

THE PORT AUTHORITY OF NY & NJ
PROCUREMENT DEPARTMENT
4 WORLD TRADE CENTER
150 GREENWICH STREET, 21ST FL.
NEW YORK, NY 10007

11/8/2017

ADDENDUM # 3

To prospective Proposer(s) on RFP # 50922 – Perform Investment-Grade Energy Audits and Implement the Utility Efficiency Measures Identified:

- RFP originally due October 17, 2017 at 2:00PM
- RFP now due November 28, 2017 at 2:00 PM

I. CHANGES/MODIFICATIONS

- A. On page 5, Section E entitled “Submission of Proposals” second sentence, delete in its entirety and replace with the following “To be acceptable, this Proposal (excluding Appendices, transmittal letter and forms), shall be no more than 50-pages single-sided using 12 point or greater front size. The Appendices can include resumes, financial statements, and comprehensive energy audit reports.”
- B. On page 11, Section 6 entitled “MBE/WBE SUBCONTRACTING PROVISIONS” second paragraph, last sentence, delete in its entirety and replace with the following: “The Contractor shall use good faith efforts to achieve participation equivalent to eighteen percent (18%) of the total Contract price for MBEs and twelve percent (12%) of the total Contract price for WBEs.”
- C. On page 32, ATTACHMENT C – SCOPE OF WORK, Section F, entitled “Monitoring” add at the end of first bullet, “during project construction period”.
- D. On page 34, Section B entitled “SUMMARIES OF SIMILAR PAST PROJECTS” 2.h), delete in its entirety and replace with the following: “Identify all prime contractors used and subcontractors who performed more than 15% of the work.”
- E. On page 37, ATTACHMENT D, add “Part IV - Contractor Identity Check/Background Screening Plan. See page 10.”

Addendum # 3

II. BIDDER'S QUESTIONS AND ANSWERS

The following information is available in response to questions submitted by prospective Bidders. The responses should not be deemed to answer all questions, which have been submitted by Bidders to the Port Authority. It addresses only those questions, which the Port Authority has deemed to require additional information and/or clarification. The fact that information has not been supplied with respect to any questions asked by a Bidders does not mean or imply, nor should it be deemed to mean or imply, any meaning, construction, or implication with respect to the terms.

The Port Authority makes no representations, warranties or guarantees that the information contained herein is accurate, complete or timely or that such information accurately represents the conditions that would be encountered during the performance of the Contract. The furnishing of such information by the Port Authority shall not create or be deemed to create any obligation or liability upon it for any reason whatsoever and each Bidder, by submitting its Bid, expressly agrees that it has not relied upon the foregoing information, and that it shall not hold the Port Authority liable or responsible therefor in any manner whatsoever. Accordingly, nothing contained herein and no representation, statement or promise, of the Port Authority, its Commissioners, officers, agents, representatives, or employees, oral or in writing, shall impair or limit the effect of the warranties of the Bidder required by this Bid or Contract and the Bidder agrees that it shall not hold the Port Authority liable or responsible therefor in any manner whatsoever.

Q1. Would the Port Authority consider an extension to the current due date?

A1. The RFP due date has been extended from November 14, 2017 (see Addendum # 2) to November 28, 2017 as per this Addendum #3.

Q2. How many firms does the Port Authority anticipate selecting for this procurement?

A2. There is no way to anticipate a number at this time.

Q3. Can the Port Authority provide any information on potential projects it anticipates undertaking as part of this procurement?

A3. See Attachment H – Potential Utility Efficiency Projects.

Q4. Can the Port Authority provide a basic summary of projects that were completed under the current contract?

A4. Under the first phase of the Program, projects included lighting upgrades to LEDs, lighting controls, condensing boilers, solar PV systems, window replacements, advanced building controls, low flow fixtures, and aerators, among others.

Q5. Attachment C – Scope of Work Section F) Guarantee/Monitoring states:

“The process of guarantee/monitoring shall include, but not be limited to:

•Performing preventative and emergency maintenance for all improvements”

Is it the intent of the Port Authority that all maintenance services for each ECM must be provided for by the ESCO for the term of the energy performance contract? Also, must the ESCO include this maintenance service as a project cost to be completely paid for from the guaranteed energy savings of the project and no additional maintenance services agreements will be allowed for these services?

