

**City and County of San Francisco
Department of Technology**

**RE-BID Request for Proposals (RFP) #04-2009 for
Public Access Cable Channel Operator**



Date issued: May 6, 2009

Pre-Proposal Conference: May 12, 2009 – 1:30 PM P.D.T.

Proposals due: May 27, 2009 – 12:01 PM P.D.T.

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Appendices:

A. Human Rights Commission (HRC) Attachment 2: Proposers must submit the following forms:

- Form 2A HRC Contract Participation Form
- Form 2B HRC “Good Faith” Outreach Requirements Form
- Form 3 HRC Non-discrimination Affidavit
- Form 54 HRC Employment Form

The following form may be required, if applicable:

- Form 4 Joint Venture Participation Schedule

B. Standard Forms: Listing and Internet addresses of Forms related to Taxpayer Identification Number and Certification, to Business Tax Declaration, and to Chapters 12B and 12C, and 14B of the S.F. Administrative Code.

C. Sample Grant Agreement (form G-100) – separate document

Attachments:

N/A

I. INTRODUCTION

A. General

The Department of Technology (“DT”) of the City and County of San Francisco, California (“City”), through this Request for Proposals (“RFP”), is seeking proposals from qualified nonprofit organizations for the continued operation of the City’s public access cable television channels. The channels appear throughout San Francisco on Comcast and Astound Broadband cable television services, and on AT&T’s U-verse video service.

This RFP addresses two major challenges facing San Francisco’s public access channel. First, the current operating agreement for the channel will terminate on June 30, 2009. The City seeks a nonprofit entity with the background and experience to operate the channel beginning on July 1, 2009. Second, the channel faces the loss of operating funding under new state video franchise laws, beginning with the 2009-2010 fiscal year. For this reason, the City will award funding at a “Primary Service Level, which would include responsibility for channel scheduling, playback, and facilities administration. In the future, the City may provide the option to deliver additional services at an “Enhanced Service Level” to include specified training, studio operation and production services, if and when additional funding is secured by the City. These service levels are described in more detail in the “Scope of Work” section below.

The City will award a three-year agreement (with option for an additional three-year renewal) that would include two service levels:

- (1) \$170,000 per year for three years to provide Primary Service Level services, which must be provided immediately upon the award of the grant; and
- (2) Up to an additional \$380,000 per year, for a total grant award by the City of \$500,000 per year, to provide Enhanced Service Level services.

Award of any such funding for each year of the term of the agreement, including the funds for Enhanced Service Level, is contingent on the availability of such funding and the final budget approval by the Mayor and Board of Supervisors.

The City seeks proposals that demonstrate a realistic and achievable plan for immediately assuming channel operations at the Primary Service Level. In addition, the successful applicant should demonstrate that it has the capacity to raise additional revenues to begin meeting some or all of the Enhanced Service Level services no later than the beginning of year two of the grant term.

The contract shall have an original term of three years. However, the City, at its sole and absolute discretion, may terminate the contract at any time if the applicant fails to raise additional funding or provide the specified enhanced services as agreed. In addition, the City shall have one option to extend the term for an additional three-year period, which the City may exercise in its sole and absolute discretion.

B. Schedule

The anticipated schedule for selection of an award is:

RFP is advertised and issued by the City	May 6, 2009	
Pre-Proposal Conference	May 12, 2009	1:30 PM P.D.T.

Deadline for submission of written questions or Requests for clarification	May 14, 2009	4:00 PM P.D.T.
Response to written questions	May 19, 2009	4:00 PM P.D.T.
Proposal Due Date	May 27, 2009	12:01 PM P.D.T.
Proposal Evaluation Period	May 28 – June 12, 2009	
Contract Preparation/Negotiation	June 12 – June 30, 2009	

II. BACKGROUND

Local public, educational and governmental access (“PEG”) channels began in the early 1970s, as a “trade-off” offered to cities by the emerging cable television industry during franchise negotiations. PEG channels would be locally operated cable channels that would take advantage of the new medium’s potential to become an “electronic soapbox” to encourage expression of a wide range of local viewpoints. As the channels evolved, the “E” (education) and “G” (government) channels focused on those respective topic areas, while the “P” channels provided free airtime and access to video production facilities to any member of the public, regardless of the speaker’s message.

The authority to require PEG channel capacity survives today in Section 611 of the federal Cable Act (47 USC § 531) and in California’s recently enacted state franchise statute, the *Digital Infrastructure and Video Competition Act* (Cal. Govt. Code § 5800 *et seq.*) (“DIVCA”). These laws continue to grant local governments the authority to require channels and financial support as a condition of the operator’s franchise.

Because PEG channel requirements have developed primarily to meet local needs and interests, there is no “one-size-fits-all” model for public access channel operation. In fact, the organization and operating structures of these channels vary widely from city to city.

Public Access in San Francisco

In the past, the City negotiated local franchise agreements with cable operators that included requirements for PEG channel capacity and cash payments for operations support. This operations funding has averaged approximately \$590,000 annually in recent years and has been used primarily to fund public access channel operations.

