

INVITATION FOR BIDS

Revenue Bond Accounting & Auditing Services



IFB-13-404

www.energy.ca.gov/contracts/

State of California

California Energy Commission

August 2013

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Attachments

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| 1 | Bidder Checklist |
| 2 | Bidder Certification |
| 3 | Contractor Status Form |
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| 5 | Disabled Veteran Business Enterprise Declarations (DVBE) Std. Form 843 |
| 6 | Bidder Declaration Form GSPD-05-105
(List of subcontractors, including DVBE/Small Business/Microbusiness/
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| 7 | Contractor Certification Clauses |
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| 9 | Sample Standard Agreement |

I. Introduction

PURPOSE OF IFB

To obtain an experienced contractor to complete annual audits for each bond issue (2003A and 2005A), for three consecutive years (FY 2013-14, FY 2014-15, and FY 2015-16) as required by the Secured Loan Agreements and the Continuing Disclosure Agreements for the Energy Efficiency Master Trust Revenue Bonds including Series 2003A (dated April 10, 2003) and Series 2005A (dated April 27, 2005).

KEY ACTIVITIES AND DATES

Key activities including dates and times for this IFB are presented below. An addendum will be released if the dates change for the asterisked (*) activities.

ACTIVITY	ACTION DATE
IFB Release	August 14, 2013
Written Question Submittal Deadline*	August 19, 2013
Distribute Questions/Answers and Addenda (if any)	August 21, 2013
Deadline to Submit Bid by 3:00 p.m.*	September 05, 2013
Public Bid Opening 9:00 a.m.	September 06, 2013
Notice of Proposed Award	September 06, 2013
Commission Business Meeting	November 13, 2013
Contract Start Date	December 17, 2013
Contract Termination Date	December 16, 2016

AVAILABLE FUNDING

There is up to \$150,000 available for the contract resulting from this IFB. This is an hourly rate plus cost reimbursement contract and the award will be made to the responsible Bidder providing the lowest cost, after any applicable preference or incentive.

QUESTIONS

During the IFB process, questions of clarification about this IFB must be directed to the Contracts Officer listed in the following section.

Potential Bidders shall carefully examine the qualifications and specifications of this IFB and may submit written questions via mail, electronic mail, and by FAX. All technical questions must be submitted by the date indicated in the Key Activities and Dates section.

Any verbal communication with a Commission employee concerning this IFB is not binding on the State and shall in no way alter a specification, term, or condition of the IFB.

CONTACT INFORMATION

Gordon Kashiwagi, Contracts Officer
California Energy Commission
1516 Ninth Street, MS-18
Sacramento, California 95814
Telephone: (916) 654-5131
FAX: (916) 654-4423

E-mail: Gordon.kashiwagi@energy.ca.gov

RESPONSES TO THIS IFB

Responses to this solicitation shall be in the form of an Administrative Response and a sealed and formal Cost Bid using Attachment 8, Budget Forms, according to the format described in this IFB. The Cost Bid shall detail the Bidder's budget to perform the tasks outlined in the Scope of Work.

REFERENCE DOCUMENTS

Bidders responding to this IFB may want to familiarize themselves with the following documents:

- Master Trust Agreements
- Bond Indentures
- Secured Loan Agreements
- Tax Certificates
- Most recent Bond Audit

All above reference documents are available online at:

<http://www.energy.ca.gov/efficiency/revenuebonds/>

II. Scope of Work and Deliverables

ABOUT THIS SECTION

This section describes the contract scope of work, deliverables and due dates under the direction of the Commission Agreement Manager (CAM).

TASK LIST

Task #	Task Name
1	Technical 13/14 Fiscal Year
2	Technical 14/15 Fiscal Year
3	Technical 15/16 Fiscal Year

BACKGROUND/PROBLEM STATEMENT

The Energy Efficiency Master Trust Revenue Bonds include Series 2003A (dated April 10, 2003), and Series 2005A (dated April 27, 2005). Each bond is supported by repayments from pledged loans from the Energy Commission Loan program for public agencies. The list of loans, repayment schedule, debt coverage requirement and other pertinent information for each of these bond issues, (2003A and 2005A) is available in the Official Statements for each of these bond issues. Loan payments used in support of the bonds are made semi-annually in June and December of each year to the Energy Commission and will include unscheduled loan payments. The Revenue Bond Official Statements, Bond Indentures, Restated and Amended Master Trust (covering both Bond Issues), Secured Loan Agreements, and Continuing Disclosure Agreements provide specific details of the structure of the bonds and the associated parties.

Auditing requirements are listed below under the Continuing Disclosure Agreement and the Secured Loan Agreement descriptions for each series. This is a very complicated bond structure for which the Energy Commission has hired a private sector Bond Trustee, the Bank of New York (BNY), and has invested bond sub-accounts in Guaranteed Investment Contracts and Repurchase Agreements at specified interest rates. Both the 2003A and 2005A bonds have individual Debt Service Reserve Accounts maintained to equal a minimum of 20 percent of the outstanding balance of each bond issue.

GOALS AND OBJECTIVES OF THE AGREEMENT

The contractor shall complete annual audits for each bond issue (2003A and 2005A), for three consecutive Fiscal Years (FY) (FY 2013-14, FY 2014-15, and FY 2015-16) as required by the Secured Loan Agreements and the Continuing Disclosure Agreements. The audits will report the statements of all dealings, transactions, all funds, accounts and sub-accounts established in relation to the 2003A and 2005A Energy Efficiency Tax Exempt Revenue Bonds.

