

DESIGN-BUILD REQUEST FOR QUALIFICATIONS

for

**MAIN BUILDING SOUTH WING RENOVATION
PROJECT NO. 2016-136 G (2-1)**

at

**Spokane Community College
Spokane, WA**

by

**Department of Enterprise Services and
Community Colleges of Spokane**



**Statement of Qualifications Deadline:
Wednesday, October 12, 2016 prior to 2:00 pm**

STATE OF WASHINGTON
DESIGN-BUILD REQUEST FOR QUALIFICATIONS
Submittal Date: Wednesday, October 12, 2016, prior to 2:00 pm
STATE OF WASHINGTON
DEPARTMENT OF ENTERPRISE SERVICES
OLYMPIA, WASHINGTON
NOTICE TO GENERAL CONTRACTORS,
ARCHITECTS & ENGINEERS

Design-Build team services are required for Project No. 2016-136 G (2-1), Main Building South Wing Renovation (MB-SWR), on the Spokane Community College (SCC) campus in Spokane, WA for Community Colleges of Spokane (CCS).

The proposed project includes a substantial renovation of and addition to the south wing of the Main Building on the SCC campus in Spokane, Washington. The new and renovated spaces will house the following programs offered by CCS: Arts and Sciences, Campus Executive Administration, Business Hospitality & Information Technologies, Copy Center, Cosmetology, Criminal Justice, Electronics, the Avista Classroom, portions of Orlando's Bakery and Restaurant, and other student and building support spaces.

Maximum Allowable Design and Construction Cost (MADCC) for the Project is \$20,276,000.

To immediately obtain a copy of the Request for Qualifications (RFQ) and amendments please access web site
<http://www.des.wa.gov/services/facilities/Construction/Consultants/Pages/EASCurrentProjects.aspx>

RFQ holders interested in receiving potential amendments to the RFQ document and answers to questions from other teams should register by emailing gloria.miller@des.wa.gov. If a firm does not have access to the internet, a copy of the information will be mailed after calling Angeline Ernst at (360) 407-7965 or email angeline.ernst@des.wa.gov.

To qualify for review, submittals are required to be delivered to and date/time stamped by Engineering & Architectural Services (E&AS) Wednesday, October 12, 2016, prior to 2:00 pm.

The State of Washington is an affirmative action employer. This is not a request for a proposal. All submittals become the property of the State.

REQUEST FOR QUALIFICATIONS

1.0 Introduction

The State of Washington Department of Enterprise Services (DES), on behalf of Community Colleges of Spokane (CCS), is soliciting Statements of Qualification (SOQ) from qualified contractors interested in providing design-build services for Project 2016-136 G (2-1), Main Building South Wing Renovation (MB-SWR) project on the Spokane Community College (SCC) campus in Spokane, Washington. The primary goals of this project are to address specific instructional shortcomings and general building problems by providing a cost-effective, flexible, and modern higher-education facility to serve as traditional and specialized classroom spaces; faculty office spaces and suites; and student centered collaborative study spaces. All to aid in providing a fully immersive learning environment and student experience.

The successful Proposer will deliver an innovative, highly-efficient design that will provide a modern higher-educational facility that reflects the Mission of SCC and the College's Core Themes, Vision, and Values. Additionally, the final building solution must:

- a. Provide a new south elevation expression that offers retail frontage to specific programs and enhances the shift of the "front door" of the campus from the west to the south.
- b. Provide for flexibility within classroom spaces to house a variety of program and instructional needs.
- c. Be a bright and modern facility to learn and work; Include collaborative spaces that feel open and inviting.
- d. Maximize space by using exceptional and creative planning based on collaboration through owner programming and project requirements.
- e. Maximize student and faculty safety.
- f. Be designed and constructed to successfully achieve LEED Silver certification.
- g. Provide thoughtful and innovative design for a high performance project that requires a minimum one year guarantee for energy, operations, and maintenance performance.

DES is a certified public body using the design-build alternative public works contracting procedures authorized under RCW 39.10 and the Washington State Capital Projects Advisory Review Board's Project Review Committee. Use of the design-build delivery method provides an economic benefit by providing cost-effective design and construction. DES expects a collaborative, creative, and productive design-build process involving the design-builder, DES staff, CCS staff, and DES consultants.

A two-step competitive selection process will result in the selection of a Design-Build team to undertake the project.

2.0 Background Information

2.1 Project Description

The MB-SWR will be located on the Spokane Community College campus at 1810 North Greene Street, Spokane, WA 99217. The building, identified as Main Building is Building Number 1 on the SCC campus. It is located at the south central edge of the 148 acre campus. The building is bordered to the south by Mission Avenue, to the north by the inner campus and to the east and west by campus parking.

