

SPECIFICATIONS
FOR
CITY OF DALLAS REGIONAL CENTER MANAGER

Contents

Section 1: Introduction 3

Section 2: Background 3

Section 3: Outline of Services Required..... 3

Section 4: Eligible Applicants 4

Section 5: Award/Contracting Process Overview 5

Section 6: Desired Scope of Services and Qualifications 5

Section 7: Sub-consultants and Partners 7

Section 8: Evaluation Criteria..... 8

Section 9: Pre-Proposal Conference Information 9

Section 10: Inquiries..... 10

Section 11: Proposal Submission Details 10

Section 12: Proposal Format..... 10

Section 13: Insurance Requirements 11

Section 14: Contract..... 11

Section 15: Confidentiality..... 11

Section 16: Ownership..... 12

Section 17: Wage Floor Rate Requirement..... 12

Section 18: Communication 13

Section 19: Discussion with Reasonably Qualified Proposals..... 14

Section 20: Rejection or Acceptance of Proposals..... 14

Section 21: Late and Withdrawn Proposals 15

Section 22: Permits Required by Law 15

Section 23: Records and Audit 15

Section 24: Default by Contractor 15

Section 25: Miscellaneous 15

Section 1: Introduction

The City of Dallas (City) is seeking proposals for experienced firms to manage the City of Dallas's Regional Center (CDRC). The CDRC is a United States Customs and Immigration Services (USCIS) approved Regional Center to support EB-5 visa investments. The City expects the management firm to both source and deploy equity capital invested by foreign investors who seek to participate in the visa program established under section 203(b)(5) of the Immigration and Nationality Act (INA), 8 U.S.C. § 1153(b)(5) (the "EB-5 Program") within the CDRC, as well as maintain compliance with all appropriate USCIS and financial regulations. The City will not provide funding to support this initiative; instead, program fees may be retained to cover operating expenses. The City intends to provide one award under this solicitation. However, by soliciting qualifications, the City is not obligated to award a contract. The Proposer must be the company that, if selected, will be contracting with the City and providing the investment management and related services described in this RFCSP and the resulting agreement (the "Proposer" or the "Proposing Firm").

The anticipated term of the contract is five years, with up to five one-year renewals.

Section 2: Background

The CDRC is the official EB-5 Regional Center of the City of Dallas. On September 8, 2009, the entire City of Dallas was approved as a "Designated Regional Center" by USCIS. Since its inception in 2009, the CDRC has closed 19 EB-5 transactions, totaling more than \$345 million, in the City of Dallas. The City seeks CDRC projects that align with the City's economic development goals, and the City will assist in marketing EB-5 opportunities. Since inception, the CDRC has been managed by a third-party professional, independent manager. The manager performs an institutional-quality financial analysis of each project, screening investments to ensure they meet job creation requirements and preserve investors' capital, and then completing structuring and approval of investments and investors. The manager is also responsible for working with immigration experts to ensure compliance with EB-5 program requirements and managing all day to day aspects of the regional center, including the expense of reporting requirements; fees for economists, business securities attorneys and consultants to write business and operations plans; reporting and audit; marketing; and ongoing legal and compliance.

Section 3: Outline of Services Required

This RFCSP is seeking to identify firms capable of: a) sourcing and deploying equity capital invested by foreign investors seeking to participate in the EB-5 Program via an investment in a pooled investment vehicle(s) established by the Proposer (the "Proposed EB-5 Funds") that will invest within the CDRC with a primary focus on businesses located in low- to moderate income areas within the CDRC, including but not limited to Targeted Employment Areas (TEAs), and b) facilitating investor compliance with the regulatory regime overseen by the USCIS.

The City of Dallas requires an experienced investment management team that will focus on fund alignment with the City of Dallas's economic development objectives, and that has independent

underwriting capability; capacity to market the fund; administrative experience related to fund management as well as USCIS and SEC compliance; and has a plan for strong governance/transparency.

Investment activity of the Proposed EB-5 funds will be in the City of Dallas, with 50% of investments to be located in Targeted Employment Areas (TEAs) within the CDRC. Under the requirements of the EB-5 program, a minimum of 10 direct or indirect jobs must be created per \$1,000,000 of assets invested (\$500,000 in certain cases).

