

**REQUEST FOR PROPOSALS
(RFP No.: ODCA- RFP-2019-03)**

Audit of Construction Contract to Modernize a DCPS School

Date: September 12, 2019

Questions Due by: September 30, 2019

Proposal Due Date: October 4, 2019, 5 p.m. EST

Contact: Ms. Lindsey Poole
Analyst
Office of the District of Columbia Auditor
717 14th Street, NW, Suite 900
Washington, DC 20005
Email: lindsey.poole@dc.gov
Telephone: (202) 727-3600

ALL NOTIFICATIONS, RELEASES AND AMENDMENTS WILL BE POSTED AT:
www.dcauditor.org

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SECTION I—SUMMARY INFORMATION

Project Title: Audit of Construction Contract to Modernize a DCPS School

Issuing Agency: Office of the District of Columbia Auditor

Proposal due: 5 PM EDT on October 4, 2019

Submit proposals to: Ms. Lindsey Poole, Analyst
Office of the District of Columbia Auditor
717 14th St, NW 9th Floor
Washington, DC 20005
Email: lindsey.poole@dc.gov

Submittals received after the stated time will be returned unopened and will not be considered. ODCA will select the proposal that shows the greatest ability to provide the best and most complete effort. The selection of a qualified proposal will be made no later than October 25, 2019.

Schedule: Public posting of Request for Proposal – September 12, 2019
Proposals Due at ODCA – October 4, 2019
Selection and Notice of Award – October 25, 2019

Number of copies: Two hard copies, one (1) digital PDF copy.

Performance Schedule: The actual schedule for performance of the project will be negotiated with the successful Proposer. ODCA wishes to hold as closely as possible to the following schedule:

October 25, 2019 – Notice of award issued to the selected Consultant.

November 8, 2019 – Notice to proceed issued to the Consultant following contract approval.

November 18, 2019 – Meet with ODCA to identify research issues, clarify objectives, and agree on timeline.

July 31, 2020 – Provide preliminary report of findings.

August 31, 2020 – Provide final report.

SECTION II—BACKGROUND

The mission of the Office of the D.C. Auditor is to support the Council of the District of Columbia by conducting performance audits that improve the economy, efficiency, and accountability of the D.C. Government. From time to time we contract with outside consulting firms for audits and evaluations. The agency has independent procurement authority and is not

bound by the Procurement Practices Reform Act.¹ The agency has broad authority including “access to all books, accounts, records, reports, findings, and all other papers, things, or property belonging to or in use by” all sectors of the District government².

Pursuant to provisions in D.C. Code § 38-2973.05, ODCA is seeking proposals from qualified and experienced individuals/firms to review the modernization project of one D.C. public school to: Analyze risks in the project contract; identify quality, efficiency, and compliance impacts on the construction from any failures to control risks; identify any needed controls that were not implemented during contract administration and the impact of those failures; research construction contract design and administration best practices as needed; determine causes of any significant finding(s); and identify recommendations to District government agencies to improve school construction through contract design and administration.

This will be a fixed-price contract, commencing immediately following the contract award date. All work must be completed no later than September 15, 2020.

SECTION III—SCOPE OF WORK

A. Assessment of Risks

1. Provide ODCA regular updates in a schedule to be mutually agreed upon, no less than once every two weeks.
2. Performance of this work will require frequent visits to the Department of General Services (DGS) offices (approximately weekly) and possibly additional occasional field work to other DC government offices and/or construction work sites.
3. Identify risks in the contract that could impact project cost, legal compliance, and the likelihood of contractual and/or labor disputes. Such work will include a review of all contract documents between DC Government and the construction manager for the selected school, the Request For Proposals (RFP), and bids, to, at minimum:
 - a. Determine the extent to which bidding was competitive.
 - b. Determine the contract’s compensation methodology, and if it is appropriate for the nature of the project. Identify risks that the methodology carries and mitigates.
 - c. Identify contradictory language, missing provisions, and satisfactoriness of existing provisions to protect DC Government’s interests, including but not limited to:
 - i. A right-to-audit clause, including terms that enable full transparency for subcontracts and subcontractor information

¹ See D.C. Code § 2-351.05(c)(10). ODCA is not subject to the provisions of the Act, with the exception of the requirement to undergo Council review and approval of multiyear contracts or contracts in excess of \$1 million during a 12-month period. See D.C. Code § 2-352.02.