The south wing of Main Building was originally constructed in 1958. The building is now reaching the 60 year mark and is in need of major renovation.

Scope: the MB-SWR includes the renovation of 50,849 gross s.f. of existing space and the addition of 6,969 gross s.f. of new space. The need for the project arises out of numerous current problems being experienced within the building. The classrooms are not appropriately sized or equipped to meet the demands of the College, and space is not efficiently laid out to optimize the area within the building's footprint. Many spaces lack appropriate electrical, telecommunications, and audiovisual systems to support current instructional delivery modes. Instructional spaces lack flexibility and functionality. The exterior envelope and building infrastructure systems are approaching the end of their useful lives, causing excessive maintenance and operating costs. There is also a need to deal with building code deficiencies and to solve ADA/accessibility problems.

Renovation and expansion of the existing south wing will provide flexible, appropriately sized instructional space equipped with modern infrastructure to meet current energy, life safety, accessibility, and seismic codes as well as providing a quality teaching, learning and social environment for students and faculty. Building systems improvements will include new exterior glazing, insulation, HVAC, plumbing, electrical, lighting, telecommunications, and audio visual systems. Work will also include associated site development including the extension of existing utilities, storm water, relocation of an existing gas service line and gas meter, vehicle access and parking, pedestrian sidewalk connectivity, renovations and addition to the existing fire sprinkler and fire alarm system and other minor support facilities.

- a. Budget: The Maximum Allowable Design and Construction Cost (MADCC) for the Project is \$20,276,000. The MADCC includes the design and all other services to be performed under the design-build contract. Washington State Sales Tax is not included in the MADCC.
- b. Schedule: Substantial Completion of the Project is to be achieved by April 1, 2019.
- c. Sustainability Performance: The project will be required to achieve LEED Silver certification.

- d. Energy Performance: The project will be a high performance project and requires a minimum one year guarantee for energy, operations, and maintenance performance. The performance requirements shall extend to the areas of the project that are within the LEED boundary. This would include the new addition and the major renovation areas in the south wing. It does not include non-renovated areas of the building or HVAC equipment serving non-renovated areas, even if connected to a new chiller.

2.2 Owner Consultants/Technical Support Not Eligible to Participate

A previously-selected team of consultant firms led by ALSC Architects with Coffman Engineers, Gorman Preservation Associates, Hill International, and STRATA have prepared Basis of Design documents including a detailed architectural program, performance requirements, and contract documents. These team members are not eligible to serve on design-build teams. All Proposers are prohibited from contacting or communicating with any of the consultants to solicit technical, legal, financial, contractual, or any other type of advice or information relative to the Project.

2.3 Description of the Procurement Process

The Project will be designed and constructed using design-build, as specified in RCW 39.10 and as defined in enabling legislation.

This RFQ is the first step in a two-step proposal process for the selection of a design-builder for the Project. SOQ's will be evaluated by the Evaluation Committee appointed pursuant to Section 2.6 below and scored in accordance with the terms of this RFQ. The evaluation process is intended to identify those Proposers who, in the opinion of the Owner and DES, are best qualified to execute successfully the design and construction of the Project based on the criteria identified in this RFQ.

Up to three Finalists will be invited to proceed to the second step of the procurement process, which will include a detailed RFP requiring the submission of **a conceptual ideas which develop selected parts of a** design solution, proposed Guaranteed Maximum Price (GMP), and other supporting data.

The contract form contemplated at this time (to be included in the RFP) is a cost reimbursable contract with a Guaranteed Maximum Price (GMP) submitted with final proposals.

Two proprietary meetings are planned with each Finalist where Proposers are given time with DES, the Owner, and DES consultants to review design concepts and address specific questions. Details of proprietary meetings will be given to the Finalists.

An honorarium in the sum of \$20,000 will be paid to the non-successful Finalists submitting responsive proposals in accordance with the RFP.

Award of the design-build contract will be made to the Finalist deemed to provide the best value to the Owner and DES, in accordance with the processes and requirements set forth in the RFP. Additional detail regarding proposal evaluation of Project priorities may be given to the Finalists with the issuance of the RFP.

The project has received approximately \$2.8M in funding in the 15-17 biennium. There will be a staged NTP with the initial funding covering pre-design, design development, and early site investigation which will allow the pricing to be confirmed. If the project is not fully funded in the 17-19 Biennium, the successful team will receive the honorarium and their costs to the point where the project is placed on hold for funding.