The contractor shall use auditing standards and accounting principles generally accepted in the United States, as promulgated to apply to governmental entities from time to time by the Governmental Accounting Standards Board as a guide for the level of audit required by all parties to the Bond Issues and as stated in the bond documents.

TECHNICAL TASKS

Task 1 – 2013/14 Fiscal Year Audit for 2003A Bond Issue and 2005A Bond Issue

Task 2 – 2014/15 Fiscal Year Audit for 2003A Bond Issue and 2005A Bond Issue

Task 3 – 2015/16 Fiscal Year Audit for 2003A Bond Issue and 2005A Bond Issue

The following detail applies to Task 1, Task 2 and Task 3. Each Fiscal Year being audited has been identified as a separate task for contract budget purposes.

The contractor shall submit the final annual audits on or before October 15th each year. Each audit will cover the preceding fiscal year, with the first audit period beginning July 1, 2013 through June 30, 2014. The annual audits will be included in the Energy Commission's annual Continuing Disclosure Report that will be submitted to the Bond Trustee (BNY), as dissemination agent each year. The audits are a key part of this report and will be delivered to the appropriate banking repositories by the dissemination agent. The audits will be delivered to the State Controller's Office.

As part of each annual audit, the contractor shall:

1. Review the Bond documents and related agreements to understand the fund structure and the transactional changes that have occurred since the previous year's audit was conducted,

2. Provide an independent review of the Program Loan Account, Loan Repayment Account, Debt Service Account, Surplus Repayments Account, Debt Service Reserve Account, Master Reserve Account, and the Administrative Expense Fund. Contractor will ensure that any funds scheduled for debt service payment are segregated and identified and interest on the funds and accounts pledged in support of the bonds are being properly tracked, reported and accounted for, including prepayments,

3. Provide a determination of whether the Energy Commission accounting and reporting procedures meet the requirements as set forth in the Bond documents and Continuing Disclosure Agreements,

4. Be available during the course of the contract for audit related questions of the parties to the bonds (Borrower, Issuer, Trustee, Financial Advisors, etc.), provide recommendations to the Energy Commission on procedures to improve and insure quality control of all accounts and sub-accounts pledged in support of the bonds, and provide other related duties to assist the Energy Commission in its management of the Bond Program and its compliance with the legal requirements of the Bond documents.

The contractor shall submit a draft audit to the CAM for review and approval. Upon approval, the contractor shall submit a final annual audit.

DELIVERABLES AND DUE DATES

<u>Task</u>	<u>Deliverables</u>	<u>Draft Due Date</u>	<u>Final Due Date</u>
2.1 – FY 2013/14 Audits	2003A Bond Issue	10/1/14	10/13/14
	2005A Bond Issue	10/1/14	10/13/14
2.2 – FY 2014/15 Audits	2003A Bond Issue	10/1/15	10/13/15
	2005A Bond Issue	10/1/15	10/13/15
2.3 – FY 2015/16 Audits	2003A Bond Issue	10/1/16	10/13/16
	2005A Bond Issue	10/1/16	10/13/16

The Department of Finance reserves the right to review the contractor's audit reports, management letters, and working papers related to the contracted audit.

REFERENCE INFORMATION: BOND DOCUMENTS

The following information is contained in the Continuing Disclosure Agreements and the Secured Loan Agreements and is included below to assist contractor in understanding the legal requirements of the Energy Commission in reporting accurate financial information to bond holders annually. The 2005A bond issue Master Trust is restated and amended and includes the 2003A bond issue agreements. The 2003A bond issue information is listed below for information.

2005A BOND ISSUE

2005A SECURED LOAN AGREEMENT, SECTION 5.5 BOOKS AND RECORDS; AUDITS.

The Energy Commission shall maintain, until the end of the sixth year after any 2005A Bond is Outstanding, separate and apart from all other records and accounts, proper books, records and accounts in which complete and correct entries will be made of all dealings and transactions in relation to 2005A Program Loans and all funds and accounts established hereunder or under the 2005A Bond Indenture. Such accounts shall show the amount of 2005A Program Loan Repayments or other amounts received with respect to each 2005A Program Loan and the date of each remittance of such amounts to the Trustee. These books shall be kept by the Energy Commission according to generally accepted accounting principles and standard accounting practices as applicable.

The Energy Commission's books, records and accounts for the 2005A Program Loans and all funds and accounts established hereunder or under the 2005A Bond Indenture shall be audited in accordance with auditing standards and accounting principles generally accepted in the United States, as promulgated to apply to governmental entities from time to time by the Governmental Accounting Standards Board at least annually by independent certified public accountants selected by the Energy Commission. A copy of each audit report, including statements of net assets, activities and cash flow, and notes to financial statements, shall be filed with the Issuer and the Trustee as soon as they become available, but in no event later than 9 months after the close of the Energy Commission's fiscal year and sent to any 2005A Owner filing with the Energy Commission a written request therefore.

2005A SECURED LOAN AGREEMENT, SECTION 5.6 CONTINUING DISCLOSURE. Under the Continuing Disclosure Agreement between the Energy Commission and the Trustee, as Dissemination Agent, or other dissemination agent acceptable to the Issuer and the Energy Commission, the Energy Commission has undertaken responsibility for compliance with continuing disclosure requirements with respect to Securities and Exchange Commission Rule 15c2-12. Information pertaining to the Issuer, as conduit Issuer of the 2005A Bonds, is not subject to continuing disclosure obligations. The Energy Commission hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Agreement.

