



## **Vendor Prerequisites – Part 15**

**Note:** Vendors are required to certify that they have read and agree to all of the provisions in this document. Vendors will certify this as an answer to a question within the solicitation.

**Note:** All solicitations are conducted and governed by Utah Code Annotated (“UCA”) 63G-6a and Administrative Code R33.

### **Addenda**

Vendors are encouraged to periodically check U3P for posted questions, answers and addenda. Any modification to this procurement will be made by addendum issued by the issuing procurement unit. Addenda to this RFSQ may be made for the purpose of making changes to: the statement of qualifications, the schedule, the qualification requirements, the criteria, the weighting, or other requirements of this RFSQ.

Authorized and properly issued addenda shall constitute the official and binding position of the Timpanogos School District (**referred to as “the District”**).

Any response to this RFSQ which has as its basis any communications or information received from sources other than this RFSQ or related addenda may be considered non-responsive and be rejected at the sole discretion of the District.

After the closing date for submitting a response to this RFSQ, at the discretion of the chief procurement officer or head of a procurement unit with independent procurement authority, addenda to this RFSQ may be limited to the Vendors that have submitted response, provided the addenda does not make a substantial change to this RFSQ that likely would have impacted the number of Vendors responding to the original publication of this RFSQ, in the opinion of the chief procurement officer or head of a procurement unit with independent procurement authority.

### **Communication, Trade Names, and Product Samples**

Vendors are prohibited from communicating about this solicitation with the conducting procurement unit staff, evaluation committee members, or other associated individuals EXCEPT the procurement official from The District overseeing this solicitation.

Wherever in this solicitation an item is defined by using a trade name, brand name, or a manufacturer and/or model number, it is intended that the words, “or equivalent” apply; and invites the submission of equivalent products by the Vendors.

Vendors may be required to submit product samples to assist the chief procurement officer or head of a procurement unit with independent procurement authority in evaluating whether a procurement item meets the specifications and other requirements set forth in the request for responses. Product samples

must be furnished free of charge unless otherwise stated in the invitation for responses, and if not destroyed by testing, will upon written request within any deadline stated in the invitation for responses, be returned at the vendor's expense. Samples must be labeled or otherwise identified as specified in the invitation for responses by the procurement unit.

The District reserves the right to conduct discussions with the vendors who submit responses determined to be reasonably susceptible of being selected for award, followed by an opportunity to make best and final offers pursuant to UCA 63G-6a-707.5, but responses may be accepted without discussions.

### **Solicitation Award Not a Contract**

A solicitation award does not constitute a contract. Any award made through U3P, notifications received from U3P, email notifications received directly from the procurement unit, documents received by the vendor, or documents posted in U3P, do not constitute or create a contract. Only a fully executed PO or a fully executed contract constitutes a binding contract.

Between the notification of award and the receipt of a fully executed PO or contract, the procurement unit may cancel the award and/or the solicitation in full, or in part in accordance with UCA 63G-6a-902 and 63G-6a-120.

If awarded, vendor(s) may not begin work, purchase materials, or enter into subcontracts relating to this solicitation until they receive a fully executed PO or contract.

### **Question and Answer Period**

The question and answer period closes on the date and time specified on U3P. All questions must be submitted through U3P during the question and answer period. Answers from the District will be posted on U3P. Questions may include notifying the District of any ambiguity, inconsistency, scope exception, excessively restrictive requirement, or other errors in this solicitation. Exceptions/additions to the standard terms and conditions do not need to be addressed during the question and answer period.

Questions are encouraged and may be answered individually or may be compiled into one document.

Questions may also be answered via an addendum. An answered question or an addendum may modify the specification or requirements of this solicitation. Answered questions and addendums will be posted on U3P. Vendors should periodically check U3P for answered questions and addendums before the closing date. It is the responsibility of the vendors to submit their responses as required by this solicitation, including any requirements contained in an answered question and/or addendum.

**NOTE:** Exceptions taken by a vendor to the scope/content of this solicitation that have not been addressed during the question and answer period will result in the vendor being rejected.

