



**CITY OF DETROIT
OFFICE OF CONTRACTING & PROCUREMENT
ON BEHALF OF THE PLANNING AND DEVELOPMENT DEPARTMENT
REQUEST FOR PROPOSALS NO. 19BW2717
MICHAEL E. DUGGAN, MAYOR**

VACANT HISTORIC SCHOOL BUILDINGS DISPOSITION PLAN

ADVERTISE DATE	<u>June 1, 2019</u>
QUESTION DEADLINE	<u>June 13, 2019</u> at 5:00 p.m. (Eastern Daylight Time) Submit Questions to <u>RFP 19BW2717</u> , Q & A Section via Bid Sync
MANDATORY PRE-PROPOSAL SUBMISSION MEETING AND TELE-CONFERENCE	<u>June 6, 2019 at 2:00 p.m. (Eastern Daylight Time)</u> Office of Contracting and Procurement, 2 Woodward Avenue, Suite 1008, 10 th Floor Conference Room, Detroit, MI 48226
DIAL: 866-434-5269, ACCESS CODE: 3964948	
PROPOSAL PRESENTATIONS	Presentations may be required and scheduled upon request
PROPOSAL DUE DATE AND TIME	<u>June 24, 2019 at 4:00 p.m.</u> (Eastern Daylight Time) <i>Proposals must be submitted to Bid Sync via www.periscopeholdings.com/the-city-of-detroit</i>
PROPOSALS PUBLIC RECORDING	<u>June 25, 2019 at 2:00 p.m.</u> (Eastern Daylight Time) To be held in the Office of Contracting and Procurement, Suite 1008, 10 th Floor Conference Room, Coleman A. Young Municipal Center, Two Woodward Avenue, Detroit, Michigan 48226

Respondents may register free at www.periscopeholdings.com/the-city-of-detroit
Late proposals will not be accepted. Additionally, Respondents also must register for free with the federal government's System for Award Management at www.sam.gov



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1. INTRODUCTION

The City of Detroit’s Mayor’s Office, Planning and Development Department (PDD), Housing and Revitalization Department (HRD), Detroit Building Authority (DBA), and Department of Neighborhoods (DON), hereinafter the “City”, as well as the Detroit Public Schools Community District (DPSCD) through the Office of Contracting and Procurement (OCP) requests proposals from qualified firms to provide multi-disciplinary, professional architecture and engineering consulting firms to complete a comprehensive building condition and market study to assess the redevelopment potential of Vacant School Properties (VSPs), per the list in Appendix A.

2. MINIMUM QUALIFICATIONS

Proposals will only be accepted from those firms demonstrating a minimum of five (5) years of experience providing the services requested in this RFP of similar scope and size. References that will verify project experience should be provided.

3. TEAM QUALIFICATIONS

Successful respondents to this RFP must present a team of individuals with a diversity of skill sets in order to provide and manage all required areas of scope work. Some respondent firms may be multi-disciplinary enough to offer all of the necessary skills “in-house.” Well-developed proposals from either one single firm or a group of two or more firms are welcome and will be considered. Due to the poor condition of many of the subject properties, and the necessity for on-site building assessment to play a central role in informing all of the team’s work products, the City expects that the team will be led by an architect or engineer well- experienced in the rehabilitation of deteriorated historic properties which have been subject to trespass. The City strongly encourages respondents to consider inclusion of team members that are Detroit-based, minority led, and/ or otherwise have a substantive body of knowledge or experience with Detroit. The following is a detailed list of qualifications that the consultant team should provide, organized by area of expertise:

3.0 Project Management

- Demonstrates organizational excellence, assessment of range of planning issues, financial evaluation, and cross-sector leadership
- Ability to oversee and manage efficient inter-agency processes and recruit stakeholders to facilitate timely decision making and successful project execution

3.1 Community Engagement

- Willingness to work in coordination with the Department of Neighborhoods (DON) with the planning and implementation of community engagement strategies
- Demonstrates successful efforts engaging communities in Detroit or other similar cities
- Experience providing logistical and operational support to City-led community outreach/engagement efforts
- Extensive experience planning meetings or community events, conducting surveys and door- to-door outreach, and other ways for communicating with and receiving feedback from local community leaders and organizations
- Demonstrates experience engaging with communities of color and low income communities
- Skilled in gathering and researching existing community data and planning documents in addition to working closely with municipal agencies, neighborhood and community organizations, and other local institutions
- Ability to translate complex planning ideas into informative and understandable presentations for a variety of audiences
- Commitment to incorporating citizen preferences with existing municipal initiatives

3.1 Architecture and Engineering:

- Either meet the 36 CFR Part 61 professional qualifications established by the National Park Service for Historical Architect or Architect, or assign 36 CFR Part 61 qualified personnel to perform the services and/or supervise other staff.
- Ensure that all work meets the documentation standards as required by the Michigan State Historic Preservation Office and outlined in 36 CFR 800.11 and 36 CFR 800.14 for the City- owned school buildings included in this study.
- Meet licensure requirements for Professional Engineer or Architect
- Demonstrates design excellence and technical competence
- Extensive experience conducting investigation, evaluation, and documentation of historic-age buildings (structure of envelope, roofing system, window systems, MEP, and fire alarm/suppression) and providing recommendations on feasibility of reuse and cost estimating
- Demonstrates in-depth knowledge of historic building construction methods and materials
- Extensive knowledge of building modifications/retrofit necessary to meet current code requirements, life safety provisions and/or change of use
- The vendor should have experience with sustainable, innovative urban landscape architecture design strategies
- Team must have experience working with municipal departments and code/ zoning requirements and regulations
- Demonstrated ability to perform architectural field surveys and technical assessments
- Experience with the development of historic building stabilization plans
- Experience with the development of architectural deconstruction/salvage plans

3.2 Historic Preservation:

- Meet the 36 CFR Part 61 professional qualifications established by the National Park Service for Historian or Architectural Historian or assign 36 CFR Part 61 qualified personnel to perform the services and/or supervise other staff.
- Ensure that all work meets the documentation standards as required by the Michigan State Historic Preservation Office and outlined in 36 CFR 800.11 and 36 CFR 800.14 for the City- owned school buildings included in this study.
- Have proven experience in conducting primary source research and writing an historic context narrative and National Register of Historic Places nominations
- Have demonstrated experience documenting and assessing 19th and 20th century architectural resources, both interior and exterior
- Demonstrate extensive experience conducting historic building evaluations, both interior and exterior, in accordance with the National Register Criteria for Evaluation and other applicable standards

3.3 Market Study

- Strong understanding of Detroit’s development market, particularly within neighborhoods outside of downtown and midtown
- Experience identifying opportunities that support growth of existing businesses and attract new businesses and employment opportunities
- Experience developing linkages between economic development, housing, and green space/energy uses, and working knowledge of metrics for measuring the benefits of infrastructure on economic development, housing, and revitalization
- Demonstrate strong understanding of economic development and reuse of distressed and/or vacant properties within neighborhood settings

3.4 Technical Graphics Specialization

- Be skilled in the use of digital camera technology

- Demonstrated proficiency utilizing graphic and design software to produce conceptual renderings, diagrams, and architectural drawings.
- Demonstrate expertise and mapping proficiency with GIS and supporting graphic software to produce parcel level maps that show information; such as, but not limited to, property ownership, zoning, site condition, vacancy, and use
- Be skilled at utilizing visual and graphics tools to create accessible, attractive, and clear presentations, marketing materials, and technical reports.

4. ADHERENCE TO TERMS OF PROPOSALS

A proposal once accepted by the City of Detroit, may become a binding contractual obligation of the respondent. The failure of a successful respondent to accept this obligation and to adhere to the terms of the respondent's proposal may result in rejection of the proposal and the cancellation of any provisional award to the respondent.

5. REJECTION OF PROPOSALS

The City of Detroit expressly reserves the right to reject any and all proposals, waive any non-conformity, re-advertise for proposals, to withhold the award for any reason the City determines and/or to take any other appropriate action that is in the best interest of the City.

6. BACKGROUND/DESCRIPTION OF ENVIRONMENT

The City of Detroit is preparing to meet a major challenge – to identify reuse opportunities for its vacant school sites. In 2014, the DPSCD transferred ownership of a large number of vacant school properties to the City of Detroit. Of these parcels, several dozen currently include historic-age vacant structures, the majority of which were determined as eligible for listing in the National Register of Historic Places (NRHP) in 2009. In addition, the DPSCD currently owns and controls vacant historic-age school properties. Many of these vacant school properties are in poor condition, and environmental studies conducted at many of these sites revealed the presence of hazardous materials such as lead and asbestos. These multiple-acre properties are centrally-located in residential neighborhoods and typically represent the most prominent sources of blight within their adjacent environs.

This project seeks to establish a path towards mitigation of the negative impact that these vacant school properties have on neighborhoods. To this end, the study shall identify the school sites that can be repurposed in a way that will catalyze their immediate environs, stimulate economic activity, and improve quality of life for the community.

For the city-owned school buildings only, this effort shall provide documentation as required by the Michigan State Historic Preservation Office (SHPO), and as outlined in Code of Federal Regulations (CFR) Title 36, Sections 800.11 and 36 CFR 800.14, in compliance with Section 106 of the National Historic Preservation Act of 1966 (NHPA), should the City determine it necessary to demolish any of its NRHP- Eligible school buildings. This study shall provide the required diligence documentation in a comprehensive manner, which will streamline the costs and timeframe associated with the consultation process should multiple City-owned NRHP-Eligible school properties be put forward for disposal. Note that the Section 106 compliance/due diligence materials will be generated for the City-owned school buildings only as the City may use Federal dollars to fund demolition activity. DPSCD staff has indicated that they will not tap into a Federal funding source, thus likely exempting their disposition activities from Section 106 compliance requirements. Therefore, Section 106 due diligence documentation is not scoped for the twenty-nine DPSCD vacant school properties.

The DPSCD scope is subject to a separate notice to proceed from the city, and should be priced as an Add/Alternate.

6.1 NEIGHBORHOOD CONTEXT & RESOURCE DESCRIPTION

6.2 Neighborhood Profile

The study includes approximately 70 discrete sites/parcels that are located throughout Detroit, as per the attached list (Appendix A). The parcels are largely sited within residential neighborhoods of high- to - medium vacancy which reflect a range of demographics and housing conditions. The homes within these neighborhoods are typically single-family, detached dwellings of one to two stories in height. Stick-built construction prevails. The majority of the neighborhoods within which the subject school sites are located were platted according to a grid pattern between ca. 1920 to 1970.

6.3 Resource Description

The school buildings targeted by the current initiative were erected between 1911 and 1964, the majority of which date from the pre-World War II era. Building area ranges from 25,000 to 135, 000 square feet with most buildings having large wings added to the sides and/or rear of the original mass prior to the 1960s, to accommodate the City's expanding student-age population. The siting of the school buildings generally reflects the particular use and density of the surrounding neighborhood at the campus's initial date of construction. Specifically, most school buildings enjoy a substantial setback from the street and they typically face frontally, although some are sited on the diagonal. The orientation of main school buildings sometimes changed to face newly added side parking lots, to accommodate changes made to the street pattern, or to face towards a new building which was erected on an adjacent site, thus forming a campus arrangement. Lots/parcels range from approximately 2 to 15 acres and include a main building, a playground (some with recreational ball courts), grassy lawn areas and paved parking lots. Some schools also retain their historic boiler buildings which typically mirror their associated main school building in style, materiality, and detailing.

