

PUBLIC UTILITIES COMMISSION  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102



**Secondary Request for Proposal  
No. 11PS5013**

**Notice to Interested Parties**

**For**

**Independent Engineering Consultant - Evaluating Safety and Security  
Issues in PG&E 2014 Test Year GRC, Focus Area: Gas Distribution**

April 26, 2012

You are invited to review and respond to this Secondary Request for Proposal (RFP), entitled "Independent Engineering Consultant - Evaluating Safety and Security Issues in PG&E 2014 Test Year GRC, Focus Area: Gas Distribution, RFP No. 11PS5013." In submitting your proposal, you must comply with these instructions.

Note that all agreements entered into with the State of California will include by reference General Terms and Conditions and Contractor Certification Clauses (CCC307) that may be viewed and down loaded at internet site [www.ols.dgs.ca.gov/standard+language](http://www.ols.dgs.ca.gov/standard+language). If you do not have internet access, a hard copy can be provided by contacting the person listed below.

In the opinion of The California Public Utilities Commission this secondary RFP is complete and without need of explanation. However, if you have questions, please respond during the questions period via [www.Bidsync.com](http://www.Bidsync.com). You may post your questions on Bidsync under this RFP in the area designated for questions.

Please note that no verbal information given will be binding upon the State unless such information is issued in writing as an official addendum.

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## I. Background and Purpose

### ***Background***

The California Public Utilities Commission (the Commission) expects California regulated investor-owned gas and electric utilities to judiciously prioritize their work and develop prudent funding requests within their General Rate Case (GRC) applications to the Commission. Requests that are balanced consider the nature of California's economy, the effect of additional rate increases on customers, and are tempered by what is reasonably achievable to protect public safety, utility employee safety, and the physical and cyber security of critical utility infrastructure assets. The Commission must ensure that its decisions authorize a just and reasonable outlay of public funds; it cannot allow investor-owned utilities to make unbounded or unreasonable improvements to their gas and electric generation and distribution facilities.

A June 24, 2011 Independent Review Panel report on the 2010 San Bruno natural gas explosion tasked the Commission with setting expectations for the utilities and parties within GRC proceedings that will enhance the analytical methods and perform more rigorous risk-based analysis to clearly identify, explain and justify, how and where providing more funding will make a difference to public and utility employee safety. The Independent Review Panel's recommendation (5.4.4.5) captures the comprehensive and long-term perspective needed at Pacific Gas and Electric (PG&E):

PG&E should develop and adopt a maturity framework that reflects the importance and advancement of thinking of pipeline integrity and safety as a journey, which is coherently applied across the enterprise, where progress is transparent and measurable, and is consistent with the best thinking on pipeline integrity and process safety management.

### ***The Purpose of this RFP***

With this RFP, CPUC seeks to hire a consultant to perform an independent expert technical review of one of three segments of the Capital Investment Plans and Operations and Maintenance expense projections made by PG&E as part of its General Rate Case 2014 Test Year filing. This RFP is one of three CPUC is releasing concurrently to hire consultants to focus on expense projections for electric distribution, electric generation, and gas distribution, respectively. The "area of investigation" specific to this RFP is described in Exhibit A, the Statement of Work. Each RFP representing the area of investigation will be evaluated independently; firms may submit proposals for more than one of the three RFP advertised, but must submit a separate, full proposal for each one, and follows the guidelines set forth in each RFP announcement.

## II. Term of Contract

The term for the contract detailed in this RFP will be for one year, with the option for an extension at the sole discretion of the Commission. However, the main deliverable of this

contract, (The Final Report described in Exhibit A), will be due within six months of contract signing.

### **III. Maximum Bid**

We estimate that the maximum cost of the contract would be \$400,000.00. Bidders cannot bid more than this amount.

### **IV. Risk Assessment**

CPUC is changing the way Commission staff will evaluate safety and security-related submittals in GRCs and other ratemaking related proceedings. As part of its GRC filing, PG&E will be required by the Commission to include an explicit safety and security risk assessment of their entire system along with comparison to industry best practices. As PG&E renews its focus on public and utility safety priorities, enhancing its generation and distribution infrastructure and integrity maintenance plans, it is critical that the Commission evaluate the prudence and reasonableness of the public and utility employee safety improvements that can be achieved. As such, PG&E utility managers will be expected to examine the level of planned utility infrastructure investments, consider the impact on revenue requirements, and recommend optimized levels of service public and utility employee safety that can be achieved.

The practice of risk management in engineering involves identifying risk of failures, assessing the probability and consequences of failures, and taking steps to reduce risks to an acceptable level. Some threats to public and utility employee safety can be mitigated by improved engineering and design and by building in better processes to remove certain risks, or prevent accidents. Some threats cannot be completely eliminated and must be monitored periodically. At times, risk assessment models show complicated relationships between costs and safety improvements, sometimes with unexpected interactions among variables that make results difficult to predict. The Commission's goal is to develop improved methods to evaluate where it should authorize utilities to dedicate focused attention for resources and funds as related to the provision of safe and reliable service to customers.

### **V. Additional Information**

#### **A. Bidder's Questions**

Bidders requiring clarification of the intent or content of this RFP or on procedural matters regarding the competitive bid process may request clarification by submitting questions on Bidsync under this RFP11PS5013, in the area provided for posting questions. The web address for Bidsync is [www.bidsync.com](http://www.bidsync.com). Please refer to the key action dates of this RFP for the date that all answers to each question will be posted.

Please note:

- Only questions submitted via [www.bidsync.com](http://www.bidsync.com) shall be binding and official.
- Only questions submitted in writing to and answered in writing by RFP representatives shall be binding and official.

To ensure a response, questions must be received, in writing on Bidsync, by the scheduled date(s) given in Section VII (A), Key Action Events. Questions received after the dates indicated will only be answered by the CPUC as time allows as solely determined by the CPUC, and therefore may remain unanswered. Question and Answer sets will be provided to all potential Bidders via posting on the State's procurement website at [www.bidsync.com](http://www.bidsync.com) without identifying the submitters. At the sole discretion of the State, questions may be paraphrased by the State for clarity.

It is each Bidder's responsibility to:

- Carefully read the entire RFP, including all referenced web addresses, regulations, orders and statutes cited in this RFP
- If clarification is necessary, ask appropriate questions in writing and in a timely manner
- Submit all required responses, completed to the best of the Bidder's ability, by the required dates and times
- Make sure that all procedures and requirements of the RFP are accurately followed and appropriately addressed
- Carefully reread the entire RFP before submitting a proposal

Only written questions and written answers released by the RFP representatives shall be binding upon the Bidders and the State. Oral answers shall not be binding on the State.

#### **VI. Bidder's Required Experience and Qualifications**

The Commission is seeking Bidders that have a successful track record providing consulting and services. Specifically, the Commission seeks Bidders that have:

- At least 7 years providing independent, professional engineer consulting services, including experience conducting audits of utilities.
- Demonstrated experience working with gas pipeline and/or electric generation and distribution entities as described by the "Specific Area of Investigation" in this RFP's Statement of Work.
- Knowledge of and experience working with state and federal natural gas, electric generation and distribution regulations.

Bidders may form teams to bid on the scope of work described in Exhibit A of this RFP. However, if a team approach is used, all team members and subcontracting firms must be identified in the bidder's proposal. The Bidder responding to this RFP must serve as the Prime Contractor. . No substitutions are allowed during the RFP process. All proposals are final, and no substitutions of teams will be permitted after the final proposal due date for submission of this RFP.

## VII. Proposal Requirements and Information

The following subsections provide the information, instructions, and required components of this RFP, and responses necessary to participate in this RFP process.

### A. Key Action Events

1.		RFP is released.	April 26, 2012
2.		Bidder's written questions submittal deadline.	May 11, 2012
3.		Answers to questions provided by the CPUC.	May 18, 2012
4.		Final date for proposal submission.	May 31, 2012
5.	*	Phase I evaluation completed.	June 15, 2012
6.	*	Phase II evaluation completed.	July 6, 2012
7.	*	Phase III evaluation (open bid cost).	July 9, 2012
8.	*	Phase III evaluation completed.	July 10, 2012
9.	*	"Intent to Award" and protest – public posting.	July 11, 2012

The dates subsequent to the date of "final date for proposal submission," noted with an asterisk (\*) above, are subject to change at the Commission's discretion without issuing an addendum to this RFP.



## **B. Required Information for Evaluation**

### **1. Phase I: Scored Technical Evaluation**

Bidders must submit Proposal Checklist (see Attachment 1) and all applicable items listed in this checklist for Phase I evaluation. The items listed in Proposal Checklist include, but not limited to, the following information:

#### **a. Bidder's Business Information**

Indicate your organization's full name, address, and, if applicable, the branch office and any subcontractors that will perform or assist in performing any of the work. Please also designate persons authorized to act on behalf of your organization to execute the contract.

#### **b. Experience and Qualifications**

To demonstrate the qualifications of the Bidder, Bidder should:

- Describe all applicable qualifications and special capabilities of Bidder's proposed project team for performing the scope of work indicated in Exhibit A of this RFP in a straightforward and concise manner. This should include resumes included for each proposed project team member that describe in detail their consulting experience that supports the described "Scope of Work" (Exhibit A).
- Provide a detailed description of the past experience of Bidder's proposed project team and any subcontractors in performing work similar to that described in this RFP.
- Provide descriptions and examples of projects ("work samples") similar to those proposed in this RFP undertaken by the company.
- Disclose and describe specifically any issues that could pertain to Conflict of Interest provisions, Section VII (1) (d), below.
- Provide at least three (3) references from consulting projects successfully performed within the last seven years by Bidder's proposed team members, particularly those associated with the proposed project leadership for this RFP, including dates of performance, names of clients, reference contact information, and the name(s) and role(s) of the referenced team member(s). Please use the form of Proposer References in Attachment 3.
- List any awards or other recognition for the work described in the proposal.

#### **c. Organization Chart and Project Personnel**

Bidder should provide an organization chart depicting the relationships between the project manager, key personnel, support staff, and other resources that are expected to be involved in the work described in this RFP. The organization chart should also indicate which aspects of the work each person will be responsible for and the approximate percentage of time that he or she will devote to the work.

#### **d. Conflict of Interest Statement**

Bidders must include in their submissions a Conflict of Interest Statement that addresses the following elements, as applicable. The Conflict of Interest Statement should be a clearly labeled attachment in the RFP submission.

## **A. General Terms**

1. For purposes of this RFP or any resulting Agreement, "conflict of interest" means:
  - a) a conflict of interest as defined in this RFP or any resulting Agreement;
  - b) a conflict of interest prohibited by any applicable Federal or State law, including the Political Reform Act, relating to conflicts of interest<sup>1</sup> and any regulations under them; and/or
  - c) a financial interest or relationship that may impair the ability of the individual or firm to deliver fair unbiased work for the State. A relationship may include any business position, such as a director, officer, partner, trustee, employee, or any position of management with any of the Covered Entities or any parent, subsidiary, or affiliate thereof.
2. **"Team Member" includes a) any firm (either as a prime or sub-contractor) whether incorporated or not, including a sole proprietorship ("Firm Team Member"); and b) any individual, whether an employee, independent contractor or other, performing or supervising work under this contract whose work on this project is expected to involve the exercise of judgment ("Individual Team Member")**
3. "Covered Entities" means: PG&E, SCE, SDG&E, PacifiCorp, Sierra Pacific, Southern California Gas, Lodi Gas Storage, California Natural Gas Storage, Wild Goose Gas Storage, Nevada Hydro Company, Alpine Natural Gas, Central Valley Gas Storage, Gill Ranch Storage, Niska Storage, Sempra - SDG&E, Sempra - So Cal Gas, Southwest Gas Corp, West Coast Gas, and/or Bear Valley Electric Service.
4. Each Team Member agrees to notify the Commission's Project Manager promptly of any potential conflict of interest. The CPUC may, at its option, direct termination of any individual or firm or this Agreement, if such a conflict is found.
5. Each Team Member agrees to refrain from entering into any relationship that could result in a conflict of interest in the performance of work under this RFP or any resulting Agreement.
6. Each Team Member agrees to comply with any and all applicable conflict of interest laws and the conflict of interest terms of this RFP or any resulting Agreement. This assent shall include compliance with state conflict of interest laws as set forth by the CPUC's Project Manager. Each Team Member also agrees to provide any additional information that may be required in order to comply with conflict of interest law requirements.
7. Each Team Member agrees to provide all required disclosures.