2.4 Project Milestone Schedule

The Owner and DES currently anticipate conducting the procurement of the Project in accordance with the following list of milestones leading to award of a design-build contract. This schedule is subject to revision and the Owner / DES reserve the right to modify this schedule as it finds necessary, in its sole discretion.

RFQ

- Advertise RFQ September 22, 2016
- **MANDATORY**
 - **Pre-Submittal Meeting & Site Walk** September 29, 2016; 10:00 am
Located at: Max Snyder Building 50, Rooms 108/109
Spokane Community College
1810 North Greene Street, Spokane, WA
 - Last Day/Time for Questions October 5, 2016, prior to 9:00 am
 - Last Addendum Issued (if necessary) October 7, 2016, prior to 2:00 pm
 - SOQ's Due October 12, 2016, prior to 2:00 pm
 - Announce Finalists October 21, 2016

RFP

- Publish RFP October 28, 2016
- Kick-Off Meeting November 2, 2016
- First Proprietary Meetings November 8, 2016
- Second Proprietary Meetings November 17, 2016
- Last Day for Questions November 29, 2016
- Last Addendum Issued (if necessary) December 2, 2016
- Design and Price Proposals Due December 9, 2016
- Presentations by D/B Teams December 13, 2016
- Announce Successful D/B Team December 14, 2016

Contracting

- Negotiation of Final ~~Lump-Sum-Price~~
Guaranteed Maximum Price December 14-20, 2016
- Review/Approval/Contracting December 21, 2016 – January 20, 2017

Contract Award/NTP

January 20, 2017

Substantial Completion

April 1, 2019

2.5 DES Point of Contact

The DES sole point of contact for this Project shall be Gloria Miller, AIA, Project Manager ("Point of Contact"). Ms. Miller is the only individual authorized to discuss this RFQ with any interested parties, including Proposers. All communications with Ms. Miller about the Project or this RFQ shall be via email.

Gloria Miller, AIA
Email: gloria.miller@des.wa.gov

2.6 Evaluation Committee

The Statements of Qualification will be evaluated by a committee ("Evaluation Committee") comprised of **two DES Project Managers**, Gloria Miller and **Debra Delzell**, ~~one other DES Project Manager~~, two CCS representatives, **Dr. Ryan Carstens and Clint Brown**, and **an ALSC Architects representative A/E from the community**. Other technical, legal, and financial consultants, and/or DES staff with expertise in fields such as capital project management, operations and maintenance, engineering, design, construction, may serve as advisors to the Evaluation Committee.

2.7 MANDATORY Pre-Submittal Meeting & Site Walk

The Owner has established a single Site Walk scheduled with the Pre-Submittal Meeting at 10:00 am on September 29, 2016. This Pre-Submittal Meeting and Site Walk is mandatory. Please do not request site tours at other times. Successful Proposers will be provided ample time for detailed site visits during the second phase of the selection process.

3.0 Minimum Proposer Qualifications

The evaluation process established by this RFQ is intended to enable Proposers to demonstrate their qualifications to perform the Project. At a minimum, Proposers are to have the following qualifications:

- a. Completed at least three similar projects valued at \$20,000,000 or greater in the past six (6) years, a least one of which shall have been completed using Design-Build project delivery.
- b. ~~The designer-of-record will be required to have an active office located within the State of Washington during the duration of the Project.~~ **The designer-of-record** office will have responsibility for the design work associated with the Project. All design associated with the Project, including that design work within the responsibility of Specialty Subconsultants, shall be accomplished or reviewed and approved by design professionals registered to practice in the particular professional field involved in the State of Washington.
- c. The lead contractor and the designer-of-record shall be legally qualified to do business in the State of Washington, and shall provide registration or license numbers as required by this RFQ.
- d. The lead contractor and the designer-of-record shall not have filed for bankruptcy protection within the past five years, nor shall such organizations have been reorganized under a new company name, or the current name, after filing bankruptcy in the past five years.
- e. Proposers, individually or as a team, must have the capacity to obtain performance and payment bonds, in accordance with the terms of the RFQ, for the full value of the design-build contract, in an amount not less than the MADCC.
- f. Proposers shall comply with additional minimum qualification requirements set forth in Section 4 of this RFQ.

4.0 Statement of Qualification Requirements

This Section 4 describes specific information that must be included in the SOQ. The format for the presentation of such information is described in Section 6.

DES reserves the right to conduct an independent investigation of any information, including prior experience, identified in an SOQ by contacting project references, accessing public information, contacting independent parties, or any other means.

4.1 Letter of Submittal

Provide a Letter of Submittal on the Proposer's letterhead identifying the official representative and point of contact for the Proposer. The letter shall identify such representative's title, address, phone, and e-mail addresses.