In the late 19th and early 20th centuries, growth within Detroit's industrial sector and an associated population boom within the City during this period resulted in a corresponding expansion of the Detroit Board of Education and its campuses. Architectural styles and interior space configuration/layout for these new school buildings were based upon national trends in educational and social philosophy and associated programming needs, which dictated particular building requirements. During this time frame, local architectural firm Malcomson & Higginbotham provided the design for most of the school buildings erected within Detroit. As a result of these two factors, the majority of the historic school buildings included in the current study can be grouped into typologies/standardized plan types, although a range of decorative styles and detailing is evident.

The targeted school buildings generally reflect a double-loaded floor plan which features a long central corridor that is flanked by classrooms running the length of the school. The interior space is typically accessed from paired entrances at each end of the main mass and/or a centrally located entrance at main and rear elevation. This arrangement generally forms an I, H, L, or E plan, although later additions contribute to an irregular plan in some instances. A small number of the early 20th century school buildings feature a rectangular plan with a central courtyard or courtyards. Massing is simplified and horizontal, with low-slung flat, gabled, or hipped rooflines. The buildings rise from 1 to 3 stories with high basements which originally housed large boilers. Windows are typically grouped and full height. When originally erected, building code required the school board to utilize non-combustible, fireproof construction for new schools. Therefore, the subject buildings feature either clay tile or reinforced concrete construction while brick, terracotta, or natural or cast stone clads exterior wall surfaces. Exterior ornamentation ranges from austere to ornate, with a majority of the subject schools displaying an array of stylistic flourishes sometimes expressed in the application of masonry trim, terra cotta, decorative brickwork, or ornamental tile. Such ornamentation reflects the prevailing tastes in architectural styles at the time the buildings were originally erected. Specific architectural styles represented include Neo-Tudor, Collegiate Gothic, Arts and Crafts, Classical Revival, Art Deco, Art Moderne, Spanish Revival, and Contemporary/Geometric.

7. AWARD CLAUSE INCLUDING RENEWAL OPTIONS

If a contract is awarded as a result of this RFP it will be a City of Detroit Model Services Contract (sample attached). The term of the contract will be for **1 year**. The City anticipates **one award** as a result of the RFP.

8. OPERATIONAL INFORMATION

The respondent is expected to provide service in accordance with the terms of the executed contract and under the rules, regulations, and supervision of the City.

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9. SCOPE OF WORK

9.0 SCOPE OF SERVICES & DELIVERABLES

The purpose of this study is to develop an understanding of the specific building, general neighborhood, and market condition for each of the City- and DPSCD-owned VSPs in order to ascertain their reuse potential. The study will also provide the due diligence documentation for the City-owned properties as required by the Michigan SHPO and Section 106 of the NHPA and as outlined in the city's Programmatic Agreement ER#96-1. Community sentiment will also be taken into account on those buildings owned by the City of Detroit. The below-described scope requires a multi-disciplinary team to cohesively integrate four categories of work. These categories include: 1) Facility Condition and Historic Assessment 2) Basic Market Analysis; 3) Community Engagement and Communications for City-owned VSPs ONLY; and 4) Disposition Strategy for all Vacant School Properties. Tasks for each work scope category will be outlined in the following pages. Please note that the completed work must meet all documentation standards as required by the Michigan State Historic Preservation Office and outlined in 36 CFR 800.11 and 36 CFR 800.14 for the City-owned school buildings included in this study. The following scope and list of deliverables outline the project's baseline expectations. Proposals must provide a detailed technical approach for completion of the work items outlined below and capabilities to carry out the project within a 12-month period. Scope Item 9.5 shall be proposed and priced as an Add/Alternate subject to separate city approval. Notice to proceed for this scope item may or may not occur, but is expected to occur early enough in the project schedule that both DPSCD and City schools will move forward on the same timeline. See Section 10.

9.1 FACILITY CONDITION AND HISTORIC ASSESSMENT

In 2009, the City of Detroit Historic Designation Advisory Board (HDAB) undertook an in-depth study of the Detroit schools, to include the production of NRHP multiple-property documentation forms for each of the City-owned school properties. As nearly a decade has passed since the HDAB study, it is necessary to undertake field investigations of each of the subject vacant school buildings and extant historic-age auxiliary structures in order to document and assess the current material condition of their construction and design. The assessment shall also note the general conditions of the surrounding neighborhood/environs. The city expects that field visits to buildings will be efficiently managed with well-trained personnel skilled in making assessments in a straightforward manner, based primarily on site-observable conditions (testing and probes are not in scope). The city expects that each building will require no more than 2-4 hours of on-site time, including all necessary team members in a single visit.

As noted above, the level of documentation for the City-owned VSPs must meet the standards as required by the Michigan SHPO, 36 CFR 800.11 and 36 CFR 800.14. Therefore, the current study shall include intensive-level investigations of their physical condition and historic significance.

Task 9.1 Deliverables – Report which includes the following:

- o Site plan for each of the vacant school sites which indicates property boundaries, footprints for all buildings on the site.
- o Map(s) of the existing building stock in the neighborhood adjacent to each of the city-owned vacant school sites which indicates existing building footprint, vacancy, construction dates, building condition, empty lots, and public vs. private ownership, and any other relevant data.
- o Narrative condition/structural assessment of each facility, including extant historic-age auxiliary buildings (i.e., erected in 1975 or earlier), based upon observations at both the interiors and exteriors and review of available data. The assessment shall be supported by photographs and will include order of magnitude estimates for rehab costs. The assessment will generally address such elements as the building envelope, structure, roofing system, mechanical systems, electrical systems, plumbing systems and window systems. Major code- or ADA-based violations/concerns shall also be noted.
- o Narrative NRHP assessment and recommendation of eligibility for each of the subject school buildings and any extant auxiliary buildings. Justification for eligibility assessments shall be provided. Assessments shall be adequately supported with photographs. All recommended NRHP-Eligible buildings shall be fully photo-documented at both the interior and exterior to include all significant architectural features/details. Any identified/documented significant interior architectural features/details and spaces shall also be annotated on floor plans. For those buildings identified as Not Eligible for listing in the NRHP, any remaining significant architectural features/details shall also be fully documented (for possible salvage opportunities).

Basic Market Analysis

This effort will be undertaken in order to determine development needs and opportunities within the neighborhoods associated with each of the school properties targeted by the current effort. This study shall assist in the identification of the VSPs that are the best candidates for reuse/redevelopment. Specifically, an initial Basic Market Analysis shall be conducted for each of the City-owned VSPs. Please note that a number of planning studies have recently been completed within the City. A review of market data associated with these studies should also be undertaken to support a basic market analysis for the neighborhood surrounding each of the VSPs. Note that per Scope Item 9.5b (Add/Alternate), there is a companion scope piece for Basic Market Analysis of DPSCD-owned VSPs.

Task 9.2 Deliverables – Report which includes the following

- o A basic market analysis for each of the City-owned VSPs to include the following:
 - Population demographics and trends
 - Construction and development costs
 - Current average rental and for-sale rate ranges
 - Map and inventory of neighboring active schools, existing housing stock and commercial establishments, including unit counts and square footages
 - Investigate and map existing commercial and residential opportunities and pipeline projects
 - Identify significant market indicators
 - Identify demand for potential commercial uses in each neighborhood as projected by the recent Streetsense/DEGC Neighborhood Retail Study.
 - Conclusion with regard to market potential for commercial redevelopment for each VSP, using industry standard metrics and analysis

9.3 COMMUNITY ENGAGEMENT & COMMUNICATIONS: CITY OWNED VSPS

The project team shall undertake a community engagement effort in order to introduce this project/effort to the

neighborhoods associated with the targeted vacant school properties. The Community Engagement efforts will not include DPSCD-owned school buildings. Also, the engagement effort shall include meetings within the community to introduce preliminary disposition plans for the City-owned school sites for their input. The community's feedback will be collected and utilized to inform development of the final Disposition Strategy for the City-owned schools. Note that the City has undergone and is currently undergoing many robust community-led and philanthropically-funded planning initiatives. The project team must understand that their work will use these platforms and their respective outcomes as a reference to launch their work for this RFP scope. A review of this information will also provide a neighborhood context which shall inform the consultant's understanding of the on-the-ground conditions within the community. The City will provide the selected team an onboarding package which outlines these efforts when the contract commences. Note that the Department of the Neighborhood's (DON)/City staff shall lead the community engagement for this project and serve as the "face" of this effort at all meetings. Under the direction of DON District Managers, the consultant shall provide logistical and preparatory activities required for all public meetings.

The consultant shall also expect to engage in regularly scheduled bi-weekly project meetings with City staff either by phone or in person when aligned with scheduled in-person visits to provide report out re: their progress. The consultant shall generate all agendas for these meetings.

Task 9.3 Deliverables – Report which includes the following:

- o Produce all meeting agendas, presentations, graphics, documents, posters, and PowerPoints for all community engagement, strategic task force sessions, and/or education efforts throughout the entire planning process
- o Produce and oversee the mailout of all cards and fliers, emails for meetings
- o Produce cards and fliers for DON door knocking efforts for meetings
- o Attend and provide all logistical support for all public meetings to include meeting setup and breakdown, note taking, transcribing, etc., as directed by City staff. Note that this effort shall include a minimum of two community engagement meetings per Council District (14 total)
- o Conduct outreach activities in coordination with the DON.
- o Compile and transcribe all written and electronic correspondence related to the project's public engagement efforts
- o Participation in bi-weekly project meetings with City staff to include the production of meeting agendas.

9.4 DISPOSITION STRATEGY

The consultant shall conduct an analysis of the results of the architectural condition assessments and basic market study to develop a Preliminary Inventory that outlines the VSPs that are recommended as viable for reuse in addition to those which are not viable for redevelopment and thus likely targets for demolition. The contractor shall consult with an interagency advisory group for review of its Preliminary Inventory. Based on these discussions, the consultant will generate a Final Disposition Strategy for the VSPs. The Final Disposition Strategy will provide an action plan for all of the subject VSPs. This document will provide feasible reuse strategies/scenarios for the identified viable VSPs. The viable sites will be ranked, noting which properties should be immediately targeted for redevelopment versus those which should be mothballed and maintained for future marketing opportunities. Also, the plan shall include materials which will support the marketing of city-owned vacant school properties identified as viable for private commercial redevelopment. For VSPs that have been deemed "not viable," the Disposition Strategy will provide post-demolition site treatment recommendations. Finally, please note that this document will also clearly define the team's decision-making process as it will support the City's due diligence efforts in compliance with Section 106 under the NHPA should the City utilizes federal sources to fund the demolition of any of its NRHP-Eligible VSPs.

