

**Request for Proposals for Design-Build Services**

Capitol Campus Childcare

DES Project No. 2018-035



**REQUEST FOR PROPOSALS  
Progressive Design-Build Services  
For the  
Capitol Campus Child Care Center  
(Olympia, WA)**

**Project No. 2018-035**

**Submittal Deadline Date: No Later than 3:00 PM July 15, 2019**

**1.1 INTRODUCTION**

On behalf of the Department of Enterprise Services (“Enterprise Services” or “DES”) is soliciting Request for Proposals (RFP) from qualified Design-Build teams, which may include joint ventures, to design and construct a new Child Care Center on the Capitol Campus.

The total project budget is \$10,000,000. The target budget, as established by the Maximum Allowable Design and Construction Cost (MADCC), for the Design-Build portion of the project is \$7,670,000 exclusive of Washington State sales tax. The project is anticipated to start August 2019 and achieve substantial completion by December 15, 2020. Project funding is dependent upon the sale of General Obligation Bonds by the Washington Office of the State Treasurer, which is anticipated to occur on or after July 1, 2019. The successful design builder will be selected for the life of the project, and would be expected to complete the project as funding is approved/appropriated.

In accordance with RCW 39.10.300, et seq., the Enterprise Services will utilize a progressive Design-Build (Design-Build) approach for the procurement and delivery of the project meaning that the Design-Builder will be selected based on qualification and the criteria in Section 1.7. This approach eliminates the requirements for design and fixed pricing during the process to select the Design-Builder. Enterprise Services’ approach includes a single contract, (Attachment 1), with two-phases and additional general terms that are incorporated by reference. The first phase of the contract includes a preliminary agreement to establish major design elements and negotiate a price within the MADCC for completing the project. The second phase governs the completion of design, construction, commissioning, performance guarantees and other aspects of scope and terms sufficient to complete the project.

If, at any time during the first phase, Enterprise Services and the Design-Builder are unable to agree on a price to complete the project, Enterprise Services, at its sole discretion, may terminate the contract.

The scope includes design and construction of a Child Care Center on the Capitol Campus on the site currently known as the Old IBM Site.

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Design-Build Teams submitting a Proposal will be evaluated based on their qualifications that meet the criteria set forth in this Request for Proposal (RFP) by a Selection Panel with representation from Office of Financial Management, Enterprise Services, and the Governor's Office. A maximum of three (3) teams will be selected as finalists (Finalists.) The Finalists will proceed to the second step of the selection process and receive a Request for Proposals (RFP).

### 1.2 BASIS FOR USING THE DESIGN-BUILD PROCEDURE

Enterprise Services are using the Design-Build alternative public works contracting procedure authorized under RCW 39.10. This project delivery method is considered appropriate for this project because

- The Design-Build approach is critical in streamlining the planning, programming, design process required to meet the objectives of the Predesign Report and operational goals required for the project financing requirements.
- The Design-Build approach brings the contractor, architect, and Enterprise Services together early in the process to allow for a more collaborative project, resulting in greater innovation and collaboration, critical in a complex project.
- The Design-Build approach creates a streamline, efficient project delivery method, reducing project delivery time and brings the facilities on line sooner than traditional delivery methods.

### 1.3 PROJECT DESCRIPTION

The project includes design and construction of a six classroom, one-story child care facility of approximately 10,500 GSF. A key design criteria is to provide access to outdoor, nature based play. It is to be sited on the Old IBM Site located on the east campus on the corner of Maple Park Ave and Capitol Way South. It is adjacent to the Employment Security Department building and East Plaza Garage. The facility will be capable of serving between 72 and 96 children. This site development option is known as the "Right-Sized Old IBM Site Development Option" (please see Appendix 7.18 in the Predesign Report in Attachment 10).

This site is part of the State Capitol Campus. For purposes of determining traffic impact fees and responding to advisory city codes, the parcel is considered to be within the Commercial Service High Density District as defined by the City of Olympia. Street improvements will be required per the City of Olympia Standards along Capitol Way and Maple Park Ave. Such improvements may include pedestrian street improvements, sidewalks, landscaping, and trees. No parking lot entry will be allowed along Capitol Way as it is classified as an arterial street. Maple Park Avenue is a one-way street and does not have enough room to accommodate multiple driveways.

A 10-foot elevation drop from south to north exists on the site with a noticeable low area in the northeast corner. Enterprise Services envisions a significant amount of fill will be needed to accommodate an outdoor play yard. Retaining walls may be required to transition and match the existing topography of the adjacent areas.

This project will be subject to stormwater and other environmental standards and requirements (including SEPA) as established by the State of Washington and the City of Olympia.

As indicated in the Predesign, net-zero energy is not feasible for this project due to significant shading from the adjacent building and trees. Other conservation measures must be used to reduce energy demands for this project.