² See D.C. Code § 1-204.55.

- ii. Provisions for a progressive method to resolve work completion and/or payment disputes
 - iii. Provisions requiring sufficient notification to protect DC government's interest prior to the filing of mechanics' liens
- d. Identify risks in the contract provisions for the following:
 - i. General provisions
 - ii. Construction Management Fees
 - iii. Allowable and unallowable costs
 - iv. Profit mark-up and pass-through expenses
 - v. Process for scoping, pricing, and approval of change orders
 - vi. Progress reporting
 - vii. Insurance, Bonds, and Warranty requirements
- e. If the contract is cost-based:
 - i. Determine if all items included in general conditions are clearly defined and legitimate general conditions
 - ii. Determine if the contract overstates any costs by including the same cost type more than once in different contract provisions
 - iii. If applicable, determine if fees, and other indirect costs included in the contract are reasonable
 - iv. Evaluate contract provisions relating to oversight and determine if they are sufficient to reduce the likelihood of overcharges, billing errors, and cost overruns
- f. If the contract is fixed price:
 - i. Determine if hourly rates included in the contract are reasonable and comply with District of Columbia and federal laws
 - ii. Evaluate the sufficiency of contract provisions detailing how the contractor will assess the completeness of each line item
- g. Identify any general unfavorable contract terms, such as:
 - i. provisions allowing the contractor to bill for rework due to deficient quality; or
 - ii. ambiguous terms like "as commonly done in the industry"
- h. Determine if the contract provides for change orders to be approved in advance to ensure that work covered by the contract will not be performed and billed as change orders, and whether the contract prohibits payment for the performance of unapproved work.
- i. Determine if the contract contains all the provisions needed to require the contractor and subcontractors to comply with applicable laws (e.g. First Source, Davis-Bacon).
- j. Identify any other risks the contract mitigates or unfavorable contract terms that increase risk.

4. Create a comprehensive risk register of all contract risks.
5. For any unusual risks that are significant, determine why they occurred. Unusual risks include, if present: unfavorable terms, a compensation methodology inappropriate for the nature of the project, and/or language insufficient to require contractor(s) to comply with applicable DC and federal laws, in addition to other unusual risks identified in consultation with ODCA.
6. For each unusual risk, develop recommendations for DGS to a) administer the contract in such a way as to reduce the risk and/or b) improve future contracts, as appropriate.
7. Produce draft and final written reports including unusual risks, their causes, and recommendations to address them. The final report by the consultant may be released publicly by ODCA accompanied by a letter of introduction by the D.C. Auditor.
8. Prepare and provide briefings to Councilmembers, DC government entities, and the press, as directed by ODCA.

B: Review of the Construction Project

1. Provide ODCA regular updates in a schedule to be mutually agreed upon, no less than once every two weeks.
2. Performance of this work will require frequent (approximately weekly) fieldwork, at DGS offices, other DC government offices, and the construction site for the identified school.
3. Based on the risk register created in Part I, and all contract documents, produce a list of corresponding controls DGS would need to implement during the project to control those risks.
4. Identify any needed controls that DGS does not implement during contract administration, and the impact of those failures. Such work will include reviewing documentation, as well as field work at the construction site, to, at minimum:
 - a. Review subcontracts and related documents to determine whether the subcontracting process was appropriately documented and competitive.
 - b. Determine whether change orders are appropriate and properly priced and documented.
 - c. Identify high-risk aspects of work quality, work quantity, and conditions (from the schedule of values, for example). If appropriate, include the possibility the contractor is billing for unused and unneeded labor or equipment.
 - d. Monitor high-risk aspects at the construction site to determine if they are consistent with what is described in contract documents and submitted payment applications.
 - e. Determine whether the construction manager and subcontractors have insurance as specified in the contract
 - f. If the contract is cost-based:

- i. Determine if costs invoiced are billable under the contract, and determine if they are already included under general conditions or fees (e.g. for the office, self-performed work)
 - ii. Determine if work performed has been approved as specified in the contract
 - iii. Review labor adjustments to determine if they are appropriate
 - iv. Review trip tickets for hauling debris from the construction site
 - v. Determine if construction manager is passing through quantity discounts on materials to DC Government
 - vi. Determine if total rent for each piece of equipment exceeds the market value for the equipment and if unallowable markups are included on the rental from the construction manager
 - vii. Review subcontracts and identify any fictitious vendors or related party transactions
 - viii. Determine if the cost of rework for unacceptable quality was passed through to DC Government, and if any discounts were not passed through to DC Government
 - ix. Determine if DC Government was billed for unallowable costs
 - x. Determine if payment applications and supporting documentation were submitted after the costs they reflect were incurred
 - xi. Determine if payment applications included a waiver of the right to file a mechanic's lien and all other claims, subject only to receipt of payment
 - g. If the compensation methodology is fixed price:
 - i. Identify any allowances not properly adjusted
5. For any risks that were not properly addressed and led to significant unfavorable impacts such as poor work quality, delays, inappropriate costs, and/or noncompliance with law (each finding), determine why DGS did not implement controls needed to control the risk.
 6. For each finding, develop recommendations to DGS to recover costs and/or improve future contracts and contract administration, as appropriate.
 7. Perform best practices research and analysis as needed to develop recommendations for improvements to contract terms.
 8. Calculate return on investment (ROI) for the audit, based on costs recommended to be recovered.
 9. Produce draft and final written reports including, if directed by ODCA: executive summary; findings of missing controls leading to poor quality work or inappropriate cost; the cause of any findings; recommendations to DGS to recover costs or improve future contracts or contract administration, as appropriate; best practices; and ROI. The final report by the consultant will be released publicly by ODCA accompanied by a letter of introduction by the D.C. Auditor.

10. Prepare and provide briefings to Councilmembers, DC government entities, and the press, as directed by ODCA.

All materials created in the performance of this contract are the property of ODCA and are to be transferred to ODCA within 15 days of the issuance of the final report.

SECTION IV—FORMAT

Proposers shall submit an electronic copy in .pdf format to lindsey.poole@dc.gov and a signed original and copy to:

Ms. Lindsey Poole, Analyst
Office of the District of Columbia Auditor
717 14th St, NW 9th Floor
Washington, DC 20005

ODCA will not accept any proposals submitted via fax. Proposals shall be marked: “Proposal in Response to Solicitation No. **ODCA- RFP-2019-03.**”

Proposal Guidelines and Requirements:

Each Proposer must demonstrate in their proposal that they have the professional capabilities needed to complete this project. At a minimum, the proposal should contain the following:

Prior experience and qualifications. The Proposer should demonstrate prior experience in performing similar audits and knowledge of public school construction. The Proposer should offer any additional, innovative ideas of contract provisions or construction performance areas to review for risks and problems. The Proposer should provide at least two references, preferably clients for whom similar work has been performed, including contact information.

Proposed project team members. The Proposer must identify the person who will lead the work described and any additional team members and their qualifications, including a resume for each individual that describes the qualifications applicable to the performance of the tasks for which they would be responsible. ODCA must be notified of any personnel changes that may occur during the project. Proposer must provide the billable hourly rate for each team member, which must be compliant with Wage Determination No. 2015-4281, Revision No. 7, dated July 25, 2017, issued by the U.S. Department of Labor in accordance with the Service Contract Act (41 U.S.C. 351 et seq.).

Project schedule. Provide a calendar to define the proposed project schedule.

Cost proposal. The cost proposal shall consist of the Proposer’s best fixed price assuming a time and materials contract. The cost proposal shall include the following categories:

- A base hourly rate for each of the persons/positions named in the Proposed Project Team Members section above, along with an estimate of how many hours each will devote to the project, broken down by each item on the Scope of Work.
- Expenses. Reimbursable out-of-pocket expenses shall be provided on a per diem basis for the Washington, D.C., metropolitan area according to the schedule established by the General Services Administration. Expenditures in excess of those amounts shall not be reimbursed without prior approval. Reimbursable expenses will be invoiced to ODCA on a monthly basis, and include all supporting documentation. Expenses will be paid by ODCA to Company within 30 days of receiving invoice and documentation.
- Expenses related to potential out-of-town travel of Consultant will be paid on a per diem basis according to the schedule established by the General Services Administration. Expenses for local transportation will not be reimbursed. Expenditures for out-of-town travel in excess of those amounts, or for other items, shall not be reimbursed without prior written approval. Reimbursable expenses will be invoiced to ODCA on a monthly basis and include all supporting documentation. Expenses will be paid by ODCA to Consultant within 30 days of receiving complete invoice and documentation.