Since 1999, the City’s public access channels have been operated under a grant agreement with a nonprofit entity, San Francisco Community Television Corporation (“CTC”). The current grant agreement includes specific requirements for outreach, training, scheduling of facilities, equipment and program playback, administration and record keeping. CTC’s primary funding source has been the cash payments provided by the cable operators under the terms of the local franchise with the City.

Financial Challenges for Public Access in San Francisco

The City is currently undergoing a transition from local to state-issued video franchising authority. In 2006, the California state legislature enacted AB 2987, a comprehensive state franchising law. Now known as “DIVCA,” the law allows new and existing cable television operators to obtain a state-issued franchise to provide video services throughout California. While DIVCA preserves the City’s authority to require operators to provide Public, Education and Government Access (“PEG”) channels and support fees, these fees may be used only for PEG capital costs. DIVCA includes no provision for support of day-to-day operating costs for the channels. Funding for PEG channel capital expenses will continue (and may increase) under the new state franchising laws.

In San Francisco, all of the cable television operators have now obtained state franchises. However, unlike many other California jurisdictions, the City negotiated extensions with operators to require PEG operations support to continue through the end of 2009. At that time, the limits on PEG funding under DIVCA will take effect. Therefore, beginning with the 2009-2010 fiscal year, PEG support fees for operating expenses will be severely reduced. **At this time, the City has secured only \$170,000 annually to support PEG operations. However, additional funding may become available within the next 12 months, which could increase the amount available for public access to a total not to exceed \$500,000 annually. Award of any such funding for each year of the term of the agreement will be contingent on securing the additional funding and the final budget approval by the Mayor and Board of Supervisors.**

Public Access Philosophy

In accordance with the philosophy and goals of public access, CTC's grant agreement specifically requires the channel operator to develop and enforce channel policies and procedures, including policies that make channel time available on an equitable basis to all qualified producers. The agreement further specifies that, "Neither Grantee nor City shall control the content of the programming placed on the public channel [and] shall keep the public access channel open to all potential users regardless of their viewpoint." The City remains committed to these fundamental principles and would expect any future channel operator to make a firm commitment to uphold them.

III. RESOURCES PROVIDED BY THE CITY

The City anticipates that the following resources will be available for use by the successful applicant:

1. Up to two public access channels on the Comcast, Astound Broadband and AT&T systems (currently Channels 29 and 76 on Comcast, Channels 29 and 30 on Astound, and Channel 99 on AT&T). **The quantity and channel number of Public Access services is subject to change in accordance with funding constraints, City policy and relevant law.**
2. A public access facility equipped with the items listed below, located in the City and County of San Francisco at 1720 Market Street, currently leased by CTC.
3. Public access production equipment, including a fully equipped studio, linear and non-linear editing facilities, portable production equipment, a flash studio, and playback facilities for continuous scheduling and playback and furnished offices (A comprehensive inventory list is available for inspection on request).
4. Operation funding provided by the City not to exceed \$170,000 annually. Award of any such funding for each year of the term of the agreement will be contingent on final budget approval by the Mayor and Board of Supervisors.
5. A lease agreement for 1720 Market Street, which runs through April 30, 2010, at a current monthly rent of \$16,635.86. The City, at its sole and absolute discretion, may provide additional funding for monthly facility lease payments until the lease expires on April 30, 2010. Such amounts will not exceed \$200,000 for fiscal year 2009-2010. This lease may be subject to extension if additional funding resources are obtained.
6. Availability of capital funding for major equipment and facility purchase and upgrade, at the option of the City and based on an annual review of capital needs.

7. Facilities Excluded From The Agreement: This Request for Proposals is for the management of **public access facilities** - NOT educational or government access, or any other City service. Excluded from the agreement are all other City facilities, including but not limited to:
 - a. Spaces, facilities and equipment occupied or used by the Government Access Channels (SFGTV);
 - b. Spaces, facilities and equipment occupied or used by the Educational Access Channels operated by City College of San Francisco;
 - c. Facilities at various locations that are reserved for fiber uplink connectivity; and
 - d. Any other City facilities or equipment not specifically identified in numbers 1-7 above.

IV. IMPLEMENTATION

The successful applicant will agree to undertake tasks that are consistent with the following functions:

1. Participate in the smooth transition of management responsibility for the public access resources from CTC to the applicant (if applicable);
2. Grant first refusal of any employment opportunities to current employees operating the existing facility and employed by CTC;
3. Undertake all reasonable efforts to retain and support currently active public access producers.

V. SCOPE OF WORK

The successful applicant must be prepared to immediately operate the channel facilities at the Primary Service Level upon award of the grant, with specific attention to public access producers, community based organizations and public access viewers. In addition, the successful applicant should demonstrate that it will begin providing some or all Enhanced Service Level services no later than the beginning of year two of the agreement.