The 2006 Master Plan for the Capitol of the State of Washington identifies this as an opportunity site. Based on its

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location, it is considered a gateway building site so the master plan recommends a generous setback for the transition from neighborhood to the capitol campus.

Enterprise Services and the successful Design-Build team will work collaboratively to optimize value to the State of Washington.

The Enterprise Services fully embrace a collaborative project delivery approach that emphasize a cooperative approach to problem solving. The Enterprise Services expects the successful Design-Build team to embrace these principles as part of the project team as well by creating a culture of open and transparent communication, while establishing an environment where the project team contributes its best efforts for the benefit of the project as a whole.

**1.4 SELECTION SCHEDULE**

The anticipated schedule for the solicitation process is as indicated below:

1.	Issue Request for Qualifications	5/22/2019
2.	Pre-Submission Meeting, 10:00AM at 1500 Jefferson St. SE	5/29/2019
3.	Statements of Qualifications Due at 3:00 pm	6/13/2019
4.	Finalists Selected	6/21/2019
5.	Issue Request for Proposals	6/21/2019
6.	Proprietary Meetings with Finalists (one 2-hour mtg. for each team)	7/1/2019
7.	Last Request for Information Due from Finalists	7/3/2019
8.	Last Addendum Issued	7/8/2019
9.	Proposals Due at 3:00 pm	7/15/2019
10.	Finalists Present Proposals to Selection Panel (2 hours each team)	7/19/2019
11.	Scoring of Proposals	7/22/2019
12.	Public Announcement of Scores at 1:00 pm	7/22/2019
13.	Negotiations with Highest Scoring Design-Build Team	7/23/2019
14.	Execution of the Contract	8/6/2019

**1.5 SELECTION PROCESS**

A. Design-Build Teams submitting an SOQ (Design-Build Teams) will be evaluated based on their qualifications that meet the criteria set forth in the Request for Qualifications (RFQ) by a Selection Panel with representation from Office of Financial Management, DES, and the Governor’s Office. A maximum of three (3) teams will be selected as finalists (Finalists.) The Finalists will proceed to the second step of the selection process and receive a Request for Proposals (RFP). It is anticipated Finalists submitting a proposal will be evaluated by the same panel noted above based on the criteria described in the RFQ and in this RFP. If unforeseen circumstances arise and a member of the committee has to be replaced, Enterprise Services will notify the Design-Build Teams.

1. Basis of Design-Build Award: The preliminary agreement between Enterprise Services and Design-Builder, and the potential follow-on contract to complete the project, shall be awarded based on the criteria identified in this document.

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2. Rejection of Proposals: Enterprise Services reserves the right to reject any or all proposals, at any time, for any reason. Failure to respond to any evaluation criteria may result in elimination of the Proposal from further consideration in the selection process. In the event Enterprise Services does so, it shall provide its reasons for rejection in writing to all Design-Build Teams.
3. Appropriate Contact during Solicitation Process: Design-Build Teams are cautioned that only the contact person listed at the end of the RFQ, or in this follow-on RFP, should be contacted regarding this project. Any contact by Design-Build Teams with any other individual(s), including, but not limited to individuals from any of the organizations represented on the Selection Panel, may result in the Design-Build Team's elimination from this selection process.
4. Selection Panel: The Selection Panel for both the RFQ and RFP phases of the selection process will consist of representatives from Enterprise Services, Office of Financial Management, Governor's Office, private sector and other affected stakeholders as deemed appropriate by Enterprise Services.
5. References: Enterprise Services reserves the right to conduct reference checks for all firms (including, without limitation, firms on proposed teams) at any stage of the selection process. In the event that information obtained from the reference checks reveals concerns about a firm's past performance, or its ability to successfully perform the work to be executed based on the RFQ and this RFP, Enterprise Services may, at its sole discretion, determine that the firm is not qualified to perform the contract and deem the Design-Build Team not eligible for further consideration. Enterprise Services also reserves the right to check references from projects and/or organizations not identified by the firm.
6. Conflict of Interest: Any known or perceived conflict of interest between any of the Design-Builder team members and the Selection Panel shall be disclosed. Enterprise Services will reveal any such conflict of interest to all of the teams, and make a determination on how the conflict of interest will be resolved.
7. Scoring: Selection panel members will evaluate and score each Design-Build Team's qualifications (phase 1) and the finalists' proposals (phase 2) by completing the respective evaluation sheet.