There are a number of technical compliance issues affiliated with the EB-5 program and respondents should have substantial background and experience within foreign and domestic capital investment and the relevant SEC and USCIS rules governing EB-5 transactions. In addition, it is envisioned that this program would augment—but not comingle with—funds available through the City of Dallas’ economic incentives programs, and familiarity with the City’s incentive programs is necessary.

Section 4: Eligible Applicants

The Proposing Firm must be able to demonstrate that:

1. Persons with primary responsibility for making investment decisions must, collectively, have demonstrable experience acting as either a principal decision-maker or advisor to an entities investment activities of which would qualify within the legal and investment framework of the Proposed EB-5 Fund.
2. Persons with primary responsibility for making investment decisions must have demonstrable experience negotiating and executing investments requiring regular compliance with local, state or federal governmental regulation and oversight.
3. Persons with primary responsibility for making investment decisions have a material and demonstrable track record of 1) active participation in the activities of local governments, community organizations or other non-profits (e.g., board participation or officer roles) and/or 2) working with investment vehicles the primary purpose of which is investing in businesses located in, or that majority of employees of which originated from, low- to moderate-income areas.
4. Persons with primary responsibility for making investment decisions must, collectively, have experience with private offerings (e.g., those conducted under Regulation D (17 C.F.R. §230.501 et seq.) promulgated under the Securities Act of 1933), either as a principal or key advisor, involving a minimum of \$1 billion in the aggregate.
5. At least one attorney licensed by the State Bar of Texas will be included within those persons with primary responsibility for making investment decisions.
6. Members of the Proposing Firm must have all applicable Federal and State licenses and the Proposing Firm is a member of SIPC (Securities Investor Protection Corporation) or similar organization.
7. Firm has access to capital of not less than \$1.5 million for purposes of funding business operations and working capital needs.

Section 5: Award/Contracting Process Overview

One award will be issued to the most responsible organization whose proposal is determined to be the most advantageous to the City. The City retains the discretion to not make an award under this solicitation.

An evaluation committee will review all submitted proposals using the criteria established in this RFCSP. All rankings will be added together to determine the highest-ranking proposer's score. Each respondent shall submit a proposal with all relevant, factual, and correct information for evaluation. Failure to provide requested proposal documents may adversely affect your score. If the evaluation committee is unable to determine qualifications due to lack of documentation provided by the respondent, the respondent will receive few or no points for that evaluation criteria.

The City intends to award funding to a prime applicant. The prime applicant is the legal entity who will serve as the awardee and have overall fiscal and administrative responsibility of the funds, including responsibility for deliverables and monitoring of partners and sub-awardees. The prime applicant organization shall be:

- i. The point of contact with ECO to receive and respond to all inquiries or communications under this RFCSP;
- ii. The contracting entity, if selected for contract under this RFCSP.
- iii. The entity having authority to submit reports and payments to the City

The entity responsible for submitting all deliverables under the award, including, all technical, financial, and performance reports related to the program, regardless of which partner performed the work.

Section 6: Desired Scope of Services and Qualifications

Overview

The City of Dallas is seeking an experienced investment or financial management firm to manage and operate the City of Dallas Regional Center (CDRC). Responsibilities include (but are not limited to) the following: sourcing and underwriting projects, screening and sourcing foreign investors, marketing, submitting projects to the USCIS, compliance related to investors and projects, and reporting to both USCIS and City of Dallas.

Program Approach

All proposals shall describe their approach to the following components of an EB-5 program:

- 1. Investment Strategy:** Define your approach to an investment strategy that is focused on opportunities to generate growth and employment within the CDRC, and provides

Investment Fund investors with a competitive rate of return compared to other Regional Centers. Describe experience and familiarity working within the City of Dallas, with existing City of Dallas programs, and in high-unemployment neighborhoods. Provide a clear and complete description of how the proposing firm expects to source transactions for the CDRC Fund. Provide a detailed narrative showing the process by which the proposing firm will identify and execute an investment opportunity, including the involvement of an underwriting function, committees, diligence teams, document production, etc. Also include the expected investment governance or management practices post investment, including staff allocation to each investment, board/observer role(s) taken, and reporting requirements placed on the underlying portfolio companies.

