

DESIGN-BUILD REQUEST FOR QUALIFICATIONS

for

**CENTER FOR
ADVANCED MANUFACTURING TECHNOLOGIES
PROJECT NO. 2016-173**

at

**Clover Park Technical College
Lakewood, WA**

by

**Department of Enterprise Services and
Clover Park Technical College**





**Statement of Qualifications Deadline:
Thursday August 18, 2016 prior to 2:00 pm**

STATE OF WASHINGTON
DESIGN-BUILD REQUEST FOR QUALIFICATIONS

Submittal Date: Thursday August 18, 2016

STATE OF WASHINGTON
DEPARTMENT OF ENTERPRISE SERVICES
OLYMPIA, WASHINGTON
NOTICE TO GENERAL CONTRACTORS,
ARCHITECTS & ENGINEERS

Design-Build team services are required for project No. 2016-217995, Center for Advanced Manufacturing Technologies (CAMT), Clover Park Technical College (CPTC), Lakewood, Washington.

The proposed project will provide a modern applied-technology and manufacturing education center that replicates best industrial practices to provide CPTC students with a fully immersive learning experience. The CAMT will house the following technical programs offered by CPTC: Manufacturing, Mechatronics, Composites, Material Sciences (Non-Destructive Testing), and Engineering Technology.

Maximum Allowable Design and Construction Cost (MADCC) for the Project is \$33,000,000.

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.asp>

x

RFQ holders interested in receiving potential amendments to the RFQ document and answers to questions from other teams should register by emailing yelena.semenova@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 E&AS prior to 2:00 PM, Thursday, August 18, 2016.

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) is soliciting Statements of Qualification (SOQ) from qualified contractors interested in providing design-build services for the **Center for Advanced Manufacturing Technologies (CAMT)** project on the Clover Park Technical College (CPTC) campus in Lakewood, Washington. The primary goal of this project is to provide a cost-effective, highly flexible, and modern higher-education facility serving applied-technology and manufacturing programs that will replicate best industrial practices and provide CPTC students with a fully immersive learning experience.

The successful proposer will deliver an innovative, highly-efficient design that will reflect the modern technical and industrial functions housed within, yet will fit well within the context of the CPTC Lakewood campus. Additionally, the final building solution must:

- a. provide flexibility for inevitable future change in the programs housed within and in the process and equipment taught.
- b. be a bright & inviting place to learn and work
- c. reflect the "real-world" of industry where the students will pursue their careers
- d. maximize student and faculty safety in the shop environment
- e. be designed and constructed to successfully achieve LEED Silver certification.

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. DES expects a collaborative, creative, and productive design-build process involving the design-builder, DES staff, CPTC staff, and DES consultants.

A two-step competitive selection process will ultimately determine the most qualified, price-competitive and creative design solution. Interested firms must submit SOQs in the form detailed below prior to 2:00 pm Pacific Standard Time on August 18, 2016. The most highly qualified responders to this RFQ will be invited to submit detailed design and cost proposals based on a detailed architectural program and performance criteria, per the "Basis of Design" documents to be issued in a separate Request for Proposals (RFP).

2.0 Background Information

2.1 Project Description

The CAMT will be located on the Lakewood campus of CPTC at 4500 Steilacoom Boulevard SW Lakewood WA 98499-4004. The campus has identified a site of approximately 6.5-acres



bounded by Redwood Drive to the north, Perimeter Road to the west, a main campus pedestrian pathway to the south and the parking area for Buildings 23 the east.

- a. Scope: The CMAT has a program need for approximately 64,000 gross square feet (gsf) of manufacturing education shops, classrooms, faculty offices, student support and building support functions. Work will also include demolition of the existing Building 22 and associated site development including the extension of existing utilities, stormwater, control, vehicle parking, other minor support facilities. In addition to providing and installing certain new industrial equipment, the project will also include relocation and installing of existing equipment from shops at the CPTC Lakewood and Puyallup campuses into the new facility. The improvement of Hagness Circle, the existing main entrance drive to the campus from Steilacoom will be included as an Alternate.
- b. Budget: The maximum allowable design and construction cost (MADCC) for the Project, which cost is inclusive of the design and all other services to be performed under the design-build contract, is **\$33,000,000**. Washington State Sales Tax is not included in this amount.
- c. Schedule: Substantial Completion of the Project is to be achieved by August 2019 for start of classes in the 2019 Fall Academic Quarter.
- d. Energy Performance: The project will be required to achieve LEED Silver certification.

2.2 Owner Consultants/Technical Support Not Eligible to Participate

A previously-selected team of consultant firms led by Schreiber Starling & Whitehead Architects with LPD Engineering, Hough Beck & Baird, Lund Opshal, Wood Harbinger, Summit Engineers; Hart Crowser, Pinnacle Engineering, and The Robinson Company 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. The Basis of Design documents will be made available to short-listed competitors, known as Finalists. Proposers are prohibited from contacting or communicating with any of these 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. SOQs 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.

No more than 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 sustainable design solution, proposed Guaranteed Maximum Price (GMP) other supporting data, and life cycle costs, energy costs, or energy use index.

Up to three 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.

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.

An honorarium in the sum of \$75,000 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.