An authorized representative of the Proposer's organization shall sign the letter. If the Proposer is not yet a legal entity or is a joint venture, all major participants or joint venture members shall sign the letter. All signatures shall be original and signed in ink.

The letter is not included in the page count noted in Section 6, Format.

4.2 Proposed Team

Describe the proposed project team; include resumes for all key staff outlining employment history, education, relevant experience, personal references and other relevant information.

Provide an organizational chart showing the "chain of command" with lines identifying participants who are responsible for major functions to be performed, and their reporting relationships in managing, designing and constructing the Project, and post-completion services during the performance guarantee and warranty periods. This chart should include design subconsultants, specialty subconsultants and major subcontractors (if selected).

Provide a matrix of proposed staff identifying the team's common projects, and relevant project experience as detailed in Section 4.3 of this RFQ.

Clearly identify the following key staff:

- a. Design-Build Project Director – The individual primarily responsible for the overall project design, construction quality management, contract administration and DES' primary point of contact for the Project.
- b. Lead Designer – The individual acting as the architect-of-record.
- c. Specialty and Engineering consultant leaders including those responsible for design and construction of the building structural, electrical, mechanical systems, fire protection, and life safety systems.
- d. Project Management, Superintendent and Engineering – The individuals responsible for planning and executing day-to-day preconstruction and construction activities.
- e. Sustainable design and energy performance specialist(s).
- f. Other key designer and builder staff members.

Identify where the Proposer intends to maintain its project office(s) and where the majority of the design work will be performed.

Identify any Washington State employees or former State employees employed or on the Proposer's governing board as of the date of the SOQ submission. Include their position and responsibilities within the Proposer's organization.

4.3 Relevant Experience

Provide up to six individual project profiles demonstrating the proposed team's relevant experience and history of working together on either design-build or other

delivery methods. Relevant experience may include projects for higher-education clients with attention given to projects serving applied technology programs, high-tech manufacturing facilities, sustainable buildings, design-build projects and buildings of similar program. Demonstrate your team's understanding and experience with higher education environments, managing the design-build process and delivering high-performance buildings.

For each project profile identify:

- a. Project Owner's name, address, contact person, current telephone number and email address.
- b. Dates of design, construction.
- c. Description of the work or services provided.
- d. Initial construction price and final construction contract price, including a brief explanation of the causes for the differences.
- e. Total cost per square foot, less site costs, but including all soft costs.
- f. Relevance of the example to the SCC MB-SWR project.
- g. Which proposed project team members delivered services for the project.
- h. The delivery method used with reference to RCW 39.10.
- i. Level of LEED Certification, including version, achieved if any, e.g. Silver.
- j. Highlight any life-cycle cost estimating, life-cycle operating reductions, and energy efficiency measures where included.
- k. Provide occupied EUI in kBtu/sf-yr (if known).
- l. Highlight experience with energy modeling and life-cycle cost analysis programs such as eQuest, Carrier HAP, Trace 700, etc.
- m. Present the approach to providing the energy performance guarantee. Provide qualifications of any supplemental firms, such as an **Energy** Services Company (ESCO), that are included on the team to cover the performance guarantee.
- n. Provide a description of any history and business relationship, if any, between the Proposer's lead contractor and designer-of-record.

4.4 Project Approach

Describe your overall approach to delivering the project, maximizing the value of design-build delivery and building a highly collaborative and effective project team including:

- a. Your design process to meet CCS goals for the MB-SWR within the budget and schedule planned.

- b. Addressing the detailed needs of the MB-SWR and specific programs planned to be housed in the MB-SWR within project funding constraints.
- c. Overall project management that promotes effective decision making, effective communications, risk management, and predictable outcomes. Identify how your team will approach the rigors of day-to-day communications and site observations with representatives of CCS and DES.
- d. Overall quality control including day to day review, reporting and follow up to assure quality construction.
- e. Describe your approach and past performance in successfully employing small and disadvantaged business enterprises.
- f. Describe approach to working in an existing occupied facility and potential phasing (if applicable) to minimize downtime or interruption to business or critical systems.
- g. Your approach to building commissioning, measurement and verification on building performance post-occupancy.
- h. Your high performance design approach that demonstrates low life cycle costs and the constraints of limited first cost funding.
- i. Your approach and recommendations to:
 - 1. Proposed energy, life cycle and energy use index (EUI) goals.
 - 2. The operations of the building during the first year of occupancy.
 - 3. Meet the requirements of the 2015 Washington State Energy Code while maintaining the life cycle and budgetary goals of the Project.

