

INSTRUCTIONS TO PROPOSERS

IP-01 PREQUALIFICATION REQUIREMENTS

- A. All contractors, subcontractors, material suppliers (supplying directly to Metro), and any other firm competing for award of contracts or subcontracts of \$100,000 or more will be required to complete and submit a Contractor Pre-Qualification Application. Failure to do so may cause your Proposal to be rejected as non-responsive.
- B. Contractor Pre-qualification Applications are due to the pre-qualification office no later than the Proposal due date. Do not put copies of pre-qualification documents in your Proposal.
- C. For contact information, please refer to the Letter of Invitation. For detailed instructions, refer to the Pre-Qualification Application which can be downloaded from the Metro website (<http://www.mta.net/EBB/PQA/vprequal.htm>), or provided by the Pre-Qualification Office.

IP-02 BROWZ REGISTRATION

- A. This clause only applies to construction contracts greater than \$25,000, and service contracts greater than \$100,000.
- B. The successful proposer (i.e., only the firm awarded the contract) shall complete and submit the required registration form and associated documents specified therein to The Browz Group, LC, (Browz) and pay the applicable fee(s) to remain registered with Browz, for the term of the contract. Metro certified Small Business are exempt from this requirement through April 30, 2006.
- C. The initial (1st year) \$595 registration fee is due to Browz within ten (10) days of receipt of Award Notice.
- D. For multi-year contracts, the 2nd year fee of \$536 is due to Browz within ten (10) calendar days of the start of the 2nd year of the contract. For the 3rd year of a multi-year contract a \$476 fee is due to Browz within ten (10) calendar days of the start of the 3rd year of the contract.
- E. For task order contracts the \$595 fee is due within ten (10) calendar days of award of the first task order. Subsequent years shall follow the fee schedule set forth in D above.
- F. Should the successful bidder fail to register with The Browz Group, LC or pay the applicable fee, Metro reserves the right to determine the successful bidder as non-responsive, withdraw the Award Notice and not execute a contract.

- G. To obtain additional information about Browz go to <http://www.Browz.com>, or call (888) 276-9952.

IP-03 EXAMINATION OF RFP DOCUMENTS

- A. All proposals shall be in strict accordance with the Request for Proposal (RFP) Documents.
- B. Copies of the solicitation, Metro responses to all written questions, and requests for interpretation and clarification will be available for examination and/or purchase as noted in the Request for Proposal Letter. The proposer is solely responsible for the examination of solicitation documents; reviewing all Amendments; comprehending all conditions that may impact the proposal, and the performance of the Work should the proposer be selected. Failure of the proposer to so examine and inform itself must be at its sole risk.

IP-04 INTERPRETATION OF RFP DOCUMENTS

- A. Requests for interpretation or clarification of the solicitation documents shall be submitted in writing. All written requests shall be forwarded to the Metro Contract Administrator identified in the Request for Proposal Letter.
- B. To ensure that responses are provided to all Planholders, inquiries shall be received at least ten (10) working days prior to the submittal due date. Where such interpretation or clarification requires a change in the solicitation documents, the Metro will issue an Amendment.
- C. The Metro shall not be bound by, and the Planholder shall not rely on for any purpose, any oral interpretation or oral clarification of the solicitation documents.

IP-05 COMMUNICATION WITH THE METRO

All communications between the Metro and the proposers must be in writing addressed to the Contract Administrator identified in the Request for Proposal Letter, except for:

- Issues regarding Pre-qualification addressed in PREQUALIFICATION REQUIREMENTS, and
- The Diversity and Economic Opportunity (DEO) department (such as a list of certified firms and the certification status of a particular firm) may be obtained by contacting the responsible party noted in the Request for Proposal Letter.

IP-06 AMENDMENT

- A. The Metro reserves the right to revise the solicitation documents prior to the proposal submittal due date. Such revisions, if any, will be made by Amendment to this RFP.

