



Enchanted Circle Trails Association

Developing, maintaining and promoting trails in northern New Mexico
info@enchantedcircletrails.org

Appendix A General Requirements

This procurement will be conducted in accordance with the following general requirements:

1. Acceptance of Evaluation Factors. Submission of a proposal constitutes acceptance of the Evaluation Factors contained in the RFP.
2. Rejection of Proposal Submittals. This Request for Proposal does not commit [Agency] to award a contract, to pay any costs incurred in the preparation of this RFP, or to procure or contract for services. [Agency] reserves the right to accept or reject any or all RFPs received pursuant to this Request or to cancel in whole or in part this RFP if it is in the best interest of [Agency] to do so.
3. Incurring Costs. [Agency] shall not be liable for any costs incurred by Offeror prior to or during the development of a contract.
4. Prime Contractor Responsibility. Any contract that may result from this RFP shall specify that the prime Contractor is solely responsible for the fulfillment of the contract with the [Agency]. The [Agency] will make contract payments only to the prime Contractor.
5. Subcontractors/Consent. The use of subcontractors is allowed. The prime Contractor shall be wholly responsible for the entire performance of the contract, whether or not subcontractors are used. Additionally, the prime Contractor must receive approval, in writing, from the [Agency] before any subcontractor is used during the term of the agreement.
6. Certifications and Licenses. Potential Offerors must have the proper certifications and licenses to do business in New Mexico and follow all applicable state and federal laws.
7. Amended Proposals. An Offeror may submit an amended proposal before the deadline for receipt of proposals. Such amended proposals must be complete replacements for a previously submitted proposal and must be clearly identified as such in the transmittal letter. The [Agency] will not merge, collate, or assemble proposal materials.
8. Offerors' Rights to Withdraw Proposal. Offerors will be allowed to withdraw their proposals at any time prior to the deadline for receipt of proposals. The Offeror must submit a written withdrawal request signed by the Offeror's duly authorized representative and addressed to the [Manager].

9. Proposal Offer Firm. Responses to this RFP, including proposal prices for services, will be considered firm for one hundred twenty (120) calendar days after the due date for receipt of proposals or ninety (90) calendar days after the due date for the receipt of a best and final offer, provided the Offeror is invited or required to submit one.
10. Disclosure of Proposal Contents.
- A. Proposals will be kept confidential until negotiations and the award are completed by the [Agency]. At that time, all proposals and documents pertaining to the proposals will be open to the public, except for material that is clearly marked proprietary or confidential. The [Manager] will not disclose or make public any pages of a proposal on which the potential Offeror has stamped or imprinted "proprietary" or "confidential" subject to the following requirements:
 - 1. Proprietary or confidential data shall be readily separable from the proposal in order to facilitate eventual public inspection of the non-confidential portion of the proposal.
 - 2. Confidential data is restricted to:
 - a. confidential financial information concerning the Offeror's organization; and
 - b. data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act, NMSA 1978 § 57-3A-1 to 57-3A-7.
 - B. If a request is received for disclosure of data for which an Offeror has made a written request for confidentiality, the [Agency] shall examine the Offeror's request and make a written determination that specifies which portions of the proposal should be disclosed. Unless the Offeror takes legal action to prevent the disclosure, the proposal will be so disclosed. The proposal shall be open to public inspection, subject to any continuing prohibition on the disclosure of confidential data.

Please note: The price of products offered or the cost of services proposed shall not be designated as proprietary or confidential information.

11. No Obligation. This RFP in no manner obligates the [Agency] or any of its programs to the use of any Offeror's services until a valid written contract is awarded and approved by appropriate authorities.
12. Termination. This RFP may be canceled at any time, and any and all proposals may be rejected in whole or in part when the [Agency] determines such action to be in the best interest of the [Agency].
13. Sufficient Appropriation. Any contract awarded as a result of the RFP process may be terminated if sufficient appropriations or authorizations do not exist. Such termination will be effected by sending written notice to the Contractor. The [Agency]'s decision as to whether sufficient appropriations and authorizations are available will be accepted by the Contractor as final.

14. Legal Review. The [Agency] requires that all Offerors agree to be bound by the General Requirements contained in this RFP. Any Offeror concerns must be promptly brought to the attention of the [Manager].
15. Governing Law. This RFP and any contract with an Offeror which may result from this procurement shall be governed by the laws of the State of New Mexico.
16. Prohibited Bidding. Pursuant to NMSA 1978, Section 10-16-13, the [Agency] shall not accept a bid or proposal from a person who directly participated in the preparation of specifications, qualifications, or evaluation criteria on which the specific competitive bid or proposal was based. A person in this context includes the person's agents, employees, or representatives. A person accepting a bid or proposal on behalf of a state agency or political subdivision of this State shall exercise due diligence to ensure compliance with this section.
17. Consent to Jurisdiction and Venue. If a recipient of this RFP chooses to offer a proposal, the Offeror understands and agrees that by submitting such proposal to the [Agency], they consent to and agree to the exclusive jurisdiction of the Courts of the State of New Mexico for the resolution of any disputes arising under or resulting from contract selection and/or approval process in response to this RFP, or any dispute arising under or resulting from the performance of any contract resulting from this RFP that cannot be resolved informally. The Offeror, by submitting such proposal, waives any objection to the personal jurisdiction of the Courts of the State of New Mexico over the Offeror. By submitting such proposal, the Offeror agrees and consents that the Taos County County District Court shall have venue and jurisdiction over all matters arising or derived from this RFP, including a resulting contract.
18. Basis for Proposal. Only information supplied by [Agency] in writing through the [Manager] or in this RFP should be used as the basis for the preparation of Offeror proposals.
19. Contract Terms and Conditions. The negotiated contract between the [Agency] and the Contractor will follow the format specified by the [Agency]. The [Agency] reserves the right to negotiate with a successful Offeror provisions in addition to those contained in this RFP.