Task 9.4 Deliverables – Report which includes the following for the City-owned VSPs:

For City-owned VSPs found “viable”

- Reuse scenarios and associated costs for all recommended viable schools. Note that these scenarios should primarily consider the potential to insert a new use/uses within the entirety of the building space of the buildings recommended for reuse. However, the consultant shall also determine if it is feasible to successfully activate smaller, discrete sections within the building. Any potential reuse opportunities which might exist in regard to the land/grounds associated with the targeted properties, to include any adjacent/contiguous publically-owned parcels, shall also be considered.
- Marketing plan and associated marketing materials for each of the viable City-owned properties recommended for redevelopment by the private sector, to include a schedule/timeframe for the release of RFPs for the sites in the immediate, medium, and long term. A building stabilization/mothball strategy will also be provided for any viable site which is recommended for reuse in the medium and long term
- For each of the recommended NRHP-Eligible, City-owned viable school sites, a completed Part 1 of the National Park Service’s Historic Preservation Certification Application. The Part 1 applications shall be completed to the standards defined in Title 36 of the Code of Federal Regulations, Part 67. The vendor should scope/base the amount of work necessary to complete the Part 1 applications on the largely complete NRHP nominations already prepared by the Detroit HDAB.
- Detailed Investment Memo for each of the City-owned viable school sites within the City’s targeted Strategic Neighborhood Fund Areas (see Map Attached) that are recommended for redevelopment.. In addition, detailed Investment Memos for City-owned schools outside of the targeted Strategic Neighborhood Fund Areas that are determined to be structurally feasible and are determined through the neighborhood market studies to have high potential for redevelopment as a nonresidential use (4 sites maximum). The Detailed Investment Memos must include the following:
 - Citywide Location map: indicating the site location relevant to major districts and street network
 - Site Context Map: showing adjacent zoning districts, right of way, etc.
 - Site Capacity Analysis: showing information including land use intensity, FAR, unit numbers, square footage of uses, including parks and open space
 - Two Alternative Schematic Site Plans: to the appropriate scale (including graphic scale) showing relevant site building information, including area square footage, building heights, setbacks, right of way, number of parking spaces
 - Generic Building Elevations for the purpose of indicating general character and relationship to adjacent existing site conditions/buildings
 - Overall Site Sections
 - For sites with potential residential uses: Typical unit sizes and types
 - For sites with potential nonresidential uses: Breakdown of four potential nonresidential uses such as call centers, indoor agriculture, etc. (one for each site outside the City’s targeted Strategic Neighborhood Fund Areas s).
 - Digital Massing Diagram showing the scale of buildings to public spaces
 - At least two Street Profile Sections or perspectives of the urban character of the development
 - Parking Spaces Required: including off-street and on-street parking anticipated (e.g., surface, structured parking)
 - Schematic Level Construction Budget
 - Provide detailed pro forma templates including sources and uses for projects

For City-owned VSPs found “not viable”:

- For properties which are recommended as not viable for reuse, post-demolition site treatment recommendations which might transform the vacant sites into purposeful and productive landscapes. The

discussion should also highlight any opportunities for architectural salvage or immediate/short term partial activation/Tactical Preservation strategies which might enable innovative development opportunities that could be immediately employed as an alternative to demolition.

- o Compilation of all due diligence/alternatives analysis documentation which the study has generated in compliance with SHPO requirements, 36 CFR 800.11 and 36 CFR 800.14 for the City-owned NRHP Eligible school buildings recommended as not-viable for reuse and thus targeted for demolition
- o Draft Memorandum of Agreement with recommended means to mitigate for adverse effects should Federal funds be used to demolish City-owned Eligible school buildings.

9.5 DPSCD SCOPE (ADD/ALTERNATE)

The respondent shall also propose an approach and cost for additional DPSCD-owned Vacant School Properties scope as described below, subject to a separate notice to proceed by the City. The current list of DPSCD-owned VSPs is given in Appendix A.

Task 9.5a Deliverables – Report which includes the following for the DPSCD-owned VSPs:

- o Site plan for each of the vacant school sites which indicates property boundaries, footprints for all buildings on the site.
- o Map(s) of the existing building stock in the neighborhood adjacent to each of the vacant school sites which indicates existing building footprint, vacancy, construction dates, building condition, empty lots, and public vs. private ownership, and any other relevant data.
- o Narrative condition assessment of each facility, including extant historic-age auxiliary buildings (i.e., erected in 1975 or earlier), based upon reconnaissance-level exterior observations and review of available data, to include estimates for rehab costs. The assessment will be supported by photographs and address such elements as the building envelope, structure, roofing system, mechanical systems, electrical systems, plumbing systems and window systems.

Task 9.5b Deliverables – Report which includes the following for the DPSCD-owned VSPs

- o A basic market analysis for each of the targeted VSPs to include the following:
 - Population demographics and trends
 - Construction and development costs
 - Current average rental and for-sale rate ranges
 - Map and inventory of neighboring active schools, existing housing stock and commercial establishments, including unit counts and square footages
 - Investigate and map existing commercial and residential opportunities and pipeline projects
 - Identify significant market indicators
 - Identify demand for potential commercial uses in each neighborhood as projected by the recent Streetsense/DEGC Neighborhood Retail Study.
 - Conclusion with regard to market potential for commercial redevelopment for each VSP, using industry standard metrics and analysis

Task 9.5c Deliverables – Report which includes the following for the DPSCD-owned VSPs:

For DPSCD-owned VSPs found “viable”:

- o Reuse scenarios and associated costs for all recommended viable vacant school properties. Note that these scenarios should primarily consider the potential to insert a new use/uses within the entirety of the building space of the buildings recommended for reuse. However, the consultant shall also determine if it is feasible to successfully activate smaller, discrete sections within the building. Any potential reuse opportunities which might exist in regard to the land/grounds associated with the targeted properties, to include any

adjacent/contiguous publically-owned parcels, shall also be considered.

For DPSCD-owned schools found “not viable”:

- o For properties which are recommended as not viable for reuse, post-demolition site treatment recommendations which might transform the vacant sites into purposeful and productive landscapes. The discussion should also highlight any opportunities for architectural salvage or immediate/short term partial activation/Tactical Preservation strategies which might enable innovative development opportunities that could be immediately employed as an alternative to demolition.

10. ANTICIPATED PROJECT TIMELINE

June 1, 2019	RFP Announce/Public Advertise
June 6, 2019	Pre Bid Meeting, 2:00 p.m. EDT/Office of Contracting and Procurement, Coleman A. Young Municipal Center, Suite 1008, 2 Woodward Ave., Detroit, MI 48226
June 24, 2019	Proposals Due
October 4, 2019	Complete Facility Assessments and Basic Market Analysis
November 1, 2019	Preliminary Recommendations Submitted to City Staff
January 30, 2020	Draft Disposition Plan Submitted to Interagency Advisory Group
March 6, 2020	Community Engagement Ends
May 1, 2020	Submission of Final Disposition Plan

Note: Proposal response should assume that NTP for Add/Alternate will occur early enough for both sets of schools to generally adhere to the same project timeline, allowing certain efficiencies to be considered across all scope areas.

11. TECHNICAL INFORMATION

List of City of Detroit Vacant School Properties and Detroit Public School District Vacant School Properties attached.

12. RESPONDENT PERFORMANCE HISTORY

The respondent shall provide the following information:

- a. Identify in detail, a portfolio of no more than 5 similar projects by name, subject matter, location, respondent’s services provided and the length of time respondent’s service were provided on each (use attached reference form). Included on the reference form shall be the description of services provided and the time period;
- b. Identify the respondent’s and provide resumes for key personnel working on the projects identified in “section a” above;
- c. Identify any projects in which the respondent’s contract was terminated for any reason;
- d. Identify any claims or lawsuits that have been brought against your organization as a result of any services provided within the last 5 years;
- e. Attach your organization’s financial statements (CPA Certified) for the previous three years; and
- f. Provide an organization chart indicating the team structure and core team members who will provide services for the five primary categories outlined in the scope

13. EVALUATION CRITERIA

A consensus evaluation committee composed of City staff and other invited parties. A list of shortlisted respondents will be chosen to be interviewed based on qualifications, previous completed works, and approach to community engagement. The consensus evaluation committee may request additional meetings or information of respondents before making a final selection.

Overall Strength of Concept / Proposal **30 Points**

- Demonstrates clear and practical vision for achieving all objectives, tasks and deliverables
Proposed design approach, including specialized expertise within design team
- Strategies and approach to community engagement
- Demonstrates capacity to complete work within a 12-month period

Previous Project Experience **25 Points**

- Successful examples of completing projects from data analysis, conceptual design, and schematics to specifications with client reference and description of professional services offered
- Successful examples of completing similar multi-disciplinary engineering, architectural, marketing, and historic preservation efforts
- Successful examples of completing technical surveying and mapping products with client reference and description of professional services offered
- Strong record of performance on projects completed within urban municipalities
- Demonstrated expertise in financing, and feasibility analysis
- Experience of proposed project leaders/ team members on similar projects

Price Proposal **20 Points**

- Overall fee and team approach to complete, broken down into each individual Scope area

Proposed Timeline / Work Plan **15 Points**

- Demonstrates practical ability to meet project deadlines within budget and on time
- Lays out clear work plan to achieve deliverables
- Identification of how soon firm could begin work after notification of award
- Includes key dates for completion of all phases of the study, with periodic community engagement and City review periods.
- Proposes a plan to complete project within 12-month period

Design and Engineering Excellence **10 Points**

- Description of vision, leadership and commitment to high quality and exceptional design in the public realm and identification of differentiators from peers
- Recognition and awards from professional associations of project leads, design team and firms
 - Incorporation of sustainable, innovative and resilient practices

Maximum points for Evaluation Criteria not to exceed one hundred (100) points.

14. EVALUATION PROCEDURE

After evaluating the proposal, oral interviews may be scheduled with the respondents. A final determination will be made after the oral interviews are complete.

Following the receipt of proposals, a City designated Evaluation Committee will evaluate each response. All PROPOSALS, which meet the required format of this RFP, will be evaluated. Any Proposals determined to be non-responsive to the specifications or other requirements of the RFP, including instructions governing submission and format, will be disqualified unless the City determines, in its sole discretion, that non-compliance is not substantial or that an alternative proposed by the Respondent is acceptable. The City may also at its discretion, request oral presentations, make site visits at Respondent's facility and may request a demonstration of Respondent's operations. If scheduled, a final determination will be made after the oral presentations and/or demonstrations are complete. The City may also at its sole discretion, elect to rank order the qualified proposals, and negotiate with some limited number of the highest scored qualified respondents. A final determination would include the cumulative inputs of this evaluation procedure. All decisions reached by the Evaluation Committee will be by consensus.

15. CONTRACT APPROVAL

Upon contract award, the City and the respondent shall execute a Professional Services Contract, which shall contain all contractual terms and conditions in a form provided by the City. No contract shall become effective until the contract has been approved by the required City Departments and Detroit City Council and signed by the City of Detroit Chief Procurement Officer. Prior to the completion of this approval process, the respondent shall have no authority to begin work under the contract. The Chief Financial Officer shall not authorize any payments to the respondent prior to such approvals; nor shall the City incur any liability to reimburse the respondent regarding any expenditure for the purchase of materials or the payment of services.

