

STATE OF ALASKA REQUEST FOR PROPOSALS



STATE BOND AND DISCLOSURE COUNSEL

RFP 2022-0300-4979

ISSUED OCTOBER 13, 2021

PROVIDE LEGAL ADVICE AND SERVICES CONCERNING BONDS AND DEBT FINANCING

TO THE STATE BOND COMMITTEE

ISSUED BY:

DEPARTMENT OF LAW

PRIMARY CONTACT:

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PROCUREMENT OFFICER

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(907) 465-4337

OFFERORS ARE NOT REQUIRED TO RETURN THIS FORM.

IMPORTANT NOTICE: IF YOU RECEIVED THIS SOLICITATION FROM THE STATE OF ALASKA "ONLINE PUBLIC NOTICE" WEB SITE, YOU MUST REGISTER WITH THE PROCUREMENT OFFICER LISTED IN THIS DOCUMENT TO RECEIVE NOTIFICATION OF SUBSEQUENT AMENDMENTS. FAILURE TO CONTACT THE PROCUREMENT OFFICER MAY RESULT IN THE REJECTION OF YOUR OFFER.

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SECTION 1. INTRODUCTION & INSTRUCTIONS

SEC. 1.01 PURPOSE OF THE RFP

The Department of **LAW**, is soliciting proposals for **BOND AND DISCLOSURE COUNSEL TO ADVISE THE STATE BOND COMMITTEE**. This Request for Proposals (RFP) may result in more than one contract.

SEC. 1.02 BUDGET

This contract is estimated to not exceed \$1.5 million over the potential 5-year period of performance. The contract will be funded through bond proceeds. Contractor will be paid a flat fee per-bond according to pre-agreed fee schedule, and only after the successful issuance of a bond. This contract does not pay by the hour.

SEC. 1.03 DEADLINE FOR RECEIPT OF PROPOSALS

Proposals must be received no later than **1PM** prevailing Alaska Time on **MONDAY, NOVEMBER 15TH, 2021**. Late proposals or amendments will be disqualified and not opened or accepted for evaluation.

SEC. 1.04 PRIOR EXPERIENCE

No specific minimums have been set for this RFP but successful applicant(s) will have extensive experience with public bonds.

SEC. 1.05 REQUIRED REVIEW

Offerors should carefully review this solicitation for defects and questionable or objectionable material. Comments concerning defects and questionable or objectionable material should be made in writing and received by the procurement officer at least ten days before the deadline for receipt of proposals. This will allow time for the issuance of any necessary amendments. It will also help prevent the opening of a defective proposal and exposure of offeror's proposals upon which award could not be made.

SEC. 1.06 QUESTIONS PRIOR TO DEADLINE FOR RECEIPT OF PROPOSALS

All questions must be in writing and directed to the procurement officer. The interested party must confirm telephone conversations in writing.

Two types of questions generally arise. One may be answered by directing the questioner to a specific section of the RFP. These questions may be answered over the telephone. Other questions may be more complex and may require a written amendment to the RFP. The procurement officer will make that decision.

PROCUREMENT OFFICER: PATRICIA HULL – **PHONE** 907-465-4337- **FAX** 907-465-5419 - **TDD** 907-258-9161

SEC. 1.07 RETURN INSTRUCTIONS

It is recommended that offers submit using email. The technical and cost proposals must be saved as separate PDF documents and emailed to 03Procurement@alaska.gov. **Label each as a separate document** clearly labeled attachments, such as "Vendor A – Technical Proposal.pdf" and "Vendor A – Cost Proposal.pdf". The email must contain the RFP number 2022-0300-4979 and the firm's name in the subject line.

The **maximum** size of a single email (including all text and attachments) that can be received by the state is **20mb (megabytes)**. If the email containing the proposal exceeds this size, the proposal must be sent in multiple emails that are each less than 20 megabytes and each email must comply with the requirements described above.

Please note that email transmission is not instantaneous. Similar to sending a hard copy proposal, if you are emailing your proposal, the state recommends sending it enough ahead of time to ensure the email is delivered by the deadline for receipt of proposals.

It is the offeror's responsibility to contact the issuing agency at 907-465-4337 to confirm that the proposal has been received. The state is not responsible for unreadable, corrupt, or missing attachments.

Offerors with a disability may receive accommodation regarding the means of communicating this RFP or participating in the procurement process. For more information, contact the procurement officer no later than ten days prior to the deadline for receipt of proposals.

SEC. 1.08 AMENDMENTS TO PROPOSALS

Amendments to or withdrawals of proposals will only be allowed if acceptable requests are received prior to the deadline that is set for receipt of proposals. No amendments or withdrawals will be accepted after the deadline unless they are in response to the state's request in accordance with 2 AAC 12.290.

SEC. 1.09 AMENDMENTS TO THE RFP

If an amendment is issued before the deadline for receipt of proposals, it will be provided to all who were notified of the RFP and to those who have registered with the procurement officer after receiving the RFP from the State of Alaska Online Public Notice website.

After receipt of proposals, if there is a need for any substantial clarification or material change in the RFP, an amendment will be issued. The amendment will incorporate the clarification or change, and a new date and time established for new or amended proposals. Evaluations may be adjusted as a result of receiving new or amended proposals.

SEC. 1.10 RFP SCHEDULE

RFP schedule set out herein represents the state's *best estimate* of the schedule that will be followed. If a component of this schedule, such as the deadline for receipt of proposals, is delayed, the rest of the schedule may be shifted accordingly. All times are prevailing Alaska Time.

ACTIVITY	TIME	DATE
Issue Date / RFP Released		10/13/2021
Deadline for Receipt of Proposals / Proposal Due Date	1pm	11/15/2021
Proposal Evaluations Complete		11/19/2021
Notice of Intent to Award begins 10-day protest period		11/22/2021
End of 10-day protest period		12/02/2021
Contract Issued		12/03/2021

This RFP does not, by itself, obligate the state. The state's obligation will commence when the contract is approved by the Attorney General of the Department of Law or the Attorney General's designee. Upon written notice to the contractor, the state may set a different starting date for the contract. The state will not be responsible for any work done by the contractor, even work done in good faith, if it occurs prior to the contract start date set by the state.

SEC. 1.11 ALTERNATE PROPOSALS

Offerors may only submit one proposal for evaluation. In accordance with 2 AAC 12.830 alternate proposals (proposals that offer something different than what is asked for) will be rejected.

SEC. 1.12 NEWS RELEASES

News releases related to this RFP will not be made without prior approval of the project director.

SECTION 2. BACKGROUND INFORMATION

SEC. 2.01 BACKGROUND INFORMATION

The State Bond Committee oversees the authorization, issuance and sale of State of Alaska debt issues, including but not limited to general obligation bonds, certificates of participation, Alaska International Airport System revenue bonds, Sportfish revenue bonds, Clean Water and Drinking Water revenue bonds, and a master lease line of credit or other equipment lease purchase alternatives.

