

**CITY OF DOVER  
REQUEST FOR PROPOSALS  
GENERAL TERMS AND CONDITIONS\***

PREPARATION OF PROPOSALS:

Proposals shall be submitted on the forms provided and must be signed by the Proposer or the Proposer's authorized representative. The person signing the proposal shall initial any edits/corrections to entries made on the proposal forms.

Proposers must quote on all items appearing on the proposal forms unless specific directions in the advertisement, on the proposal form, or in the special provisions allow for partial proposals. Failure to quote on all items may disqualify the proposal. When proposals on all items are not required, Proposers shall insert the words "no proposal" where appropriate.

Alternative proposals will be considered, unless otherwise stated, only if the alternate is: (1) Described completely, including, but not limited to, sample(s), if requested, and specifications sufficient so that a comparison to the request can be made; and (2) Submitted as part of the base proposal response, i.e. it shall not be a separate document which could be construed as a second proposal.

Unless otherwise stated in the Request for Proposal (RFP), the proposer agrees that the proposal shall be deemed open for acceptance for Sixty (60) calendar days subsequent to the bid opening date.

Any questions or inquiries must be submitted in writing, and, in order to be considered, must be received by the Purchasing Agent (a.legere@dover.nh.gov) no later than seven (7) calendar days before the Request for Proposals due date. Any changes to the Request for Proposals will be provided to all Proposers of record.

The Proposer shall not divulge, discuss or compare this proposal with other Proposers and shall not collude with any other Proposer or parties to a proposal whatsoever.

Unless otherwise noted, the name of manufacturer, trade name, or catalog number mentioned in this Request for Proposal is for the purpose of designating a minimum standard of quality and type; such references are not intended to be restrictive, although specified color, type of material and specified measurements may be mandatory. Unless otherwise noted, proposals will be considered for any brand which meets or exceeds the quality of the specifications listed. On all such proposals, the Proposer shall specify the product they are proposing and shall supply sufficient data to enable a comparison to be made with the particular brand or manufacturer specified. Failure to submit the above may be sufficient grounds for rejection of the proposal.

When samples are required, they must be submitted free of cost and will be returned unless otherwise specified.

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\* Updated June 1, 2017

Items left for demonstration purposes shall be delivered and installed free of charge and shall be removed by the Vendor at no cost to the City. Said demonstration units shall not be offered to the City as new equipment unless mutually agreed to.

The Vendor may be required to supply proof of compliance with proposal specifications. When requested, the Vendor must immediately supply the City with certified test results or certificates of compliance. Where none are available, the City may require independent laboratory testing. All costs for such testing, certified test results or certificates of compliance shall be the responsibility of the Vendor.

Unless otherwise stated, all prices are F.O.B.: Dover, New Hampshire. No charge for packing or drayage will be allowed. All deliveries are to be pre-paid; C.O.D.'s will not be accepted. Each shipment shall be identified by Purchase Order and/or RFP number, commodity description and packing list. All items, packages, etc. shall have clearly identifiable external markings or tags for ease of identification.

#### SUBMISSION OF PROPOSALS:

Proposals must be signed and submitted as directed in the Request for Proposals, and on the forms provided unless otherwise specified. Said signature, in the spaces provided, indicates receipt of, familiarity with and understanding of, and acceptance of the specifications provided, except as otherwise noted by the Proposer. Proposals must be typewritten or printed in blue or black ink. Proposals must be mailed or delivered in person. Proposals that are faxed or e-mailed will not be accepted.

#### WITHDRAWAL OF PROPOSALS/BIDS:

Proposals/bids may be withdrawn prior to the opening date and time upon written, faxed, e-mailed or telegraphic signed request of the Proposer to the Purchasing Agent. Negligence on the part of the Proposer in preparing its proposal/bid shall not constitute a right to withdraw a proposal/bid subsequent to the proposal/bid opening. Proposals/bids may not be withdrawn for a period of sixty (60) days after the date of opening indicated herein or as modified by addenda.