- B. Proposers shall acknowledge receipt of all Amendments to the solicitation documents in the Proposal Letter. Failure to acknowledge receipt of all Amendments and to include all the requirements of the Amendments in the proposal may render the proposal unacceptable and cause it to be rejected.
- C. Prior to submitting the proposal to the Metro for consideration, each proposer is responsible for checking the Metro website to ensure that it has received all applicable Amendments.

IP-07 PREPARATION OF SUBMITTAL

- A. The proposal shall be formatted in accordance with the requirements specified herein. Proposals shall include the forms provided with the solicitation documents, or on legible photocopies of the forms. Proposers shall complete the forms in accordance with the directions specified in these Instructions and the forms. All required explanatory narratives and the supplementary data are to be included with the proposal forms as indicated.
- B. Pencil or erasable ink shall not be accepted. Initial all modifications made to the proposer's entries and identify the proposer's name on the top right of each page. Liquid or dry correction materials shall not be used.
- C. Failure to comply with the requirements outlined in these solicitation documents may render the proposal(s) incomplete and may cause proposal rejection. This RFP does not commit the Metro to enter into a contract nor does it obligate the Metro to pay for any costs incurred in the preparation and submission of proposals.

IP-08 MODIFICATIONS AND ALTERNATIVE PROPOSALS

- A. Proposers are cautioned to limit exceptions, conditions, limitations to the provisions of this RFP as they may be determined to be so fundamental as to cause rejection of the proposal for not responding to the requirements of the RFP.
- B. Proposers submitting conforming proposals may submit alternate proposals to this RFP as complete separate offers, if the alternate proposals offer technical improvements or modifications that are to the overall benefit of the Metro. The Metro reserves the right to accept or reject any alternate proposal. Oral or telephonic proposals and/or modifications shall not be considered.

IP-09 SIGNING OF PROPOSAL AND AUTHORIZATION TO NEGOTIATE

- A. Proposer or its authorized representative (Proposer's Representative) shall execute the Proposal and all required solicitation documents. Proposers shall submit evidence of the Proposer's Representative's authority.
- B. If the proposer is a joint venture or partnership, it shall submit with its proposal a duly notarized Venturer or Partner-executed Irrevocable Power of

Attorney that designates the Proposer's Representative along with a copy of the signed Joint Venture or Partnership Agreement. The Proposer's Representative shall be empowered to execute the proposal on behalf of the proposer and to act for and bind the proposer in all matters relating to the proposal. The Irrevocable Power of Attorney shall specifically state that each venturer or partner shall be jointly and severally liable for any and all of the duties and obligations of the proposer that are assumed under the proposal and under any contract arising therefrom. The Proposer's Representative shall execute the proposal on behalf of the joint venture or partnership in its legal name.

IP-10 SUBMISSION OF PROPOSAL

- A. Metro will accept proposals submitted by the proposer at the address and place shown in the Letter of Invitation, up to the date and time shown therein.
- B. It is the proposer's sole responsibility to see that its proposal is received as stipulated. The Metro may leave unopened any proposal received after the date and time for receipt of proposals. Any such unopened proposal may be returned to the proposer.

IP-11 PROPOSAL EVALUATION PROCESS

- A. The Metro shall review and evaluate the proposals in accordance with the requirements of solicitation documents, including any Good Faith Efforts submittals. Following the evaluation period the Notice of Intent to Award will be sent to all proposers and posted on the Metro's website.
- B. During the proposal evaluation period, staff shall determine if proposals are complete and proposers are responsible. Responsibility is defined as the apparent ability of the proposer to meet and successfully complete the requirements of the Contract. Responsibility includes, but is not limited to; consideration of a proposer's trustworthiness, the quality of past performance, financial ability, and fitness and capacity to do the proposed Work in a satisfactory manner. Proposers may be required to present further evidence that it has successfully performed similar Work of comparable magnitude or provide other proof satisfactory to the Metro that it is competent to successfully perform the Work.

