

SOLICITATION PROVISIONS AND INSTRUCTIONS

SUBMISSION OF PROPOSALS

Proposals shall be arranged as outlined in RFP section "Technical and Cost Proposals Instruction". Proposals should be prepared simply and economically, and provide a straightforward, concise delineation of the information required to be furnished. Emphasis should be on completeness and clarity. Elaborate brochures or other presentations are neither required nor desired.

Each proposal submitted should include a statement of acceptance of the enclosed sample terms and conditions (see RFP Attachment 1).

One original, signed by a representative of the Offeror authorized to enter into legally binding commitments and four (4) additional copies are required for each proposal submitted. Envelopes containing proposals should be marked in the lower right hand corner with "Proposal to RFP No. 7083". Proposals must be received by Battelle no later than 4:00 p.m. PST, December 10, 2004.

Proposals to be transmitted via regular mail should be addressed as follows:

Battelle, Pacific Northwest Division
ATTN: Bryan Colley, J2-05
P.O. Box 999
Richland, WA 99352

Proposals to be transmitted via a commercial delivery service, U. S. Postal Service Express Mail Next Day Service - Post Office to Addressee, or hand carried should be addressed as follows:

Battelle, Pacific Northwest Division
ATTN: Bryan Colley , J2-05
902 Battelle Blvd.
Richland, WA 99352

LATE SUBMISSIONS, MODIFICATIONS, AND WITHDRAWALS OF PROPOSALS

- A. Any offer received by Battelle after the exact time specified for receipt will not be considered unless it is received before the award is made and it:
 - 1. Was sent by registered or certified mail not later than the fifth calendar day before the date specified for receipt of offers (e.g., an offer submitted in response to a solicitation requiring receipt of offers by the 20th of the month must have been mailed by the 15th);

2. Was sent by mail and it is determined by Battelle that the late receipt was due solely to mishandling by Battelle after receipt by Battelle; or
 3. Was sent by U.S. Postal Service Express Mail Next Day Service - Post Office to Addressee, not later than 5:00 p.m. at the place of mailing two working days prior to the date specified for receipt of proposals. The term "working days" excludes weekends and U.S. Federal holidays; or
 4. Is the only proposal received.
- B. Any modification of an offer, except a modification resulting from Battelle's request for "best and final" offers, is subject to the same conditions as in Subparagraph A.1., A.2., and A.3. above.
- C. A modification resulting from Battelle's request for "best and final" offers received after the time and date specified in the request will not be considered unless received before award and the late receipt is due solely to mishandling by Battelle after receipt by Battelle.
- D. The only acceptable evidence to establish the date of mailing of a late proposal or modification sent either by U.S. Postal Service registered or certified mail is the U.S. postmark both on the envelope or wrapper and on the original receipt from the U.S. Postal Service. Both postmarks must show a legible date or the proposal, quotation, or modification shall be processed as if mailed late. "Post-mark" means a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been supplied and affixed by employees of the U.S. Postal Service on the date of mailing. Therefore, Offerors should request the postal clerk to place a legible hand cancellation bull's-eye postmark on both the receipt and the envelope or wrapper.
- E. The only acceptable evidence to establish the time of receipt by Battelle is the time/date stamp of Battelle on the offer wrapper or other documentary evidence of receipt maintained by Battelle.
- F. The only acceptable evidence to establish the date of mailing of a late offer, modification, or withdrawal sent by Express Mail Next Day Service-Post Office to Addressee is the date entered by the post office receiving clerk on the "Express Mail Next day Service-Post Office to Addressee" label and the postmark on both the envelope or wrapper and on the original receipt from the U.S. Postal Service. "Postmark" has the same meaning as defined in Paragraph D. of this provision. Therefore, Offerors should request the postal clerk to place a legible hand cancellation bull's-eye postmark on both the receipt and the envelope or wrapper.
- G. Notwithstanding Paragraph A. above, a late modification of an otherwise successful offer that makes its terms more favorable will be considered at any time it is received and may be accepted.

- H. Proposals may be withdrawn by written notice or telegram (including mailgram) received at any time before award. Proposals may be withdrawn in person by an Offeror or an authorized representative, if the representative's identity is made known and the representative signs a receipt for the proposal before award.

TREATMENT OF PROPOSAL DATA

- A. Although not specifically requested by the RFP, the proposal may include technical data and other data, including trade secrets and/or privileged or confidential commercial or financial information, which the Offeror does not want disclosed to the public or used by PNNL or the Government for any purpose other than proposal evaluation. To protect such data, the Offeror will specifically identify each page including each line or paragraph thereof containing the data to be protected and mark the cover sheet of the proposal with the following notice:

NOTICE

The data contained in pages _____ of this proposal have been submitted in confidence and contain trade secrets and/or privileged or confidential commercial or financial information, and such data shall be used or disclosed only for evaluation purposes. PNNL and the Government shall have the right to use or disclose the data herein to the extent provided in the contract. This restriction does not limit PNNL's and the Government's right to use or disclose data obtained without restriction from any source, including the Offeror.

Reference to this notice on the cover sheet should be placed on each page to which the notice applies. PNNL assumes no liability for disclosure or use of unmarked data and may use or disclose such data for any purpose.

