



April 22, 2021

To: All Potential Bidders

From: Kelly Vu, Business Services Supervisor

Re: Addendum #2, RFP # SM-08-21R

The purpose of this addendum is to revise the components of the Request for Proposal SM-08-21R for Sound Mitigation Consulting Services (RFP). All terms and conditions of the original RFP remain unchanged.

Document to be revised as follows:

1. RFP, Part VII, Section D, FINANCIAL PROPOSAL (page 34)

Original: **D. FINANCIAL PROPOSAL**

The Financial Proposal Bid Forms are located in Part X – Forms and will be used to determine the “not to exceed” amount of the contract. Each Bidder shall submit a completed and signed form and include it as specified in Section B – Proposal Format and Content above. Bidders to use Mandatory Financial Proposal Bid Form provided by the District, failure to do so will be resulted in disqualification.

Change to: Delete it entirely.

2. RFP, PART VI, Section B, 4, Financial Proposal Bid Form

Original: **4. Financial Proposal Bid Form**

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- a. Bidder will complete three (3) Financial Proposal Bid Forms, all required forms in Part X - Forms, and include a print and electronic copy with the proposal.

Change to: a. Bidder will complete one (1) Financial Proposal Bid Form, all required forms in Part X - Forms, and electronic copy with the proposal.

3. RFP, PART VII, pages 33 and 34, 3.Experience and Ability to Perform

Original:

- a. Provide three (3) examples where Contractor used training ingenuity and/or innovation to solve a complex problem related to sound. Please provide (1) example related to solutions addressing noise complaints from the public/neighbors, if such a situation has been experienced.
- b. Attach letters from at least three (3) different financial references (banks, subcontractors, major suppliers, etc.) that Bidder has done business with during the last two (2) years. Ensure full contact information for the references is listed in the letter, including name and title of the author, address, and phone number.

- c. Include an operations plan of how Bidder will complete work, meeting the District's deadlines and scheduling needs and expectations.
- d. List all subcontractors/suppliers (name, address and phone number) who may be utilized by Contractor to fulfill the District's requirements, and describe in what manner/relationship Bidder has worked with them in the past. Provide an overview of the subcontractor/supplier's company history, including years in business, location(s), total number of staff and other key elements of their business operations.
- e. Attach proof of insurance coverage in the form of a Certificate of Insurance for Bidder's current business operations. Also, provide a commitment from Bidder's insurance carrier stating Bidder's ability to provide the additional insured endorsement upon award of contract (see Part X – Forms, Section C, Exhibit E – Insurance Requirements).

Change to:

On page 33, change second paragraph a. to:

- c. Provide three (3) examples where Contractor used training ingenuity and/or innovation to solve a complex problem related to sound. Please provide (1) example related to solutions addressing noise complaints from the public/neighbors, if such a situation has been experienced

all other items (b, c, d, e) deleted in entirety.

If you intend to submit a bid in response to this RFP, please send an email to rfp@ocfair.com to confirm that you have received this Addendum No. 2.

-End Addendum #2-



April 22, 2021

To: All Potential Bidders

From: Kelly Vu, Business Services Supervisor

Re: RFI #1, Q & A, RFP # SM-08-21R

The purpose of this RFI (Request for Information) is to transmit "Questions and Answers" regarding the technical components of the RFP Sound Monitoring and Mitigation Consulting Services. All terms and conditions of the original RFP notice remain unchanged.

Questions and Answers

Clarifications: The District will not reject any proposals that do not follow clerical instructions, including page numbering, the presentation of the proposal as a single continuous document, or the sequencing of the parts of the proposal as mentioned anywhere in the RFP. For example, where the RFP seeks information for items a, b, c, d in section one, and the Bidder provides the necessary information in its proposal but in a different order (e.g., a, b, d, and c), this would not serve as grounds for rejection of the proposal so long as the bid provides all of the requested information. The District encourages all Bidders to follow all instructions carefully, and double check all submissions, including for example, financial calculations required signatures, etc.