Furthermore, the Energy Commission covenants and agrees that, if at the time of any release, addition or modification of a 2005A Program Loan pursuant to Section 3.8 hereof, any Borrower's aggregate Program Loans represent more than 10% of the aggregate principal amount of all Program Loans pledged as Collateral to any Series of Bonds, then such a Borrower will be a "Material Participant" for purposes of this 2005A Secured Loan Agreement and an "Obligated Person" within the meaning of Securities and Exchange Commission Rule 15c2-12, and as such will be required to execute and file with the Energy Commission a Continuing Disclosure Agreement, with the Trustee as dissemination agent, or other dissemination agent acceptable to the Issuer and the Energy Commission, under which such Material Participant will be required to file annual reports containing required financial and operating information and notices of certain events on an ongoing basis in accordance with Securities and Exchange Commission Rule 15c2-12, so long as such Borrower remains a Material Participant.

2005A CONTINUING DISCLOSURE AGREEMENT, SECTION 4(A)(I): The Annual Report shall contain the audit report of the Energy Commission's books, records and accounts for the 2005A Program Loans and all funds and accounts established under the 2005A Bond Indenture and the 2005A Secured Loan Agreement as of and for the fiscal year most recently ended of the Energy Commission, prepared in accordance with Section 5.5 of the 2005A Secured Loan Agreement and with auditing standards and accounting principles generally accepted in the United States as promulgated to apply to governmental entities from time to time by the Governmental Accounting Standards Board.

2003A BOND ISSUE

AMENDED AND RESTATED 2003A SECURED LOAN AGREEMENT, SECTION 5.5

BOOKS AND RECORDS; AUDITS. The Energy Commission shall maintain, until the end of the sixth year after any 2003A Bond is Outstanding, separate and apart from all other records and accounts, proper books, records and accounts in which complete and correct entries will be made of all dealings and transactions in relation to 2003A Program Loans and all funds and accounts established hereunder or under the 2003A Bond Indenture. Such accounts shall show the amount of 2003A Program Loan Repayments or other amounts received with respect to each 2003A Program Loan and the date of each remittance of such amounts to the Trustee. These books shall be kept by the Energy Commission according to generally accepted accounting principles and standard accounting practices as applicable.

The Energy Commission's books, records and accounts for the 2003A Program Loans and all funds and accounts established hereunder or under the 2003A Bond Indenture shall be audited in accordance with auditing standards and accounting principles generally accepted in the United States, as promulgated to apply to governmental entities from time to time by the Governmental Accounting Standards Board at least annually by independent certified public accountants selected by the Energy Commission. A copy of each audit report, including statements of net assets, activities and cash flow, and notes to financial statements, shall be filed with the Issuer and the Trustee as soon as they become available, but in no event later

than 9 months after the close of the Energy Commission's fiscal year and sent to any 2003A Owner filing with the Energy Commission a written request therefore.

AMENDED AND RESTATED 2003A SECURED LOAN AGREEMENT, SECTION 5.6 CONTINUING DISCLOSURE. Under the Continuing Disclosure Agreement between the Energy Commission and the Trustee, as Dissemination Agent, or other dissemination agent acceptable to the Issuer and the Energy Commission, the Energy Commission has undertaken responsibility for compliance with continuing disclosure requirements with respect to Securities and Exchange Commission Rule 15c2-12. Information pertaining to the Issuer, as conduit issuer of the 2003A Bonds, is not subject to continuing disclosure obligations. The Energy Commission hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Agreement.

Furthermore, the Energy Commission covenants and agrees that, if at the time of any release, substitution or replacement of a 2003A Program Loan pursuant to Section 3.8 hereof, (1) any 2003A Borrower shall be obligated to make aggregate debt service payments on its 2003A Program Loans in an amount equal to 10% or more of the aggregate annual debt service on the 2003A Bonds, or (2) if any 2003A Borrower's aggregate 2003A Program Loans represent more than 10% of the aggregate principal amount of all 2003A Program Loans pledged as Collateral to any Series of Bonds, then such a 2003A Borrower will be a "Material Participant" for purposes of this Secured Loan Agreement and an "Obligated Person" within the meaning of Securities and Exchange Commission Rule 15c2-12, and as such will be required to execute and file with the Energy Commission a continuing disclosure agreement, with the Trustee as dissemination agent, or other dissemination agent acceptable to the Issuer and the Energy Commission, under which such Material Participant will be required to file annual reports containing required financial and operating information and notices of certain events on an ongoing basis in accordance with Securities and Exchange Commission Rule 15c2-12, so long as such 2003A Borrower remains a Material Participant.

AMENDED AND RESTATED 2003A CONTINUING DISCLOSURE AGREEMENT, SECTION 4(a)(i): The Annual Report shall contain the audit report of the Energy Commission for the 2003A Program Loans as they then existed as of the end of the fiscal year most recently ended, prepared in accordance with Section 5.5 of the Amended and Restated 2003A Secured Loan Agreement and with generally accepted accounting principles as promulgated to apply to governmental entities from time to time by the Governmental Accounting Standards Board.

III. Evaluation Process and Criteria

ABOUT THIS SECTION

This section explains how the Bids will be evaluated. It describes the evaluation stages and opening of all Bids.

BID EVALUATION

The Contract will be awarded to the Bidder who meets the minimum qualifications and has the lowest responsible Cost Bid after any applicable preference or incentive.

The Bids will be analyzed in two stages:

Stage One: Administrative and Completeness Screening

Each Bid will be checked for the presence or absence of required information in conformance with Bid Format and Required Documents (see section V) and grounds for rejection (see section VI). The Energy Commission will evaluate each Bid to determine its responsiveness to these requirements.

Stage Two: Cost Bid

Those Bids that are responsive to the criteria in Stage One will have their Cost Bid opened. All preferences/incentives will be applied.

