

Invitation for Bids Number: 23-38

Addendum 1

Date: September 14, 2023

Acknowledgment of Addenda

The undersigned acknowledges receipt of the following addenda to the bidding document:

**THE COMPLETED ACKNOWLEDGEMENT OF ADDENDA FORM
SHOULD BE RETURNED WITH BID RESPONSE PACKAGE: NOT
SENT TO RIPTA SEPARATELY**

NOTE: Failure to acknowledge receipt of all addenda may cause the bid to be considered non-responsive to the solicitation. Acknowledged receipt of each addendum must be clearly established and included with the bid.

Name of Bidder

Street Address

City, State, Zip

Signature of Authorized Official

Date

Invitation for Bids Number: 23-38

Addendum 1

Date: September 14, 2023

**Please see the following addendum
and sign this acknowledgement when
submitting you proposal.**

RHODE ISLAND PUBLIC TRANSIT AUTHORITY

Request for Proposals Number 23-38

VIII. REQUEST FOR APPROVED EQUAL FORM

This form must be submitted electronically IN MICROSOFT WORD FORMAT TO RIPTA CONTRACTS MANAGER

REQUEST FOR APPROVAL EQUAL QUALIFICATION OR CLARIFICATION

Page:15-16 _____ Ref: RFP NO. 23-38
Project No. _____

To: Rhode Island Public Transit Authority

From: N e l s o n \ N y g a a r d C o n s u l t i n g
A s s o c i a t e s , I n c . _____

Page & Reference: 15-16 VII. General Provisions D. Inspection. _____

Request Description

We have reviewed the RFP with its terms and conditions, and find it to be terms well suited for a services agreement upon final selection. We have the following comments.

Request deletion of the provision at VII. General Provisions D. Inspection.

We request this deleted as this is a contract for professional services, not supplies and materials.

RIPTA RESPONSE:

YES APPROVED

Use Additional Sheet If More Space Is Required

Accepted: _____ Rejected: _____ See Addendum # _____

Explanation: _____

RHODE ISLAND PUBLIC TRANSIT AUTHORITY

Request for Proposals Number 23-38

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REQUEST FOR APPROVAL EQUAL QUALIFICATION OR CLARIFICATION

Page:16 VII. General Provisions. E. Responsible _____ Ref: RFP NO. 23-38
Project No. _____

To: Rhode Island Public Transit Authority

From: N e l s o n \ N y g a a r d C o n s u l t i n g
A s s o c i a t e s , I n c . _____

Page & Reference: 16 VII. General Provisions. E. Responsible _____

Request Description

We recommend this section be modified as follows:

Contractor's Services are to be performed in a manner consistent with that degree of skill and care exercised by practicing professionals performing similar Services in the same locality and under the same or similar circumstances. ~~Notwithstanding the requirements for any Authority inspection and test contained in Specifications applicable to this Contract, except where specialized inspections or tests are specified for performance solely by the Authority, the Contractor shall perform or have performed the inspections and tests required to substantiate that the supplies and services provided under the contract conform to the Drawing, Specifications and Contract requirements.~~

Rationale: The original text relates more to supplies or constructed products. We recommend this text to include a standard of care with respect to professional services.

RIPTA RESPONSE:

NO

Use Additional Sheet If More Space Is Required

Accepted: _____ Rejected: _____ See Addendum # _____

Explanation: _____

RHODE ISLAND PUBLIC TRANSIT AUTHORITY

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VIII. REQUEST FOR APPROVED EQUAL FORM

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REQUEST FOR APPROVAL EQUAL QUALIFICATION OR CLARIFICATION

Page:18. VII. General Provisions. K. Default 3. _____ Ref: RFP NO. 23-38
Project No. _____

To: Rhode Island Public Transit Authority

From: N e l s o n \ N y g a a r d C o n s u l t i n g
A s s o c i a t e s , I n c . _____

Page & Reference: 18. VII. General Provisions. K. Default 3. _____

Request Description

We recommend the removal of Section K.3. relating to liquidated damages. Liquidated damages are more typical of construction services contracts.

