



RFQu Information

RFQu No. 1326

Development Team for 63-20 Process

Issue Date: June 4, 2014

Closing Date: June 27, 2014

Contact

County Contact: Gary Robinson, Director, Pierce County

Budget and Finance Director

Phone: 253.798.7450

Email: PCBUDGET@co.pierce.wa.us

Project Contact: Andrew E. Neiditz, Executive Director

South Sound 911

Phone: 253.798.2679

Email: Andrew.Neiditz@SouthSound911.org;

Rebecca.Hendricks@SouthSound911.org

Vendor Information

Firm Name: _____

Contact Name: _____

Address: _____

City: _____ State _____ Zip _____

Phone: _____ Fax: _____

E-Mail: _____

Return Proposals by June 27, 2014 to:

Pierce County Purchasing

Attn: Mel Henley

615 South 9th Street, Suite 100

Tacoma, WA 98405

Phone: 253-798-7456

RFQ No. 1326
Development Team for 63-20 Process
Due Date: June 27, 2014, 4:00 PM

APPROVED AS TO FORM:

Doug Vanscoy
DEPUTY PROSECUTING ATTORNEY

ISSUED BY:

Jena Richmond
PURCHASING AGENT

TABLE OF CONTENTS

Submittal Due Date.....	1
General Information	1
Expected Term of Resulting Agreement.....	1
Contact.....	1
Scope of Work.....	1
Timelines.....	5
Additional Requirements for Submittal.....	5
General Terms and Conditions	6
General Conditions of Personal Service Contracts	7
Exhibit “C” Contract Compliance for Professional, Technical, Supply or Services.....	13
Certification of Nonsegregated Facilities.....	15
Non-Collusion & Debarment Affidavit	15
Subcontractors Participation Form for Professional, Technical, Supply or Service PSAs.....	16
Personnel Workforce Data Form	17
E-Verify Declaration	18
Required Signature Page for Proposal	19

SUBMITTAL DUE DATE

To be eligible for consideration, one (1) unbound original Response (marked as such) and three (3) copies of a vendor's response to this Request for Qualifications (hereafter called "response" or "proposal") must be received by the Pierce County Purchasing Department, 615 South 9th Street, Suite 100, Tacoma, WA 98405-4673 no later than close of business, 4:00 PM, June 27, 2014. The response must be submitted in a sealed envelope with the vendor's name, Request for Qualifications Number and the due date clearly identified on the outside.

GENERAL INFORMATION

Pierce County, via this Request for Qualifications, is seeking a qualified development team to help facilitate Pierce County with the development of a new South Sound 911 Public Safety Communications Center. The new facility will be constructed under a tax exempt lease/leaseback financing structure – sometimes referred to as a “63-20 financing and delivery method.”

Contact or communication with Pierce County or South Sound 911 with regard to this RFP is not permitted, except through the County contact and Project contact identified in this RFP. Written questions are due no later than June 13, 2014 and should be addressed to Andrew E. Neiditz, South Sound 911 Executive Director.

EXPECTED TERM OF RESULTING AGREEMENT

The initial contract period shall be from August 2014 to February, 2015, unless sooner terminated as provided elsewhere in the Agreement.

CONTACT

County Contact:

Gary Robinson, Pierce County Budget and Finance Director
615 South 9th Street, Suite 100
Tacoma, WA 98405
253.798.7450
PCBUDGET@co.pierce.wa.us

Project Contact:

Andrew E. Neiditz, Executive Director
South Sound 911
955 Tacoma Ave., S., Suite 202
Tacoma, WA 98402
253.798.2679
Andrew.Neiditz@SouthSound911.org; Rebecca.Hendricks@SouthSound911.org

SCOPE OF WORK

A. Introduction

Pierce County, via this Request for Qualifications, is seeking a qualified Development Team to help facilitate Pierce County's entry into a tax exempt lease/leaseback financing structure – sometimes referred to as a “63-20 financing and delivery method.” This RFQ is the first of a two-step process in selecting a Development Team to provide predevelopment services for the development of a new South Sound 911 Public Safety Communications Center. The facility project will include development of a campus with two buildings. One building (approximately 55,000 sq. ft.) will be constructed to the stringent standards as related to Public Safety Answering Points and those associated with housing police and fire emergency communications as well as a municipal emergency operations center (EOC). The second building (approximately 25,000 sq. ft.) will be constructed to house Administration, Information Services and public counter services. Both buildings will be on the same parcel. Several sites are under consideration for the location of the South Sound 911 Public Safety Communications

Center. More information, including a link to South Sound 911's Facility Planning Study, can be found at South Sound 911's web page (<http://www.SouthSound911.org/214/Public-Safety-Communications-Center>). This RFQ will be followed by issuance of a detailed RFP, to those entities deemed qualified through this RFQ, for final selection.

Lease/Leaseback Authorized by RCW 36.34.205

As authorized by RCW 36.34.205, the County can have buildings built for County use on County-owned sites by means of a lease-leaseback transaction under RCW 35.42.070-090. This statute says that the leaseback to the County "Shall contain terms as agreed upon between the parties" and sets forth four required provisions:

- a. No part of the cost of construction of the buildings shall ever be or become an obligation of the County;
- b. The County shall have a prior right to occupy any or all of the buildings upon payment of rental as agreed upon by the parties, which rental shall not exceed prevailing rates for comparable space;
- c. During the time that all or any portion of the buildings are not required for occupancy by the County, the lessee of the land may rent the unneeded portion to suitable tenants approved by the County; and,
- d. Upon the expiration of the lease, all buildings and improvements on the land shall become the property of the County.