The State Bond Committee is comprised of the Commissioner of the Department of Commerce, Community and Economic Development (DCCED); the Commissioner of the Department of Revenue (DOR); and the Commissioner of the Department of Administration (DOA), or their respective delegates. The committee is responsible for approving the timing and amount of state bond sales. Additionally, the committee determines and reports to the Governor the amount of money needed to meet all bond obligations for the following calendar year, and the balance of the Alaska debt retirement fund.

On November 6, 2012, the voters authorized the issuance of approximately \$453.5 million of General Obligation Bonds for transportation projects (the "2012 Act"). Details can be found at <https://treasury.dor.alaska.gov/Debt-Management/Current-Financing.aspx>. On March 17, 2016, the State of Alaska closed on \$134,790,000 in General Obligation Bonds, Series 2016A, which paid and redeemed the State's General Obligation Bond Anticipation Notes, Series 2015A. Proceeds were used for paying or making grants for payment of costs of transportation projects authorized pursuant to the 2012 Act. The bonds have a final maturity of August 1, 2035 and have a true interest cost of 3.0243%. Upon issuance, these General Obligation Bonds were assigned ratings of "Aa1" with a Negative Outlook, "AAA" with Negative Watch and "AA+" with Negative Outlook by Moody's Investors Service, Inc., Fitch Ratings, and Standard & Poor's Ratings Services respectively.

On June 30, 2016, the State of Alaska closed on \$128,300,000 in General Obligation Bonds, Series 2016B, with proceeds used for paying or making grants for payment of costs of transportation projects authorized pursuant to the 2012 Act. These bonds have a final maturity of August 1, 2035 and have a true interest cost of 2.7593%.

More recently, on August 5, 2020, the State of Alaska closed on \$84.56 million in General Obligation Bonds, Series 2020A. Proceeds were used for paying or making grants for payment of costs of transportation projects authorized pursuant to the 2012 Act. The bonds have a final maturity of August 1, 2040, and have a true interest cost of approximately 1.9696%.

Upon issuance, these General Obligation Bonds were assigned ratings of "Aa3" with a Negative Outlook, and "AA-" with a Negative Outlook by Moody's Investors Service, Inc., and S&P Global Ratings respectively.

On August 26, 2021, the State of Alaska, International Airports System closed on \$85.51 million in Revenue Refunding Bonds, Series 2021A, 2021B, and 2021C. The bonds were issued to provide for the defeasance and optional redemption of outstanding AIAS parity bonds. The bonds have a final maturity of October 1, 2035, and have a true interest cost of approximately 1.2685%.

Upon issuance, these AIAS Revenue Refunding Bonds were assigned ratings of "A1" with a Positive Outlook, and "A+" with a Stable Outlook by Moody's Investors Service, Inc., and S&P Global Ratings respectively.

Details on these bonds and other State of Alaska debt financings issued between 2015-2021, can be found at <https://treasury.dor.alaska.gov/Debt-Management/Current-Financing.aspx>

SCOPE OF WORK & CONTRACT INFORMATION

SECTION 3. SCOPE OF WORK

The Department of **LAW** soliciting proposals for **BOND AND DISCLOSURE COUNSEL**. This RFP may result in more than one contract.

Bond counsel will review and partially draft the preliminary and final official statements and notices of sale as well as draft special resolutions, authorizing resolutions, all required closing documents, and tax opinions and also render final approving opinions.

Bond Counsel will be available to participate in meetings related to Executive Branch suggested or request for alternatives to financing State debt structures or alternatives.

Bond Counsel will review and provide comments on bills proposed in the Alaska Legislature that would authorize State debt.

Bond Counsel will provide updates on current SEC, MSRB, GASB, or other rulemaking entity's updates related to existing or potential debt issues of the State.

Bond Counsel will review and as needed provide comment on all State Bond Committee meeting material.

Bond Counsel will be available to discuss and assist in the defense of any authorized State debt issuance from any legal challenge.

Selected counsel will only receive compensation directly from bond proceeds. Selected counsel will be required to provide legal service relating to transactions that commence after a contract is executed by the parties.

SEC. 3.01 CONTRACT TERM AND WORK SCHEDULE

The length of the contract will be from the date of award, approximately **DECEMBER 1, 2021**, for potentially five years: an initial three –year term, plus two one-year options to renew (potentially through **December 1, 2026**).

Unless otherwise provided in this RFP, the State and the successful offeror(s) agree: (1) that any extension of the contract excluding any exercised renewal options, will be considered as a month-to-month extension, and all other terms and conditions shall remain in full force and effect and (2) the procurement officer will provide notice to the contractor of the intent to cancel such month-to-month extension at least 30 days before the desired date of cancellation. A month-to-month extension may only be executed by the procurement officer via a written contract amendment.

SEC. 3.02 CONTRACT TYPE

This contract is a fee for service contract using flat rates for different types of bond issuances.

SEC. 3.03 PROPOSED PAYMENT PROCEDURES

FOR BOND ISSUANCES: Upon bond issuance, contractor must submit an invoice detailing the bond title, date of release and fee amount so contract authority may be reduced accordingly. Payment will be on an as-needed basis based upon bond issuance at the flat rates (by bond type and size) contained in the contractor's proposal. Rates are fixed for the duration of the contract.

SEC. 3.04 CONTRACT PAYMENT

No payment will be made until the contract is approved by the Attorney General of the Department Law or the Attorney General's designee. Under no conditions will the state be liable for the payment of any interest charges associated with the cost of the contract. The state is not responsible for and will not pay local, state, or federal taxes. All costs associated with the contract must be stated in U.S. currency.

Any single contract payment of \$1 million or higher must be accepted by the contractor via Electronic Funds Transfer (EFT).

SEC. 3.05 LOCATION OF WORK

The state will not provide workspace for the contractor(s). The contractor(s) must provide its own workspace.

By signature on their proposal, the offeror certifies that all services provided under this contract by the contractor and all subcontractors shall be performed in the United States.

If the offeror cannot certify that all work will be performed in the United States, the offeror must contact the procurement officer in writing to request a waiver at least 10 days prior to the deadline for receipt of proposals.

The request must include a detailed description of the portion of work that will be performed outside the United States, where, by whom, and the reason the waiver is necessary.

Failure to comply with these requirements may cause the state to reject the proposal as non-responsive, or cancel the contract.

SEC. 3.06 JOINT VENTURES

Joint ventures are acceptable. If submitting a proposal as a joint venture, the offeror must submit a copy of the joint venture agreement which identifies the principals involved and their rights and responsibilities regarding performance and payment. One firm must be the primary to receive payment from the State of Alaska.

SEC. 3.07 RIGHT TO INSPECT PLACE OF BUSINESS

At reasonable times, the state may inspect those areas of the contractor's place of business that are related to the performance of a contract. If the state makes such an inspection, the contractor must provide reasonable assistance.

Any change of the project team members or subcontractors named in the proposal must be approved, in advance and in writing, by the project director or procurement officer. Changes that are not approved by the state may be grounds for the state to terminate the contract.