RIPTA RESPONSE:

YES APPROVED

Use Additional Sheet If More Space Is Required

Accepted: _____ Rejected: _____ See Addendum # _____

Explanation: _____

RHODE ISLAND PUBLIC TRANSIT AUTHORITY

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VIII. REQUEST FOR APPROVED EQUAL FORM

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REQUEST FOR APPROVAL EQUAL QUALIFICATION OR CLARIFICATION

Page: 39. VII. General Provisions. UU. Indemnification _ Ref: RFP NO. 23-38
Project No. _____

To: Rhode Island Public Transit Authority

From: N e l s o n \ N y g a a r d C o n s u l t i n g
A s s o c i a t e s , I n c . _____

Page & Reference: 39. VII. General Provisions. UU. Indemnification _____

Request Description

We recommend this section be modified as follows:

Proposers shall indemnify and hold harmless, the State of Rhode Island, all departments and division thereof and the Rhode Island Public Transit Authority from **costs, damages and expenses to the extent caused by the negligence of Proposer in the performance of the Contract.** ~~all liability and said indemnification shall cover and include any and all aspects of liability arising from any lawsuit pertaining to the execution of this contract.~~

Rationale:

The costs and damages included are things RIPTA would have to assume except for the fact that this indemnity is in the contract. The way this clause is originally written makes Nelson\Nygaard protect RIPTA where the costs and damages are not caused by Nelson\Nygaard's failure to act professionally. It causes us to be liable for anything caused by the project even if our performance was perfect. This obligation to nearly insure the project is not proportional to our fee. It also makes us responsible for costs and damages that we cannot get our insurance company to pay for, and we cannot take that level of uninsured risk.

RIPTA RESPONSE:

NO

Use Additional Sheet If More Space Is Required

Accepted: _____ Rejected: _____ See Addendum # _____

Explanation: _____

RHODE ISLAND PUBLIC TRANSIT AUTHORITY

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VIII. REQUEST FOR APPROVED EQUAL FORM

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REQUEST FOR APPROVAL EQUAL QUALIFICATION OR CLARIFICATION

Page: 42. VII. General Provisions _____ Ref: RFP NO. 23-38
Project No. _____

To: Rhode Island Public Transit Authority

From: N e l s o n \ N y g a a r d C o n s u l t i n g
A s s o c i a t e s , I n c . _____

Page & Reference: 42. VII. General Provisions _____

Request Description

We recommend the inclusion of the following provisions at the end of VII. General Provisions:

Waiver of Consequential Damages ~~and Limitation of Liability~~

The Authority and Contractor mutually waive consequential damages, including but not limited to damages for loss of profits, loss of revenues, loss of business and of business opportunities, for claims, disputes or other matters in question arising out of or relating to this Agreement.

RIPTA RESPONSE:

YES ONLY TO WHAT IS N BLUE

To the fullest extent permitted by law, the total liability in the aggregate, of Contractor and Contractor's officers, directors, employees, agents, and independent professional associates, and any of them, to Authority and any one claiming by, through or under Authority, for any and all injuries, claims, losses, expenses, or damages whatsoever arising out of or in any way related to Contractor's services, the project, or the Contract, from any cause or causes whatsoever, including but not limited to, the negligence, errors, omissions, strict liability, breach of contract, misrepresentation, or breach of warranty of Contractor or Contractor's officers, directors, employees, agents or independent professional associates, or any of them, shall not exceed the one tenth (1/10) the total compensation received by Consultant under this Agreement or \$1,000,000, whichever is less.

RIPTA RESPONSE:

NO TO THIS PART

Rationale:

Lost profits, loss of use, and expenses not directly related to our performance are not fairly allocated to the service provider when the owner receives the benefit of the lifetime of the project (potentially decades) and the service provider receives a fee related to the cost of completing the services. Not only could such claims easily wipe out the profit we earn through our services, it puts the company's assets on the line.

The purpose of a limitation of liability in a services contract is to allocate risk in reasonable proportion to the benefits to be derived from the project. In other words, if the providers of a service (the planners, engineers, and/or other services providers) obtain a fixed benefit (their fee) while helping their clients achieve a much larger one (their profit and/or use of the project— which should continue indefinitely), the risk these service providers bear should rightfully be in proportion to their benefit.