In addition to the foregoing, the lease-leaseback statute requires that the lease arrangement be made "pursuant to a call for bids upon terms most advantageous to the (County)." RCW 35.42.080. Because this statutory language does not require that the lease arrangement be made with the lowest responsible bidder, it expressly differs in this respect from the conventional public bid process.

The Development Team

The Development Team shall consist of a firm, or firms, that have the demonstrated ability to develop a detailed program and schematic design concept followed by design-development documents and a guaranteed maximum price, utilizing South Sound 911's existing data as a basis from which to start. More specific detail of the expected predevelopment activities and deliverables, steps and milestones shall be provided in the subsequent RFP. The Development Team submittal must include a Developer, an Architect, and a General Contractor. The Development Team shall demonstrate and provide sufficient organization, personnel, and management to design and develop the project in an expeditious and economical manner consistent with the interest of the County and South Sound 911.

Such a Development Team will, with appropriate approval by the County and South Sound 911, enter into a predevelopment agreement with the County to proceed with planning and design through the Design Development phase, with the end product consisting of design-development plans and specifications and a guaranteed maximum price. Should the project proceed into final design and construction, that phase of the project, if approved by the County and South Sound 911, shall proceed under a Development Agreement between the Developer and the Non-Profit entity. Should the project not proceed into final design and construction, all design-development plans and specifications and other deliverables produced pursuant to the predevelopment agreement shall be provided to and owned by the County.

Anticipated 63-20 Deal Structure

Upon closing of the transaction, it is anticipated that the legal structure of the Project will be as follows: Pierce County will long term master lease the site(s) to the Non-Profit for the purpose of expediting this Project. The Project will be constructed on a site that is yet to be determined. Pierce County has selected National Development Council (NDC) to be the 63-20 Non-Profit. Development teams do not need to team up with the Non-Profit. The Non-Profit will enter into a guaranteed maximum price (GMP) development agreement with the Developer for design and construction and financing of the Project. The Non-Profit will issue tax-exempt bonds in an amount sufficient to pay for design and construction of the Project. The Developer will make draws from the Non-Profit to pay for construction costs during the construction period. Upon completion of the construction, the Non-Profit will "lease-back" all Project improvements to Pierce County. At the sooner of retirement of the 63-20 bonds, or the end of the lease term, the Non-Profit will convey title to the Project (including property and buildings) to Pierce County.

B. Project Expectations

This Project will be highly visible. Pierce County and South Sound 911 expect that the Project will be highly

functional, efficient, safe and secure; will incorporate quality systems and materials; will be energy efficient with low operating and maintenance costs; and will offer excellent economic value. The building housing police and fire communications and the municipal emergency operations center (EOC) shall meet the standards for public safety communications centers set forth by National Fire Protection Association Standard #1221, National Emergency Number Association (NENA), Federal Emergency Management Agency (FEMA) and Motorola Standards and Guidelines for Communications Sites, and any other applicable regulations and standards associated with essential facilities

C. Response to this RFQ

This section provides information necessary to understand the selection process.

Each responding Development Team to this RFQ shall submit one (1) unbound original Response (marked as such) and three (3) copies. Copies may be comb-bound. At the County's sole discretion, the Selection Committee reserves the right to request additional information.

Submission Requirements

1. Who is the Development Team? Identify members who have previous experience and detail their role in delivering 63-20 or similar types of projects. Identify experience with the codes, regulations and best practices associated with the construction and design of essential facilities. Attach appropriate resume and narrative descriptions. Identify legal demarcation and history.
2. What resources, financial, legal, and otherwise, does the Development Team have available in expediting the proposed transaction? Provide examples demonstrating how these have been used and deployed in similar projects.
3. Has the Development Team worked with Pierce County or other County governments or public entities in the past on 63-20 or similar type of projects? Identify.
4. What Non-Profit entities have the Development Team worked with on 63-20 or similar projects in the past? Identify.
5. What expertise does the Development Team have in predevelopment services including programming, schematic design, design development and cost estimating for projects of a similar size and scope (in particular, communications centers)? Identify.

Submittal Evaluation

Each development team's qualification package will be evaluated by a selection committee ("Development Team RFQ Selection Committee") comprised of Pierce County and South Sound 911 staff and/or consultants. The Development Team RFQ Selection Committee will select the highest ranked response based on the following evaluation criteria. Pierce County reserves the right to reject any and/or all responses.

The Selection Committee, in evaluating submittals, will use the following criteria:

1. Qualifications and Experience	50 points
2. Financial and Legal Resources	10 points
3. Successful History with Public Entities	20 points
4. Successful History with Non-Profits	10 points
5. Successful History with Predevelopment Activities	<u>10 points</u>
Total	100 points

Interview

Following the submitted response review, the Development Team RFQ Selection Committee will create a "short-list" of the top entities and conduct interviews with those top ranked submitters. The interviews will be worth a maximum of 100 points. Selection of those entities that will proceed to part two of this process (the RFP) would then be based on the total of the written evaluation and interview points.

Notification

Pierce County shall provide notification, via telephone and/or e-mail, to each submitter regarding the status of the solicitation.