4.5 Safety

Provide sufficient information to enable the Owner and DES to understand and evaluate the capability of the Proposer to provide a safe working environment for all individuals associated or affected by the Project. At a minimum, each SOQ shall respond to the following requirements:

- a. Provide the safety record of the Proposer and its lead contractor for the past five years.
- b. Provide the workers' compensation modifiers for the past five years for the Proposer and its lead contractor, listed by state where the Proposer or such contractor has performed work.
- c. Provide a list of all OSHA, WISHA, or other state safety agency citations and their dispositions for the past five years against Proposer and its lead contractor.
- d. Provide a summary of the Proposer's safety and accident prevention program for the Project.

4.6 Financial and Legal

Provide sufficient information to enable the Owner and DES to understand and evaluate the capability of the Proposer to remain viable for the duration of the Project, that it can be contractually bound to and abide by its contractual obligations to DES, and that it can meet the required financial commitments associated with the Project. At a minimum, each SOQ shall respond to the following requirements:

- a. Provide an explanation of the legal structure of the Proposer and its design-build team. If the Proposer is a limited liability company, joint venture or any form of partnership, provide complete copies of the organizational documents that allow, or would allow by the time of contract award, the Proposer to do business in the state of Washington.
- b. List the state of Washington design and construction licenses and registrations held by the Proposer, the lead contractor, designer-of-record and specialty subconsultants.
- c. Provide evidence from a surety or insurance company (with a Rating of A minus and VIII or better by A.M. Best Co.) stating that the Proposer is capable of obtaining a performance and payment bond in amounts not less than the MADCC, which bonds will cover the Project and any warranty periods. If the Proposer is a limited liability company, joint venture or any form of partnership, specifically identify how bonds will be obtained and which member(s) and/or partner(s) will be providing such bonds.
- d. Describe any project that Proposer, lead contractor or designer-of-record were involved in within the past five years that resulted in:
 1. The assessment of liquidated damages against one of such parties;
 2. Claims being submitted by or against one of such parties that involved the project;
 3. One of such parties having received a notice to cure a default due to the party's non-performance or poor performance of the underlying contract;
or
 4. One of such parties being terminated for cause.For each such situation, explain the circumstances and identify the project's representative and its current telephone number.
- e. Disclose past or current bankruptcies, convictions, debarments, or suspensions involving Proposer, the lead contractor, or the designer-of-record.

5.0 Evaluation Process for Statements of Qualifications (SOQs)

Each evaluation criterion has an assigned maximum number of points that demonstrates its relative importance. Each Evaluation Committee member scores each SOQ. All members' scores will be totaled for each SOQ. The selection up to three Finalists invited to proceed to the second step of the procurement process will be made on the basis of the total scoring of the SOQ's.

Responsiveness to the requirements of this RFQ will be evaluated according to the following criteria and weightings:

Proposed Team	40 points
Relevant Experience	40 points
Project Approach	50 points
Safety	10 points
Financial and Legal	10 points

Up to three Finalists will be invited to provide Proposals in accordance with the RFP. Proposers who are not selected as Finalists will be eliminated from further participation in the procurement process and will not be eligible to submit Proposals.

RFP factors for selection are included in the selection forms in Attachments, section 11.

6.0 Statement of Qualifications Submittal Requirements

This Section 6 describes the requirements that all Proposers must satisfy in submitting SOQs. Failure of any Proposer to submit its SOQ in accordance with this RFQ may result in rejection of its SOQ.

Due Date, Time and Location:

The SOQ must be delivered to, and date/time stamped by Engineering & Architectural Services (E&AS) prior to 2:00 pm on Wednesday, October 12, 2016. If you have delivery questions, please contact Angeline Ernst at (360) 407-7965.

Address submittals to:

or:

Engineering & Architectural Services
1500 Jefferson Street SE
Olympia, WA 98501
Attn: Angeline Ernst

Engineering & Architectural Services
P.O. Box 41476
Olympia, WA 98504-14176
Attn: Angeline Ernst

Neither fax nor email submissions will be accepted. Proposers are responsible for effecting delivery by the deadline above, and late submissions will be rejected without opening, consideration, or evaluation, and will be returned unopened to the sender.
DES accepts no responsibility for misdirected or lost proposals.

Format

The SOQ shall follow the requirements and format prescribed below. Submittals that do not follow the format prescribed below may be considered non-responsive and may be eliminated from further consideration.

