**SE-808**

**Request for Qualifications for Guaranteed Energy, Water, and Wastewater Conservation Services**

**AGENCY/OWNER:**

**PROJECT NAME:**

**PROJECT NUMBER:**

**PROJECT LOCATION:**

**agency project coordinator:**

**ADDRESS:**

**CITY:**       **STATE:**       **ZIP:**

**EMAIL:**       **TELEPHONE:**

**PART I- GENERAL INFORMATION**

## OVERVIEW

1. The Agency is seeking an entity to provide guaranteed energy, water, and wastewater conservation services. Interested entities (for convenience, hereinafter referred to as “Energy Service Companies” or “ESCOs”) should submit to the Agency, as set forth herein, Statements of Qualifications (SOQs) demonstrating their capability to successfully provide guaranteed energy, water, and wastewater conservation services ( hereinafter referred to as “Guaranteed Conservation Services”).
2. Interested ESCOs must provide all information requested in this Request for Qualification (RFQ) in Part IV of this document. Agency has appointed a Selection Committee that will evaluate the qualifications of each ESCO from most qualified to least qualified based on the information provided in response to this RFQ. The Agency will send a Request for Proposals (RFP) to the top ranked ESCOs offering them an opportunity to perform one of the following:

Investment Grade Audit (IGA)  ASHRAE Level 2 Audit  Preliminary Energy Study  Other (*Please Specify*       )

and then submit a proposal to provide Guaranteed Conservation Services. The Selection Committee will evaluate and rank each proposal in accordance with criteria set forth in the RFP and make a recommendation to the Agency that the top ranked ESCO be offered the opportunity to enter into negotiations for a Guaranteed Conservation Services contract.

1. *(Agency, check box if this clause is applicable to this solicitation)* The Agency will provide pre-qualified ESCOs that perform an IGA (or the ASHRAE Level 2 Audit) and submit a proposal in accordance with the RFP but do not receive a contract award partial reimbursement for the costs associated with conduct of the audit, in the form of a stipend in the amount of $      , which amount shall be divided equally among the unsuccessful ESCOs; provided however, reimbursement to any one ESCO shall not exceed that ESCO’s actual costs. Upon payment of the stipend, the audit and proposal shall become the property of the Agency for its sole use. In the event the Agency does not make an award, through no fault of the prospective ESCO, the stipend shall be available to all ESCOs that conducted an Audit and submitted a proposal.
2. If the Agency successfully negotiates a scope of work and cost with the top ranked ESCO, a Notice of Intent to Award Guaranteed Energy, Water, and Wastewater Conservation Services Contract (Form SE-870) will be posted at the following location at a date and time to be announced in the future.

Building Name and Address Where Posted:

Room or Area of Posting:

WEB site address (if applicable):

In addition to posting the notice, the Agency will promptly send all ESCOs submitting a response to this RFQ, a copy of the SE-870.

1. Agency reserves the right to accept or reject any and all responses and/or discontinue the selection process at any time prior to contract execution.
2. Agency assumes no liability and will not reimburse costs incurred by ESCOs (whether selected or not) in developing responses to this RFQ.
3. Agency reserves the right to request or obtain additional information about any and all responses to the RFQ. Agency may also issue addenda to the RFQ which will be mailed to all ESCO’s notifying the Agency Project Coordinator of their interest and providing him/her with contact information.
4. After initial submittal, ESCO may not change key members of its team without Agency approval, which approval the Agency will not unreasonably withhold.
5. **RFQ PROCESS**

This RFQ is part of a selection process leading to a Guaranteed Conservation Services Contract, for energy, water, and/or wastewater efficient equipment and services, between the Agency and an ESCO. Steps in the process are:

* 1. Agency solicits Submittals of Qualifications (SOQs) from interested ESCO’s via this RFQ.
  2. Each interested ESCO delivers an original SOQ and the required copies of same, along with a transmittal letter to the Agency by the required deadline. Agency will distribute copies of the SOQ to the Selection Committee for review, scoring, and ranking.
  3. ESCO reviews proposed contract attached to this RFQ (Attachment A) and includes within its SOQ package delivered to the agency an acknowledgment accepting the contract terms and conditions or listing exceptions taken with the terms and conditions.
  4. Based on scoring and ranking, the Selection Committee will rank ESCOs from most qualified to least qualified and select not more than the       top ranked ESCOs to receive the RFP.