The contract will be awarded to the responsible Bidder with a responsive offer that is timely received, meeting the requirements outlined in Stage One, who provides the lowest cost, after any applicable preference or incentive.

NOTICE OF PROPOSED AWARD

Subsequent to the Bid evaluations, the Energy Commission will post a Notice of Proposed Award (NOPA) at the Commission's headquarters in Sacramento, on the Commission's Web Site, and will mail the NOPA to all parties that submitted a Bid.

IV. Business Participation Programs (Preferences/Incentives)

A Bidder may qualify for preferences/incentives as described below. Each Bidder passing Stage One screening will receive the applicable preference/incentive.

This section describes the following business participation programs:

- Disabled Veteran Business Enterprise participation requirements
- Disabled Veteran Business Enterprise incentive
- Small Business / Microbusiness preference
- Non-Small Business preference
- Target Area Contract Act preference
- Enterprise Zone Act preference
- Local Agency Military Base Recovery Act preference

DVBE PARTICIPATION COMPLIANCE REQUIREMENTS

DVBE Participation Required

This IFB is subject to mandatory participation of at least three percent (3%) certified DVBEs.

Two Methods to Meet DVBE Participation Requirement

- If Bidder is a DVBE, then Bidder has satisfied the participation requirements if it commits to performing at least 3% of the contract with the Bidder's firm, or in combination with other DVBE(s).
- If Bidder is not a DVBE, Bidder can satisfy the requirement, by including at least 3% DVBE subcontractors on the contract team.

Required Forms

Bidders must complete Attachments 3, 5 and 6 to document DVBE participation. If Bidder does not include these forms, the Bid is considered non-responsive and shall be rejected.

- Contractor Status Form (Attachment 3).
Under the paragraph entitled: "Disabled Veteran Business Participation Acknowledgement", make sure to check the "yes" "DVBE Participation" box.
- DVBE Declarations Std. Form 843 (Attachment 5)
- Bidder Declaration Form GSPD-05-105 (Attachment 6)

DVBE Definition

For DVBE certification purposes, a "disabled veteran" is:

- A veteran of the U.S. military, naval, or air service;
- The veteran must have a service-connected disability of at least 10% or more; and
- The veteran must be domiciled in California.

DVBE Certification and Eligibility

- To be certified as a DVBE, your firm must meet the following requirements:
 - Your business must be at least 51% owned by one or more disabled veterans;
 - Your daily business operations must be managed and controlled by one or more disabled veterans

- The disabled veterans who exercise management and control are not required to be the same disabled veterans as the owners of the business; and
- Your home office must be located in the U.S. (the home office cannot be a branch or subsidiary of a foreign corporation, foreign firm, or other foreign based business).
- DVBE limited liability companies must be wholly owned by one or more disabled veterans.
- Each DVBE firm listed on the DVBE Declarations Std. Form 843 (Attachment 5) and on the Bidder Declaration form (Attachment 6) must be formally certified as a DVBE by the Office of Small Business and DVBE Services (OSDS). The DVBE program is not a self-certification program. Bidder must have submitted application to OSDS for DVBE certification by the bid due date to be counted in meeting participation requirements.

To Find Certified DVBEs

Access the list of all certified DVBEs by using the Department of General Services, Procurement Division (DGS-PD), online certified firm database at <http://www.bidsync.com/DPXBisCASB>. Search by “Keywords” or “United Nations Standard Products and Services Codes” (UNSPSC) that apply to the elements of work you want to subcontract to a DVBE. Check for subcontractor ads that may be placed on the California State Contracts Register (CSCR) for this solicitation prior to the closing date. You may access the CSCR at: http://www.bidsync.com/DPX?ac=powersearch&srchoid_override=307818. For questions regarding the online certified firm database and the CSCR, please call the OSDS at (916) 375-4940 or send an email to: OSDCHelp@dgs.ca.gov.

Commercially Useful Function

DVBEs must perform a commercially useful function relevant to this solicitation, in order to satisfy the DVBE program requirements. California Code of Regulations, Title 2, Section 1896.62(l) provides:

“Commercially Useful Function (CUF) means a DVBE contractor or subcontractor that contributes to the fulfillment of contract requirements as determined by awarding departments in § 1896.71, and does all of, but is not limited to, the following:

- (1) Is responsible for the execution of a distinct element of work for the contract;
- (2) Carries out contractual obligations by actually performing, managing, or supervising the work involved;
- (3) Performs work that is normal for its business services and functions;
- (4) Is not further subcontracting a portion of the work that is greater than expected to be subcontracted by normal industry practices;
- (5) Is responsible, with respect to products, inventories, materials, and supplies required for the contract, for negotiating price, determining quality and quantity, ordering, installing, if applicable, and making payment; and,
- (6) Its role is not an extra participant in the transaction, contract or project through which funds are passed in order to obtain the appearance of DVBE participation.”

Information Verified

Information submitted by the Bidder to comply with this solicitation’s DVBE requirements will be verified. If evidence of an alleged violation is found during the verification process, the State shall initiate an investigation, in accordance with the requirements of PCC Section 10115, et seq., and Military & Veterans Code Section 999 et seq., and follow the investigatory procedures required by California Code of Regulations Title 2, Section 1896.90 et. seq. Contractors found to be in violation of certain provisions may be subject to loss of certification, sanctions and/or contract termination.

DVBE Report

Upon completion of the contract for which a commitment to achieve DVBE participation was made, the contractor that entered into a subcontract with a DVBE must certify in a report to the Energy Commission: 1) the total amount the prime contractor received under the contract; 2) the name and address of the DVBE(s) that participated in the performance of the contract; 3) the amount each DVBE received from the prime contractor; 4) that all payments under the contract have been made to the DVBE(s); and 5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. Military & Veterans Code Section 999.5(d).

