



REQUEST FOR BID
RFB 2006-014

ADDENDUM NO. 1

To: Prospective Bidders

From: Llew F. Perry 
Cooperative Educational Services

Date: March 3, 2006

Please accept in response to fax dated February 27, 2006 regarding questions asked about CES and its solicitation RFB 2006-014 for JOC Construction Products and Services.

Submitted By: John Horton
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Question 1:

The Construction Tasks Catalog doesn't appear to be attached. How is that structured for these projects? How detailed are the scopes? How was the existing pricing developed?

Background:

Section II Scope of Work and Specifications, Categorical Specifications and Exhibits, Page 60

The documents listed below, and provided as exhibits, are to be considered part of the RFB 2006-014 - JOC Region 5 solicitation and are to be included as part of any contract awarded as a result of this solicitation.

1. Technical Specification Book dated February 8, 2006 (provided by The Gordian Group)
2. Construction Task Catalog® dated February 8, 2006 (provided by The Gordian Group)
3. Three Party Contract (Contract Between Owner, Buyer and Contractor)
4. NMPSFA General Conditions of the Contract for Construction 2005 Edition Version 2.0

CES Response:

The Construction Task is Exhibit 2 of the solicitation packet and can be downloaded from the CES website (www.nmedu.org). Please note that there is an individual Construction Task Catalog for each JOC Region.

There is a Technical Specification Catalog, Exhibit 1, of the solicitation package, which provides detailed descriptions and specifications for each task listed in the Construction Task Catalog. As stated in the solicitation document, the awarded JOC contractor, CES member and The Gordian Group representatives will have a joint scope of work meeting to visit the project site, discuss and develop a detailed scope of work prior to the contractor preparing and submitting this cost proposal.

The prices provided in the Construction Task Catalog were developed by research, market analysis and existing labor rates in each of the JOC Regions.

The above items will be discussed and explained in detail during each of the required Pre-Bid Conferences, which will be held March 14, 2006 through March 17, 2006.

Question 2:

The RFP's include two award formulas (page 63 and 68) which one is to be used?

Background:

Section III Conditions Leading to and Including Contract Award, Item 5. Cost Scoring, Evaluation, Page 62

After offerors have been determined to be responsive and cost evaluation points have been assigned to each responsive bidder, only offerors scoring greater than 60% of the total points possible will be considered for a possible award. CES reserves the right to make a multiple award if it feels that a multiple award is in the best interest of its members.

Basis of Contract Award: The following formula has been developed for the sole purpose of evaluating bids and awarding the contract. Each bidder will be rated on the following award formula. The factors have been weighted as follows:

A = 400 points for work in normal hours when the total project cost (job order) is in excess of \$60,000 requiring state/federal wage rates

- B = 300 points for work in normal hours when the total project cost (job order) is less than \$60,000 and does not require state/federal wage rates
- C = 100 points for work in other than normal working hours when the total project cost (job order) is in excess of \$60,000 requiring state/federal wage rates
- D = 200 points for work in other than normal working hours when the total project cost (job order) is less than \$60,000 and does not require state/federal wage rates

TOTAL POINTS = A + B + C + D

Section IV Bid Forms, Form D Indefinite Quantity Unit Price Schedule, Page 68

8. Basis of Contract Award: The following formula has been developed for the sole purpose of evaluating bids and awarding the contract. Each offeror must complete the following award formula. The factors have been weighted as follows:

| <u>Factor</u> | <u>Weight</u> |
|---|---------------|
| Normal Time Requiring Wage Rates | 40% |
| Other Than Normal Time Requiring Wage Rates | 10% |
| Normal Time Not Requiring Wage Rates | 40% |
| Other Than Normal Time Not Requiring Wage Rates | 10% |
| Total | 100% |

CES Response:

Please note the following clarification.

