



**PETITION FOR RELIEF FROM BIDDING AS A PROCUREMENT METHOD
(INDEPENDENT CONTRACTOR)**

Agency: **Ellisville State School**

Agency Contact Name: **Peter A. Stewart III, J.D., Contract Analyst**

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Date Form Submitted to PPRB's OPSCR staff: **September 13, 2018**

Requested PPRB Meeting Date: **October 18, 2018**

RFx Number:

Briefly describe the proposed scope of work for the procurement:

The Ellisville State School (ESS) issues this Request for Qualifications (RFQ), hereafter referred to as the RFQ, to solicit offers from responsible offerors to provide nursing services to the persons served at the ESS. The contract will be for a term of one (1) year with four (4) optional renewals. The RFQ will result in the award of one (1) contract. The contract will pay the winning Contractor \$33.00 per hour for Licensed Practical Nursing services and \$39.00 per hour for Registered Nursing services as approved by the ESS. Nursing services (both Registered Nurse and Licensed Practical Nurse) shall be for A shift (6:00 a.m. until 2:30 p.m.), B shift (2:00 p.m. until 10:30 p.m.), and C shift (10:00 p.m. until 6:30 a.m.). Estimated quantities shall range between 150-160 shifts per month over the period, more or less, but no quantities are guaranteed. Other times may be required to provide services for Community Programs.

1. Petition for relief from bidding (the use of Invitation for Bids) as a procurement method may be requested for one of the reasons listed below. Check the reason that prevents your agency from using Invitation for Bids (IFB) as a procurement method for this service:

- ☐ Federal and/or state law has established limitations on the use of competitive bidding for the personal or professional contracts the agency is seeking to procure;
- ☐ The agency is required to hire professionals whose members are prohibited from bidding by the rules of professional conduct promulgated by the regulating agency or agencies for that professional; or

X Competitive bidding through the use of an Invitation for Bids (IFB) is not practicable and advantageous to the business of the agency.

2. Provide a detailed explanation of the reason(s) why a procurement method other than bidding (IFB) is requested (attach supporting documentation including, but not limited to, any identified laws, orders, rules, or regulations issued by a governing body):

- A. The invitation for bid ("bidding") procurement process has a singular focus on price as the determining factor in awarding a contract. ESS's nursing contract will require evaluation on factors other than price alone.**
- B. Focus on price does not offer flexibility on selecting a nursing vendor. Ellisville State School (ESS) requires the ability to be able to put a significant weight on a nursing vendor's ability to render care to persons with intellectual and developmental disabilities in a non-traditional medical setting that constitutes a living arrangement**



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for the persons served. The flexibility to not rely on price as a determining factor is critical for ESS.

- C. ESS seeks to evaluate the offers submitted by potential candidates for the nursing contract based on their having an adequate number of nurses under their employ to adequately provide ESS's needs for nurses. This is a primary reason for the decision to procure the nursing staffing contract through a Request for Qualifications (RFQ) and not an Invitation for Bids (IFB). Focus on price would not tell us if they actually currently have on staff an adequate number of properly licensed nurses that they could provide.
- D. The proper candidate will have an adequate number of nurses available; knowledge of how many other facilities, agencies and other clients the candidates are currently obligated to serve gives ESS knowledge of a candidate's true ability to fulfill ESS's contract to the standards ESS expects.
- E. Nursing involves certain and particular relative abilities that must be evaluated before awarding a contract. Technical and professional experience and expertise is a priority at ESS because of the persons served have a specific type of need not found in traditional medical/clinical settings.
- F. The type of need to be filled under the ESS contract does not involve artistic values, but it does require the aesthetic value of care for persons with intellectual and developmental disabilities. In short, many people do not have the human, emotional quotient required to give care to ESS's persons being served. ESS will require MANDT training; this is not traditional and will be in addition to the aesthetic quality of human caring necessary for work in the ESS environment.
- G. The types of services required by ESS will require the use of comparative judgmental evaluations to evaluate them adequately, namely, the performance of the candidates' nursing staff is to be evaluated by way of comparison to state and national standards, and the standards of state and national nursing board criteria. Further, ESS must compare the effectiveness of the candidates on its own standards as well. What candidate, in ESS's judgment, can provide the quality of care ESS desires compared to the standards ESS has set for itself, will be a determining factor also.
- H. Quality, availability and capability are in fact overriding factors for awarding the procurement contract for nursing in relation to price. The contract is for nursing services to persons with unique needs. The delivery of quality care consistently depends on the availability of qualified nurses more so than the price at which those nurses are retained. Therefore, quality, capability and availability will be more important than price, such that the candidate that focuses on having the lowest price



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may not be able to provide the service required, given the population to be served, or, if it can, ESS must be able to properly evaluate the candidate to ensure that it can.

