



DATE: February 17, 2020
TO: Prospective Proposers
FROM: Jolene Coulter, Director of Purchasing
RE: **CITY OF AURORA REQUEST FOR PROPOSALS 20-01 – Addendum #1
Availability and Disparity Study**

This notice forms a part of the Request for Proposal 20-01: Availability and Disparity Study. All other information pertaining to this Request for Proposal shall remain the same.

Proposer must submit an original bid response, marked as "original" and one digital copy on a USB drive, and shall have provided all requested information, and submitted all appropriate forms, certificates, affidavits and addendum acknowledgements in each copy in order to be considered responsive.

Sealed Proposals will be received at the office of the City Clerk, 44 East Downer Place, Aurora, Illinois 60507, until **2:00 pm, CST, Wednesday, February 26, 2020** to determine proposals for the anticipated above named purchase. **The cost proposal/budget shall be separate from the Respondent's Technical Proposal and in a separate envelope.** Proposals will be opened publicly at 2:00 pm, in the City Council Chambers.

Please acknowledge this addendum with your proposal. Failure to do so may subject Proposer to disqualification.

Responses/Clarifications to questions received by 5:00 pm, Friday, February 14, 2020:

- 1) What is the budget for this study?

The budget is to be determined.

- 2) Will the Outside Legal Consultant, Rita McNeil Danish, serve as the Project Manager on behalf of the City for this study?

Taft Law has been retained by the City of Aurora Law Department to assist with this project and as a facilitator between the vendor and the City.

- 3) Are there any sub consultant goals?

No, there are not any sub-consultant goals.

- 4) What is the name of the financial system used for prime contracts?

The financial system used is Superion/Central Square.

- 5) How is the prime and subcontract data maintained? Is the: name, address, project number, dollar spent, ethnicity, and gender included?

Generally, the prime data is tracked via spreadsheet with vendor name, bid number, project number and award. The City's vendor database holds the address. We do not track any sub-contractor data.

- 6) How many prime contracts were there during the study period?

We have yet to calculate the exact number but welcome the opportunity to discuss further with the awarded consultant.

- 7) 1.3 Who is the outside legal consultant that will be assisting in managing the Disparity Study? Will this consultant be permitted to make methodological determinations on how the study should be conducted?

Links to the consultants and firm:

<https://www.taftlaw.com/people/rita-mcneil-danish>

<https://www.taftlaw.com/people/o-kate-tragesser>

They will not be making methodological determinations on how the study should be conducted.

- 8) 2.2 The classifications listed are "construction related services" and engineering is grouped with professional services. Does the City not consider engineering a construction related service?

The City considers engineering as a professional service.

- 9) 2.2.1 requests capacity data on M/WBEs. Can this be accomplished using a regression analysis? Or are you saying that the only M/WBEs that can be included in availability are those for which all of this information can be obtained? Is the same true for Non-MWBE data?

Yes, this can be completed with a regression analysis for both M/WBE's and Non-MWBE's, however, we welcome the thoughts and recommendations of the awarded consultant.

- 10) 2.3.5 and 2.3.12 suggest that anecdotal accounts be verified. Please clarify.

It's intended that the firm must be able provide proof they actually received information from an individual with whom they spoke or took a survey.

- 11) 2.3.9 Why is this requesting a review only of small dollar purchases and not all purchases?

It is intended to include all purchases and look for input from the awarded consultant to determine if small purchase dollars should be included.

- 12) What is the budget for the Disparity Study?

See response to Question #1

13) Is there a subcontractor goal on this project?

See response to Question #3

14) What City departments will be included in the Study

The study is to include all the departments/divisions.

15) Is the City's data centralized so that we only need to collect all departments from one source? Or decentralized where data may have to be collected from individual departments? If decentralized, please detail the data that is decentralized.

Generally, the information is scanned by the Accounting Division and stored electronically.

16) Please explain the various sources from which we will need to collect the following data for the study and whether that data will be in electronic format (Excel or PDF) or paper format.

- Bidder data or Bid tabulations – Electronic Format
- Payment data - Electronic Format
- Award or Purchase Order Data – Electronic Format
- Vendor Data – Electronic Format
- Subcontractor Data (including amount). Does the county maintain all subcontractor data including M/WBE non-minority male, etc?