The Office of Small Business and DVBE Services (OSDS)

OSDS offers program information and may be reached at:

Department of General Services

Office of Small Business and DVBE Services

707 3rd Street, 1st Floor, Room 400

West Sacramento, CA 95605

<http://www.dgs.ca.gov/pd/Programs/OSDS.aspx>

Phone: (916) 375-4940

Fax: (916) 375-4950

E-mail: OSDSHelp@dgs.ca.gov

DVBE Law

- Public Contract Code Section 10115 et seq.
- Military & Veterans Code Section 999 et. seq.
- California Code of Regulations Title 2, Section 1896.60 et. seq.

DVBE INCENTIVE

The information below explains how the incentive is applied and how much of an incentive will be given.

Incentive Application

Award Based on Low Price: The Incentive is applied by reducing the Bid price for Bidders that include more than the minimum required 3.00% DVBE participation. In other words, if a Bidder includes 3.01% DVBE participation or greater, it will receive the DVBE incentive. If you include 3% DVBE participation, you will not receive the incentive. You will only receive the incentive, if you include 3.01% or greater DVBE participation. The Bid price is reduced by the percentage of incentive as computed from the lowest responsive and responsible Bid price. The computation is for evaluation purposes only and does not change your Bid amount. Application of the incentive cannot displace an award to a small business with a non-small business. Also, application of the incentive cannot change the amount of the Bid for the contract budget.

Incentive amount

For awards based on low price, the incentive will vary in conjunction with the percentage of DVBE participation. The DVBE Incentive Program may be used in conjunction with the Small Business preference which gives a 5% preference to small business Bidders or 5% to non-small business Bidders committed to subcontracting 25% of the overall Bid with small businesses.

Proposed DVBE Participation Level	DVBE Incentive % Price Preference
3.01% - 3.99%	1%
4.00% - 4.99%	2%
5.00% - 5.99%	3%
6.00% - 6.99%	4%
7.00% - 7.99%	5%

Required Forms:

- Contractor Status Form (Attachment 3).
Under the paragraph entitled: "Disabled Veteran Business Participation Acknowledgement", make sure to check the "yes" "DVBE Incentive Participation" box.
- DVBE Declarations Std. Form 843 (Attachment 5)
- Bidder Declaration Form GSPD-05-105 (Attachment 6)

DVBE Incentive Law

- Military & Veterans Code Section 999.5(a)
- California Code of Regulations Title 2, Section 1896.99.100 et.seq.

SMALL BUSINESS / MICROBUSINESS / NON-SMALL BUSINESS

Small Business / Microbusiness

Preference

Bidders who qualify as a State of California certified small/microbusiness will receive a cost preference of five percent (5%) of the lowest cost or price offered by the lowest responsible Bidder who is not a certified small/microbusiness, by deducting this five percent from the small/microbusiness Bidder's cost, for the purpose of comparing costs for all Bidders.

Required Forms

- Submit a copy of your Small Business Certification
- Contractor Status Form (Attachment 3)
Complete the "Small Business Preference Claim" section
- Bidder Declaration Form GSPD-05-105 (Attachment 6)

Certification

A business must be formally certified by the Department of General Services, Office of Small Business and DVBE Services (OSDS), in order to receive the small/microbusiness preference.

Non Profit Veteran Service Agency

Bidders that qualify as a Non Profit Veteran Service Agency can be certified as a small business and are entitled to the same benefits as a small business.

Definitions

- *Small business* means a business certified by the Office of Small Business Disabled Veteran Services (OSDS) in which:
 - (1) It is independently owned and operated; and
 - (2) The principal office is located in California; and
 - (3) The officers of the business in the case of a corporation; officers and/or managers, or in the absence of officers and/or managers, all members in the case of a limited liability company; or the owner(s) in all other cases, are domiciled in California; and
 - (4) It is not dominant in its field of operation(s), and
 - (5) It is either:
 - (A) A business that, together with all affiliates, has 100 or fewer employees, and annual gross receipts of fourteen million dollars (\$14,000,000) or less as averaged for the previous three tax years, as adjusted by the Department pursuant to Government Code § 14837(d)(3); or
 - (B) A manufacturer as defined herein that, together with all affiliates, has 100 or fewer employees.

- *Microbusiness* means a small business certified by OSD, which meets all of the qualifying criteria as a small business, and is:
 - (1) A business that, together with all affiliates, has annual gross receipts of three million, five hundred thousand dollars (\$3,500,000) or less as averaged for the previous three tax years, as adjusted by the Department pursuant to Government Code §14837(d)(3); or
 - (2) A manufacturer as defined herein that, together with all affiliates, has 25 or fewer employees.

- *Non Profit Veteran Service Agency* means an entity that:
 - (1) Is a community-based organization,
 - (2) Is a nonprofit corporation (under Section 501(c)(3) of the Internal Revenue Code), and
 - (3) Provides housing, substance abuse, case management, and employment training services (as its principal purpose) for:
 - low income veterans,
 - disabled veterans, or
 - homeless veterans
 - and their families

Commercially Useful Function

A certified small business or microbusiness shall provide goods or services that contribute to the fulfillment of the contract requirements by performing a “commercially useful function” defined as follows:

- (1) The contractor or subcontractor is responsible for the execution of a distinct element of the work of the contract; carrying out its obligation by actually performing, managing or supervising the work involved; and performing work that is normal for its business services and functions;
- (2) The contractor or subcontractor is not further subcontracting a greater portion of the work than would be expected by normal industry practices;
- (3) The contractor or subcontractor is responsible, with respect to materials and supplies provided on the subcontract, for negotiating price, determining quality and quantity, ordering the material, installing (when applicable), and paying for the material itself;
- (4) A contractor or subcontractor will not be considered as performing a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project

through which funds are passed in order to achieve the appearance of small business participation.