## **B. Disqualification from the RFP Selection Process**

1. A Team Member (which includes a Firm Team Member and Individual Team Member) will be disqualified from the RFP selection process for any of the following reasons:

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<sup>1</sup> The Political Reform Act is set forth in Government Code section 81000 et. seq.

- a. A Team Member is currently implementing or has an active proposal with PG&E, or any parent, subsidiary, or affiliate thereof.
  - b. A Team Member has participated on behalf of the CPUC, directly or indirectly, in any of the negotiations, transactions, planning, arrangement or any part of the decision-making process relevant to this RFP or any resulting Agreement, including but not limited to any involvement with or attempt to influence the deliberations of an advisory board or committee assisting the CPUC on this RFP or any resulting Agreement.
  - c. A Team Member has a conflict of interest prohibited by any applicable Federal or State law, including the Political Reform Act, relating to conflicts of interest and any regulations under them.
2. If an Individual Team Member is disqualified during the bidding process due to a conflict of interest, no substitution will be allowed; there cannot be a substitution of that Team Member during final RFP proposal evaluation process.

**C. Disclosures and Additional Conflicts Evaluation**

This section discusses disclosures that must be made by Team Members. (Note: The term Team Members includes subcontractors.) Where disclosures for a Team Member are repetitive because the Team Member is both a Firm Team Member and an Individual Team Member, please disclose once.

A number of conditions may render a Team Member unable to give impartial, technically sound, objective assistance and advice that might result in a biased work product. In addition, the Commission wishes to avoid having confidential information related to this audit being used to provide an unfair competitive advantage to a regulated entity or its competitors. The following disclosures are required in order to properly evaluate and judge the proposed Team Member, and avoid termination and/or controversy at a later stage.

- 1. DISCLOSE for each Team Member:
  - a. Current contracts/employment with, or active proposal(s) before, any of the Covered Entities or any parent, subsidiary, or affiliate thereof. (Provide the total amount of payments, duration and nature of service.) Indicate if any Individual Team Member is working on or is expected to work on any of these contracts.
  - b. Prior contracts during the last three years with any of the Covered Entities or any parent, subsidiary, or affiliate thereof. (Provide the total amount of payments, duration and nature of service.) Indicate if any Individual Team Member worked on those contracts.
  - c. Any current subcontracts to contracts with any of the Covered Entities or any parent, subsidiary, or affiliate thereof. (Provide the total amount of payments, duration and nature of service.) Indicate if any Individual Team Member is working on these contracts or is expected to work on any of these contracts.
- 2. For each Firm Team Member disclose:

- a. Any investment in, or joint venture, partnership or similar arrangement with, any of the Covered Entities or any parent, subsidiary, or affiliate thereof. (For investments list only current investments; for other relationships list all other relationships existing within the past three years. List the entity's name, the nature, scope and duration of the business arrangement and the total monetary value.)
3. Failure to disclose the above-mentioned could be grounds for disqualification.
4. Provide a statement, signed by the principal of each participating firm, asserting that the information provided in response to this section is correct to the best of his or her knowledge.
5. The disclosures and potential conflicts will be judged and used as an evaluation criteria in the bid selection process.

#### **D. Additional Disclosures**

This section shall apply to all Individual Team Members.

1. a. If any Individual Team Member who might perform work in response to this RFP or any resulting Agreement also owns, together with his or her spouse or registered domestic partner, and dependent children, 10% or more of the firm performing the work or any other business entity, and now or within the past 12 months that firm or business entity has been under contract with or received income from any of the Covered Entities or any parent, subsidiary, or affiliate thereof, disclose: the name of the individual; the name of the firm or other business entity; his or her percentage of ownership (including that of his or her spouse or registered domestic partner, and dependent children); and the total amount of income from any of the Covered Entities or any parent, subsidiary, or affiliate thereof, received by the firm or other business entity within the past 12 months. If the 10% or greater ownership is in the firm that will be performing the work, also disclose, the cost and length of the contract; and a brief description of the scope of work.
- b. If any Individual Team Member who might perform work in response to this RFP or any resulting Agreement has received within the past 12 months (or will receive during any 12 month period while performing such work) \$500 or more of income from any of the Covered Entities or any parent, subsidiary, or affiliate thereof, disclose (i) the individual's name; and (ii) the name of the entity that is the source of the income. In determining whether the \$500 threshold has been met, include the total income of the individual, and half of the income of his or her spouse or registered domestic partner.
- c. If any Individual Team Member who might perform work in response to this RFP has received within the past 12 months (or will receive during any 12 month period while performing such work) gifts or travel payments, totaling \$420 or more, from any single Covered Entity, disclose (i) the individual's name; and (ii) the name of the entity that is the source of the gifts or travel payments. In determining whether the \$420 threshold has been met, include not only gifts to the individual but also gifts to his or her spouse or registered domestic partner. If any of the gifts are to the spouse or registered domestic partner of the Individual Team Member performing work under this RFP or any resulting Agreement, please so indicate.

- d. If any Individual Team Member who might perform work in response to this RFP has an investment in any of the Covered Entities or any parent, subsidiary, or affiliate thereof, worth \$2000 or more, disclose (i) the individual's name; and (ii) the name of the entity in which the investment is held. In determining whether the \$2000 threshold has been met, include the total investments of the individual, his or her spouse or registered domestic partner, and dependent children.
  - e. Any business position, such as a director, officer, partner, trustee, employee, or any position of management held with any of the Covered Entities or any parent, subsidiary, or affiliate thereof.
2. An Individual Team Member should specify any work he has done for the CPUC during the past three years. (Identify the CPUC contract involved, briefly describe the work performed, the total number of hours of work performed on the contract, and the period of time over which the individual performed that work.)
  3. Additional information may be required in order to comply with conflict of interest requirements.

## **F. Rules Relating to Former and Current State Employees**

### **1. Former state employees:**

- a. For the two-year period from the date of leaving state employment, no former state officer or employee may enter into a contract in which that person was engaged in any of the negotiations, transactions, planning, arrangement or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
- b. For the twelve-month period from the date of leaving state employment, no former state officer or employee may enter into a contract with any state agency if that person was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the twelve-month period prior to that person leaving state service. This does not apply to contracts with former employees as an expert witness, or continuation of attorney services the former employee was involved with prior to leaving state service.
- c. If there is a violation of any provisions of above paragraphs, such action shall render this Agreement void. (Pub. Contract Code §10420)
- d. Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

### **2. Current State Employees:**

- a. No officer or employee of the State of California shall engage in any employment, activity, or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency unless the employment, activity, or enterprise is required as a condition of regular state employment.

- b. No officer or employee of the State of California shall contract on that person's own behalf as an independent contractor with any state agency to provide goods or services.

### **e. Response to Scope of Work - Proposed Work Plan and Schedule**

Bidders should submit a detailed response to the Scope of Work including a proposed work plan and schedule for accomplishing the work described in Exhibit A of this RFP.

The response should address all of the issues and questions raised in the Scope of Work, and should also include the following:

- Description of procedures for project planning, scheduling, and budgeting, as well as procedures to be used in controlling time used, dollars spent, and quality control over the deliverables.
- A work schedule for performing the work described in Exhibit A of this RFP and delivering the final work product, including but not limited to the following items:
  - o Estimated time spent on each task outlined in Bidder's proposal
  - o Time table with estimated dates of completion for each task and milestone
  - o An indication of locations of Bidder's facilities and allocation of Bidder's resources.

### **2. Phase II: Interview**

Following their proposal submission, Bidders receiving the minimum required points in the Phase I will be interviewed with regards to their proposal, and their proposed approach to the project. Questions and topics may include:

- Why should the CPUC hire the Bidder?
- Specific questions about the proposed work plan.
- Clarifying questions related to goals, objectives, service demands, and required deliverables identified in Exhibit A of this RFP.
- Bidder's approaches to accomplish the Scope of Work identified in Exhibit A of this RFP.
- Timelines for performance and deliverables.
- Ability to handle and resolve unanticipated complications and delays without interrupting the delivery of services.
- Project management plan to ensure that all services are successfully performed and that the objective, goals, and requirements are met.
- Fitting the Scope of Work identified in this RFP into the Bidder's existing obligations.
- Bidder's proposed team leader and members and their experience and professional qualifications.
- Other questions as necessary.

### **3. Phase III: Cost Details – Format and Requirements**

**Bidders must submit their bids using the format of Cost Proposal Worksheet in Attachment 8 of this RFP.** In accordance with Section VII (c) below, the cost bid information must be submitted in a separate sealed envelope, and submitted with the original proposal

and the requested copies of the proposal, see further information below.

### **C. Submission of Proposal**

The content of Bidder's proposal package should include, but not limited to, the following things:

- All required information for Phases I and III as previously described.
- Required Bid Attachments (see Attachment 1 Proposal Checklist.)
- Omissions, inaccuracies or misstatements will be sufficient cause for rejection of a proposal.

**Note:** DAFUR Contracting Act Certification (Attachment 6)

PCC Sections 10475 -10481 applies to any company that currently or within the previous three years has had business activities or other operations outside of the United States. For such a company to bid on or submit a proposal for a State of California contract, the company must certify that it is either a) not a scrutinized company; or b) a scrutinized company that has been granted permission by the Department of General Services to submit a proposal (See Attachment 6).

#### **Please also note:**

- **All proposals must be submitted under sealed cover and received by the CPUC by 3:00 PM** on the scheduled date given in Section VII (A). Proposals received after this date and time will not be considered.
- The proposal package should be prepared in the least expensive method. Expensive bindings, color displays, promotional materials, etc. are neither necessary nor desired. Bidders are encouraged to concentrate on conformity with RFP instructions, responsiveness to RFP requirements and the clarity and completeness of the bid's content.
- The original proposal must be marked "ORIGINAL COPY." All documents contained in the original proposal package must have original signatures and must be signed by a person who is authorized to bind the proposing firm. All additional proposal sets may contain photocopies of the original package.
- A minimum of six (6) copies must be submitted with the original proposal, along with the Cost Bid sealed in a separate envelope with the required information on the envelope as stated below.
- **The Cost Bid and all cost information must be submitted in a separate sealed envelope.** The envelope must be submitted with the proposal package, and the sealed cost bid envelope must be marked "DO NOT OPEN – RFP 11PS5013," along with the name and address of your firm, as shown in the following example.

"DO NOT OPEN"  
Cost Bid For RFP No. 11PS5013  
CPUC Independent Engineering Consultant - Evaluating Safety and Security Issues in PG&E  
2014 Test Year GRC, Focus Area: Gas Distribution  
Your Firm's Name  
Your Firm's Address City, State and Zip Code

- If the proposal is made under a fictitious name or business title, the actual legal name of proposer must be provided.
- Cost Bid's for the Proposal that are not submitted in a separate sealed envelope and marked as indicated above may be rejected. Do not put the Cost Bid in the proposal; it is required to be in a separate sealed envelope marked as instructed above and submitted with your original proposal and the required copies of the proposal by the stated due date by 3:00 pm.

All submissions of Cost Bids and proposals shall include the documents identified in Section VII (B). Proposals not including the proper "required attachments" shall be deemed non-responsive. A non-responsive proposal is one that does not meet the basic proposal requirements.

**Overnight delivery, Mail, or deliver proposals to the following address:**

California Public Utilities Commission  
 Secondary RFP No.11PS5013  
 Independent Engineering Consultant - Evaluating Safety and Security  
 Issues in PG&E 2014 Test Year GRC, Focus Area: Gas Distribution  
 Attention: Contract Office – Room 2008  
 505 Van Ness Ave, 2<sup>nd</sup> Floor  
 San Francisco, CA 94102

Proposals must be submitted for the performance of all the services described herein. Any deviation from the work specifications will not be considered and will cause a proposal to be rejected.

A proposal may be rejected if it is conditional or incomplete, or if it contains any alterations of form or other irregularities of any kind. The State may reject any or all proposals and may waive any immaterial deviation in a proposal. The State's waiver of immaterial deviation shall in no way modify this RFP document or excuse the proposer from full compliance with all requirements if awarded the agreement.