A5. See CHANGES/MODIFICATIONS above, item C. “Performing preventative and emergency maintenance for all improvements during project construction period” is only applicable during project construction period. These costs must be covered by the guaranteed energy savings.

Q6. Attachment D– Proposal Requirements Part III Price and Markups:

Table 1 Fees requests that proposers provide a fee for Maintenance on Installed Measures as a percentage of the Project Base Cost. This cost will greatly vary and is not related to the project size but more dependent on the scope of the ECMs installed. We request that this cost be waived or noted as TBD for proposal purposes but negotiated in the IGA depending on the scope of each project.

A6. Table 1 requests a maximum percentage. During the IGA phase, where the scope of work is better defined, this percentage will be negotiated down to reflect expected maintenance work needed during the project construction period.

Q7. Section 4.B. The RFP calls for a statement of work which the proposer has on hand. Can this statement be limited to projects with investment grade energy audits and/or efficiency measures implementation related scope of work?

A7. It can include, but need not be limited to, investment grade energy audits and efficiency measures implementation related scopes of work.

Q8. Will the ESCO get paid for project development (i.e. design services, bid package development, subcontractor selection, etc.) as these efforts are completed?

A8. Please refer to Attachment C – SCOPE OF WORK for project development. There is no compensation for developing a Preliminary Opportunity Assessment Report (POAR). Investment Grade Audits will be compensated based on the proposed pricing schedule included in POAR and accepted by the Port Authority. Payment for IGA work will be rolled into the cost of project implementation if the same ESCO performs both phases of work. If not, the ESCO that prepared the IGA will be compensated at the completion of the IGA.

Q9. Will the ESCO be paid for construction as work is completed and accepted?

A9. Yes, on a monthly basis. Refer to page 59, section 3.2: “Construction installation payments shall be made on a progress payment basis, where ESCO will invoice Port Authority for work as it is completed.”

Q10. Attachment B of the RFP, Part I – Contract Specific Terms and Conditions, subsection N): what does “pay in advance for full energy savings realized” mean?

A10. If the project were financed, ESCO would obtain project financing (through a 3rd party) and the project “energy savings” over time (usually 15 or 20 years) pays back the financing. This concept of the Port Authority’s ability to “pay in advance before full energy savings realized” means that the financed funds could be repaid up front, rather than over time.

Q11. Is the Authority looking for the ESCO to provide a guaranteed energy savings project or a shared savings project?

A11. A Guaranteed Energy Savings Project, see page 23 PART 1, A entitled “Guaranteed Energy Savings Performance Contracting”.

Q12. Are ESCO’s allowed to self-perform work and/or exclusively provide their own brand of equipment?

A12. ESCOs are permitted to self-perform work. Refer to page 60 Section 3.5 “Open Book Pricing” for requirements. The use of ESCO’s own brand of equipment will be reviewed during the IGA phase and is subject to the Port Authority’s approval.

Q13. For ESCO’s that self-perform their own work and/or provide their own brand of equipment, what is the process to ensure open book, fair market competitive pricing?

A13. Refer to page 60 Section 3.5 “Open Book Pricing”. For work provided by ESCO, ESCO is required to fully disclose all hourly labor rates with position descriptions. ESCO’s own brand of equipment will be evaluated through price analysis with other providers. During the IGA phase, the Port Authority will work with the ESCO on equipment selection to ensure competitive pricing.

Q14. Would the “Project Base Cost” be the same value for each category that is listed in Table 1 of the RFP?

A14. Yes.

Q15. Is the ESCO’s Internal Labor, as defined in the footnote for “Project Base Cost”, mean internal construction labor or ESCO’s non-construction labor?

A15. It means both. ESCO’s internal labor cost shall not be double-counted. For example, ESCO can use its internal staff for commissioning. But this fee can only be included one time in calculating the total project cost; Either under the “Project Base Cost” or “Category of Fee: Commissioning”.

Q16. Would it be appropriate for ESCO’s who use their internal labor for services listed on the fee sheet (such as design or project management), to include those costs in the Project Base Costs?

A16. See also response A15 above. All fees shall only be applied one time. Table 1 represents the maximum allowable for the project. During IGA and construction phases, these percentages will go down to reflect actual project fees.

Q17. Is the ESCO required to provide actual, signed, subcontractor invoices with each ESCO's payment request, as backup of actual subcontracted costs to ensure open book pricing?