16. REQUIRED SUBMITTAL INFORMATION

To be considered responsive, each proposal must present and/or respond to the following sections in their entirety. All pages of the submission must be numbered, excluding exhibits and other supplemental information which may be added as Attachments. The instructions contained in this RFP must be strictly followed. Accuracy and completeness are essential. Submissions must NOT exceed 20 pages (excluding resumes requested in Sec. 12b, above)

Table of Contents -- A table of contents must be provided with all RFP Submissions.

Signature Page (Form Attached)
Statement of Submission (up to 2 pages)

In your Statement of Submission, please include, at a minimum, the following information and/or documentation:

- 1) A statement describing relevance of work samples as an indicator of team's capacity to perform the work requested in this scope of work;
- 2) A brief description of your firm, including the Federal Employer Identification Number, the age of the firm's business and the average number of employees during each of the last three (3) years;
- 3) The location of the firm's principal place of business and, if different, the location of the place of performance of the contract;
- 4) A commitment to perform the requested work in accordance with the requirements outlined in this RFP; and
- 5) The name and contact information of the overall project manager and firm that will be in charge of all teams on this project;

Scope of Work Schedule

Provide a detailed timetable with action steps required to complete entire scope as described in this RFP, including start and completion deadlines and major activity milestones. As previously, noted the submission must outline a detailed technical approach for completion of the work items outlined in the scope within one calendar year. Funding levels may dictate that the project be extended over a longer term. Therefore, an alternate, phased proposal/approach for completion of the project over a two- to three-year period shall also be submitted.

Pricing Proposal

Proposals must provide a separate Price Proposal from the Technical Proposal and cost of all activities based on a maximum contract length of one year. Proposals must provide a line-item cost estimate to complete the scope of services described in RFP by category

As noted above, additionally, the City would like the teams to provide an additional budget line for completion of the services outlined in the scope over a two- to three-year period.

17. SUBMITTAL INSTRUCTIONS

All proposals must be submitted through the Bidsync system. Each respondent is responsible for ensuring that its proposal is received by the City on a timely basis. **Faxed or mailed proposals will not be accepted.**

Firms shall not distribute their proposals to any other City office or City employee. Proposals received become the property of the City. The City is not responsible for any costs associated with preparation or submission of proposals. All proposals submitted by the due date will be recorded in the Bidsync System. Responses received **will not** be available for review. Proposals received will be subject to disclosure under applicable Freedom of Information Act. An officer of the company authorized to bind the company to a contractual obligation with the City must sign the proposals in the Bidsync System. The contact person regarding the proposal should also be specified by name, title, and phone number. The successful respondent will receive an award letter. Respondents who are not awarded will receive a notification that the award decision has been made.

SUBMITTAL INSTRUCTIONS AND OTHER KEY INFORMATION

ALL PROPOSALS MUST BE SUBMITTED VIA THE BIDSYNC WEB PORTAL

- A. RFP Announce/Public Advertise Date
June 1, 2019
- B. Question Deadline
Thursday, June 13, 2019
All questions must be submitted via the BidSync web portal to www.Bidsync.com.
- C. Response to Questions
Monday, June 17, 2019
Response to all questions received to all parties attending the Pre-Proposal Meeting
- D. Pre-Bid Meeting
Thursday, June 6, 2019

Office of Contracting and Procurement, Coleman A. Young Municipal Center, Suite 1008, Detroit, MI 48226

E. Proposals Due
Monday, June 24, 2019

ALL PROPOSALS MUST BE SUBMITTED VIA THE BIDS SYNC WEB PORTAL ONLY

18. PREPARATION OF PROPOSAL

The proposal shall include all forms as specified in these instructions. Each proposal shall show the full legal name and businesses address of the prospective respondent, including street address if different from mailing address, and shall be signed and dated by the person or persons authorized to bind the prospective respondent. Proposals by a partnership or joint venture shall list the full names and addresses of all parties to the joint venture. The state of incorporation shall be shown for each corporation that is a party to the proposed joint venture.

Respondent shall provide notice in its proposal to take exception to any requirement of the RFP. Should a respondent be in doubt as to the true meaning of any portion of this RFP or find any patent ambiguity, inconsistency, or omission herein, the respondent must make a written request for an official interpretation or correction in accordance with the instructions for submitting questions as specified in this RFP.

Respondents are advised that no oral interpretation, information or instruction by an officer or employee of the City of Detroit shall be binding upon the City of Detroit.

19. REQUIRED CONTENT

Bid responses must include the following content:

Letter of Transmittal

The prospective respondent’s proposal shall include a letter of transmittal signed by an individual or individuals authorized to bind the prospective respondent contractually. The letter must state that the proposal will remain firm for a period of one hundred twenty (120) days from its due date and thereafter until the prospective respondent withdraws it, or a contract is executed, or the procurement is terminated by the City of Detroit, whichever occurs first.

Required Clearances and Affidavits

The following clearances and affidavits are required to do business with the City of Detroit. Approved clearances are not required to submit a response to the RFP but will be required of the successful respondent prior to City Council approval.

Respondents must submit requests for clearance and affidavits electronically in the BidSync system. If there is documentation that the respondent is required to provide to the City that contains personal identifiable information, the respondent must submit the request for clearance through the BidSync system and send the confidential information to the City separately via email. Do not attach copies of clearance documents or affidavits to the bid response.

Required Clearances	Required Affidavits
Income Tax Revenue Tax	Slavery Era Hiring Compliance Political Contributions



	Human Rights
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Accuracy and Completeness of Information

All information pertaining to the prospective respondent's approach in meeting the requirements of the RFP shall be organized and presented in the prospective respondent's proposal. The instructions contained in this RFP must be strictly followed.

Accuracy and completeness are essential. Omissions and ambiguous or equivocal statements will be viewed unfavorably and may be considered in the evaluation. Since all or a portion of the successful proposal may be incorporated into any ensuing contract, all prospective respondents are further cautioned not to make any claims or statements that cannot be subsequently included in a legally binding agreement.

In your introduction, please include, at a minimum, the following information and/or documentation:

- A statement to the effect that your proposal is in response to this RFP;
- A brief description of your firm;
- The location of the firm's principal place of business and, if different, the location of the place of performance of the contract;
- A commitment to perform the requested work in accordance with the requirements outlined in this RFP;
- The name and contact information of the of the firm's partner and or manager(s) that will be in charge of this project;
- The firm's financial solvency, fiscal responsibility and financial capability;
- The age of the firm's business and the average number of employees during each of the last three (3) years;
- The firm's current tax status and Federal Employer Identification Number; and
- Evidence of any licenses or registrations required to provide the services under this contract.

20. REQUIRED FORMAT

To be considered responsive, each proposal must, at a minimum, respond to the following RFP sections in their entirety:

- Overall Scope of Work and Operational Responsibilities;
- Respondents Performance History;
- Proposal Submission Procedure; and
- Provide Certificate of Good Corporate Standing, if a corporation Evaluation of the respondent's proposal will be made in accordance with section 13 of this RFP.

21. REQUIRED COST PROPOSAL

Respondents are requested to make a firm cost proposal to the City of Detroit. If a contract is entered into as a result of this RFP, it will be a contract for fees as related to providing all requested services, with a price not to exceed the total price quoted in the proposal. The City of Detroit reserves the right to select proposals from the most responsible respondents with the most reasonable costs. The City reserves the right to select one or more firms to perform all or separate parts of this function

Indicate the fees you will charge to perform the services. Attach a schedule of fees or hourly rates broken out for each type of staff member that will work on the project (i.e., Sr. Partner, Partner, Associate Paralegal Typist, etc.)

22. TECHNICAL APPROACH

Present a brief description of procedures to be followed, presented in a form which will best assist the City is evaluating your firm's ability to identify, evaluate and communicate while providing the requested services, e.g. fees.

23. QUESTION DEADLINE

All questions regarding the RFP shall be submitted through the Bidsync System. Respondents shall provide notice to take exception to any requirements of the Request for Proposals. Such exceptions may reflect negatively on the evaluation of the Proposal. The City of Detroit does not guarantee a response to questions not submitted after the question deadline.

24. ECONOMY OF PREPARATION

Proposals should be prepared simply and economically providing a straight forward, concise description of the contractor's ability to meet the requirements of the RFP. Emphasis should be on the completeness and clarity of content.

25. PAYMENT

All properly executed invoices submitted by the successful respondent will be paid in accordance with the City of Detroit Prompt Payment Ordinance.

26. ORAL INTERVIEWS

The City reserves the right, at its own discretion, to request Oral Interviews from a Short List regarding proposals submitted in response to the RFP. Failure to make an oral interview will be grounds for rejection of your proposal. Proponents will be notified by the Office of Contracting and Procurement of the date, time and location for Oral Interviews.

27. ASSIGNMENT

The services to be performed by the respondent shall not be assigned, sublet, or transferred, nor shall the respondent assign any monies due or to become due to him under any contract entered into with the City pursuant to these specifications, without prior written approval of the City.

28. MISCELLANEOUS

It shall be the responsibility of the respondent to thoroughly familiarize themselves with the provisions of these specifications. After executing the contract, no consideration will be given to any claim of misunderstanding.

The respondent agrees to abide by the rules and regulations as prescribed herein by the City as the same now exists or may hereafter from time-to-time be changed in writing.

29. MODIFICATION OF SERVICES AFTER CONTRACT APPROVAL

The City reserves the right to modify the services provided by the respondent awarded a contract. Any modification and resulting changes in pricing shall be made by amendment to the contract by the respondent and the City.

30. BID DEPOSIT & PERFORMANCE BOND (OPTIONAL)

Proposers must submit a bid deposit valid for at least 120 (One Hundred Twenty) days, in the form of a bid bond (City of Detroit form attached) or cashier's check in lieu of a bid bond in the amount of \$0.00. Checks are to be made payable to the Treasurer of the City of Detroit. The amount of each respondents bid deposit will be returned to all unsuccessful respondents and the successful respondent upon contract award or rejection of proposals. **FAILURE TO SUBMIT THE BID DEPOSIT SHALL RESULT IN PROPOSAL REJECTION. BID DEPOSITS SUBMITTED IN RESPONSE TO OTHER SOLICITATIONS ARE NOT VALID FOR**

THIS RFP. THE ORIGINAL, FULLY EXECUTED BID BOND (ON THE CITY’S BID BOND FORM) MUST BE SUBMITTED WITH THE PROPOSAL.

The successful respondent(s) must furnish a performance bond in the amount of **0%** of the contract value specified in the contract (City of Detroit form attached) guaranteeing the contract will be accepted if tendered an award.

31. CHANGES IN FACTS

Proposers shall advise the City during the time the Proposal is open for consideration of any changes in the principal officers, organization, financial ability of, or any other facts presented in the proposal with respect to the proposer or the proposal immediately upon occurrence.

32. CONFIDENTIALITY OF PROPOSALS

Proposals shall be opened with reasonable precautions to avoid disclosure of contents to competing offers during the process of evaluation. Once proposals have been publicly recorded they are subject disclosure as per the requirements of the Michigan Freedom of Information Act.