Costs incurred for developing proposals and in anticipation of the award of the agreement are entirely the responsibility of the proposer and shall not be charged to the State of California. **An individual who is authorized to bind the proposing firm contractually shall sign the Attachment 2, Proposal/Proposer Certification Sheet. The signature must be in blue ink and indicate the title or position that the individual holds in the firm. An unsigned proposal may be rejected.**

A proposer may modify a proposal after its submission by withdrawing its original proposal and resubmitting a new proposal prior to the proposal submission deadline as set forth in the Key Action Dates. Proposal modifications offered in any other manner, oral or written, will not be considered.

A proposer may withdraw its proposal by submitting a written withdrawal request to the CPUC, signed by the proposer or an authorized agent in accordance with Paragraph I above. A proposer may thereafter submit a new proposal prior to the proposal submission deadline. Proposals may not be withdrawn without cause subsequent to proposal submission deadline.

The awarding agency may modify this RFP prior to the date fixed for submission of proposals by the issuance of an addendum to all parties who received a proposal package.



The awarding agency reserves the right to reject all proposals for reasonable cause including cost. The agency is not required to award an agreement.

Before submitting a response to this solicitation, Bidders should review, correct all errors and confirm compliance with this RFP's requirements.

Bidders are cautioned to not rely on the CPUC during the evaluation to discover and report to the Bidders any defects and errors in the submitted documents.

More than one proposal from an individual, firm, partnership, corporation or association under the same or different names, will not be considered. Reasonable grounds for believing that any bidder has submitted more than one proposal for the work contemplated herein will cause the rejection of all proposals submitted by that bidder. If there is reason for believing that collusion exists among the proposers; none of the participants in such collusion will be considered in this or future procurements.

The State does not accept alternate contract language from a prospective contractor. A proposal with such language will be considered a counter proposal and will be rejected. The State's General Terms and Conditions (GTC) (see Exhibit C) are not negotiable.

No oral understanding or agreement shall be binding on either party.

### **VIII. Evaluation Process**

At the time of proposal opening, each proposal will be checked for the presence or absence of required information in conformance with the submission requirements of this RFP. Failure to provide required information will result in rejection of the proposal.

Proposals that contain false or misleading statements, or which provide references, which do not support an attribute or condition claimed by the proposer, will be rejected.

The final award, if made, will be made to the bidder achieving the highest overall score, after application of preferences.

The CPUC will put each proposal through a process of evaluation to determine its responsiveness to the CPUC's needs. A selection panel comprised of Commission personnel will make the final selection of the consultant. The selection process consists of three phases that are described below:

#### **A. Phase I: Scored Technical Evaluation**

In this phase, Bidders will be evaluated and scored according to the criteria indicated below. The maximum possible score is 100. **A minimum score of 70 points must be achieved in this phase in order to move on to Phase II.**

The following selection criteria will be used in scoring in the technical evaluation section:

<b>Criteria</b>	<b>Maximum Points</b>
Demonstrated Experience	40
Response to Scope of Work	60
<b>Total Points Possible</b>	<b>100</b>

To evaluate “**Demonstrated Experience**” raters will consider factors including (but not only):

- Description of similar projects undertaken by the company.
- Resumes included for each proposed project team member that describe in detail their consulting experience that supports the Scope of Work (Exhibit A).
- Reference responses

To evaluate “**Response to Scope of Work**” raters will consider factors including (but not only):

- Whether proposed tasks and deliverables will accomplish the project goals.
- Whether the work plan can realistically support the tasks and deliverables in the given timeline and budget.
- The quality and relevance of outlines and examples of other similar projects presented as examples of work.
- The overall presentation, clarity of thought and quality of writing in the proposal.

### **B. Phase II: Interview**

In this phase, only the Bidders who achieve a minimum score of 70 in Phase I will be interviewed. Bidders will be evaluated by the CPUC on their responses to interview questions, the general topics of which are described in Section VII (B)(2), above.

<b>Criteria</b>	<b>Maximum Points</b>
Answers to interview questions	50
<b>Total Points Possible</b>	<b>50</b>

Bidders who are selected for the interview must be available upon demand by the CPUC. The interviews will be conducted at the CPUC’s headquarters located at:

California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

### **C. Phase III: Cost Evaluation**

In this phase, only the Bidders that complete Phase I and Phase II of the evaluation process will be evaluated. During this phase, bids will be opened. The cost proposal with the lowest price will be assigned a maximum score of 65 points. CPUC will evaluate and score other Bidders’ cost proposal on a proportional basis relative to the cost of the lowest bid.

#### **Cost Evaluation Example**

For example, consider there are three remaining compliant bidders, A, B, and C, who passed the Phase I and II evaluation, and whose bid costs does not exceed the maximum cost of \$400,000 allowed in this RFP. Bidder C has the lowest bid cost of \$250,000 and will receive a maximum score of 65 points. Bidder A’s bid cost is

\$300,000. Bidder's B bid cost is \$299,000. Bidders A, B and C will receive their scores as depicted in the table below.

Bidder	Total Cost Bid (in thousands )	Ratio of lowest cost to Bidder's Cost (in thousands)	Percent Earned	Total possible points	Total awarded cost points
A	\$300	\$250/\$300 =	83.3% X	65 =	54.1
B	\$299	\$250/\$299 =	83.6% X	65 =	54.3
C	\$250	\$250/\$250 =	100% X	65 =	65

**D. Adjustments for Target Area Contract Preference Act (TACPA), Local Agency Military Base Recovery Area Act (LAMBRA) and Enterprise Zone Act (EZA) Preference Programs**

In evaluating proposals, the State will give preferences in accordance with the law for Bidders who are California home based and who successfully claim preferences under TACPA, LAMBRA, and EZA by completing and returning the appropriate forms described in RFP. Where multiple preferences are claimed, the State will verify eligibility for the preference(s) and evaluate and apply preference(s) in accordance with law and established procedures.

Available evaluation preferences under TACPA, LAMBRA and EZA are each limited to 9% of the lowest total bid cost or \$50,000, whichever is less. The combined preferences for TACPA, LAMBRA and EZA may not exceed 15% of the lowest total bid cost or \$100,000, whichever is less. Additionally, the application of TACPA, LAMBRA and EZA preferences points may not displace an award to a Department of General Services (DGS) certified Small Business. However, a firm that receives a 5% non-small business subcontractor preference is not a certified Small Business, and may be displaced by the application of the TACPA, LAMBRA and EZA preferences

**Example of Adjustments for TACPA, LAMBRA, and EZA Preference Programs**

For example, consider there are three remaining compliant bidders, A, B, and C. The total bid cost of Bidder A is \$300,000 Bidder B is \$299,000, and Bidder C is \$250,000. If Bidder B has successfully claimed the maximum allowable preference for TACPA, LAMBRA, and EZA combined, then Bidder B's evaluated costs will reduced by \$37,500 (\$250,000 X 15% = \$37,500) to a new total for evaluation purposes only of \$261,500 (\$299,000 - \$37,500).

However, even with the preference adjustment, Bidder C still has the lowest total bid cost at \$250,000 and therefore Bidder C is awarded 100% of the total possible 65 points available for cost evaluation, while Bidders A and B are awarded fewer cost points, as depicted in the table below.

Bidder	Total Cost Bid (in thousands)	Ratio of lowest cost to Bidder's Cost (in thousands)	Percent Earned	Total possible points	Total awarded cost points
A	\$300	\$250/\$300 =	83.3% X	65 =	54.1
B	\$299	\$250/\$299 =	95.6% X	65 =	54.3
C	\$250	\$250/\$250 =	100% X	65 =	65

### E. Small Business Preference Program Adjustments

Final evaluation scores consist of the scores given from Phases I through III, plus adjustments for the Small Business Preference Program. The scores from each phase will be combined with the adjustments for the Small Business Preference Program to determine the highest final evaluation score. The Bidder with the highest final evaluation score will be awarded the contract agreement.

#### Example of Total Points Awarded with Small Business Preference Program Adjustments

Bidder A, who is not a small business, but has claimed the 5% small business preference by documenting its commitment to award at least 25% of its contracted revenue to DGS certified small business subcontractors and suppliers.

From Phases I through III, including adjustments for TACPA, LAMBRA and EZA preference programs, assuming Bidders are awarded total points as depicted below. The final total awarded points, which include the Small Business Preference Program adjustment, are determined for each Bidder as follows:

Bidder	Total Awarded Points	Small Business Preference at 5%	Final Total Award Points
A	150	+9.5	159.5
B	175	0	175
C	190	0	190

The Small Business preference points are 5% of the highest responsive, responsible bidder's total score. In this example Bidder A is awarded 5% Small Business Preference points of Bidder C's total awarded points (5% x 190 = 9.5.) In this case, Bidder C received the highest total awarded points and is eligible for contract award even though Bidder A has 5% Small Business Preference points.

### F. Disabled Veteran Business Enterprise (DVBE) Incentive

In addition to the DVBE requirement described in Section IX, a DVBE incentive will also be applied to bids that meet and exceed 3% (up to a maximum of 5%). Please see Section X (3) for more information.

### G. Award and Protest

1. At least five (5) working days prior to awarding the agreement, the Notice of Intent to Award shall be posted in a public place at the CPUC's headquarters lobby, located at 505 Van Ness Avenue in San Francisco, California.
2. If any proposer, prior to the award of agreement, files a protest with the CPUC and the DGS on the grounds that the protesting proposer would have been awarded the contract had the CPUC correctly applied the evaluation standard in this RFP, or if the

CPUC followed the evaluation and scoring methods in this RFP, the agreement shall not be awarded until either the protest has been withdrawn or the DGS has decided the matter. It is suggested that the protesting bidders submit any protest with a detailed written statement specifying the grounds for the protest by certified or registered mail to:

Department of General Services (DGS) Office of Legal Services  
707 Third Street, 7th Floor, Suite 7-330  
West Sacramento, California 95605.

In addition a copy of the detailed written statement should be mailed to:

California Public Utilities Commission  
Attention: Contracts Office, Contracts Manager  
505 Van Ness Avenue, Room 2008  
San Francisco, CA 94102

3. Upon resolution of any protest(s) the awarded Contractor must complete and sign the following documents. These documents shall be included with the proposed contract to the awarded contractor for completion and signature. If you should want to review these documents, the information is provided below.
  - a. Payee Data Record (STD 204) (see Attachment 10) – This document is to determine if the Contractor is subject to state income tax withholding pursuant to California Revenue and Taxation Code Sections 18662 and 26131. This form can be found on the Internet at [www.dgs.ca.gov/pd/Forms.aspx](http://www.dgs.ca.gov/pd/Forms.aspx) under the heading “Standard (STD) Forms.” No payment shall be made unless a completed STD 204 has been returned to the awarding agency.
  - b. Contractor Certification Clauses (CCC 307) – Contractor Certification Clauses (CCC 307), which can be found in Attachment 9 and on the Internet at [www.dgs.ca.gov](http://www.dgs.ca.gov).

## **H. Disposition of Proposals**

- Upon proposal opening, all documents submitted in response to this RFP will become the property of the State of California, and will be regarded as public records under the California Public Records Act (Government Code Section 6250 et seq.) and subject to review by the public. The CPUC cannot prevent the disclosure of public documents. However, the contents of all proposals, correspondence, agenda, memoranda, and working papers, or any other medium which discloses any aspect of Bidder’s proposal, shall be held in the strictest confidence until the notice of “Intent to Award” is released to the public.
- Proposal packages may be returned only at the proposer’s expense, unless such expense is waived by the awarding agency.

## **I. Agreement Execution and Performance**

- Service shall start no later than the express date set by the CPUC and the Contractor, after all approvals have been obtained and the agreement is fully executed. Should the Contractor fail to commence work at the agreed upon time, the awarding agency, upon five (5) days written notice to the Contractor, reserves the right to terminate the agreement. In addition, the Contractor shall be liable to the

State for the difference between Contractor's Proposal price and the actual cost of performing work by another contractor.

- All performance under the agreement shall be completed on or before the termination date of the agreement.
- The CPUC does not accept alternate contract language from a prospective contractor. A proposal with such language will be considered a counter proposal and may be rejected.
- No oral understanding or agreement shall be binding on either party.

## **DISCLAIMER**

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### **Choice of Law**

Construction of the disclaimers above and resolution of disputes thereof are governed by the laws of the State of California.