Forms. Please submit signed copies of the following forms:

- Certificate of Good Standing Request (Attachment A)
- Tax Certification Affidavit (Attachment B)
- Basic Business License Clean Hands Form (Attachment C)

SIGNING OF PROPOSALS

The Contractor shall sign the proposal and print or type its name on the Solicitation, Offer, and Award form of this solicitation. Each proposal must show a full business address and telephone number of the Proposer and be signed by the person or persons legally authorized to sign contracts. Erasures or other changes must be initialed by the person signing the proposal. Proposals signed by an agent shall be accompanied by evidence of that agents authority, unless that evidence has been previously furnished to the Contracting Officer.

All correspondence concerning the proposal or resulting contract will be mailed to the address shown on the proposal in the absence of written instructions from the Proposer or contractor to the contrary. Any proposal submitted by a partnership must be signed with the partnership name by a general partner with authority to bind the partnership. Any proposal submitted by a corporation must be signed with the name of the corporation followed by the signature and title of the person having authority to sign for the corporation. Proposers shall complete and sign all Representations, Certifications, and Acknowledgments as appropriate. Failure to do so may result in a proposal rejection.

LEGAL STATUS OF PROPOSER

Each proposal must provide the following information:

- Name, address, telephone number, D-U-N-S number and federal tax identification number of the Proposer.
- A copy of each District of Columbia license, registration or certification that the Proposer is required by law to obtain. This mandate also requires the Proposer to provide a copy of the executed “Clean Hands Certification” that is referenced in D.C. Official Code §47-2861 et seq., if the Proposer is required by law to make such certification. If the Proposer is a corporation or partnership and does not provide a copy of its license, registration or certification to transact business in the District of Columbia, the Proposer shall certify its intent to obtain the necessary license, registration or certification prior to contract award or its exemption from such requirements.
- If the Proposer is a partnership or joint venture, the names and addresses of the general partners or individual members of the joint venture, and copies of any joint venture or teaming agreements.

SECTION V—SELECTION CRITERIA

Proposals will be evaluated and selection will be made in consideration of the following criteria:

Proposal Evaluation

- Proposer’s project team (including subcontractors) – overall knowledge, experience, expertise, and skills (30 points)
- Project Approach and demonstration of project understanding and issues (15 points)
- Innovative ideas of contract provisions to review for risk, or areas of contract performance to review for errors and issues (5 points)
- Proposer’s past experience with similar public school construction audit projects (20 points)
- Proposer’s experience and familiarity with District of Columbia and DC Public Schools (10 points)
- Cost of proposal (20 points)

Minimum Qualifications

The Proposer must meet all the following minimum qualifications:

- Prior experience conducting similar research of comparable size, scope, and complexity as that described in the Scope of Work.
- Ability to perform within strict timetables and deadlines.

SECTION VI—GENERAL REQUIREMENTS

Single Point of Contact/Clarifying Information

The sole point of contact for proposal questions and all other contractual matters relating to this RFP, as well as requests for clarifying information may be submitted in writing to:

Name: Ms. Lindsey Poole
Title: Analyst
717 14th Street, NW, Suite 900
Washington, DC 20005
Telephone: 202-727-3600
Email: lindsey.poole@dc.gov

Answers to all written questions received will be posted on the Office of the District of Columbia Auditor’s website under RFP No.: ODCA-RFP-2019-03.

RFP Availability

The request for proposals will be published on the Office of the District of Columbia Auditor’s website at www.dcauditor.org. A request for proposal also may be obtained by written request to:

Name: Ms. Lindsey Poole
Title: Analyst
717 14th Street, NW, Suite 900
Washington, DC 20005
Telephone: 202-727-3600
Email: lindsey.poole@dc.gov

APPLICABILITY OF STANDARD CONTRACT PROVISIONS

The following document is hereby incorporated by reference and made a part of this solicitation and any resulting contract: Standard Contract Provisions for use with District of Columbia Government Supply and Services contracts (March 2007) (Attachment A). These Provisions may be found here:

http://ocp.dc.gov/sites/default/files/dc/sites/ocp/publication/attachments/OCP_Channel%2020_9%20Solicitation%20Attachments_standard_contract_provisions_0307.pdf

DISTRICT EMPLOYEES NOT TO BENEFIT CERTIFICATION

Each Proposer shall check one of the following:

_____ No person listed in Clause 13 of the SCP, “District Employees Not to Benefit” will benefit from this contract.

_____ The following person(s) listed in Clause 13 may benefit from this contract. For each person listed, attach the affidavit required by Clause 13 of the SCP.