A17. No. However, ESCO must maintain record of all its subcontractor's invoices, purchases, etc. for a period of 3 years after project's final payment, and provide copies to the Port Authority upon request. See page 60 Section 3.5 "Open Book Pricing".

Q18. Source files: Can you please provide the source files for Table 1, Fees (RFP page 37) and Attachment L, Sample Worksheets (RFP pages 50-52).

A18. No. These forms will be made available to ESCO during IGA and implementation phases.

Q19. Sample audit: May we provide our sample audit electronically instead of as hard copies (RFP page 36)?

A19. Yes, in the interest of saving paper, sample audits can be submitted in electronic format by including them in the three (3) compact disc copies. However, indicate this electronic only submission in your hard-copy proposal to inform reviewers.

Q20. In general, what is the dollar value of the task orders awarded and how many energy ECMs and/or FIMs are implemented for each task order?

A20. Under the Port Authority's first ESCO Program, the implementation Work Orders ranged from \$1.5M to \$25M with an average of 15 ECMs per work order. This is for informational purposes only. The Port Authority makes no representations or guarantees about the dollar value of future Work Orders or how many energy ECMs and/or FIMs will be implemented for each Work Order.

Q21. From the time a task order is solicited, how long does an award take?

A21. Depending on the size and complexity of the project, Investment Grade Audit (IGA) development can take 3 to 8 months. After the final IGA it typically takes 3 to 4 months to award the work order. This is for informational purposes only. The Port Authority makes no representations or guarantees about the time it takes for an award.

Q22. Which contractors are currently under contract with the Port Authority to provide these services?

A22. Honeywell Building Solutions; Constellation New Energy, LLC; Johnson Controls, Inc. and NORESKO, LLC.

Q23. Is the Documentation of Proposer Prerequisites a different and additional submission to the Proposal (see item E. on page 16).

A23. No.

Q24. Is there a standard receipt of addenda form to be used?

A24. Each addendum issued to this RFP will request an acknowledgement from the proposer. As per the addendum, if a Proposer fails to conform with those instructions its Response "will nevertheless be construed as though [addendum] had been so physically annexed and initialed."

Q25. How will project money be allocated between states?

A25. There is no specific funding allocation by state. The scope and size of each project will depend on the needs of the facility at the time, project payback and cashflow models.

Q26. Will the Port Authority accept our terms and conditions or use our terms and conditions as a basis for negotiating?

A26. As per Section 7 H (page 16) Proposer must include in a separate letter stating any specific exceptions to the Port Authority Standard Contract Terms and Conditions and include the letter with its response to this RFP.

Q27. Can we only do work in Port Authority's New York facilities? How will this factor into the evaluation process?

A27. The proposer must be able to perform work in both New York and New Jersey facilities.

Q28. Will the Port Authority accept a "pass-through" savings guarantee from our service provider?

A28. No. The proposer must guarantee the savings.

Q29. Is there a limit on what portion of the work, labor and services can be performed by outside service providers?

A29. No, but the subcontractors must first be approved by the Port Authority.

Q30. The duration of the project repayment period appears to be open-ended. Is there a preferred repayment period?

A30. Page 23 Part 1 A.1 – "No performance term shall exceed 10 years in duration unless specially authorized." The Port Authority may consider a longer performance term depending on project scope.

Q31. As part of the project description, it asks for a list of all the prime contractors and subcontractors to be used. Given that our large projects can have multiple subcontractors, can we limit the subcontracts list to the "major" subcontractors? "Major" would be defined as firms performing 15% or more of the work?

A31. Yes (see CHANGES/MODIFICATIONS above, item B).

Q32. Part IV – Contractor Identify Check / Background Screening Plan – this does not show on the TOC, nor on Attachment D but is mentioned on page 10, Section 5 Evaluation Criteria and Ranking. Should we include Part IV – Contractor Identify Check / Background Screening Plan as part of Section F?

A32. Yes. Part 4 "Contractor Identification Check and Screening" has been added to Attachment D (see CHANGES/MODIFICATIONS above, item E).

