



DGS Increases Use of RFP Selection Process for Complex Projects

In January of 2005, the Deputy Secretary for Public Works issued a letter notifying Contractors that DGS would be expanding its use of the request for proposal ("RFP") selection process for large or complex projects. This process will replace the traditional bid and award to Lowest Responsible Bidder. Because the Separations Act is still in effect, DGS will still utilize multiple prime contractors.

RFP documents are posted on its website (www.dgs.state.pa.us).

Rather than submit bids, contractors will be responding to a Request for Proposal. The contractor's response to the RFP will be broken down into three separate submissions: 1) Technical Submittal, 2) Cost Submittal, and 3) Disadvantaged Business Submittal. In addition, a mandatory pre-proposal conference will be held. For the most part, the contract documents will be the standard DGS general conditions and agreement form. Based on the draft RFP, Prime Contractors will also sign a Memorandum of Understanding outlining the coordination responsibilities between all Prime Contractors, DGS, and the using agency.

The Technical Submittal will contain information that demonstrates the qualifications and capabilities of the proposer and its subcontractors. The proposal must include pre-listed subcontractors with a subcontract value in excess of \$25,000. These subcontractors are not allowed to be changed unless written permission is granted by DGS. In order to show the qualifications and capabilities of the proposer, the technical submittal will identify and describe the capabilities and

experience of all firms comprising the Project Team (including pre-listed subcontractors) describing the working relationship between the entities, previous work performed for DGS, work previously performed for the use agency; work performed for other Commonwealth agencies, and an organizational chart showing the hierarchy and reporting between all firms.

The technical submittal also must include a qualifications statement for the proposer and all subcontractors with a subcontract value for labor in excess of \$100,000. The statement must include a listing of at least three (3) relevant project descriptions along with owner contact information; and a list and description of projects completed or under construction within the past 5 years. This portion of the proposal will be used to determine the depth of prior experience with similar projects.

The second portion of the technical submission will be an organizational chart of the Project Management Team. It should include for each individual their roles and responsibilities, along with resumes listing position, education, professional licenses and other qualifications and relevant work experience. To the extent applicable, this section should also identify the individuals' roles on the listed projects in the preceding section. Apparently DGS is looking for at least 10 years of management experience on similar projects.

Proposals also must include a work plan and schedule describing tasks required to complete the project, delivery of equipment and materials, and a description of how the tasks are to be coordinated with subcontractors and other prime contractors.

The qualifications statement will be used to determine the depth of experience with similar projects.

Proposals will be evaluated by a committee of five individuals based on a weighted scale for each criteria received.

A written Health and Safety Program also must be provided with the proposal along with a description of how the proposer will implement a quality assurance and quality control plan. The QA/QC plan will outline tracking and reporting procedures for various aspects of the project, including change orders, RFIs, cost controls, closeout procedures, subcontractor performance, material certifications, and coordination.

The next section of the proposal includes a Staffing Plan that lists anticipated labor resource allocation, skill training programs, and workforce safety programs, including details of types and certifications, durations and organizations that provide such training.

The second part of the submission is a separate Cost Submittal.

The third portion of the submission is the Disadvantaged Business Submittal that demonstrates the proposer's commitment to hiring Small Disadvantage Business, Socially Disadvantaged Businesses, and Enterprise Zone Small Businesses. This section is to list the businesses selected to meet its commitments. DGS will not accept proposals that state that the proposer will find or will select qualifying entities from a list. The proposer must identify the company name address and contact person, the

goods or services to be provided, the location where performance will occur, the time frame for performance, the amount of capital expected of the business, the amount of compensation, the percentage of the total value of goods and services as compared to the total cost submittal, and a signed letter of intent with the entity.

Proposals will be evaluated by a committee of five individuals based on a weighted scale for each criteria received. While the RFP will not disclose the weights assigned; it will provide information regarding the relevant importance of each criterion. In all cases the Cost Submittal will be more important than all other non-cost factors combined.

While the RFP process will be more burdensome for contractors than the previous selection process, which was based solely on cost, it provides the potential to weed out those unqualified entities that only cause additional costs to all entities involved in the construction process. Of course, whether this new RFP process results in better selection process or merely more paper work remains to be seen.

To discuss specific construction documents and legal needs, contact David Raves at 412-242-4400 or dr@mbm-law.net.

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