A limitation of liability is a reasonable way to decide the level of responsibility to which a planner or engineer will be held in the event something should go wrong – and there are many instances in which fault may not originate with the service provider, but the service provider will likely be brought into a costly suit, regardless.

Use Additional Sheet If More Space Is Required

Accepted: _____

Rejected: _____

See Addendum # _____

Explanation: _____

RHODE ISLAND PUBLIC TRANSIT AUTHORITY

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VIII. REQUEST FOR APPROVED EQUAL FORM

This form must be submitted electronically IN MICROSOFT WORD FORMAT TO RIPTA CONTRACTS MANAGER

REQUEST FOR APPROVAL EQUAL QUALIFICATION OR CLARIFICATION

Page: 66 XXII. Required Insurance. A. Minimum Limits 1.-2. Ref: RFP NO. 23-38

Project No. _____

To: Rhode Island Public Transit Authority

From: N e l s o n \ N y g a a r d C o n s u l t i n g
A s s o c i a t e s , I n c . _____

Page & Reference: XXII. Required Insurance. A. Minimum Limits 1.-2. _____

Request Description

We recommend the following changes:

1. Commercial ~~comprehensive~~ general liability insurance, with limits of \$~~13~~,000,000.00 per **occurrence** ~~accident~~, \$25,000,000 products/completed operations aggregate and \$25,000,000.00 **general** aggregate, **which can be met through a combination of primary and excess policies.**
1. Workers' Compensation Coverage in accordance with RI Statutory requirements.
2. The Rhode Island Public Transit Authority shall be named as additional insured under **the general liability and auto liability** ~~said~~ policies.

Rationale:

We meet the required policies and limits but need some modification to match our insurance program language. Additionally, we request lower limits for Commercial General Liability as they may be challenging for subconsultants to meet and are high for work without significant site exposures like construction work. Only certain policies can provide additional insured status.

RESPONSE:

NO

Use Additional Sheet If More Space Is Required

Accepted: _____ Rejected: _____ See Addendum # _____

Explanation: _____

RHODE ISLAND PUBLIC TRANSIT AUTHORITY

Request for Proposals Number 23-38

VIII. REQUEST FOR APPROVED EQUAL FORM

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REQUEST FOR APPROVAL EQUAL QUALIFICATION OR CLARIFICATION

Page: 66 XXII. Required Insurance. A. Minimum Limits 3.-4. Ref: RFP NO. 23-38

Project No. _____

To: Rhode Island Public Transit Authority

From: N e l s o n \ N y g a a r d C o n s u l t i n g
A s s o c i a t e s , I n c . _____

Page & Reference: XXII. 66 XXII. Required Insurance. A. Minimum Limits 3.-4. _____

Request Description

We recommend the following changes:

3. Automotive Liability Insurance
 - \$1,000,000.00 **combined single limit for bodily injury and property damage** per accident ~~and \$3,000,000.00 aggregate: bodily injury.~~
 - ~~\$1,000,000.00 property damage~~
4. All insurance coverage must provide under an occurrence policy, **except any professional liability policy which may be on a claims-made basis.** ~~Claims made policies are not acceptable.~~

Rationale:

We meet the required policies and limits but need some modification to match our insurance program language. Professional Liability policies in our industry are written on a claims-made basis.

RESPONSE:

YES APPROVED

Use Additional Sheet If More Space Is Required

Accepted: _____ Rejected: _____ See Addendum # _____

Explanation: _____

RHODE ISLAND PUBLIC TRANSIT AUTHORITY

Request for Proposals Number 23-38

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REQUEST FOR APPROVAL EQUAL QUALIFICATION OR CLARIFICATION

Page: 66-67 XXII. Required Insurance. B. Certificate requirements 1.-2. Ref: RFP NO. 23-38
Project No. _____

To: Rhode Island Public Transit Authority

From: N e l s o n \ N y g a a r d C o n s u l t i n g
A s s o c i a t e s , I n c . _____

Page & Reference: 66-67 XXII. Required Insurance. B. Certificate requirements 1.-2. _____

Request Description

We recommend the following change:

1. The General Liability Coverage shall include Contractual Liability and Completed Operations Coverages, **subject to the policy terms, conditions and exclusions**. The General Liability coverage, certificates must name: RIPTA and its respective directors, officers, employees, and affiliates as additional insureds. Reference should be made to project or job number and location.
2. A Waiver of Subrogation in favor of RIPTA must apply to the General Liability, **Workers Compensation**/Employers Liability, and Excess Liability I Umbrella policies.