## **IX. Disabled Veteran Business Enterprise (DVBE) Program Requirements**

The State of California has established specific socio-economic procurement programs that may apply to this RFP. The CPUC has established that all Bidders are required to comply with the DVBE program participation requirements of this RFP.

Links and references are provided throughout this section to DGS website information. This information and all DGS website information are subject to the following DGS disclaimer, which is also available via the “Disclaimer” link at the bottom of the DGS webpage, [www.dgs.ca.gov](http://www.dgs.ca.gov).

### **1. General DVBE Requirements**

General information about these requirements is available at the DGS Procurement Division website at [www.dgs.ca.gov/pd/Programs/OSDS.aspx](http://www.dgs.ca.gov/pd/Programs/OSDS.aspx). General questions about the State’s DVBE programs may be directed to the DGS Procurement Division’s Office of Small Business and Disabled Veteran Business Enterprise Services (OSDS) at (916) 375-4940. Questions regarding the DVBE participation specific to this RFP should be directed to the following CPUC’s Procurement Official:

Eulander Summerfield, Contracts Office  
California Public Utilities Commission  
505 Van Ness Avenue, Room 2008  
San Francisco, CA 94102  
E-Mail: [esj@cpuc.ca.gov](mailto:esj@cpuc.ca.gov)

The State has established goals for DVBE participation in State contracts. **For this procurement the minimum DVBE participation goal that must be met by each Bidder is three percent (3%) of the Bidder’s total cost proposal.**

**Please read this entire requirement carefully, including its mandatory submission forms. Failure to comply with the DVBE program requirement will cause your solicitation response to be deemed nonresponsive and your firm ineligible for award. California DVBE Program requirements are not optional and must be met by all Bidders.**<sup>2</sup>

<sup>2</sup> Note that a previously allowed “Good Faith Effort” is no longer a valid way of meeting this RFP’s DVBE participation requirements, even though it may be referenced on some DGS web pages.

It can take Bidders a month or more to prepare for the State's mandatory DVBE participation requirements associated with this RFP. Bidders are strongly encouraged to not delay their preparation for meeting the DVBE participation requirements, if they expect to be compliant in time for the submission of their Final Proposals.

Bidders who claim DVBE participation but are later found to violate the DVBE program requirements shall be subject to significant sanctions.<sup>3</sup>

If for this agreement the Contractor made a commitment to achieve DVBE participation, then the Contractor must within 60 days of receiving final payment under this agreement (or within such other time period as may be specified elsewhere in this agreement) certify in a report to the awarding department all of the following:

- The total amount the prime contractor received under the contract.
- The name and address of the DVBE(s) that participated in the performance of the contract.
- The amount each DVBE received from the prime contractor.
- That all payments under the contract have been made to the DVBE(s).
- 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 (M&VC) § 999.5(d))

Contractor understands and agrees that should the award of this contract be based in part on their commitment to use the DVBE subcontractor(s) identified in their bid or offer, in accordance with Military and Veterans Code 999.5 (e), a DVBE subcontractor may only be replaced by another DVBE subcontractor and such replacement must be approved by the DGS. Changes to the scope of work that impact the DVBE subcontractor(s) identified in the bid or offer and approved DVBE substitutions will be documented by contract amendment.

Failure of Contractor to seek substitution and adhere to the DVBE participation level identified in the bid or offer may be cause for contract termination, recovery of damages under rights and remedies due to the State, and penalties as outlined in M&VC § 999.9; PCC § 10115.10, or PCC § 4110 (applies to public works only).

An explanation of the DVBE requirements can be found at the following web site:

<http://www.pd.dgs.ca.gov/dvbe/default.htm>

## **2. DVBE Participation Forms Required with the Bid**

Bidders must complete the appropriate information on the Bidder Declaration Form GSPD 05-105 to claim DVBE participation. This form allows Bidders to identify if they are a DVBE and/or to identify DVBE subcontractors, their proposed contract function, and the corresponding percentage of participation. The GSPD-05-105 form and its instructions are included in this RFP as Bid Attachment 5. It can also be found at the following link:

[www.documents.dgs.ca.gov/pd/poliproc/MASTEr-BidDeclar08-09.pdf](http://www.documents.dgs.ca.gov/pd/poliproc/MASTEr-BidDeclar08-09.pdf)

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<sup>3</sup> See [www.dgs.ca.gov/pd/Programs/OSDS/firmviolations.aspx](http://www.dgs.ca.gov/pd/Programs/OSDS/firmviolations.aspx) regarding violations.



A Disabled Veteran Business Enterprise Declarations (STD. 843) form must also be completed by California-certified DVBE owners and managers of each DVBE firm that will be participating in the awarded purchase document. The STD. 843 form is included in this RFP as Bid Attachment 4. It can also be found at the following link:

[www.documents.dgs.ca.gov/pd/poliproc/STD-843FillPrintFields.pdf](http://www.documents.dgs.ca.gov/pd/poliproc/STD-843FillPrintFields.pdf)

All disabled veteran owners and disabled veteran managers of each participating DVBE must sign a STD 843 form. When claiming any DVBE participation, the completed form(s) must be submitted with the Bidder's Final Proposal. Failure to provide the form(s) within the time frame specified by the State may cause your bid to be rejected.

At the State's option prior to award, bidders may be required to submit additional written clarifying information. Failure to submit the requested written information as specified may be grounds for proposal rejection.

### **3. Resources for Locating DVBEs**

Resources for locating DGS certified DVBEs for participation include, but are not necessarily limited to:

DGS OSDS Communications and Outreach Section:

[www.dgs.ca.gov/pd/Programs/OSDS/CommunicationsOutreach.aspx](http://www.dgs.ca.gov/pd/Programs/OSDS/CommunicationsOutreach.aspx)

DGS DVBE and Small Business search engine (contracted to BidSync):

<http://www.bidsync.com/DPXBisCASB>

Listing of DVBE trade papers:

[www.documents.dgs.ca.gov/pd/smallbus/TradePaper.pdf](http://www.documents.dgs.ca.gov/pd/smallbus/TradePaper.pdf)

Listing of DVBE focus papers:

[www.documents.dgs.ca.gov/pd/smallbus/FocusPaper.pdf](http://www.documents.dgs.ca.gov/pd/smallbus/FocusPaper.pdf)

List of local DVBE contacts:

[www.documents.dgs.ca.gov/pd/smallbus/RefOrg.pdf](http://www.documents.dgs.ca.gov/pd/smallbus/RefOrg.pdf)

Calendar of DVBE events

[www.documents.dgs.ca.gov/pd/events/SBDVBEevents.doc](http://www.documents.dgs.ca.gov/pd/events/SBDVBEevents.doc)

## **X. Preference Programs**

### **1. Small Business Preference**

There are several preferences given to contractors who can meet certain requirements. These preferences are each identified below. If the Bidder satisfies the requirements and is asking for evaluation preferences, the Bidder must clearly identify in Attachment 7, Small Business Certification, submitted with the Bidder's proposal, which of the preferences it qualifies for and that the Bidder is requesting the appropriate preferences.

To claim a Small Business preference, the small business firm(s) must have its principal place of business located in California, have a complete application (including proof of annual receipts) on file with the State OSDS by 5:00 P.M. on the Final Proposal due

date and be verified by such office. Questions regarding the certification or the preference approval process should be directed to the OSDS at (916) 375-4940.

Bidders have the option of requesting a small business preference. Bidders who claim a Small Business preference but are later found to violate the Small Business requirement shall be subject to significant sanctions.<sup>4</sup>

A copy of the regulations, instructions and format for claiming the small business preference is available at [www.documents.dgs.ca.gov/pd/smallbus/CertAppInstructions.pdf](http://www.documents.dgs.ca.gov/pd/smallbus/CertAppInstructions.pdf).

*a. Preference for DGS Certified Small Businesses*

Bidders claiming a five percent small business preference must submit Bid Attachment 7, Small Business Certification, and indicate their DGS small business certification number. Bidders shall also include a copy of their DGS Small Business Certification with their bids. All Bidders claiming the five percent preference as a DGS Certified Small Business must also perform a Commercially Useful Function as described in this RFP, Section VIII.C.

Dollar amounts must not be included on the affidavit or on related forms, as that may be cause for rejection of the bid.

Bidders claiming the 5% preference must be certified by California as a small business. Questions regarding certification should be directed to the OSDS at (916) 375-4940.

Small Businesses are desired and encouraged to participate in this RFP. Section 14835, et seq, of the California Government Code requires a 5% preference be given to bidders who qualify as a small business. The rules and regulations of this law, including the definition of a small business for the delivery of goods and services, are contained in CCR, Title 2, Section 1896, et seq. The small business preference is for California-based small businesses.

Information about the Small Business preference program can be found at:

<http://www.pd.dgs.ca.gov/smbus/default.htm>  
[www.dgs.ca.gov/pd/Programs/OSDS/SBEligibilityBenefits.aspx](http://www.dgs.ca.gov/pd/Programs/OSDS/SBEligibilityBenefits.aspx)

*b. Small Business Preferences for Non-Small Businesses*

Revisions to Government Code Section 14838(b)(1)(2) now provide for a non-small business preference.

For this RFP, the preference to a non-small business bidder that commits to small business or micro business subcontractor participation of twenty-five percent (25%) of its Total Cost shall be five percent (5%) of the highest responsive, responsible bidder's total score (RFP secondary). A non-small business, which qualifies for this preference, may not take an award away from a certified small business based on the preference. The small business regulations are located at 2 CCR 1896.

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<sup>4</sup> See [www.dgs.ca.gov/pd/Programs/OSDS/firmviolations.aspx](http://www.dgs.ca.gov/pd/Programs/OSDS/firmviolations.aspx) regarding violations.

Bidders that are not a DGS certified small business, but who are claiming a five percent small business preference must submit Bid Attachment 7, Small Business Certification, indicating this claim.

Dollar amounts must not be included on the Affidavit or on related forms, as that may be cause for rejection of the bid.

If claiming the non-small business subcontractor preference, the proposal response must include a list of the small businesses with which the Bidder commits to subcontract in an amount of at least twenty-five percent (25%) of the Total Cost with one or more California Certified Small Businesses. Each listed certified small business must perform a "Commercially Useful Function" in performance of the contract as defined in Government Code Section 14837(d)(4).<sup>5</sup>

The required list of California Certified Small Business subcontractors must be attached to the proposal response and must include the following: 1) Subcontractor or supplier name, 2) contact person, 3) mailing address, 4) phone number, fax number and email address, 5) DGS Small Business certification number, 6) description of the work to be performed and/or products supplied, and 7) and percentage of the Total Cost (as specified in the solicitation) per subcontractor or supplier. Completion of Attachment 5, Bidder Declaration GSPD-05-105, will meet this requirement. Bidders may also include copies of their subcontractor's and supplier's DGS Small Business Certifications with their bids.

## **2. TACPA, LAMBRA and EZA Preference Programs**

The state has three programs designed to stimulate business and employment in geographic areas determined to be economically distressed, with areas of high unemployment. These programs are the Target Area Contract Preference Act (TACPA), the Local Agency Military Base Recovery Area Act (LAMBRA), and the Enterprise Zone Act (EZA). The DGS Procurement Division/Dispute Resolution/Preference Program Section administers these programs and provides resource information about the programs. The Dispute Resolution general number is (916) 375-4611. The DGS Preference Program information line is (916) 375-4609. TACPA, LAMBRA and EZA bid evaluation preferences are available as described in RFP Section VII.C.4.d.

### *a. Target Area Contract Preference Act (TACPA)*

Preference will be granted to California-based Contractors in accordance with California Government Code Section 4530 et seq., whenever contract for goods and services are in excess of \$100,000 and the Contractor meets certain requirements as defined in the CCR (Title 2, Section 1896.30) regarding labor needed to produce the goods or provide the services being procured. Bidders desiring to claim Target Area Contract Preferences Act shall complete Std. Form 830 and submit it with the Final Proposal. Refer to the following website link to obtain the appropriate form with instructions:

[www.documents.dgs.ca.gov/osp/pdf/std830.pdf](http://www.documents.dgs.ca.gov/osp/pdf/std830.pdf)

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<sup>5</sup> See RFP Section VIII.C, Commercially Useful Function.

A Bidder who has claimed a TACPA preference(s) and is awarded the contract will be obligated to perform in accordance with the preference(s) requested, provided that the TACPA preference(s) was granted in obtaining the contract.