#### PROPOSERS INTERESTED IN MORE THAN ONE PROPOSAL:

If more than one proposal is offered by any one party, or by any person or persons representing a party, all such proposals may be rejected by the City in its sole discretion. A party who has quoted prices to a Proposer is not thereby disqualified from quoting prices to other Proposers or from submitting a direct proposal on its own behalf.

#### RECEIPT AND OPENING OF PROPOSALS:

Proposals shall be submitted prior to the date and time fixed in the Request for Proposals. Proposals received after the date and time so indicated shall remain unopened and shall not be considered.

### PROPOSAL RESULTS:

All proposals shall be subject to negotiations prior to the award of a contract.

No telephone requests for results will be accepted or given. Results can be viewed by visiting the City website: [www.dover.nh.gov](http://www.dover.nh.gov).

### TIE PROPOSALS:

When identical Proposals are received, with respect to price, delivery, financial resources, experience, ability to perform and quality, award may be made by a toss of coin, with the following exception: When a tie proposal exists between a local Proposer (a business establishment with a place of business within City limits) and a non-local Proposer (a business establishment without a place of business within City limits), preference will be given to the local Proposer. If a tie proposal exists between two local Proposers, or two out-of-town Proposers, the decision may be made by a toss of coin.

### LIMITATIONS:

This Request for Proposal (RFP) does not commit the City to award a contract, to pay any costs incurred in the preparation of a response to this request, or to procure or contract for services or supplies. The City reserves the right to accept or reject any or all proposals received as a result of this request, or to cancel in part or in its entirety this RFP, if it is in the best interest of the City to do so.

### PROPOSAL EVALUATION:

In an attempt to determine if a proposer is qualified and responsible, the City, at its discretion, may obtain technical support from outside sources. Each proposer will agree to fully cooperate with the personnel of such organizations.

### AWARD OF CONTRACT:

Any contract entered into by the City shall be in response to the proposal and subsequent discussions. It is the policy of the City that contracts be awarded, among other considerations, only to responsive and responsible Vendors. In order to qualify as responsive and responsible, a prospective vendor must meet the following minimum standards as they relate to this request:

- Have adequate financial resources for performance or have the ability to obtain such resources as required during performance;
- Have the necessary experience, organization, technical and professional qualifications, skills and facilities;
- Be able to comply with the proposed or required time of completion or performance schedule;
- Have a demonstrated satisfactory record of performance; and

- Adhere to the specifications of this proposal and provide all documentation required of this proposal

The contract will be awarded to a responsive and responsible Vendor based on the qualifications and experience of the Vendor, the quality of the equipment/product/service to be provided, the Vendor's ability to provide ongoing technical support, the Vendor's timeframe for providing the equipment/product/service and the Vendor's fee/price proposal. The Vendor selected will be the one deemed most advantageous to the City and not necessarily the one with the lowest price.

The City of Dover reserves the right to waive any formality, informality, information and/or errors in the proposals submitted and the right to reject any or all proposals at its discretion and to accept the proposal which will be in the best interest of the City; or to purchase on the open market if it is considered in the best interest of the City to do so. In case of error in the extension of prices, the unit prices proposed shall govern and the unit prices in writing shall take precedence over the unit prices in figures. Also, in the event of a discrepancy between the total of the items and the lump sum total stated, the total of the items shall govern.

#### CONTRACT AWARD PROTEST POLICY AND PROCEDURE:

Any actual or prospective bidder who is aggrieved in connection with the solicitation or award of a bid or contract may protest and seek resolution of complaints with the Purchasing Agent. A protest with respect to an invitation for bids or request for proposals shall be submitted in writing prior to the time for the opening of bids on the closing day for proposals, unless the aggrieved person did not know and should not have known of the facts giving rise to such protest prior to bid opening or the closing date for proposal. If the aggrieved person did not know and should not have known of the facts giving rise to such protest prior to bid opening or the closing date for proposal, the protest shall be submitted within three (3) calendar days after the aggrieved person knows or should have known of the facts giving rise thereto.