## DEFINITIONS

Terms used herein shall have the same meaning as set forth in the definitions section of the sample contract attached hereto.

## PART II - DESCRIPTION OF SERVICES BEING SOLICITED

1. The Agency seeks Statements of Qualifications from ESCOs capable of providing comprehensive energy, water, wastewater, and operational related capital improvement services. Agency plans to select the most qualified ESCO to enter into a guaranteed energy, water, and wastewater savings performance contract as authorized by the South Carolina Energy Conservation and Efficiency Act 1992 and in accordance with the South Carolina Consolidated Procurement Code. The contract is planned not to exceed       years in duration but may be extended if determined to be advantageous to the State.

## PROJECT SCOPE OF WORK/TECHNICAL SPECIFICATIONS

The intent of this project is to provide the Agency with the means to realize maximum utility savings, operational savings, and operational improvements without the requirement of capital funds or to reduce the amount of capital funds necessary for planned energy, water systems, and wastewater systems upgrades. The ESCO selected through the RFQ and RFP processes shall provide the Agency with a comprehensive energy, water, and wastewater services program including but not limited to the following:

1. A complete energy, water, and wastewater audit of the Agency’s selected facilities as determined by negotiation with the selected ESCO. The audit shall include but not be limited to lighting and lighting controls, water conservation, HVAC equipment and controls, energy management systems and controls, steam and condensate optimization and window upgrades or replacement.
2. The design, acquisition, and installation of energy efficient equipment and systems.
3. The monitoring of energy/utility usage and costs on an annual basis.
4. Agency ’s payment obligations for equipment and services shall be structured in a Performance Contract:
5. the ESCO shall provide a written guarantee that total project costs shall be 100% covered by project utility and hard operational savings
6. Agency shall realize equipment and services without the requirement of capital funding; and
7. Agency shall be able to meet its payment obligations through the guaranteed project energy and hard operational savings.
8. There shall be no carryover of savings from one year to another to make up for any savings shortfall.
9. Any annual savings shortfall shall be paid to Agency by the ESCO within sixty (60) days of the end of the annual contract period.
10. The ESCOs guarantee shall be a first party direct guarantee from the ESCO to Agency. A third-party guarantee, in the form of a bond payable to the Agency, may be accepted.
11. The ESCO may provide maintenance, servicing and repair of the installed systems under separate agreements.
12. The ESCO shall perform energy management training for Agency employees on all new and modified systems and equipment.
13. Agency shall own all equipment and improvements made as a result of this project once payment has been made.
14. Payment and Performance Bonds, each in an amount equal to 100% of the portion of the contract price that does not include the cost of operation, maintenance, and finance, and general liability, automobile, workers compensation, and employer’s liability insurance shall be required and included in the total project cost.
15. ESCO work shall meet or exceed all appropriate federal, state or local permitting, Code or regulatory requirement for implementation of the Contract.
16. *(Agency check if applicable to this procurement) -* Agency plans to provide financing for the project. The ESCO guarantees that the annual principal and interest payments can be met by the annual energy savings. Agency will specify in the RFP the discount rate to be used to calculate payments and cash flow.
17. Agency to insert brief listing of specific operational needs, project interests, unique opportunities, etc.

## PART III - SUBMISSION OF STATEMENT OF QUALIFICATIONS (SOQ)

1. ESCOs shall include all information requested in Part IV of this RFQ. The responses must provide enough detail to allow a thorough evaluation. ESCOs must submit ONLY that information that is specifically requested.
2. The maximum number of pages for a Statement of Qualifications is 50, excluding appendices with charts, graphs, tables, financial statements, resumes and corporate annual reports. 11 x 17 sheets count as two pages.
3. Text shall have a font size of not less than      . Lines of text shall be double spaced.
4. Text  shall only be printed on one side of each sheet of paper  may be printed on both sides of each sheet of paper.
5. The Statement of Qualifications shall contain a Table of Contents and all pages shall be numbered.
6. ESCOs Statements of Qualifications shall follow the format provided in Part IV – Evaluation of Submittals, except that an Executive Summary shall be the first item of Requested Information.
7. Any questions must be transmitted in writing, via fax , UPS, USPS, Fed Ex, or via e-mail (preferred), to the Agency Project Coordinator listed at the beginning of this RFQ no later than       *(insert date)*. The Agency Project Coordinator will answer questions in writing with a copy to all ESCOs requesting a copy of this RFQ and providing contact information.
8. ESCO shall submit one original and       copies of its SOQ to the Agency**.**
9. ESCOs submitting a response to the RFQ shall submit the response in a sealed envelope with the following information placed on the outside of the envelope**:**