The District suggested each bidder to limit proposal attachments up to five when transmitting the bid proposal, in PDF format (Including Financial Proposal Bid Form), and only one email, not multiple emails. The District will work with each bidder to ensure the District receives Bid Proposals in the timely manner through Wetransfer.com. The District will not consider any bid proposal that is not received by the District's network server by the RFP submission deadline.

After you submit your bid proposal, please send an email to rfp@ocfair.com to notify the District for tracking purposes.

Questions and Answers:

Question 1a: On page 30 of the RFP, it states, "The proposal will be scored according to the **quality of the response**, both physical and **interpretive**, for the following criteria. The Bidder who receives the highest score will be awarded the contract".

On page 4 of the RFP, it states, "Careful review of final submittal is highly recommended as reviewers will not make interpretations or correct detected errors in calculations".

These two sections of the RFP seem to be in conflict with each other- either the District will be interpreting or it won't- which is it?

Answer to Question 1a: Page 30 of the RFP refers to scoring of proposals and page 4 of the RFP "Calculations" refers to financial calculations. These portions of the RFP speak for themselves and require no further explanation.

Question 1b: It seems highly unfair for the District to interpret, as the RFP clearly states that bidder is to demonstrate all claims in their bid response.

In addition, if the District is allowed to interpret, it can easily score the bid to allow selection of any bidder they deem to fit their requirements, whatever the requirements may be, based on the Districts unpublished and unexplained interpretations. How is this fair?

Answer to Question 1b: The District will review and score all proposals consistent with the procedures and requirements set forth in the RFP.

Question 1c: For the sake of all bidders, please make sure your scoring processes are exactly as they pertain to the requirements you have set forth in the RFP- to do otherwise is highly unfair.

Please explain how you will make sure scoring is fair to all bidders this time and how you intend (if you do intend) to follow the requirements you have set forth in your own RFP.

Explain what you mean when you state that the bid will be scored according to ...'the quality of response...'."

Explain in detail all your intentions. Please answer this entire question in detail.

Answer to Question 1c: The District will review and score all proposals consistent with the procedures and requirements set forth in the RFP and in accordance with California law.

Question 2. We successfully protested under the terms and conditions of the RFP and the laws of California following the last bid for this same RFP. The State Department of General Services upheld our successful protest, and the District simply chose to put the RFP out for bid again, seemingly ignoring our protest and the DGS decision.

Please explain what venue a bidder has, other than protesting an award, in light of the fact that the District will ultimately (it seems) do whatever it wants? This seems highly unfair to Bidders who do their best to fully comply with RFP's and protests. According to the statements made in the RFP- it seems the District will do whatever it so chooses, regarding any and all bids, and, even regarding contract awards and contract performance.

If the District is requiring Bidders to fully comply and meet all RFP requirements, the District must also legally comply and must be sending out RFP's that are clear, unambiguous - this simply has not been the case. Bids must also be scored to the exact terms, verbiage and intent in the RFP- it's not fair for the District to do whatever it wants in this bid process, District must be at least as accountable as the bidders. No interpretations- follow to the letter in your own RFP. This bid process seems to be fully one-sided via the District.

Please explain how District will fairly review, score, be held accountable and comply with their own RFP requirements this time. Please answer this entire question in detail.

We are not a disgruntled bidder- we are honestly trying to understand the process so we can legally comply and present a fully responsive and compliant bid.

If, as evidenced by our protest, the District chooses to not participate in the protest process, please clearly state what avenues a bidder can pursue, other than a legal protest, to hold the District accountable and that the District would find acceptable?

Based on our protest, it seems, the process really is:

- 1) A bidder protests under the terms of the RFP and under the terms set forth by the Department of General Services and California law.
- 2) DGS accepts the protest as valid.

- 3) District and the Proposed Awardee are allowed to state their sides and defend their bid and reason for award.
- 4) Proposed Awardee delivers a detail statement, District does not deliver any statement at all upholding their decision to award.
- 5) Protestant submits a rebuttal.
- 6) DGS makes a decision.
- 7) In our case, DGS upheld our protest.
- 8) Rather than award to the successfully protesting bidder, District chooses to completely ignore the entire protest process, and DGS decision, as well as the requirements they set forth in their RFP, and send the bid out again.