D. Submittal Preparation

General Requirements:

This procurement will be in accordance with Pierce County and other applicable federal, state and local laws, regulations and procedures.

All facts and opinions stated within this RFQ, and all supporting documents and data, are based on information available from a variety of sources. Additional information may be made available via written addenda throughout the process. No representation or warranty is made with respect thereto.

All submittals shall be submitted as set forth in this RFQ. Submittals that are not in accordance with the procedures and specified requirements stated herein may be considered "non-responsive" and will be subject to rejection by the County. All costs incurred in the preparation of the submittal and in the submittal process shall be borne by the proposing Applicants. The County shall not reimburse Applicants for such costs.

TIMELINES

1. Submittals must be received by the Purchasing Department not later than 4:00 p.m., June 27, 2014 to be considered.
2. Submittals will be evaluated and, if multiple proposers are deemed capable of meeting the requirements, interviews may be held with the top three to five entities.
3. The estimated date of notice of interview with the entity is July 16, 2014, if necessary.
4. The estimated dates of the interviews are the week of July 21, 2014, if necessary.

ADDITIONAL REQUIREMENTS FOR SUBMITTAL

1. Name, local address, and phone number of the firm(s) proposed for this contract.
2. The names and number of years the firm has been in business under current or previous names or additional assumed business names.
3. The name and resume of each individual assigned to this project and the individual assigned to backup the primary person in his/her absence and similar information concerning each individual to be provided by subcontract.
4. The name and title of the person authorized to execute a contract on behalf of the firm.
5. A statement outlining any exceptions to the County's requirements or clarifications to the requirements.
6. Any additional services or procedures of benefit to the County not specifically required herein, which the Contractor offers to provide.
7. References listing customers with similar projects or experience with codes, regulations and best practices associated with the construction and design of essential facilities.
8. The caption, cause number, Court, Counsel, and general summary of any litigation pending or judgment rendered within the past 3 years against the proposer.
9. Note the extent, if any, to which the firm, association or corporation or any person in a controlling capacity associated therewith or any position involving the administration of federal, state or local funds; is currently under suspension, debarment, voluntary exclusion, or determination of eligibility by any agency; has been suspended, debarred, voluntarily excluded or determined ineligible by any agency within the past 3 years; does have a proposed debarment pending; has been indicted, convicted or has a civil judgment rendered against said person, firm, association or corporation by a court of competent jurisdiction in any matter involving fraud or misconduct with the past 3 years.
10. In addition to any specific requirements requested in this proposal, the following documents must be completed and submitted with the proposal:
 - A. Required Signature Page for Proposal
 - B. Subcontractors Participation Form (Exhibit C)
 - C. Certification of Nonsegregated Facilities and Non-collusion Affidavit and Debarment Affidavit (Exhibit C)
 - D. Personnel Workforce Data Form (Exhibit C)
 - E. E-Verify Declaration (Exhibit C)

GENERAL TERMS AND CONDITIONS

The following terms and conditions apply to all proposals to provide services to Pierce County:

1. Pierce County expressly reserves the following rights:
 - a. To reject any and/or all irregularities in the proposals submitted.
 - b. To reject any or all proposals or portions thereof.
 - c. To base awards with due regard to quality of services, experience, compliance with specifications, and other such factors as may be necessary in the circumstances.
 - d. To make the award to any vendor or combination of vendors whose proposal(s), in the opinion of the County, is in the best interest of the County.
2. All proposals must be sealed in an envelope or appropriate packaging and addressed as requested in the RFQ. The name and address of the vendor must appear on the envelope. The outside must state the RFQ title and number and the RFQ due date and time.
3. The RFQ must be signed with ink by an authorized individual of the company empowered to act in that capacity before a contract will be negotiated.
4. Any proposal or modification received after the hour and date specified may be returned unopened.
5. All documents, reports, proposals, submittals, working papers, or other materials prepared by the Contractor pursuant to this proposal shall become the sole and exclusive property of the County, and the public domain, and not the property of the Contractor. The Contractor shall not copyright, or cause to be copyrighted, any portion of said items submitted to the County because of this solicitation.
6. All of the items mentioned in paragraph 5 above submitted to Pierce County should be printed both sides on recycled paper whenever practicable.

GENERAL CONDITIONS OF PERSONAL SERVICE CONTRACTS

Substantially the following additional provisions will be incorporated into any negotiated contract resulting from this RFQ:

1. Scope of Contractor's Services:

The Contractor agrees to provide to the County services and any materials set forth in the project narrative identified as Exhibit "A" during the Agreement period. No material, labor, or facilities will be furnished by the County, unless otherwise provided for in the Agreement.

2. Accounting and Payment for Contractor Services:

Payment to the Contractor for services rendered under this Agreement shall be as set forth in Exhibit "B." Where Exhibit "B" requires payments by Pierce County, payment shall be based upon billings, supported unless otherwise provided in Exhibit "B," by documentation of units of work actually performed and amounts earned, including where appropriate, the actual number of days worked each month, total number of hours for the month, and the total dollar payment requested. Unless specifically stated in Exhibit "B" or approved in writing in advance by the official executing this Agreement for Pierce County, (hereinafter referred to as the "Contracting Officer",) the County will not reimburse the Contractor for any costs or expenses incurred by the Contractor in the performance of this contract.