##### Title: SOQ for Energy, Water, and Wastewater Conservation Services

Project Name:       *(insert Project Name)*

Project Number:       *(insert Project Number)*

Deadline:       *(insert Time and Date)*

1. ESCOS shall Mail or Deliver responses to:

**HAND-DELIVERY:** **MAIL SERVICE:**

Attn:       Attn:

## PART IV – EVALUATION OF SUBMITTALS

1. The selection committee will evaluate and rank ESCOs based on the information submitted in their SOQs; however, the selection committee may also consider public information about an ESCO discovered independently. The selection committee **will not** consider any information provided by ESCO beyond that which is responsive to this RFQ.
2. Evaluation Criteria is as follows:
3. **Organization, Qualifications and Experience**

For this criterion, ESCOs shall provide the following:

1. Your corporate capabilities in energy management and performance contracting.
2. Number of years has your corporation been involved in delivering energy efficient equipment and services.
3. Description of the range of energy management services offered by your corporation.
4. The financial condition of your firm. Include a copy of your most recent annual report and financial statement;
5. Resumes of qualified personnel who will be directly involved in this project.
6. When responding to this request, consider the project as having three phases: I) Development, II) Installation, and III) Monitoring and Oversight of Operations. Identify one or two people who will have a direct, hands-on role in these three phases.
7. No resume shall be longer than one typed singled spaced page.
8. Provide an organizational chart which shows the project organization with evidence of technical support and supervision. Include retained outside consultants on this chart.
9. References for Guaranteed Conservation Contracting services your company has provided to local, state or federal government facilities. Include the name, address, contact person and telephone number of the party for which the service was/is being performed.
10. A brief description of at least five similar projects that your firm has implemented, preferably within the past five years, at least one of which must have been a Guaranteed Conservation Contract that has been operating for at least one year. Include in this description the following:
11. number and total square foot area of the buildings involved;
12. equipment installed;
13. services provided;
14. annual energy savings from the project in terms of total dollars and percent reduction in cost and energy usage (by type), and sources and levels of operational savings.
15. **Guarantee**

For this criterion, ESCOs shall provide the following:

1. Detailed description of the means for guaranteeing (irrevocable letter of credit, bond, escrow account, etc.) cost savings generated by the modifications to a facility will equal or exceed the cost of performing these modifications.
2. Detailed description of the various methods the ESCO has used in measuring savings. Describe how annual energy, water, wastewater, and operational savings are determined and reconciled. What is the policy relative to projects that do not perform as specified? Provide an example from actual project.
3. Record of savings on last five guaranteed Energy Performance Contracts completed. Provide figures for:
4. estimated savings;
5. guaranteed savings; and
6. actual savings providing both dollar savings and types of energy saved.
7. List of projects that did not meet guaranteed savings within the last five (5) years. If there are any, explain how the ESCO helped the client recover from this and provide a reference with the current telephone number for each project where savings were less than guaranteed. List any payments that have been made by the ESCO due to guaranteed savings shortfalls within the past five (5) years.
8. **Project Approach**

For this criterion, ESCOs shall provide the following:

1. Description of your methodology for conducting an energy audit. What involvement would Agency personnel have in such an audit?
2. Description of how you will calculate the initial baseline energy and water consumption of a facility, baseline prior to project startup and how you will monitor what will be a dynamic baseline over the life of the contract. Indicate all required information to be provided, if any, from an Agency. Show how are your calculations affected if certain information is not available.
3. Standards of service and comfort (temperature, airflow, light levels, etc.) you would typically use for system design and documentation will be used to verify and record these same standards.
4. Method of monitoring contract compliance.
5. **Training**

For this criterion, ESCOs shall provide the following:

1. Description of how ESCO will determine the training needs for Agency’s operations and maintenance personnel.
2. Description of how ESCO can provide training, both on-site and off-site, to operating and maintenance personnel.
3. Specific, verifiable examples of how ESCO has trained operating and maintenance personnel with similar responsibilities as Agency personnel.
4. Information on the location of your nearest training facility and the number of employees and their training capabilities located at this facility.
5. **Equipment Systems and Materials**

For this criterion, ESCOs shall provide the following:

1. Explanation of how existing equipment will be incorporated, removed, surplused, etc.
2. Description of what guidelines are established to identify when new or upgraded equipment will be installed post implementation period.
3. Description of any warranties on equipment, systems, and materials. Include the factors necessary to keep warranties valid and samples of warranties and assignments of warranties, if used.
4. Description of the types of contract maintenance and/or repair services ESCO could provide. Include comments on whether Agency’s maintenance staff can perform some or all of these duties, if desired, and any impact that would have on the guarantee.
5. Relative Importance of Required Information:

The relative importance from the above listed items from most important to least important is as follows:



**PART V – SCHEDULE OF SIGNIFICANT MILESTONE EVENTS**

The following Schedule of Events represents the Owner’s best estimate of the schedule that will be followed. The Owner reserves the right, at its sole discretion, to adjust this schedule as it deems necessary.

|  |  |  |
| --- | --- | --- |
|  | **EVENT** | **DATE** |
|  | Submit SCBO Advertisement |  |
|  | Introductory Session for Committee |  |
|  | Evaluate Statement of Qualifications |  |
|  | Issue RFP to minimum of (X) Firms |  |
|  | Pre-proposal Conference (info. to ESCOs) |  |
|  | Receive Statement of Proposals |  |
|  | Review of Proposals by Committee |  |
|  | Presentation to Committee by Proposers |  |
|  | Committee Selects single ESCO |  |
|  | Prepare Final Report for Agency Head |  |
|  | Agency Head Approves Committee Selection |  |
|  | Submit and Approve A-1 |  |
|  | Notice of Intent to Award and protest period |  |
|  | Issue Final Contract to ESCO |  |