2. **Compliance/Internal controls** – Provide a detailed summary of the organization’s compliance process, including the compliance and internal control structure. What procedures will insure that investments are in compliance with INA and Securities Law and any other relevant policies? Will there be an advisory board? What are the audit procedures? Please describe the conflicts of interest policy.
3. **Immigration Compliance** – Provide a detailed narrative and/or flowchart showing how the firm will: a) solicit investors for the EB-5 fund b) subscribe these investors and c) address the USCIS requirements in connection with the investor intake process. Additionally, please provide a summary showing the standard immigration compliance process for the proposed Fund investors
4. **Marketing and Servicing**—Describe how the firm will manage investor relationships, the marketing plan to outreach to potential investors as well as to communicate investment updates and news to investors and the City of Dallas.
5. **Fund Structure and Terms**– Define the expected investment rate of return to the investor and describe any fees that will be charged to an investor. Describe plan for job placement that will ensure the targeted population obtains permanent, full-time employment with employment partners or other entities in the industry for which the individual received training. This includes a plan for career advancement along the identified pathway, retention strategies and additional placement services as necessary. The City intends to take a .5% fee on investments under \$15,000,000 and .25% on all investments greater than or equal to \$15,000,000 for administrative expenses. Describe the process by which the manager will close and manage deals, including any new legal structures planned or required, any direct or indirect ownership interest manager or any affiliate of manager will take, fees, etc.
6. **Reporting**—Provide a full narrative describing how the firm will meet the reporting requirements USCIS regarding investors and the full reporting of information required under

the INA regulations and USCIS requirements, including the status of each investment made by an Investment Fund. Provide a full narrative describing the role of the City, if any, in reviewing proposals, advising the manager, or otherwise being involved in the CDRC. Describe all reports to the City which include at a minimum an annual report of performance, a semi-annual certification that the respondent is in good standing to operate the CDRC program, and quarterly reports of all applications received and the status of those applications and the status of all current deals. Confirm that the City of Dallas will have access to all documents and materials related to the CDRC, and will have the ability to request information, documents, or reports related to the CDRC and/or the firm's management of the CDRC at any time.

Organization Qualifications

Describe in detail the organization of the firm and identify which staff would be responsible for which responsibilities as described in Program Approach. Provide a list of all key staff, including name, key responsibilities, certifications, years of experience, years with the firm, and an organizational chart.

Please provide a narrative to demonstrate that the firm's organizational structure and/or experience will allow it to establish the Investment Strategy and Monitoring functions; the Compliance/Internal Controls and Immigration Compliance functions and Compliance/Internal Controls and Immigration Compliance functions. The narrative should provide examples of previous relevant experience.

Describe the ownership structure of the firm. Identify all affiliated and subsidiary organizations. List the locations of the headquarters and any branch offices.

Also provide a business plan and/or pro forma financial projections for the firm covering a period of not less than five (5) years, including all fees as required by the firm and the City.

The City intends to conduct general background checks on each of the principals listed; please disclose any information that these background checks may reveal.

Section 7: Sub-consultants and Partners

The applicant's team may include the services of sub-consultants and partners in order to ensure the range and depth of expertise necessary to perform the expected tasks. If using sub-consultants or partners, the proposed team of sub-consultants shall be defined with roles and responsibilities and related experience and will be reviewed by the City during the selection process.

Section 8: Evaluation Criteria

Evaluation Criteria Weighting	
Program Approach	40
Proposed Management Fees	10
Organization Qualifications	35
Business Inclusion and Development Plan	15
Total	100

Each category will be evaluated based on the measures below:

Program Approach (40 Points)

The proposal shall indicate the firm's ability to address the following as defined in Section 6:

- Investment Strategy (8 points)
- Compliance/Internal Controls (8 points)
- Immigration Compliance (8 points)
- Marketing and Servicing (5 points)
- Fund Structure and Terms (6 points)
- Reporting (5 points)

This section should also include a schedule, including time for start-up activities, and targets for total numbers of investments and investors in the five years of the contract.