If a satisfactory resolution of the protest is not achieved by submitting a complaint with the Purchasing Agent, the person submitting the protest shall submit a written appeal to the City Manager within three (3) calendar days of a decision by the Purchasing Agent.

Purchasing procedures shall be stayed pending a decision of the City Manager unless the City Manager decides that the award of a contract is necessary to protect substantial interests of the City.

#### MODIFICATIONS AFTER AWARD:

The City reserves the right to incorporate minor modifications, which may be required by it. The Vendor will incorporate these changes at no additional cost, but may protest such action and not be bound by any such request if it can prove that the timing or extent of the modifications implies a major effort on its part.

CANCELLATION OF AWARD:

The City reserves the right to cancel the award without liability to the proposer at any time before a contract has been fully executed by all parties and is approved by the City.

CONTRACT:

Any Contract between the City and the Vendor shall consist of (1) the signed Agreement between the parties; (2) the Request for Proposal (RFP) and any amendments thereto and (3) the Vendor's proposal in response to the RFP. In the event of a conflict in language between documents (1), and (3) referenced above, the provisions and requirements set forth and referenced in the Agreement shall govern, followed by the RFP. However, the City reserves the right to clarify any contractual relationship in writing with the concurrence of the Vendor, and such written clarification shall govern in case of conflict with the applicable requirements contained in the RFP and the Vendor's proposal. In all other matters, not affected by written clarification, if any, the RFP shall govern. The Proposer is cautioned that this proposal shall be subject to acceptance without further clarification.

REQUIREMENTS OF BID BOND AND SURETY BOND:

A bid price bond equal to at least 10% of the bid price must accompany the bid. At the time of the execution of the agreement, the successful proposer shall furnish the City with surety bonds, which have been fully executed by the proposer, guaranteeing the performance of the work (the performance bond) and the payment of all legal debts that may be incurred by reason of the Vendor's performance of the work (the payment bond). The surety and the form of the bonds shall be acceptable to the City. Unless otherwise specified, the surety bonds shall be in the sum equal to the full amount of the agreement.

INSURANCE:

The successful proposer shall secure and maintain for the duration of its contract with the City a General Liability Insurance policy or policies at no cost to the City of Dover. The coverage of said insurance policy shall be in an amount of not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate. The successful proposer shall also secure and maintain for the duration of its contract with the City a Professional Liability Insurance policy or policies at no cost to the City of Dover. The coverage of said insurance policy shall be in an amount of not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate. The City of Dover shall be named as an additional insured on the general liability policy, which coverage shall apply on a primary and noncontributory basis, and, subject to the dollar amounts specified above, cover the City of Dover with the same scope of coverage provided to the successful proposer under the general liability policy without subjecting the City of Dover to any different or additional terms, conditions, limitations, or exclusions. A condition of the insurance coverage shall be thirty (30) days' notice to the City of Dover upon cancellation of the policy. An insurance certificate(s) and endorsement(s) shall be supplied to the City of Dover by the successful proposer demonstrating the required insurance coverage(s) and additional insured status. The successful proposal shall also provide the City

of Dover certificates of renewal for any applicable insurance policy no later than ten (10) business days prior to the expiration of said policy.

The City's examination of, or failure to request or demand, any evidence of insurance hereunder, shall not constitute a waiver of any requirement and the existence of any insurance shall not limit the proposer's obligation under any provision hereof.

Except to the extent of comparable insurance acceptable to the City, or express waiver by the City, the proposer shall, or shall cause any carrier engaged by the proposer, to insure all shipments of goods for full value. If the agreement with the proposer involves the performance of work by the proposer's employees at property owned or leased by the City and/or the use of vehicles in the performance of the work, the proposer shall furnish such additional insurance as the City may request in respect thereof, including, but not limited to automobile liability insurance, but in any event and without such request, workers' compensation insurance and unemployment compensation insurance as required by laws of the State of New Hampshire and public and automotive liability and property damage insurance. In no event shall such employees of the proposer be deemed to be the employees of, or under the direction or control of the City for any purpose whatsoever.