Each panelist will total the points from their evaluation sheet. Then each panelist will rank each Design-Build Team in numeric order from the lowest number of points to the highest number of points. Each panelist will assign their lowest ranked Design-Build Team with a score of one (1), the second lowest Design-Build Team a score of two (2), etc. until the highest ranked Design-Build Team receives a numerical score which is commensurate with the number of Design-Build Teams. For example, if there are 10 Design-Build Teams, the scores of the lowest ranked Design-Build Team through the highest ranked Design-Build Team would receive scores of 1 through 10 respectively.

Ties in the rank order for each panelist are not permitted. Individual panelists must break any ranking tie(s) on their individual score sheets by further evaluation of the selection criteria.

For both phases, the assigned scores from each panelist will be combined on a final score sheet to determine the overall score of the Design-Build Teams. Ties on the final rank sheet shall be broken by further evaluation of the tied Design-Build Teams against the selection criteria and deliberation by the panel to reach consensus on the final scores.

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8. Form of Contract: There will be a single contract (Attachment 1) with two phases and additional general terms, both of which are incorporated by reference. The first phase includes a preliminary agreement to establish major design elements and negotiate a price within the MADCC for completing the project. The second phase will be added by change order to address the completion of design, construction, commissioning, performance guarantees, Guaranteed Maximum Price (GMP), and other aspects of scope and terms sufficient to complete the project. If, at any time during the first phase, Enterprise Services and the Design-Builder are unable to agree on a price to complete the project, DES, at its sole discretion, may terminate the contract.
  9. Agreement/Contract: To be responsive, Finalists must indicate they will substantially agree with proposed contract, (Attachments 1 and 1a), and the general conditions, (Attachment 2). If the Finalist takes exception to the documents, the Finalist must specifically describe the reasons for the exceptions and provide alternative language for consideration by the Enterprise Services on the Contract Issues Form (Attachment 4). Enterprise Services makes no commitment that it will modify any of the terms of the contracts or general conditions.
- B. The steps involved in selecting the Design-Build team for this project are set forth in greater detail as follows:

### **Phase 2- Request for Proposals (RFP):**

Content of Request for Proposals (RFP): The RFP will include additional project information including, but not limited to,

- Pre-Submittal Procedures
- Proposal Content
- Submission Details
- A detailed description of the project including:
  - programmatic, performance, and technical requirements and specifications;
  - functional and operational elements;
  - building performance goals and validation requirements;
  - minimum and maximum net and gross areas of any building;
- The target budget for the Design-Build portion of the project
- RFQ and any RFQ addendum issued
- Proposed Contract (Attachment 1 and 1a)
- General Conditions (Attachment 2)
- Design-Build Contract Management (Attachment 3)
- Contract Issue Log (Attachment 4)
- Good faith general survey of the Old IBM Building and parking lot sites

The selected three (3) finalists will receive the RFP for response. The submitted proposals will be evaluated based on weighted criteria. Proposals shall contain the responses to all the RFP requirements, including the completed Diverse Business Inclusion Plan (Attachment 7), and Price Factor Form (Attachment 8).

The Proposals are limited to forty (40), double-sided, 8.5"x11" pages (or maximum of 80 single-sided pages) of content including all exhibits. Section or tab dividers will count as one double-sided page

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regardless of whether text is used or not. Fold-outs or other graphic documents presented on 11"x 17" pages will count as two, double-sided, pages (or 4 total pages) towards the total page count.

One original in an easily removable binder (no spiral or comb bindings). All pages shall be sequentially numbered.

The minimum font size for all text in the Proposal shall be no less than 11 point.

The following elements of the Proposal will be exempt from the total page count:

- Front and back covers;
- Table of Contents;
- Price Factor Form;
- Diverse Business Inclusion Plan;
- Project Schedule(s);
- Contract Issues Form; and
- Any other documentation specifically requested by Enterprise Services

An electronic copy in PDF format of the Proposal must be included with each submission via a USB, CD, or other mobile storage device deemed acceptable to the state. The PDF should be all inclusive and formatted as a single electronic file being not more than 30MB in size.

### Interaction with Finalists:

Enterprise Services will review each Proposal submitted by the Finalists, and each Finalist agrees to participate in the following meetings:

- Proprietary Meeting: After issuance of the RFP, each Finalist will have an individual proprietary meeting with the Selection Panel. The purpose of this meeting is for the Design-Build Team to ask questions of the Enterprise Services, participate in a site walk, and better understand the requirements of the project. Each proprietary meeting will not exceed 2 hours.
- Presentation Meeting: After the proposals have been submitted each of the finalist will be given the opportunity to present their proposals to the Selection Panel. This presentation is to allow each Finalist to highlight and explain the content of their proposals, express their ideas and qualifications in person, and engage in a question-and-answer period with the Selection Panel. The presentation meeting will not exceed 2 hours.

### C. Contract Award Determination

After the interviews and presentations, the Selection Panel will score the proposals according to the criteria set forth in the RFP and notify all of the Finalists of the selection decision. A scoring summary of final proposals will be provided within two business days of the notification.