As described above, some amount of additional funding may become available from that City to support the provision of Enhanced Service Level services. However, the successful applicant should demonstrate that it has the capacity to raise additional funding from non-City sources to begin providing some Enhanced Service Level services, regardless of the availability of additional City funding.

Primary Service Level services include, but are not necessarily limited to, the following:

1. Scheduling of the channel and playback of programs produced by public access producers, including basic maintenance of related equipment.
2. Retention of certified producers, and assistance in producing initial and subsequent Public Access Programming.
3. Administration, oversight, and enforcement of channel facilities and policies.

Enhanced Service Level services include, but are not necessarily limited to, the following:

1. Organized and regularly scheduled training for Producers.
2. Check-out/in of equipment and reservation of facilities used by community producers.
3. Ensuring adequate staff or volunteer personnel are available to operate the studio and control room facilities as needed.
4. Preventive and corrective maintenance of facilities and equipment provided for use by community producers.
5. Outreach to and recruitment of community organizations and individuals.

6. Promotion of both the services provided by the public access facility and the programming airing on the access channel.

The successful applicant should provide, as part of its proposal, the following information to demonstrate how it will implement both the Primary and Enhanced Service Levels:

1. Detailed management plan to ensure efficient and sustainable operations. Elements of such a plan may include:
 - Automated program scheduling
 - Automated playback and encoding
 - Channel operations and administration
 - Maintenance of equipment and facilities
 - Program goals
2. Funding and resource development plan:
 - Strategies for obtaining additional funding
 - Actual or proposed funding sources
 - Pro forma 3-year revenue projections
3. Detailed plan for retention and development of producers and volunteers:
 - Producer retention and recruiting
 - Volunteer staff development
 - Training and production support
4. Detailed plan for channel administration, oversight and governance:
 - Channel policies, including policies for acceptable use of facilities and channel
 - Handling obscene and illegal content
 - Policies to ensure openness and transparency for all meetings and actions taken by the governing body
 - Enforcement and remedies for violation of policies
 - Appeal of enforcement decisions
 - Role of the City in deciding appeals, if any
5. Plan to develop partnerships with community groups, nonprofit groups and government
6. Outreach and marketing plan for public access services and programming

VI. SUBMISSION REQUIREMENTS

A. Time and Place for Submission of Proposals

Proposals must be received by 12:01 PM P.D.T. on May 27, 2009. Postmarks will not be considered in judging the timeliness of submissions. Proposals may be delivered in person and left with staff at the Department of Technology front desk at One South Van Ness Ave., 2nd Floor, or mailed to:

San Francisco Department of Technology
RFP # 04-2009, Public Access Cable Channel Operator
Contracts & Procurement
One South Van Ness Avenue, 2nd Floor
San Francisco, CA 94103-0948

Proposers shall submit one (1) Original and five (5) copies of the proposal and two copies, separately bound, of the required Human Rights Commission (HRC) Form(s) noted in the Table of Contents, in a sealed envelope clearly marked "Public Access Cable Channel Operator" to the above location. The original copy of the proposal must be clearly marked as "ORIGINAL." Proposals that are submitted by facsimile, telephone, or electronic mail will not be accepted. Late submissions will not be considered.

B. Format

Proposals must be submitted in hard copy on standard letter paper. The Department will post change notices, answers to questions, minutes of the pre-proposal conference, and other materials to this RFP on the City bid website in the "Consultants and Professional Services (managed by All City departments)" category. The Department encourages potential applicants to check the website frequently, and especially immediately before submitting their bids to be sure they have read all material related to this RFP.

VII. EVALUATION AND SELECTION CRITERIA

A. Proposal Requirements

The City expects the successful applicant to show that it currently has the experience and resources to immediately provide core public access services, and that it also possesses, or will obtain, additional funding to begin providing enhanced services no later than the beginning of year two of the agreement.

Each applicant should submit information documenting its experience in public access channel operations, financial management and organization as a nonprofit entity, including but not limited to the following:

1. A narrative that demonstrates how the applicant will implement both the Primary and Enhanced Service Levels, including all of the information described in the Scope of Work section above.

2. Experience

Evaluation of proposals will be based upon the experience of the Applicant's Board of Directors, and its controlling management personnel. Documentation of all experience shall be supplied by the Applicant. Demonstrated experience in the following areas is particularly desired:

- a. Public Access operation and management
- b. Budget planning and implementation
- c. Fundraising and Revenue Development
- d. Operations planning
- e. Training and retention of community producers
- f. Public Relations and Community Outreach
- g. Familiarity with Federal, State, and local government regulation of the communications industry, and with related statutes, ordinances, regulations and case law

3. Financial Management and Resources

Evaluation of Proposals will be based on the proposed budget for the first full year of Public Access management and on the demonstrated ability to generate additional funding. The budget will reflect personnel and corporate business operation costs, including insurance and bonding expenses, as well as expenditures for the implementation of the Management Plan of the Applicant. The year-one proposed budget will be particularly reviewed for practicality, economy, and fiscal priorities in light of the Applicant's Management Plan. **The proposed budget must identify Non-City funding sources or fundraising plans.**

In addition, please attach the following:

- a. A narrative not to exceed three (3) one-sided, double-spaced pages of Proposer's existing and potential future funding sources, grants, and foundation monies that the Proposer will utilize.
- b. The organization's audited financial statements for the past three years.
- c. The organization's most recent year's operational budget.