Late Payment of Invoices

Certified small/microbusinesses are entitled to greater interest penalties paid by the state for late payment of invoices than for non-certified small business/microbusiness.

Small Business / Microbusiness Law

- Government Code section 14835 et. seq.
- California Code of Regulations, Title 2 Section 1896 et. seq.

Non-Small Business

Preference

The preference to a non-small business bidder that commits to small business or microbusiness subcontractor participation of twenty-five percent (25%) of its net bid price shall be five percent (5%) of the lowest, responsive, responsible Bidder's price. A non-small business which qualifies for this preference may not take an award away from a certified small business.

Required Forms

- Submit a copy of the subcontractor's Small Business Certification
- Contractor Status Form (Attachment 3)
Complete the "Small Business/Non-Small Business Preference Claim" section
- Bidder Declaration Form GSPD-05-105 (Attachment 6)

Certification

A subcontractor business must be formally certified by the Department of General Services, Office of Small Business and DVBE Services (OSDS), in order to receive the Non-Small Business Preference.

Non-Small Business Law

- Government Code section 14838 (b)
- California Code of Regulations, Title 2 Section 1896 et. seq.

TARGET AREA CONTRACT PREFERENCE ACT/ ENTERPRISE ZONE ACT/ LOCAL AGENCY MILITARY BASE RECOVERY ACT

The following preferences will be granted for this solicitation. Bidders wishing to take advantage of these preferences will need to review the websites stated below and submit the appropriate response with their Bid.

Target Area Contract Preference Act (TACPA)

The Target Area Contract Preference Act (Government Code Section 4530 et seq.) provides five percent (5%) preference points to California-based companies that perform state contract work in a distressed area. Bidders should review the information located at <http://www.documents.dgs.ca.gov/pd/poliproc/tacpapage.pdf> to determine if they qualify for this preference.

Enterprise Zone Act (EZA)

The Enterprise Zone Act (Government Code Section 7070, et seq.) provides preference points as an incentive for business and job development in distressed and declining areas of the State. Bidders should review the information located at <http://www.documents.dgs.ca.gov/pd/poliproc/ezapage.pdf> to determine if they qualify for this incentive.

Local Agency Military Base Recovery Act (LAMBRA)

The Local Agency Military Base Recovery Act (Government Code Section 7105, et seq.) provides five percent (5%) preference points to California-based companies that perform State contract work in the LAMBRA. Bidders should review the information located at <http://www.documents.dgs.ca.gov/pd/poliproc/lambrapage.pdf> to determine if they qualify for this preference.

The TACPA, EZA, and LAMBRA preferences only apply to California based firms that demonstrate and certify under penalty of perjury that at least 50% of the total labor hours for manufactured goods or 90% of the total labor hours for services will be performed in distressed areas. The maximum preference that can be given for any bid may not exceed 9% up to \$50,000.00.

Bidders wishing to take advantage of these preferences are required to submit the following applications/forms available on the above websites with their Bid:

- TACPA (Std. 830); EZA (Std. 831); LAMBRA (Std. 832)
- Bidder's Summary of Contract Activities and Labor Hours (DGS/PD 526)

If you have further questions or need additional information on this matter, please contact TACPA/EZA/LAMBRA Preference Program Group at (916) 375-4609.

V. Bid Format, Required Documents, and Delivery

ABOUT THIS SECTION

This section contains the format requirements and instructions on how to submit a Bid in response to this IFB. The format is prescribed to assist the Bidder in meeting State bidding requirements. Bidders must follow all Bid format instructions, answer all questions, and supply all requested data.

MINIMUM QUALIFICATIONS

By signing the Bidder Certification, Attachment 2, Bidder will certify all of the qualifications below.

1. The company is currently providing auditing services to a minimum of 5 governmental agency bond issues, for the purpose of meeting continuing disclosure requirements, at least one of which must be a California State Agency. Upon request, the company will provide a list of those whom auditing services were provided.
2. The company follows Generally Accepted Accounting Principles.
3. The company has undergone a peer review within the last 3 years.
4. The company certifies that it has no outstanding actions with the State Board of Accountancy.
5. The company is familiar with the CALSTARS accounting program.
6. The company is able to perform the tasks requested in the required time stated.

REQUIRED FORMAT FOR A BID

The documents in the Administrative Response (Volume 1, see below) and the Cost Bid (Volume 2, see below) constitute your Bid. The Cost Bid must be submitted in a separately sealed and labeled envelope.

NUMBER OF COPIES

Bidders must submit the original and two copies of Volume 1 and Volume 2.

Bidders must also submit electronic files of all volumes of the Bid on [CD-ROM or USB memory stick](#) along with the paper submittal. Only one CD-ROM or USB memory stick is needed. Electronic files must be in Microsoft Word XP (.doc format) and Excel Office Suite formats. Completed Budget Forms, Attachment 8, must be in Excel format. Electronic files submitted via e-mail will not be accepted.