33. NEWS RELEASE

News releases pertaining to these proposal specifications or the provisions to which they relate shall not be made without prior approval of the City and then only in coordination with the City.

34. REJECTIONS, MODIFICATIONS, CANCELLATIONS

The City of Detroit expressly reserves the right to: 1) accept or reject, in whole or in part, any and all proposals received; 2) waive any non-conformity; 3) re-advertise for proposals; 4) withhold the award for any reason the City determines; 5) cancel and/or postpone the request for proposals, in part or in its entirety, and/or, 6) take any other appropriate action that is in the best interest of the City. This RFP does not commit the City of Detroit to award a contract, to pay any cost incurred in the preparation of a proposal under this request, or to procure or contract for services.

35. OFFICE OF INSPECTOR GENERAL

34.01 In accordance with Section 2-106.6 of the City Charter, this Contract shall be voidable or rescindable at the discretion of the Mayor or Inspector General at any time if a Public Servant who is a party to the Contract has an interest in the Contract and fails to disclose such interest.

34.02 This Contract shall also be voidable or rescindable if a lobbyist or employee of the contracting party offers a prohibited gift, gratuity, honoraria or payment to a Public Servant in relation to the Contract.

33.01 A fine shall be assessed to the Contractor in the event of a violation of Section 2-106.6 of the City Charter. If applicable, the actions of the Contractor, and its representative lobbyist or employee, shall be referred to the appropriate prosecuting authorities.

33.02 Pursuant to Section 7.5-306 of the City Charter, the Inspector General shall investigate any Public Servant, City agency, program or official act, contractor and subcontractor providing goods and services to the City, business entity seeking contracts or certification of eligibility for City contracts and person seeking certification of eligibility for participation in any City program, either in response to a complaint or on the Inspector General’s own initiative in order to detect and prevent waste, abuse, fraud and corruption.

- 33.03 In accordance with Section 7.5-310 of the City Charter, it shall be the duty of every Public Servant, contractor, subcontractor, and licensee of the City, and every applicant for certification of eligibility for a City contract or program, to cooperate with the Inspector General in any investigation pursuant to Article 7.5, Chapter 3 of the City Charter.
- 33.04 Any Public Servant who willfully and without justification or excuse obstructs an investigation of the Inspector General by withholding documents or testimony, is subject to forfeiture of office, discipline, debarment or any other applicable penalty.
- 33.05 As set forth in Section 7.5-308 of the City Charter, the Inspector General has a duty to report illegal acts. If the Inspector General has probable cause to believe that any Public Servant or any person doing or seeking to do business with the City has committed or is committing an illegal act, then the Inspector General shall promptly refer the matter to the appropriate prosecuting authorities.

For purposes of this Article¹

¹ “Public Servant” means the Mayor, members of City Council, City Clerk, appointive officers, any member of a board, commission or other voting body established by either branch of City government or the City Charter, and any appointee, employee or individual who provides services to the City within or outside of its offices or facilities pursuant to a personal services contract. _____



SIGNATURE PAGE

ASSIGNMENT: A Contractor shall not assign any Purchase Order or Contract or any monies due therefrom without prior approval of the Chief Procurement Officer.

IN THE FURTHER DESCRIPTION OF THIS PROPOSAL, WE SUBMIT INFORMATION IDENTIFIED AS FOLLOWS:
BIDDING UNDER THE NAME OF: _____

(PRINT FULL LEGAL NAME)

(PURCHASE ORDER WILL BE ISSUED AND PAYMENT WILL BE MADE ONLY IN THE NAME ABOVE. ALL PAYMENTS ARE TO BE MAILED. VENDOR PICK-UP OF PAYMENT IS NOT ACCEPTABLE)

MAILING ADDRESS: _____

(ZIP CODE)

PAYMENT MAILING ADDRESS: _____

(IF DIFFERENT FROM ABOVE) _____

(ZIP CODE)

BUSINESS ADDRESS: _____

(CHECK ONE):

LEASE _____ RENT _____ OWN _____

(ZIP CODE)

FEDERAL EMPLOYER ID#: _____

CHECK ONE:

() CORPORATION, Incorporated Under The Laws Of The State Of _____

If Other Than Michigan Corporation, Licensed To Do Business In Michigan? _____ YES _____ NO

() PARTNERSHIP, Consisting of (List Partners)

() ASSUMED NAME (Register No.) _____

() INDIVIDUAL

IF NOT SIGNED BY OFFICER OF FIRM, THE PERSON SIGNING MUST HAVE AUTHORITY TO COMMIT THE FIRM CONTRACTUALLY TO THIS BID. The authorized signature affirms that the proposal will remain firm for a period of one hundred twenty (120) days from its due date and thereafter until withdrawn, in writing, or a contract is executed, or the procurement is terminated by the City of Detroit, whichever occurs first. *THIS FORM MUST BE FILLED IN ITS ENTIRETY. FAILURE TO COMPLETE FORM WILL BE CAUSE FOR REJECTION.*

E-MAIL _____

AUTHORIZED SIGNATURE: _____

DATE _____

SIGNED: _____

TELEPHONE NO. _____

PRINTED _____

FAX NO. _____

TITLE _____

CELL PHONE NUMBER _____

ALTERNATE CONTACT _____





**CITY OF DETROIT, OFFICE OF CONTRACTING AND PROCUREMENT ON BEHALF OF THE
PLANNING & DEVELOPMENT DEPARTMENT, MAURICE COX, DIRECTOR**

MICHAEL E. DUGGAN, MAYOR

NOTICE OF FUNDING AVAILABILITY, REQUEST FOR PROPOSALS NO. 19BW2717

Funded by the U.S. Department of Housing and Urban Development, Community Development Block Grant and the Detroit Public Schools Community District, the City of Detroit's Planning and Development Department (the "City") is issuing a Request for Proposal (RFP) to obtain experienced technical experts for the following study:

Vacant Historic School Properties: Disposition Plan and Section 106 Compliance (RFP# 19BW2717): Development and completion of a comprehensive building condition and market study to assess the redevelopment potential of approximately 70 Vacant School Properties owned by the City of Detroit or the Detroit Public Schools Community District. Scope of work will include community engagement and the development of a strategy for recommended disposition. Study will also provide documentation for compliance with Section 106 of the National Historic Preservation Act.

Evaluation Criteria:

Overall Strength of Concept / Proposal

- Demonstrates clear and practical vision for achieving all objectives, tasks and deliverables
- Proposed design approach, including specialized expertise within design team
- Strategies and approach to community engagement
- Demonstrates capacity to complete work within a 12-month period

Previous Project Experience

- Successful examples of completing projects from data analysis, conceptual design, and schematics to specifications with client reference and description of professional services offered
- Successful examples of completing similar multi-disciplinary engineering, architectural, marketing, and historic preservation efforts
- Successful examples of completing technical surveying and mapping products with client reference and description of professional services offered
- Strong record of performance on projects completed within urban municipalities
- Demonstrated expertise in financing, and feasibility analysis
- Experience of proposed project leaders/ team members on similar projects

Price Proposal

- Overall fee and team approach to complete, broken down into each individual Scope area

Proposed Timeline / Work Plan

- Demonstrates practical ability to meet project deadlines within budget and on time
- Lays out clear work plan to achieve deliverables
- Identification of how soon firm could begin work after notification of award
- Includes key dates for completion of all phases of the study, with periodic community engagement and City review periods.
- Proposes a plan to complete project within 12-month period

Design and Engineering Excellence

- Description of vision, leadership and commitment to high quality and exceptional design in the public realm and identification of differentiators from peers
- Recognition and awards from professional associations of project leads, design team and firms
- Incorporation of sustainable, innovative and resilient practices

Successful respondents will demonstrate: a strong track record of delivering quality projects on time; significant expertise in the various areas required and detailed in the scope; responsiveness to the City's timelines and needs; passion for innovation and creativity; experience in engaging the community; and value for the role of stakeholders in developing effective recommendations.

A MANDATORY 1 hour Pre-Proposal Submission Meeting and Tele-Conference for RFP# 19BW2717, which will be conducted in the Office of Contracting and Procurement, 2 Woodward Avenue, Suite 1008, Detroit, MI 48226 on Thursday, June 6, 2019 at 2:00 p.m. (Eastern Daylight Time), Tele-Conference Line: 866-434-5269, Access Code: 3964948

To view the RFP, visit the City of Detroit web site at www.detroitmi.gov/purchasing and select "Open Bids for The City of Detroit." Or, view the RFP at the City's official procurement site, www.bidsync.com by signing in or registering (free).

All RFP questions and proposals must be submitted through www.bidsync.com. PROPOSALS ARE DUE in BidSync before or by 4:00 P.M. EDT on JUNE 24, 2019. Public Recording of Proposal Submissions takes place at 10:00 a.m. EDT, Tuesday, June 25, 2019 in the Office of Contracting and Procurement, Suite 1008, 2 Woodward Ave., Detroit, MI 48226. Additionally, suppliers submitting proposals must register (free) with the U.S. Federal Government's System for Award Management at www.SAM.gov. Qualified Minority Owned Enterprises, Women Owned Enterprises, Disadvantaged Business Enterprises, Veteran Owned Enterprises, Detroit Businesses, and HUD Section 3 Certified Business Concerns are encouraged to submit proposals.

Office of Contracting and Procurement RFP Contact:

Bianca Washington, Contracting and Procurement Specialist, (313) 224-0175 washingtonb@detroitmi.gov

Notice of Non-Discrimination: The City of Detroit does not discriminate on the basis of race, color, creed, national origin, age, handicap, sex or sexual orientation. Complaints may be filed with the City of Detroit, Civil Rights, Inclusion, & Opportunity Department (formerly Human Rights Department), 12TH Floor, Coleman A. Young Municipal Center, Detroit, Michigan 48226.

