

Missouri Clean Water Commission
Department of Natural Resources
Lewis and Clark State Office Building
LaCharrette/Nightingale Conference Rooms
1101 Riverside Drive
Jefferson City, Missouri

July 9, 2014

State Revolving Fund

Issue: City of Liberty Variance Request from 10 CSR 20-4.040 State Revolving Fund General Assistance Regulation – Procurement Procedures.

Background: State Revolving Fund General Assistance Regulation 10 CSR 20-4.040(13) requires funding recipients to utilize a request for qualifications/request for proposals to retain engineering services. Upon development and approval by the Department of plans and specifications, the funding recipient is authorized to procure construction services through a formal bidding process which requires a public advertisement period and the submittal of sealed bids. Specifically, 10 CSR 20-4.040(19)(B) describes the methods of procurement to be used for construction activities in excess of \$100,000. The city of Liberty has proposed utilizing the design-build concept, which is not addressed in our current regulation, for their proposed wastewater treatment project.

In 2013, the city of Liberty proposed using the design-build method of procurement for a project being funded by Environmental Protection Agency's State and Tribal Assistance Grant which was administered by the Department. Federal procurement regulations at 40 CFR 35.2036 allow for federally funded projects to use a design-build method of procurement. Department staff have reviewed state statutes and were unable to locate a provision expressly allowing for this method of procurement with three exceptions;

Correctional and Penal Institutions section 221.500 RSMo
State Highway System section 227.107 RSMo.
Sewer Districts in Certain Counties section 249.425 RSMo

Furthermore, staff did not locate any statute that prohibited a public body from utilizing the design-build process.

Department staff met with representatives from the city of Liberty and the Design-Build Institute of America on February 10, 2014. The city has proposed using a performance based design-build method of construction for the proposed 5.1 MGD wastewater treatment facility. The city has evaluated three potential design-build processes; Bridging Based, Progressive, and Performance Based. Based on their evaluation, the city will be pursuing the Performance Based method.

The Performance Based design-build method focuses on accountability. The city will establish a performance matrix and the resulting design-build contract will be performance based. The design-build team will be accountable for the performance of the project. The city will utilize a request for qualifications/request for proposals process to retain the services of a design-build team. The city will evaluate proposals and select the design-build contractor based on best design (scope and function), best quality and quantity, completion time, and qualitative and quantitative merit as outlined in the project's request for proposal issued by the city. It is anticipated that a contract will be awarded in September 2014.

The city of Liberty retained the services of HDR Engineering, Inc. (HDR) to evaluate the future wastewater needs of the city. Currently, wastewater from the city of Liberty is treated by the city of Kansas City. The city of Kansas City is in the process of implementing a Long-Term Combined Sewer Overflow Control Plan, which will significantly impact utility rates in the city of Liberty over the next 30 years. In addition, the city of Kansas City's Long-Term Control Plan has a schedule of 2023 and 2024 for the upgrade of the Birmingham Pump Station and forcemain. Current capacity limitations at the pump station could result in sanitary sewer overflows in the city of Liberty sewer system and ultimately could result in enforcement action, and suspension of sewer extensions in the city. The city of Liberty commissioned a Utility Task Force to evaluate the future wastewater needs of the city. The 2012 HDR study, titled "Wastewater Treatment Facility Feasibility Study", recommended the city move forward with plans to construct its own wastewater treatment plant.

HDR submitted a facility plan titled "Liberty Wastewater Treatment Facility and Conveyance" on behalf of the city of Liberty on July 10, 2013. The proposed project consists of the construction of a 5.1 MGD biological nutrient removal activated sludge treatment facility and collection system improvements including a 42-inch interceptor sewer, forcemain, two (2) pump stations, two (2) excess flow holding basins, and seven (7) meter stations. The facility plan was reviewed and approved by the Department on April 3, 2014.

The city developed, and subsequently published a Request for Qualifications (RFQ) and formed a committee to evaluate the responses. The committee met several times and selected three design-build teams to receive the Request for Proposals (RFP). The city staff met with the selected teams and provided them with a draft RFP for their review. City staff then met with each team individually to obtain their concerns or recommendations to improve the RFP. A final RFP was provided to the selected teams and final proposals are due by the end of July and a final contract awarded in late August. The RFP will contain information regarding the evaluation and award process, the agreement and conditions, and project scope and criteria. As was done with the RFQ, the city will utilize a selection committee to review the proposals and make a recommendation of award to the city.

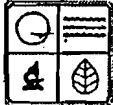
The city of Liberty has expressed their desire to finance their project through the Clean Water State Revolving Fund (CWSRF). Therefore, the city is requesting a variance from the regulations to allow the city to utilize the performance based design-build process and be eligible to receive CWSRF funding. This opportunity will enable Department staff to become better acquainted with the design-build process and potentially allow for this method of procurement on future projects. If the design-build process is productive, the Department may propose a regulation change to allow it routinely for certain projects.