Vendors are encouraged to review this solicitation prior to the deadline to submit a response, even if a response has been submitted, in case an addendum has been issued by the issuing procurement unit.

### **Submitting a Response and Closing Date**

The issuing procurement unit may not accept a response after the time for submission of a response has expired. When submitting a response or modification to a response electronically, vendors must allow sufficient time to complete the online forms and upload their documentation.

It is the vendor's responsibility to ensure that they have completed all requirements, read and reviewed all documents, submitted all required information, uploaded all required forms, and submitted their response prior to the closing time. Even if a vendor completes all sections, but does not submit their response, the District will not be able to receive their response and they will be deemed non-responsive.

### **Price Guarantee Period**

The vendor guarantees its pricing for the time period stated in the solicitation. If allowable under this solicitation, a request for price adjustment must be made at least thirty (30) days prior to the effective date. A request for price adjustment must include sufficient documentation (market analysis) supporting the request. Any price adjustment will not be effective unless approved by the Director of the Division of Purchasing. A price adjustment will be guaranteed for the same length of time as the original price guarantee. The conducting procurement unit will be given the immediate benefit of any decrease in the market, or allowable discount.

### **Protected Information**

Pricing may not be classified as confidential or protected and will be considered public information.

Process for Requesting Non-Disclosure: Any vendor requesting that a record be protected shall include with the bid a Claim of Business Confidentiality. To protect information under a Claim of Business Confidentiality, the vendor must complete the Claim of Business Confidentiality form with the following information:

Provide a written Claim of Business Confidentiality at the time the information (response) is provided to the The District, and

- o Include a concise statement of reasons supporting the claim of business confidentiality (Subsection UCA 63G-2-309(1)).
- o Submit an electronic “redacted” (excluding protected information) copy of the response. Copy must clearly be marked “Redacted Version.”

The Claim of Business Confidentiality form may be accessed at:

<http://www.purchasing.utah.gov/contract/documents/confidentialityclaimform.doc>

An entire bid cannot be identified as “PROTECTED”, “CONFIDENTIAL” or “PROPRIETARY” and shall be considered non-responsive unless the Vendor removes the designation.

Redacted Copy: If a vendor submits a bid that contains information claimed to be business confidential or protected information, the vendor MUST submit two separate responses: one redacted version for public release, with all protected business confidential information either blacked-out or removed, clearly marked as "Redacted Version"; and one non-redacted version for evaluation purposes clearly marked as "Protected Business Confidential."

All materials submitted become the property of the District. Materials may be evaluated by anyone designated by the District as part of the bid evaluation committee. Materials submitted may be returned only at the District's option.

### **Anti-Boycott Actions**

In accordance with UCA 63G-27 et seq., vendors contracting with the District to provide any good or service, including supplies, information technology, or construction services, must certify that they are not currently engaged in an “economic boycott” nor a “boycott of the State of Israel” as those terms are defined in 63G-27-102.

Vendors must also agree not to engage in either boycott for the duration of this contract. For example, a vendor may not, without an ordinary business purpose, boycott the State of Israel or boycott companies that (1) engage in activities related to traditional energy, mining, agriculture; (2) engage in the manufacture, distribution, sale, or use of firearms; (3) do not meet environmental standards beyond applicable state and federal laws; or (4) do not facilitate access to abortion or sex characteristic surgeries.

Accordingly, the contractor will be expected to certify in the contract that it is not currently engaged in either an economic boycott or a boycott of the State of Israel, or both. The contractor will also have to certify in the contract that it will not engage in such boycotts during the term of this contract, and that if the contractor does engage in either such boycott, or both, it will promptly notify the District in writing. The contractor is advised to read and understand the provisions of UCA 63G-27 et. seq.

### **Restricted Foreign Entities and Forced Labor**

In accordance with UCA 63G-6a-121, vendors contracting with the District certify that they are not providing a forced labor product, or, if the vendor is providing technology or technology services, networks, or systems, the vendor certifies that the aforementioned does not come from a restricted foreign entity, as defined in [UCA 63G-6a-121](#).