The Finalist with the highest-scoring proposal will be selected to enter into contract negotiations with DES. If Enterprise Services and the highest scoring Finalist cannot agree on terms, Enterprise Services may enter into negotiations with the next highest scoring Finalist.

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D. Honorarium

The two unsuccessful finalists will receive an honorarium of \$5,000. This honorarium is intended to cover the additional cost of attending the proprietary meetings with the Owners team and preparing the proposal. Honorariums will be distributed after the successful Finalist and Enterprise Services enter into a Contract.

**1.6 EVALUATION CRITERIA**

**Phase 2- Proposal Evaluation Criteria** – 150 points: Following the evaluation of the SOQs, the Proposals submitted by the Finalists in response to the RFP issued by Enterprise Services will be evaluated. Each Proposal must include information documenting how the team meets the evaluation criteria below, and will be evaluated by the Selection Panel based on these criteria and weighting. The Proposal must include a Table of Contents and be organized by discrete sections corresponding to the criteria, and in the same order as defined below. Submittals will not be returned.

<b>RFP CRITERIA</b>	<b>EVALUATION</b>	<b>WEIGHTING (max. points)</b>
<b>1.</b>	<b>Essential characteristics of, and general approach to managing, this Design-Build project:</b> Describe the team’s understanding of, and insights into, this project delivery method. Describe method-specific risks and opportunities and how best to manage them. Describe what method-specific team characteristics and behaviors are essential and why. Describe how your team is built in regard to major tasks, roles and responsibilities, and how the structure helps minimize gaps and assures clarity. Describe approach to collaboration among team members and with the Enterprise Services project manager.	<b>30</b>
<b>2.</b>	<b>The Availability of your Team (Recent, Current, and Projected Workloads of the Firm; Ability to Meet Time and Budget Requirements; Location):</b> Describe your team’s availability to perform the work of this project. Briefly describe the responsibilities and the extent of involvement of each key team member identified under RFQ Criteria 1 during each phase of the Project as listed in RFP Criteria 2 through 5.  List the location(s) of these key team members. The qualifications of these individuals will be evidenced by the resumes and other information in your SOQ and do not need to be repeated. Provide a brief summary of your firm’s recent, current, and projected workloads expressed in terms of contract dollar value.	<b>20</b>
<b>3.</b>	<b>Project Team Formation (Technical Qualifications; Capability To Perform; Ability Of Professional Personnel; Past Performance On Similar Projects):</b> Describe how your team proposes to work with the Owner’s team to complete your Design-Build team, including the role of consultants vs. that of trade partners.	<b>20</b>
<b>4.</b>	<b>Design (Technical Qualifications; Technical Approach Design Concept; Performance Within The Allowable Budget; Ability Of Professional Personnel; Past Performance On Similar Projects):</b> Describe how your team proposes to develop and modify construction of the building and site to balance cost with the quality of the design to achieve the	<b>30</b>

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	allowable budget. Address your approach to responding to the existing program and design intent established to date and the current City of Olympia permitting process. Address how your team will analyze the available design documents and how your approach will achieve the Owner’s architectural and campus planning/urban design goals within the budget criteria. Describe how your team proposes to manage development of the design up to a point when the Owners team and Design-Builder determines that the scope is defined well enough to allow execution of the second contract. Describe how the Design-Builder will facilitate Owner’s team input into completing the design. How will the Design-Builder assure effective communication among team members and with the Owner’s team? Describe the role trade partners will play as design and documentation is completed.	
5.	<p><b>Approach to Completing Design and Construction (<i>Technical Qualifications; Technical Approach Design Concept; Capability To Perform; Ability Of Professional Personnel; Past Performance On Similar Projects; Ability To Meet Time And Budget</i>):</b></p> <p>Describe your team’s approach, including examples of past performance, to:</p> <ul style="list-style-type: none"> <li>• Complete final design and construction in Phase 2 of the Contract.</li> <li>• Identify and address risks and opportunities</li> <li>• Address permitting, staging, cost control, schedule preparation and control, quality control, document control and sharing of cost information.</li> <li>• Approach the selection, involvement, and management of sub-contractors and suppliers, including their opportunity to contribute to the design.</li> <li>• Manage design changes during construction.</li> <li>• Maintain and finalize record drawings.</li> <li>• Commissioning and transition to occupancy.</li> </ul>	30
6	<p><b>Price Related Factors:</b> Describe how your team proposes to manage general conditions and other methods to control cost and schedule, add value, and increase efficiencies on the project.</p>	10
7	<p><b>Price Related Factors, Overhead and Profit:</b> Provide the general and administrative overhead and profit of the firm or joint venture that would be the contracting entity as a percentage of all direct costs to be invoiced.</p> <p>Submit the <u>Price Factor Form (Attachment 8) (not included in page count)</u></p> <p>The evaluation of this criterion will be based on the difference between the percentage proposed and the lowest conforming percentage received from Finalists. Scores will be based on how far above the lowest value any proposed value is. This difference will be expressed as a percentage according to the following formula and the result will be evaluated using the table below.</p>	10