Where required, the County shall, upon receipt of appropriate documentation, compensate the Contractor, no more often than monthly, through the County voucher system for the Contractor's service pursuant to the fee schedule set forth in Exhibit "B."

3. Assignment and Subcontracting:

No portion of this contract may be assigned or subcontracted to any other individual, firm or entity without the express and prior written approval of the Contracting Officer.

4. Labor Standards and Contract Assistance:

The Contractor shall comply with the provisions of Exhibit "C", attached hereto, titled "Contract Compliance For Professional, Technical, Supply or Services".

5. Independent Contractor:

The Contractor's services shall be furnished by the Contractor as an independent Contractor and nothing herein contained shall be construed to create a relationship of employer-employee or master-servant, but all payments made hereunder and all services performed shall be made and performed pursuant to this Agreement by the Contractor as an independent Contractor.

The Contractor acknowledges that the entire compensation for this Agreement is specified in Exhibit "B" and the Contractor is not entitled to any County benefits including, but not limited to: vacation pay, holiday pay, sick leave pay, medical, dental, or other insurance benefits, or any other rights or privileges afforded to Pierce County employees. The Contractor represents that he/she/it maintains a separate place of business, serves clients other than the County, will report all income and expense accrued under this contract to the Internal Revenue Service, and has a tax account with the State of Washington Department of Revenue for payment of all sales and use and Business and Occupation taxes collected by the State of Washington.

Contractor will defend, indemnify and hold harmless the County, its officers, agents or employees from any loss or expense, including but not limited to settlements, judgments, setoffs, attorneys' fees or costs incurred by reason of claims or demands because of breach of the provisions of this paragraph.

6. No Guarantee of Employment:

The performance of all or part of this contract by the Contractor shall not operate to vest any employment rights whatsoever and shall not be deemed to guarantee any employment of the Contractor or any employee of the Contractor or any subcontractor or any employee of any subcontractor by the County at the present time or in the future.

7. Taxes:

The Contractor understands and acknowledges that the County will not withhold federal or state income taxes. Where required by state or federal law, the Contractor authorizes the County to make withholding for

any taxes other than income taxes (i.e., Medicare). All compensation received by the Contractor will be reported to the Internal Revenue Service at the end of the calendar year in accordance with the applicable IRS regulations. It is the responsibility of the Contractor to make the necessary estimated tax payments throughout the year, if any, and the Contractor is solely liable for any tax obligation arising from the Contractor's performance of this Agreement. The Contractor hereby agrees to indemnify the County against any demand to pay taxes arising from the Contractor's failure to pay taxes on compensation earned pursuant to this Agreement.

The County will pay sales and use taxes imposed on goods or services acquired hereunder as required by law. The Contractor must pay all other taxes including, but not limited to: Business and Occupation Tax, taxes based on the Contractor's gross or net income, or personal property to which the County does not hold title. The County is exempt from federal Excise Tax.

8. Regulations and Requirement:

This Agreement shall be subject to all laws, rules, and regulations of the United States of America, the State of Washington, and political subdivisions of the State of Washington, and to any other provisions set forth in Exhibit "D."

9. Right to Review:

This contract is subject to review by any federal or state auditor. The County or its designee shall have the right to review and monitor the financial and service components of this program by whatever means are deemed expedient by the Contracting Officer. Such review may occur with or without notice, and may include, but is not limited to, on site inspection by County agents or employees, inspection of all records or other materials which the County deems pertinent to the Agreement and its performance, and any and all communications with or evaluations by service recipients under this Agreement. The Contractor shall preserve and maintain all financial records and records relating to the performance of work under this Agreement for 3 years after contract termination, and shall make them available for such review, within Pierce County, State of Washington, upon request.

10. Modifications:

Either party may request changes in the Agreement. Any and all agreed modifications shall be in writing, signed by each of the parties.

11. Termination for Default:

If the Contractor defaults by failing to perform any of the obligations of the contract or becomes insolvent or is declared bankrupt or commits any act of bankruptcy or insolvency or makes an assignment for the benefit of creditors, the County may, by depositing written notice to the Contractor in the U.S. mail, postage prepaid, terminate the contract, and at the County's option, obtain performance of the work elsewhere. If the contract is terminated for default, the Contractor shall not be entitled to receive any further payments under the contract until all work called for has been fully performed. Any extra cost or damage to the County resulting from such default(s) shall be deducted from any money due or coming due to the Contractor. The Contractor shall bear any extra expenses incurred by the County in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained by the County by reason of such default.

If a notice of termination for default has been issued and it is later determined for any reason that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the Termination for Public Convenience paragraph hereof.

12. Termination for Public Convenience:

The County may terminate the contract in whole or in part whenever the County determines, in its sole discretion, that such termination is in the interests of the County. Whenever the contract is terminated in accordance with this paragraph, the Contractor shall be entitled to payment for actual work performed at unit contract prices for completed items of work. An equitable adjustment in the contract price for partially completed items of work will be made, but such adjustment shall not include provision for loss of anticipated profit on deleted or uncompleted work. Termination of this contract by the County at any time during the term, whether for default or convenience, shall not constitute a breach of contract by the County.