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 July 26, 2016
- **Pre-Submittal & Outreach Conference 1** August 03, 2016; 10:00 am
at Building 23
Clover Park Technical College
4500 Steilacoom Boulevard SW
Lakewood WA 98499-4004
- Site Walkthrough August 03, 2016; following
at Building 23 Pre-Submittal Outreach
Clover Park Technical College Conference (approx. 11:00 am)
Lakewood WA 98499-4004
- Pre-Submittal Outreach Conference 2 August 08, 2016; 10:00 am
at Schreiber Starling & Whitehead Architects
- 901 Fifth Avenue, No. 3100



Seattle, WA 98101

- Last Day/Time for Questions August 09, 2016; 9:00 am
- Last Addendum Issued (if necessary) August 11, 2016; 1:00 pm
- SOQs Due August 18, 2016
- Notification of Shortlisted Teams August 26, 2016
- Interview Shortlisted Teams September 06, 2016
- Announce Finalists September 07, 2016

RFP

- Publish RFP September 13, 2016
- Kick-off Meeting September 21, 2016
- Initial Proprietary Meetings September 29, 30, 2016
- Second Proprietary Meetings October 19, 20, 2016
- Third Proprietary Meetings November 08, 09, 2016
- Last Day for Questions November 21, 2016
- Last Addendum Issued (if necessary) November 23, 2016; 1:00 pm
- Design and Price Proposals Due December 02, 2016
- Presentation by D/B Teams December 07, 2016
- Announce Successful D/B Team December 12, 2016
- Debrief of Unsuccessful Finalists December 15, 16, 2016
(if requested)

Contracting

- Negotiation of Final Lump Sum Price December 13-20, 2016
- Review/Approval December 20-31, 2016

Contract Award/NTP

January 05, 2017

Substantial Completion

August 1, 2019

2.5 DES Point of Contact

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

Yelena Semenova, AIA
Email: yelena.semenova@des.wa.gov



2.6 Evaluation Committee

The Statements of Qualification will be evaluated by a committee ("Evaluation Committee") comprised of Yelena Semenova and one other DES Project Manager, two CPTC representatives, and a Schreiber Starling & Whitehead Architect representative. 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 Site Visit

The Owner has established a single RFQ Walkthrough event scheduled for 11:00 am on August 3, 2016 commencing at Building 23, and invites prospective proposers to attend. Please do not request site tours other than at this time. 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 \$25,000,000 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. This 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. Proposer, 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. Proposer, 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 RFO, 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 RFO.

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 RFO.

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 electrical and mechanical systems.
- d. Project Management, Superintendent and Engineering – The individuals responsible for planning and executing day-to-day preconstruction and construction activities.
- e. Energy performance and Sustainable design 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. The name of the project and the owner’s contract or project number.
- b. Owner’s name, address, contact person, and current telephone number and email address.
- c. Dates of design, construction.
- d. Description of the work or services provided.
- e. Initial construction price and final construction contract price, including the quantity and dollar value of contract modifications and claims, and an explanation of the causes of the differences.
- f. Total cost per square foot, less site costs, but including all soft costs.
- g. Relevance of the example to the CPTC CAMT project.
- h. Which proposed project team members delivered services for the project.
- i. The delivery method used with reference to RCW 39.10.



- j. Level of LEED Certification achieved if any, e.g. Silver.
- k. Highlight any life-cycle cost estimating, life-cycle operating reductions, and energy efficiency measures where included.
- l. Provide occupied EUI in kBtu/sf-yr (if known)

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 CPTC goals for CAMT Project within the budget and schedule planned.
- b. Your approach to addressing the detailed needs of CPTC and specific programs planned to be housed in the CAMT within project funding constraints. Programs include: Manufacturing, Mechatronics, Composites, and Non-Destructive Testing.
- c. Knowledge of the OFM Predsign Manual and experience in preparing Predesign Reports.
- d. How you engage with building users in support of creating spaces that combine education and industrial production.
- e. Your high performance design approach that demonstrates low life cycle costs and balances the constraints of limited first cost funding.
- f. Your approach to overall project management that promotes effective decision making, effective communications, risk management and predictable outcomes
- g. Your approach to overall quality control including day to day review, reporting and follow up to assure quality construction.
- h. Your recommendations regarding building commissioning, measurement and verification on building performance post-occupancy.
- 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.
- j. Describe your approach and past performance in successfully employing small and disadvantaged business enterprises.

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 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 proposal. All members' scores will be totaled for each proposal. The selection of shortlisted teams will be made on the basis of the total scoring of the proposals. No more than five shortlisted teams will be interviewed to determine who should continue in the RFP process.

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

Proposed Team	40 points
Relevant Experience	30 points
Project Approach	20 points
Safety	5 points
Financial and Legal	5 points

No more than 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 E&AS prior to 2:00 pm on Friday, August 18, 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: Yelena Semenova, AIA

Engineering & Architectural Services
P.O. Box 41476
Olympia, WA 98504-14176
Attn: Yelena Semenova, AIA

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 SOQ must not exceed thirty (30) sheets, printed front and back. Except for charts, exhibits and other illustrative and graphical information, all information shall be prepared on 8.5" x 11" white paper. Charts, exhibits and other illustrative and graphical information may be on 11" x 17" paper, but must be folded to 8.5" X 11" and will be counted as one page. All printing, except for the front cover of the SOQ and any appendices, must be a font of no less than 10-point. In addition to the above, a complete copy of the Proposer's SOQ must be submitted on a CD-ROM in Adobe PDF format.

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

Provide eight (8) copies bound in format of submitters choosing, and one compact disc. Each copy must be identified on its front cover, in the upper right-hand corner, as "Copy ___ of 8 Copies" and the disc must be labeled with a minimum of the project identification and submitters name.

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 9:00 a.m., PST, August 09, 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 the 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 the 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 \$75,000. 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 the Point of Contact. 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 Point of Contact. 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 Point of Contact 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

11.1 Invitation to Pre-Submittal Outreach Conference (2 pages)

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