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	<p><b>Percent above low value = [(Proposed Value – Lowest Value) / Lowest Value] x 100</b></p> <p><b>Example:</b> Let 4% = the lowest value, and let 5% = the proposed value. Then the percent above lowest value is: [(5 – 4)/4] x 100 = <b>25%</b> ; Then, according to the table below, <b>4 points would be assigned]</b></p> <p>Points will be awarded for this criterion as follows: Low conforming value 10 points</p> <ul style="list-style-type: none"> <li>• Values within 10% of low conforming value 8 points</li> <li>• Values within 20% of low conforming value 6 points</li> <li>• Values within 40% of low conforming value 4 points</li> <li>• Values within 60% of low conforming value 2 points</li> <li>• Others 0 points</li> </ul>	
<b>8.</b>	<p><b>Diverse Business Inclusion Plan:</b> Submit a Diverse Business Inclusion Plan (Attachment 7) as part of your Proposal. (not included in page count)</p>	<b>Pass/Fail</b>
<b>9.</b>	<p><b>Acceptance of Contract, Bonding and Insurance (<i>Ability To Provide Performance And Payment Bond</i>):</b> The proposal shall respond to the following criteria:</p> <p>(a) Compliance with proposed contracts and general conditions. Each Design-Build Team must affirm that the terms and conditions of these documents are acceptable, or if the Design-Build Team takes exception to the documents the Design-Build Team must specifically describe the reasons for the exceptions and provide alternative language for consideration by the Enterprise Services on the Contract Issues Form (Attachment 4) (not included in page count). The Enterprise Services makes no commitment that it will modify any of the terms of the contracts or general conditions.</p> <p>(b) Ability to provide performance and payment bonds for the project for at least the amount of the target budget as established by the MADCC (\$) plus Washington State Sales Tax.</p> <p>The Design-Build Team must submit a letter from its bonding company (surety) or its bonding agent indicating that the Design-Build Team has the requisite bonding capacity in order to provide the required bonds.</p> <p>(c) Insurability: Statement from the Design-Build Team’s insurance carrier indicating that the insurance requirements of the contract can be met by the Design-Build Team.</p>	<b>Pass/Fail</b>
	<p><b>Maximum Proposal Points➔</b></p>	<b>150</b>

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### 1.9 CONTRACTING PROCESS

Enterprise Services will use a 2-phase contracting procedure with the highest ranked Design-Builder. Each phase is incorporated by reference and shall be as follows:

- a. Phase 1- Major Design and MADCC Development. This phase includes establishing major design elements and negotiating a price within the MADCC for completing the project.
- b. Phase 2-Final Design/Construction/Completion: This phase of the Design-Build contract governs the completion of design, construction, commissioning, performance guarantees and other aspects of scope and terms sufficient to complete the project.
- c. Additional general terms and conditions are incorporated into the Design-Build Contract in this process.

If, at any time during the term of the Contract, Enterprise Services and the Design-Builder are unable to agree on a price to complete the project, Enterprise Services, at its sole discretion, may terminate the contract negotiations.

### 1.10 FORM OF SUBMITTAL AND DEADLINE

Design-Build Teams are responsible for ensuring receipt of the Proposal at Enterprise Services by the deadline stated below, and should take into account potential delays that may occur when using a delivery service. Submittals received after the deadline will be returned unaccepted.

**Please send to the address and recipient noted below:**

Department of Enterprise Services  
Engineering and Architectural Services  
Attention: Amanda Witt  
1500 Jefferson Street SE, Olympia, WA 98501 (hand delivered or courier)  
P. O. Box 41476, Olympia, Washington, 98504-1476 (mailed)

**All submittals must be received no later than July 15, 2019, prior to 3:00 PM**, (as per date/time stamped by E&AS.)

Any addenda issued for the RFQ and this RFP will be published at the following website address: <https://des.wa.gov/services/facilities-leasing/public-works-design-construction/architecture-engineering-design-consultants/current-projects-advertised-consultant-selection>. Design-Build Teams are responsible for checking the website for any addenda prior to submission of qualifications and proposals. If you are unable to download the addenda, you may contact the individual noted at the end of this RFP. Attachments to this RFP will also be posted at the above website. Attachments not originally posted will be posted no later than July 8, 2019 by 4:00 PM.