Should an Offeror object to any of the [Agency]'s terms and conditions, as referenced in this Section or the contract, that Offeror must propose specific alternative language. The [Agency] may or may not accept the alternative language. General references to the Offeror's terms and conditions or attempts at complete substitutions are not acceptable to [Agency] and will result in the disqualification of the Offeror's proposal.

The contents of this RFP, as revised and/or supplemented, and the successful Offeror's proposal will be incorporated into and become part of the negotiated contract. In the event the Offeror's proposal conflicts with the RFP, the RFP governs. In the event the executed contract conflicts with the proposal, the executed contract governs.

Offerors must provide a brief discussion of the purpose and impact, if any, of each proposed change, followed by the specific proposed alternate wording.

If an Offeror fails to propose any alternate terms and conditions during the procurement process, i.e., the RFP process prior to selection as a successful Offeror, then no proposed alternate terms and conditions will be considered later during the negotiation process. Failure to propose alternate terms and conditions during the procurement process constitutes an explicit agreement by the Offeror that the contractual terms and conditions contained in this RFP are accepted by the Offeror.

20. Offeror's Terms and Conditions. Offerors must submit with the proposal a complete set of any additional terms and conditions they expect to have included in a contract negotiated with the [Agency].
21. Contract Deviations. Any additional terms and conditions, which may be the subject of negotiation, will be discussed only between the [Agency] and the selected Offeror and shall not be deemed an opportunity to amend the Offeror's proposal.
22. Contract Negotiations. Unless there is no need for negotiations with any of the offerors, negotiations shall be conducted with offerors who submit proposals determined to have a reasonable chance of being selected for award based on evaluation against the technical and price factors as specified in the FRP. Any response to publicized requests for proposals shall be considered to the maximum extent practical. Negotiations may be conducted only with the top-rated proposer(s) if, in the opinion of [Agency], it is in the best interest of the [Agency] to do so. Such offerors shall be accorded fair and equal treatment with respect to any opportunity for negotiation and revision of proposals. The purpose of negotiations shall be to seek clarification with regard to advising offerors of the deficiencies in both the technical and price aspects of their proposals so as to assure full understanding of and conformance to the solicitation requirements.
23. Offeror Qualifications. The [Agency] and [Manager] may make such investigations as necessary to determine the ability of the Offeror to adhere to the requirements specified within this RFP. Proposals of any Offeror who is not a responsible Offeror or fails to submit a responsive offer will be rejected..
24. Right to Waive Minor Irregularities. The Committee reserves the right to waive minor irregularities. The Chief Procurement Officer reserves the exclusive right to determine whether discrepancies regarding mandatory requirements result in an offer being Non-Responsive.

25. Change in Contractor Representatives. The [Agency] reserves the right to require a change in contractor representatives if, in the opinion of the [Agency], the assigned representative(s) is (are) not adequately meeting the needs of the [Agency].
26. Notice of Penalties. New Mexico criminal statutes impose felony penalties for bribes, gratuities, and kickbacks.
27. Agency Rights. The [Agency], in agreement with the [Manager], reserves the right to accept all or a portion of a potential Offeror's proposal.
28. Right to Publish. Throughout the duration of the procurement process and contract term, Offerors and Contractors must secure from the [Agency] written approval prior to the release of any information that pertains to the potential work or activities covered by this procurement and/or [Agency] contracts deriving from this procurement. Failure to adhere to this requirement may result in disqualification of the Offeror's proposal or removal from the Contract.
29. Ownership of Proposals. All documents submitted in response to this RFP shall become the property of the [Agency].
30. Confidentiality. Any confidential information provided to or developed by, the Contractor in the performance of the Contract resulting from this RFP shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the [Agency]. The Contractor(s) agrees to protect the confidentiality of all confidential information and not to publish or disclose such information to any third party without the [Agency]'s written permission.
31. Electronic Mail Address Required. A large part of the communication regarding this procurement will be conducted by electronic mail (e-mail). Offeror must have a valid e-mail address to receive this correspondence.
32. Use of Electronic Versions of this RFP. This RFP is being made available by electronic means. If accepted by such means, the Offeror acknowledges and accepts full responsibility to ensure that no changes are made to the RFP. In the event of a conflict between a version of the RFP in the Offeror's possession and the version maintained by the [Manager], the version maintained by the [Manager] shall govern.
33. Insurance Requirements. Offeror shall carry and maintain insurance as required by all applicable state and federal laws.
34. Conflict of Interest: Governmental Conduct Act. The Offeror warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict

in any manner or degree with the performance or services required under the Agreement.

35. Equal Employment Opportunity. The following requirements shall apply to state- and federal-funded contracts: In connection with this RFP and the anticipated contract, the Offeror shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual preference, national origin, age, marital status, disability, or other protected class.

The Offeror shall take affirmative action to ensure that all applicants are treated fairly during employment, without regard to their race, color, religion, sex, sexual preference, national origin, age, marital status, disability, or other protected class.

Such actions shall include but not be limited to the following: layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.