Organizational Characteristics (35 Points)

The proposal shall indicate the firm's ability to address the following organization qualifications as defined in Section 6:

- Organizational Structure (7 points)
- Staff Qualifications and Experience (7 points)
- Budget and Financial Projections (7 points)
- Compliance Systems (7 points)

Organizations must demonstrate they meet the criteria defined in Section 4: Eligible Applicants, including demonstrating access to a minimum of \$1.5 million in initial capital (7 points)

This information shall also include a minimum of three (3) references, including email addresses and phone numbers that would be willing to discuss the applicant's and key partners' service experience with City staff.

Proposed Management Fees (10 points)

The City expects that the manager covers fees, operating expenses, investor return and other costs at no cost to the City. The City also requests that an administrative fee, 0.5% fee on investments under \$15,000,000 and .25% on all investments greater than or equal to \$15,000,000 for administrative expenses, be included in any fees charged by manager. Please provide a narrative describing proposed management fees, with the understanding that the CDRC should be competitive with other regional centers with regards to fees and costs to investors and with interest rates to project sponsors.

Business Inclusion and Development Plan (15 points)

It is the policy of the City of Dallas to involve Minority and Women-Owned Business Enterprises to the greatest extent feasible on the City's construction, procurement, and professional services Contracts. The City and its contractors shall not discriminate on the basis of race, color, religion, national origin, or sex in the award and performance of contracts. In consideration of this policy, the City of Dallas has adopted the Business Inclusion and Development Plan (BID Plan) for all City of Dallas contracts. The information shall be submitted with the proposal and shall include:

- a) Submission of an Affirmative Action Plan and/or Policy. If your company does not have an Affirmative Action Plan, the Office of Procurement Staff can provide the Affirmative Action Requirements which will serve as a template to be utilized for this criterion.
- b) The Ethnic Workforce Composition Report (BDPS-FRM-204)
- c) Submission of documentation showing the RFCSP Contractor's Affidavit History of M/WBE Utilization Form (BDPS-FRM-205) on previous Contracts on the form provided.
- d) Firm's team make-up includes a significant number of diverse M/WBE firms in meaningful roles on the project. Please submit the RFCSP Contractor's Affidavit Type of Work by Prime and Sub-consultant Form (BDPS-FRM-206)
 - i. the name, address, and telephone number of each M/WBE;
 - ii. the description of the work to be performed by each M/WBE; and
 - iii. the approximate dollar amount/percentage of the participation.
- e) Evidence of acknowledgement of the City's Business Inclusion and Development (BID) Plan, signed Business Inclusion and Development Affidavit (BDPS-FRM-203) that demonstrates intent to comply with the policy and evidence of M/WBE inclusion to meet the BID goal for the project.

Assistance in preparing the Business Inclusion and Development (BID) forms may be obtained by submitting a request in the City's Bonfire System.

Section 9: Pre-Proposal Conference Information

A Pre-Proposal conference will be held on the date, time and location as listed on the RFCSP Signature Page. All respondents are encouraged to attend the conference, but attendance is not mandatory.

It is to the respondent's advantage to read all sections of the RFCSP prior to the pre-proposal meeting and advise City staff of any questions regarding the RFCSP specifications or supporting documentation during the meeting. Requests for additional information, questions submitted in writing by prospective Proposers, along with questions from the pre-proposal meeting, will be provided as an addendum on the City's bidding site Bonfire (<https://dallascityhall.bonfirehub.com>)

Section 10: Inquiries

During the solicitation process the only contact with City personnel, other than with Office of Procurement Services, will be at the pre-proposal conference.

All questions shall be submitted via the Bonfire System, within **three days** after the pre-proposal meeting by 5:00 PM CDT. The City, its agents and employees shall not be responsible for any information given by way of oral or verbal communication.

The City will only respond to questions that are submitted in Bonfire. Any interpretation of, additions to, deletions from, or any other corrections to the RFCSP document shall be issued as written addendum by the City of Dallas.

Section 11: Proposal Submission Details

The City of Dallas has migrated to an electronic solicitation portal, effective March 1, 2019. Sealed proposals should now be uploaded into Bonfire, in person delivery of proposals is no longer required for submission. Vendors are invited to register at <https://dallascityhall.bonfirehub.com/login> . This registration will ensure vendors continue to receive notification of business opportunities with the City and allow vendors to submit electronic responses.