### 1.10 DIVERSE BUSINESS INCLUSION

- A. Diverse Business Participation. The state of Washington encourages participation in all of its contracts by Diverse Businesses. DES is committed to providing the maximum practicable opportunity for participation by Diverse Businesses through direct contracts with DES, subcontracts, sub-consulting, and supplier

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participation.

- B. Definition. The Diverse Business definition includes Washington Small Business, micro-business, and mini-business as defined in RCW 39.26.010 (collectively Washington Small Business), Minority and Women Business Enterprises as defined in RCW 39.39.19 and WAC 326-20, and Veteran-owned businesses as defined in RCW 43.60A.010. If the proposed subcontractors are self-identified diverse businesses, the Design-Build Contractor will encourage and support state efforts for their certification with the appropriate Washington state agencies.
- C. Past Performance. Design-Build Teams' SOQs should describe their programs, approaches, and specific steps which were used to include diverse businesses in previous projects. Please highlight strategies which were successful in increasing diverse business participation.
- D. Participation Goals. Diversity goals for Enterprise Services contracts are:
- ✓ 10% Minority Owned Business (MBE) certified by the Washington State Office of Minority and Women Business Enterprises
  - ✓ 6%, Women Owned Business (WBE) certified by the Washington State Office of Minority and Women Business Enterprises
  - ✓ 5% Veteran Owned Business (VOB) certified by the Washington State Department of Veterans Affairs
  - ✓ 5% Washington Small Businesses self-identified in the Washington Electronic Business Solution <http://www.des.wa.gov/services/ContractingPurchasing/Business/Pages/WEBSRegistration.aspx> (WEBS).

**Participation goals for this project are 10% for MBEs, 6% for WBEs, 5% VOB, and 5% for Washington Small Businesses.**

- E. Inclusion Plan. To be considered responsive, Finalists must submit a Diverse Business Inclusion Plan (Attachment 7) as part of their proposal.

The Diverse Business Inclusion Plan must include Anticipated Certified Diverse Business Participation Goals identifying the percentage of diverse subconsultants, subcontractors, and suppliers performing professional services and commercially useful work on the project. The Diverse Business Inclusion Plan does not require firms to be identified. These goals are voluntary. No minimum level of MWBE or Veteran Owned or Washington Small Business participation will be required as a condition for receiving an award, and proposals will not be rejected or considered non-responsive on that basis, unless a goal of zero percent (0%) goal is submitted. **Zero is not a goal.**

The Design Builder will commit to a good faith effort to achieve the Anticipated Certified Diverse Business Participation Goals and the Diverse Business Inclusion Plan will be incorporated into the successful Design-Builder's Contract.

- F. Contact Information. For information on certified firms, prime Design-Build Teams may contact:
- OMWBE at <http://www.omwbe.wa.gov/> or (360) 664-9750
  - DVA at <http://www.dva.wa.gov/BusinessRegistry/Search.aspx> or (360) 725-2200.

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- DES Public Works Diverse Business Manager, Charles Wilson [charles.wilson@des.wa.gov](mailto:charles.wilson@des.wa.gov) or (360) 407-8455 for a list of self-certified Washington Small Businesses that downloaded this solicitation and selected to allow their contact information to be shared.

G. DES Diversity Compliance Program. **The successful Design-Build Team is required to register and create an account in the DES Diversity Compliance Program (B2Gnow) at <https://des.diversitycompliance.com>.** Every month for the duration of your contract, and while your contract is active in the B2Gnow system, submit and accurately maintain the following payment information through B2Gnow:

1. Payments received by the prime contractor from the Agency
2. Payments paid to each subcontractor
3. Payments paid to each supplier

H. Maintenance of Records. Design-Builder shall maintain, for at least six (6) years after Final Acceptance, relevant records and information necessary to document the level of utilization of Diverse Businesses and other businesses as Subcontractors on this Project, as well as any efforts Design-Builder made to increase the participation of Diverse Businesses as listed in Section 1.11J. The Design-Builder shall also maintain, for at least six (6) years after Final Completion, a record of all quotes, bids, estimates, or proposals submitted to Design-Builder by all businesses seeking to participate as Subcontractors on this Project. Owner shall have the right to inspect and copy such records. If this Contract involves federal funds, Design-Builder shall comply with all record keeping requirements set forth in any federal Governmental Rules referenced in the Contract Documents.

I. Advertisements. Design-Builder shall advertise opportunities for Subcontractors in a manner reasonably designed to provide Diverse Businesses capable of performing the work with timely notice of such opportunities, and all advertisements shall include a provision encouraging participation by Diverse Businesses. Advertising may be done through general advertisements (e.g. newspapers, journals, etc.) or by soliciting bids directly from Diverse Businesses. The Design-Builder shall provide Diverse Businesses that express interest with adequate and timely information about plans, specifications, and requirements of the Project.