In addition, evaluation of Proposals will be based on demonstration of Applicant's longer-term financial stability. This is to be demonstrated through a business plan, pro formas, or other documentation the Applicant chooses.

4. Organization. Please provide the following:

- a. List the names and addresses of your principal officers and members of the Board of Directors (attach resumes) and explain their responsibilities.
- b. Indicate Non-Profit Status, if applicable (attach proof of not-for-profit status or evidence of application for same).
- c. Provide any information of similar facilities Proposer has operated (if any).
- d. Provide the following information concerning the Organization:
 - i. Organization flow chart
 - ii. Organization by-laws and articles of incorporation
 - iii. Statement of organization's philosophy and mission
 - iv. Attach any other pertinent documents regarding your organization's experience or experience of its officers, directors, or employees.

5. References

- a. Financial References (Banks, customers, creditors, supplies, business contacts). Include names, addresses, contact information.
- b. Insurance References. Include names, addresses, and contact information for liability insurance carriers.
- c. Business References. Furnish the names, addresses and telephone numbers of a minimum of three (3) firms or government organizations for which the vendor has provided similar projects.

B. Selection Criteria

The proposals will be evaluated by a selection committee comprised of parties with expertise in public access cable television management. The City intends to evaluate the proposals generally in accordance with the criteria itemized below.

The panel will review how closely an applicant's proposal is to meeting all the requirements set forth in the RFP.

<u>Category</u>	<u>Maximum Points allowed</u>
1. Experience in public access operations and financial management.	20
2. Demonstrated Financial Resources or Plan to Generate Resources in year one.	20
3. Management Plan for Efficiency	20
4. Plan for Retention and Development of Producers and Volunteers	10
5. Plan for Channel Administration, Oversight and Governance	10
6. Plan to develop Partnerships with Community Groups, Nonprofit Groups and Government.	10
7. Outreach and Marketing Plan for Public Access Services and Programming	10
Total Possible Points	<hr/> 100

VIII. PRE-PROPOSAL CONFERENCE AND CONTRACT AWARD

A. Pre-Proposal Conference

A pre-proposal conference will be held on **May 12 2009, starting promptly at 1:30 PM P.S.T.**, to be held at the Department of Technology, One South Van Ness Avenue, 2nd Floor, San Francisco, CA. The proposal terms and conditions will be reviewed and discussed at this time. Questions raised at the bidder's conference may be answered orally or may require research, in which case the answers will be posted as part of the minutes. The conference minutes will be posted on the City's bid website.

If you have further questions regarding the RFP, please contact the individual designated in Section IX.B.

B. Contract Award

DT will select a proposer with whom DT staff shall commence contract negotiations. The selection of any proposal shall not imply acceptance by the City of all terms of the proposal, which may be subject to further negotiations and approvals before the City may be legally bound thereby. If a satisfactory contract cannot be negotiated in a reasonable time, DT at its sole discretion may terminate negotiations with the first selected proposer and begin contract negotiations with an alternate proposer.

IX. TERMS AND CONDITIONS FOR RECEIPT OF PROPOSALS

A. Errors and Omissions in RFP

Proposers are responsible for reviewing all portions of this RFP. Proposers must promptly notify the Department, in writing, if the proposer discovers any ambiguity, discrepancy, omission, or other error in the RFP. Any such notification should be directed to the Department promptly after discovery, but in no event later than five working days prior to the date for receipt of proposals. Modifications and clarifications will be made by addenda as provided below.

B. Inquiries Regarding RFP

Inquiries regarding the RFP and all oral notifications of intent to request written modification or clarification of the RFP, whether submitted before or after the pre-proposal conference, must be by e-mail to jolie.gines@sfgov.org and any substantive replies will be posted on the City's bid website <http://mission.sfgov.org/OCABidPublication/>. No questions or requests for interpretation will be accepted after 4:00 P.M. on May 14, 2009.

C. Objections to RFP Terms

Should a proposer object on any ground to any provision or legal requirement set forth in this RFP, the proposer must, not more than ten calendar days after the RFP is issued, provide written notice to the Department setting forth with specificity the grounds for the objection. The failure of a proposer to object in the manner set forth in this paragraph shall constitute a complete and irrevocable waiver of any such objection.

Should a proposer object on any ground to any provision or legal requirement set forth in Appendix C, the model contract, then the proposer must, submit its objections as part of its proposal, setting forth with specificity the grounds for the objection.