Section III Conditions Leading to and Including Contract Award, Item 5. Cost Scoring, Evaluation, Page 62

Change from:

- A = 400 points for work in normal hours when the total project cost (job order) is ~~in excess of~~ \$60,000 requiring state/federal wage rates
- C = 100 points for work in other than normal working hours when the total project cost (job order) is ~~in excess of~~ \$60,000 requiring state/federal wage rates

Change To:

- A = 400 points for work in normal hours when the total project cost (job order) is \$60,000 or greater requiring state/federal wage rates
- C = 100 points for work in other than normal working hours when the total project cost (job order) is \$60,000 or greater requiring state/federal wage rates

These two items should agree with each other and the following change should be noted.

Change From:

| <u>Factor</u> | <u>Weight</u> |
|---|----------------------|
| Normal Time Requiring Wage Rates | 40% |
| Other Than Normal Time Requiring Wage Rates | 10% |
| Normal Time Not Requiring Wage Rates | 40% |
| Other Than Normal Time Not Requiring Wage Rates | 10% |
| Total | 100% |

Change To:

| <u>Factor</u> | <u>Weight</u> |
|---|----------------------|
| Normal Time Requiring Wage Rates | 40% |
| Other Than Normal Time Requiring Wage Rates | 10% |
| Normal Time Not Requiring Wage Rates | <u>30%</u> |
| Other Than Normal Time Not Requiring Wage Rates | <u>20%</u> |
| Total | 100% |

Question 3:

Included are the PSFA General Conditions, but CES also has their own-which one will govern?

Background:

Section II Scope of Work and Specifications, Item O RFB Special Terms and Conditions, Page 42

The terms and conditions listed below are in addition the Listing of General Terms and Conditions listed herein and contain additional terms, conditions and specifications. If there is a conflict between the general terms and conditions and those listed below, the categorical terms and conditions will take precedence.

Exhibit 3: Agreement Between Owner, Buyer and Contractor, commonly referred to as a Three Party Agreement – Article I, The Contract Documents, Page 2

The Contract Documents consist of the RFB and Contractors response which resulted in Award to Contractor for these services and goods, this Agreement, Scope of Work, General Specifications, Time Lines, Budget, Addenda issued prior to execution of this agreement, and Preliminary Drawings and Modifications issued after execution of this Agreement. These form the Contract, and are fully a part of the Contract as if attached to this Agreement or repeated

herein. The AIA Conditions of the Contract (General, Supplementary and other Conditions) are also incorporated as a part of this contract, where such items and terms are applicable. Should a conflict in these documents exist, then Articles in this contract, then the terms and conditions of the RFP shall prevail in said order. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract Documents, other than Modification, appears in Article 9.

CES Response:

Any disagreement or conflict in the terms and conditions stipulated for any individual project will be resolved as specified in the solicitation document and/or the CES Three Party Agreement.

Question 4:

Can CES manage this process as it is laid out? What expertise and staff do they have to make this a seamless process between owner and contractors?

Background:

Section II Scope of Work, Item A-1, Page 35

CES, which is based in Albuquerque, is composed of all of the 89 New Mexico public school districts and 70 other public educational institutions that are parties to the Joint Powers Agreement to Establish an Educational Cooperative. CES was organized in 1979 as a direct response to the needs of small and rural Local Education Agencies (LEA's). CES offers numerous programs and services. Currently, 159 public educational institution members use one or more of the CES provided programs or services each year.

Section II Scope of Work, Item H-1 and 2, Page 38

1. Owner (CES member)/NMPSFA (New Mexico Public School Facilities Authority) is an educational institution or local public body or state agency, which is a party to the aforementioned Joint Powers Agreement, desiring to receive certain goods and services offered by the CES contractor under this RFB.
2. Buyer (CES) is an entity created by a Joint Powers Agreement as Authorized by Section 11-1-1, et. seq., N.M.S.A., 1978 which is acting as a conduit through which title to tangible goods may be vested in owner. Buyer warrants and assures the owner that it has complied with the Procurement Code, the Public Works Contract Act and the Subcontractor Fair Practices Act in contracting for procurements from CES contractors.

CES Response:

Yes, CES can manage this process. CES has been serving New Mexico Public Schools since 1979 and has been soliciting for and assisting its members in obtaining construction related products and services since 1994. Its management team has over 70 years combined experience in public education procurement, contract management, business and industry. CES has a staff of seven (7) individuals whose primary duties are to assist, support and coordinate transactions between its members and contractors throughout the procurement process.