The Proposer's SOQ must be submitted in Adobe PDF format. Submit two (2) USB flash drives, each with one (1) electronic copy of the SOQ. Each USB flash drive requires clear identification with a minimum of the State project number, State project title, and submitters name clearly identified on the exterior of the flash drive. The SOQ must not exceed ~~forty~~ **sixty (60)** single sided pages. Covers, dividers, and tab sheets are not included in page count total. Except for charts, exhibits and other illustrative and graphical information, all information shall be prepared in an 8.5" x 11" layout. Charts, exhibits and other illustrative and graphical information may be prepared in a single sided 11" x 17" layout, and will be counted as two pages. All printing, except for the front cover of the SOQ and any appendices, must be a font of no less than 10-point.

Each section shall be separated by numbered tabs, with the following sections corresponding to the order set forth in Section 4, namely (1) Letter of Submittal; (2) Proposed Team; (3) Relevant Experience; (4) Project Approach; (5) Safety; (6) Financial and Legal

7.0 Questions and Clarifications

All questions and requests for clarification regarding this RFQ shall be submitted to DES in writing to the Point of Contact. No requests for additional information, clarification or any other communication should be directed to any other individual.

The deadline for submission of a question or request for clarification will be prior to 9:00 a.m., PST, October 5, 2016. Questions or clarifications requested after such time will not be answered, unless DES elects, in its sole discretion, to do so.

DES' responses to questions or requests for clarification shall be in writing, and will be accomplished by an Addendum to this RFQ. DES will not be bound by any oral communications, or written interpretations or clarifications that are not set forth in an Addendum.

DES, at its sole discretion, shall have the right to seek clarifications from any Proposer to fully understand information contained in the SOQ necessary to help evaluate and rank the Proposers.

8.0 Rights and Obligations of DES

8.1 Reservation of Rights

In connection with this procurement, DES reserves to itself all rights (which rights shall be exercisable by DES in its sole discretion) available to it under applicable law, including without limitation, the following, with or without cause and with or without notice:

- a. The rights to cancel, withdraw, modify postpone or extend this RFQ or the subsequent RFP in whole or in part at any time prior to the execution by DES of a design-build contract, without incurring any obligations or liabilities.
- b. The right to reject any and all submittals, responses and proposals received at any time.
- c. The right to terminate evaluations of responses received at any time.
- d. The right to suspend or terminate the procurement process for the Project, at any time.
- e. The right to issue addenda, supplements, and modifications to this RFQ, including but not limited to modifications of evaluation criteria or methodology and weighting of evaluation criteria.
- f. The right to hold meetings and conduct discussions and correspondence with one or more of the Proposers responding to this RFQ to seek an understanding of the responses to this RFQ.
- g. The right to seek or obtain data from any source that has the potential to improve the understanding and enable evaluation of the responses to the RFQ, including the right to seek clarifications from Proposers.
- h. The right to appoint and change members of the Evaluation Committee.
- i. The right to use assistance of outside technical and legal experts and consultants in the evaluation process.
- j. The right to waive minor deficiencies, informalities and irregularities in an SOQ, accept and review a non-conforming SOQ or seek clarifications or supplements to an SOQ.
- k. The right to disqualify any Proposer that changes its submittal without DES approval.

8.2 DES and Owner Not Obligated for Costs of Proposing

DES and the Owner assume no obligations, responsibilities, or liabilities, fiscal or otherwise, to reimburse all or part of the costs incurred or alleged to have been incurred by parties considering a response to and/or responding to this RFQ, or the subsequent RFP. All of such costs shall be borne solely by each Proposer and its team members.

8.3 DES and Owner Obligations

Except as set forth in the following paragraph, in no event shall DES or the Owner be bound by, or liable for, any obligations with respect to the Project until such time (if at all) a design-build contract, in form and substance satisfactory to DES, has been executed and authorized by DES and, then, only to the extent set forth therein.

Notwithstanding the preceding paragraph, the Owner will provide the Finalists who submit a responsive Proposal, but are not awarded the design-build contract, an honorarium in the amount of \$20,000. The terms for attaining such honorarium payment will be specified in the RFP.

8.4 Termination for Non-Appropriation of Funds

If funds are not appropriated by the Legislature to continue this Project in any future period, Owner may terminate the Agreement by seven (7) calendar days "Notice to Design-Builder", or after period of ninety (90) days from receipt of Notice from the Owner of non-appropriation of funds, Design – Builder may terminate the Agreement by Notice to Owner, or Owner may, at its sole option, work with the Design-Builder to reach another mutually agreed resolution. Owner agrees to provide Design-Builder with Notice of such non-appropriation promptly. Upon receiving Notice of Termination for non-Appropriation of Funds from the owner, Design-Builder shall cease all work on the Project.