### **Technology**

Pursuant to Utah Administrative Code R33-112-502 the awarded contract(s) may be modified to incorporate new technology or technological upgrades associated with the procurement item being solicited, including new or upgraded: (i) systems; (ii) apparatuses; (iii) modules; (iv) components; and (v) other supplementary items. Further, a maintenance or service agreement associated with the procurement item under the resulting contract(s) may be modified to include any new technology or technological upgrades. Any contract modification incorporating new technology or technological upgrades will be specific to the procurement item being solicited and substantially within the scope of the original procurement or contract.

### **Background Checks**

The District reserves the right to require any vendor (including the vendor's employees, subcontractor, or others associated with the vendor) with access to secure district facilities, sensitive data, or technology to complete a background check.

The District reserves the right to determine what district facilities, sensitive data, or technology applies to

the background and disclosure/notification requirements.

### **Interviews and Presentations**

If it is determined to be in the best interest of the Conducting Procurement Unit, interviews and presentations may be held at the option of the District.

### **Mandatory Minimum Requirements**

Vendors should review the scope of work and/or specifications in the files before submitting their responses to the mandatory minimum requirements.

All of the items described as mandatory minimums are non-negotiable. However, if a manufacturer's specification is used or identified, then a response must include, in sufficient detail, that its response contains an equivalent brand.

If it is determined that a response does not meet the mandatory minimum requirements, at any time during the solicitation process, it will be deemed non-responsive and disqualified from further consideration.

## **Solicitation Specific Provisions**

### **Part 15 Professional Services Final Stage: Direct Negotiation**

The vendor with the highest- ranking will be selected to negotiate a contract at compensation determined to be fair and reasonable. If fair and reasonable compensation, contract requirements, and contract documents cannot be agreed upon with the highest-ranked vendor, the District may proceed with negotiations with the next highest-ranked vendor.

### **Standard Terms and Conditions**

Exceptions to the Terms and Conditions are **strongly** discouraged.

Any contract resulting from this solicitation will include, but not be limited to the Standard Terms and Conditions. The Standard Terms and Conditions have been attached in the Files section of this solicitation.

Exceptions and/or additions to the Standard Terms and Conditions are **highly** discouraged. However, vendors requesting exceptions and/or additions to the Standard Terms and Conditions must be submitted as an answer to the corresponding question in the Requested Information Section of this solicitation. Exceptions and/or additions submitted after the date and time for receipt of responses will not be considered. Vendors may not submit requests for exceptions and/or additions by reference to a vendor's website or URL. URLs provided with a response may result in that response being rejected as non-responsive. Vendors may submit questions during the Question and Answer period regarding the Standard Terms and Conditions.

The District may refuse to negotiate exceptions and/or additions that are determined to be excessive; that are inconsistent with similar contracts of the procurement unit; to warranties, insurance, or indemnification provisions that are necessary to protect the procurement unit after consultation with the

Attorney General's Office or other applicable legal counsel; where the solicitation specifically prohibits exceptions and/or additions; or that are not in the best interest of the procurement unit.

In a multiple award, the District reserves the right to negotiate exceptions and/or additions to terms and conditions in a manner resulting in expeditious resolutions. This process may include beginning negotiations with the Vendor having the least amount of exceptions and/or additions and concluding with the Vendor submitting the greatest number of exceptions and/or additions. Contracts may be executed and become effective as negotiations are completed.

For any proposed change(s), the vendor **MUST** provide the District's Standard Terms and Conditions for this solicitation in Microsoft Word format with redline edits. Additional terms or documents must be submitted in separate Microsoft Word documents. The vendor must also provide the name, contact information, and access to the person(s) that will be directly involved in legal negotiations.

Any mandatory required acceptance of a vendor's terms and conditions may result in the response being determined to be non-responsive.

An award resulting from this solicitation is subject to successful contract terms and conditions negotiation (if required). The District may reject a response if the vendor who submitted the response fails to sign a contract within 90 days after the contract award.