J. Non-Discrimination. The Design-Builder shall not create barriers to open and fair opportunities for all businesses, including Diverse Businesses, to participate in all state contracts and to obtain or compete for contracts and subcontracts as sources of supplies, equipment, construction and services. In considering offers from and doing business with subcontractors and suppliers, the Design-Builder shall not discriminate on the basis of race, color, creed, religion, sex, age, nationality, marital status, or the presence of any mental or physical disability in an otherwise qualified disabled person.

K. Violations. Any violation of the mandatory requirements of this part of the Contract shall be a material breach of the Contract for which the Design-Builder may be subject to a requirement of specific performance, or damages and sanctions provided by contract, by RCW 39.19.090, or by other applicable laws.

### 1.11 APPRENTICESHIP UTILIZATION REQUIREMENTS

Mandatory apprentice utilization of at least fifteen percent (15%) of the total construction labor hours worked on the Contract is required. Apprentices must be registered as apprentices with the State Apprenticeship and Training Council. Design-Builder shall comply with the requirements of the Contract documents related to apprenticeship.

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Design-Build Teams may contact the Department of Labor & Industries, Apprenticeship Program at 360-902-5320 to obtain information on apprenticeship programs.

### **1.12 PROTEST PROCEDURE**

This Article sets forth the exclusive protest remedies available with respect to the RFQ and RFP. Each Design-Build Team, by submitting its Proposal, expressly recognizes the limitation on its rights to protest, expressly waives all other rights and remedies and agrees that the decision on any protest shall be final and conclusive unless wholly arbitrary. These provisions are included in this RFP expressly in consideration for such waiver and agreement by the Design-Build Teams. Such waiver and agreement by each Design-Build Team are also consideration to each other Design-Build Team for making the same waiver and agreement.

#### **1. Protests Prior to Submission of Proposals**

- a. Design-Build Team may protest the terms of the RFQ or RFP prior to the time for submission of any Proposal on the grounds that: (a) a material provision in the RFQ or RFP is wholly ambiguous; or (b) any aspect of the procurement process described herein is contrary to legal requirements applicable to this procurement. Protests regarding the RFQ or RFP shall be filed only after the Design-Build Team has informally discussed the nature and basis of the protest with DES's Point of Contact or his designee in an effort to remove the grounds for protest.
- b. Protests regarding the RFQ or RFP shall completely and succinctly state the grounds for protest and shall include all factual and legal documentation in sufficient detail to establish the merits of the protest. Evidentiary statements, if any, shall be submitted under penalty of perjury.
- c. Protests regarding the RFQ or RFP shall be filed by hand delivery or courier to DES's Point of Contact as soon as the basis for protest is known to the Design-Build Team, but in any event it must be actually received no later than ten (10) days before the Proposal Due Date, provided that protests regarding an Addendum to the RFQ or RFP shall be filed and actually received no later than five (5) business days after the Addendum the RFQ or RFP is issued.
- d. Enterprise Services will distribute copies of the protest to the other Design-Build Teams and may, but need not, request other Design-Build Teams to submit statements or arguments regarding the protest and may, in its sole discretion, discuss the protest with the protesting Design-Build Team. If other Design-Build Teams are requested to submit statements or arguments, they may file a statement in support of or in opposition to the protest within seven (7) calendar days of the request.
- e. The protesting Design-Build Team shall have the burden of proving its protest by clear and convincing evidence. No hearing will be held on the protest. Enterprise Services shall decide the protest on the basis of the written submissions. Enterprise Services shall issue the decision in writing to each Design-Build Team. The decision shall be final and conclusive. If necessary to address the issues raised in the protest, Enterprise Services will make appropriate revisions to the RFQ or RFP by issuing Addenda. Enterprise Services may extend the Proposal Due Date, if necessary, to address any protest issues.
- f. The failure of a Design-Build Team to raise a ground for a protest regarding the RFQ or RFP shall preclude consideration of that ground in any protest by a Design-Build Team unless such ground was not and could not have been known to the Design-Build Team in time to protest prior to the final date for such protests.

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### 2. Protests after Submission of Proposals

After submission a Design-Build Team may protest a written decision by Enterprise Services for the following reasons:

1. A matter of bias, discrimination, or conflict of interest on the part of the evaluator.
2. Errors in computing the score.
3. Non-compliance with procedures described in the procurement document, or Enterprise Services policy

By filing a notice of protest by hand delivery or courier to DES's Point of Contact. Such notice shall be provided: (a) no earlier than the day of DES's issuance of the written decision; and (b) no later than five (5) business days after DES's issuance of the written decision. The protesting Design-Build Team shall concurrently file a copy of its notice of protest with the other Design-Build Teams. The notice of protest shall specifically state the grounds of the protest.