As indicated throughout the solicitation document CES' role is to establish, implement, coordinate and conduct the Job Order Contracting program in conjunction with and the participation of its members designated representatives, NMPSFA staff when appropriate and The Gordian Group's support group and web-based application. Also, as noted in the solicitation, any project performed under this program is initiated by, managed, supervised and controlled by the CES member. CES and its' JOC program is the procurement vehicle, contract manager and transaction coordinator. NMPSFA provides technical support, project approval and in some projects financial resources. The Gordian Group provides the web-based application and infrastructure utilized by all parties to conduct the program and also provides consulting and technical support services when requested.

Question 5:

The RFP document makes the statement that the contractor has familiarized themselves with the "site" – how is that possible? Why is that stipulation required?

Background:

Section II Scope of Work, Categorical Terms and Conditions, Item 3, Page 52

The contractor will familiarize itself with the site in order to anticipate unseen problems that may develop as the work progresses. Failure to have visited the site before submitting a job order proposal shall in no way relieve the contractor from furnishing any materials or performing any work required to complete the project in accordance with the contract documents, without additional cost to CES or its member.

CES Response:

As stated in the solicitation, the contractor is going to be providing construction products and services in a particular area of the state and to a variety of educational institutions. Therefore, if the contractor is not familiar with the area and/or has not had the opportunity to perform work for the various education institutions, then it would be essential for the contractor to be aware of the various types of sites and environmental conditions in which it may be conducting work so that the contractor can submit factors that will meet its financial resources requirement.

Question 6:

The page 70 statement dealing with the consent of the offeror to support CES services (the 1%) fee – what is the justification for this fee? Why is the consent included, is it another basis for the award?

Background:

Section I Instruction to Offerors, F. Listing of General Terms and Conditions, Page 15

Administrative Fee: CES' one percent (1%) administrative fee must be included in offeror's net price for construction, material, equipment item's price, labor rates, freight charges and bond costs. The CES administrative fee will be taken as a deduction off each line-item's cost when CES prepares its' purchase order to the contractor, unless an alternative pricing method has been approved by CES.

Section I Instruction to Offerors, F. Listing of General Terms and Conditions, Payments, Page 27

Note: CES members pay an administrative fee equal to one percent (1%) of the purchase price of goods and services purchased from CES contracts. Offerors will include the administrative fee in all pricing in the Discount and Price Schedule submitted. The contractor must allow CES to apply a one percent deduct prior to issuing its purchase order to the contractor. Contractor's invoice to CES will only reflect the actual amount due from CES. The CES administrative fee will be included in charges such as freight/shipping, bond costs and travel and per diem costs. The CES administrative fee is non-taxable and will be adjusted prior to CES issuing its purchase order.

Section I Instruction to Offerors, F. Listing of General Terms and Conditions, Page 33.

Total Project Costs: Total member's costs include energy, facilities, repair costs, present values of moneys, vendor charges, personnel costs, bonds, New Mexico gross receipt taxes, CES one percent (1%) administrative fee and all other identifiable costs. Contractor charges include all the costs of contractor support, materials, transportation, permit fees and all other identifiable costs associated with the bid. Contractor costs means the costs of all hardware, materials, software, transportation, contractor support, warrantee fees and all other identifiable costs associated with the bid. Contractor support means services provided by the contractor, such as consulting, education, training, management of the system purchased and other integration and maintenance support.

Section III Conditions Leading to and Including Contract Award, Item F. Important Notice to Offerors, Page 63

CES is an educational service agency that provides needed education-related services to New Mexico public educational institutions. Under New Mexico law, CES charges a fee to its members when CES provides a product and/or service. There are no other annual membership fees or dues, other than what CES collects for offering a service.

Cooperative Educational Services (CES) is a public educational service agency established as a JPA, and is supported by user's fees rather than by appropriated funds. The procurement activities of CES, therefore, are funded through a small administration fee paid by the public educational institution or local procurement unit using one or more of our contracts. There is no cost or fee paid by the vendor to CES.