WORKERS' COMPENSATION:

All proposers and subcontractors at every tier under the Proposer will conform with the requirements of N.H. RSA 281 Title XXIII, regarding workers' compensation insurance, including but not limited to the provisions of RSA 281-A:2.

EXECUTION OF AGREEMENT:

The successful Proposer shall sign (execute) the necessary agreements for entering into the contract (a copy of the City's form contract is attached hereto) and return such signed agreements to the City, along with the fully executed surety bonds, within ten (10) calendar days from the date mailed or otherwise delivered to the successful bidder.

APPROVAL OF AGREEMENT:

Upon receipt of the agreement and surety bonds that have been fully executed by the successful proposer, the City shall complete the execution of the agreement in accordance with local laws or ordinances and return a copy of the fully executed agreement to the Vendor. Delivery of the fully executed agreement and a City purchase order, to the Vendor shall constitute the City's approval to be bound by the successful proposer's proposal and the terms and conditions of the agreement.

FAILURE TO EXECUTE AGREEMENT:

Failure of the successful proposer to execute the agreement and/or furnish acceptable surety bonds within ten (10) calendar days from the date mailed or otherwise delivered to the successful Proposer shall be just cause for cancellation of the award and forfeiture of the proposal bond, not as a penalty, but as liquidation of damages to the City.

DISQUALIFICATION:

The City reserves the right to not make an award to any person, firm and/or corporation that has defaulted upon a contract with the City, the State of New Hampshire, or the Federal Government within the past 5 years. The City reserves the right to not make an award to any principal owner or officers that have a 10% or greater interest in a firm or corporation that has defaulted upon a contract with the City, the State of New Hampshire, or the Federal Government within the past 5 years. A corporation must currently be in good standing with the Secretary of State Office in the state in which it is incorporated and able/authorized to conduct business in the State of New Hampshire (see RSA 293-A:15.01).

DISAGREEMENTS AND DISPUTES:

All disagreements and disputes, if any, arising under the terms of any agreement, either by law, in equity, or by arbitration, shall be resolved pursuant to the laws and procedures of the State of New Hampshire, and any agreement shall be deemed to have been executed in New Hampshire. No action at law, or equity, or by arbitration shall be commenced to resolve any disagreements or disputes under the terms of any agreement, in any jurisdiction whatsoever other than the State of New Hampshire and Strafford County.

DELIVERY:

Deliveries are to be made only to the City department or division indicated on the purchase order and in accordance with accepted commercial practices, without extra charge for packing or containers.

Deliveries, which do not conform to the specifications or are not in good condition upon receipt shall be replaced promptly. Deliveries shall be inside the building, and accepted weekdays between the hours of 8:30 AM and 3:00 PM unless otherwise stated. Delivery arrangements must be made with requesting department prior to delivery.

INVOICING:

Unless otherwise stated, invoices are to be submitted in duplicate upon delivery or pick-up to the user department or division. The invoice must include an itemization of all items, supplies, repairs or labor furnished, including unit list price, net price, extensions and total amount due. In addition, on projects that will involve partial/progress payments and/or retainage, a summary statement in the following format will be provided with each invoice:

Original Contract Amount	\$\$\$\$\$\$\$
Plus/minus Change Orders	\$\$\$\$\$\$\$
Total Adjusted Contract Amount	\$\$\$\$\$\$\$

Work Completed to Date	\$\$\$\$\$\$\$\$
Less Previous Invoices	\$\$\$\$\$\$\$\$
Less Retainage (if any)	\$\$\$\$\$\$\$\$
Equals: Balance due this Invoice	\$\$\$\$\$\$\$\$
Balance Remaining on Contract	\$\$\$\$\$\$\$\$

**All invoices must reference a valid City of Dover Purchase Order Number.**

**PROGRESS PAYMENTS AND RETAINAGE:**

Progress Payments: On not later than the last day of every month, the Vendor shall prepare and submit an invoice covering the total quantities of work that have been completed from the start of the job up to and including the last day of the preceding month together with such supporting evidence as required by the City.