1. Within seven (7) calendar days of the notice of protest, the protesting Design-Build Team must file with DES's Point of Contact a detailed statement of the grounds, legal authorities and facts, including all documents and evidentiary statements, in support of the protest. The protesting Design-Build Team shall concurrently deliver a copy of the detailed statement to all other Design-Build Teams. Evidentiary statements, if any, shall be submitted under penalty of perjury. The protesting Design-Build Team shall have the burden of proving its protest by clear and convincing evidence.
2. Failure to file a notice of protest or a detailed statement within the applicable period shall constitute an unconditional waiver of the right to protest the evaluation or qualified process and decisions, other than any protest based on facts not reasonably ascertainable as of such date.
3. Other Design-Build Teams may file by hand delivery to DES's Point of Contact a statement in support of or in opposition to the protest. Such statement must be filed within seven (7) calendar days after the protesting Design-Build Team files its detailed statement of protest. Enterprise Services will promptly forward copies of any such statements to the protesting Design-Build Team.
4. Unless otherwise required by law, no evidentiary hearing or oral argument shall be provided, except, in the sole discretion of DES, a hearing or argument may be permitted if necessary for protection of the public interest or an expressed, legally recognized interest of a Design-Build Team or DES. Enterprise Services shall issue a written decision regarding the protest within thirty (30) calendar days after Enterprise Services receives the detailed statement of protest. Such decision shall be final and conclusive. Enterprise Services shall provide copies of the written decision to the protesting Design-Build Team and the other Design-Build Teams. Unless necessary for the successful completion of the Project, as determined in the sole discretion of DES, a Design-Build Contract award will not be issued until Enterprise Services issues its written decision on the protest.
5. If Enterprise Services or his designee concludes that the Design-Build Team filing the protest has established a basis for protest, Enterprise Services or his designee will determine what remedial steps, if any, are necessary or appropriate to address the issues raised in the protest. Such steps may include, without limitation, withdrawing or revising the decisions, issuing a new RFQ or RFP or taking other appropriate actions.

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### 1.13 PROPRIETARY OR CONFIDENTIAL INFORMATION

This solicitation and responses made thereto are subject to RCW 42.56- Public Records Act (PRA). All Statements of Qualifications and Proposals received by Enterprise Services will remain confidential until announcement of the Finalist selected. Thereafter, the Statement of Qualifications and Proposals may be subject to public disclosure as provided for by the PRA.

To the extent applicable under the PRA, Enterprise Services shall maintain the confidentiality and proprietary nature of each Design-Build Team's information, which is marked confidential or proprietary. If a request is made to view one or more Design-Build Team's proprietary information, Enterprise Services will notify Design-Build Team of the request and of the date that the records will be released to the requester unless Design-Build Team files a motion to enjoin that disclosure, or the requester and Design-Build Team reach an agreement on the extent of such disclosure, which agreement will be forwarded to Enterprise Services by the requester prior to the date for disclosure. If Design-Build Team fails to obtain the requester's agreement or the court order enjoining disclosure, Enterprise Services will release the requested information on the date specified.

Any information contained in the Statement of Qualifications or Proposal that the Design-Builder believes is confidential or proprietary in nature and protected under the PRA must be clearly designated at the time of submission. Each page claimed to be exempt from disclosure must reference the specific basis claimed under the PRA, or other applicable state or federal law that provides for the nondisclosure of your information. Marking of the entire Statement of Qualifications or Proposal, or entire sections of a Statement of Qualifications or Proposal, as proprietary or confidential will not be accepted nor honored.

All information marked confidential or proprietary shall be limited to Enterprise Services maintaining such marked information in a secure area. Enterprise Services will notify one or more Design-Build Team(s) of any request(s) made for disclosure of information marked confidential or proprietary.

Enterprise Services shall retain the sole responsibility or discretion with regard to matters of confidentiality or propriety, and further, shall maintain responsible for determinations with regard to the release under the PRA of information contained in a Statement of Qualifications or Proposal submitted to Enterprise Services in response to the RFQ or RFP.

### 1.14 ATTACHMENTS

The Forms included in the RFQ required to be submitted with the RFP:

Attachment 4 – Contract Issues Log

Attachment 7 - Diverse Business Inclusion Plan

Attachment 8 – Price Factor Form

Attachment 11 – Conflict of Interest Form Design-Build Teams

Attachment 12 – Conflict of Interest Certification

**COMMUNICATIONS:** All communications regarding this RFP should be addressed to Oliver Wu, Project Manager, DES – Facility Professional Services, 360-407-8534, [oliver.wu@des.wa.gov](mailto:oliver.wu@des.wa.gov).