Q33. We need precise detail on the labelling structure. On page 14, Proposal Submission Requirements have specific instructions for Sections A through I. We're using tabs lettered A through I, (A, B, C, D...etc.) and then breaking down Section F (proposal). Should Section F be labelled: Part I – Firm Experience; Part II – Project Management; Part III – Price Markups and Fees OR labelled: Part 1, A; Part 1 B; Part 1C; and so on? A33. As per Section F, “The Proposer must submit a proposal that details and clearly describes its experience and capability to perform investment-grade energy audits and to implement the utility efficiency measures identified, as described in this RFP, its approach to such work and the cost of such work to the Port Authority. At a minimum, the proposal shall address the items as set forth in Attachment D, “Proposal Requirements.”” Labeling of tabs is at the discretion of the Proposer.

Q34. Does Attachment E, page 38, need to be completed and inserted in addition to Part I, Section B of Section F proposal?

A34. Yes.

Q35. We need to confirm that the only Attachment to be signed and turned in with our submission is Attachment A – Agreement on Terms of Discussion

A35. Attachment A requires signature, and a signature is required on your cover letter.

Q36. Sections D and H (page 16) are basically posing the same question. Can we acknowledge these statements without signature or do we need to submit a separate letter for both Sections using the write-ups shown on page 16?

A36. Sections D and H (page 16) are quite different. Section D is seeking proposer to certify with respect to Integrity Provisions and Section H is giving the proposer an opportunity to identify specific exceptions to the Standard Contract Terms and Conditions.

Q37. Section F, Part I.B.1 Project Summaries: Provide a minimum of three (3) summaries of projects where your firm has carried out a performance contract for a facility similar to those of the Authority in size and/or function. See Attachment E, Proposer Reference Form for this purpose. But the form in Attachment E asks for: Please provide a list of references on the firm's performance of similar work within the last five years, including all current contracts. Use additional sheets as necessary. Please clarify if minimum of three (3) projects is sufficient.

A37. As noted in Section F, Part I.B.1, a minimum of three (3) projects is required.

Q38. Section F, Part I.B.5 Cost & Pricing Information for Reference Projects: Is the Project Cost Worksheet in Attachment L available in Excel?

A38. Not at this time. These forms will be made available to ESCO during IGA and implementation phases.

Q39. Identification of MBE/WBEs: Provide the names and addresses of all MBE/WBEs included in the Plan. If none are identified, describe the process for selecting participant firms in order to achieve the good faith goals under this Contract, RFP page 11.

Regarding the MBE/WBE Participation Plan, is it necessary to also submit form

PA3760C at this time if we are not naming any specific subcontractors as part of our response?

A39. Form PA3760C is not required at this time. The form will be required during the Investment Grade Audit phase. However, describe the process for selecting participant firms and provide a written commitment to the goals and a plan that describes how the good faith M/WBE subcontracting goals will be achieved. Please note the new goals.

Q40. Source files: Can you please provide the source files for Table 1, Fees (RFP page 37) and Attachment L, Sample Worksheets (RFP pages 50-52).

A40. No. Please recreate Table 1. See A38 above for Attachment L inquiry.

Q41. Section 1.E. Submission of Proposal states the Proposal should be no longer than 50 pages. Is the page limit applied to the entire submittal as defined by section 7 or is this page limit applied to only section 7.F. of the Proposal?

A41. See CHANGES/MODIFICATIONS above, item A. The 50-page limit only applies to Section 7 F. of the Proposal.

Q42. Can lengthy 5-year project list be included in appendices (outside of the 50 page limit)?

A42. See CHANGES/MODIFICATIONS above, Item A. Project lists are to be part of the 50 page limit.

Q43. On page 36 of the RFP, under Letter C – Performance Guarantees, number 6, can we insert the contractual documents in the Appendix as it will be large and go over the number of pages for the submission.

A43. No. This must be part of the 50 page count.

This communication should be initialed by you and annexed to your Bid upon submission.

In case any Bidder fails to conform to these instructions, its Bid will nevertheless be construed as though this communication had been so physically annexed and initialed.

THE PORT AUTHORITY OF NY & NJ
Selene Ortega, Manager
Commodities and Service Division

BIDDER'S FIRM NAME: _____

INITIALED: _____

DATE: _____

QUESTIONS CONCERNING THIS ADDENDUM MAY BE ADDRESSED TO
Richard Grehl, WHO CAN BE REACHED AT (212) 435-4633 or at rgrehl@panynj.gov.