If there is no intention of claiming this preference, the Bidder does not need to submit the STD Form 830.

Bidders seeking the TACPA preference must complete and submit the required form and all necessary attachments with their bids.

*b. Local Area Military Base Recovery Act (LAMBRA)*

Local Agency Military Base Recovery Act (LAMBRA), Government Code section 7105 et seq., promotes employment and economic development at designated military bases by offering preferences when bidding on State contracts in excess of \$100,000. The firm must be California based. Additional information can be found at:

[www.hcd.ca.gov/fa/cdbg/ez/](http://www.hcd.ca.gov/fa/cdbg/ez/)  
[www.hcd.ca.gov/fa/cdbg/ez/lambra](http://www.hcd.ca.gov/fa/cdbg/ez/lambra)

Bidders desiring to claim this preference must submit a fully executed copy of Std. Form 832 and any required attachments with their Final Proposal. Bidders proposing to perform the contract at a designated LAMBRA worksite(s) are required to identify such site(s) on the Std. Form 832. Failure to identify a site(s), which qualifies for LAMBRA, will result in denial of the claimed preferences. Refer to the following website link to obtain the appropriate form with instructions:

[www.documents.dgs.ca.gov/osp/pdf/std832.pdf](http://www.documents.dgs.ca.gov/osp/pdf/std832.pdf)

A bidder that has claimed a LAMBRA preference and is awarded the contract based on such preference(s) will be obligated to perform the contract in accordance with the Act. If there is no intention of claiming this preference, the Bidder does not need to submit STD Form 832.

*c. Enterprise Zone Act (EZA)*

California Government Code Section 7070, et seq., provides that California based companies may be granted preferences when bidding on State contracts in excess of \$100,000 for goods and services (excluding construction contracts) if the business site is located within designated "Enterprise Zones" (see Std. Form 831). Additional information can be found at:

[www.hcd.ca.gov/fa/cdbg/ez/](http://www.hcd.ca.gov/fa/cdbg/ez/)  
[www.hcd.ca.gov/fa/cdbg/ez/EZoverview.html](http://www.hcd.ca.gov/fa/cdbg/ez/EZoverview.html)

Bidders desiring to claim this preference must submit a fully executed copy of Std. Form 831 and all necessary attachments with their Final Proposal. Bidders proposing to perform the contract in a designated enterprise zone are required to identify such site(s) on the Std. Form 831. Failure to identify a site(s) which qualifies as an enterprise zone will result in denial of the claimed preferences. Refer to the following website link to obtain the appropriate form with instructions:

[www.documents.dgs.ca.gov/osp/pdf/std831.pdf](http://www.documents.dgs.ca.gov/osp/pdf/std831.pdf) A bidder that has claimed an EZA preference and is awarded the contract based on such preference(s) will be obligated to

perform the contract in accordance with the Act. If there is no intention of claiming this preference, the Bidder does not need to submit the STD Form 831.

### 3. Disabled Veteran Business Enterprise (DVBE) Incentive

Section IX of this RVP describes the Disabled Veteran Business Enterprise (DVBE) 3% requirement. In addition to the requirement, proposals that meet and exceed the 3% requirement will be provided incentive points toward their score. The additional incentive points may not exceed 5%.

<b>Confirmed DVBE Participation:</b>	<b>DVBE Incentive</b>
5% and over	5%
4% - 4.99% inclusive	4%
3% - 3.99% inclusive	3%

What this means: All proposals that meet the 3% DVBE minimum requirement will receive at least a 3% gain of incentive points, which means in effect, a firm would only see a real competitive benefit against other Bidders meeting the minimum requirement if one's firm had greater than 3% DVBE participation (capped at 5%).

#### How the DVBE Incentive is applied:

DVBE Incentive points are unlike other preference points awarded in this RFP process in that they are applied to non-cost points (the points received in Phase I and II of the RFP process). The award of DVBE incentive points cannot be used to achieve any applicable minimum points requirements. Additionally, the application of DVBE incentive points may not displace an award to a DGS certified Small Business. DVBE incentive points are applied after the non-cost and cost points have been subtotaled; all preference points applicable are applied at the end because they cannot be used, as stated above, to pass the minimum points achieved to move to the next phase.

### 4. Commercially Useful Function

All contractors, subcontractors and suppliers claimed by the Bidder as either a DGS certified DVBE or Small Business must perform a Commercially Useful Function. As stated in Chapter 623, Statutes of 2003 (Government Code Section 14837(d)(4)), a business performing a Commercially Useful Function is one that does all of the following:

- Is responsible for the execution of a distinct element of the work of the contract.
- Carries out its obligation by actually performing, managing, or supervising the work involved.
- Performs work that is normal for its business, services and function.
- Is not further subcontracting a portion of the work that is greater than that expected to be subcontracted by normal industry practices.

A contractor, subcontractor, or supplier will not be considered to perform a commercially useful function if the contractor's, subcontractor's, or supplier's role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of small business, micro business or DVBE participation.

## **XI. Cost Proposal Sheet (Cost Sheet)**

Bidders shall submit their bids detailing their costs using the format as illustrated in the Cost Sheets in Attachment 8. In the Cost Sheets, Bidders shall identify all of their costs for performing the scope of work indicated in Exhibit A. Bidders may add rows to the Cost Sheet, if necessary, and provide more detail in the Cost Sheet for the Commission's evaluation purpose. Any invoiced items of the awarded bidder (or the Contractor), which are not included in the accepted Cost Sheet, will automatically be rejected and denied for invoice payment.

**The required Cost Sheets must be submitted in a separate sealed envelope. The envelope should be included with the proposal package and marked "Do Not Open – Costs for CPUC California RFP #11PS5013. Independent Engineering Consultant - Evaluating Safety and Security Issues in PG&E 2014 Test Year GRC, Focus Area: Gas Distribution."**

## **XII. Payment**

Allowable costs for this contract shall be included in the approved Cost Sheet. Any invoiced item that is not included in the Cost Sheet will be denied.

## **XIII. Travel**

The travel costs related to the contract work identified in Exhibit A may be, but are not required to be, on a reimbursement basis. State will reimburse Contractor for reasonable travel expenses incurred in the performance of this Agreement. Reasonable travel expenses are defined as transportation, lodging, meals and incidental expenses in conformance with State rules and regulations. Pursuant to Section 7.30.A.5 of the State Contracting Manual,<sup>7</sup> if travel costs are on a reimbursement basis, travel cost reimbursement will be limited to the rates published by the Department of Personnel Administration (DPA) for State excluded (management) employees. Contractor must abide by these rates to obtain reimbursement for travel costs. The published DPA travel rates and rules for FY 2010-2011 and 2011-2012 are in the following attached website link :

<http://www.dpa.ca.gov/personnel-policies/travel/rules-for-excluded-employees-menu.htm>

## **Attachment 1 – Proposal Checklist**

To assist Bidders and the CPUC in verifying the completeness of the bid, Bidder shall include this checklist with their proposal. Mark the box to indicate each item submitted.

### **General**

- Bidder's Business Information
- Statement of Experience and Qualifications
- Organization Chart and Project Personnel
- Resume of Bidders and Proposed Team Members
- Response to Scope of Work - Proposed Work Plan and Schedule

### **RFP: Mandatory Attachments for All Bidders**

- Proposal Checklist (Attachment 1 - this document)
- Bidder (Proposer) Certification Sheet (Attachment 2)
- Proposers References (RFP Section VII (B)(1) and Attachment 3)
- Work Samples (RFP Section VII (B)(1))
- Conflict of Interest Statement (Section VII (B)(1)(d))
- DVBE Declarations – STD 843 (Attachment 4)
- Bidder Declaration – GSPD-05-105 (Attachment 5)

### **RFP: Required Attachments if Applicable.**

- Darfur Contracting Act Requirements (Attachment 6)
- Small Business Certification (Attachment 7)
- TACPA form and attachments (RFP Section X)
- EZA form and attachments (RFP Section X)
- LAMBRA Act form and attachments (RFP Section X)

### **Cost Data (FINAL BID ONLY)**

- Cost Sheet (see Attachment 8)

1. Enclose six (6) copies of the Cost Sheet, with one copy marked "Master Copy", in a separately sealed envelope marked **"Do Not Open – Costs for RFP 11PS5013, Independent Engineering Consultant - Evaluating Safety and Security Issues in PG&E 2014 Test Year GRC, Focus Area: Gas Distribution."**

2. Include the sealed Cost Sheet envelope within the FINAL sealed bid package.

3. Do not include the cost data that may be accessed outside the Cost Sheet envelope.

### **Required Attachments (Applicable to the Awarded Contractor Only.)**

- Contractor Certification Clauses – CCC 307 (see Attachment 9)
- Payee Data Record (STD 204) (if currently not on file) (see Attachment 10)

### **Required Contract Sample (Applicable to the Awarded Contractor Only.)**

*Note: The awarded contractor shall expect the following items that will be included in a sample agreement upon award of the contract. The agreement shall not include any contract language that has not been approved in advance in writing by the CPUC Procurement Official.*

- Sample Standard Agreement (STD 213) (Attachment 11)
- Scope of Work (Exhibit A)
- Budget Detail and Payment Provisions (Exhibit B)
- General Terms and Conditions – GTC 610 (Exhibit C)
- Special Terms and Conditions (Exhibit D)

**IMPORTANT NOTICE TO BIDDER:**

The CPUC makes no warranty that this checklist is a full and comprehensive listing of all requirements specified in the solicitation. Checking off the items on the checklist does not establish your firm's intent, nor does it constitute responsiveness to the requirements. The checklist is merely a tool to assist the participating Bidder in compiling their Final Proposal response. Bidder is encouraged to carefully read the entire solicitation.

The CPUC again emphasizes the need for each Bidder to verify all documentation and responses prior to the submission of final proposals.



**Attachment 2 – Proposal/Proposer Certification Sheet**

This Proposal/Proposer Certification Sheet must be signed and returned along with all the "required attachments" as an entire with original signatures. The proposal must be transmitted in a sealed envelope in accordance with RFP instructions.

- A. Place all required attachments behind this certification sheet.
- B. I have read and understand the DVBE Participation requirements and have included documentation demonstrating that I have met the participation goals.
- C. The signature affixed hereon and dated certifies compliance with all the requirements of this proposal document. The signature below authorizes the verification of this certification.

**An Unsigned Proposal/Proposer Certification Sheet May Be Cause For Rejection**

1. Company Name	2. Telephone Number ( )	2a. Fax Number ( )
3. Address		
Indicate your organization type:		
4. <input type="checkbox"/> Sole Proprietorship	5. <input type="checkbox"/> Partnership	6. <input type="checkbox"/> Corporation
Indicate the applicable employee and/or corporation number:		
7. Federal Employee ID No. (FEIN)	8. California Corporation No.	
9. Indicate applicable license and/or certification information:		
10. Proposer's Name (Print)	11. Title	
12. <b>Signature</b>	13. Date	
14. Are you certified with the Department of General Services, Office of Small Business Certification and Resources (OSBCR) as:		
a. California Small Business Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, enter certification number:	b. Disabled Veteran Business Enterprise Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, enter your service code below:	
<b>NOTE:</b> A copy of your Certification is required to be included if either of the above items is checked "Yes".		
Date application was submitted to OSBCR, if an application is pending:		

**Completion Instructions for Proposal/Proposer Certification Sheet**

Complete the numbered items on the

Proposal/Proposer Certification Sheet by following the instructions below.

Item Numbers	Instructions
1, 2, 2a, 3	Must be completed. These items are self-explanatory.
4	Check if your firm is a sole proprietorship. A sole proprietorship is a form of business in which one person owns all the assets of the business in contrast to a partnership and corporation. The sole proprietor is solely liable for all the debts of the business.
5	Check if your firm is a partnership. A partnership is a voluntary agreement between two or more competent persons to place their money, effects, labor, and skill, or some or all of them in lawful commerce or business, with the understanding that there shall be a proportional sharing of the profits and losses between them. An association of two or more persons to carry on, as co-owners, a business for profit.
6	Check if your firm is a corporation. A corporation is an artificial person or legal entity created by or under the authority of the laws of a state or nation, composed, in some rare instances, of a single person and his successors, being the incumbents of a particular office, but ordinarily consisting of an association of numerous individuals.
7	Enter your federal employee tax identification number.
8	Enter your corporation number assigned by the California Secretary of State's Office. This information is used for checking if a corporation is in good standing and qualified to conduct business in California.
9	Complete, if applicable, by indicating the type of license and/or certification that your firm possesses and that is required for the type of services being procured.
10, 11, 12, 13	Must be completed. These items are self-explanatory.
14	If certified as a California Small Business, place a check in the "yes" box, and enter your certification number on the line. If certified as a Disabled Veterans Business Enterprise, place a check in the "Yes" box and enter your service code on the line. If you are not certified to one or both, place a check in the "No" box. If your certification is pending, enter the date your application was submitted to OSBCR.