SEC. 3.08 CONTRACT PERSONNEL

Any change of the project team members or subcontractors named in the proposal must be approved, in advance and in writing, by the project director. Changes that are not approved by the state may be grounds for the state to terminate the contract.

SEC. 3.09 CONTRACT CHANGES - UNANTICIPATED AMENDMENTS

During the course of this contract, the contractor may be required to perform additional work. That work will be within the general scope of the initial contract. When additional work is required, the project director will provide the contractor a written description of the additional work and request the contractor to submit a firm time

schedule for accomplishing the additional work and a firm price for the additional work. Cost and pricing data must be provided to justify the cost of such amendments per AS 36.30.400.

The contractor will not commence additional work until the procurement officer has secured any required state approvals necessary for the amendment and issued a written contract amendment, approved by the Attorney General or the Attorney General's Designee.

SEC. 3.10 NONDISCLOSURE AND CONFIDENTIALITY

Contractor agrees that all confidential information shall be used only for purposes of providing the deliverables and performing the services specified herein and shall not disseminate or allow dissemination of confidential information except as provided for in this section. The contractor shall hold as confidential and will use reasonable care (including both facility physical security and electronic security) to prevent unauthorized access by, storage, disclosure, publication, dissemination to and/or use by third parties of, the confidential information. "Reasonable care" means compliance by the contractor with all applicable federal and state law, including the Social Security Act and HIPAA. The contractor must promptly notify the state in writing if it becomes aware of any storage, disclosure, loss, unauthorized access to or use of the confidential information.

Confidential information, as used herein, means any data, files, software, information or materials (whether prepared by the state or its agents or advisors) in oral, electronic, tangible or intangible form and however stored, compiled or memorialized that is classified confidential as defined by State of Alaska classification and categorization guidelines provided by the state to the contractor or a contractor agent or otherwise made available to the contractor or a contractor agent in connection with this contract, or acquired, obtained or learned by the contractor or a contractor agent in the performance of this contract. Examples of confidential information include, but are not limited to: technology infrastructure, architecture, financial data, trade secrets, equipment specifications, user lists, passwords, research data, and technology data (infrastructure, architecture, operating systems, security tools, IP addresses, etc).

If confidential information is requested to be disclosed by the contractor pursuant to a request received by a third party and such disclosure of the confidential information is required under applicable state or federal law, regulation, governmental or regulatory authority, the contractor may disclose the confidential information after providing the state with written notice of the requested disclosure (to the extent such notice to the state is permitted by applicable law) and giving the state opportunity to review the request. If the contractor receives no objection from the state, it may release the confidential information within 30 days. Notice of the requested disclosure of confidential information by the contractor must be provided to the state within a reasonable time after the contractor's receipt of notice of the requested disclosure and, upon request of the state, shall seek to obtain legal protection from the release of the confidential information.

The following information shall not be considered confidential information: information previously known to be public information when received from the other party; information freely available to the general public; information which now is or hereafter becomes publicly known by other than a breach of confidentiality hereof; or information which is disclosed by a party pursuant to subpoena or other legal process and which as a result becomes lawfully obtainable by the general public.

SEC. 3.11 INDEMNIFICATION

The contractor shall indemnify, hold harmless, and defend the contracting agency from and against any claim of, or liability for error, omission or negligent act of the contractor under this agreement. The contractor shall not be required to indemnify the contracting agency for a claim of, or liability for, the independent negligence of the contracting agency. If there is a claim of, or liability for, the joint negligent error or omission of the contractor and

the independent negligence of the contracting agency, the indemnification and hold harmless obligation shall be apportioned on a comparative fault basis. "Contractor" and "contracting agency", as used within this and the following article, include the employees, agents and other contractors who are directly responsible, respectively, to each. The term "independent negligence" is negligence other than in the contracting agency's selection, administration, monitoring, or controlling of the contractor and in approving or accepting the contractor's work.

SEC. 3.12 INSURANCE REQUIREMENTS

Without limiting contractor's indemnification, it is agreed that contractor shall purchase at its own expense and maintain in force at all times during the performance of services under this agreement the following policies of insurance. Where specific limits are shown, it is understood that they shall be the minimum acceptable limits. If the contractor's policy contains higher limits, the state shall be entitled to coverage to the extent of such higher limits.

Certificates of Insurance must be furnished to the procurement officer prior to beginning work and must provide for a notice of cancellation, non-renewal, or material change of conditions in accordance with policy provisions. Failure to furnish satisfactory evidence of insurance or lapse of the policy is a material breach of this contract and shall be grounds for termination of the contractor's services. All insurance policies shall comply with and be issued by insurers licensed to transact the business of insurance under AS 21.

Workers' Compensation Insurance: The contractor shall provide and maintain, for all employees engaged in work under this contract, coverage as required by AS 23.30.045, and; where applicable, any other statutory obligations including but not limited to Federal U.S.L. & H. and Jones Act requirements. The policy must waive subrogation against the State.

Commercial General Liability Insurance: covering all business premises and operations used by the Contractor in the performance of services under this agreement with minimum coverage limits of \$300,000 combined single limit per claim.

Commercial Automobile Liability Insurance: covering all vehicles used by the contractor in the performance of services under this agreement with minimum coverage limits of \$300,000 combined single limit per claim.

Professional Liability Insurance: covering all errors, omissions or negligent acts in the performance of professional services under this agreement with minimum coverage limits of \$300,000 per claim /annual aggregate.

SEC. 3.13 TERMINATION FOR DEFAULT

If the project director or procurement officer determines that the contractor has refused to perform the work or has failed to perform the work with such diligence as to ensure its timely and accurate completion, the state may, by providing written notice to the contractor, terminate the contractor's right to proceed with part or all of the remaining work.

This clause does not restrict the state's termination rights under the contract provisions of Appendix A, attached in **SECTION 7. ATTACHMENTS**.

SECTION 4. PROPOSAL FORMAT AND CONTENT

SEC. 4.01 RFP SUBMITTAL FORMS

This RFP contains Submittal Forms, which must be completed by the offeror and submitted as their proposal. An electronic copy of the forms is posted along with this RFP. Offerors shall not re-create these forms, create their own forms, or edit the format structure of the forms unless permitted to do so.

Unless otherwise specified in this RFP, the Submittal Forms shall be the offeror's entire proposal. Do not include any marketing information in the proposal.

Any proposal that does not follow these requirements may be deemed non-responsive and rejected.

SEC. 4.02 SPECIAL FORMATTING REQUIREMENTS

The offeror must ensure that their proposal meets all special formatting requirements identified in this section.

Documents and Text: All attachment documents must be written in the English language, be single sided, and be single spaced with a minimum font size of 10, ideally 12.