9.0 Protests

9.1 General

This Section sets forth the exclusive protest remedies available with respect to this RFQ. Each Proposer, by submitting its SOQ, expressly recognizes and agrees to the limitation on its rights to protest contained herein, expressly waives all other rights and remedies and agrees that the decision on any protest, as provided herein, shall be final and conclusive unless wholly arbitrary. These provisions are included in this RFQ expressly in consideration for such waiver and agreement by the Proposers. Such waiver and agreement by each Proposer are also consideration to each other Proposer for making the same waiver and agreement.

9.2 Protests Prior to Submission of SOQ

A Proposer may protest the terms of this RFQ prior to the time for submission of SOQs on the grounds that:

- a. A material provision in this RFQ is ambiguous to the extent that it hinders the Proposer's ability to accurately respond;
- b. Any aspect of the procurement process described herein is contrary to legal requirements applicable to this procurement; or
- c. This RFQ in whole or in part exceeds the authority of DES.

Protests regarding this RFQ shall be filed only after the Proposer has informally discussed the nature and basis of the protest with the Point of Contact in an effort to remove the grounds for protest.

Protests regarding this RFQ shall completely and succinctly state the grounds for protest and shall include all factual and legal documentation in sufficient detail to establish the merits of the protest. Evidentiary statements, if any, shall be submitted as signed, certified declarations under penalty of perjury.

Protests regarding this RFQ shall be filed by hand delivery or courier to:

Angeline Ernst
Engineering & Architectural Services
1500 Jefferson Street SE
Olympia, WA 8501

The time for filing a protest is as soon as the basis for protest is known to the Proposer, but in any event it must be actually received no later than ten (10) days before the SOQ submittal due date. Protests regarding an Addendum to the RFQ shall be filed and actually received no later than five business days after the Addendum to the RFQ is issued.

DES will distribute copies of the protest to the other Proposers and may, at its sole discretion: (1) request that other Proposers submit statements or arguments regarding the protest, and (2) discuss the protest with the protesting Proposer. If other Proposers are requested to submit statements or arguments, they may file a statement in support of or in opposition to the protest within seven (7) calendar days of the request.

The protesting Proposer shall have the burden of proving its protest by clear and convincing evidence. No hearing will be held on the protest. The DES Assistant Director of Facilities shall decide the protest on the basis of the written submissions. The DES Assistant Director of Facilities shall issue the decision in writing to each Proposer. The decision shall be final and conclusive. If necessary to address the issues raised in the protest, DES will make appropriate revisions to this RFQ by issuing Addenda. DES may extend the SOQ due date, if necessary, to address any protest issues.

The failure of a Proposer to protest a particular ground prior to submission of the SOQ shall preclude consideration of that ground in any protest after submission of the SOQ. However, this preclusion does not apply if such ground was not and could not have been known to the Proposer prior to the final date to protest after submission of the SOQ.

9.3 Protests Regarding Responsiveness and Finalist Selection Process after Submission of SOQs

A Proposer may protest the results of the evaluation and finalist selection process by filing a notice of protest by hand delivery or courier to the protest Point of Contact listed in Section 9.2. The protesting Proposer shall concurrently provide a copy of its notice of protest to the other Proposers. The notice of protest shall specifically state the grounds of the protest.

Notice of protest of any decision to accept or disqualify a SOQ on responsiveness grounds must be filed within five (5) business days after the earliest of: notification of non-responsiveness, the scheduled date for oral meetings and presentations (if any), or the public announcement of the Finalists. Notice of protest of the decision on the finalist selection process must be filed and actually received by DES within five (5) business days after the public announcement of the Finalists.

Within seven (7) calendar days of the notice of protest, the protesting Proposer must file with the Point of Contact a detailed statement of the grounds, legal authorities and facts, including all documents and evidentiary statements, in support of the protest. The protesting Proposer shall concurrently deliver a copy of the detailed statement to all other Proposers. Evidentiary statements, if any, shall be submitted as signed certified declarations under penalty of perjury. The protesting Proposer shall have the burden of proving its protest by clear and convincing evidence.

Failure to file a notice of protest or a detailed statement within the applicable period shall constitute an unconditional waiver of the right to protest the evaluation or finalist selection process and decisions thereunder, other than any protest based on facts not reasonably ascertainable as of such date.

Other Proposers may file by hand delivery to the protest Point of Contact listed in Section 9.2 a statement in support of or in opposition to the protest. Such statement must be filed within seven (7) calendar days after the protesting Proposer files its detailed statement of protest. DES will promptly forward copies of any such statements to the protesting Proposer.