**Attachment 3 – References**

List below three references for services performed within the last five years, which are similar to the scope of work to be performed in this contract. If three references cannot be provided, please explain why on an attached sheet of paper.

---

**REFERENCE 1**

---

Name of Firm			
Street Address	City	State	Zip Code
Contact Person		Telephone Number	
Dates of Service		Value or Cost of Service	

---

Brief Description of Service Provided

---

**REFERENCE 2**

---

Name of Firm			
Street Address	City	State	Zip Code
Contact Person		Telephone Number	
Dates of Service		Value or Cost of Service	

---

Brief Description of Service Provided

---

**REFERENCE 3**

---

Name of Firm			
Street Address	City	State	Zip Code
Contact Person		Telephone Number	
Dates of Service		Value or Cost of Service	

---

Brief Description of Service Provided

---

## Attachment 4 – DVBE Declarations (STD 843)

STATE OF CALIFORNIA – DEPARTMENT OF GENERAL SERVICES PROCUREMENT DIVISION

### DISABLED VETERAN BUSINESS ENTERPRISE DECLARATIONS

STD. 843 (Rev. 11/2005)

**Instructions:** The disabled veteran (DV) owner(s) and DV manager(s) of the Disabled Veteran Business Enterprise (DVBE) must complete this declaration when a DVBE contractor or subcontractor will provide materials, supplies, services or equipment [Military and Veterans Code Section 999.2]. Violations are misdemeanors and punishable by imprisonment or fine and violators are liable for civil penalties. All signatures are made under penalty of perjury.

#### SECTION 1

Name of certified DVBE: \_\_\_\_\_ DVBE Ref. Number: \_\_\_\_\_

PO/Contract Description (materials/supplies/services/equipment): \_\_\_\_\_

Solicitation/Contract Number: \_\_\_\_\_ SCPRS Ref. Number: \_\_\_\_\_

(FOR STATE USE ONLY)

#### SECTION 2

**APPLIES TO ALL DVBEs. Check only one box in Section 2 and provide original signatures.**

- I (we) declare that the DVBE is not a broker or agent, as defined in Military and Veterans Code Section 999.2 (b), of materials, supplies, services or equipment listed above. Also, complete Section 3 below if renting equipment.
- Pursuant to Military and Veterans Code Section 999.2 (f), I (we) declare that the DVBE is a broker or agent for the principal(s) listed below or on an attached sheet(s). (Pursuant to Military and Veterans Code 999.2 (e), State funds expended for equipment rented from equipment brokers pursuant to contracts awarded under this section shall not be credited toward the 3-percent DVBE participation goal.)

All DV owners and managers of the DVBE (attach additional pages with sufficient signature blocks for each person to sign):

\_\_\_\_\_  
(Printed Name of DV Owner/Manager) (Signature of DV Owner/ Manager) (Date Signed)

\_\_\_\_\_  
(Printed Name of DV Owner/Manager) (Signature of DV Owner/Manager) (Date Signed)

Firm/Principal for whom the DVBE is acting as a broker or agent: \_\_\_\_\_  
(If more than one firm, list on extra sheets.) (Print or Type Name)

Firm/Principal Phone: \_\_\_\_\_ Address: \_\_\_\_\_

#### SECTION 3

**APPLIES TO ALL DVBEs THAT RENT EQUIPMENT AND DECLARE THE DVBE IS NOT A BROKER.**

- Pursuant to Military and Veterans Code Section 999.2 (c), (d) and (g), I am (we are) the DV(s) with at least 51% ownership of the DVBE, or a DV manager(s) of the DVBE. The DVBE maintains certification requirements in accordance with Military and Veterans Code Section 999 et. seq.
- The undersigned owner(s) own(s) at least 51% of the quantity and value of each piece of equipment that will be rented for use in the contract identified above. I (we), the DV owners of the equipment, have submitted to the administering agency my (our) personal federal tax return(s) at time of certification and annually thereafter as defined in *Military and Veterans Code 999.2*, subsections (c) and (g). *Failure by the disabled veteran equipment owner(s) to submit their personal federal tax return(s) to the administering agency as defined in Military and Veterans Code 999.2, subsections (c) and (g), will result in the DVBE being deemed an equipment broker.*

Disabled Veteran Owner(s) of the DVBE (attach additional pages with signature blocks for each person to sign):

\_\_\_\_\_  
(Printed Name) (Signature) (Date Signed)

\_\_\_\_\_  
(Address of Owner) (Telephone Number of Owner) (Tax Identification Number of Owner)

Disabled Veteran Manager(s) of the DVBE (attach additional pages with sufficient signature blocks for each person to sign):

\_\_\_\_\_  
(Printed Name of DV Manager) (Signature of DV Manager) (Date Signed)

Page \_\_\_ of \_\_\_

## **Attachment 5 – Bidder Declarations (GSPD-05-105)**

**All bidders** must complete the Bidder Declaration GSPD-05-105 and include it with their proposal. When completing the declaration, Bidders must identify all subcontractors proposed for participation in the contract. Bidders awarded a contract are contractually obligated to use the subcontractors for the corresponding work identified unless the State agrees to a substitution and it is incorporated by amendment to the contract.

At the State's option prior to award, bidders may be required to submit additional written clarifying information. Failure to submit the requested written information as specified may be grounds for bid rejection.

A copy of the Bidder Declaration GSPD-05-105 and its instructions, are provided on the next two pages. Please read the instructions carefully. The form with its instructions is also available as a fill and print PDF at:

[www.documents.dgs.ca.gov/pd/poliproc/MASTEr-BidDeclar08-09.pdf](http://www.documents.dgs.ca.gov/pd/poliproc/MASTEr-BidDeclar08-09.pdf)

**BIDDER DECLARATION**

**1. Prime bidder information (Review attached Bidder Declaration Instructions prior to completion of this form):**

- a. Identify current California certification(s) (MB, SB, NVSA, DVBE): \_\_\_\_\_ or None  (If "None," go to Item #2)
- b. Will subcontractors be used for this contract? Yes  No  (If yes, indicate the distinct element of work your firm will perform in this contract e.g., list the proposed products produced by your firm, state if your firm owns the transportation vehicles that will deliver the products to the State, identify which solicited services your firm will perform, etc.). Use additional sheets, as necessary.

- c. If you are a California certified DVBE: (1) Are you a broker or agent? Yes  No   
 (2) If the contract includes equipment rental, does your company own at least 51% of the equipment provided in this contract (quantity and value)? Yes  No  N/A

**2. If no subcontractors will be used, skip to certification below. Otherwise, list all subcontractors for this contract. (Attach additional pages if necessary):**

Subcontractor Name, Contact Person, Phone Number & Fax Number	Subcontractor Address & Email Address	CA Certification (MB, SB, NVSA, DVBE or None)	Work performed or goods provided for this contract	Corresponding % of bid price	Good Standing?	51% Rental?
				0%	<input type="checkbox"/>	<input type="checkbox"/>
				0%	<input type="checkbox"/>	<input type="checkbox"/>
				0%	<input type="checkbox"/>	<input type="checkbox"/>

**CERTIFICATION: By signing the bid response, I certify under penalty of perjury that the information provided is true and correct.**

## BIDDER DECLARATION INSTRUCTIONS

### 1.a. All prime bidders (the firm submitting the bid) must complete the Bidder Declaration.

- 1.a. Identify all current certifications issued by the State of California. If the prime bidder has no California certification(s), check the line labeled "None" and proceed to item #2. If the prime bidder possesses one or more of the following certifications, enter the applicable certification(s) on the line:
- Microbusiness (MB)
  - Small Business (SB)
  - Nonprofit Veteran Service Agency (NWSA)
  - Disabled Veteran Business Enterprise (DVBE)

1.b. Mark either "Yes" or "No" to identify whether subcontractors will be used for the contract. If the response is "No," proceed to item #1.c. If "Yes," enter on the line the distinct element of work contained in the contract to be performed or the goods to be provided by the prime bidder. Do not include goods or services to be provided by subcontractors.

Bidders certified as MB, SB, NWSA, and/or DVBE must provide a commercially useful function as defined in Military and Veterans Code Section 959 for DVBEs and Government Code Section 14837(d)(4)(A) for small/microbusinesses.

Bids must propose that certified bidders provide a commercially useful function for the resulting contract or the bid will be deemed non-responsive and rejected by the State. For questions regarding the solicitation, contact the procurement official identified in the solicitation.

**Note: A subcontractor is any person, firm, corporation, or organization contracting to perform part of the prime's contract.**

1.c. This item is only to be completed by businesses certified by California as a DVBE.

- (1) Declare whether the prime bidder is a broker or agent by marking either "Yes" or "No." The Military and Veterans Code Section 959.2 (b) defines "broker" or "agent" as a certified DVBE contractor or subcontractor that does not have title, possession, control, and risk of loss of materials, supplies, services, or equipment provided to an awarding department, unless one or more of the disabled veteran owners has at least 51-percent ownership of the quantity and value of the materials, supplies, services, and of each piece of equipment provided under the contract.
- (2) If bidding rental equipment, mark either "Yes" or "No" to identify if the prime bidder owns at least 51% of the equipment provided (quantity and value). If not bidding rental equipment, mark "N/A" for "not applicable."

2. If no subcontractors are proposed, do not complete the table. Read the certification at the bottom of the form and complete "Page \_\_\_\_ of \_\_\_\_" on the form.  
 If subcontractors will be used, complete the table listing all subcontractors. If necessary, attach additional pages and complete the "Page \_\_\_\_ of \_\_\_\_" accordingly.

### 2. (continued) Column Labels

**Subcontractor Name, Contact Person, Phone Number & Fax Number**—List each element for all subcontractors.

**Subcontractor Address & Email Address**—Enter the address and if available, an Email address.

**CA Certification (MB, SB, NWSA, DVBE or None)**—If the subcontractor possesses a current State of California certification(s), verify on this website ([www.apcure.pd.dps.ca.gov](http://www.apcure.pd.dps.ca.gov)).

**Work performed or goods provided for this contract**—Identify the distinct element of work contained in the contract to be performed or the goods to be provided by each subcontractor. Certified subcontractors must provide a commercially useful function for the contract. (See paragraph 1.b above for code citations regarding the definition of commercially useful function.) If a certified subcontractor is further subcontracting a greater portion of the work or goods provided for the resulting contract than would be expected by normal industry practices, attach a separate sheet of paper explaining the situation.

**Corresponding % of bid price**—Enter the corresponding percentage of the total bid price for the goods and/or services to be provided by each subcontractor. Do not enter a dollar amount.

**Good Standing?**—Provide a response for each subcontractor listed. Enter either "Yes" or "No" to indicate that the prime bidder has verified that the subcontractor(s) is in good standing for all of the following:

- Possesses valid license(s) for any license(s) or permits required by the solicitation or by law
- If a corporation, the company is qualified to do business in California and designated by the State of California Secretary of State to be in good standing
- Possesses valid State of California certification(s) if claiming MB, SB, NWSA, and/or DVBE status

**51% Rental?**—This pertains to the applicability of rental equipment. Based on the following parameters, enter either "N/A" (not applicable), "Yes" or "No" for each subcontractor listed.

- Enter "N/A" if the:
- Subcontractor is NOT a DVBE (regardless of whether or not rental equipment is provided by the subcontractor) or
  - Subcontractor is NOT providing rental equipment (regardless of whether or not subcontractor is a DVBE)

Enter "Yes" if the subcontractor is a California certified DVBE providing rental equipment and the subcontractor owns at least 51% of the rental equipment (quantity and value) it will be providing for the contract.