Subcontractor data not currently maintained. The City has a plan to provide the subcontractor names as needed.

17) Does the data above all include commodity codes (NAICS,) or some other kind of categorization to indicate the work done?

The City does not use NAICS but does have a variation of the commodity code structure.

18) Does a firm have to register with the City in order to bid?

No, the firm does not have to register with the City in order to submit a proposal.

19) Does the City track M/WBE participation? Does it certify or maintain a list of these firms?

The City does maintain a list of M/WBE vendors but does not track participation.

20) What level of contracting is included in the Study? Typically p-cards and very small purchases (e.g. under \$100, \$500, \$1000 or \$5,000) are excluded as to not skew the results.

See response to Question #11

21) 7.2.1 are you open to a payment schedule based upon specific tasks and deliverables? May we include this payment schedule with the Cost Proposal?

The RFP payment schedule is based on deliverables. Please adhere to the payment of invoices section 7.2.

22) Is there a particular format that you would like to see the Cost Proposal in?

Please submit the Cost Proposal in the format your firm is most comfortable with. Please note: the Cost Proposal must be submitted in a sealed envelope separate from the technical Respondents Technical Proposal.

23) 4.1.1, page 13, it says that “Proposals of firms that have any current or past involvement, interest or association in any respect, with City of Aurora, or any of City of Aurora’s actual or potential contractors, consultants, subcontractors, sub-consultants, or MBEs/WBEs may not be considered.” Please clarify. Would a non-financial past involvement with a City of Aurora consultant be considered a disqualifying relationship?

Unless there was a financial benefit that would create a conflict of interest then it shouldn’t be an issue.

24) 8.6, Liability Insurance: On page 21, it says that “the Consultant must also include the following as Additional Insured and typed on each Certificate of Insurance:” but there is nothing after the colon. Who should be included as Additional Insured?

The Additional Insured should be the City of Aurora, IL.

25) Will the City accept Minority-and Women-Owned Business Enterprise (“M/WBE”) certifications from Illinois government agencies, such as the City of Chicago? If not, will the City provide lists from the National Minority Supplier Development Council, National Women Business Owners Corporation and the Women’s Business Enterprise National Council for the proposer to locate potential subconsultants? These are private agencies and their lists are only available to paying members.

The City will willing to add the State of Illinois as a government agency certification. You are free to contact any of the agencies to locate potential subconsultants.

26) Is there a M/WBE goal on this contract?

No, there is not a M/WBE goal.

27) Who will be the City’s outside Legal Consultants for this project?

See response to Question #7

28) Page 11, Section 2.3.8, seems to require separate availability estimates for “prime contractors” and “subcontractors.” Such a distinction is not required by strict scrutiny and does not reflect the reality that firms function in both roles. Will the City accept a study methodology that comports with the case law on strict scrutiny and does not impose this unnecessary and unrealistic requirement?

Yes, if it can be justified, we will welcome input from the consultant.

29) Page 11, Section 2.3.8.d, refers to “M/WBE initiatives of the City of Aurora.” Where can we locate this information?

The City of Aurora, IL does not have any initiatives.

30) What is the approximate number of contracts for the proposed study period?

See response to Question #6

31) What is the approximate total dollar value for the contracts for the proposed study period?

We have yet to calculate the exact dollar value but welcome the opportunity to discuss further with the awarded consultant.

32) Has the City tracked the following prime contract data? Please respond separately for each field of information. Please indicate if the data vary by the type of contract: construction, construction related services, engineering and other professional services, and materials and commodities:

- a. Prime contract identification number – Vendor Number, Yes.
- b. Prime contract name – Yes.
- c. Dollar amount of payment(s) to prime contractor for the study period (inclusive of all change orders) - Yes
- d. Original dollar amount of prime contract award - Yes
- e. Contract start date – No (award date)
- f. Contract end date - No
- g. Contract status (open/closed) – Yes
- h. Business name of prime contractor - Yes
- i. General description of services performed, or goods supplied under prime contract – Yes
- j. MWBE or non- MWBE status of prime contractor (including race/ethnicity and gender) - No
- k. Prime contractor address - Yes
- l. Prime contractor contact person and title, telephone number and email address – In the vendor database
- m. Six-digit NAICS code(s) and/ or detailed description of work performed on the contract – See response to Question #17
- n. Is there a goal on the contract? - No
- o. Indicator whether or not prime contract has subcontracts (first tier minimum; if other tiers, clearly designate) - No

33) Has the City tracked MWBE subcontractor data? Please respond separately for each field of information.