CES Response:

When the CES members created CES they did not want CES to charge an annual membership fee or compete with them for federal, state or local funding resources. In 1979 CES set a one percent (1%) fee as the cost to the members for using procurement contracts and procuring goods and services through CES. Likewise, it should be noted that members voluntarily use CES contracts and will only utilize the CES procurement vehicle if it is advantageous to them and in their best interest. Therefore, if it is not advantageous and/or in the best interest of CES members to enter into a contract with a contractor approved under this contract, they should find an alternative procurement vehicle.

CES will not make an award to contractors who do not offer CES a better price than they would offer to an individual member because this is not in the best interest of its members.

The justification for and the willingness of its members to fund CES operations by paying the one percent (1%) fee is that for the past 26 years, CES, through its members' involvement and participation in the governance and program development, have and will continue to provide its members with high quality, cost effective products and services to meet their individual needs in various program areas.

Question 7:

The instructions to Form J the offeror's qualifications say to "complete this form" however there is no space to do that. The form should clearly state the form should be completed on pages that are attached.

Background:

All of the solicitation documents have been provided in an acrobat "PDF" file format except Form J and it is a Microsoft Word file format so that information can be inserted in response to each of the items.

CES Response:

The Form J, Microsoft Word document was provided to make it easier for the bidders. Responses can be entered directly in Form J.

Question 8:

Is the GO or No-Go review intended to be another basis for award?

Background:

Section III, Conditions Leading to and Including Contract Award, Page 61

C. BID REVIEW

Commencing on April 7, 2006 at 1:30 p.m. local time, bids will be publicly opened and reviewed by the designated CES representative. Recommendation of award and notification to all respondents will be made by April 28, 2006.

D. EVALUATION FACTORS

To qualify as a responsive bidder, a bid must be responsive, must have been submitted on time and materially satisfy all mandatory requirements identified throughout the RFB. To be considered responsive, a bid must reasonably and substantially conform to all of the specified requirements in the RFB in the judgment of the CES representative. Any deviation from requirements indicated herein must be stated on an attached sheet(s), otherwise it will be considered that bids are in strict compliance with all requirements and any successful vendor will be held responsible therefore. Deviations or exceptions stipulated in vendor responses, while possibly necessary in the view of a particular vendor, may result in a penalty assessment being assigned during the evaluation process. Language to the effect that the vendor does not consider this bid to be part of a contractual obligation will result in that vendor's bid being disqualified. Due to the unpredictable nature of what any particular vendor may wish to stipulate with regard to exceptions, exclusions, or limitations of liabilities, vendors are forewarned that CES reserves the right to assign any penalties it considers warranted. Terms of the RFB that any offeror considers particularly unwarranted and to which that offeror would have to take significant exception in its response should be stated in the bid clearly and concisely as exceptions and/or deviations. Vendor's required responses "yes" are responsive or "no" are non-responsive.

1. Offeror Qualifications (Tab 4)

- Yes No Provided \$25,000 Bid Security (Behind Tab 1) (Page 36)
- Yes No Organization – History, Qualifications and Background (Item 1 Page 9)
- Yes No Licensing (Item 2 Page 10)
- Yes No Experience and Past Performance (Item 3 Page 11)
- Yes No Offeror's capacity and ability to perform financially and financial stability. (Item 4 Page 11)
- Yes No Documentation form for security demonstrating bonding rate and capacity (Item 5 Page 13)
- Yes No Described their company's policies and procedures in regards to complying with the New Mexico Public Education Department (NMPED) mandate regarding security and background checks (Item 6 Page 14)
- Yes No Offeror is properly insured (Item 7 Page 14)

- Yes No Demonstrated capacity to provide Payment and performance bonds (Item 8 Page 14)
- Yes No Ability to contract – SPD other contracts (Item 9 Page 14)
- Yes No Justification why offeror’s products and services are the most advantages to CES and its members (Item 10 Page 14)

2. Responses to Specific Requests for General Terms and Conditions (Place after Tab 3)

- Yes No Copy of Listing of General Terms and Conditions (Pages 14-33)
- Yes No Signed copy of Acceptance of General Terms and Conditions (Page 64)
- Yes No Offeror’s listing of deviations and exceptions to General Terms and Conditions

3. Responses to Specific Requests for Category (Place after Tab 5)

- Yes No Copy of Special Terms and Conditions (Pages 41)
- Yes No Acceptance of Special Terms and Conditions
- Yes No Offeror’s listing of deviations and exceptions to Categorical Terms, Conditions and Specifications

CES Response:

The assumption is made that the question refers to whether the bid is responsive. Only responsive bidders will be evaluated according to Cost Scoring Evaluation.