Enter "No" if the subcontractor is a California certified DVBE providing rental equipment but the subcontractor does NOT own at least 51% of the rental equipment (quantity and value) it will be providing.

**Read the certification at the bottom of the page and complete the "Page \_\_\_\_ of \_\_\_\_" accordingly.**

Public Contract Code Sections 10475-10481 applies to any company that currently or within the previous three years has had business activities or other operations outside of the United States. For such a company to bid on or submit a proposal for a State of California contract, the company must certify that it is either a) not a scrutinized company; or b) a scrutinized company that has been granted permission by the Department of General Services to submit a proposal.

If your company has not, within the previous three years, had any business activities or other operations outside of the United States, you do **not** need to complete this form.

**OPTION #1 - CERTIFICATION**

If your company, within the previous three years, has had business activities or other operations outside of the United States, in order to be eligible to submit a bid or proposal, please insert your company name and Federal ID Number and complete the certification below.

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that a) the prospective proposer/bidder named below is **not** a scrutinized company per Public Contract Code 10476; and b) I am duly authorized to legally bind the prospective proposer/bidder named below. This certification is made under the laws of the State of California.

<i>Company/Vendor Name (Printed)</i>		<i>Federal ID Number</i>
<i>By (Authorized Signature)</i>		
<i>Printed Name and Title of Person Signing</i>		
<i>Date Executed</i>	<i>Executed in the County and State of</i>	

**OPTION #2 – WRITTEN PERMISSION FROM DGS**

Pursuant to Public Contract Code section 10477(b), the Director of the Department of General Services may permit a scrutinized company, on a case-by-case basis, to bid on or submit a proposal for a contract with a state agency for goods or services, if it is in the best interests of the state. If you are a scrutinized company that has obtained written permission from the DGS to submit a bid or proposal, complete the information below.

We are a scrutinized company as defined in Public Contract Code section 10476, but we have received written permission from the Department of General Services to submit a bid or proposal pursuant to Public Contract Code section 10477(b). A copy of the written permission from DGS is included with our bid or proposal.

<i>Company/Vendor Name (Printed)</i>		<i>Federal ID Number</i>
<i>By (Authorized Signature)</i>		
<i>Printed Name and Title of Person Signing</i>		



## Attachment 7 – Small Business Certification

A Bidder desiring to claim the Small Business Preference as described in this RFP must complete this Attachment and return it with the Final proposal. All firms claimed as Small Businesses must have their complete certification information submitted to the California Department of General Services (DGS) by 5pm of the date that the Final Proposals are due.

1. Are you claiming preference as a DGS certified Small Business as described in RFP Section VIII.B.1.a?

Yes

No

If "Yes" submit your DGS Small Business certification number: \_\_\_\_\_

2. Are you a non-small business claiming small business preference by committing to at least 25% DGS certified Small Business subcontractor and/or supplier participation as described in RFP Section VIII.B.1.b?

Yes

No

If "Yes" on *Attachment 5: Bidder Declaration (GSPD-05-105)*, for each DGS certified Small Business subcontractor or supplier, identify:

- 1) Subcontractor or supplier name
- 2) Contact person
- 3) Mailing address
- 4) Phone number, fax number and email address
- 5) DGS Small Business certification number
- 6) Description of the work to be performed and/or products

## **Attachment 8 – Cost Proposal Sheet**

### **Cost Proposal Sheet (Cost Sheet) Instruction**

Bidders shall submit their bids detailing their costs using the format as illustrated in the following Cost Sheets. In the Cost Sheets, at the minimum, Bidders shall identify the following elements:

1. Names, position titles, and functionalities of all the team members who will perform the scope of work indicated in Exhibit A and are identified in Bidder's organization chart submitted with this RFP;
2. Number of hours to be spent by and billing rate of each team member;

Bidder shall include all of their costs for performing the scope of work indicated in Exhibit A. Bidders may add rows to the Cost Sheet, if necessary, and provide more detail in the Cost Proposal Sheet for the Commission's evaluation purpose. Any invoiced items of the awarded bidder (or the Contractor), which are not included in the accepted Cost Sheet, will automatically be rejected and denied for invoice payment. If Bidders' travel costs are on a reimbursement basis, travel cost reimbursement will be limited to the rates published by the Department of Personnel Administration (DPA) for State management (excluded) employees. Bidders must be aware that they must abide by these rates to obtain reimbursement for travel costs. For optional services, Bidders must use the recommended hours of each service category on the Cost Sheet to derive their costs of optional services for the cost evaluation purpose of this RFP.

Please note that the optional services may not require the total recommended hours for the awarded contractor to complete the services. According to Paragraph 10 of Exhibit D, Special Terms and Conditions, the time for performance of tasks and items within the budget, but not the total contract price, may be changed by written approval of the CPUC Project Manager. However, the date for completion, the total contract price, and scope, as well as, all other terms may be altered only by formal amendment of this contract.

**The Cost Sheets must be submitted in a separate sealed envelope. The envelope should be affixed to the outside of the proposal package and marked "Do Not Open – Costs for CPUC RFP 11PS5013, Independent Engineering Consultant - Evaluating Safety and Security Issues in PG&E 2014 Test Year GRC, Focus Area: Gas Distribution."**

Cost Sheet for Audit Required Services and Deliverables (Page 1 of 3) <u>Primary Contractor</u>	Col B # of Hours / Units	Col C Rate Per Hour/Unit	Col D (Col B x Col C) Total
--	--------------------------------	--------------------------------	-----------------------------------

**Direct Cost (Example: Direct Labor Rates of Staff and Management, etc.)**

Staff Level: (Name, Position, Functionality)  
 Staff Level:  
 Staff Level:  
 Staff Level:  
 Staff Level:  
 Staff Level:  
 Staff Level:  
 Staff Level:  
 Staff Level:  
 Staff Level:  
 Staff Level:  
 Staff Level:  
 Staff Level:  
 Staff Level:

Sub-Total, Direct Costs

**Indirect Costs (Example: Overhead, Fringe Benefits, etc.)**

Staff Level: (Name, Position, Functionality)  
 Description:  
 Description:  
 Description:  
 Description:

Sub-Total, Indirect Costs

**Other Costs (Example: Travel Costs, Supplies, etc.)**

Staff Level: (Name, Position, Functionality)  
 Description:  
 Description:  
 Description:  
 Description:  
 Description:  
 Description:

Sub-Total, Other Costs

**Total, Required Services**

Cost Sheet for Audit Required Services and Deliverables  
(Page 2 of 3) Subcontractor(s)

Col B  
# of Hours /  
Units

Col C  
Rate Per  
Hour/Unit

Col D  
(Col B x Col C)  
Total

**Direct Cost (Example: Direct Labor Costs of Staff and Management, etc.)**

Staff Level: (Name, Position, Functionality)

Staff Level:

Staff Level:

Staff Level:

Staff Level:

Staff Level:

Staff Level:

Staff Level:

Staff Level:

Staff Level:

Staff Level:

Staff Level:

Staff Level:

Sub-Total, Direct Costs

**Indirect Costs (Example: Overhead, Fringe Benefits, etc.)**

Staff Level: (Name, Position, Functionality)

Description:

Description:

Description:

Description:

Sub-Total, Indirect Costs

**Other Costs (Example: Travel Costs, Supplies, etc.)**

Staff Level: (Name, Position, Functionality)

Description:

Description:

Description:

Description:

Description:

Description:

Sub-Total, Other Costs

Total, Required Services

**Attachment 9 - Contract Certification Clauses**

CCC-307

**CERTIFICATION**

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

<i>Contractor/Bidder Firm Name (Printed)</i>		<i>Federal ID Number</i>
<i>By (Authorized Signature)</i>		
<i>Printed Name and Title of Person Signing</i>		
<i>Date Executed</i>	<i>Executed in the County of</i>	

1. **STATEMENT OF COMPLIANCE**: Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)

2. **DRUG-FREE WORKPLACE REQUIREMENTS**: Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

b. Establish a Drug-Free Awareness Program to inform employees about:

- 1) the dangers of drug abuse in the workplace;
- 2) the person's or organization's policy of maintaining a drug-free workplace;
- 3) any available counseling, rehabilitation and employee assistance programs; and,
- 4) penalties that may be imposed upon employees for drug abuse violations.

c. Every employee who works on the proposed Agreement will:

- 1) receive a copy of the company's drug-free workplace policy statement; and,
- 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)

4. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT: Contractor hereby certifies that contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lessor of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. EXPATRIATE CORPORATIONS: Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

6. SWEATFREE CODE OF CONDUCT:

a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal

sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at [www.dir.ca.gov](http://www.dir.ca.gov), and Public Contract Code Section 6108.

b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations, or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

7. DOMESTIC PARTNERS: For contracts over \$100,000 executed or amended after January 1, 2007, the contractor certifies that contractor is in compliance with Public Contract Code section 10295.3.

### **DOING BUSINESS WITH THE STATE OF CALIFORNIA**

The following laws apply to persons or entities doing business with the State of California.

1. CONFLICT OF INTEREST: Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (Pub. Contract Code §10410):

- 1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- 2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code §10411):

- 1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
- 2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

2. LABOR CODE/WORKERS' COMPENSATION: Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

3. AMERICANS WITH DISABILITIES ACT: Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

4. CONTRACTOR NAME CHANGE: An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.

b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.

c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. RESOLUTION: A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.



7. AIR OR WATER POLLUTION VIOLATION: Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

8. PAYEE DATA RECORD FORM STD. 204: This form must be completed by all contractors that are not another state agency or other governmental entity.

## Attachment 10 – Payee Data Record (STD 204)

STATE OF CALIFORNIA DEPARTMENT OF FINANCE

### PAYEE DATA RECORD

(Required when receiving payment from the State of California in lieu of IRS W-9)  
STD 204 (Rev. 8-2003)

<b>1</b>	<p><b>INSTRUCTIONS:</b> Complete all information on this form. Sign, date, and return to the State agency (department/office) address shown at the bottom of this page. Prompt return of this fully completed form will prevent delays when processing payments. Information provided in this form will be used by State agencies to prepare Information Returns (1099). See reverse side for more information and Privacy Statement.</p> <p><b>NOTE:</b> Governmental entities, federal, State, and local (including school districts), are not required to submit this form.</p>	
<b>2</b>	<p><b>PAYEE'S LEGAL BUSINESS NAME</b> (Type or Print)</p> <p>_____</p> <p><b>SOLE PROPRIETOR – ENTER NAME AS SHOWN ON SSN</b> (Last, First, M.I.)      <b>E-MAIL ADDRESS</b></p> <p>_____</p> <p><b>MAILING ADDRESS</b>      <b>BUSINESS ADDRESS</b></p> <p>_____</p> <p><b>CITY, STATE, ZIP CODE</b>      <b>CITY, STATE, ZIP CODE</b></p> <p>_____</p>	
<b>3</b>	<p><b>ENTER FEDERAL EMPLOYER IDENTIFICATION NUMBER (FEIN):</b>      _____</p> <p><input type="checkbox"/> <b>PARTNERSHIP</b>      <b>CORPORATION:</b></p> <p><input type="checkbox"/> <b>ESTATE OR TRUST</b>      <input type="checkbox"/> <b>MEDICAL</b> (e.g., dentistry, psychotherapy, chiropractic, etc.)</p> <p>_____      <input type="checkbox"/> <b>LEGAL</b> (e.g., attorney services)</p> <p>_____      <input type="checkbox"/> <b>EXEMPT</b> (nonprofit)</p> <p><input type="checkbox"/> <b>INDIVIDUAL OR SOLE PROPRIETOR</b>      <input type="checkbox"/> <b>ALL OTHERS</b></p> <p><b>ENTER SOCIAL SECURITY NUMBER:</b>      _____</p> <p style="font-size: small;">(SSN required by authority of California Revenue and Tax Code Section 18546)</p>	<p><b>NOTE:</b> Payment will not be processed without an accompanying taxpayer I.D. number.</p>
<b>4</b>	<p><input type="checkbox"/> California resident - Qualified to do business in California or maintains a permanent place of business in California.</p> <p><input type="checkbox"/> California nonresident (see reverse side) - Payments to nonresidents for services may be subject to State income tax withholding.</p> <p style="margin-left: 20px;"><input type="checkbox"/> No services performed in California.</p> <p style="margin-left: 20px;"><input type="checkbox"/> Copy of Franchise Tax Board waiver of State withholding attached.</p>	
<b>5</b>	<p style="text-align: center;"><b>I hereby certify under penalty of perjury that the information provided on this document is true and correct. Should my residency status change, I will promptly notify the State agency below.</b></p> <p><b>AUTHORIZED PAYEE REPRESENTATIVE'S NAME</b> (Type or Print)      <b>TITLE</b></p> <p>_____</p> <p><b>SIGNATURE</b>      <b>DATE</b>      <b>TELEPHONE</b></p> <p>_____      _____      _____</p>	
<b>6</b>	<p>Please return completed form to:</p> <p><b>Department/Office:</b> _____</p> <p><b>Unit/Section:</b> _____</p> <p><b>Mailing Address:</b> _____</p> <p><b>City/State/Zip:</b> _____</p> <p><b>Telephone:</b> (____) _____      <b>Fax:</b> (____) _____</p> <p><b>E-mail Address:</b> _____</p>	

