



## **FIRM-FIXED-PRICE DESIGN-BUILD SUBCONTRACT INSTRUCTIONS TO OFFERORS**

1. The term "Subcontract" is used throughout this Request for Proposal (RFP) to refer to the draft Subcontract and the documents incorporated by reference therein. The term "Subcontract Documents" denotes all RFP documents, including the proposal invitation letter. See the General Conditions clause entitled "DEFINITIONS" for other definitions.
2. PREPARATION AND SUBMISSION OF PROPOSAL(S):

Mission Support and Test Services, LLC (MSTS) is a Management and Operating (M&O) Contractor to the Department of Energy (DOE), National Nuclear Security Administration (NNSA). Subcontracts issued under the MSTS prime contract include special requirements for work direction, safety, security, cost controls, site management, and other requirements prescribed by our prime contract and DOE/NNSA direction and policy. For these reasons, MSTS' ability to materially alter, revise, or replace the Government-approved standard terms/conditions and/or applicable regulations and policies stated therein is extremely limited, and MSTS may not be able to contract with organizations which take exceptions to the MSTS standard terms and conditions. Accordingly, exceptions are strongly discouraged and may disqualify an offeror from award.

Proposals shall be submitted as indicated in the Request for Proposal Letter on the forms provided with the Subcontract Documents. Proposal(s) shall be properly executed, all blank spaces shall be filled in, and any interlineations, alterations, or erasures shall be formally explained and initialed by the OFFEROR. Failure to comply with these requirements may be cause for rejection of the Proposal.

Partial or incomplete Proposals will not be considered. Proposals shall be in strict conformity with the Subcontract Documents and any amendments.

It is the sole responsibility of the OFFEROR to see to it that its proposal is submitted by the time and date stated in the Request for Proposal Letter. Any Proposal received after the stated due date may be rejected.

Each Proposal shall show the full legal name and business address of the OFFEROR, including its street address if it differs from its mailing address, and shall be signed with the usual signature of the person or persons authorized to bind the OFFEROR and shall be dated. Proposals by a partnership or joint venture shall be signed by an authorized representative of each joint venture member and list the full names and addresses of all partners or joint venture members. The place of incorporation shall be stated in the Proposal to which a corporation, LLC, or other legal entity is a party as an OFFEROR. The name of each signatory shall be typed or otherwise clearly imprinted below each signature. When requested, satisfactory evidence of the authority of any signature on behalf of the OFFEROR shall be furnished. The preparation of a Proposal shall be by and at the expense of the OFFEROR.

3. EXAMINATION OF SUBCONTRACT DOCUMENTS AND EXPLANATION TO OFFERORS:

Any OFFEROR planning to submit a proposal is responsible for examining with appropriate care the complete Subcontract Documents and all amendments, and is also responsible for informing itself with respect to all conditions, which might in any way affect the cost or the performance of any work. Failure to do so will be at the sole risk of the OFFEROR, and no relief can be given for errors or omissions by the OFFEROR. Should the OFFEROR find discrepancies in or omissions

from the Subcontract Documents, or should the Subcontract Documents' intent or meaning appear unclear or ambiguous, or should any other question arise relative to the Subcontract Documents, the OFFEROR shall promptly notify Mission Support and Test Services, LLC (MSTS) hereafter referred to as "CONTRACTOR", in writing. The OFFEROR making such request will be solely responsible for its timely receipt by CONTRACTOR. Replies to such notices may be made in any manner to one or all OFFERORS, as determined appropriate in the CONTRACTOR'S sole discretion. Any amendments to the Subcontract Documents will be issued simultaneously to all persons who have obtained the Subcontract Documents from CONTRACTOR.

4. SITE INSPECTION AND CONDITIONS:

In addition to examination of the Subcontract Documents, each prospective OFFEROR shall make whatever other arrangements are necessary to become fully informed regarding all existing and expected conditions and matters, which might in any way affect the cost or the performance of the Work. Any failure to fully investigate the site or the foregoing conditions shall not relieve the OFFEROR from responsibility for estimating properly the difficulty or cost of successfully performing any work.

5. OFFEROR'S MODIFICATION AND WITHDRAWAL OF PROPOSALS:

An OFFEROR may, without prejudice to itself, modify or withdraw its Proposal by written request, provided that the request is received by CONTRACTOR prior to the due time and date at the address to which Proposals were to be submitted.

If OFFEROR withdraws its Proposal prior to the proposal due date and time, OFFEROR may submit a new Proposal, provided that the new Proposal is received by the CONTRACTOR prior to the established proposal due date and time.

CONTRACTOR may modify any provision or part of the Subcontract Documents at any time prior to proposal due date and time.

6. SINGLE OR MULTIPLE AWARDS:

CONTRACTOR elects to award a single subcontract under this RFP.