13. Defense & Indemnity Agreement:

The Contractor agrees to defend, indemnify and save harmless the County, its appointed and elected officers

and employees, from and against all loss or expense, including but not limited to judgments, settlements, attorney's fees and costs by reason of any and all claims and demands upon the County, its elected or appointed officials or employees for damages because of personal or bodily injury, including death at any time resulting therefrom, sustained by any person or persons, and for damages to property including loss of use thereof, whether such injury to persons or damage to property is due to the negligence of the Contractor, his/her Subcontractors, its successor or assigns, or its or their agent, servants, or employees, the County, its appointed or elected officers, employees or their agents, except only such injury or damage as shall have been occasioned by the sole negligence of the County, its appointed or elected officials or employees.

The preceding paragraph is valid and enforceable only to the extent of the Contractor's negligence where the damages arise out of services or work in connection with or collateral to, a contract or agreement relative to construction, alteration, repair, addition to, subtraction from, improvement to, or maintenance of, any building, highway, road, railroad, excavation, or other structure, project, development, or improvement attached to real estate, including moving and demolition in connection therewith, a contract or agreement for architectural, landscape architectural, engineering, or land surveying services, or a motor carrier transportation contract and where the damages are caused by or result from the concurrent negligence of (i) the County or its agents or employees, and (ii) the Contractor or the Contractor's agents or employees."

14. Insurance Requirements

The insurance coverages specified in this paragraph (14.) are required unless modified by Attachment A of this agreement. If insurance requirements are contained in Attachment A they take precedence

The Contractor shall, at the Contractor's own expense, maintain, with an insurance carrier licensed or eligible under RCW Chapter 48.15 to do business in the State of Washington, with minimum coverage as outlined below, commercial automobile liability insurance, and either commercial general liability insurance, or, if any services required by the contract must be performed by persons licensed by the State of Washington, professional liability insurance:

Commercial Automobile Liability

Bodily Injury Liability and Property Damage Liability Insurance \$1,000,000 each occurrence
OR combined single limit coverage of \$2,000,000, with not greater than a \$1000.00 deductible.

Commercial General Liability

Bodily Injury Liability and Property Damage Liability Insurance \$1,000,000 each occurrence
OR combined single limit coverage of \$2,000,000, with not greater than a \$1000.00 deductible.

Professional Liability Insurance

Shall include errors and omissions insurance providing \$1,000,000.00 coverage with not greater than a \$5,000.00 deductible for all liability which may be incurred during the life of this contract.

Pierce County shall be named as an additional insured on all required policies except professional liability insurance, and such insurance as is carried by the Contractor shall be primary over any insurance carried by Pierce County. The Contractor shall provide a certificate of insurance to be approved by the County Risk Manager prior to contract execution, which shall be attached to the contract.

Such insurance policies or related certificates of insurance shall name the Pierce County as an additional insured on all general liability, automobile liability, employers' liability, and excess policies. The Contractor may comply with these insurance requirements through a program of self insurance that meets or exceeds these minimum limits. The Contractor must provide Pierce County with adequate documentation of self insurance prior to performing any work related to this contract and treat the County as an insured under the indemnity agreement. Should the Contractor no longer benefit from a program of self-insurance, the Contractor agrees to promptly obtain insurance as provided above. A forty-five (45) Calendar Day written notice shall be given to prior to termination of or any material change to the policy(ies) as it relates to this Agreement.

Pierce County shall have no obligation to report occurrences unless a claim is filed with the Pierce County Auditor; nor shall Pierce County have an obligation to pay premiums.

In the event of nonrenewal or cancellation of or material change in the coverage required, thirty (30) days written notice will be furnished Pierce County prior to the date of cancellation, change or nonrenewal, such notice to be sent to the Pierce County Risk Manager, 955 Tacoma Ave South, Suite 303, Tacoma, WA 98402.”

15. Industrial Insurance Waiver

With respect to the performance of this Agreement and as to claims against the County, its officers, agents and employees, the Contractor expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to its employees and agrees that the obligations to indemnify, defend and hold harmless provided in this Agreement extend to any claim brought by or on behalf of any employee of the Contractor. This waiver is mutually negotiated by the parties to this Agreement.

16. Venue and Choice of Law:

In the event that any litigation should arise concerning the construction or interpretation of any of the terms of this Agreement, the venue of such action of litigation shall be in the courts of the State of Washington in and for the County of Pierce. This Agreement shall be governed by the law of the State of Washington.

17. Withholding Payment:

In the event the Contracting Officer determines that the Contractor has failed to perform any obligation under this Agreement within the times set forth in this Agreement, then the County may withhold from amounts otherwise due and payable to Contractor the amount determined by the County as necessary to cure the default, until the Contracting Officer determines that such failure to perform has been cured. Withholding under this clause shall not be deemed a breach entitling Contractor to termination or damages, provided that the County promptly gives notice in writing to the Contractor of the nature of the default or failure to perform, and in no case more than 10 days after it determines to withhold amounts otherwise due. A determination of the Contracting Officer set forth in a notice to the Contractor of the action required and /or the amount required to cure any alleged failure to perform shall be deemed conclusive, except to the extent that the Contractor acts within the times and in strict accord with the provisions of the Disputes clause of this Agreement. The County may act in accordance with any determination of the Contracting Officer which has become conclusive under this clause, without prejudice to any other remedy under the Agreement, to take all or any of the following actions: (1) cure any failure or default, (2) to pay any amount so required to be paid and to charge the same to the account of the Contractor, (3) to set off any amount so paid or incurred from amounts due or to become due the Contractor. In the event the Contractor obtains relief upon a claim under the Disputes clause, no penalty or damages shall accrue to Contractor by reason of good faith withholding by the County under this clause.