Submittal Forms
Submittal Form A – Offeror Information and Certifications
Submittal Form B -- Experience and Qualifications
Submittal Form C – Cost Proposal
Submittal Form D – Conflicts

Any Submittal Form that is being evaluated and does not follow these instructions may receive a '1' score for the evaluated Submittal Form, or the entire response may be deemed non-responsive and rejected. Failure to submit any of the Submittal Forms will result in the proposal being deemed non-responsive and rejected.

SEC. 4.03 OFFEROR INFORMATION AND CERTIFICATIONS (SUBMITTAL FORM A)

The offeror must complete and submit this Submittal Form. The form must be signed by an individual authorized to bind the offeror to the provisions of the RFP.

By signature on the form, the offeror certifies they comply with the following:

- a) the laws of the State of Alaska;
- b) the applicable portion of the Federal Civil Rights Act of 1964;
- c) the Equal Employment Opportunity Act and the regulations issued thereunder by the federal government;
- d) the Americans with Disabilities Act of 1990 and the regulations issued thereunder by the federal government;
- e) all terms and conditions set out in this RFP;
- f) a condition that the proposal submitted was independently arrived at, without collusion, under penalty of perjury; and
- g) that the offers will remain open and valid for at least 90 days.

If any offeror fails to comply with [a] through [g] of this paragraph, the state reserves the right to disregard the proposal, terminate the contract, or consider the contractor in default.

The Submittal Form also requests the following information:

- a) The complete name and address of offeror's firm along with the offeror's Tax ID.
- b) Information on the person the state should contact regarding the proposal.
- c) Names of critical team members/personnel.
- d) Addenda acknowledgement.
- e) Conflict of interest statement.
- f) Federal requirements.
- g) Alaska preference qualifications.

An offeror's failure to address/respond/include these items may cause the proposal to be determined to be non-responsive and the proposal may be rejected.

SEC. 4.04 EXPERIENCE AND QUALIFICATIONS (SUBMITTAL FORM B) 500 POINTS

SPECIAL NOTE: The offeror shall not disclose their costs in the experience and qualifications form. Only in the Cost Proposal

- 1) Offerors must provide a resume for each of the personnel who will bill under the resulting contract, identifying the lead attorney.
- 2) Offerors shall provide an organization chart showing reporting relationships.
- 3) Offerors will answer the following questions to demonstrate the firm's experience and understanding of bonds and other financial instruments and the timely issues affecting them.
 - (A) Provide specific information with regard to the firm's understanding, knowledge of, and experience with bonds, including general obligation bonds, revenue bonds, lease financing obligations, revenue and bond anticipation notes, refunding bonds, and other structures including ESG or tax credit options issued by:
 - 1. the State of Alaska,
 - 2. State Agencies,
 - 3. municipal subdivisions of the state, and
 - 4. other states.
 - (B) Describe how your firm stays apprised of existing and ongoing rules and initiatives of the SEC and Municipal Securities Rulemaking Board. Are there potential initiatives we should be aware of and taking steps to prepare to comply with?
 - (C) Provide your firm's understanding and experience with USDOT's TIFIA loan program
 - (D) Describe your firm's understanding of and experience with the State's school debt reimbursement program. What if any changes would you propose?

- (E) Describe your firm's involvement with and understanding of any other innovative borrowing programs or structures that State law would allow and financial situation may benefit from considering.
- (F) Describe the process in Alaska to authorize a State financing for the lease-purchase of real property which is subject to appropriation, and how your firm would structure such a financing.
- (G) Describe the process in Alaska to authorize a State financing for the lease-purchase of equipment which is subject to appropriation, and how your firm would structure such a financing.

SEC. 4.05 COST PROPOSAL (SUBMITTAL FORM C) 400 POINTS

The cost proposal shall consist of: (1) a rate sheet of fixed fees, all inclusive of discovery fees where applicable, for: general obligation bonds; bond anticipation notes; revenue bonds; revenue anticipation notes (including tax and grant anticipation notes); and (2) sample bonds pricing ***for the purposes of proposal evaluation only*** to which you will apply your fixed fee schedule. The sum of all sample bonds will serve as the proposal cost amount for the purpose of scoring.

- 1) **General Obligation #1** initial issuance of \$150 million, and three subsequent annual issuances of \$75 million for a total of \$375 million (*i.e. year one - \$150 million State of Alaska GO bond issuance, year two - \$75 million, year three - \$75 million, year four - \$75 million*).
- 2) **General Obligation #2** initial issuance of \$100 million, and four (4) subsequent annual issuances of \$50 million for a total of \$300 million (*i.e. year one - \$100 million State of Alaska GO bond issuance, year two - \$50 million, year three - \$50 million, year four - \$50 million, year five - \$50 million*).
- 3) **Bond Anticipation notes #1** initial issuance of \$200 million for a one-year note, and one subsequent one year note in the amount of \$75 million.
- 4) **Bond Anticipation notes #2** initial issuance of \$100 million for a one-year note, and two subsequent one-year notes in the amount of \$60 million.
- 5) **Alaska International Airports System Enterprise Revenue Bonds #1** , an issuance of \$125 million for new money revenue bonds.
- 6) **Alaska International Airports System Enterprise #2** , Revenue and refunding bonds with initial issuance of \$150 million for new money and \$100 million in refunding bonds.
- 7) **Revenue Anticipation notes #1** initial issuance of \$500 million for one-year notes, \$500 million for nine-month notes, and \$500 million for six-months notes all issued in the same fiscal year and due August 1 of the subsequent fiscal year.
- 8) **Annual Clean Water and Drinking Water bond anticipation note.** The State conducts an annual overnight borrowing by issuing bond anticipation notes for the Alaska Clean Water and Drinking Water Funds. This issuance has been in the \$3 to \$5 million range, is not tax-exempt and is issued only for the purpose of obtaining match dollars to receive additional federal grants. The flat fee for providing enacting and closing documents for this annual issuance may not exceed \$10,000.
- 9) **Master Lease line of credit.** The state maintains a master lease line of credit for financing the purchase of equipment. The average activity in this program has been approximately one entry per-year. The flat fee for providing enacting and closing documents on an entry into the program may not exceed \$10,000.

SECTION 5. EVALUATION CRITERIA AND CONTRACTOR SELECTION

SEC. 5.01 SUMMARY OF EVALUATION PROCESS

The state will use a two-phase review process: narrative proposals will be evaluated first and only the top three scoring proposals will advance to the second phase which factors in their cost proposals.