Recommended Action: The Department recommends approving the requested variance from 10 CSR 20-4.040(13) and 10 CSR 20-4.040(19)(B) allowing the city of Liberty to utilize the design-build process outlined in the RFP issued by the city for project C295702-01. Staff believes that the utilization of the design-build process has the potential to provide a benefit to State Revolving Fund participants. The RFQ/RFP process being implemented by the city of Liberty is in accordance with the Federal Acquisition Regulations and provides for the appropriate level of competition that will enable a funding recipient to achieve a quality project at a reasonable cost. Furthermore it may enable the recipient to be in a position to adapt their wastewater treatment processes to changes in federal and/or state water quality standards in the future. The city of Liberty will be required to timely report to the Department changes, if any, in its RFP process and provide sufficient documentation to Department staff to demonstrate that the stated evaluation and selection criteria in the RFP were followed in selecting the design-build contractor.

Suggested Motion Language: I move to approve the requested variance to the State Revolving Fund General Assistance Regulation 10 CSR 20-4.040(13) and 10 CSR 20-4.040(19)(B).

Attachments:

- City of Liberty Variance Request
- 10 CSR 20-4.040(13) Procurement of Engineering Services
- 10 CSR 20-4.040(19)(B) Bidding Requirements



MISSOURI DEPARTMENT OF NATURAL RESOURCES
 MISSOURI CLEAN WATER COMMISSION
VARIANCE APPLICATION - 644.061 RSMo 1986

FOR DEPARTMENT USE ONLY	
DATE RECEIVED	

This application must be accompanied by a \$250.00 filing fee. Make your check, money order, or bank draft payable to the State of Missouri. Cash cannot be accepted. Mail to:

Director of Staff
 Missouri Clean Water Commission
 Missouri Department of Natural Resources
 Water Protection Program, Water Pollution Branch
 P.O. Box 176
 Jefferson City, MO 65102-0176

Please complete and return. Use separate sheets, if necessary.

COUNTY		PHONE WITH AREA CODE	FAX
Clay		816-439-4549	816-439-4513
ADDRESS	STREET	CITY	STATE ZIP
101 E. Kansas Street, Liberty, MO 64068			
FACILITY NAME			
City of Liberty - Wastewater Treatment Plant (proposed)			
ADDRESS	STREET	CITY	STATE ZIP
N/A			
2. NPDES PERMIT NUMBER (IF APPLICABLE)			
MO- 0137111 (draft)			
3. POINT OF DISCHARGE			
NW 1/4 SW 1/4 SEC 03 T 50N R 31W COUNTY CLAY			
NAME OF RECEIVING STREAM			
MISSOURI RIVER (P)			
Classification of receiving stream MISSOURI RIVER (P) (356) 303(d) List under Missouri Water Quality Standards 10 CSR 20-7.031.			
4. CITE SPECIFIC SECTION OF LAW OR REGULATION FOR WHICH A VARIANCE IS SOUGHT			
10 CSR 20-4.040(13) Procurement of Engineering Services and 10 CSR 20-4.040(19)(B) Bidding Requirements			
5. IF VARIANCE PROPOSED A CHANGE OF POLLUTANT LIMITATION, LIST THE TYPE, QUALITY AND QUANTITY OF POLLUTANT AND PROPOSE ALTERNATE LIMITATIONS USING APPROPRIATE LIMITS.			
N/A			
6. DESCRIBE THE WATERWATER FACILITY.			
<p>The City of Liberty is pursuing the design and construction of a new wastewater treatment plant via Design-Build procurement. The facility draft operating permit is based on a facility plan submitted by HDR on behalf of the City of Liberty. The following is the description provided in the draft operating permit:</p> <p>Outfall #001 - POTW - SIC #4952</p> <p>The use or operation of this facility shall be by or under the supervision of a Certified "B" Operator.</p> <p>Lift Station/Screening/Oxidation Ditches/Secondary Clarifiers/UV disinfection/Sludge handling.</p> <p>Design population equivalent is 39,600.</p> <p>Design flow is 5.1 MGD.</p> <p>Design sludge production is 2,190 dry tons/year.</p>			

7. STATE THE REASON A VARIANCE IS BEING SOUGHT BE SPECIFIC

The City of Liberty has proposed using a performance based design-build method of construction for the 5.1 MGD wastewater treatment facility. Liberty has evaluated potential design-build processes and has selected a Performance Based method which focuses on accountability. The city has established a performance matrix and the resulting design-build contract will be performance based to require the design-build team be accountable for the performance of the project. The city is using a Request for Qualifications/Request for Proposals process to retain the services of a design-build team. It is anticipated that a contract will be awarded in September 2014. Liberty would like to finance the project through the Clean Water State Revolving Fund (CWSRF). Current regulations require that the engineering services be procured separately from construction services. Liberty is requesting a variance from the applicable regulations to allow the city to utilize the performance based design-build process and be eligible to receive CWSRF funding. This opportunity will also allow Liberty and their consultants to work with MDNR staff to become better acquainted with design-build processes. The Liberty project Request for Qualifications is attached for reference.