On page 11 of the RFP, it states, 'It is the policy of the District not to solicit proposals unless there is a bona fide intention to award a contract. However, the District may, at its sole and absolute discretion, reject any or all proposals; re-advertise this RFP; postpone or cancel, at any time, this RFP process, or waive any irregularities in this RFP. The decision as to who shall receive a contract award, or whether or not an award shall ever be made as a result of this RFP, shall be at the sole and absolute discretion of the District

Seems to be a very one-sided process, with no accountability required on the part of the District, and, with the District holding all the cards... Comments??

I am sure all bidders would value this information. What does the District have to say? Please be as accountable as you want all bidders to be- how can bidders insure District accountability?

Answer to Question 2: Proposes should refer to the RFP, at Part III, Section A.f, which states:

"It is the policy of the District not to solicit proposals unless there is a bona fide intention to award a contract. However, the District may, at its sole and absolute discretion, reject any or all proposals; re advertise this RFP; postpone or cancel, at any time, this RFP process, or waive any irregularities in this RFP. The decision as to who shall receive a contract award, or whether or not an award shall ever be made as a result of this RFP, shall be at the sole and absolute discretion of the District."

Question No. 3: On page 4 of the RFP, it states, '...Certification of satisfactory contract performance is required'. Please explain the certification process pertaining to this statement.

Answer to Question No. 3: Proposers should refer to the RFP, at Part II, Section A, which states:

"The agreements options are to be exercised independently and at the sole discretion of the District. Certification of satisfactory contract performance is required. Extensions may involve renegotiation of certain areas."

The District completes an internal process before exercising an option year. The District's Contract Manager completes the Contractor Performance Evaluation Form to certify whether the Contractor achieved satisfactory performance.

Question No. 4: Does the District feel it has colluded with any bidder(s) pertaining to this RFP, or its previous RFP for these services?

Answer to Question No. 4: No - the District reviewed and scored all proposals submitted in response to RFP No. SM-08-20 consistent with the procedures and requirements set forth in the RFP and in accordance with California law. The District will review and score all proposals submitted in response to

this RFP consistent with the procedures and requirements set forth in the RFP and in accordance with California law.

Question No. 5: On page 4 of the RFP, it states, 'Proposals must be electronically submitted prior to the closing time and by e-mail* to RFP@ocfair.com. Failure to meet these requirements will result in an unaccepted proposal.

*District's e-mail servers cannot receive files larger than 12MB. Files larger than 12MB will not be received and will result in an unaccepted proposal. Proposals must meet the following format requirements to be deemed responsive for District consideration:

- A. One (1) PDF copy of the entire proposal as well as one (1) Microsoft Word copy (where applicable).
- B. Proposals must be sent via **email to RFP@ocfair.com VIA wetransfer.com** no later than **April 16, 2021, 11:00 a.m.** - Pursuant to the law, no proposals shall be considered which have not been received at the place by the closing time, stated in this RFP'.

You are asking for the bid to be submitted via email, **OR** WeTransfer? Which is it? In all likelihood, our bid and perhaps others, will be larger than 12 MB- if we send by WeTransfer only, is this OK and acceptable? Or?

If we do not send our bid as a Word document, will it be rejected? Sending a bid as a Word document is burdensome and complex when a bid contains many different documents, derived from differing sources/formats. We prefer to send only a PDF file.

Answer to Question No. 5: The District will accept proposals in PDF format. If the proposal file(s) are larger than 12MB, Proposers must send the proposal via wetransfer.com. If the proposal file(s) are smaller than 12MB, Proposers can send the proposal via email to rfp@ocfair.com

Question No. 6: There will be no mandatory walk-through, is this correct?

Answer to Question No. 6: We are currently not able to accommodate a site visit. Proposers are encouraged to view the property via google earth to become familiar with the surrounding area and neighborhoods. Bidders are welcome to drive around the surrounding property.