- 1) Proposals will be assessed for overall responsiveness. Proposals deemed non-responsive will be eliminated from further consideration.
- 2) A proposal evaluation committee (PEC), made up of at least three state employees or public officials, will evaluate the Narrative Proposals of responsive proposals.
- 3) The Submittal Forms, from each responsive proposal, will be sent to the PEC. No cost information will be shared or provided to the PEC.
- 4) The PEC will independently evaluate and score the documents based on the degree to which they meet the stated evaluation criteria. Proposal evaluation committee will use a 1, 5, 10 scoring system. A “1” indicates a deficiency, a “5” is acceptable, a “10” indicates quality beyond the standard norm. These scores will be converted to the 1,000 point scale.
- 5) The PEC may choose to have a meeting, chaired by the procurement officer, where the PEC may have a group discussion (not about scoring, but about various elements of the proposals).
- 6) The evaluators will submit their final individual scores to the procurement officer, who will then compile the scores and calculate awarded points as set out in Section 5.03.
- 7) The three top scoring proposals will then advance to the Best and Final offer stage. The procurement officer will calculate scores for the cost proposals only of the top three scoring proposals as set out in Section 5.08 and add cost scores to points awarded by the PEC (along with factoring in any Alaska preferences).
- 8) The procurement officer may then ask for Best and Final offers from the offerors susceptible for award and revise the cost scores accordingly should any applicant(s) choose to lower their costs.
- 9) The state will then conduct any necessary negotiations with the highest scoring offeror(s) and the PEC committee may choose to award one or more contracts.

SEC. 5.02 EVALUATION CRITERIA

Proposals will be evaluated based on their overall value to state, considering both cost and non-cost factors as described below. Note: An evaluation may not be based on discrimination due to the race, religion, color, national origin, sex, age, marital status, pregnancy, parenthood, disability, or political affiliation of the offeror.

Overall Criteria	(Submittal Form A)	Pass/Fail
Responsiveness (General Information)		
Qualifications Criteria	(Submittal Form B)	Weight 500
Lead Attorney Experience and Qualifications		150
Team Experience and Qualifications		100
Firm Experience and Qualifications through Responses to topical questions		250
Cost Criteria	(Submittal Form C)	Weight 400
For purposes of evaluation, the Proposal Cost will be the Sum of Flat Rates from Sample Bonds		
Conflicts Check (no score, but must be included in proposal to be responsive)	(Submittal Form D)	No Score
List cases representing parties adverse to the State of Alaska		
Preference Criteria	(Submittal Form A)	Weight 100
Alaska Offeror Preference (if applicable)		

TOTAL EVALUATION POINTS AVAILABLE: 1000

SEC. 5.03 SCORING METHOD AND CALCULATION

The PEC will evaluate responses against the questions set out in Sections 5.04 through 5.07 and assign a single score for each section. Offerors' responses for each section will be rated comparatively against one another with each PEC member assigning a score of 1, 5, or 10 (with 10 representing the highest score, 5 representing the average score, and 1 representing the lowest score). Responses that are similar or lack dominant information to differentiate the offerors from each other will receive the same score. Therefore, it is the offeror's responsibility to provide dominant information and differentiate themselves from their competitors.

After the PEC has scored each section, the scores for each section will be totaled and the following formula will be used to calculate the amount of points awarded for that section:

$$\frac{\text{Offeror Total Score}}{\text{Highest Total Score Possible}} \times \text{Max Points} = \text{Points Awarded}$$

(continued)

Example (Max Points for the Section = 100):

	PEC Member 1 Score	PEC Member 2 Score	PEC Member 3 Score	PEC Member 4 Score	Combined Total Score	Weighted Points Awarded
Offeror 1	10	5	5	10	30	75
Offeror 2	5	5	5	5	20	50
Offeror 3	10	10	10	10	40	100

Offeror 1 was awarded 75 points:

Offeror Total Score (30)

_____ x Max Points (100) = Points Awarded (75)

Highest Total Score Possible (40)

Offeror 2 was awarded 50 points:

Offeror Total Score (20)

_____ x Max Points (100) = Points Awarded (50)

Highest Total Score Possible (40)

Offeror 3 was awarded 100 points:

Offeror Total Score (40)

_____ x Max Points (100) = Points Awarded (100)

Highest Total Score Possible (40)

SEC. 5.04 EXPERIENCE AND QUALIFICATIONS

This portion of the offeror's proposal will be evaluated against the following questions:

(1) Questions regarding the Lead Attorney - Maximum 20 (weight 150)

- a) Does the Lead Attorney's resume demonstrate an education and work experience that would be desirable for professionals engaged in the work the contract requires? If so award 5 points, If not 1.
- b) If the Lead Attorney as awarded 5 points under question 2(a) are there outstanding factors such as publications, honors and awards, or a role as lecturer or professor? If so, award another 5 points.
- c) Is there a clear reporting structure? If no, 1 point, if yes 5. If the lead attorney is not available, is the back-up attorney of equal or greater experience? If no 1 point, If yes, another 5 points.

(2) Questions regarding the supporting attorneys – Maximum 10 points (weight 100)

- a) Do the other attorneys' resumes exhibit education and work experience desirable for professionals engaged in the work the contract requires? If most do, award 5 points, If only some do 1 point, if all possess desirable education and work experience, 10 points

(3) Questions regarding firm's experience and understanding of bonds and the timely issues affecting bonds. Maximum total for questions 3(a)-3(h) is 120 (weight of 250)

3(a) Does the firm's narrative proposal indicate experience with the following Bond Types and issuing Entities? Mark the matrix as you read. When done, tabulate to score: 5 Boxes or less – 1 point 6-s-12 boxes 5 points More than 12 boxes = 10points

QUESTION 3 (1): Maximum 10 _____ weight 75

	Issuing Entity			
Bond Type	State of Alaska	State Agencies	Municipal Subdivisions of State of Alaska	Other States
General Obligation				
Revenue				
Lease Financing Obligations				
Revenue & Bond Anticipate notes				
Refunding Bonds				

- (b) Is the firm's method(s) of staying apprised of existing and ongoing rules and initiatives of the SEC and Municipal Securities Rulemaking Board adequate (5), inadequate (1) or exemplary (10) ?

QUESTION 3 (b): Maximum 10 _____ weight 25

- (c) Has it shared in its proposal potential initiatives the State should be aware of? (Yes-5points) (No 1 point). Has it offered steps to prepare the State to comply with new rules and initiatives? Yes 5 points no 1 point

QUESTION 3 (c): Maximum 10 _____ weight 25

- (d) Does the firm express adequate (5 points), inadequate (1 point) or exemplary (10 points) understanding and experience with USDOT's TIFIA loan program?

QUESTION 3 (d): Maximum 10 _____ weight 25

- (e) Does the firm possess adequate (5 points) , inadequate(1 point) understanding of and experience with the State's school debt reimbursement program? Does it propose well-reasoned changes? If so add 5 more points.

QUESTION 3 (e): Maximum 10 _____ weight 25

- (f) Does the firm possess adequate (5 points), inadequate (1 point) or exemplary (10 points) involvement with and understanding of other innovative borrowing programs or structures that State law would allow and its financial situation may benefit from considering?

QUESTION 3 (f): Maximum 10 _____ weight 25

- (g) Did the firm adequately (5) or inadequately (1) describe the process in Alaska to authorize a State financing for the lease-purchase of real property which is subject to appropriation? Did it also offer an example of how it would structure such a financing? If so, award another 5 points.