- B. Should a contract be awarded based on a proposal, it is policy, in consideration of the award, to obtain unlimited rights for the Government in technical data contained in the proposal unless the prospective contractor marks those portions of the technical information that he asserts as "proprietary data," or specifies those portions of such technical data that are not directly related to or will not be utilized in the work to be funded under this subcontract. "Proprietary data" are defined as technical data which embody trade secrets developed at private expense, such as design procedures or techniques, chemical composition of materials, or manufacturing methods, processes, or treatments, including minor modifications thereof, provided that such data: (1) are not generally known or available from other sources without obligation concerning their confidentiality; (2) have not been made available by the owner to others without obligation concerning their confidentiality; and (3) are not already available to the Government without obligation concerning their confidentiality. An Offeror who receives a contract award shall mark the data identified as proprietary by specifying the

appropriate proposal page number to be inserted in the Rights to Proposal Data clause below. Subject to the concurrence of PNNL, information unrelated to the subject may be deleted from the proposal by the Offeror. The responsibility, however, of identifying technical data as proprietary or deleting it as unrelated rests with the Offeror.

- C. The following clause shall be included in any contract based on a proposal. This clause is intended to apply only to technical data and not to other data, such as privileged or confidential commercial or financial information.

RIGHTS TO PROPOSAL DATA

Except for technical data contained on pages ____ of the contractor's proposal dated _____, which are asserted by the Contractor as being proprietary data, it is agreed that as a condition of the award of this contract, notwithstanding the provisions of any notice appearing on the proposal, the Government shall have the right to use, duplicate, and disclose and have others do so for any purpose whatsoever, the technical data contained in the proposal upon which this contract is based.

NOTICE OF RESTRICTION ON THE USE OF FORMER BATTELLE EMPLOYEES

With respect to the proposal submitted in response to this RFP, offeror should reference the clause contained in the Schedule of the Sample Contract, Attachment 1, titled "Restrictions on the Use of Former Battelle Employees."

PUBLIC LAW 95-516

Public Law 95-516 provides that small businesses which meet the criteria of the law may acquire by contract greater rights with regard to patents than was afforded under previous laws and regulations. Under the new law, small businesses and non-profit organizations may elect to retain title to any inventions which are conceived or first actually reduced to practice in the performance of work under a funding agreement with a Federal agency for the performance of experimental, developmental, or research work. In the event you qualify as a small business or non-profit organization under Section 2 of Public Law 85-536 (15 USC 632) or Section 501 (c) (3) of the Internal Revenue Code of 1954 (26 USC 501 (c)), and so certify by executing the enclosed Patent Rights Certification, the appropriate patent rights clause for small businesses and non-profit organizations will be included in the agreement.

STATEMENT OF WORK

The Statement of Work for the services required is Attachment 1.

AMENDMENTS TO RFP

If this RFP is amended, all provisions which are not modified remain unchanged.

Offerors shall acknowledge receipt of any amendment of this RFP (a) by signing and returning the form provided for such purpose; (b) by stating in its proposal that the amendment (date and number) was received and considered in formulating the proposal; or (c) by letter, telegram, or E-mail. Battelle must receive the acknowledgement by the time specified for receipt of proposals.

EXPLANATION TO PROSPECTIVE OFFERORS

Any prospective Offeror desiring an explanation or interpretation of the RFP must request it in writing soon enough to allow a reply to reach all prospective Offerors before the submission of their offers. Oral explanations or instruction given before the award of the contract will not be binding. Any information given to a prospective Offeror concerning the RFP will be furnished promptly to all other prospective Offerors as an amendment of the solicitation, if that information is necessary in submitting offers or if the lack of it would be prejudicial to any other prospective Offeror.

REPRESENTATIONS & CERTIFICATIONS

Please use the following when filling out the Reps & Certs in Attachment No. 4:

NAICS code for this procurement is 541690 which classifies you as a "Safety Consulting Service" company. Companies under this NAICS code that generate less than \$6,000,000 per year in revenue are considered a small business. Using the information above please answer the small business questions in the Reps & Certs.

CONTRACT AWARD

Battelle will award contract(s) resulting from this RFP to the responsible Offeror(s) whose offer(s), conforming to the RFP, will be most advantageous for Battelle, cost and other factors considered and as specified in Attachment 2 "Qualification & Evaluation Criteria."

Contract award may be made on the initial offers received, without discussions. Therefore, initial proposals should contain the Offeror's best cost and technical terms.

Battelle may reject any or all offers or waive informalities and minor irregularities in offers received. Battelle is not obligated to pay any cost incurred in the preparation and submission of a proposal, nor to enter into a contract or any other arrangement with any Offeror.

There will be no public opening of proposals. Offerors will be advised when source selection has been made. By submitting a proposal an Offeror represents that its proposal is firm for one hundred twenty (120) days after the proposal due date.

AUTHORIZED NEGOTIATORS

If a negotiation meeting is held, the Offeror shall designate as its negotiator a person who is authorized to make legally binding commitments without further review or approval. If, for any reason, it is impractical for the Offeror to be represented at a negotiation meeting by other than a person fully authorized to act in its behalf, Battelle shall be notified sufficiently in advance to allow a decision to be made whether the negotiations should proceed as scheduled or be postponed. The Offeror's notice, if originally given orally, shall be confirmed in writing.