18. Future Non-Allocation of Funds:

Notwithstanding any other terms of this Agreement, if sufficient funds are not appropriated or allocated for payment under this contract for any future fiscal period, the County will not be obligated to make payment for services or amounts after the end of the fiscal period through which funds have been appropriated and allocated, unless authorized by County ordinance. No penalty or expense shall accrue to the County in the event this provision applies.

19. Contractor Commitments, Warranties and Representations:

Any written commitment received from the Contractor concerning this Agreement shall be binding upon the Contractor, unless otherwise specifically provided herein with reference to this paragraph. Failure of the Contractor to fulfill such a commitment shall render the Contractor liable for damages to the County. A commitment includes, but is not limited to any representation made prior to execution of this Agreement, whether or not incorporated elsewhere herein by reference, as to performance of services or equipment, prices or options for future acquisition to remain in effect for a fixed period, or warranties.

20. Patent/Copyright Infringement:

Contractor will defend and indemnify the County from any claimed action, cause or demand brought against the County, to the extent such action is based on the claim that information supplied by the Contractor infringes any patent or copyright. The Contractor will pay those costs and damages attributable to any such claims that are finally awarded against the County in any action. Such defense and payments are conditioned upon the following:

- a. That Contractor shall be notified promptly in writing by County of any notice of such claim.
- b. Contractor shall have the right, hereunder, at its option and expense, to obtain for the County the right to continue using the information, in the event such claim of infringement, is made, provided no reduction in performance or loss results to the County.

21. Disputes

a. General

Differences between the Contractor and the County, arising under and by virtue of the Contract Documents shall be brought to the attention of the County at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. Except for such objections as are made of record in the manner hereinafter specified and within the time limits stated, the records, orders, rulings, instructions, and decisions of the Contracting Officer, shall be final and conclusive.

b. Notice of Potential Claims

The Contractor shall not be entitled to additional compensation which otherwise may be payable, or to extension of time for (1) any act or failure to act by the Contracting Officer or the County, or (2) the happening of any event or occurrence, unless the Contractor has given the County a written Notice of Potential Claim within 10 days of the commencement of the act, failure, or event giving rise to the claim, and before final payment by the County. The written Notice of Potential Claim shall set forth the reasons for which the Contractor believes additional compensation or extension of time is due, the nature of the cost involved, and insofar as possible, the amount of the potential claim. Contractor shall keep full and complete daily records of the Work performed, labor and material used, and all costs and additional time claimed to be additional.

c. Detailed Claim

The Contractor shall not be entitled to claim any such additional compensation, or extension of time, unless within 30 days of the accomplishment of the portion of the work from which the claim arose, and before final payment by the County, the Contractor has given the County a detailed written statement of each element of cost or other compensation requested and of all elements of additional time required, and copies of any supporting documents evidencing the amount or the extension of time claimed to be due.

22. Ownership of Items Produced

All writings, programs, data, public records or other materials prepared by the Contractor and/or its consultants or subcontractors, in connection with the performance of this Agreement shall be the sole and absolute property of the County.

23. Confidentiality:

The Contractor, its employees, subcontractors, and their employees shall maintain the confidentiality of all information provided by the County or acquired by the Contractor in performance of this Agreement, except upon the prior written consent of the Pierce County Prosecuting Attorney or an order entered by a court after having acquired jurisdiction over the County. Contractor shall immediately give to the County notice of any judicial proceeding seeking disclosure of such information. Contractor shall indemnify and hold harmless the County, its officials, agents or employees from all loss or expense, including, but not limited to settlements, judgments, setoffs, attorneys' fees and costs resulting from Contractor's breach of this provision.

24. Notice:

Except as set forth elsewhere in the Agreement, for all purposes under this Agreement, except service of process, notice shall be given by the Contractor to the department head of the department for whom services are rendered, and to the County Purchasing Agent, 615 S. 9th, Tacoma, WA 98405-4673. Notice to the Contractor for all purposes under this Agreement shall be given to the address reflected below. Notice may be given by delivery or by depositing in the US Mail, first class, postage prepaid.

25. Severability:

If any term or condition of this contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this contract are declared severable.

26. Waiver:

Waiver of any breach or condition of this contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this contract shall be held to be waived, modified or deleted except by an instrument, in writing, signed by the parties hereto.

27. Waiver of Non Competition:

Contractor irrevocably waives any existing rights which it may have, by contract or otherwise, to require another person or corporation to refrain from submitting a proposal to or performing work or providing supplies to Pierce County, and Contractor further promises that it will not in the future, directly or indirectly, induce or solicit any person or corporation to refrain from submitting a bid or proposal to or from performing work or providing supplies to Pierce County.

28. Survival:

The provisions of paragraphs 5, 7, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 25, and 26, and the provisions of any non-collusion affidavit required by paragraph 4, shall survive, notwithstanding the termination or invalidity of this Agreement for any reason.

29. Entire Agreement: This written contract represents the entire Agreement between the parties and supersedes any prior oral statements, discussions or understandings between the parties.