QUESTION 3 (g): Maximum 10 _____ weight 25

- (h) Did the firm adequately (5) or inadequately (1) describe the process in Alaska to authorize State financing for the lease-purchase of equipment which is subject to appropriation? Did it also offer an example of how it would structure such a financing? If so, award another 5 points.

QUESTION 3 (h): Maximum 10 _____ weight 25

SEC. 5.05 CONTRACT COST (EVALUATING COST PROPOSAL)

For this RFP, cost accounts for **40%** of the total evaluation points. Only the top three scoring firms on the Narrative Proposal will advance the next tier of review where their Cost Proposal will be factored in. After the procurement officer applies any applicable preferences, the procurement officer will ascribe the top-three offeror with the lowest total cost he maximum number of points allocated to cost. The point allocations for cost on the other proposals will be determined using the following formula:

$$[(\text{Price of Lowest Cost Proposal}) \times (\text{Maximum Points for Cost})] \div (\text{Cost of Each Higher Priced Proposal})$$

Example *[dollar amounts below for purposes of illustration only and are not reflective of actual proposed costs]* **(Max Points**

for Contract Cost = 400):

Step 1

List all proposal prices, adjusted where appropriate by the application of applicable preferences claimed by the offeror.

Offeror #1	\$40,000
Offeror #2	\$42,750
Offeror #3	\$47,500

Step 2

In this example, the RFP allotted 40% of the available 1,000 points to cost. This means that the lowest cost will receive the maximum number of points.

Offeror #1 receives 400 points.

The reason they receive that amount is because the lowest cost proposal, in this case \$40,000, receives the maximum number of points allocated to cost, 400 points.

Offeror #2 receives 374.3 points.

$\$40,000 \text{ lowest cost} \times 400 \text{ maximum points for cost} = 16,000,000 \div \$42,750 \text{ cost of Offeror \#2's proposal} = 374.3$

Offeror #3 receives 336.8 points.

$\$40,000 \text{ lowest cost} \times 400 \text{ maximum points for cost} = 16,000,000 \div \$47,500 \text{ cost of Offeror \#3's proposal} = 336.8$

SEC. 5.06 APPLICATION OF PREFERENCES

Certain preferences apply to all state contracts, regardless of their dollar value. The Alaska Bidder, Alaska Veteran, and Alaska Offeror preferences are the most common preferences involved in the RFP process.

- Employment Program Preference - AS 36.30.321(b)
- Alaskans with Disabilities Preference - AS 36.30.321(d)
- Alaska Veteran's Preference - AS 36.30.321(f)

The Division of Vocational Rehabilitation in the Department of Labor and Workforce Development keeps a list of qualified employment programs and individuals who qualify as persons with a disability. As evidence of a business' or an individual's right to the Employment Program or Alaskans with Disabilities preferences, the Division of Vocational Rehabilitation will issue a certification letter. To take advantage of these preferences, a business or individual must be on the appropriate Division of Vocational Rehabilitation list prior to the time designated for receipt of proposals. Offerors must attach a copy of their certification letter to the proposal. **An offeror's failure to provide this certification letter with their proposal will cause the state to disallow the preference.**

SEC. 5.07 ALASKA BIDDER PREFERENCE

An Alaska Bidder Preference of 5% will be applied to the price in the proposal. The preference will be given to an offeror who:

- 1) holds a current Alaska business license prior to the deadline for receipt of proposals;
- 2) submits a proposal for goods or services under the name appearing on the offeror's current Alaska business license;

- 3) has maintained a place of business within the state staffed by the offeror, or an employee of the offeror, for a period of six months immediately preceding the date of the proposal;
- 4) is incorporated or qualified to do business under the laws of the state, is a sole proprietorship and the proprietor is a resident of the state, is a limited liability company (LLC) organized under AS 10.50 and all members are residents of the state, or is a partnership under AS 32.06 or AS 32.11 and all partners are residents of the state; and
- 5) if a joint venture, is composed entirely of ventures that qualify under (1)-(4) of this subsection.

Alaska Bidder Preference Certification Form

In order to receive the Alaska Bidder Preference, the proposal must include the Alaska Bidder Preference Certification Form contained in Form A attached to this RFP. An offeror does not need to complete the Alaska Veteran Preference questions on the form if not claiming the Alaska Veteran Preference. An offeror's failure to provide this completed form with their proposal will cause the state to disallow the preference.

SEC. 5.08 ALASKA VETERAN PREFERENCE

An Alaska Veteran Preference of 5%, not to exceed \$5,000, will be applied to the price in the proposal. The preference will be given to an offeror who qualifies under AS 36.30.990(2) as an Alaska bidder and is a:

- A. sole proprietorship owned by an Alaska veteran;
- B. partnership under AS 32.06 or AS 32.11 if a majority of the partners are Alaska veterans;
- C. limited liability company organized under AS 10.50 if a majority of the members are Alaska veterans; or
- D. corporation that is wholly owned by individuals, and a majority of the individuals are Alaska veterans.

In accordance with AS 36.30.321(i), the bidder must also add value by actually performing, controlling, managing, and supervising the services provided, or for supplies, the bidder must have sold supplies of the general nature solicited to other state agencies, other government, or the general public.

Alaska Veteran Preference Certification

In order to receive the Alaska Veteran Preference, the proposal must include the Alaska Bidder Preference Certification Form attached to this RFP. An offeror's failure to provide this completed form with their proposal will cause the state to disallow the preference.

SEC. 5.09 ALASKA OFFEROR PREFERENCE

Per 2 AAC 12.260, if an offeror qualifies for the Alaska Bidder Preference, the offeror will receive an Alaska Offeror Preference. The preference will be 10% of the total available points, which will be added to the offeror's overall evaluation score.

Example:

Step 1

Determine the number of points available to qualifying offerors under this preference:

1000 Total Points Available in RFP x 10% Alaska Offeror preference = 100 Points for the preference

Step 2

Determine which offerors qualify as Alaska bidders and thus, are eligible for the Alaska Offeror preference. For the purpose of this example, presume that all proposals have been completely evaluated based on the evaluation criteria in the RFP. The scores at this point are:

Offeror #1	830 points	No Preference	0 points
Offeror #2	740 points	Alaska Offeror Preference	100 points
Offeror #3	800 points	Alaska Offeror Preference	100 points

Step 3

Add the applicable Alaska Offeror preference amounts to the offerors' scores:

Offeror #1	830 points
Offeror #2	840 points (740 points + 100 points)
Offeror #3	900 points (800 points + 100 points)

Offeror #3 is the highest scoring offeror and would get the award, provided their proposal is responsive and responsible.

SEC. 5.10 OFFEROR NOTIFICATION OF SELECTION

After the completion of contract negotiation, the procurement officer will issue a written Notice of Intent to Award to be both posted on the State's electronic Public Notices board and sent to all offerors who submitted proposals. The notice will list the names of all offerors and identify the offeror(s) selected for award.