- I. Prior procurements by ESS for nursing services indicate that a Request for Qualifications procurement process would be advantageous because candidates were not made aware of the true desired needs and goals of the ESS. ESS received bids that, though thorough as an Invitation for Bids (IFB), the IFB process totally failed to convey the unique, aesthetic needs of ESS and the ESS's true level of importance it places on consistency and the continuity of care for its persons served.
- J. Finally, ESS does feel that the marketplace will respond better to a solicitation permitting not only a range of alternative proposals but evaluation and discussion of them before making the award, especially with regard to making candidates of the special needs, requirements and relational expertise the ESS requires for its persons served. ESS feels it is necessary to have the marketplace made aware that price alone is not the highest priority to ESS. The providers in the marketplace therefore deserve a fair opportunity to focus their business models towards the need to provide care aimed at the unique population of persons served at ESS and other similar facilities. Making use of the RFQ instead of an IFB greatly facilitates that purposeful goal.

[Pursuant to House Bill 1109 (Regular Session 2017) use the following factors to provide a detailed explanation of the practicable and advantageous determinations;

- The need for flexibility;
- The type of evaluations that will be needed after offers are received;
- Whether the evaluation factors involve the relative abilities of offerors to perform, including degrees of technical or professional experience or expertise;
- Whether the type of need to be satisfied involves weighing artistic and aesthetic values to the extent that price is a secondary consideration;
- Whether the types of supplies, services or construction may require the use of comparative judgmental evaluations to evaluate them adequately; and
- Whether prior procurements indicate that a Request for Proposals may result in more beneficial contracts for the state.
- Whether quality, availability or capability is overriding in relation to price in procurements for research and development, technical supplies or services;
- Whether the initial installation needs to be evaluated together with later maintenance and service capabilities and what priority should be given to these requirements in the best interests of the state; and
- Whether the marketplace will respond better to a solicitation permitting not only a range of alternative proposals but evaluation and discussion of them before making the award.
- Whether federal law or federal court order has established limitations on the use of competitive bidding for the personal or professional contracts the agency is seeking to procure; or



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- The agency is required to hire professionals whose members are prohibited from bidding by the rules of professional conduct promulgated by the regulating agency or agencies for that profession; or
- The agency can establish that the use of competitive bidding will be counterproductive to the business of the agency.]

ESS is requesting to competitively procure for nursing services through an RFQ because price is not the most important or singular evaluation factor of the procurement. Additionally, the evaluation factors ESS has chosen to consider for evaluating competitive bids will take into consideration the relative abilities of offerors to perform the contract, including degrees of technical and professional experience and expertise.

3. If petition for relief from bidding is granted, a competitive procurement procedure for selecting the vendor must be established. The PPRB may audit your records to ensure competitive procedures were used to procure the required service. If the request for petition for relief from bidding (IFB) is granted, please indicate the method of procurement that will be used:

- ☐ Request for Proposals
☒ **Request for Qualifications**
☐ Other (Please explain):

4. When will the procurement be issued and/or advertised? **October 4, 2018.**
5. When will the vendor(s) be selected? **November 9, 2018.**
6. How many contract(s) will be issued as a result of the procurement? **One (1) contract will be issued.**
7. What evaluation factors will be used and what is the weight/percentage of each factor?

The following shall be the evaluation factors that will be used in awarding the contract with the associated weight and percentage factors that will be applied.

I. Evaluation Factors:

A. Written Proposal Addressing Technical Factors: 20%.

- (i) Does the offeror demonstrate a clear understanding of the scope of work needed?
- (ii) Is the offeror's proposal or qualification complete and responsive to the RFQ requirements?
- (iii) Does the offeror demonstrate knowledge of nursing protocols and relational expertise with persons with intellectual and developmental disabilities?
- (iv) Has the past performance of the offeror's proposed staffing system been documented?
- (v) Does the offeror's proposal or qualification use new or different methods for providing ESS's staffing requirements for nursing services?



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B. Continuity of Care: 20%.

- (i) Does the offeror have adequate nursing staff to ensure continuous nursing care, without interruption due to unexpected (employee) illnesses and unexpected and/or unexcused absences?
- (ii) Does the offeror have an adequate and appropriate number of nursing staff that have been continuously employed for three (3) or more years, continuously, with the offeror's firm/agency?
- (iii) Does the offeror have experience with similar state institutions serving persons with intellectual and developmental disabilities?