Retainage: The City shall retain a portion of the progress payments, each month, in accordance with the following procedures:

1. Until work is 50% complete, as determined by the City, retainage shall be 10% of the monthly payments claimed. The computed amount of retainage shall be deposited in a non-interest bearing account established by the City.
2. After the work is 50% complete, and provided the Contractor has satisfied the City in quality and timeliness of the work, and provided further that there is no specific cause for withholding additional retainage no further amount shall be withheld.
3. Upon substantial completion, the amount of retainage shall be reduced to 2% of the total contract price plus an additional retainage based on the City's estimate of the fair value of the punch list items and the cost of completing and/or correcting such items of work, with specified amounts for each incomplete or defective item of work. As these items are completed or corrected, they shall be paid out of the retainage until the entire project is declared completed. The final 2% retainage shall be held, in the non- interest bearing account, during the warranty period and released only after the City has accepted the project.

**PAYMENT:**

Unless otherwise stated, payment by check will be made within thirty (30) days of the completion of delivery of all items or service, in acceptable condition, to the City and receipt of invoice, whichever is later. Vendors that accept payment by credit card shall be paid upon the completion of delivery of all items or service, in acceptable condition, to the City and receipt of invoice. The decision of whether to pay by check, or by credit card if the Vendor accepts payment by credit card, shall be in the City's sole discretion.

The City is exempt from all sales and Federal excise taxes. The City is a political subdivision of the State of New Hampshire and, therefore, in accordance with IRS regulations, not subject to



Federal taxes. Please bill less these taxes. The City's tax id number is 02-6000230.

PRICING:

Unless otherwise specified all prices listed are firm for the term of the contract. All prices should include all labor, material and transportation costs, and any discounts offered. No fuel surcharges shall be allowed at any time.

INSPECTION & EVALUATION:

The City of Dover reserves the right to inspect the Vendor's facilities during operating hours to determine that the level of inventory is adequate for the City's needs. The conditions and operations of the facility shall be taken into consideration in making the award of this contract.

GUARANTEES & WARRANTY:

All parts and labor related to agreements must be guaranteed and include a warranty. If any work is unable to be guaranteed, the contractor must inform the City, in writing, prior to the delivery of an item or any work being performed. Non-guaranteed work must be offered at a discount rate from the proposal prices. **Inspection, testing and final determination of non-warranty work shall be performed at no cost to the City.**

LIMITATIONS OF LIABILITY:

If the proposer requires any limitations on its liability it must set forth such limitations in its proposal. The City reserves the right to reject any proposal(s) with such limitations.

LIQUIDATED DAMAGES:

In the event that the Contractor fails to satisfactorily complete the work contemplated and provided for under the agreement with the City, on or before \_\_\_\_\_, the City shall deduct from the payments due the Contractor each month, the sum of \_\_\_\_\_ dollars (\$) plus engineering charges per day for each calendar day of delay, which sum is agreed upon not as a penalty, but as fixed and liquidated damages for each day of such delay, to be paid in full and subject to no deduction. If the payments due the Contractor are less than the amount of such liquidated damages said damages shall be deducted from any other monies due or to become due the Contractor or shall be paid by the Contractor's surety.

ENVIRONMENTAL:

The City of Dover supports the concept of purchasing products that are biodegradable, can be or have been recycled, or are environmentally sound. Due consideration will be given to the purchase of such products. If you are bidding on any such products which qualify, or utilizing such products in a service you are bidding, please so indicate in your submittal by item number and description.