CERTIFICATION OF INDEPENDENT PRICE DETERMINATION

- (a) Each signature of the Proposer is considered to be a certification by the signatory that:
- 1) The prices in this contract have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any Proposer or competitor relating to:
 - (i) those prices
 - (ii) the intention to submit a contract, or
 - (iii) the methods or factors used to calculate the prices in the contract.
 - 2) The prices in this Contract have not been and will not be knowingly disclosed by the Proposer, directly or indirectly, to any other Proposer or competitor before Contract opening unless otherwise required by law; and
 - 3) No attempt has been made or will be made by the Proposer to induce any other concern to submit or not to submit a contract for the purpose of restricting competition.
- (b) Each signature on the proposal is considered to be a certification by the signatory that the signatory:
- 1) Is the person in the Proposer's organization responsible for determining the prices being offered in this contract, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above; or
 - 2) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above:

(insert full name of person(s) in the organization responsible for determining the prices offered in this contract and the title of his or her position in the Proposer's organization);

As an authorized agent, does certify that the principals named in subdivision (b)(2) above have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and

As an agent, has not participated, and will not participate, in any action contrary to subparagraphs (a) (1) through (a) (3) above.

- (c) If the Proposer deletes or modifies subparagraph (a) (2) above, the Proposer must furnish with its proposal a signed statement setting forth in detail the circumstances of the disclosure.

FAMILIARIZATION WITH CONDITIONS (SERVICES)

Proposers shall thoroughly familiarize themselves with the terms and conditions of this solicitation, acquainting themselves with all available information regarding difficulties which may be encountered and the conditions under which the work is to be accomplished. Proposers will not be relieved from assuming all responsibility for properly estimating the difficulties and the cost of performing the services required herein due to their failure to investigate the conditions or to become acquainted with all information, schedules and liability concerning the services to be performed.

WITHDRAWAL OR MODIFICATION OF PROPOSALS

A Proposer may modify or withdraw its proposal upon written or email notice if received at the location designated in the solicitation for submission of proposals, but not later than the exact time set for opening of proposals.

SECTION VII—SPECIAL PROVISIONS

Preference for Certified Business Enterprises Operating in the District of Columbia

Under the provisions of the “Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005” as amended, D.C. Code §§ 2-218.01 *et seq.*; 27 DCMR § 800 *et seq.*; preferences shall be given to Proposers that are certified by the Department of Small and Local Business Development (DSLBD) as being a Certified Business Enterprise. There are six categories of certification: Local Business Enterprise (LBE), a Small Business Enterprise (SBE), Disadvantaged Business Enterprise (DBE), Resident Owned Business (ROB), Longtime Resident Business (LRB), and Local Business Enterprise with Principal Offices Located in an Enterprise Zone (DZE). (A copy of the certification acknowledgment letter must be submitted with the Proposer’s submission and, if applicable, the Technical Proposal.) In accordance with these laws, the following preferences shall be awarded in evaluating a Proposer’s/s’ proposal (Proposers may qualify for more than one of these categories, and no CBE is entitled to more than 12 points.):

CBE Category:	Points
Small Business Enterprise	3
Resident-Owned Business	5
Longtime Resident Business	5
Local Business Enterprise	2
Enterprise Zone	2
Disadvantaged Business Enterprise	2
Veteran-Owned Business Enterprise	2
Development Enterprise Zone	2

SECTION VIII—ATTACHMENTS

Certificate of Good Standing Request (Attachment A)

Tax Certification Affidavit (Attachment B)

Basic Business License Clean Hands Form (Attachment C)

Attachment A
Certificate of Good Standing Request

Attachment B
Tax Certification Affidavit

Attachment C
Basic Business License Clean Hands Form