All proposals shall be uploaded into Bonfire no later than 2:00 p.m. on the due date specified on the Signature Sheet.

Any proposals received after 2:00 p.m. on due date will be considered late and non-responsive and returned to the applicant. The City reserves the right to reject any and/or all proposals or waive irregularities. Faxed or emailed responses are not acceptable.

If the proposer does not ask questions or clarify any assumptions, the City will assume the proposer understands the City's requirements and that the proposer's offering will meet those City's needs.

On the basis of the evaluation factors listed herein, the City will determine which proposals are reasonably qualified for the award of the contract. The City reserves the right to reject any and all offers.

Section 12: Proposal Format

The proposal submission should contain and be organized in the following manner:

1. **Cover letter:** Provide a short cover letter (not to exceed 2 pages) with the name of the proposal, contact information, including a primary contact name, mailing address, phone number, and email address and a short summary of your understanding of the request and your qualifications. The letter should be signed by an authorized officer of the firm that will be the prime contracting entity.
2. **RFCSP Signature Page**
3. **Project understanding:** Present an overall description and understanding of the project and the general approach taken in responding to this RFCSP. Highlight the Respondent's capabilities, understanding of the project and approach to successful accomplishment of the project, referencing the activities detailed in Section 6, Desired Scope of Services.

This section should also include a project schedule, including adequate time for start-up activities, and estimated targets related to numbers of total number of investments and investors served by the CDRC in the first five years.

4. **Previous experience and qualifications of organization and key staff:** The proposal shall include a description of experience and qualifications as described in Sections 4 and 6. Include relevant background and experience as well as resumes of key personnel.
5. **Management Fees:** The proposal shall include a description of proposed management fees
All proposals shall be typed, single-sided and bound on 8.5 x 11-inch paper. Tables and attachments may be larger, if necessary, but should be folded to fit inside the 8.5 x 11-inch bound proposal.

Section 13: Insurance Requirements

The successful respondent will be required to purchase and maintain, during the term of the contract, insurance as described in **Attachment 1** and agrees to the indemnification agreement therein.

Section 14: Contract

Contract award is subject to approval by the Dallas City Council. The City will require the respondent to sign the necessary contract documents prepared by the City Attorney's Office. A sample contract is included as an attachment for review of general terms and conditions.

Section 15: Confidentiality

In accordance with state law, proposals shall be opened so as to avoid disclosure of contents to competing proposers and shall be kept secret and confidential during the negotiation process.

It is the responsibility of the proposer to clearly mark and identify all portions of the proposal that contain trade secrets, confidential information and other proprietary information. Any information deemed confidential, shall be clearly noted as such on each page or pages. Efforts will be made to keep the marked information confidential; however, the City cannot guarantee it will not be compelled to disclose all or part of any public record under the Texas Open Record Act. Trade secrets and confidential information contained in a proposal are not open to public inspection (bid pricing, however, is not considered to be confidential under any circumstances). Bidders who include information in a proposal that is legally protected as trade secret or confidential must clearly indicate what information constitutes a trade secret or confidential information by marking that part of the proposal “trade secret” or “confidential” at the appropriate place. The City will not be responsible for any public disclosure of the trade secret or confidential information if it is not marked as provided above. If a request is made under the Texas Open Records Act to inspect information designated as trade secret or confidential in a proposal, the bidder shall, upon request, immediately furnish sufficient written reasons and information as to why the information designated as a trade secret or confidential should be protected from disclosure, in order for the City attorney to present the matter to the Attorney General of Texas for final determination.

Section 16: Ownership

Any and all creative concepts including Dallas specific logos, brands, scripts, storyboards, drawings, and/or design work (in native format), and all written information and other materials prepared for the execution of the project shall become the property of the City. Materials developed exclusively for the City may not be used in similar manner by any other municipality or other entity without express written consent from the City.

Section 17: Wage Floor Rate Requirement

On November 10, 2015 the Dallas City Council passed Resolution 15-2141 which requires prime contractors, awarded general service contracts valued greater than \$50,000, and first-tier subcontractors on the contract to pay their employees rendering services on the contract no less than the “living wage” rate. The current living wage rate is \$11.15.