Appendix A: Vacant School Properties

5/22/2019

City of Detroit VSPs

Count: 42

	<u>Address</u>	<u>FKA/AKA</u>	<u>Council District</u>	<u>Zip Code</u>
1	20710 Pilgrim	Burt Elementary School	1	48223
2	15125 Schoolcraft	Cadillac Middle School	1	48227
3	24601 Frisbee	Detroit Open School	1	48219
4	12834 West Parkway	Healy International School	1	48223
5	18100 Bentler	Holcomb Elementary School	1	48219
6	14825 Lamphere	Hubert Elementary School	1	48223
7	10763 Fenkell	Bethune Elementary/Middle School	2	48238
8	19300 Lindsay	Coffey Elementary/Middle	2	48235
9	20119 Wisconsin	Higginbotham/Commerce High School	2	48221
10	18040 St. Aubin	Courville Elementary School	3	48234
11	8950 St. Cyril	Crockett High School	3	48213
12	13000 Dequindre	Detroit Transition School East	3	48212
13	15600 E. State Fair	Fisher Magnet/Burbank School	3	48205
14	1255 E. State Fair	J. Marshall Elementary School	3	48203
15	7575 Palmetto	Lynch Elementary School	3	48234
16	19635 Mitchell	Mason Elementary School	3	48234
17	17142 Rowe	New Middle School/AFPA East	3	48205
18	12501 Hamburg	Wilkins Elementary School	3	48205
19	10125 King Richard	Arthur Middle School	4	48224
20	2550 Coplin	Carstens Elementary School	4	48215
21	355 Philip	Guyton Elementary School	4	48215
22	4365 Newport	Hosmer Elementary School	4	48215
23	5220 French	Hutchinson Elementary School	4	48213
24	3970 Marlborough	Jackson Intermediate/McNair	4	48215
25	12051 Evanston	Macomb Elementary School	4	48213
26	9227 Chapin	Chandler Elementary School	5	48213
27	2900 W Philadelphia	Jamieson Elementary School	5	48206
28	5974 Seneca	Stephens Elementary School	5	48213
29	6420 McGraw	Hanneman Elementary School	6	48210
30	6311 W. Chicago	Malcolm X Academy	6	48204
31	6075 Begole	Sampson Elementary School	6	48210
32	7300 Garden	Sherrill Elementary School	6	48204
33	16501 Elmira	Coolidge Elementary School	7	48227
34	4800 Collingwood	Detroit Transition School West	7	48204
35	6201 Auburn	Mae C. Jemison Academy	7	48228
36	20390 Tireman	Kosciusko Elementary School	7	48228
37	8900 Cheyenne	McFarlane Elementary School	7	48228
38	13600 Ward	Monnier Elementary School	7	48227

39	12920 Wadsworth	Oakman Elementary	7	48227
40	12744 Elmira	Parker Elementary School	7	48227
41	15000 Mackenzie	Parkman Elementary School	7	48228
42	12099 Fielding	Weatherby Elementary School	7	48228

DPSCD VSPs

Count: 26

	<u>Address</u>	<u>FKA/AKA</u>	<u>Council District</u>	<u>Zip Code</u>
1	15055 Hubbell	Cooley High School	1	48227
2	17450 Lenore	Lodge Elementary	1	48219
3	16161 Winston	Yost Academy	1	48219
4	14200 Westwood	Vetal Elementary	1	48223
5	23901 Fenkell	Murphy Middle School	1	48223
6	23700 Clarita	Larned Elementary School	1	48219
7	8200 Midland	Post Middle School	2	48238
8	14900 Parkside	Robeson Early Childhood Center	2	48238
9	2220 Ewald Circle	Hancock Alternative	2	48238
10	13120 Wildemere	Stewart Elementary School	2	48238
11	19490 Carrie	Marion, Law	3	48234
12	12300 Linnhurst	Turning Point	3	48205
13	2915 E. Outer Dr	Van Zile Elementary	3	48234
14	13700 Bringard	Trix Elementary School	3	48205
15	2962 Fairview	Foch	4	48214
16	2920 Joy Road, 9345 Lawton St	Brady Elementary (including Lawton & WDTR FM buildings)	5	48206
17	6101 Van Dyke	Kettering High School	5	48213
18	5830 Field	Rose Elementary	5	48238
19	840 Waterman	Beard Early Childhood Center	6	48209
20	4601 Seebaldt	Biddle Primary	6	48204
21	7735 Lane	Phoenix Academy	6	48209
22	7350 Southfield	Cody 9/ Ruddiman	7	48228
23	8100 W. Davison	Courtis	7	48238
24	9600 Mettetal	Henderson Lower	7	48227
25	20550 Cathedral St	McCull Elementary	7	48228
26	16400 Tireman	S. James Herman School	7	48228

Map (for convenience only) at link below:

https://drive.google.com/open?id=1hgSljp_xZcPmiykSgIp_hL1AGefY0Vcq&usp=sharing

OMB Guidance

§ 200.318

§ 200.318 General procurement standards.

(a) The non-Federal entity must use its own documented procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.

(b) Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

(c)(1) The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent must participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity must neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.

(2) If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is un-

able or appears to be unable to be impartial in conducting a procurement action involving a related organization.

(d) The non-Federal entity's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

(e) To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal government, the non-Federal entity is encouraged to enter into state and local inter-governmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.

(f) The non-Federal entity is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

(g) The non-Federal entity is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

(h) The non-Federal entity must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

(i) The non-Federal entity must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor

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selection or rejection, and the basis for the contract price.

(j)(1) The non-Federal entity may use time and material type contracts only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and material type contract means a contract whose cost to a non-Federal entity is the sum of:

(i) The actual cost of materials; and
(ii) Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

(2) Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the non-Federal entity awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

(k) The non-Federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the non-Federal entity of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the non-Federal entity unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.

§ 200.319 Competition.

(a) All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of

work, and invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:

(1) Placing unreasonable requirements on firms in order for them to qualify to do business;

(2) Requiring unnecessary experience and excessive bonding;

(3) Noncompetitive pricing practices between firms or between affiliated companies;

(4) Noncompetitive contracts to consultants that are on retainer contracts;

(5) Organizational conflicts of interest;

(6) Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and

(7) Any arbitrary action in the procurement process.

(b) The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(c) The non-Federal entity must have written procedures for procurement transactions. These procedures must ensure that all solicitations:

(1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and

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§ 200.318 General procurement standards.

(a) The non-Federal entity must use its own documented procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.

(b) Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

(c)(1) The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent must participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity must neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.

(2) If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is un-

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(e) To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal government, the non-Federal entity is encouraged to enter into state and local inter-governmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.

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(k) The non-Federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the non-Federal entity of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the non-Federal entity unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.

§ 200.319 Competition.

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(1) Placing unreasonable requirements on firms in order for them to qualify to do business;

(2) Requiring unnecessary experience and excessive bonding;

(3) Noncompetitive pricing practices between firms or between affiliated companies;

(4) Noncompetitive contracts to consultants that are on retainer contracts;

(5) Organizational conflicts of interest;

(6) Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and

(7) Any arbitrary action in the procurement process.

(b) The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(c) The non-Federal entity must have written procedures for procurement transactions. These procedures must ensure that all solicitations:

(1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and

standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and

(2) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(d) The non-Federal entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the non-Federal entity must not preclude potential bidders from qualifying during the solicitation period.

§ 200.320 Methods of procurement to be followed.

The non-Federal entity must use one of the following methods of procurement.

(a) Procurement by micro-purchases. Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed \$3,000 (or \$2,000 in the case of acquisitions for construction subject to the Davis-Bacon Act). To the extent practicable, the non-Federal entity must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable.

(b) Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.

(c) Procurement by sealed bids (formal advertising). Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in paragraph (c)(1) of this section apply.

(1) In order for sealed bidding to be feasible, the following conditions should be present:

(i) A complete, adequate, and realistic specification or purchase description is available;

(ii) Two or more responsible bidders are willing and able to compete effectively for the business; and

(iii) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(2) If sealed bids are used, the following requirements apply:

(i) The invitation for bids will be publicly advertised and bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids;

(ii) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;

(iii) All bids will be publicly opened at the time and place prescribed in the invitation for bids;

(iv) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

(v) Any or all bids may be rejected if there is a sound documented reason.

(d) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an

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offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

(1) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;

(2) Proposals must be solicited from an adequate number of qualified sources;

(3) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;

(4) Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

(5) The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

(e) [Reserved]

(f) Procurement by noncompetitive proposals. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

(1) The item is available only from a single source;

(2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;

(3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or

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(4) After solicitation of a number of sources, competition is determined inadequate.

§ 200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.

(a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps must include:

(1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

(4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

(5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

(6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

§ 200.322 Procurement of recovered materials.

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition,

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where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

§ 200.323 Contract cost and price.

(a) The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.

(b) The non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

(c) Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-Federal entity under Subpart E—Cost Principles of this part. The non-Federal entity may reference its own cost principles that comply with the Federal cost principles.

(d) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

§ 200.324 Federal awarding agency or pass-through entity review.

(a) The non-Federal entity must make available, upon request of the

Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the non-Federal entity desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

(b) The non-Federal entity must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:

(1) The non-Federal entity's procurement procedures or operation fails to comply with the procurement standards in this part;

(2) The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;

(3) The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product;

(4) The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.

(c) The non-Federal entity is exempt from the pre-procurement review in paragraph (b) of this section if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this part.

(1) The non-Federal entity may request that its procurement system be

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reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third party contracts are awarded on a regular basis;

(2) The non-Federal entity may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the non-Federal entity that it is complying with these standards. The non-Federal entity must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

§ 200.325 Bonding requirements.

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

(a) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

(b) A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(c) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract

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to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

§ 200.326 Contract provisions.

The non-Federal entity's contracts must contain the applicable provisions described in Appendix II to Part 200—Contract Provisions for non-Federal Entity Contracts Under Federal Awards.

PERFORMANCE AND FINANCIAL MONITORING AND REPORTING

§ 200.327 Financial reporting.

Unless otherwise approved by OMB, the Federal awarding agency may solicit only the standard, OMB-approved governmentwide data elements for collection of financial information (at time of publication the Federal Financial Report or such future collections as may be approved by OMB and listed on the OMB Web site). This information must be collected with the frequency required by the terms and conditions of the Federal award, but no less frequently than annually nor more frequently than quarterly except in unusual circumstances, for example where more frequent reporting is necessary for the effective monitoring of the Federal award or could significantly affect program outcomes, and preferably in coordination with performance reporting.

200.328 Monitoring and reporting program performance.

(a) *Monitoring by the non-Federal entity.* The non-Federal entity is responsible for oversight of the operations of the Federal award supported activities. The non-Federal entity must monitor its activities under Federal awards to assure compliance with applicable Federal requirements and performance expectations are being achieved. Monitoring by the non-Federal entity must cover each program, function or activity. See also §200.331 Requirements for pass-through entities.

(b) *Non-construction performance reports.* The Federal awarding agency must use standard, OMB-approved data elements for collection of performance information (including performance

progress reports, Research Performance Progress Report, or such future collections as may be approved by OMB and listed on the OMB Web site).

(1) The non-Federal entity must submit performance reports at the interval required by the Federal awarding agency or pass-through entity to best inform improvements in program outcomes and productivity. Intervals must be no less frequent than annually nor more frequent than quarterly except in unusual circumstances, for example where more frequent reporting is necessary for the effective monitoring of the Federal award or could significantly affect program outcomes. Annual reports must be due 90 calendar days after the reporting period; quarterly or semiannual reports must be due 30 calendar days after the reporting period. Alternatively, the Federal awarding agency or pass-through entity may require annual reports before the anniversary dates of multiple year Federal awards. The final performance report will be due 90 calendar days after the period of performance end date. If a justified request is submitted by a non-Federal entity, the Federal agency may extend the due date for any performance report.

(2) The non-Federal entity must submit performance reports using OMB-approved governmentwide standard information collections when providing performance information. As appropriate in accordance with above mentioned information collections, these reports will contain, for each Federal award, brief information on the following unless other collections are approved by OMB:

(i) A comparison of actual accomplishments to the objectives of the Federal award established for the period. Where the accomplishments of the Federal award can be quantified, a computation of the cost (for example, related to units of accomplishment) may be required if that information will be useful. Where performance trend data and analysis would be informative to the Federal awarding agency program, the Federal awarding agency should include this as a performance reporting requirement.

(ii) The reasons why established goals were not met, if appropriate.