7a WILL COMPLIANCE WITH THE APPROPRIATE LAW OR REGULATION RESULT IN UNREASONABLE COST WITHOUT COMPARIABLE PUBLIC BENEFIT?

Yes No

If the answer is yes, provide a cost of the operation:

Complying with the law or regulation \$ 149,259,276
 Using the proposed limitations \$ 109,269,241
 Cost Difference \$ 39,990,035

Include consultant reports and vendor information supporting these costs.

7b WILL THE LAW OR REGULATION RESULT IN ECONOMIC HARDSHIP FOR THE INDUSTRY?

Yes No

If yes, attach the following information:

Federal income tax returns for each of the three years immediately preceding the application; or
 an annual fiscal report; or
 a list of the principal officers and their salaries; or
 all income derived from the operation

This information may be submitted as confidential and the agency shall respect the confidential rights of the applicant

8 IF THIS IS AN EXISTING DISCHARGE, PROPOSE A COMPLIANCE SCHEDULE TO UPGRADE THIS FACILITY TO MEET THE APPLICABLE LAW OR REGULATION OR TO ELIMINATE THE DISCHARGES(S).

N/A

9. FURNISH THE NAMES OF ALL ATTORNEYS, CONSULTANTS, VENDORS, AGENTS AND ALL OTHER PARTIES WHO HAVE RENDERED SERVICE OR FURNISHED INFORMATION. INCLUDE THEIR ADDRESSES, TELEPHONE NUMBER, AND NATURE OF SERVICE OR INFORMATION PROVIDED.

Attorney - David Shorr, Lathrop & Gage, 314 E. High Street, Jefferson City, MO 65101, 573-761-5005; procurement guidance

Consulting Engineer - Stan Christopher, HDR, 3741 NE Troon Drive, Lee's Summit, MO 64064, 816-347-1100; Feasibility Study and Facility Plan

Consultant - Dave Shelton, DS-Strategic Project Acquisitions LLC, PO Box 14982, Lenexa, KS 66285, 913-558-1958; design-build project acquisition specialist

10 I believe that the above information is correct and complete

SIGNATURE <i>Brand Hess</i> BRIAND. HESS, Dir. of Utilities		DATE June 2, 2014
NOTARY PUBLIC FEMRO35FR 3PAL	STATE OF Missouri	COUNTY Clay
SUBSCRIBED AND SWORN BEFORE ME, 2 nd DAY OF June YEAR 2014		USE RUBBER STAMP IN CLEAR AREA BELOW.
NOTARY PUBLIC SIGNATURE <i>Janet Pittman</i>	MY COMMISSION EXPIRES Oct. 8, 2015	
NOTARY PUBLIC NAME (TYPED OR PRINTED) Janet Pittman		

MO 783 0181 (06-04)

JANET PITTMAN
 Notary Public, Notary Seal
 State of Missouri
 Clay County
 Commission # 11385178
 My Commission Expires October 08, 2015

VARIANCE APPLICATION
Summary of Section 644.061 RSMo 1986

1. Application form is complete.
2. \$250.00 filing fee paid.
3. The Executive Secretary shall investigate and make a recommendation to the Clean Water Commission within sixty days.
 - * Granted – go to 4, then 5.
 - * Denied – go to 4, then 6
4. Notify petitioner of staff decision and send notification to those people on the mailing list from the petitioners county.
5. Recommendations to grant variance:
 - A. The Clean Water Commission may grant the variance without a hearing, at which time a 30 day public notice must be allowed to receive public comments. If a petition is filed against the variance, a hearing must be held. Go to 7.
 - B. The Clean Water Commission may set the matter for hearing. Go to 7.
6. If the staff recommends denial, the petitioner may request a hearing within the 30 day notice period to be held before the Clean Water Commission. Go to 7.
7. A hearing will be held according to Section 644.068 and the Administrative Procedures Act.

CONDITIONS OF A VARIANCE

1. No variance shall be granted where the effect of a variance will permit the continuance of a condition that may unreasonably cause or contribute to adverse health effects on humans or upon fish or other aquatic life or upon game or other wildlife.
2. The commission shall exercise a wide discretion in weighing the equities involved and the advantages and disadvantages to the applicant and to those affected by water contaminants emitted by the applicant.
3. Variances shall be granted for such period of time and under such terms and conditions as shall be specified by the commission.