Question No. 7: The RFP states that a financial response form, in the form of an Excel spreadsheet was provided with the RFP and is a mandatory requirement. No such excel spreadsheet was provided on the OC Fair bid page pursuant to this RFP. If this is required, please supply the form you wish us to submit.

Answer to Question No. 7: There is no separate excel spreadsheet. See Addendum #2 to the RFP. Please note that Bidders must use the Financial Proposal Bid Form that the District provided in the RFP.

Question No. 8: Do you have an anticipated number of hours, each day, during Fair time, that you require us to be present on the property, performing our duties?

Same question applies to non-Fair events- do you have an anticipated number of hours, each day, that you will require us to be on property performing our duties?

Answer To Question No. 8: The anticipated number of hours present on the property should be included by Proposer as part of its sound mitigation plan. The District's expectation is that sound monitoring occur primarily (but not exclusively) after 5:00pm during Fair time.

Question No. 9: We have requested letters of recommendation from OC Fair, as that is our primary qualifying work. For the previous bid, we stated that OC Fair could not provide letters for us based on their concern that providing such would be a conflict of interest. OC Fair acknowledged this challenge for us and said we would not be scored down based on this. Will this be true this time, as well?

Answer No. 9:

A Proposer's submission of a letter of recommendation from the OC Fair will not result in disqualification. The District will review and score all proposals consistent with the procedures and requirements set forth in the RFP, including but not limited to the letters of recommendation from clients serviced by Proposer.

Question No. 10: Page 30 of the RFP states, 'Bidder will complete three (3) Financial Proposal Bid Forms, all required forms in Part X - Forms, and include a print and electronic copy with the proposal'.

Is it OK to provide one electronic form only, and, as the form will be an Excel spreadsheet given to us by OC Fair, is it OK for us to submit the Excel spreadsheet as a PDF file, to help ensure that values don't get changed after the fact? Is a print copy also required?

In this same section of the RFP, it states, FINANCIAL MUST BE MINIMUM OF 30% OF TOTAL SCORES) ...'

What does this mean- is it an error, or??

Answer to Question No. 10: Proposers should refer to RFP, Addendum #2.

Question No. 11: In the RFP, on page 52, the form A-3, near the bottom of the form, states, 'ARE YOU CLAIMING DVBE INCENTIVE?'

Are you a primary California Certified DVBE? YES _____ NO _____

If yes, refer to Attachments 3, 4 for documents to be submitted

If no, do you commit to meeting DVBE participation of 1% up to 5% to a California certified DVBE? YES _____ NO _____

Regarding the last question, if we are NOT using a DVBE and we are not committing to using a DVBE participation of 1% up to 5%, are we disqualified as not answering the form question and not using a DVBE?

Is using a DVBE in some form or other, required by this RFP, or the state of California?

Will this result in a lower score, disqualification, or? The form seems to imply that we must use a DVBE in some form or other?

If we answer, 'NO' to both questions, is that disqualifying or resulting in a lower score or is some other judgement passed based on this answer?

Answer to Question No. 11: A "NO" response to both questions will not result in disqualification or in a lower score. However, if the Bidder claims DVBE certified or commits to meeting DVBE participation of 1 % up to 5%, that Bidder will receive additional incentive scores. The additional incentive scores will be calculated in accordance with the State Contract Manual.

Question No. 12: In the RFP, page 11, it states:

d. Definitions

The use of “shall,” “must” or “will” indicates a mandatory requirement or condition in this RFP. Failure to include such mandatory requirements or conditions will result in the disqualification of a proposal. In the Scope of Work, all mandatory requirements are indicated by an asterisk (*), see Part V.

Upon examining the Scope of works, I don't see an asterisk (*) used anywhere in Part V? Please explain in detail.

Answer to Question No. 12: The RFP speaks for itself. RFP, at Part III, Section d, defines the terms “shall,” “must” and “will” for purposes of the RFP. The scope of work contained in the RFP defines the services and requirements to be performed by the Contractor.

Question No. 13: On page 30 of the RFP, scoring is discussed.