30. Cooperative Purchasing. The Washington State Interlocal Cooperative Act RCW 39.34 provides that other governmental agencies may purchase goods and services on this solicitation or contract in accordance with the terms and prices indicated therein if all parties are willing. The Contract maximum for this contract per annual term, or for any renewal period, is for Pierce County's use only. Other agencies may use this contract up to their contract limits, if any, exclusive of and in addition to the County's contract maximum. By ordering and providing service under terms of this contract to any other governmental agency or jurisdiction, the governmental agency and the Agency agree to indemnify, defend and hold harmless Pierce County and District Court from any and all obligations, claims, or expenses, including attorney's fees, arising out of such action.

EXHIBIT “C” CONTRACT COMPLIANCE FOR PROFESSIONAL, TECHNICAL, SUPPLY OR SERVICES REVISED 1/06

It is the policy of Pierce County to foster an environment that encourages economic growth and diversification, business development and retention, increases competition and reduces unemployment. In support of that policy, Pierce County reaffirms its commitment to maximize opportunities in public contracting for all contractors including minority and women owned business enterprises.

Bidders are encouraged to utilize qualified, local businesses in Pierce County and Washington State where cost effectiveness is deemed competitive. In addition, Bidders are encouraged to subcontract with firms certified by the Washington State Office of Minority and Women’s Business Enterprises (MWBE).

A. MWBE DIRECTORY ASSISTANCE

A directory of MWBE firms is published quarterly by the Washington State Office of Minority and Women’s Business Enterprises (OMWBE). Copies of the directory are available from the State OMWBE (360-753-9693) or may be viewed at the Public Works Department, 2702 S 42nd St Suite 201, Tacoma 98409, and the Tacoma Public Library, 1102 Tacoma Avenue South, Tacoma, 98402. Contact the Contract Compliance Office for additional information at (253) 798-7250.

B. EQUAL EMPLOYMENT OPPORTUNITY:

1. Upon execution of this contract, the Contractor shall comply with the Equal Employment Opportunity requirements set forth below. The Contractor shall not violate any of the terms of Chapter 49.60 of the Revised Code of Washington, Title VII of the Civil Rights Act of 1964, or any other applicable federal, state, or local law or regulation regarding nondiscrimination.
2. No person or firm employed by the Contractor shall be subject to retaliation for opposing any practice made unlawful by Title VII of the Civil Rights Act, the Age Discrimination in Employment Act (29 U.S.C. 621 et seq.), the Equal Pay Act (29 U.S.C. 206(d), the Rehabilitation Act (29 U.S.C. 791 et seq.), the Americans with Disabilities Act of 1990, or for participating in any stage of administrative or judicial proceedings under those statutes.
3. The Contractor shall take all reasonable steps to ensure that qualified applicants and employees shall have an equal opportunity to compete for advertised or in-house positions for employment. Applicants and employees shall be treated fairly without regard to race, color, religion, sex, age, disability, or national origin. Equitable treatment shall include, but not be limited to employment, upgrading or promotion, rates of pay increases or other forms of compensation, and selection for training or enrollment in apprenticeship programs.

C. CERTIFICATION OF NONSEGREGATED FACILITIES

The Contractor shall submit with its proposal a Certification of Nonsegregated Facilities. All requests to sublet or assign any portion of this contract, at any level, shall be accompanied by evidence of this certification in all subcontract agreements.

D. E-VERIFY DECLARATION

Pierce County requires that all businesses which contract with the County for contracts in excess of \$25,000 and of duration longer than 120 days, and are not specifically exempted by PCC 2.106.022, be enrolled in the Federal E-verify Program. The requirement extends to every subcontractor meeting the same criteria. The Prime Contractor must provide certification of enrollment in the Federal E-verify program to the County. The Prime Contractor will remain enrolled in the program for the duration of the contract. The Prime Contractor is responsible for verification of every applicable subcontractor. The County reserves the right to require a copy of the Memorandum of Understanding between the Prime or any Subcontractor and the Department of Homeland Security upon request at any time during the term of the contract. Failure to provide this document could result in suspension of the project.

A copy of Ordinance 2009-74 is on the Purchasing Department’s website located at <http://online.co.pierce.wa.us/cfapps/EDocs/ViewDocument.cfm?did=95668&dnum=>

The Federal E-Verify Program is a web based application and can be accessed at www.dhs.gov/everify .

E. SUBMITTAL REQUIREMENTS

1. Certificate of non-segregated facilities: Contractor shall submit with proposal, each subcontractor shall submit when work is sublet.
2. Professional and Technical Workforce Data Form: Contractor is encouraged to submit with proposal, each Subcontractor is encouraged to submit the form when work is sublet.
3. Subcontractors Participation Form: Check the appropriate box indicating the firm who will perform the work of the contract. Submit the completed form with the proposal documents.
4. E-Verify Declaration: Contractor shall submit with proposal.

CERTIFICATION OF NONSEGREGATED FACILITIES

The contractor certifies that no segregated facilities are maintained and will not be maintained during the execution of this contract at any of contractor's establishments.

The contractor further certifies that none of the contractor's employees are permitted to perform their services at any location under the contractor's control during the life of this contract where segregated facilities are maintained. The contractor certifies further that he will not maintain or provide for his employees any segregated facilities at any of his establishments, and that he will not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained.

The contractor agrees that a breach of this certification is a violation of the Equal Opportunity clause in this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work area, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color or national origin, because of habit, local custom, or otherwise.

The contractor agrees that identical certifications from proposed contractors will be obtained prior to the award of any subcontracts. Contractor will retain a copy of any subcontractor's certification and will send original to Contract Compliance Division.