IP-12 WITHDRAWAL OF SUBMITTAL

The proposer by means of a written request, signed by the Proposer's Representative, may withdraw a proposal. Such written request shall be delivered to the Contract Administrator identified in the Request for Proposal Letter prior to the award.

IP-13 PRE-AWARD AUDIT

The Metro or its representatives, upon reasonable advance written notice, shall have the right to examine any books, records, accounts and other documents of

any proposer to determine the reasonableness, allowability, and allocability of the proposal.

IP-14 METRO RIGHTS

The Metro may investigate the qualifications of any proposer under consideration inclusive of, but not limited to, the information provided in the Pre-Qualification Application. The Metro may require confirmation of information furnished by a proposer, and require additional evidence of qualifications to perform the Services described in this RFP. The Metro reserves the right to:

1. Reject any or all of the proposals, at its discretion;
2. Remedy errors in the RFP;
3. Cancel the entire RFP;
4. Issue subsequent RFP;
5. Appoint evaluation committees to review proposals;
6. Seek the assistance of outside technical experts to review proposals;
7. Approve or disapprove the use of particular subcontractors and suppliers;
8. Establish a short list of proposers eligible for discussions after review of written proposals;
9. Solicit best and final offers (BAFO) from all or some of the proposers;
10. Negotiate with any, all or none of the proposers;
11. Award a contract to one or more proposers;
12. Accept other than the lowest priced proposal;
13. Disqualify the proposal(s) upon evidence of collusion with intent to defraud or other illegal practices on the part of the proposer(s);
14. Waive any informalities or irregularities in any proposal, to the extent permitted by law; and
15. Award a Contract without interviews, discussions or negotiations.

IP-15 PUBLIC RECORDS ACT

- A. Responses to this RFP must be subject to the provisions of the California Public Records Act (California Code Government Code, §6250 et seq.).
- B. Any documents provided by the Contractor to the Metro marked "Trade Secret," "Confidential," or "Proprietary" or any financial records provided by the Contractor to the Metro shall be handled in accordance with the General Condition entitled "Public Records".

IP-16 DISQUALIFICATION OF PROPOSERS

- A. Federal Organizational Conflict of Interest may apply to this procurement. See Supplemental Condition entitled, Organizational Conflict of Interest.

- B. Any person, firm, corporation, joint venture or partnership, or other interested party that has been compensated by the Metro or a contractor engaged by the Metro for assistance in preparing the RFP Documents and/or estimate shall be considered to have gained an unfair competitive advantage in proposing and shall be precluded from submitting a proposal in response to this RFP.
- C. After the RFP is issued, any person, firm, corporation, joint venture or partnership, or other interested party that has discussions regarding this RFP with anyone within the Metro other than the Contract Administrator may be considered to have gained an unfair competitive advantage. The enclosed Metro Lobby Ordinance, Certification of Conflict Checklist and Metro Code of Conduct shall govern the limits of participation. Non-compliance with these regulations could lead to disqualification. All communications with the Metro shall be in accordance with the instruction, COMMUNICATIONS WITH THE METRO.

IP-17 FILING OF PROTESTS

- A. Appeals related to a Pre-Qualification Denial must be filed in accordance with the Pre-Qualification Appeal entitled Contractor Pre-Qualification Program (available for download at www.mta.net/EBB/PQA/vprequal.htm).
- B. All Protests must be filed and resolved in a manner consistent with the requirements of FTA Circular 4220.1E Third Party Contracting Guidelines dated June 19, 2003 (including any changes) available for download at http://www.fta.dot.gov/legal/guidance/circulars/4200/386_14790_ENG_HTML.htm, and the Metro Protest Procedures available for download at <http://www.mta.net/EBB/protest.pdf>.
- C. Upon request, the Contract Administrator (for the subject proposal) will provide a copy of any of the aforementioned documents in this Article.

END OF INSTRUCTIONS TO PROPOSERS