Rationale:

We meet the required policies and limits but need some modification to match our insurance program language.

RESPONSE:

YES APPROVED

Use Additional Sheet If More Space Is Required

Accepted: _____ Rejected: _____ See Addendum # _____

Explanation: _____

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REQUEST FOR APPROVAL EQUAL QUALIFICATION OR CLARIFICATION

Page: 67 XXII. Required Insurance. B. Certificate requirements 3.-4. Ref: RFP NO. 23-38
Project No. _____

To: Rhode Island Public Transit Authority

From: N e l s o n \ N y g a a r d C o n s u l t i n g
A s s o c i a t e s , I n c . _____

Page & Reference: 67 XXII. Required Insurance. B. Certificate requirements 3.-4. _____

Request Description

We recommend the following change:

3. Automobile Liability must cover any owned, rented, hired or borrowed vehicles **of the consultant.**
4. The Excess or Umbrella coverage must provide the required Liability limit over the General Liability, Automobile Liability, **and** Employers Liability s, ~~Professional Liability and Environmental Liability policies (if required).~~

Rationale:

We meet the required policies and limits but need some modification to match our insurance program language. Most umbrella policies in our industry will not sit excess of Professional Liability or Environmental Liability policies.

RIPTA RESPONSE:
YES APPROVED

Use Additional Sheet If More Space Is Required

Accepted: _____ Rejected: _____ See Addendum # _____

Explanation: _____

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REQUEST FOR APPROVAL EQUAL QUALIFICATION OR CLARIFICATION

Page: 67 XXII. Required Insurance. B. Certificate requirements 6. Ref: RFP NO. 23-38
Project No. _____

To: Rhode Island Public Transit Authority

From: N e l s o n \ N y g a a r d C o n s u l t i n g
A s s o c i a t e s , I n c . _____

Page & Reference: 67 XXII. Required Insurance. B. Certificate requirements 6. _____

Request Description

We recommend the following change:

6. All certificates of insurance must ~~indicate~~ **include** the carrier policy cancellation ~~terms~~
endorsements.

Rationale:

We meet the required policies and limits but need some modification to match our insurance program language.

RIPTA RESPONSE:

YES APPROVED

Use Additional Sheet If More Space Is Required

Accepted: _____ Rejected: _____ See Addendum # _____

Explanation: _____

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REQUEST FOR APPROVAL EQUAL QUALIFICATION OR CLARIFICATION

Page: 67 XXII. Required Insurance. C. Special Coverages 1.-2. Ref: RFP NO. 23-38

Project No. _____

To: Rhode Island Public Transit Authority

From: N e l s o n \ N y g a a r d C o n s u l t i n g
A s s o c i a t e s , I n c . _____

Page & Reference: 67 XXII. Required Insurance. C. Special Coverages 1.-2. _____

Request Description

We recommend the following change:

1 Contractor must maintain ~~Environmental~~ **Contractor's** Pollution **Liability** coverage with limits no less than \$1,000,000 **per claim and aggregate** if contractors work includes the transport, delivery, storage, handling or disposal of any pollutants or other hazardous materials. ~~This insurance is also required for all contracts involving any work on RIPTA's storage tanks, and fluid distribution systems~~

2 ~~Installation Floater Insurance is required for all construction projects equal to the value of the project.~~

Rationale:

We meet the required policies and limits but need some modification to match our insurance program language.