Pursuant to Resolution 15-2141 the wage floor requirement for all general service contracts greater than \$50,000 shall be effective immediately on all new contracts awarded after November 10, 2015. Vendors bidding/proposing on general service contracts shall take into consideration such wage floor requirements in their bid/proposal. The wage floor requirement for the City of Dallas’ general service contracts shall be derived from the most current Massachusetts Institute of Technology Living Wage publication and shall remain fixed for the term of the respective contract. The City reserves the right to audit such contracts for compliance with the wage floor requirement as mandated by Resolution 15-2141. This requirement does not apply to construction contracts in which prevailing wage of employees is governed by the Davis-Bacon Act as defined in the Texas Local Government Code 2258, purchase of goods, procurements made with grant funds or procurements made through cooperative and/or inter-local agreements.

The purpose of this policy is to promote an acceptable wage floor for working families in the City of Dallas, increase the level of service delivered to the City through specific contracts and reduce turnover in such contracts thus maintaining a continuous and consistent level of service for vested parties.

The City Manager shall use the following definitions to administer the benefactors of the “wage floor” for purposes of the referenced resolution:

"City" means the City of Dallas, Texas.

"General Services Contract" means any agreement between the City and any other Person or business to provide general services through an awarded City contract valued greater than \$50,000. A General Services Contract for purposes of the Resolution does not include (i) a contract between the City and another governmental entity or public utility, (ii) a contract subject to federal or state laws or regulations that would preclude the application of the application of the wage floor, (iii) or a contract with all services under the contract performed outside of the City of Dallas.

"Subcontractor" means any Person or business that has entered into its own contract with a prime contractor to perform services, in whole or in part, as a result of an awarded City general services contract.

"Employee" means any person who performs work on a full-time, part-time, temporary, or seasonal basis, including employees, temporary workers, contracted workers, contingent workers, and persons made available to work through services of a temporary services, staffing or employment agency or similar entity.

Wage Floor Reporting Requirements: Contractors awarded City general services contracts as described in the wage floor rate requirement section of this specification shall be required to provide the buyer the residential zip code and respective number of employees directly impacted by the wage floor requirement ten days after Council approval and on January 1st. but not later than January 31st. for the term of the contract. The Contractor shall submit the report to the contract administrator during the established period.

Wage Floor Compliance Requirements: Vendors submitting a response to a solicitation for general services must comply with the wage floor requirement to be consider responsive. The City may request of vendors, at any time during the pre or post award process, to demonstrate compliance with the wage floor requirement. Vendors not compliant with the wage floor requirement will be deemed nonresponsive and will not be considered for award. Vendors awarded general service contracts must comply with the wage floor policy and reporting requirements for the term of the contract, failure to remain in compliance may result in breach of contract.

Section 18: Communication

It is essential that the awarded Contractor respond promptly after receiving communications from the City. Written correspondence from the City of Dallas shall be answered within 48-hours of receipt. The awarded Contractor shall respond to phone calls and emails from the City within 24- hours of receipt.

The City of Dallas or its representative reserves the right to cancel this agreement anytime if the services are deemed unsatisfactory.

Section 19: Discussion with Reasonably Qualified Proposals

The City reserves the right to engage in discussions or conduct interviews, either oral or written, with the proposers determined by the evaluation criteria to be reasonably viable to being selected for award. If discussions or interviews are held, the buyer may request best and final offers. The request for best and final offers may include:

- Notice that this is the opportunity to submit written best and final offers.
- Notice of the date and time for submission of the best and final offer.
- Notice that if any modification is submitted, it shall be received by the date and time specified or it will not be considered.
- Notice of any changes in the Proposal requirements

Following evaluation of the best and final offers, Purchasing may select for negotiations of the offer that is most advantageous to the City, considering price or cost and the evaluation factors in the RFCSP.

After the most advantageous proposer(s) has been identified, Contract negotiations may commence. If at any time Contract negotiation activities are judged to be ineffective, Purchasing will cease all activities with the proposer and begin Contract negotiations with the next highest ranked proposer. This process may continue until either both the proposer and Office of Procurement Services executes a completed Contract or Office of Procurement Services determines that no acceptable alternative proposal exists.