**PART VI - GENERAL INFORMATION**

1. By submission of a Statement of Qualifications in response to this RFQ the ESCO is applying for consideration to receive an RFP for the services solicited and described herein.
2. Included with this RFQ is a copy of the contract form the Agency intends to utilize if a contract is awarded pursuant to this solicitation.
3. In accordance with S.C. Code Ann. § 11-35-1530(4), ESCOs will be ranked according to selection criteria contained herein and on the basis of the information provided in their SOQs.
4. Disclosure of Conflicts of Interest or Unfair Competitive Advantage (*2011*): You warrant and represent that your offer identifies and explains any unfair competitive advantage you may have in competing for the proposed contract and any actual or potential conflicts of interest that may arise from your participation in this competition or your receipt of an award. Without limitation, an unfair competitive advantage exists where a contractor competing for award possesses either proprietary information that was obtained from a government official without proper authorization or source selection information (as defined in SC Regulation 19-445.2010(C)) that is relevant to the contract but is not available to all competitors, and such information would assist that contractor in obtaining the contract. If you have an unfair competitive advantage or a conflict of interest, the state may withhold award. Before withholding award on these grounds, an offeror will be notified of the concerns and provided a reasonable opportunity to respond. Efforts to avoid or mitigate such concerns, including restrictions on future activities, may be considered.
5. Certification of Independent Price Determination: GIVING FALSE, MISLEADING, OR INCOMPLETE INFORMATION ON THIS CERTIFICATION MAY RENDER YOU SUBJECT TO PROSECUTION UNDER SECTION 16-9-10 OF THE SOUTH CAROLINA CODE OF LAWS AND OTHER APPLICABLE LAWS.
6. By submitting an offer, the Offeror certifies that—
7. The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other Offeror or competitor relating to—
8. Those prices;
9. The intention to submit an offer; or
10. The methods or factors used to calculate the prices offered.
11. The prices in this offer have not been and will not be knowingly disclosed by the Offeror, directly or indirectly, to any other Offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and
12. No attempt has been made or will be made by the Offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.
13. Each signature on the offer is considered to be a certification by the signatory that the signatory—
14. Is the person in the Offeror’s organization responsible for determining the prices being offered in this offer, and that the signatory has not participated and will not participate in any action contrary to paragraphs 1.a.1) through 1.a.3) of this certification; or
15. **1)** Has been authorized, in writing, to act as agent for the Offeror's principals in certifying that those principals have not participated and will not participate in any action contrary to paragraphs 1.a.1) through 1.a.3) of this certification [As used in this subdivision 2.b.2), the term "principals" means the person(s) in the Offeror’s organization responsible for determining the prices offered in this bid];
16. As an authorized agent, does certify that the principals referenced in subdivision 2.b.2) of this certification have not participated, and will not participate, in any action contrary to paragraphs1.a.1) through 1.a.3) of this certification; and
17. As an agent, has not personally participated, and will not participate, in any action contrary to paragraphs 1.a.1) through 1.a.3) of this certification.
18. If the Offeror deletes or modifies paragraph 1.a. of this certification, the Offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.
19. CERTIFICATION REGARDING DEBARMENT AND OTHER RESPONSIBILITY MATTERS:
20. By submitting an offer, Offeror certifies, to the best of its knowledge and belief, that-
21. Offeror and/or any of its Principals-
22. Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any state or federal agency;
23. Have not, within a three-year period preceding this bid, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of bids; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and
24. Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph 3.a(1)(b) of this provision.
25. Offeror has not, within a three-year period preceding this bid, had one or more contracts terminated for default by any public (Federal, state, or local) entity.
26. "Principals," for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).
27. Offeror shall provide immediate written notice to the Agency Project Coordinator if, at any time prior to contract award, Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
28. If Offeror is unable to certify the representations stated in paragraphs 3.a, Offeror must submit a written explanation regarding its inability to make the certification. The certification will be considered in connection with a review of the Offeror's responsibility. Failure of the Offeror to furnish additional information as requested by the Agency Project Coordinator may render the Offeror nonresponsible.
29. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph 3.a of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
30. The certification in paragraph 3.a of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly or in bad faith rendered an erroneous certification, in addition to other remedies available to the State, the Agency Project Coordinator may terminate the contract resulting from this solicitation for default.