(iii) Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

(c) *Construction performance reports.* For the most part, onsite technical inspections and certified percentage of completion data are relied on heavily by Federal awarding agencies and pass-through entities to monitor progress under Federal awards and subawards for construction. The Federal awarding agency may require additional performance reports only when considered necessary.

(d) *Significant developments.* Events may occur between the scheduled performance reporting dates that have significant impact upon the supported activity. In such cases, the non-Federal entity must inform the Federal awarding agency or pass-through entity as soon as the following types of conditions become known:

(1) Problems, delays, or adverse conditions which will materially impair the ability to meet the objective of the Federal award. This disclosure must include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.

(2) Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.

(e) The Federal awarding agency may make site visits as warranted by program needs.

(f) The Federal awarding agency may waive any performance report required by this part if not needed.

§ 200.329 Reporting on real property.

The Federal awarding agency or pass-through entity must require a non-Federal entity to submit reports at least annually on the status of real property in which the Federal government retains an interest, unless the Federal interest in the real property extends 15 years or longer. In those instances where the Federal interest attached is for a period of 15 years or more, the Federal awarding agency or pass-through entity, at its option, may require the non-Federal entity to report at various multi-year frequencies (e.g.,

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every two years or every three years, not to exceed a five-year reporting period; or a Federal awarding agency or pass-through entity may require annual reporting for the first three years of a Federal award and thereafter require reporting every five years).

SUBRECIPIENT MONITORING AND MANAGEMENT

§ 200.330 Subrecipient and contractor determinations.

The non-Federal entity may concurrently receive Federal awards as a recipient, a subrecipient, and a contractor, depending on the substance of its agreements with Federal awarding agencies and pass-through entities. Therefore, a pass-through entity must make case-by-case determinations whether each agreement it makes for the disbursement of Federal program funds casts the party receiving the funds in the role of a subrecipient or a contractor. The Federal awarding agency may supply and require recipients to comply with additional guidance to support these determinations provided such guidance does not conflict with this section.

(a) *Subrecipients.* A subaward is for the purpose of carrying out a portion of a Federal award and creates a Federal assistance relationship with the subrecipient. See §200.92 Subaward. Characteristics which support the classification of the non-Federal entity as a subrecipient include when the non-Federal entity:

- (1) Determines who is eligible to receive what Federal assistance;
- (2) Has its performance measured in relation to whether objectives of a Federal program were met;
- (3) Has responsibility for programmatic decision making;
- (4) Is responsible for adherence to applicable Federal program requirements specified in the Federal award; and
- (5) In accordance with its agreement, uses the Federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity.

(b) *Contractors.* A contract is for the purpose of obtaining goods and services for the non-Federal entity's own use

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and creates a procurement relationship with the contractor. See §200.22 Contract. Characteristics indicative of a procurement relationship between the non-Federal entity and a contractor are when the non-Federal entity receiving the Federal funds:

- (1) Provides the goods and services within normal business operations;
- (2) Provides similar goods or services to many different purchasers;
- (3) Normally operates in a competitive environment;
- (4) Provides goods or services that are ancillary to the operation of the Federal program; and
- (5) Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.

(c) *Use of judgment in making determination.* In determining whether an agreement between a pass-through entity and another non-Federal entity casts the latter as a subrecipient or a contractor, the substance of the relationship is more important than the form of the agreement. All of the characteristics listed above may not be present in all cases, and the pass-through entity must use judgment in classifying each agreement as a subaward or a procurement contract.

§ 200.331 Requirements for pass-through entities.

All pass-through entities must:

(a) Ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the following information at the time of the subaward and if any of these data elements change, include the changes in subsequent subaward modification. When some of this information is not available, the pass-through entity must provide the best information available to describe the Federal award and subaward. Required information includes:

- (1) Federal Award Identification.
 - (i) Subrecipient name (which must match registered name in DUNS);
 - (ii) Subrecipient's DUNS number (see §200.32 Data Universal Numbering System (DUNS) number);
 - (iii) Federal Award Identification Number (FAIN);

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records of the non-Federal entity pertinent to a Federal award, except for protected personally identifiable information (PII) or when the Federal awarding agency can demonstrate that such records will be kept confidential and would have been exempted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) or controlled unclassified information pursuant to Executive Order 13556 if the records had belonged to the Federal awarding agency. The Freedom of Information Act (5 U.S.C. 552) (FOIA) does not apply to those records that remain under a non-Federal entity's control except as required under §200.315 Intangible property. Unless required by Federal, state, or local statute, non-Federal entities are not required to permit public access to their records. The non-Federal entity's records provided to a Federal agency generally will be subject to FOIA and applicable exemptions.

REMEDIES FOR NONCOMPLIANCE

§ 200.338 Remedies for noncompliance.

If a non-Federal entity fails to comply with Federal statutes, regulations or the terms and conditions of a Federal award, the Federal awarding agency or pass-through entity may impose additional conditions, as described in §200.207 Specific conditions. If the Federal awarding agency or pass-through entity determines that noncompliance cannot be remedied by imposing additional conditions, the Federal awarding agency or pass-through entity may take one or more of the following actions, as appropriate in the circumstances:

(a) Temporarily withhold cash payments pending correction of the deficiency by the non-Federal entity or more severe enforcement action by the Federal awarding agency or pass-through entity.

(b) Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.

(c) Wholly or partly suspend or terminate the Federal award.

(d) Initiate suspension or debarment proceedings as authorized under 2 CFR part 180 and Federal awarding agency

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regulations (or in the case of a pass-through entity, recommend such a proceeding be initiated by a Federal awarding agency).

(e) Withhold further Federal awards for the project or program.

(f) Take other remedies that may be legally available.

§ 200.339 Termination.

(a) The Federal award may be terminated in whole or in part as follows:

(1) By the Federal awarding agency or pass-through entity, if a non-Federal entity fails to comply with the terms and conditions of a Federal award;

(2) By the Federal awarding agency or pass-through entity for cause;

(3) By the Federal awarding agency or pass-through entity with the consent of the non-Federal entity, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated; or

(4) By the non-Federal entity upon sending to the Federal awarding agency or pass-through entity written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the Federal awarding agency or pass-through entity determines in the case of partial termination that the reduced or modified portion of the Federal award or subaward will not accomplish the purposes for which the Federal award was made, the Federal awarding agency or pass-through entity may terminate the Federal award in its entirety.

(b) When a Federal award is terminated or partially terminated, both the Federal awarding agency or pass-through entity and the non-Federal entity remain responsible for compliance with the requirements in §§200.343 Closeout and 200.344 Post-closeout adjustments and continuing responsibilities.

§ 200.340 Notification of termination requirement.

(a) The Federal agency or pass-through entity must provide to the

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selection or rejection, and the basis for the contract price.

(j)(1) The non-Federal entity may use time and material type contracts only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and material type contract means a contract whose cost to a non-Federal entity is the sum of:

(i) The actual cost of materials; and
(ii) Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

(2) Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the non-Federal entity awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

(k) The non-Federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the non-Federal entity of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the non-Federal entity unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.

§ 200.319 Competition.

(a) All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of

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work, and invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:

(1) Placing unreasonable requirements on firms in order for them to qualify to do business;

(2) Requiring unnecessary experience and excessive bonding;

(3) Noncompetitive pricing practices between firms or between affiliated companies;

(4) Noncompetitive contracts to consultants that are on retainer contracts;

(5) Organizational conflicts of interest;

(6) Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and

(7) Any arbitrary action in the procurement process.

(b) The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(c) The non-Federal entity must have written procedures for procurement transactions. These procedures must ensure that all solicitations:

(1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and

standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and

(2) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(d) The non-Federal entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the non-Federal entity must not preclude potential bidders from qualifying during the solicitation period.

§ 200.320 Methods of procurement to be followed.

The non-Federal entity must use one of the following methods of procurement.

(a) Procurement by micro-purchases. Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed \$3,000 (or \$2,000 in the case of acquisitions for construction subject to the Davis-Bacon Act). To the extent practicable, the non-Federal entity must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable.

(b) Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.

(c) Procurement by sealed bids (formal advertising). Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in paragraph (c)(1) of this section apply.

(1) In order for sealed bidding to be feasible, the following conditions should be present:

(i) A complete, adequate, and realistic specification or purchase description is available;

(ii) Two or more responsible bidders are willing and able to compete effectively for the business; and

(iii) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(2) If sealed bids are used, the following requirements apply:

(i) The invitation for bids will be publicly advertised and bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids;

(ii) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;

(iii) All bids will be publicly opened at the time and place prescribed in the invitation for bids;

(iv) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

(v) Any or all bids may be rejected if there is a sound documented reason.

(d) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an

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standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offerors must be clearly stated; and

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(v) Any or all bids may be rejected if there is a sound documented reason.

(d) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an

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offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

(1) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;

(2) Proposals must be solicited from an adequate number of qualified sources;

(3) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;

(4) Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

(5) The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

(e) [Reserved]

(f) Procurement by noncompetitive proposals. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

(1) The item is available only from a single source;

(2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;

(3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or

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(4) After solicitation of a number of sources, competition is determined inadequate.

§ 200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.

(a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps must include:

(1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

(4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

(5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

(6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

§ 200.322 Procurement of recovered materials.

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition,

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offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

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(5) The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

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(b) Affirmative steps must include:

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(2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

(4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

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where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

§ 200.323 Contract cost and price.

(a) The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.

(b) The non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

(c) Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-Federal entity under Subpart E—Cost Principles of this part. The non-Federal entity may reference its own cost principles that comply with the Federal cost principles.

(d) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

§ 200.324 Federal awarding agency or pass-through entity review.

(a) The non-Federal entity must make available, upon request of the

Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the non-Federal entity desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

(b) The non-Federal entity must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:

(1) The non-Federal entity's procurement procedures or operation fails to comply with the procurement standards in this part;

(2) The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;

(3) The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product;

(4) The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.

(c) The non-Federal entity is exempt from the pre-procurement review in paragraph (b) of this section if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this part.

(1) The non-Federal entity may request that its procurement system be

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where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

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(b) The non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

(c) Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-Federal entity under Subpart E—Cost Principles of this part. The non-Federal entity may reference its own cost principles that comply with the Federal cost principles.

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(1) The non-Federal entity's procurement procedures or operation fails to comply with the procurement standards in this part;

(2) The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;

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(1) The non-Federal entity may request that its procurement system be

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reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third party contracts are awarded on a regular basis;

(2) The non-Federal entity may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the non-Federal entity that it is complying with these standards. The non-Federal entity must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

§ 200.325 Bonding requirements.

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

(a) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

(b) A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(c) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract

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to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

§ 200.326 Contract provisions.

The non-Federal entity's contracts must contain the applicable provisions described in Appendix II to Part 200—Contract Provisions for non-Federal Entity Contracts Under Federal Awards.

PERFORMANCE AND FINANCIAL MONITORING AND REPORTING

§ 200.327 Financial reporting.

Unless otherwise approved by OMB, the Federal awarding agency may solicit only the standard, OMB-approved governmentwide data elements for collection of financial information (at time of publication the Federal Financial Report or such future collections as may be approved by OMB and listed on the OMB Web site). This information must be collected with the frequency required by the terms and conditions of the Federal award, but no less frequently than annually nor more frequently than quarterly except in unusual circumstances, for example where more frequent reporting is necessary for the effective monitoring of the Federal award or could significantly affect program outcomes, and preferably in coordination with performance reporting.