Request for Qualifications (RFQ) for Design-Build Procurement

City of Liberty Missouri
Waste Water Treatment Facility (WWTF)
February 28, 2014

City of Liberty
101 E Kansas Street
Liberty, MO 64068

PROJECT IDENTIFICATION

- A. Project Name: Waste Water Treatment Facility (WWTF), located at Liberty, Missouri.
- B. The Project Owner, hereinafter referred to as "Owner", means City of Liberty Missouri.
- C. Owner's Project Director: Brian Hess
 - 1. City of Liberty: Director of Utilities
 - 2. 101 E Kansas Street, Liberty MO 64068
 - 3. E-mail: BHESS@ci.liberty.mo.us
- D. Owner's Program Manager and RFP Consultant: David M Shelton
 - 1. DesignSense
 - 2. Lenexa, KS 66285
 - 3. E-mail: dms@designsense-inc.com

PROJECT DESCRIPTION

- A. The City of Liberty Missouri currently conveys its collected wastewater to the City of Kansas City Missouri for treatment. In 2011, Liberty commissioned a feasibility study to consider processing its own wastewater via an independently owned and operated wastewater treatment facility and collection system. Liberty hired HDR Engineering, Inc. (HDR) to complete the Feasibility Study (RE: HDR Document No. 170827).

The study made clear that in order for Liberty to control, predict, and secure wastewater treatment for its constituents, now and for decades to come, it needed to design, build and operate a City of Liberty owned facility. The HDR Study explored and detailed various metrics of need, and multiple options to satisfy the needs for wastewater collection and treatment by the City.

Upon full consideration of wastewater treatment options, Liberty chose to secure its own independent treatment and collection facilities. In 2013 a bond initiative was put before Liberty voters, and was overwhelming supported. On August 6, 2013, Liberty voters approved, by 91 percent, the issuance of up to \$95 million in bonds for the planning, management, administration, design, and construction of a wastewater treatment facility and improvements to the conveyance system.

City of Liberty officials have been exploring ways to provide the best, most cost-effective wastewater treatment service for Liberty customers now and in the future. The City of Liberty City Council and staff are committed to:

- Cost-effective service
- Predictable treatment costs
- Ensuring capacity for growth
- Minimizing cost adjustments due to regulatory changes
- Controlling and protecting Liberty's future

To meet these goals, Liberty considered various approaches for "Project Acquisition". As all Project Delivery Systems available to Liberty have varying measures of practicality based on regulatory impacts, financing options, owner knowledge & experience, market knowledge & experience, and public acceptance, a "performance-based" Project Delivery System becomes well suited.

Performance-Based, because project goals moved to a consideration of the "triple bottom-line", and identified sustainability, "green", and operational goals underlying the paramount need for wastewater collection and treatment. With these related goals in mind, and based on prior experience by staff with design-build delivery, a "performance-based design-build" strategy is being used.

- B. Additional summary details may be found in the "Wastewater Treatment Facility Feasibility Study", dated February 2012, which is available at the City's website.
- C. Contract Scope: Design, construction, and design-build management.
- D. Contract Terms: Lump sum (fixed price, stipulated sum), with incentives.
- E. Best Practices: The Owner intends to follow, to the largest extent practical, design-build Best Practices as currently identified by the Design-Build Institute of America (DBIA.org).

PROCUREMENT TIMETABLE (SCHEDULE)

- A. Phase 1 (RFQ):
 - 1. RFQ Documents and additional information available on website at: www.ci.liberty.mo.us/wwtf.
 - 2. Pre-Qualification Submission Briefing: To Be Announced (estimated date March 7, 2014)
 - i. The RFQ, and subsequent steps for the procurement process will be presented and discussed.
 - 3. Last Request for Information Due: 7 days prior to due date of RFQ Response.
 - 4. RFQ Response Due Date: March 31, 2014, before 4 PM local time at Owner's office
 - 5. Notice of Acceptance/Rejection of Qualifications: Within two weeks after due date.
- B. Phase 2 (RFP):
 - 1. RFP Documents Available: To "short-listed" entities by April 15, 2014.
 - 2. Anticipated Proposal Due Date: July 30, 2014, before 4 PM local time.
 - 3. Individual Pre-Award Interviews: Schedule To Be Determined.
 - 4. Desired Final Completion Date: Not later than December 31, 2016.
 - 5. Completion date is critical due to requirements of Owner's operations.
 - 6. The Owner reserves the right to change the schedule or terminate the entire procurement process at any time.

REQUEST FOR QUALIFICATIONS (RFQ)

- A. Availability of Documents: Complete sets of RFQ documents may be obtained from the Owner's website: www.ci.liberty.mo.us/wwtf
- B. The RFQ is the first of a 2-Phase Evaluation and Selection Process. This RFQ will be followed by publication of a Request for Proposals (RFP) to no more than three design-builders as determined by the RFQ process.
- C. Qualifications Statement Submission (RFQ Response): Date as indicated in schedule above.
 - 1. Location: The office of the Owner.
 - 2. Number of Copies: 8 original copies and one (1) electronic, reproducible in PDF format of all materials.
- D. Owner will pay no compensation for submission of qualifications statements (RFQ Response).
- E. Acceptance and Rejection: Owner reserves the right to pre-qualify any or all proposers or reject any or all proposers as unqualified, including without limitation the right to reject any or all nonconforming, nonresponsive, unbalanced, or conditional qualifications. Owner reserves the right to reject the qualifications of any proposer if Owner believes that it would not be in the best interest of the project to make an award to that proposer, whether because the proposer is unqualified or of doubtful financial ability or fails to meet any other pertinent standard or criteria established by Owner.
- F. Agreement to Prepare Priced Proposal: If a proposer's qualifications are accepted, the proposer will be expected to execute an agreement within 7 days after the date of receipt of the Draft Request for Proposal (RFP), to prepare a priced proposal for the design and construction of the

project in accordance with the final Request for Proposal (RFP) to be issued during the proposal phase, said agreement to include:

1. Owner's commitment to provide information in a timely manner, to employ qualified jurors, and to evaluate the proposals in accordance with the published criteria.
2. Owner's commitment to compensate proposers who submit valid proposals, in an amount commensurate with the requirements of the RFP, in the form of an honorarium.
3. Proposer's commitment to abide by the rules of the RFP and to avoid contact with Owner and Owner's evaluators, except as provided in the RFP.
4. Proposer's provision of a bond or security deposit in the amount of 5 percent of the honorarium amount.

THE EVALUATORS

- A. The Evaluation and Selection Committee (ESC) will make evaluation and recommendations for the "Shortlist" of design-builders to receive the Request for Proposals (RFP) documents for the second phase of the procurement process. A Technical Committee will provide technical assistance and direction, as requested by the ESC.
- B. ESC Jury Members:
 1. Brian Hess, Project Director
 2. Mike Hagan, Councilperson
 3. Paul Jenness, Councilperson
 4. Jeff Watt, Councilperson
 5. Bill Taylor, Utilities Taskforce Member
 6. Shawna Funderburk, Assistant to the City Administrator
- C. Technical Committee Members:
 1. David Shelton, Program Manager
 2. Kevin Graham, Councilperson
 3. Dana Ulmer, City of Liberty Production & Treatment
 4. Brent Ellison, City of Liberty Operations & Construction
 5. Steve Hansen, City of Liberty Public Works
 6. Dan Estes, Assist. City Administrator/Finance Director
 7. Chris Wilson, Parks and Open Space Manager
 8. Bob Veenstra, Technical Engineer
- D. Contact with Owner's ESC Jury and Technical Committee members is prohibited: Prospective proposers are prohibited from discussing the RFQ, the RFP, and the project with any member of the jury or committee (other than that as allowed by the terms and procedures of this RFQ); such contact will be grounds for disqualification.
- E. Interviews/Presentations: Optional, at ESC's discretion.
- F. Notice of Award: A public announcement of the successful proposers will be made.
- G. Owner may conduct such other investigations as Owner deems necessary to assist in the evaluation of any proposal and to establish the responsibility, qualifications, and financial ability of proposers, proposed design professionals, subcontractors, suppliers, and other individuals and entities to perform the work in accordance with the Contract Documents.
- H. Owner will conduct a debriefing after award at the request of any unsuccessful RFQ proposer.

SELECTION CRITERIA

- A. Qualifications Criteria: To demonstrate qualifications to perform the work, each proposer must submit written evidence, as called for below.

1. The individuals or entities that will be providing design professional services (as Designer-of-Record) must be listed in the response.
 2. **Provide a Cover Letter** (maximum 2 pages), describing the proposers interest in the City of Liberty, waste water treatment design and construction, design-build delivery, and achievement of "triple bottom line" objectives. Specifically, the letter should touch on issues such as:
 - a. Ongoing Public Relations capability concerning project progress
 - b. Navigating an otherwise "new project delivery process" with governing bodies such as MDNR
 - c. Implementing "performance-based", as opposed to "prescriptive-based" design-build
 - d. Maximizing the inherent qualities of "integrated project delivery"
 - e. Achieving social and environmental objectives
- B. Minimum Qualifications Required: demonstrate the following (organized in 5 Tabs as follows):**
- Tab 1.** Limit 1 page total this tab: Licensure of all design professionals (designer of record) in Missouri; Licensure of all business entities, for all applicable jurisdictions (including the State of Missouri, Clay County Missouri, and the City of Liberty).
- Tab 2.** Limit 4 pages total this tab: Minimum Experience in "Waste Water Treatment" and "Collection System Improvement/Rehabilitation" Projects: Similar size, character, and scope.
- a. Design-Builder Team: up to 2 projects.
 - i. One each: "waste water treatment" and "collection system"
 - ii. Collection System experience includes "pumping"
 - b. Construction Team: 2 projects.
 - i. One each: "waste water treatment" and "collection system"
 - ii. Collection System experience includes "pumping"
 - c. Design Team: 2 projects.
 - i. One each: "waste water treatment" and "collection system"
 - ii. Collection System experience includes "pumping"
 - d. As wastewater design-build experience is critical to the success of the project, Teams with demonstrated past-performance shall be given preference. Contact Information for each referenced project: project name, year completed, contact name, and contact phone number.
- Tab 3.** Limit 4 pages total this tab: Minimum Experience in Design-Build Method of Contracting:
- a. Design-Builder Team: up to 2 projects.
 - b. Construction Team: 2 projects.
 - c. Design Team: 2 projects.
 - d. Contact Information for each referenced project: project name, year completed, contact name, and contact phone number.
- Tab 4.** Limit 1 page total this tab: Bonding and Insurance Capacity: in accord with Public Projects mandates.
- Tab 5.** Limit 8 pages total this tab: Team Composition: provide detailed information demonstrating roles, responsibilities, and authorities for members of the design-builder Team, including:

- a. Design-Builder-of-Record
 - b. Design-Build Point-of-Contact
 - c. Lead Design Manager
 - d. Lead Construction Manager
 - e. Construction Superintendent
 - f. Other Key dedicated construction entities (subcontractors)
 - g. Designers-of-Record:
 - i. Architect, including Landscape and Site Design
 - ii. Civil Engineer
 - iii. Waste Water Engineer
 - iv. Electrical/Controls Engineer
 - v. Energy Engineer (sustainability)
 - vi. Other dedicated design and key professionals
- C. Additional Qualifications Criteria (TAB 6): The following criteria will be used to distinguish between otherwise apparently equivalent qualifications, in the order given:
1. Design and construction excellence, demonstrated by project, owner, and industry references.
 2. Specific experience of the design-build team members in the applicable building type.
 3. Actual design-build education and experience as demonstrated by DBIA Designated Professional certification (or equal), as opposed to quasi design-build, such as developer projects, CM at Risk, or contractor GMP's.
 4. Experience of team members working together on the same design-build projects.
 5. Financial strength and stability of proposer.
 6. Quality of technical and managerial staff and organization.
 7. Degree of local professional participation.
 8. Quality of individuals proposed for key positions.
 9. Construction management plan, including time, cost, and quality control.
 10. Resources available to the project, including staff, equipment, and capital.
 11. On-time completion performance.

QUESTIONS

- A. All questions about the meaning or intent of the Documents are to be directed to the Owner 's RFP Consultant via email: dms@designsense-inc.com
- B. Interpretations or clarifications considered necessary by the Owner in response to such questions will be issued by Addenda, and posted on the Owner's website at: www.ci.liberty.mo.us/wwtf.
- C. Questions received later than the date indicated above may not be answered.
- D. Only questions answered by formal written Addenda and posted will be binding; oral and other interpretations or clarifications will be without legal effect.
- E. Addenda may also be issued to modify the RFQ Documents as deemed advisable by the Owner

BRIEFINGS (Time & location To Be Determined)

- A. Representatives of the Owner will be present to discuss the project.
- B. Owner will post at their website, for the public, such Addenda as the Owner considers necessary in response to questions arising at the conference.
- C. Oral statements made at briefings may not be relied upon and will not be binding or legally effective unless formally issued as addenda to this RFQ document.
- D. Attendance to Briefings is strongly encouraged, but not required. Non-attendance will not adversely impact the RFQ Respondent.
- E. Following the live RFQ Briefing, a video recording of the RFQ Briefing will be posted to the City of Liberty's website for public viewing.

QUALIFICATION SUBMITTAL FORMAT

- A. Materials larger than 8-1/2 x 11 inches will not be accepted.
- B. References (Tabs 2 & 3): Maximum of 16, verified, with contact name, phone number; notify contact person that Owner may request information.
- C. Beyond Tab 5, Resumes (for Tab 6): Maximum of 10 persons; maximum of 1 page each.
- D. For Tab 6: Standard printed brochures are preferable to custom-prepared graphics.
- E. All materials submitted will become the property of the Owner.
- F. Owner reserves the right to publish or display publicly all exhibits.

DISQUALIFICATION

- A. Any proposer may be disqualified due to breach of RFQ procedures, modification of response after submission, or withdrawal of response after submission.

END



be in accordance with generally accepted government accounting principles and practices, regardless of the source of funds.

2. An acceptable accounting system includes books and records showing all financial transactions related to the construction project. The system must document all receipt and disbursement transactions. It also must group them by type of account (for example, asset, revenue, expense, etc.) and by individual expense account (for example, personnel salaries and wages, subcontract costs, etc.).