SECTION 6. GENERAL PROCESS AND LEGAL INFORMATION

SEC. 6.01 INFORMAL DEBRIEFING

When the contract is completed, an informal debriefing may be performed at the discretion of the project director or procurement officer. If performed, the scope of the debriefing will be limited to the work performed by the contractor.

SEC. 6.02 ALASKA BUSINESS LICENSE AND OTHER REQUIRED LICENSES

Prior to the award of a contract, an offeror must hold a valid Alaska business license. However, in order to receive the Alaska Bidder Preference and other related preferences, such as the Alaska Veteran Preference and Alaska Offeror Preference, an offeror must hold a valid Alaska business license prior to the deadline for receipt of proposals. Offerors should contact the **Department of Commerce, Community and Economic Development, Division of Corporations, Business, and Professional Licensing** for information on these licenses. Acceptable evidence that the offeror possesses a valid Alaska business license may consist of any one of the following:

- copy of an Alaska business license;
- certification on the proposal that the offeror has a valid Alaska business license and has included the license number in the proposal;
- a canceled check for the Alaska business license fee;
- a copy of the Alaska business license application with a receipt stamp from the state's occupational licensing office; or
- a sworn and notarized statement that the offeror has applied and paid for the Alaska business license.

You are not required to hold a valid Alaska business license at the time proposals are opened if you possess one of the following licenses and are offering services or supplies under that specific line of business:

- fisheries business licenses issued by Alaska Department of Revenue or Alaska Department of Fish and Game,
- liquor licenses issued by Alaska Department of Revenue for alcohol sales only,
- insurance licenses issued by Alaska Department of Commerce, Community and Economic Development, Division of Insurance, or
- Mining licenses issued by Alaska Department of Revenue.

Prior the deadline for receipt of proposals, all offerors must hold any other necessary applicable professional licenses required by Alaska Statute.

SEC. 6.03 STANDARD CONTRACT PROVISIONS

The contractor will be required to sign the Department of Law's Standard Contract for Legal Services. This form is attached with the RFP for your review. The contractor must comply with the contract provisions set out in this attachment. No alteration of these provisions will be permitted without prior written approval from the Department of Law, and the state reserves the right to reject a proposal that is non-compliant or takes exception with the contract terms and conditions stated in the Agreement. Any requests to change language in this

document (adjust, modify, add, delete, etc.), **must be set out in the offeror's proposal in a separate document.** Please include the following information with any change that you are proposing:

- 1) Identify the provision that the offeror takes exception with.
- 2) Identify why the provision is unjust, unreasonable, etc.
- 3) Identify exactly what suggested changes should be made.

SEC. 6.04 QUALIFIED OFFERORS

Per 2 AAC 12.875, unless provided for otherwise in the RFP, to qualify as an offeror for award of a contract issued under AS 36.30, the offeror must:

- 1) Add value in the contract by actually performing, controlling, managing, or supervising the services to be provided; or
- 2) Be in the business of selling and have actually sold on a regular basis the supplies that are the subject of the RFP.

If the offeror leases services or supplies or acts as a broker or agency in providing the services or supplies in order to meet these requirements, the procurement officer may not accept the offeror as a qualified offeror under AS 36.30.

SEC. 6.05 PROPOSAL AS PART OF THE CONTRACT

Part or all of this RFP and the successful proposal may be incorporated into the contract.

SEC. 6.06 ADDITIONAL TERMS AND CONDITIONS

The state reserves the right to add terms and conditions during contract negotiations. These terms and conditions will be within the scope of the RFP and will not affect the proposal evaluations.

SEC. 6.07 HUMAN TRAFFICKING

By signature on their proposal, the offeror certifies that the offeror is not established and headquartered or incorporated and headquartered in a country recognized as Tier 3 in the most recent United States Department of State's Trafficking in Persons Report.

The most recent United States Department of State's Trafficking in Persons Report can be found at the following website: <https://www.state.gov/trafficking-in-persons-report/>

Failure to comply with this requirement will cause the state to reject the proposal as non-responsive or cancel the contract.

SEC. 6.08 RIGHT OF REJECTION

Offerors must comply with all of the terms of the RFP, the State Procurement Code (AS 36.30), and all applicable local, state, and federal laws, codes, and regulations. The procurement officer may reject any proposal that does not comply with all of the material and substantial terms, conditions, and performance requirements of the RFP.

Offerors may not qualify the proposal nor restrict the rights of the state. If an offeror does so, the procurement officer may determine the proposal to be a non-responsive counter-offer and the proposal may be rejected.

Minor informalities that:

- do not affect responsiveness;

- are merely a matter of form or format;
- do not change the relative standing or otherwise prejudice other offers;
- do not change the meaning or scope of the RFP;
- are trivial, negligible, or immaterial in nature;
- do not reflect a material change in the work; or
- do not constitute a substantial reservation against a requirement or provision;

may be waived by the procurement officer.

The state reserves the right to refrain from making an award if it determines that to be in its best interest. **A proposal from a debarred or suspended offeror shall be rejected.**

SEC. 6.09 STATE NOT RESPONSIBLE FOR PREPARATION COSTS

The state will not pay any cost associated with the preparation, submittal, presentation, or evaluation of any proposal.

SEC. 6.10 DISCLOSURE OF PROPOSAL CONTENTS

All proposals and other material submitted become the property of the State of Alaska and may be returned only at the state's option. AS 40.25.110 requires public records to be open to reasonable inspection. All proposal information, including detailed price and cost information, will be held in confidence during the evaluation process and prior to the time a Notice of Intent to Award is issued. Thereafter, proposals will become public information.

The Office of Procurement and Property Management (OPPM), or their designee recognizes that some information an offeror submits might be confidential under the United States or the State of Alaska Constitution, a federal statute or regulation, or a State of Alaska statute: i.e., might be confidential business information (CBI). *See, e.g.,* article 1, section 1 of the Alaska Constitution; AS 45.50.910 – 45.50.945 (the Alaska Uniform Trade Secrets Act); *DNR v. Arctic Slope Regional Corp.*, 834 P.2d 134, 137-39 (Alaska 1991). For OPPM or their designee to treat information an offeror submits with its proposal as CBI, the offeror must do the following when submitting their proposal: (1) mark the specific information it asserts is CBI; and (2) for each discrete set of such information, identify, in writing, each authority the offeror asserts make the information CBI. If the offeror does not do these things, the information will become public after the Notice of Intent to Award is issued. If the offeror does these things, OPPM or their designee will evaluate the offeror's assertion upon receiving a request for the information. If OPPM or their designee reject the assertion, they will, to the extent permitted by federal and State of Alaska law, undertake reasonable measures to give the offeror an opportunity to object to the disclosure of the information.

SEC. 6.11 ASSIGNMENT

Per 2 AAC 12.480, the contractor may not transfer or assign any portion of the contract without prior written approval from the procurement officer.