PACKAGING AND LABELING

The original and copies of each volume must be labeled "Invitation for Bids IFB-13-404," and include the title of the Bid and the appropriate volume number:

Volume 1 – Administrative Response

Volume 2 – Cost Bid Forms

Include the following label information and deliver your Bid, in a sealed package:

Person's Name, Phone # Bidder's Name Street Address City, State, Zip Code FAX #	IFB-13-404 Contracts Office, MS-18 California Energy Commission 1516 Ninth Street, 1st Floor Sacramento, California 95814
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PREFERRED METHOD FOR DELIVERY

A Bidder may deliver a Bid by:

- U. S. Mail
- Personally
- Courier service

Bids must be delivered no later than 3:00 p.m., to the Energy Commission Contracts Office during normal business hours and prior to the deadline specified in this IFB (Section I). In accordance with Public Contract Code 10341, Bids received after the specified date and time are considered late and will not be accepted. There are no exceptions to this law. Postmark dates of mailing, E-mail and facsimile (FAX) transmissions are not acceptable in whole or in part, under any circumstances.

ORGANIZE YOUR BID AS FOLLOWS:

VOLUME 1, Administrative Response

Bidder Checklist	Attachment 1
Bidder Certification	Attachment 2
Contractor Status Form	Attachment 3
Darfur Contracting Act Form	Attachment 4
Small Business Certification	If applicable
DVBE Declarations Form Std 843	Attachment 5
Bidder Declaration Form GSPD-05-105	Attachment 6
Contractor Certification Clauses	Attachment 7
TACPA/EZA/LAMBRA Forms	If Applicable

VOLUME 2, Cost Bid (Sealed Separately from Volume 1)

Budget Forms

Task Summary	Attachment 8, Attachment B-1
Category Summary	Attachment 8, Attachment B-2
Prime Labor Rates	Attachment 8, Attachment B-3
Labor Rates for each Subcontractor	Attachment 8, Attachment B-3a-z
Prime Non-Labor Rates	Attachment 8, Attachment B-4
Non-Labor Rates for each Subcontractor	Attachment 8, Attachment B-4a-z
Direct Operating Expenses	Attachment 8, Attachment B-5

The Contractor must submit information on **all** of the attached budget forms, B-1 through B-5, and this will be deemed the equivalent of a formal Bid submission.

Detailed instructions for completing these forms are included at the beginning of Attachment 8.

Rates and personnel shown must reflect rates and personnel you would charge if you were chosen as the Contractor for this IFB. The salaries, rates, and other costs entered on these forms become a part of the final Agreement. The entire term of the Agreement and projected rate increases must be considered when preparing the budget. The rates bid are considered capped and shall not change during the term of the Agreement. The Contractor shall only be reimbursed for their **actual** rates up to these rate caps. The hourly rates provided in all B-3s shall be unloaded (before fringe benefits, overheads, general & administrative (G&A) or profit).

The award(s) shall be made to the Bidder with the lowest total dollar amount on Attachment 8, Attachment B-1 Task Summary, after any applicable preference or incentive. All other budget forms are required because they will be used for the Agreement prepared with the winning Bidder.

NOTE: The information provided in these forms will **not** be kept confidential.

VI. Administration

IFB DEFINED

The competitive method used for this procurement of services is an Invitation for Bids (IFB). A Bid submitted in response to this IFB will be opened and read publicly. The Energy Commission will contract with the Bidder who provides the lowest responsible Bid, after any applicable preference or incentive, and satisfies the minimum requirements.

DEFINITION OF KEY WORDS

Important definitions for this IFB are presented below:

Word/Term	Definition
State	State of California
DGS	Department of General Services
Energy Commission	California Energy Commission
IFB	Invitation for Bid, this entire document
Bid	The Administrative Response and Cost Bid together
Bidder	Respondent to this IFB
CAM	Commission Agreement Manager
DVBE	Disabled Veteran Business Enterprise

COST OF DEVELOPING BID

The Bidder is responsible for the cost of developing a Bid, and this cost cannot be charged to the State.

SOFTWARE APPLICATION DEVELOPMENT

If this scope of work includes any software application development, including but not limited to databases, websites, models, or modeling tools, contractor shall utilize the following standard Application Architecture components in compatible versions:

- Microsoft ASP.NET framework (version 3.5 and up) Recommend 4.0
- Microsoft Internet Information Services (IIS), (version 6 and up) Recommend 7.5
- Visual Studio.NET (version 2008 and up) Recommend 2010
- C# Programming Language with Presentation (UI), Business Object and Data Layers
- SQL (Structured Query Language)
- Microsoft SQL Server 2008, Stored Procedures Recommend 2008 R2
- Microsoft SQL Reporting Services Recommend 2008 R2
- XML (external interfaces)

Any exceptions to the Electronic File Format requirements above must be approved in writing by the Energy Commission Information Technology Services Branch.

PRINTING SERVICES

Per Management Memo 07-06, State Agencies must procure printing services through the Office of State Publishing (OSP). Bidders shall not include printing services in their Bids.

CONFIDENTIAL INFORMATION

The Commission will not accept or retain any Bids that have any portion marked confidential.

DARFUR CONTRACTING ACT OF 2008

Effective January 1, 2009, all solicitations must address the requirements of the Darfur Contracting Act of 2008 (Act). (Public Contract Code sections 10475, *et seq.*; Stats. 2008, Ch. 272) The Act was passed by the California Legislature and signed into law by the Governor to preclude State agencies generally from contracting with “scrutinized” companies that do business in the African nation of Sudan (of which the Darfur region is a part), for the reasons described in Public Contract Code section 10475.

A scrutinized company is a company doing business in Sudan as defined in Public Contract Code section 10476. Scrutinized companies are ineligible to, and cannot, bid on or submit a proposal for a contract with a State agency for goods or services. (Public Contract Code section 10477(a).)