D. Change Notices

DT may modify the RFP, prior to the proposal due date, by issuing Change Notices, which will be posted on the City bid website. The proposer shall be responsible for ensuring that its proposal reflects any and all Change Notices issued by DT prior to the proposal due date regardless of when the proposal is submitted. Therefore, the City recommends that the proposer consult the website frequently, including shortly before the proposal due date, to determine if the proposer has downloaded all Change Notices.

E. Term of Proposal

Submission of a proposal signifies that the proposed services and prices are valid for 120 calendar days from the proposal due date and that the quoted prices are genuine and not the result of collusion or any other anti-competitive activity.

F. Revision of Proposal

A proposer may revise a proposal on the proposer's own initiative at any time before the deadline for submission of proposals. The proposer must submit the revised proposal in the same manner as the original. A revised proposal must be received on or before the proposal due date.

In no case will a statement of intent to submit a revised proposal, or commencement of a revision process, extend the proposal due date for any proposer.

At any time during the proposal evaluation process, the Department may require a proposer to provide oral or written clarification of its proposal. The Department reserves the right to make an award without further clarifications of proposals received.

G. Errors and Omissions in Proposal

Failure by the Department to object to an error, omission, or deviation in the proposal will in no way modify the RFP or excuse the vendor from full compliance with the specifications of the RFP or any contract awarded pursuant to the RFP.

H. Financial Responsibility

The City accepts no financial responsibility for any costs incurred by a firm in responding to this RFP. Submissions of the RFP will become the property of the City and may be used by the City in any way deemed appropriate.

I. Proposer's Obligations under the Campaign Reform Ordinance

Proposers must comply with Section 1.126 of the S.F. Campaign and Governmental Conduct Code, which states:

No person who contracts with the City and County of San Francisco for the rendition of personal services, for the furnishing of any material, supplies or equipment to the City, or for selling any land or building to the City, whenever such transaction would require approval by a City elective officer, or the board on which that City elective officer serves, shall make any contribution to such an officer, or candidates for such an office, or committee controlled by such officer or candidate at any time between commencement of negotiations and the later of either (1) the termination of negotiations for such contract, or (2) three months have elapsed from the date the contract is approved by the City elective officer or the board on which that City elective officer serves.

If a proposer is negotiating for a contract that must be approved by an elected local officer or the board on which that officer serves, during the negotiation period the proposer is prohibited from making contributions to:

- the officer’s re-election campaign
- a candidate for that officer’s office
- a committee controlled by the officer or candidate.

The negotiation period begins with the first point of contact, either by telephone, in person, or in writing, when a contractor approaches any city officer or employee about a particular contract, or a city officer or employee initiates communication with a potential contractor about a contract. The negotiation period ends when a contract is awarded or not awarded to the contractor. Examples of initial contacts include: (1) a vendor contacts a city officer or employee to promote himself or herself as a candidate for a contract; and (2) a city officer or employee contacts a contractor to propose that the contractor apply for a contract. Inquiries for information about a particular contract, requests for documents relating to a Request for Proposal, and requests to be placed on a mailing list do not constitute negotiations.

Violation of Section 1.126 may result in the following criminal, civil, or administrative penalties:

1. Criminal. Any person who knowingly or willfully violates section 1.126 is subject to a fine of up to \$5,000 and a jail term of not more than six months, or both.
2. Civil. Any person who intentionally or negligently violates section 1.126 may be held liable in a civil action brought by the civil prosecutor for an amount up to \$5,000.
3. Administrative. Any person who intentionally or negligently violates section 1.126 may be held liable in an administrative proceeding before the Ethics Commission held pursuant to the Charter for an amount up to \$5,000 for each violation.

For further information, proposers should contact the San Francisco Ethics Commission at (415) 581-2300.

J. Sunshine Ordinance

In accordance with S.F. Administrative Code Section 67.24(e), contractors’ bids, responses to RFPs and all other records of communications between the City and persons or firms seeking contracts shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person’s or organization’s net worth or other proprietary financial data submitted for qualification for a contract or other benefits until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public upon request.

K. Public Access to Meetings and Records

If a proposer is a non-profit entity that receives a cumulative total per year of at least \$250,000 in City funds or City-administered funds and is a non-profit organization as defined in Chapter 12L of the S.F. Administrative Code, the proposer must comply with Chapter 12L. The proposer must include in its proposal (1) a statement describing its efforts to comply with the Chapter 12L provisions regarding public access to proposer’s meetings and records, and (2) a summary of all complaints concerning the proposer’s compliance with Chapter 12L that were filed with the City in the last two years and deemed by the City to be substantiated. The summary shall also describe the disposition of each complaint. If no such complaints were filed, the proposer shall include a statement to that effect. Failure to comply with the reporting requirements of Chapter 12L or material misrepresentation in proposer’s Chapter 12L submissions shall be grounds for rejection of the proposal and/or termination of any subsequent Agreement reached on the basis of the proposal.