SEC. 6.12 DISPUTES

A contract resulting from this RFP is governed by the laws of the State of Alaska. If the contractor has a claim arising in connection with the agreement that it cannot resolve with the State by mutual agreement, it shall pursue the claim, if at all, in accordance with the provisions of AS 36.30.620 – AS 36.30.632. To the extent not otherwise governed by the preceding, the claim shall be brought only in the Superior Court of the State of Alaska and not elsewhere.

SEC. 6.13 SEVERABILITY

If any provision of the contract or agreement is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected; and, the rights and obligations of the parties will be construed and enforced as if the contract did not contain the particular provision held to be invalid.

SEC. 6.14 SUPPLEMENTAL TERMS AND CONDITIONS

Proposals must comply with Section 6.08 Right of Rejection. However, if the state fails to identify or detect supplemental terms or conditions that conflict with those contained in this RFP or that diminish the state's rights under any contract resulting from the RFP, the term(s) or condition(s) will be considered null and void. After award of contract:

If conflict arises between a supplemental term or condition included in the proposal and a term or condition of the RFP, the term or condition of the RFP will prevail; and

If the state's rights would be diminished as a result of application of a supplemental term or condition included in the proposal, the supplemental term or condition will be considered null and void.

SEC. 6.15 SOLICITATION ADVERTISING

Public notice has been provided in accordance with 2 AAC 12.220.

SEC. 6.16 SITE INSPECTION

The state may conduct on-site visits to evaluate the offeror's capacity to perform the contract. An offeror must agree, at risk of being found non-responsive and having its proposal rejected, to provide the state reasonable access to relevant portions of its work sites. Individuals designated by the procurement officer at the state's expense will make site inspection.

SEC. 6.17 CLARIFICATION OF OFFERS

In order to determine if a proposal is reasonably susceptible for award, communications by the procurement officer or the proposal evaluation committee (PEC) are permitted with an offeror to clarify uncertainties or eliminate confusion concerning the contents of a proposal. Clarifications may not result in a material or substantive change to the proposal. The evaluation by the procurement officer or the PEC may be adjusted as a result of a clarification under this section.

SEC. 6.18 DISCUSSIONS WITH OFFERORS

The state may conduct discussions with offerors in accordance with AS 36.30.240 and 2 AAC 12.290. The purpose of these discussions will be to ensure full understanding of the requirements of the RFP and proposal. Discussions will be limited to specific sections of the RFP or proposal identified by the procurement officer. Discussions will only be held with offerors who have submitted a proposal deemed reasonably susceptible for award by the procurement officer. Discussions, if held, will be after initial evaluation of proposals by the procurement officer or the PEC. If modifications are made as a result of these discussions they will be put in writing. Following discussions, the procurement officer may set a time for best and final proposal submissions from those offerors with whom discussions were held. Proposals may be reevaluated after receipt of best and final proposal submissions.

If an offeror does not submit a best and final proposal or a notice of withdrawal, the offeror's immediate previous proposal is considered the offeror's best and final proposal.

Offerors with a disability needing accommodation should contact the procurement officer prior to the date set for discussions so that reasonable accommodation can be made. Any oral modification of a proposal must be reduced to writing by the offeror.

SEC. 6.19 FAILURE TO NEGOTIATE

If the selected offeror(s)

- fails to provide the information required to begin negotiations in a timely manner; or
- fails to negotiate in good faith; or
- indicates they cannot perform the contract within the budgeted funds available for the project; or
- if the offeror and the state, after a good faith effort, simply cannot come to terms,

the state may terminate negotiations with the offeror initially selected and commence negotiations with the next highest ranked offeror.

SEC. 6.20 FEDERALLY IMPOSED TARIFFS

Changes in price (increase or decrease) resulting directly from a new or updated federal tariff, excise tax, or duty, imposed after contract award may be adjusted during the contract period or before delivery into the United States via contract amendment.

- **Notification of Changes:** The contractor must promptly notify the procurement officer in writing of any new, increased, or decreased federal excise tax or duty that may result in either an increase or decrease in the contract price and shall take appropriate action as directed by the procurement officer.
- **After-imposed or Increased Taxes and Duties:** Any federal excise tax or duty for goods or services covered by this contract that was exempted or excluded on the contract award date but later imposed on the contractor during the contract period, as the result of legislative, judicial, or administrative action may result in a price increase provided:
 - a) The tax or duty takes effect after the contract award date and isn't otherwise addressed by the contract;
 - b) The contractor warrants, in writing, that no amount of the newly imposed federal excise tax or duty or rate increase was included in the contract price, as a contingency or otherwise.
- **After-relieved or Decreased Taxes and Duties:** The contract price shall be decreased by the amount of any decrease in federal excise tax or duty for goods or services under the contract, except social security or other employment taxes, that the contractor is required to pay or bear, or does not obtain a refund of, through the contractor's fault, negligence, or failure to follow instructions of the procurement officer.
- **State's Ability to Make Changes:** The state reserves the right to request verification of federal excise tax or duty amounts on goods or services covered by this contract and increase or decrease the contract price accordingly.
- **Price Change Threshold:** No adjustment shall be made in the contract price under this clause unless the amount of the adjustment exceeds \$250.

SEC. 6.21 PROTEST

AS 36.30.560 provides that an interested party may protest the content of the RFP.

An interested party is defined in 2 AAC 12.990(a) (7) as "an actual or prospective bidder or offeror whose economic interest might be affected substantially and directly by the issuance of a contract solicitation, the award of a contract, or the failure to award a contract."

If an interested party wishes to protest the content of a solicitation, the protest must be received, in writing, by the procurement officer at least ten days prior to the deadline for receipt of proposals.

AS 36.30.560 also provides that an interested party may protest the award of a contract or the proposed award of a contract.

If an offeror wishes to protest the award of a contract or the proposed award of a contract, the protest must be received, in writing, by the procurement officer within ten days after the date the Notice of Intent to Award the contract is issued.

A protester must have submitted a proposal in order to have sufficient standing to protest the proposed award of a contract. Protests must include the following information:

- the name, address, and telephone number of the protester;
- the signature of the protester or the protester's representative;
- identification of the contracting agency and the solicitation or contract at issue;
- a detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and the form of relief requested.

Protests filed by telex or telegram are not acceptable because they do not contain a signature. Fax copies containing a signature are acceptable.

The procurement officer will issue a written response to the protest. The response will set out the procurement officer's decision and contain the basis of the decision within the statutory time limit in AS 36.30.580. A copy of the decision will be furnished to the protester by certified mail, fax or another method that provides evidence of receipt.

All offerors will be notified of any protest. The review of protests, decisions of the procurement officer, appeals, and hearings, will be conducted in accordance with the State Procurement Code (AS 36.30), Article 8 "Legal and Contractual Remedies."

SECTION 7. ATTACHMENTS

SEC. 7.01 ATTACHMENTS

Attachments:

- 1) Submittal Form A – Certification
- 2) Submittal Form B –Experience and Qualifications
- 3) Submittal Form C -Cost Proposal (Excel format)
- 4) Submittal Form D -Conflicts Report (Excel Format)
- 5) Standard Legal Services Agreement Form