NON-COLLUSION & DEBARMENT AFFIDAVIT

State of Washington, County of _____

As an authorized representative of the firm of _____, I do hereby certify that said person(s), firm, association or corporation has (have) not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the project for which this proposal is submitted.

I further certify that, except as noted below, the firm, association or corporation or any person in a controlling capacity associated therewith or any position involving the administration of federal funds; is not currently under suspension, debarment, voluntary exclusion, or determination of eligibility by any federal agency; has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past 3 years; does not have a proposed debarment pending; and has not been indicted, convicted or had a civil judgment rendered against said person, firm, association or corporation by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past 3 years.

I further acknowledge that by signing the signature page of the proposal, I am deemed to have signed and have agreed to the provisions of this affidavit.

Note: Exceptions will not necessarily result in denial of award, but will be considered in determining bidder responsibility. For any exception noted, indicate above to whom it applies, initiating agency, and dates of action. Providing false information may result in criminal prosecution or administrative sanctions.

"A suspending or debaring official may grant an exception permitting a debarred, suspended, or excluded person to participate in a particular transaction upon a written determination by such official stating the reason(s) for deviating from the Presidential policy established by Executive Order 12549..." (49CFR Part 29 Section 29.215)

The undersigned hereby agrees to pay labor not less than the prevailing rates of wages in accordance with the requirements of the special provisions for this project.

SUBCONTRACTORS PARTICIPATION FORM FOR PROFESSIONAL, TECHNICAL, SUPPLY OR SERVICE PSAS

Check appropriate statement below:

- Our firm will perform all contracted scope of work tasks.**
- Our firm will subcontract a portion of the work tasks.** The following firms were contacted and will be utilized in the performance of the work as indicated below.

List all potential subcontracting firms. Do not mark "N/A" unless the Bidder will perform all work or provide all supplies or services for this contract.

Firm Name/Address/Phone	Work Item(s) Solicited	Proposal Amount	Awarded? (yes/no)

1. List full name, address, and phone number of each firm listed to be utilized.
2. List specific work to be accomplished, supplies to be furnished and the amount proposed for each subcontract.
3. Contact the Pierce County Contract Compliance Officer at (253) 798-7250 if you have questions.

BY: _____ DATE: _____

TITLE: _____ PHONE: _____

Revised (6/99)

PERSONNEL WORKFORCE DATA FORM

FIRM NAME _____

ADDRESS _____

CITY, STATE, ZIP _____

PHONE _____

PROJECT _____

PROJECT # _____

CONTRACT WORK HOURS (if applicable) _____

TYPE OF SERVICE PROVIDED _____

CONTRACTORS AGGREGATE WORK FORCE – if you need additional space, photo copy this section and attach it to this form.

OCCUPATION	TOTAL EMPLOYED		TOTAL MINORITY		NATIVE AMERICAN		ASIAN		BLACK		HISPANIC		APPRENTICE/ TRAINEE	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F
Management														
Professionals														
Technicians														
Administrative														
Other														
TOTALS														

E-VERIFY DECLARATION

Firm Name: _____

Proposal/Bid/Invitation/Solicitation No. _____

The undersigned declares, under **penalty of perjury** under the laws of Washington that:

1. That the above named firm is currently enrolled in and using the E-Verify system implemented on March 1, 2010 as outlined in PCC 2.106.022 and will continue to use the E-Verify system for so long as work is being performed on the above named project.
2. I certify that I am duly authorized to sign this declaration on behalf of the above named bidder/proposer.
3. I acknowledge that Pierce County reserves the right to require a copy of the Memorandum of Understanding between the contractor listed above and the Department of Homeland Security certifying enrollment in the E-Verify program at any time. Failure to provide the required Memorandum of Understanding within 10 days of request could lead to suspension of this contract.

Dated at _____ Washington

this _____ day of _____, 20_____

Signature _____

Printed Name _____

REQUIRED SIGNATURE PAGE FOR PROPOSAL

I, the undersigned, having carefully examined the Request for Qualifications, propose to furnish services in accordance therewith as set forth in the attached proposal.

I further agree that this proposal will remain in effect for not less than sixty (60) calendar days from the date that proposals are due, and that this proposal may not be withdrawn or modified during that time.

STATE OF _____
COUNTY OF _____

Being first duly sworn, on my oath, I hereby certify that this proposal is genuine and not a sham or collusive proposal, or made in the interests or on behalf of any person not therein named; and I have not directly or indirectly induced or solicited any Contractor or supplier on the above work to put in a sham proposal or any person or corporation to refrain from submitting a proposal; and that I have not in any manner sought by collusion to secure to myself an advantage over any other contractor(s) or person(s).

In order to induce the County to consider this proposal, the proposer irrevocably waives any existing rights which it may have, by contract or otherwise, to require another person or corporation to refrain from submitting a proposal to or performing work or providing supplies to Pierce County, and proposer further promises that it will not in the future directly or indirectly induce or solicit any person or corporation to refrain from submitting a bid or proposal to or from performing work or providing supplies to Pierce County.

Signature

Subscribed and sworn before me this ____ day of _____, 20__.

Printed Name

Notary Public in and for the State of _____
residing at _____.
My commission expires _____.

Firm

Address

UBI No: _____

(Area Code) Phone

THIS PAGE MUST BE SIGNED, NOTARIZED, AND RETURNED WITH THE PROPOSAL.