A. The recipient shall maintain books, records, documents, and other evidence and accounting procedures and practices, sufficient to reflect properly the amount, receipt, and disposition by the recipient for all assistance received for the project and the total costs of the project of whatever nature incurred for the performance of the project for which the assistance was awarded. Some of the minimum standards for an adequate accounting system are—

(I) The accounting system should be on a double entry basis with a general ledger in which all transactions are recorded in detail or in summary from subordinate accounts;

(II) Recording of transactions pertaining to the construction project should be all inclusive, timely, verifiable, and supported by documentation;

(III) The system must disclose the receipt and use of all funds received in support of the project;

(IV) Responsibility for all project funds must be placed with either a project manager or trust agent;

(V) Responsibility for accounting and control must be segregated from project operations. The accounting system and related procedures should be documented for consistent application;

(VI) The proprietary fund must use the modified accrual or accrual basis of accounting as it provides an effective measure of costs and expenditures;

(VII) Inventories of property and equipment should be maintained in subordinate records controlled by the general ledger and should be verified by physical inventory at least biennially;

(VIII) The accounting system must identify all project costs and differentiate between eligible and ineligible costs;

(IX) Accounts should be set up in a way to identify each organizational unit, function, or task providing services to the construction project;

(X) An important project management objective of the system is the derivation

of information regarding actual versus budgeted costs by project task and performing organization; and

(XI) Financial reports should be prepared monthly to provide project managers with a timely, accurate status of the construction project and costs incurred.

(B) Annual Audits.

1. The recipient shall request an audit of the system for the preceding fiscal year to be made by a certified public accountant or firm of certified public accountants employed for that purpose.

A. The annual audit will cover in reasonable detail the operation of the proprietary system during the fiscal year.

B. Within one hundred eighty (180) days after the end of the recipient's fiscal year, a copy of the annual report will be submitted to the department.

C. Annual audits shall be required as long as the recipient is in loan repayment status.

2. As required by federal law, the recipient must comply with the provisions of OMB Circular A-133 governing the audit of state and local governments.

A. OMB Circular A-133 states if the recipient receives five hundred thousand dollars (\$500,000) or more in the aggregate during any fiscal year from disbursements from federal sources, including the SRF program, the recipient will complete an audit of its system records for the fiscal year.

B. A copy of the recipient's annual audit, including all written comments and recommendations of the accountant, will be furnished to the department within the time period as provided in OMB Circular A-133.

(12) Architectural or Engineering Contracts. The following represents the minimum requirements for the architectural or engineering contracts:

(A) General Requirements for Subagreements.

1. Be necessary for and directly related to the accomplishment of the project work.

2. Be a lump sum or cost plus fixed fee contract in the form of a bilaterally executed written agreement.

3. Be for monetary consideration.

4. Not be in the nature of a grant or gift.

5. State a time frame for performance.

6. State a cost which cannot be exceeded except by amendment.

7. State provisions for payment; and

(B) The nature, scope, and extent of work to be performed during construction should include, but not be limited to, the following:

1. Preparing an operation and maintenance manual if required by the department

and as defined in subsection (23)(A);

2. Assisting the recipient in bid letting;

3. Assisting the recipient subdivision in reviewing and analyzing construction bids and making recommendations for award; and

4. Inspecting during construction to ensure conformance with the construction contract documents unless waived by the department.

(C) Executed Engineering Contract Submittal. The final approved executed engineering contract must be submitted prior to the first reimbursement request.

(13) Procurement of Engineering Services. The procurement of engineering services shall be in accordance with sections 8.285 through 8.291, RSMo.

(14) Public Participation. The public must be allowed an opportunity to exchange ideas with the applicant during project development. Public participation must be preceded by timely distribution of information and must occur sufficiently in advance of decision making to allow the recipient to assimilate public views into action. At a minimum, the recipient must provide the opportunities for public participation described in the following:

(A) A public meeting shall be conducted to discuss the alternative engineering solutions;

(B) Prior to approval of the draft user charge ordinance, a public hearing, in accordance with section 250.233, RSMo, shall be conducted to specifically address the proposed user charge rates. Public notice of the hearing shall be published at least thirty (30) days prior to the meeting date. The recipient shall prepare a transcript, recording, or other complete record of the proceeding and submit it to the department and make it available at no more than cost to anyone who requests it. A copy of the record should be available for public review; and

(C) Public participation requirements for environmental review are contained in 10 CSR 20-4.050(2)(B)2.

(15) Design. Design of the project will be in conformance with accepted engineering practices and the current *Waste Treatment Design Guide*, 10 CSR 20-8. A preliminary design submittal, including the design criteria and facilities layout sheet, may be required at approximately the twenty percent (20%) design stage.

(16) Intermunicipal Agreements. Prior to closing, if the project serves two (2) or more public entities, the applicant shall submit executed agreements or contracts between the public entities for the financing, construction,



as sources of supplies, construction, and services. Affirmative steps shall include the following:

1. Including qualified small, minority, and women's businesses on solicitation lists;
2. Ensuring that small, minority, and women's businesses are solicited whenever they are potential sources;
3. Dividing total requirements, when economically feasible, into small tasks or quantities to permit maximum participation of small, minority, and women's businesses;
4. Establishing delivery schedules, where the requirements of the work permit, which will encourage participation by small, minority, and women's businesses;
5. Using the services and assistance of the Small Business Administration and the Office of Minority Business Enterprise of the United States Department of Commerce as appropriate; and
6. If the contractor awards subagreements, requiring the subcontractor to take the affirmative steps in paragraphs (18)(J)1.-5. of this rule;