C. Cost Factors: 35 Points (35%) designated evaluation weight factor.

- (i) Does offeror accept ESS's set price?
- (ii) Is the offeror financially strong enough to perform the contract at ESS's price, capable of providing adequate assurances of performance?
- (iii) Does the offeror fully and adequately understand the costs of performing ESS's contract?
- (iv) Does the offeror's qualifications include quality control and assurance programs?
- (v) Does the offeror have an adequate financial resource history and track record?

D. Management Factors (Factors that will require the identity of the offeror to be revealed must be submitted separately from other factors): 20%.

- (i) Does the offeror document industry or program experience?
- (ii) Is there a project management plan?
- (iii) Does the offeror have a record of poor business ethics?
- (iv) Does the offeror have a track record of reliability for providing nursing services?
- (vi) Does the offeror have a history proper compliance with regulations and standards in providing nursing services?

E. References and Recommendations: 5%.

- (i) How many references does the offeror have?
- (ii) Are prior and current customers of the offeror satisfied with their services?
- (iii) Do other similar agencies recommend the offeror and its services?

[Pursuant to House Bill 1109 (Regular Session 2017) use the following factors, *as appropriate* to individual circumstances to draft evaluation factors for the procurement;
Technical factors (Proposed methodology)



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- (a) Does the offeror's proposal or qualification demonstrate a clear understanding of the scope of work and related objectives?
- (b) Is the offeror's proposal or qualification complete and responsive to the specific RFP or RFQ requirements?
- (c) Has the past performance of the offeror's proposed methodology been documented?
- (d) Does the offeror's proposal or qualification use innovative technology and techniques?

Cost factors (Factors must be submitted separately from other factors unless specifically approved by the Public Procurement Review Board):

- (a) Cost of goods to be provided or services to be performed:
 - a. Relative cost: How does the cost compare to other similarly scored proposals or qualifications?
 - b. Full explanation: Is the price and its component charges, fees, etc. adequately explained or documented?
- (b) Assurances of performance:
 - a. If required, are suitable bonds, warranties or guarantees provided?
 - b. Does the proposal or qualification include quality control and assurance programs?
- (c) Offeror's financial stability and strength: Does the offeror have sufficient financial resources to meet its obligations?

Management factors (Factors that will require the identity of the offeror to be revealed must be submitted separately from other factors):

- (a) Project management:
 - a. How well does the proposed scheduling timeline meet the needs of the soliciting agency?
 - b. Is there a project management plan?
- (b) History and experience in performing the work:
 - a. Does the offeror document a record of reliability of timely delivery and on-time and on-budget implementation?
 - b. Does the offeror demonstrate a track record of service as evidenced by on-time, on-budget, and contract compliance performance?
 - c. Does the offeror document industry or program experience?
 - d. Does the offeror have a record of poor business ethics?
- (c) Availability of personnel, facilities, equipment and other resources:
 - a. To what extent does the offeror rely on in-house resources vs. contracted resources?
 - b. Are the availability of in-house and contract resources documented?
- (d) Qualification and experience of personnel:
 - a. Documentation of experience in performing similar work by employees and when appropriate, sub-contractors?
 - b. Does the offeror demonstrate cultural sensitivity in hiring and training staff?

- 8. What is the anticipated term of the contract? 02/20/2019 to 01/19/2020. (One (1) year).
- 9. Will the contract include renewal terms? **Yes**. If yes, how many? **Four (4) optional renewals**.



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What is the anticipated total amount of funds expended under the contract? **\$2,000,000.00**. Will the contract negate the need for an existing PIN/WIN? **No**. If so, please explain how the contract is more cost effective: **N/A**

Please indicate whether procurement is associated with any new, continued, expanded, or terminated program(s): **No**.

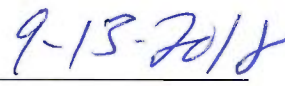
10. Please provide the names of the Evaluation Committee members: **Dr. Rex Applewhite, Medical Administration Director; Chief Nurse Carol Dykes; Dr. Kenneth O'Neal, Assistant Director; Stephen Smith, Human Resource Director; Cindy Cooley, Units Director.**

11. Has relief from bidding of this service been previously requested? ☒ No ☐ Yes

If "Yes" please explain and attach the previous approval or denial. If denied, please explain why this request is different. What was the date of the previous PPRB meeting when this was considered by the Board?



Chief Procurement Officer Signature



Date