L. Reservations of Rights by the City

The issuance of this RFP does not constitute an agreement by the City that any contract will actually be entered into by the City. The City expressly reserves the right at any time to:

1. Waive or correct any defect or informality in any response, proposal, or proposal procedure;
2. Reject any or all proposals;
3. Reissue a Request for Proposals;
4. Prior to submission deadline for proposals, modify all or any portion of the selection procedures, including deadlines for accepting responses, the specifications or requirements for any materials, equipment or services to be provided under this RFP, or the requirements for contents or format of the proposals;
5. Procure any materials, equipment or services specified in this RFP by any other means; or
6. Determine that no project will be pursued.

M. No Waiver

No waiver by the City of any provision of this RFP shall be implied from any failure by the City to recognize or take action on account of any failure by a proposer to observe any provision of this RFP.

N. Local Business Enterprise Goals and Outreach

The requirements of the Local Business Enterprise and Non-Discrimination in Contracting Ordinance set forth in Chapter 14B of the San Francisco Administrative Code as it now exists or as it may be amended in the future (collectively the “LBE Ordinance”) shall apply to this RFP.

1. LBE Subconsultant Participation Goals

The LBE subconsulting goal for this project is ___% of the total value of the goods and/or services to be procured (*Subconsulting goal to be determined*).

Each firm responding to this solicitation shall demonstrate in its response that it has used good-faith outreach to select LBE subcontractors as set forth in S.F. Administrative Code §§14B.8 and 14B.9, and shall identify the particular LBE subcontractors solicited and selected to be used in performing the contract. For each LBE identified as a subcontractor, the response must specify the value of the participation as a percentage of the total value of the goods and/or services to be procured, the type of work to be performed, and such information as may reasonably be required to determine the responsiveness of the proposal. LBEs identified as subcontractors must be certified with the San Francisco Human Rights Commission at the time the proposal is submitted, and must be contacted by the proposer (prime contractor) prior to listing them as subcontractors in the proposal. Any proposal that does not meet the requirements of this paragraph will be non-responsive.

In addition to demonstrating that it will achieve the level of subconsulting participation required by the contract, a proposer shall also undertake and document in its submittal the good faith efforts required by Chapter 14B.8(C) & (D) and HRC Attachment 2, Requirements for Architecture, Engineering and Professional Services Contracts.

Proposals which fail to comply with the material requirements of S.F. Administrative Code §§14B.8 and 14B.9, HRC Attachment 2 and this RFP will be deemed non-responsive and will be rejected. During the term of the contract, any failure to comply with the level of LBE subcontractor participation specified in the contract shall be deemed a material breach of contract. Subconsulting goals can only be met with HRC-certified LBEs located in San Francisco.

2. LBE Participation

The City strongly encourages proposals from qualified LBEs. Pursuant to Chapter 14B, the following rating discount will be in effect for the award of this project for any proposers who are certified by HRC as a LBE, or joint ventures where the joint venture partners are in the same discipline and have the specific levels of participation as identified below. Certification applications may be obtained by calling HRC at (415) 252-2500. The rating discount applies at each phase of the selection process. The application of the rating discount is as follows:

- a. A 10% discount to an LBE; or a joint venture between or among LBEs; or
- b. A 5% discount to a joint venture with LBE participation that equals or exceeds 35%, but is under 40%; or
- c. A 7.5% discount to a joint venture with LBE participation that equals or exceeds 40%; or
- d. A 10% discount to a certified non-profit entity.

If applying for a rating discount as a joint venture: The LBE must be an active partner in the joint venture and perform work, manage the job and take financial risks in proportion to the required level of participation stated in the proposal, and must be responsible for a clearly defined portion of the work to be performed and share in the ownership, control, management responsibilities, risks, and profits of the joint venture. The portion of the LBE joint venture's work shall be set forth in detail separately from the work to be performed by the non-LBE joint venture partner. The LBE joint venture's portion of the contract must be assigned a commercially useful function.

3. HRC Forms to be Submitted with Proposal

a. All proposals submitted must include the following Human Rights Commission (HRC) Forms contained in the HRC Attachment 2: 1) HRC Contract Participation Form, 2) HRC "Good Faith Outreach" Requirements Form, 3) HRC Non-Discrimination Affidavit, 4) HRC Joint Venture Form (if applicable), and 5) HRC Employment Form. If these forms are not returned with the proposal, the proposal may be determined to be non-responsive and may be rejected.

b. Please submit only two copies of the above forms with your proposal. The forms should be placed in a separate, sealed envelope labeled HRC Forms.

If you have any questions concerning the HRC Forms, you may call the Human Rights Commission Contract Compliance Office at (415) 252-2500.

X. CITY CONTRACT REQUIREMENTS

A. Standard Contract Provisions

The successful proposer will be required to enter into a contract substantially in the form of the Grant Agreement, attached hereto as Appendix C. Failure to timely execute the contract, or to furnish any and all insurance certificates and policy endorsements, surety bonds or other materials required in the contract, shall be deemed an abandonment of a contract offer. The City, in its sole discretion, may select another firm and may proceed against the original selectee for damages.