On page 33 (near bottom) there is a second item ‘a.’. This should have been a continuation, making it item ‘c.’.

On page 34 of the RFP, items ‘b’, ‘c’, ‘d’ and ‘e’ are added and explained.

On the scoring description page in the RFP- page 30, under ‘3. Experience and ability to perform’, the additional items (b, c, d, e) listed on page 34 of the RFP are not included in this section.

Additionally, there are no score points associated with the additional items. This is a mistake; please tell us how you are going to correct it.

Answer to Question No. 13: Please see Addendum #2.

Question No. 14: The request for financial references really does not apply to this kind of technical RFP- that kind of request is usually reserved for more service-oriented bids (sound, lighting, janitorial, golf carts, etc.). Is this an error? Do we need to supply this information?

Answer to Question No. 14: It is the intention of the District to ensure the winning Bidder is financially secure and able to provide services in consideration of the District's payment term. As a State Agency, the District is prohibited from issuing any pre-payment for services. Please also see Addendum #2.

Question No. 15: The request for an operations plan is covered in other parts of the RFP, basically, so this is a bit of duplication. Do we need to repeat this information here?

Answer to Question No. 15: No.

Question No. 16: Regarding attaching proof of insurance, in other parts of the RFP, you are stating that such proof is required upon award, not the bid process. Are we to include this?

Answer to Question No. 16: Please see Addendum #2.

Question No. 17: Requesting sub-contractors and suppliers is also out of place for this bid- that, again, relates to a more service/supply contract (gold carts, etc.). Please explain what you'd like us to do.

These errors have added more contradictions and confusion to your RFP. Please correct and explain what we are to do.

Answer to Question No. 17: Form A-5 - Bidder Declaration is a required form and must be completed and submitted with the Proposal as instructed in the RFP. This is a State form that requires a Bidder to list all subcontractors and suppliers, including Small Business Preference and DVBE Incentive.

Question No. 18: Why are some sections highlighted in yellow and/or red? What significance should we glean from this?

Answer to Question No. 18: Sections highlighted in yellow and/or red have no significance for Bidders. The highlighted colors are for internal use only.

Question No. 19: Page 19 Part V Section 2.A.5.B - Contractor is defined in Part I as "Refers to that Bidder selected by the District to provide the services set forth in this RFP. Terms can be used interchangeably."

In 2.A.5.B the three paragraphs beginning with "Contractor shall be bound by this Decibel Level and Sound Covenant and shall at all times during any pre-concert sound checks and the concert itself, operate within the sound level restriction." It would seem that the word "Contractor" in Section 2.A.5.B refers to the Sound System Vendor, not the Sound Monitor. Please confirm that this section is being interpreted correctly and is included in the RFP for reference only and does not imply that the Sound Monitor Contractor scope includes actual operation of the sound system.

Answer to Question No. 19: The "Contractor" reference in the scope of work, is the same as item A.5. The Sound Monitor Contractor scope does not include actual operation of the sound system.

Question No. 20: Page 21 Part V Section 2.A.5.C - Is there a scheduled time period for audio baseline testing as described? Can we assume that audio baseline testing will be required each time a new sound system is installed at an OC Fair Venue? For example, prior to the OC Fair and also prior to each non-Fair event that brings in an outside sound vendor to provide a sound system.

Answer to Question No. 20: The District will take the recommendations of the Contractor on baseline testing needs with new sounds systems in any OC Fair Venue during fair or non-fair events.

Question No. 21: Page 28 Part V Section 4 - Please provide the designated prevailing wage determination for Sound Monitor technicians under this contract.

Answer to Question No. 21: Bidders must comply with prevailing wage rules and regulations if the State requires and may obtain prevailing wage rates at <https://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>

Question No. 22: Page 34 Part VII Section D - Please provide a direct link to the required spreadsheet.

Answer to Question No. 22: Please refer to Addendum #2.

Please send email to RFP@ocfair.com or kvu@ocfair.com for acknowledgement if you're intended to bid on this project.

-End RFI #1-