The City reserves the right to reject any or all proposals received or to award, without discussions or clarifications, a Contract on the basis of initial proposals received. Therefore, each proposal should contain the Proposer's best terms from a price and technical standpoint. Also, only proposers submitting a proposal will be notified of any communications after the RFCSP closing.

Section 20: Rejection or Acceptance of Proposals

This RFCSP does not commit the City to award any Contract. The City reserves the right to reject any or all proposals, to waive technicalities or irregularities, and to accept any proposal it deems to be in the best interest of the City. The City shall not be liable for any costs incurred by any company responding to this RFCSP.

The City will require the recommended proposer to sign the necessary Contract documents prepared by the City Attorney's Office. A sample Contract is included as an attachment. Proposer must take exception to any term of the Contract to which it will not agree in its proposal.

Section 21: Late and Withdrawn Proposals

Proposals offered to the City after the time and date specified as the submittal deadline will not be accepted. Any proposal submitted may be withdrawn prior to the scheduled due date.

Section 22: Permits Required by Law

Contractor shall comply with all requirements of federal, state, and local laws and regulations pertinent to or affecting any phase of the service.

Section 23: Records and Audit

The Contractor shall keep accurate records. These records shall be retained for a minimum of two years after the conclusion of the contract. The City reserves the right to audit any records it deems necessary.

Section 24: Default by Contractor

The following events shall be deemed to be events of default by Contractor under the Contract:

- Contractor shall become insolvent, or shall make a transfer in fraud of creditors, or shall make an assignment for the benefit of creditors;
- Contractor attempts to assign the Contract without the prior written consent of the City;
- Contractor shall fail to perform, keep or observe any term, provision or covenant of the Contract;
or
- Contractor fails to properly and timely pay Contractor personnel, suppliers or other contractors and the failure impacts the City or its Facility in any manner.

In the event a default occurs, the Director shall give the Contractor written notice of the default. If the default is not corrected to the satisfaction and approval of the Director within thirty days of receipt of such notice by the Contractor, the City may immediately cancel the Contract. At the direction of the Director, the Contractor shall vacate the facility and shall have no right to further operate under the Contract.

The Contractor, in accepting the Contract, agrees that the City shall not be liable to prosecution for damages or lost anticipated profits in the event that the City cancels or terminates the Contract.

No waiver by the City of any default or breach of any covenant, condition, or stipulation shall be treated as a waiver of any subsequent default or breach of the same or any other covenant, condition, or stipulation.

Section 25: Miscellaneous

1. After executing the Contract, no consideration will be given to any claim of misunderstanding.

2. Proposers shall submit with the proposal all supporting information and documentation.
3. The City reserves the right to reject any and all proposals and to waive any minor irregularities.
4. A Proposal may be disqualified if the corporation or individual proposer is in arrears or in default to the City for delinquent taxes or assessments or on any debt or contract, whether as defaulter or bondsman; or who has defaulted upon any obligation to the City by failing to perform satisfactorily any previous agreement or contract within the past seven years. Also, proposers may be disqualified for poor prior performances on similar contracts with other entities.
5. The contract with the contractor will be drawn by the City and may contain such other provisions as are deemed necessary to protect the interest of the City.
6. The contractor agrees to abide by the rules and regulations as prescribed herein or may hereafter from time to time be changed in writing. The contractor will, in all solicitations or advertisements for personnel to perform services under the contract, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, gender, or national origin.
7. In the event that either party hereto is prevented from completing its obligations under the contract by act of God, strike, lockout, material or labor restrictions by any governmental authority, civil riot, flood, or any other cause beyond the control of the parties hereto, then such party shall be excused from such performance for such period of time as is reasonably necessary after such occurrence to remedy the effects thereof.
8. The section headings in these specifications are for convenience in reference and are not intended to define or limit the scope of any of the conditions, terms or provisions of these specifications.
9. Should any question arise as to the proper interpretation of the terms and conditions of this specification, the decision of the City Attorney or his or her authorized representative shall be final.