No evidentiary hearing or oral argument shall be provided, except, in the sole and absolute discretion of the DES Assistant Director of Facilities, a hearing or oral argument may be permitted if deemed useful in rendering a decision. The DES Assistant Director of Facilities shall issue a written decision regarding the protest within thirty (30) calendar days after DES receives the detailed statement of protest, unless notice is given to the protesting Proposer that additional time is needed. Such decision shall be final and conclusive. DES shall deliver the written decision to the protesting Proposer and copies to the other Proposers. Unless necessary for the successful completion of the Project, as determined at the sole discretion of the DES Assistant Director of Facilities, the RFP shall not be issued to the Finalists until DES issues its written decision on the protest.

If the DES Assistant Director of Facilities concludes that the Proposer filing the protest has established a basis for protest, the DES Assistant Director of Facilities will determine what remedial steps, if any, are necessary or appropriate to address the

issues raised in the protest. Such steps may include, without limitation, withdrawing or revising the decisions, issuing a new RFQ or taking other appropriate actions.

10.0 Miscellaneous

10.1 Confidential Records

1. Confidential Records. As used herein, "confidential records" includes any trade secrets; proprietary information or confidential content the Proposer marks as confidential and submits to DES.
2. Records Requests for Confidential Records. Upon receipt of a request for records, court order or other legal process, to which records marked confidential would be responsive, DES will respond consistent with RCW 42.56, or other law, and in particular RCW 39.10.470, which provides for the protection of trade secrets as follows: "*Trade secrets, as defined in RCW 19.108.010, or other proprietary information submitted by a bidder, offeror, or contractor in connection with an alternative public works transaction under this chapter shall not be subject to chapter RCW 42.56 if the bidder, offeror, or contractor specifically states in writing the reasons why protection is necessary, and identifies the data or materials to be protected.*" RCW 39.10.470(2)
3. In the event that Proposer does not comply with the RCW 39.10.470 requirements above, or it does not appear to DES that the material marked confidential is clearly protected by RCW 39.10.470(2), DES will respond to any Public Records request for Proposer's confidential records by (i) notifying Proposer of the request and (ii) of DES' intent to disclose Proposer's confidential records on a date certain unless Proposer obtains a court order directing DES to withhold such records pursuant to RCW 42.56.540, Court Protection of Public Records.

10.2 Conflict of interest

DES may, in its sole discretion, disqualify any Proposer from further consideration for the award of the design-build contract if it is found after due notice and examination by DES that there is a violation of the RCW 42.52, the Ethics in Public Service Act, or any similar statute involving the Proposer in the procurement of the design-build contract.

10.3 Requirement to Keep Team Intact

The team proposed by Proposer, including but not limited to the lead contractor, the designer-of-record, key personnel, and other individuals identified pursuant to Section 4.2 hereof, shall remain on Proposer's team for the duration of the procurement process and, if the Proposer is awarded the design-build contract, the

duration of the design-build contract. If extraordinary circumstances require a team member change, the proposed change must be submitted in writing to DES's Point of Contact. DES, at its sole discretion, will determine whether to authorize a change. Unauthorized changes to the Proposer's team at any time during the procurement process may result in the elimination of the Proposer from further consideration.

Notwithstanding the above, DES will consider providing the Finalists with a limited opportunity to add or remove consultants, subcontractors and/or key personnel to address deficiencies identified by DES in the Proposal. This opportunity will only be allowed in writing during the Proposal process.

10.4 Diverse Business Inclusion Plan

The Finalists will be required to submit a Diverse Business Inclusion Plan with their Proposal. The Proposer will need to include an anticipated list of diverse subcontractors or suppliers who may provide services or otherwise assist the Proposer in fulfilling its obligations for the Project. In accordance with the legislative findings and policies set forth in RCW 39.19, the State of Washington encourages participation in all of its contracts by firms certified by the Office of Minority and Women's Business Enterprises (OMWBE), and set forth in RCW 43.60A.200 for firms certified by the Washington State Department of Veterans Affairs, and set forth in RCW 39.26.005 for firms that are Washington Small Businesses.

Participation may be either on a direct basis or on a Subcontractor basis. However, no preference is included in the evaluation of Proposals submitted in response to the RFP, and no minimum level of minority and women-owned business enterprise, Washington Small Business, or Washington State certified Veteran Business participation is required as a condition for receiving an award of the Design-Build Contract. Any affirmative action requirements set forth in any federal Governmental Rules included or referenced in the Contract Documents will apply. Further instructions will be included in the RFP.

10.5 Apprenticeship Participation

In accordance with RCW 39.04, the State of Washington requires 15% Apprenticeship Participation for the Project and will be addressed in the RFP.

If awarded the design-build contract, Proposer must comply with statutory requirements in accordance with RCW 39.04 and 49.04.

11.0 Attachments

11.2 Sample forms to be part of the Phase-II Selection