200.328 Monitoring and reporting program performance.

(a) *Monitoring by the non-Federal entity.* The non-Federal entity is responsible for oversight of the operations of the Federal award supported activities. The non-Federal entity must monitor its activities under Federal awards to assure compliance with applicable Federal requirements and performance expectations are being achieved. Monitoring by the non-Federal entity must cover each program, function or activity. See also §200.331 Requirements for pass-through entities.

(b) *Non-construction performance reports.* The Federal awarding agency must use standard, OMB-approved data elements for collection of performance information (including performance

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reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third party contracts are awarded on a regular basis;

(2) The non-Federal entity may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the non-Federal entity that it is complying with these standards. The non-Federal entity must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

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200.328 Monitoring and reporting program performance.

(a) *Monitoring by the non-Federal entity.* The non-Federal entity is responsible for oversight of the operations of the Federal award supported activities. The non-Federal entity must monitor its activities under Federal awards to assure compliance with applicable Federal requirements and performance expectations are being achieved. Monitoring by the non-Federal entity must cover each program, function or activity. See also §200.331 Requirements for pass-through entities.

(b) *Non-construction performance reports.* The Federal awarding agency must use standard, OMB-approved data elements for collection of performance information (including performance

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reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third party contracts are awarded on a regular basis;

(2) The non-Federal entity may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the non-Federal entity that it is complying with these standards. The non-Federal entity must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

§ 200.325 Bonding requirements.

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

(a) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

(b) A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(c) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract

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to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

§ 200.326 Contract provisions.

The non-Federal entity's contracts must contain the applicable provisions described in Appendix II to Part 200—Contract Provisions for non-Federal Entity Contracts Under Federal Awards.

PERFORMANCE AND FINANCIAL MONITORING AND REPORTING

§ 200.327 Financial reporting.

Unless otherwise approved by OMB, the Federal awarding agency may solicit only the standard, OMB-approved governmentwide data elements for collection of financial information (at time of publication the Federal Financial Report or such future collections as may be approved by OMB and listed on the OMB Web site). This information must be collected with the frequency required by the terms and conditions of the Federal award, but no less frequently than annually nor more frequently than quarterly except in unusual circumstances, for example where more frequent reporting is necessary for the effective monitoring of the Federal award or could significantly affect program outcomes, and preferably in coordination with performance reporting.

200.328 Monitoring and reporting program performance.

(a) *Monitoring by the non-Federal entity.* The non-Federal entity is responsible for oversight of the operations of the Federal award supported activities. The non-Federal entity must monitor its activities under Federal awards to assure compliance with applicable Federal requirements and performance expectations are being achieved. Monitoring by the non-Federal entity must cover each program, function or activity. See also §200.331 Requirements for pass-through entities.

(b) *Non-construction performance reports.* The Federal awarding agency must use standard, OMB-approved data elements for collection of performance information (including performance

progress reports, Research Performance Progress Report, or such future collections as may be approved by OMB and listed on the OMB Web site).

(1) The non-Federal entity must submit performance reports at the interval required by the Federal awarding agency or pass-through entity to best inform improvements in program outcomes and productivity. Intervals must be no less frequent than annually nor more frequent than quarterly except in unusual circumstances, for example where more frequent reporting is necessary for the effective monitoring of the Federal award or could significantly affect program outcomes. Annual reports must be due 90 calendar days after the reporting period; quarterly or semiannual reports must be due 30 calendar days after the reporting period. Alternatively, the Federal awarding agency or pass-through entity may require annual reports before the anniversary dates of multiple year Federal awards. The final performance report will be due 90 calendar days after the period of performance end date. If a justified request is submitted by a non-Federal entity, the Federal agency may extend the due date for any performance report.

(2) The non-Federal entity must submit performance reports using OMB-approved governmentwide standard information collections when providing performance information. As appropriate in accordance with above mentioned information collections, these reports will contain, for each Federal award, brief information on the following unless other collections are approved by OMB:

(i) A comparison of actual accomplishments to the objectives of the Federal award established for the period. Where the accomplishments of the Federal award can be quantified, a computation of the cost (for example, related to units of accomplishment) may be required if that information will be useful. Where performance trend data and analysis would be informative to the Federal awarding agency program, the Federal awarding agency should include this as a performance reporting requirement.

(ii) The reasons why established goals were not met, if appropriate.

(iii) Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

(c) *Construction performance reports.* For the most part, onsite technical inspections and certified percentage of completion data are relied on heavily by Federal awarding agencies and pass-through entities to monitor progress under Federal awards and subawards for construction. The Federal awarding agency may require additional performance reports only when considered necessary.

(d) *Significant developments.* Events may occur between the scheduled performance reporting dates that have significant impact upon the supported activity. In such cases, the non-Federal entity must inform the Federal awarding agency or pass-through entity as soon as the following types of conditions become known:

(1) Problems, delays, or adverse conditions which will materially impair the ability to meet the objective of the Federal award. This disclosure must include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.

(2) Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.

(e) The Federal awarding agency may make site visits as warranted by program needs.

(f) The Federal awarding agency may waive any performance report required by this part if not needed.

§ 200.329 Reporting on real property.

The Federal awarding agency or pass-through entity must require a non-Federal entity to submit reports at least annually on the status of real property in which the Federal government retains an interest, unless the Federal interest in the real property extends 15 years or longer. In those instances where the Federal interest attached is for a period of 15 years or more, the Federal awarding agency or pass-through entity, at its option, may require the non-Federal entity to report at various multi-year frequencies (e.g.,

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every two years or every three years, not to exceed a five-year reporting period; or a Federal awarding agency or pass-through entity may require annual reporting for the first three years of a Federal award and thereafter require reporting every five years).

SUBRECIPIENT MONITORING AND MANAGEMENT

§ 200.330 Subrecipient and contractor determinations.

The non-Federal entity may concurrently receive Federal awards as a recipient, a subrecipient, and a contractor, depending on the substance of its agreements with Federal awarding agencies and pass-through entities. Therefore, a pass-through entity must make case-by-case determinations whether each agreement it makes for the disbursement of Federal program funds casts the party receiving the funds in the role of a subrecipient or a contractor. The Federal awarding agency may supply and require recipients to comply with additional guidance to support these determinations provided such guidance does not conflict with this section.

(a) *Subrecipients.* A subaward is for the purpose of carrying out a portion of a Federal award and creates a Federal assistance relationship with the subrecipient. See §200.92 Subaward. Characteristics which support the classification of the non-Federal entity as a subrecipient include when the non-Federal entity:

- (1) Determines who is eligible to receive what Federal assistance;
- (2) Has its performance measured in relation to whether objectives of a Federal program were met;
- (3) Has responsibility for programmatic decision making;
- (4) Is responsible for adherence to applicable Federal program requirements specified in the Federal award; and
- (5) In accordance with its agreement, uses the Federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity.

(b) *Contractors.* A contract is for the purpose of obtaining goods and services for the non-Federal entity's own use

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and creates a procurement relationship with the contractor. See §200.22 Contract. Characteristics indicative of a procurement relationship between the non-Federal entity and a contractor are when the non-Federal entity receiving the Federal funds:

- (1) Provides the goods and services within normal business operations;
- (2) Provides similar goods or services to many different purchasers;
- (3) Normally operates in a competitive environment;
- (4) Provides goods or services that are ancillary to the operation of the Federal program; and
- (5) Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.

(c) *Use of judgment in making determination.* In determining whether an agreement between a pass-through entity and another non-Federal entity casts the latter as a subrecipient or a contractor, the substance of the relationship is more important than the form of the agreement. All of the characteristics listed above may not be present in all cases, and the pass-through entity must use judgment in classifying each agreement as a subaward or a procurement contract.

§ 200.331 Requirements for pass-through entities.

All pass-through entities must:

(a) Ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the following information at the time of the subaward and if any of these data elements change, include the changes in subsequent subaward modification. When some of this information is not available, the pass-through entity must provide the best information available to describe the Federal award and subaward. Required information includes:

- (1) Federal Award Identification.
 - (i) Subrecipient name (which must match registered name in DUNS);
 - (ii) Subrecipient's DUNS number (see §200.32 Data Universal Numbering System (DUNS) number);
 - (iii) Federal Award Identification Number (FAIN);

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records of the non-Federal entity pertinent to a Federal award, except for protected personally identifiable information (PII) or when the Federal awarding agency can demonstrate that such records will be kept confidential and would have been exempted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) or controlled unclassified information pursuant to Executive Order 13556 if the records had belonged to the Federal awarding agency. The Freedom of Information Act (5 U.S.C. 552) (FOIA) does not apply to those records that remain under a non-Federal entity's control except as required under §200.315 Intangible property. Unless required by Federal, state, or local statute, non-Federal entities are not required to permit public access to their records. The non-Federal entity's records provided to a Federal agency generally will be subject to FOIA and applicable exemptions.

REMEDIES FOR NONCOMPLIANCE

§ 200.338 Remedies for noncompliance.

If a non-Federal entity fails to comply with Federal statutes, regulations or the terms and conditions of a Federal award, the Federal awarding agency or pass-through entity may impose additional conditions, as described in §200.207 Specific conditions. If the Federal awarding agency or pass-through entity determines that noncompliance cannot be remedied by imposing additional conditions, the Federal awarding agency or pass-through entity may take one or more of the following actions, as appropriate in the circumstances:

(a) Temporarily withhold cash payments pending correction of the deficiency by the non-Federal entity or more severe enforcement action by the Federal awarding agency or pass-through entity.

(b) Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.

(c) Wholly or partly suspend or terminate the Federal award.

(d) Initiate suspension or debarment proceedings as authorized under 2 CFR part 180 and Federal awarding agency

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regulations (or in the case of a pass-through entity, recommend such a proceeding be initiated by a Federal awarding agency).

(e) Withhold further Federal awards for the project or program.

(f) Take other remedies that may be legally available.

§ 200.339 Termination.

(a) The Federal award may be terminated in whole or in part as follows:

(1) By the Federal awarding agency or pass-through entity, if a non-Federal entity fails to comply with the terms and conditions of a Federal award;

(2) By the Federal awarding agency or pass-through entity for cause;

(3) By the Federal awarding agency or pass-through entity with the consent of the non-Federal entity, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated; or

(4) By the non-Federal entity upon sending to the Federal awarding agency or pass-through entity written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the Federal awarding agency or pass-through entity determines in the case of partial termination that the reduced or modified portion of the Federal award or subaward will not accomplish the purposes for which the Federal award was made, the Federal awarding agency or pass-through entity may terminate the Federal award in its entirety.

(b) When a Federal award is terminated or partially terminated, both the Federal awarding agency or pass-through entity and the non-Federal entity remain responsible for compliance with the requirements in §§200.343 Closeout and 200.344 Post-closeout adjustments and continuing responsibilities.

§ 200.340 Notification of termination requirement.

(a) The Federal agency or pass-through entity must provide to the