RIPTA RESPONSE:

YES APPROVE

Use Additional Sheet If More Space Is Required

Accepted: _____ Rejected: _____ See Addendum # _____

Explanation: _____

RHODE ISLAND PUBLIC TRANSIT AUTHORITY

Request for Proposals Number 23-38

VIII. REQUEST FOR APPROVED EQUAL FORM

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REQUEST FOR APPROVAL EQUAL QUALIFICATION OR CLARIFICATION

Page: 102-103 Terms of Payment Paragraphs 2 and 3__ Ref: RFP NO. 23-38
Project No. _____

To: Rhode Island Public Transit Authority

From: N e l s o n \ N y g a a r d C o n s u l t i n g
A s s o c i a t e s , I n c . _____

Page & Reference: 102-103 Terms of Payment Paragraphs 2 and 3 _____

Request Description

We recommend the following changes:

RIPTA will only authorize payment for ~~products~~ **services** completed, accepted by staff, and on the agreed-upon billing schedule. Costs associated with Project Management activities may be billed monthly. This payment will be made on an hourly basis. ~~No other partial payments or progress payments will be considered~~ **Proposer may submit progress payments for services provided no more than monthly.**

~~Upon acceptance of all deliverables within a respective task, the vendor may submit an invoice reflecting the value of work completed up to the amount of the deliverable.~~

Invoices must include all hours and pay rates for each team member. Invoices may not exceed the amount noted in the proposal without an approved change order.

Rationale:

Progress payments help a consultant firm to maintain a healthy business. RIPTA's stated payment standard payment timeline of 60 days and only allowing billing upon deliverable completion places a heavy burden on cash flow even for a financially healthy consultant.

RIPTA RESPONSE:

NOT ACCEPTED

Use Additional Sheet If More Space Is Required

Accepted: _____ Rejected: _____ See Addendum # _____

Explanation: _____

Questions for RIPTA regarding RFP 23-38 High Capacity Transit Corridors Feasibility Study and Alternatives Analysis

- DBE Attachments A and C (pages 60 and 62 of the RFP, respectively) ask proposers to provide an estimated dollar value for each subcontractor. Since proposers are not to include a cost proposal with their submittal, can RIPTA please provide guidance as to how proposers should fill in this form?
 - **RIPTA Response: Proposers may write TBD (to be determined).**
- The Certification of a Subcontractor form included in the RFP on p.77 references RFP Number 23-24 for the CCRI Warwick Enhanced Bus Service Project. Should proposers fill out the form as written, or is there an alternative form with the correct RFP and project listed that RIPTA can provide?
 - **RIPTA Response: Proposers should fill in the revised form provided in this document.**
- May proposers include a cover page, table of contents, and cover letter that are not included in the 20-page narrative limit?
 - **RIPTA Response: Proposers may include a cover page, table of contents, and cover letter. Those pages will not count toward the 20-page narrative limit.**
- Is the use of 11"x17" pages permitted for oversized graphics and charts (such as the Cost Proposition, Organization Chart, and Project Schedule)?
 - **RIPTA Response: Use of 11" x 17" pages are permitted for such graphics and charts.**

RHODE ISLAND PUBLIC TRANSIT AUTHORITY

Request for Proposals Number 23-38

XXX. DEBARMENT CERTIFICATION

CERTIFICATION REQUIREMENTS FOR RECIPIENTS OF GRANTS AND COOPERATIVE AGREEMENTS REGARDING DEBARMENT AND SUSPENSIONS

The purpose of the attached certifications is to exclude entities and individuals that the Federal Government has either debarred or suspended from obtaining Federal assistance funds through grants, cooperative agreements, or third-party contracts.

To assure that such entities and individuals are not involved in projects financed with Federal Transit Administration (FTA) assistance, FTA requires its applicants to complete the certificates.

The primary participant must sign the "**Certification of Primary Participant**" and, if there is a subcontractor, they must sign the "**Certification of a Subcontractor**" (If there is more than one subcontractor, they must all sign one of these forms.).

XXXI. CERTIFICATION OF A SUBCONTRACTOR FORM

Request for Proposals Number: 23-38

Project HCT PROJECT

The potential Subcontractor, _____
Certifies, by submission of this certification, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal Department or agency.

The Subcontractor, _____ certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification and understands that the provisions of 31 U.S.C. Sections 3801 **ET SEQ.** are applicable thereto.

Signature/Title of Authorized Official

Print Signature

Date