Question 9:

How are subcontractors brought into this process? What is the process of demonstrating that subcontractors are providing the bonds required?

Background:

Section I Instruction to Offerors, F. Listing of General Terms and Conditions, Page 26

NMDOL Contractor Registration Requirement: The 2004 legislative session passed HB 471 that: *“All contractors and all tiers of subcontractors bidding or performing on public works construction projects, except for street, highway, bridge, road and utility contracts, after May 19, 2004 shall be registered with the Labor and Industrial Division of the Labor Department if the amount of their bid or contract is more than \$50,000. All contractors and all tiers of subcontractors on street, highway, bridge, road and utility paving projects do not have to be registered with the Labor and Industrial Division of the Labor Department prior to bidding on public work but must be registered before performing on a public work contract in excess of \$50,000 signed after May 19, 2004.*

Section I Instruction to Offerors, F. Listing of General Terms and Conditions, Page 31

Subcontractors: Listing for each individual job order proposal, pursuant to the New Mexico Subcontractors Fair Practices Act will be required. There shall be only one subcontractor listed for each classification. If a contractor fails to specify a subcontractor in excess of the listing threshold, he represents that he is fully qualified to perform that portion of the work himself. If the contractor subcontracts any portion of the work, except as provided in the Subcontractors Fair Practices Act, the contractor shall be guilty of violation of the Subcontractors Fair Practices Act and subject to the penalties provided therein. If it is necessary for the contractor to contract with third party firms to provide various goods and services, the following will apply:

1. In awarding subcontracts, the contractor agrees that any subcontract competitively solicited by contractor will not be awarded solely upon membership, non-membership or affiliation in a union or professional association or other organized group or agency, but on competitive bid and ability to meet the specifications and comply with the requirements of the individual project.
2. The contractor will not enter into any subcontract subject to this solicitation without prior notification and approval from CES. Any such subcontract shall incorporate by reference the terms and conditions of this solicitation and each individual project contract.
3. No subcontracts will be entered into with any unlicensed party. Contractor must use subcontractors openly, include such arrangements in the proposal and certify upon request that such use complies with the rules of the NMCID and the New Mexico Public Works Act and Procurement Code. No subcontracting costs can be hidden in a cost proposal to CES.
4. Subcontractor Payment: Contractor agrees to pay subcontractors in a timely manner and in accordance with the New Mexico Subcontractors Act. If contractor receives a progress payment from CES, the contractor will pay subcontractor(s) their correct proportion of the amount paid. CES will contract to provide release of liens from subcontractors within 15 days of date of payment. Failure to pay subcontractors for work faithfully performed and properly invoiced can result in the suspension or cancellation of this contract.
5. Subcontractor's labor used must be of a standing or affiliation that will permit the work to be carried on harmoniously, without delay and will not cause any disturbance, interference or delay to the progress of the project. Subcontractor and lower-tier subcontractors will not employ anyone whose employment might be objected to by prime contractor or member.

CES Response:

As part of the transaction process, CES requires awarded contractor to provide copies of various documents to CES for its project file. CES has developed a project check-off list as part of its internal audit process.

In their discussions with potential contractors, CES and The Gordian Group have encouraged the contractors to bring the sub-contractors with them to the mandatory Pre-Bid Conference.

CES also encouraged sub-contractors to attend both the JOC orientation meetings and the mandatory Pre-Bid Conference.

If you have any questions regarding this Addendum No. 1, please contact me by phone (505) 344-5470 or by email llew@nmedu.org.

By dating, signing, and returning this page, the offeror acknowledges receipt of Addendum No. 1. **(Please place behind Tab 1 of your response)**

Date

Company Name (please print)

Print Name

Signature