31. ETHICS CERTIFICATE: By submitting an offer, the Offeror certifies that the Offeror has and will comply with, and has not, and will not, induce a person to violate Title 8, Chapter 13 of the South Carolina Code of Laws, as amended (ethics act). The following statutes require special attention: SC Code § 8-13-700, regarding use of official position for financial gain; SC Code § 8-13-705, regarding gifts to influence action of public official; SC Code § 8-13-720, regarding offering money for advice or assistance of public official; SC Code §§ 8-13-755 and 8-13-760, regarding restrictions on employment by former public official; Section 8-13-775, prohibiting public official with economic interests from acting on contracts; SC Code § 8-13-790, regarding recovery of kickbacks; SC Code § 8-13-1150, regarding statements to be filed by consultants; and SC Code § 8-13-1342, regarding restrictions on contributions by contractor to candidate who participated in awarding of contract. The state may rescind any contract and recover all amounts expended as a result of any action taken in violation of this provision. If contractor participates, directly or indirectly, in the evaluation or award of public contracts, including without limitation, change orders or task orders regarding a public contract, contractor shall, if required by law to file such a statement, provide the statement required by SC Code § 8-13-1150 to the Agency Project Coordinator at the same time the law requires the statement to be filed.
32. RESTRICTIONS APPLICABLE TO offerorS & GIFTS: Violation of these restrictions may result in disqualification of your bid, suspension or debarment, and may constitute a violation of the state Ethics Act.
33. After issuance of the solicitation, ***Offeror agrees not to discuss this procurement activity in any way with the Owner or its employees, agents or officials.*** All communications must be solely with the Agency Project Coordinator. This restriction may be lifted by express written permission from the Agency Project Coordinator. This restriction expires once a contract has been formed.
34. Unless otherwise approved in writing by the Agency Project Coordinator, ***Offeror agrees not to give anything to the Owner, any affiliated organizations, or the employees, agents or officials of either, prior to award.***
35. Offeror acknowledges that the policy of the State is that a governmental body should not accept or solicit a gift, directly or indirectly, from a donor if the governmental body has reason to believe the donor has or is seeking to obtain contractual or other business or financial relationships with the governmental body. SC Regulation 19-445.2165(C) broadly defines the term donor.
36. NONRESIDENT TAXPAYER REGISTRATION AFFIDAVIT INCOME TAX WITHHOLDING (IMPORTANT TAX NOTICE - NONRESIDENTS ONLY**)**:
37. Withholding Requirements for Payments to Nonresidents: SC Code § 12-8-550 requires persons hiring or contracting with a nonresident conducting a business or performing personal services of a temporary nature within South Carolina to withhold 2% of each payment made to the nonresident.
38. The withholding requirement does not apply to:
39. payments on purchase orders for tangible personal property when the payments are not accompanied by services to be performed in South Carolina,
40. nonresidents who are not conducting business in South Carolina,
41. nonresidents for contracts that do not exceed $10,000 in a calendar year, or
42. payments to a nonresident who
43. registers with either the S.C. Department of Revenue or the S.C. Secretary of State and
44. submits a Nonresident Taxpayer Registration Affidavit - Income Tax Withholding, Form I-312 to the person letting the contract.
45. For information about other withholding requirements (e.g., employee withholding), contact the Withholding Section at the South Carolina Department of Revenue at 803-898-5383 or visit the Department's website at: [**www.sctax.org**](http://www.sctax.org).
46. This notice is for informational purposes only. This Owner does not administer and has no authority over tax issues. All registration questions should be directed to the License and Registration Section at 803-898-5872 or to the South Carolina Department of Revenue, Registration Unit, Columbia, S.C. 29214-0140. All withholding questions should be directed to the Withholding Section at 803-898- 5383.
47. Please see the "NONRESIDENT TAXPAYER REGISTRATION AFFIDAVIT INCOME TAX WITHHOLDING" form (Form Number I-312) located at: [**http://www.sctax.org/forms/withholding/i-312-form**](http://www.sctax.org/forms/withholding/i-312-form)**.**
48. SUBMITTING CONFIDENTIAL INFORMATION:
49. For every document Offeror submits in response to, or with regard to, this solicitation or request, Offeror must separately mark with the word "CONFIDENTIAL" every page, or portion thereof, that Offeror contends contains information that is exempt from public disclosure because it is either
50. a trade secret as defined in SC Code § 30-4-40(a)(1), or
51. privileged & confidential, as that phrase is used in SC Code § 11-35-410.
52. For every document Offeror submits in response to or with regard to this solicitation or request, Offeror must separately mark with the words "TRADE SECRET" every page, or portion thereof, that Offeror contends contains a trade secret as that term is defined by SC Code § 39-8-20 of the Trade Secrets Act.
53. For every document Offeror submits in response to, or with regard to, this solicitation or request, Offeror must separately mark with the word "PROTECTED" every page, or portion thereof, that Offeror contends is protected by SC Code § 11-35-1810.
54. All markings must be conspicuous; use color, bold, underlining, or some other method in order to conspicuously distinguish the mark from the other text. Do not mark your entire bid as confidential, trade secret, or protected! If your bid or any part thereof, is improperly marked as confidential or trade secret or protected, the State may, in its sole discretion, determine it nonresponsive. If only portions of a page are subject to some protection, do not mark the entire page.
55. By submitting a response to this solicitation, Offeror
    1. agrees to the public disclosure of every page of every document regarding this solicitation or request that was submitted at any time prior to entering into a contract (including, but not limited to, documents contained in a response, documents submitted to clarify a response, & documents submitted during negotiations), unless the page is conspicuously marked "TRADE SECRET" or "CONFIDENTIAL" or "PROTECTED",