(K) Debarment/Suspension. The recipient agrees to deny participation in services, supplies or equipment to be procured for this project to any debarred or suspended firms or affiliates in accordance with Executive Order 12549. The recipient acknowledges that doing business with any party listed on the List of Debarred, Suspended or Voluntarily Excluded Persons may result in disallowance of project costs under the assistance agreement;

(L) Right of entry to the project site must be provided for representatives of the Missouri Department of Natural Resources, Clean Water Commission, and the EIARA so they may have access to the work wherever it is in preparation or progress. Proper facilities must be provided for access and inspections;

(M) The specifications must include the following statement: "The owner shall make payment to the contractor in accordance with section 34.057, RSMo."; and

(N) Buy American Provision. For ARRA-funded projects, the specifications must include the following statement or a similar statement in accordance with federal guidance: "All iron, steel, and manufactured goods used in this project must be produced in the United States unless a) a waiver is provided to the owner by the Environmental Protection Agency or b) compliance would be inconsistent with United States obligations under international agreements."

(19) Construction Equipment and Supplies Procurement. This section describes the min-

imum procurement requirements which the recipient must use under the SRF program.

(A) Small Purchases. A small purchase is the procurement of materials, supplies, and services when the aggregate amount involved in any one (1) transaction does not exceed one hundred thousand dollars (\$100,000). The small purchase limitation of one hundred thousand dollars (\$100,000) applies to the aggregate total of an order, including all estimated handling and freight charges, overhead, and profit to be paid under the order. In arriving at the aggregate amount involved in any one (1) transaction, all items which should properly be grouped together must be included. Department approval and a minimum of three (3) quotes must be obtained prior to purchase.

(B) Bidding Requirements. This subsection applies to procurement of construction equipment, supplies, and construction services in excess of one hundred thousand dollars (\$100,000) awarded by the recipient for any project. No contract shall be awarded until the department has approved the formal advertising and bidding.

1. Formal advertising.

A. Adequate public notice. The recipient will cause adequate notice to be given of the solicitation by publication in newspapers of general circulation beyond the recipient's locality (preferably statewide), construction trade journals, or plan rooms, inviting bids on the project work and stating the method by which bidding documents may be obtained or examined.

B. Adequate time for preparing bids. A minimum of twenty-one (21) days shall be allowed between the date when public notice, publication, insertion, or document available in a plan room is first published or provided and the date by which bids must be submitted. Bidding documents shall be available to prospective bidders from the date when the notice is first published or provided. Recipients are encouraged to directly solicit bids from prospective bidders.

2. Bid document requirements and procedure. The recipient shall prepare a reasonable number of bidding documents (invitations for bids) and shall furnish them upon request on a first-come, first-served basis. The recipient shall maintain a complete set of bidding documents and shall make them available for inspection and copying by any party. The bidding documents shall include, at a minimum:

A. A complete statement of the work to be performed or equipment to be supplied and the required completion schedule;

B. The terms and conditions of the contract to be awarded;

C. A clear explanation of the method of bidding and the method of evaluation of bid prices and the basis and method for award of the contract or rejection of all bids;

D. Responsibility requirements and criteria which will be employed in evaluating bidders;

E. The recipient shall provide for bidding by sealed bid and for the safeguarding of bids received until public opening;

F. If a recipient desires to amend any part of the bidding documents during the period when bids are being prepared, addenda shall be communicated in writing to all firms which have obtained bidding documents in time to be considered before the bid opening time. All addenda must be approved by the department prior to award of the contract;

G. A firm which has submitted a bid shall be allowed to modify or withdraw its bid before the time of bid opening;

H. The recipient shall provide for a public opening of bids at the place, date, and time announced in the bidding documents. Bids received after the announced opening time shall be returned unopened;

I. Award shall be to the lowest, responsive, responsible bidder.

(I) After bids are opened, the recipient shall evaluate them in accordance with the methods and criteria set forth in the bidding documents.

(II) The recipient shall award contracts only to responsible contractors that possess the potential ability to perform successfully under the terms and conditions of a proposed contract. A responsible contractor is one that has financial resources, technical qualifications, experience, organization, and facilities adequate to carry out the contract or a demonstrated ability to obtain these. The recipient may reserve the right to reject all bids. Unless all bids are rejected for good cause, award shall be made to the low, responsive, responsible bidder, the recipient shall have established protest provisions in the specifications. These provisions shall not include the department as a participant in the protest procedures.

(III) If the recipient intends to make the award to a firm which did not submit the lowest bid, the recipient shall prepare a written statement before any award, explaining why each lower bidder was deemed nonresponsive or nonresponsive and shall retain the statements in its files.

(IV) The recipient shall not reject a bid as nonresponsive for failure to list or otherwise indicate the selection of subcontractor(s) or equipment unless the recipient has clearly stated in the solicitation documents