Therefore, Public Contract Code section 10478 (a) requires a company that currently has (or within the previous three years has had) business activities or other operations outside of the United States to certify that it is not a “scrutinized” company when it submits a bid or proposal to a State agency. (See # 1 on Attachment 4)

A scrutinized company may still, however, submit a bid or proposal for a contract with a State agency for goods or services if the company first obtains permission from the Department of General Services (DGS) according to the criteria set forth in Public Contract Code section 10477(b). (See # 2 on Attachment 4)

IFB CANCELLATION AND AMENDMENTS

If it is in the State’s best interest, the Energy Commission reserves the right to do any of the following:

- Cancel this IFB;
- Amend this IFB as needed; or
- Reject any or all Bids received in response to this IFB

If the IFB is amended, the Energy Commission will send an addendum to all parties who received the IFB and will also post it on the Energy Commission’s Web Site www.energy.ca.gov/contracts and Department of General Services’ Web Site http://www.bidsync.com/DPX?ac=powersearch&srchoid_override=307818.

ERRORS

If a Bidder discovers any ambiguity, conflict, discrepancy, omission, or other error in the IFB, the Bidder shall immediately notify the Commission of such error in writing and request modification or clarification of the document. Modifications or clarifications will be given by written notice of all parties who received the IFB, without divulging the source of the request for clarification. The Commission shall not be responsible for failure to correct errors.

MODIFYING OR WITHDRAWAL OF BID

A Bidder may, by letter to the Contact Person at the Energy Commission, withdraw or modify a submitted Bid before the deadline to submit Bids. Bids cannot be changed after that date and time, but a bid may still be withdrawn. A Bid cannot be “timed” to expire on a specific date. For example, a statement such as the following is non-responsive to the IFB: “This cost estimate is valid for 60 days.”

IMMATERIAL DEFECT

The Energy Commission may waive any immaterial defect or deviation contained in a Bid. The Energy Commission’s waiver shall in no way modify the Bid or excuse the successful Bidder from full compliance.

DISPOSITION OF BIDDER’S DOCUMENTS

On the Notice of Proposed Award posting date all Bids and related material submitted in response to this IFB become a part of the property of the State and public record.

BIDDERS’ ADMONISHMENT

This IFB contains the instructions governing the requirements for a firm quotation to be submitted by interested Bidders, the format in which the information is to be submitted, the material to be included, the requirements which must be met to be eligible for consideration, and Bidder responsibilities. Bidders must take the responsibility to carefully read the entire IFB, ask appropriate questions in a timely manner, submit all required responses in a complete manner by the required date and time, make sure that all procedures and requirements of the IFB are followed and appropriately addressed, and carefully reread the entire IFB before submitting a Bid.

GROUND TO REJECT A BID

A Bid shall be rejected if:

- It is received after the exact time and date set for receipt of Bids pursuant to Public Contract Code, Section 10341.
- It is considered non-responsive to the California Disabled Veteran Business Enterprise participation requirements.
- It is lacking a properly executed Certification Clauses.
- It is lacking a properly executed Darfur Contracting Act Form.
- It contains false or intentionally misleading statements or references which do not support an attribute or condition contended by the Bidder.
- The Bid is intended to erroneously and fallaciously mislead the State in its evaluation of the Bid and the attribute, condition, or capability is a requirement of this IFB.
- There is a conflict of interest as contained in Public Contract Code Sections 10410-10411 and/or 10365.5)
- It contains confidential information or it contains any portion marked confidential.

- The Bidder does not agree to the terms and conditions as attached to the solicitation either by not signing the Contractor Status Form or by stating anywhere in the bid that acceptance is based on modifications to those terms and conditions or separate terms and conditions.

A Bid may be rejected if:

- It is not prepared in the mandatory format described.
- The charges are computed incorrectly.
- It is unsigned.
- The firm or individual has submitted multiple Bids.
- It does not literally comply or contains caveats that conflict with the IFB and the variation or deviation is not material, or it is otherwise non-responsive.
- The Bidder has previously completed a PIER agreement, received the PIER Royalty Review letter, which the Commission annually sends out to remind past recipients of their obligations to pay royalties, and has not responded to the letter or is otherwise not in compliance with repaying royalties.
- The budget forms are not filled out completely.

PROTEST PROCEDURES

A Bidder may file a protest against the proposed awarding of a contract. Once a protest has been filed, contracts will not be awarded until either the protest is withdrawn, or the Commission cancels the IFB, or the Department of General Services decides the matter.

Please note the following:

- Protests are limited to the grounds contained in the California Public Contract Code Section 10345.
- During the five **working** days that the Notice of Proposed Award (NOPA) is posted, protests must be filed with the DGS Legal Office and the Commission Contracts Office.
- Within five **calendar** days after filing the protest, the protesting Bidder must file with the DGS and the Commission Contracts Office a full and complete written statement specifying the grounds for the protest.
- If the protest is not withdrawn or the solicitation is not canceled, DGS will decide the matter. There may be a formal hearing conducted by a DGS hearing officer or there may be briefs prepared by the Bidder and the Commission for the DGS hearing officer consideration.

AGREEMENT REQUIREMENTS

The content of this IFB shall be incorporated by reference into the final contract. See the sample Agreement terms and conditions included in this IFB.

No Contract Until Signed & Approved

No agreement between the Commission and the successful Bidder is in effect until the contract is signed by the Contractor, approved at a Commission Business Meeting, and approved by the Department of General Services, if required.

Contract Amendment

The contract executed as a result of this IFB will be able to be amended by mutual consent of the Commission and the Contractor. The contract may require amendment as a result of project review, changes and additions, changes in project scope, or availability of funding.