### DISADVANTAGED BUSINESS ENTERPRISES:

The City notifies all Vendors that it will affirmatively ensure that in any contract entered into pursuant to this Request for Proposals, disadvantaged business enterprises will be afforded full opportunity to submit proposals in response to this request and will not be discriminated against on the grounds of race, color, national origin, religion, sex, age or disability in consideration for an award.

### NON-DISCRIMINATION:

Contracts for work resulting from this Request for Proposals shall obligate the Vendor/Contractor and the Subcontractors not to discriminate in employment practices on the grounds of race, color, national origin, religion, sex, age or disability. Statements as to non-discriminatory practices may be requested from the successful Vendor(s)/Contractor(s).

### BUILDING CONSTRUCTION AND REPAIR WORK - RSA 277:5-a:

Any Vendor signing a contract to work on a construction, reconstruction, alteration, remodeling, installation, demolition, maintenance, or repair of any public work or building for the City of Dover with a total project cost of \$100,000 or more must be in compliance with the provisions of RSA 277:5-a, "Occupational Safety and Health Administration Certification."

### ACCESS TO PUBLIC MEETINGS AND RECORDS:

All City of Dover public meetings are open to the public and accessible for persons with disabilities. The City of Dover is subject to the provisions of RSA 91-A, the Right-to-Know law.

### DEFINITIONS:

Proposal shall also mean quotation, bid, offer, qualification/experience statement, and services.

Proposers shall also mean vendors, offerors, bidders, contractors or any person or firm responding to a Request for Proposals.

### GOVERNING LAW:

The Laws of the State of New Hampshire shall govern all contracts entered into by the City of Dover. Any disputes shall be resolved within the courts of the State of New Hampshire with venue in Strafford County.

### TOXIC SUBSTANCES IN THE WORKPLACE - SAFETY DATA SHEET (Right to Know):

Any Vendor who receives an order resulting from this Request for Proposal agrees to submit a Material Safety Data Sheet (MSDS) for each toxic or hazardous substance or mixture containing such substance, pursuant to RSA 277-A, when deliveries are made. The vendor agrees to deliver all containers properly labeled pursuant to RSA 277-A. Failure to submit an MSDS and/or label on each container will place the vendor in noncompliance with that purchase order. Failure to submit MSDS and/or labels on each container may result in civil or criminal penalties, including

proposal debarment and action to prevent the vendor from selling said substances, or mixtures containing said substances within the City. All vendors furnishing substances or mixtures subject to RSA 277-A are cautioned to obtain and read the law referenced above.

FUNDING OUT:

The City of Dover's obligations to pay any amount due under a contract are contingent upon availability and continuation of appropriation of funds for the purpose. The City may terminate the contract, for non-appropriation of funds, and all payment obligations of the City cease on the date of termination.

AUDIT:

For a period of at least three (3) years after completion of any contract, it is the responsibility of the Vendor to make available at the Vendor's place of business, upon demand, all price lists, documents, financial records and other records pertaining to purchases made and/or work performed under contract for the purposes of audit by the City of Dover.

EXCLUSIVITY:

This contract will be for the goods/services described above; however, this agreement should not be considered exclusive. As deemed necessary, the City reserves the right to obtain these goods/services from any other vendor.

MISCELLANEOUS:

All State of New Hampshire and local codes, permits, and licensing requirements must be met by anyone performing work on City property. Vendor is required to obtain such permits and/or licenses prior to commencing any work. Any City permit/license fees will be waived by the City. Copies of such permits and licenses shall be forwarded to the Purchasing Agent for the City's file prior to any work commencing.

SEVERABILITY:

If any of the GENERAL TERMS AND CONDITIONS is held to be invalid or unenforceable, it will be construed to have the broadest interpretation which would make it valid and enforceable under such holding. Invalidity or the inability to enforce a term or condition will not affect any of the other GENERAL TERMS AND CONDITIONS.

*FAILURE TO COMPLY WITH THESE REQUIREMENTS COULD RESULT IN THE CANCELLATION OF AN ORDER OR CONTRACT AND/OR BEING BARRED FROM FUTURE BIDDING.*