Proposers are urged to pay special attention to the requirements of Administrative Code Chapters 12B and 12C, Nondiscrimination in Contract Benefits; the Minimum Compensation Ordinance; Requiring Health Benefits for Covered Employees; the First Source Hiring Program; and applicable conflict of interest laws, as set forth in paragraphs B, C, D, E, and F below.

B. Nondiscrimination in Contracts and Benefits

The successful proposer will be required to agree to comply fully with and be bound by the provisions of Chapters 12B and 12C of the San Francisco Administrative Code. Generally, Chapter 12B prohibits the City and County of San Francisco from entering into contracts or leases with any entity that discriminates in the provision of benefits between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of employees. The Chapter 12C requires nondiscrimination in contracts in public accommodation. Additional information on Chapters 12B and 12C is available on the HRC's website at www.sfhrc.org.

C. Minimum Compensation Ordinance (MCO)

The successful proposer will be required to agree to comply fully with and be bound by the provisions of the Minimum Compensation Ordinance (MCO), as set forth in S.F. Administrative Code Chapter 12P. Generally, this Ordinance requires contractors to provide employees covered by the Ordinance who do work funded under the contract with hourly gross compensation and paid and unpaid time off that meet certain minimum requirements. For the contractual requirements of the MCO, see §43 in the Agreement.

Note that the gross hourly compensation for covered employees for For-Profit entities is \$10.77.

The MCO rate for non-profit corporations and government entities shall remain at \$9.00. If a Covered Employee of a Nonprofit Corporation works in San Francisco, then that employee is covered by San Francisco's Minimum Wage Ordinance, which is Chapter 12R of the Administrative Code. As of January 1, 2007, Chapter 12R's minimum wage is \$9.14 per hour.

Additional information regarding the MCO is available on the web at www.sfgov.org/olse.

D. Health Care Accountability Ordinance (HCAO)

The successful proposer will be required to agree to comply fully with and be bound by the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in S.F. Administrative Code Chapter 12Q. Contractors should consult the San Francisco Administrative Code to determine their compliance obligations under this chapter. Additional information regarding the HCAO is available on the web at www.sfgov.org/olse.

E. First Source Hiring Program (FSHP)

If the contract is for more than \$50,000, then the First Source Hiring Program (Administrative Code Chapter 83) may apply. Generally, this ordinance requires contractors to notify the First Source Hiring Program of available entry-level jobs and provide the Workforce Development System with the first opportunity to refer qualified individuals for employment.

Contractors should consult the San Francisco Administrative Code to determine their compliance obligations under this chapter. Additional information regarding the FSHP is available on the web at www.sfgov.org/moed/fshp.htm and from the First Source Hiring Administrator at (415) 401-4960.

F. Conflicts of Interest

The successful proposer will be required to agree to comply fully with and be bound by the applicable provisions of state and local laws related to conflicts of interest, including Section 15.103 of the City's Charter, Article III, Chapter 2 of the City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California. The successful proposer will be required to acknowledge that it is familiar with these laws; certify that it does not know of any facts that constitute a violation of said provisions; and agree to immediately notify the City if it becomes aware of any such fact during the term of the Agreement.

Individuals who will perform work for the City on behalf of the successful proposer might be deemed consultants under state and local conflict of interest laws. If so, such individuals will be required to submit a Statement of Economic Interests, California Fair Political Practices Commission Form 700, to the City within ten calendar days of the City notifying the successful proposer that the City has selected the proposer.

XI. PROTEST PROCEDURES

A. Protest of Non-Responsiveness Determination

Within five working days of the City's issuance of a notice of non-responsiveness, any firm that has submitted a proposal and believes that the City has incorrectly determined that its proposal is non-responsive may submit a written notice of protest. Such notice of protest must be received by the City on or before the fifth working day following the City's issuance of the notice of non-responsiveness. The notice of protest must include a written statement specifying in detail each and every one of the grounds asserted for the protest. The protest must be signed by an individual authorized to represent the proposer, and must cite the law, rule, local ordinance, procedure or RFP provision on which the protest is based. In addition, the protestor must specify facts and evidence sufficient for the City to determine the validity of the protest.

B. Protest of Contract Award

Within five working days of the City's issuance of a notice of intent to award the contract, any firm that has submitted a responsive proposal and believes that the City has incorrectly selected another proposer for award may submit a written notice of protest. Such notice of protest must be received by the City on or before the fifth working day after the City's issuance of the notice of intent to award.

The notice of protest must include a written statement specifying in detail each and every one of the grounds asserted for the protest. The protest must be signed by an individual authorized to represent the proposer, and must cite the law, rule, local ordinance, procedure or RFP provision on which the protest is based. In addition, the protestor must specify facts and evidence sufficient for the City to determine the validity of the protest.

