall use the submittals requested in Section IV. of this RFP (Summary of Proposer's Experience) as references. Further, the Owner reserves the right to request additional information related to experience and financial documents if deemed necessary to ascertain the Proposer's ability to meet the requirements outlined herein and in other related RFP documents.

Unsatisfactory information obtained from any references and/or credit checks performed may be grounds to reject a proposal, withdraw an Intent to Award or rescind the award of a contract. A proposer may not use work performed for their own company as a reference to substantiate performance.

W. AWARD NOTIFICATION

Notification will be sent via email to proposers who were included on correspondence and/or registered under the code used. The successful Consultant will receive a notification, via email, advising the details of their award along with preliminary instructions. All non-successful proposers, who received correspondence on this RFP, will receive email correspondence notifying they did not receive an award.

X. DEBRIEFINGS

The Owner does not provide verbal or written debriefing sessions regarding any part of the RFP solicitation process. Details regarding the scoring and notes are available upon request following execution with all firms.

Y. ENTIRE AGREEMENT

The resulting contract awarded shall constitute the complete and entire agreement between the Owner and the successful firms and supersedes any prior representations, understandings, communications, commitments, agreements or Proposals, oral or written that are not incorporated as a part of the Contract. See "Sample Contract" in the Attachment section of the Ebid system.

The scope of general and required services identified in this RFP are intended to serve as a general description of anticipated objectives and tasks.

The Owner will rely on the proposer's competence and experience to work with Owner departments and divisions in meeting all necessary tasks, providing ongoing quality services and communicating successfully to provide the most effective and efficient products and/or services.