    2. agrees that any information not marked, as required by these bidding instructions, as a "Trade Secret" is not a trade secret as defined by the Trade Secrets Act, and
    3. agrees that, notwithstanding any claims or markings otherwise, any prices, commissions, discounts, or other financial figures used to determine the award, as well as the final contract amount, are subject to public disclosure.
56. In determining whether to release documents, the State will detrimentally rely on Offeror’s marking of documents, as required by these bidding instructions, as being either "Confidential" or "Trade Secret" or "PROTECTED".
57. By submitting a response, Offeror agrees to defend, indemnify & hold harmless the State of South Carolina, its officers & employees, from every claim, demand, loss, expense, cost, damage or injury, including attorney’s fees, arising out of or resulting from the State withholding information that Offeror marked as "confidential" or "trade secret" or "PROTECTED".
58. All documents submitted that contain pages marked “Confidential,” “Trade Secret,” or “Protected” in accordance with J.1 - J.7 above shall be accompanied by one complete copy with the specific such information removed or concealed (the redacted copy). The redacted copy shall (i) reflect the same pagination as the original, (ii) show the empty space from which information was redacted, and (iii) be submitted in an electronic format such as a PDF on memory stick. Except for the information removed or concealed, the redacted copy must be identical to the original document, and the Owners Representative must be able to view, search, copy and print the redacted copy without a password.
59. SOLICITATION INFORMATION FROM SOURCES OTHER THAN OFFICIAL SOURCE: South Carolina Business Opportunities (SCBO) is the official state government publication for State of South Carolina solicitations. Any information on State agency solicitations obtained from any other source is unofficial and any reliance placed on such information is at the Offeror’s sole risk and is without recourse under the South Carolina Consolidated Procurement Code.
60. TAX CREDIT FOR SUBCONTRACTING WITH MINORITY FIRMS: Pursuant to SC Code § 12-6-3350, taxpayers, who utilize certified minority subcontractors, may take a tax credit equal to 4% of the payments they make to said subcontractors. The payments claimed must be based on work performed directly for a South Carolina state contract. The credit is limited to a maximum of fifty thousand dollars annually. The taxpayer is eligible to claim the credit for 10 consecutive taxable years beginning with the taxable year in which the first payment is made to the subcontractor that qualifies for the credit. After the above ten consecutive taxable years, the taxpayer is no longer eligible for the credit. The credit may be claimed on Form TC-2, "Minority Business Credit." A copy of the subcontractor's certificate from the Governor's Office of Small and Minority Business (OSMBA) is to be attached to the contractor's income tax return. Taxpayers must maintain evidence of work performed for a State contract by the minority subcontractor. Questions regarding the tax credit and how to file are to be referred to: SC Department of Revenue, Research and Review, Phone: (803) 898-5786, Fax: (803) 898-5888. The subcontractor must be certified as to the criteria of a "Minority Firm" by the Governor's Office of Small and Minority Business Assistance (OSMBA). Certificates are issued to subcontractors upon successful completion of the certification process. Questions regarding subcontractor certification are to be referred to: Governor's Office of Small and Minority Business Assistance, Phone: (803) 734-0657, Fax: (803) 734-2498. Reference: SC Code § 11-35-5010 – Definition for Minority Subcontractor & SC Code § 11-35-5230 (B) – Regulations for Negotiating with State Minority Firms.
61. CLARIFICATION (NOV 2007): Pursuant to SC Code § 11-35-1520(8), the Agency Project Coordinator may elect to communicate with you after opening for the purpose of clarifying either your offer or the requirements of the solicitation. Such communications may be conducted only with Offerors who have submitted an offer which obviously conforms in all material aspects to the solicitation. Clarification of an offer must be documented in writing and included with the offer. Clarifications may not be used to revise an offer or the solicitation. [SC Code § 11-35-1520(8); SC Reg.19-445.2080]
62. DISCUSSIONS & NEGOTIATIONS (NOV 2007): Submit your best terms from a cost or price and from a technical standpoint. Your proposal may be evaluated, and your offer accepted without any discussions, negotiations, or prior notice. Ordinarily, nonresponsive proposals will be rejected outright. Nevertheless, the State may elect to conduct discussions, including the possibility of limited proposal revisions, but only for those proposals reasonably susceptible of being selected for award. If improper revisions are submitted, the State may elect to consider only your unrevised initial proposal. [SC Code § 11-35-1530(6); SC Reg 19-445.2095(I)] The State may also elect to conduct negotiations, beginning with the highest ranked Offeror, or seek best and final offers, as provided in SC Code § 11-35-1530(8). If negotiations are conducted, the State may elect to disregard the negotiations and accept your original proposal.
63. OPEN TRADE REPRESENTATION (JUN 2015):By submitting an offer, Offeror represents that Offeror is not currently engaged in the boycott of a person or an entity based in or doing business with a jurisdiction with whom South Carolina can enjoy open trade, as defined in SC Code § 11-35-5300.

End of Request for Qualifications.

**Attachments:**

Appendix A – SE-833, Guaranteed Energy, Water and Wastewater Conservation Services Contract