C. Delivery of Protests

All protests must be received by the due date. If a protest is mailed, the protestor bears the risk of non-delivery within the deadlines specified herein. Protests should be transmitted by a means that will objectively establish the date the City received the protest. Protests or notice of protests made orally (e.g., by telephone) will not be considered. Protests must be delivered to: sheila.maxwell@sfgov.org.

Appendix A
Human Rights Commission (HRC) Attachment 2

(Separate Document)

Appendix B
Standard Forms

The requirements described in this Appendix are separate from those described in Appendix A.

Before the City can award any contract to a contractor, that contractor must file four standard City forms (items 1-3 on the chart). Because many contractors have already completed these forms, and because some informational forms are rarely revised, the City has not included them in the RFP package. Instead, this Appendix describes the forms, where to find them on the Internet (see bottom of page 2), and where to file them. If a contractor cannot get the documents off the Internet, the contractor should call (415) 554-6248 or e-mail Purchasing (purchasing@sfgov.org) and Purchasing will fax, mail or e-mail them to the contractor.

If a contractor has already filled out items 1-3 (See note under item 3.) on the chart, **the contractor should not do so again unless the contractor's answers have changed.** To find out whether these forms have been submitted, the contractor should call Vendor File Support at (415) 554-6702.

If a contractor would like to apply to be certified as a local business enterprise, it must submit item 4. To find out about item 4 and certification, the contractor should call Human Rights Commission at (415) 252-2500.

Item	Form Name and Internet Location	Form	Description	Return the Form to; For more Information
1.	Request for Taxpayer Identification Number and Certification http://www.sfgov.org/oca/purchasing/forms.htm http://www.irs.gov/pub/irs-fill/fw9.pdf	W-9	The City needs the contractor's taxpayer ID number on this form. If a contractor has already done business with the City, this form is not necessary because the City already has the number.	Controller's Office Vendor File Support City Hall, Room 484 San Francisco, CA 94102-4685 (415) 554-6702
2.	Business Tax Declaration http://www.sfgov.org/oca/purchasing/forms.htm	P-25	All contractors must sign this form to determine if they must register with the Tax Collector, even if not located in San Francisco. All businesses that qualify as "conducting business in San Francisco" must register with the Tax Collector.	Controller's Office Vendor File Support City Hall, Room 484 San Francisco, CA 94102-4685 (415) 554-6702

Appendix B
Standard Forms

Item	Form Name and Internet Location	Form	Description	Return the Form to; For more Information
3.	<p>S.F. Administrative Code Chapters 12B & 12C Declaration: Nondiscrimination in Contracts and Benefits</p> <p>http://www.sfgov.org/oca/purchasing/forms.htm -</p> <p>In Vendor Profile Application</p>	HRC-12B-101	<p>Contractors tell the City if their personnel policies meet the City’s requirements for nondiscrimination against protected classes of people, and in the provision of benefits between employees with spouses and employees with domestic partners. Form submission is not complete if it does not include the additional documentation asked for on the form. Other forms may be required, depending on the answers on this form.</p> <p>Contract-by-Contract Compliance status vendors must fill out an additional form for each contract.</p>	<p>Human Rights Comm. 25 Van Ness, Suite 800 San Francisco, CA 94102-6059 (415) 252-2500</p>
4.	<p>HRC LBE Certification Application</p> <p>www.sfgov.org/oca/purchasing/forms.htm –</p> <p>In Vendor Profile Application</p>		<p>Local businesses complete this form to be certified by HRC as LBEs. Certified LBEs receive a bid discount pursuant to Chapter 14B when bidding on City contracts. To receive the bid discount, you must be certified by HRC by the proposal due date.</p>	<p>Human Rights Comm. 25 Van Ness, #800 San Francisco, CA 94102-6059 (415) 252-2500</p>
5.	<p>Payment (Labor and Material) Bond</p> <p>http://www.sfgov.org/oca/purchasing/add-forms.htm</p>		<p>If the RFP requires a Payment (Labor and Material) Bond from the awarded contractor, discuss this form with your insurance carrier.</p>	<p>It may be required from the successful proposer—see requirements in the RFP.</p>

Appendix B
Standard Forms

Item	Form Name and Internet Location	Form	Description	Return the Form to; For more Information
6.	Performance Bond http://www.sfgov.org/oca/purchasing/add-forms.htm		If the RFP requires a Performance Bond from the awarded contractor, discuss this form with your insurance carrier.	It may be required from the successful proposer—see requirements in the RFP.

Where the forms are on the Internet

Office of Contract Administration

Homepage: <http://www.sfgov.org/oca/>

Purchasing forms: Click on “Required Vendor Forms” under the “Information for Vendors and Contractors” banner.

Human Rights Commission

HRC’s homepage: www.sfhrc.org

Equal Benefits forms: Click on “Forms” under the “Equal Benefits” banner near the bottom.

LBE certification form: Click on “Forms” under the “LBE” banner near the bottom.

Appendix C
SAMPLE GRANT AGREEMENT

(Separate Document)