- a. Subcontract identification number
- b. Subcontract name
- c. Business name of subcontractor

- d. Description of services performed, or goods supplied by subcontractor
- e. MWBE indicator for subcontractor (including race/ethnicity and sex)
- f. Six-digit NAICS code(s) for subcontractor's work on specified contract
- g. Total dollar amount received by subcontractor (inclusive of all change orders)

The City does not track Subcontractor information.

34) Has the City tracked non- MWBE subcontractor data? Please respond separately for each field of information.

- a. Subcontract identification number
- b. Subcontract name
- c. Business name of subcontractor
- d. Description of services performed, or goods supplied by subcontractor
- e. Six-digit NAICS code(s) for subcontractor's work on specified contract
- f. Total dollar amount received by subcontractor (inclusive of all change orders)

The City does not track Subcontractor information.

35) Is all data available electronically?

Generally, most of the data is available electronically.

36) Is data for all departments and agencies to be included in the study tracked in a centralized data base? What database(s) are currently being utilized?

Generally, the information can be found in Legistar, Superion, Optiview and spreadsheets maintained by Purchasing.

37) Is there a budget for this project?

See response to Question #1

38) How many departments will be included in the study? Please provide the names of these departments.

See response to Question # 14

39) Section 1.8.2 Proposal Submittal and Withdrawal, Page 6, states "Proposer must submit an original response, marked as "original" one (1) digital copy on a USB drive, and shall have provided all requested information, and submitted all appropriate forms, certificates, affidavits and addendum acknowledgements in each copy in order to be considered responsive. Please clarify if the City is wanting only 1 Original paper copy and 1 electronic copy on a USB drive of the proposal or just 1 electronic copy on a USB drive marked original.

Proposer must submit an original bid response, marked as "original" and one digital copy on a USB drive, and shall have provided all requested information, and submitted all appropriate forms, certificates, affidavits and addendum acknowledgements in each copy in order to be considered responsive.

40) Section 2.2.1, Scope, page 5, states “M/WBE data shall include relevant information impacting capacity such as gross revenues, total annual receipts, total employees, years’ of experience, required licensure or other uniform and relevant measures.” The case law in the Seventh Circuit is that no such “capacity” measures are to be imposed for several reasons: 1. There are no data that support the idea that these measures reflect the ability of a specific firm to perform on a specific contract in the future. 2. Even if such measures were relevant, there is great elasticity in the variables for an individual firm: businesses can hire employees, rent equipment, seek new licenses, or otherwise rise to meet the requirements of an agency’s specific solicitation. 3. There are no good data sources for this information, especially for non-certified firms owned by White males or that are publicly held. Since it cannot be the case that only M/WBE capacity is at issue, any “adjustments” would have to be made to the total universe of available firms, not just those owned by minorities or women. 4. Perhaps most important, as held by the courts, including in the Seventh Circuit, these types of variable are where discrimination will manifest itself. It is therefore incorrect to control for the very phenomenon sought to be remedied. Will the City accept a study that conforms to the case law in this Circuit?

Yes.

41) Section 4.1.1., refers to past involvement with the City of Aurora. Our firm was retained by the City in 2011 to provide advice on the City of Aurora’s Procurement Development Program for minority, women, and disadvantaged persons. Does this prior relationship render our firm ineligible to submit a proposal, even though it does not create any conflict of interest?

No, this does not create any conflict of interest.

42) Page 36 of the RFP has EXHIBIT 1 (Request for Proposal) is listed and then a blank page. Please clarify that this is where you want the narrative response to the RFP.

This is part of the sample contract, when the contract is awarded, Exhibit 1 would be the original RFP and any addendums.

43) Page 37 of the RFP has EXHIBIT 2 (Proposal Form 20-01) listed. Please clarify what the City is looking for here.

This is part of the sample contract, when the contract is awarded, Exhibit 2 would be the cost proposal submitted.

End of Addendum