7. AWARD OF SUBCONTRACT:

The Subcontract will be awarded based on:

Adherence to the Evaluation Criteria (Exhibit A, Form C);

**Offeror must receive technical acceptability in all criteria to be considered for award.**

Pricing (Exhibit A, Form A)

Determination of Offeror's Responsibility, which shall consist of the following:

Financial responsibility, (Offeror must have adequate financial resources to perform the subcontract or the ability to obtain them);

and Other Special Requirements;

Safety:

- Acceptability of the Offeror's Safety Program (Exhibit A, Form I),
- Subcontractor Safety and Health History (Exhibit A, Form J),
- Lower-Tier Subcontractor Safety and Health History (Exhibit A, Form K).

In its sole discretion, CONTRACTOR may, but is not required to:

- Accept or reject any proposal/bid for any reason with or without prior discussions with the OFFEROR;
- Waive any requirements of this solicitation or the Subcontract Documents or waive any noncompliance in any bid or proposal;
- Make award decisions on the basis of the information and bids/proposals received from the OFFERORS and/or any other or additional information received from other sources;
- Select one or more competitive bids/proposals for further technical review prior to award;
- Make an award with or without discussions;
- Obtain additional information of whatsoever nature from any OFFEROR for consideration in the award decision;
- Amend this solicitation for any reason whatsoever;
- Cancel this solicitation for any reason whatsoever;
- Take any other action whatsoever in relation to this solicitation.

The failure of any OFFEROR, to whom the subcontract is awarded, to properly sign and return to CONTRACTOR the subcontract, together with the Certificate(s) of Insurance, if required, within the time specified in the subcontract documents, will cause CONTRACTOR to suffer damage, the amount of which is difficult, if not impossible, to ascertain. The CONTRACTOR shall therefore be entitled to declare a breach of subcontract by such OFFEROR and award the subcontract to another OFFEROR in accordance with the provisions of the subcontract documents.

The only information given after award to unsuccessful OFFERORS and any other interested parties is the name and location of the apparent successful OFFEROR and if the successful subcontract OFFEROR is a small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, women-owned small business concern or a large business concern.

“Small business concerns,” as used in this solicitation and throughout the Subcontract and related documents means “a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.”

(b) General:

Offers are solicited only from small business concerns as defined above. Offers received from concerns that are not women-owned small business concerns shall be considered non-responsive and will be rejected. Any award resulting from this solicitation will be made to a small business concern.

(c) Limitations on Lower-Tier Subcontracting

By submission of a proposal/bid and execution of a Subcontract, the OFFEROR/ SUBCONTRACTOR agrees that in performance of the Subcontract in the case of a contract for—

(1) *Services (except construction)*. At least 50 percent of the cost of Subcontract performance incurred for personnel shall be expended for employees of the concern.

(2) *Supplies (other than procurement from a nonmanufacturer of such supplies)*. The concern shall perform work for at least 50 percent of the cost of manufacturing the supplies, not including the cost of materials.

(3) *General construction*. The concern will perform at least 15 percent of the cost of the Subcontract, not including the cost of materials, with its own employees.

(4) *Construction by special trade contractors*. The concern will perform at least 25 percent of the cost of the Subcontract, not including the cost of materials, with its own employees.

8. PROCUREMENT REPRESENTATIVE CONTACT INFORMATION

Please direct all questions to:

Shawna Ham  
Mission Support and Test Services, LLC  
P. O. Box 98521, M/S NLV018  
Las Vegas, NV 89193-8521  
(806) 220-3700  
hamsl@nv.doe.gov

9. GENERAL CONDITIONS

- a. CONTRACTOR shall not reimburse OFFERORS for the costs of preparing proposals/bids or responding to this solicitation. By submitting a proposal/bid, OFFERORS acknowledge and agree that they shall not be entitled to any compensation, damages, or remuneration of any kind whatsoever in connection with the submission of a proposal/bid, responding to this RFP, responding to CONTRACTOR requests for information, or anything else relating to OFFERORS' participation in the bid/proposal process, except as may be expressly agreed in the resulting Subcontract, if any.
- b. CONTRACTOR has no obligation to review or consider any proposals submitted, and CONTRACTOR may reject any or all proposals for any reason whatsoever. The submission of a proposal does not create any implied or express contract between an OFFEROR and CONTRACTOR obligating CONTRACTOR to review or evaluate the proposal or to make an award in accordance with the evaluation and selection criteria specified herein. This solicitation and the terms specified herein are strictly for the convenience of CONTRACTOR. By submitting a proposal, OFFERORS acknowledge and agree that they shall not be entitled to any compensation, damages, or remuneration of any kind whatsoever in the event that CONTRACTOR fails to follow, or deviates from, this solicitation.

NOTE: This is for solicitation purposes only and will not be a part of the resultant subcontract.