<b>1</b>	<p><b>Requirement to Complete Payee Data Record, STD. 204</b></p> <p>A completed Payee Data Record, STD. 204, is required for payments to all non-governmental entities and will be kept on file at each State agency. Since each State agency with which you do business must have a separate STD. 204 on file, it is possible for a payee to receive this form from various State agencies.</p> <p>Payees who do not wish to complete the STD. 204 may elect to not do business with the State. If the payee does not complete the STD. 204 and the required payee data is not otherwise provided, payment may be reduced for federal backup withholding and nonresident State income tax withholding. Amounts reported on Information Returns (1099) are in accordance with the Internal Revenue Code and the California Revenue and Taxation Code.</p>
<b>2</b>	<p>Enter the payee's legal business name. Sole proprietorships must also include the owner's full name. An individual must list his/her full name. The mailing address should be the address at which the payee chooses to receive correspondence. Do not enter payment address or lock box information here.</p>
<b>3</b>	<p>Check the box that corresponds to the payee business type. Check only one box. Corporations must check the box that identifies the type of corporation. The State of California requires that all parties entering into business transactions that may lead to payment(s) from the State provide their Taxpayer Identification Number (TIN). The TIN is required by the California Revenue and Taxation Code Section 18646 to facilitate tax compliance enforcement activities and the preparation of Form 1099 and other information returns as required by the Internal Revenue Code Section 6109(a).</p> <p>The TIN for individuals and sole proprietorships is the Social Security Number (SSN). Only partnerships, estates, trusts, and corporations will enter their Federal Employer Identification Number (FEIN).</p>
<b>4</b>	<p><b>Are you a California resident or nonresident?</b></p> <p>A corporation will be defined as a "resident" if it has a permanent place of business in California or is qualified through the Secretary of State to do business in California.</p> <p>A partnership is considered a resident partnership if it has a permanent place of business in California. An estate is a resident if the decedent was a California resident at time of death. A trust is a resident if at least one trustee is a California resident.</p> <p>For individuals and sole proprietors, the term "resident" includes every individual who is in California for other than a temporary or transitory purpose and any individual domiciled in California who is absent for a temporary or transitory purpose. Generally, an individual who comes to California for a purpose that will extend over a long or indefinite period will be considered a resident. However, an individual who comes to perform a particular contract of short duration will be considered a nonresident.</p> <p>Payments to all nonresidents may be subject to withholding. Nonresident payees performing services in California or receiving rent, lease, or royalty payments from property (real or personal) located in California will have 7% of their total payments withheld for State income taxes. However, no withholding is required if total payments to the payee are \$1,500 or less for the calendar year.</p> <p>For information on Nonresident Withholding, contact the Franchise Tax Board at the numbers listed below:      Withholding Services and Compliance Section: 1-888-792-4900 E-mail address: wscs.gen@ftb.ca.gov      For hearing impaired with TDD, call: 1-800-822-6268 Website: www.ftb.ca.gov</p>
<b>5</b>	<p>Provide the name, title, signature, and telephone number of the individual completing this form. Provide the date the form was completed.</p>
<b>6</b>	<p>This section must be completed by the State agency requesting the STD. 204.</p>
	<p><b>Privacy Statement</b></p> <p>Section 7(b) of the Privacy Act of 1974 (Public Law 93-579) requires that any federal, State, or local governmental agency, which requests an individual to disclose their social security account number, shall inform that individual whether that disclosure is mandatory or voluntary, by which statutory or other authority such number is solicited, and what uses will be made of it.</p> <p>It is mandatory to furnish the information requested. Federal law requires that payment for which the requested information is not provided is subject to federal backup withholding and State law imposes noncompliance penalties of up to \$20,000.</p> <p>You have the right to access records containing your personal information, such as your SSN. To exercise that right, please contact the business services unit or the accounts payable unit of the State agency(ies) with which you transact that business.</p> <p>All questions should be referred to the requesting State agency listed on the bottom front of this form.</p>

**Attachment 11 – Sample Standard Agreement**

**STANDARD AGREEMENT**  
 STD 213 (Rev 06/03)

AGREEMENT NUMBER

REGISTRATION NUMBER

1. This Agreement is entered into between the State Agency and the Contractor named below:

STATE AGENCY'S NAME

California Public Utilities Commission

CONTRACTOR'S NAME

SAMPLE OF STANDARD AGREEMENT

2 The term of this Agreement is: through

3. The maximum amount of this Agreement is: \$

4. The parties agree to comply with the terms and conditions of the following exhibits, which by this reference made a part of the Agreement.

The Contract is effective on the start date or upon approval which is later, and no work shall begin until that time.

Exhibit A – Scope of Work Page(s)

Exhibit B – Budget Detail and Payment Provis. Page(s)

Exhibit C\* – General Terms and Conditions Page(s)

Exhibit D – Special Terms and Conditions Page(s)

Exhibit E – Additional Provisions Page(s)

Items shown in this Agreement are hereby incorporated by reference and made part of this agreement as if attached hereto. These documents can be viewed at www.cpubs.das.ca.gov/Standard+Language

IN WITNESS WHEREOF, the parties have signed and caused to be signed by the parties hereto.

CONTRACTOR

CONTRACTOR'S NAME (if other than individual, state whether a corporation, partnership, etc.)

DATE SIGNED(Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

ADDRESS

STATE OF CALIFORNIA

AGENCY NAME

California Public Utilities Commission

BY (Authorized Signature)

DATE SIGNED(Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

ADDRESS

505 Van Ness Avenue, San Francisco, CA 94102

California Department of General Services Use Only

Exempt per:

**Exhibit A – Scope of Work**

1. Contractor agrees to provide to the California Public Utilities Commission (CPUC) the services described herein.
2. The services shall be performed at the CPUC's headquarters, contractor's office, and other places as needed in performing the services of this contract.
3. The services shall be provided during normal business hours.
4. The project representative for the term of this agreement will be:

State Agency Public Utilities Commission	Contractor:
Name:	Name:
Phone:	Phone:
Fax:	Fax:

Direct all inquiries to:

State Agency Public Utilities Commission	Contractor:
Section/Unit: Contracts Office	Section/Unit:
Attention: Contracts Manager	Attention:
Address: 505 Van Ness Ave, Room 2008 San Francisco, CA 94102	Address:
	Phone:
	Fax:

5. Contractor will perform the following tasks as determined to be necessary by CPUC staff and the CPUC Project Manager:

## **1. Project Description**

The California Public Utilities Commission (the Commission) is seeking to hire an independent, professional engineering consultant familiar with using and applying risk management methodologies and principles. In July 2012 PG&E will file a Notice of Intent for its Test Year (TY) 2014 General Rate Case Application. As part of this filing, the Commission will require that PG&E include a risk assessment or set of risk assessments, as appropriate, of its entire system, to support its GRC request. PG&E will also be expected to include comparisons of its operations and proposed programs to industry best practices. The Consultant chosen through the RFP to deliver services described herein will evaluate PG&E's testimony and proposals specifically with regard to the company's gas safety and security. This analysis will advise the Commission's Consumer Protection and Safety Division (CPSD) on the adequacy of PG&E's risk assessment(s). The analysis will also advise CPSD on the appropriate level of capital investment funding and Operations and Maintenance (O&M) expenditures necessary for PG&E to operate its system, comply with regulatory mandates, and continue to provide safe and reliable services to its customers, consistent with its risk assessment(s). CPSD seeks to better understand the probability and consequences of potential failures associated with PG&E's physical assets or physical systems and potential effects to public and utility employee safety. The analysis should first include a determination of whether PG&E's proposed options for projects and activities will reduce risks to the public and employees to a level at least as low as reasonably possible (ALARP). If it is determined that the options presented by the utility do that, the Consultant should perform a cost /benefit analysis to recommend the best option.

Prospective Bidders should, in their response to this Statement of Work, clearly articulate their approach to accomplishing project goals and completing deliverables and tasks with regard to the specific area of investigation described in this RFP. Additionally, Bidders' responses to this Statement of Work should demonstrate a comprehensive understanding of the Commission's General Rate Case (GRC) review process, the need and importance of incorporating a risk assessment evaluation into this process, and subject matter expertise related to the specific area of expertise identified in this RFP as well as the evaluation of risk assessment methodologies. Finally, the Bidder should provide specific examples of industry and/ or international standards proposed for use in their analysis, examples of possible evaluative criteria, and identify key reference documents that they would rely on.

## **2. Specific Area of Investigation**

The focus of this project will be:

### **Gas Distribution**

- Evaluation of PG&E's projected O&M expenditures and the risk assessment activities performed in developing the projected O&M expenditures.
- Evaluation of PG&E's Capital Investment Plans and their underlying risk assessments and vulnerability assessments, including but not limited to projects stemming from the Distribution Integrity Management Plan.

### **3. Tasks and Deliverables**

The following tables outline the primary tasks and deliverables that the Consultant will be expected to perform as part of this engagement. The Consultant should account and budget for all activities being performed, even if information in the table indicates that a task will be performed "as requested" or "optional" by the Commission. Additionally, the temporal order of some tasks may not ultimately reflect what is presented in this table, that is, some parts of analysis may need to be completed before other parts

<b>Phase I: Initial Analysis and Project Planning</b>	
<b>Task 1:</b> Develop the definitions of “failure,” “risk of failure,” “safety,” “safety-related,” “security,” “physical security” and “cyber security” that will be utilized during this engagement.	<b>Deliverable 1:</b> Memo with definitions; confirmed with CPSD Project Manager at a checkpoint meeting.
<b>Task 2:</b> Review the PG&E Notice of Intent (NOI) and identify the relevant portions applicable to this Scope of Work, in essence, define which parts of the NOI shall comprise the “safety and security related proposals” as specified in the March 5, 2012 letter from the Commission’s Executive Director to PG&E’s Sr. Vice President.	
<b>Task 3:</b> Based on results of Tasks (1) and (2), identify the relevant budget programs and Major Work Categories that are within the Scope of Work.	
<b>Task 4:</b> Participate in a “Deficiency Review” of the PG&E NOI, to review and evaluate whether the NOI contains sufficient information for the Consultant to conduct its independent evaluation.	<b>Deliverable 2:</b> Prepare a memorandum to identify and document the results of the Consultant’s Deficiency Review that CPSD may transmit to PG&E GRC Project Manager and to Commission’s Division of Ratepayer Advocates.
<b>Task 5:</b> Identify relevant industry standards and international risk assessment methodologies that will be used for analysis. In the absence of definitive federal standards, the Commission seeks to consider relevant standards and practices worldwide and across other industries for comparison purposes and to inform the Commission decision-makers about the best available practices in use in the international industry today. Identify the reference documents that are the best available industry standards or internationally recognized risk assessment frameworks that will govern the Consultant’s evaluation of PG&E risk assessment frameworks.	<b>Deliverable 3:</b> Communication to CPSD Project Manager regarding standards and risk assessment methodologies and a checkpoint meeting, as needed.
<b>Task 6:</b> Identify the elements and attributes of risk analysis, risk assessment and risk management that will be used for comparison purposes during this engagement, for each of the functional areas (electric distribution, electric generation or gas distribution, as specified in this RFP) and including a vulnerability assessment of physical security	



and cyber security.

**Task 7.** Identify the objective criteria or evaluative criteria that the Consultant will use in evaluating PG&E risk assessment frameworks. Please note: The Consultant is expected to develop objective or evaluative criteria for this technical review based on its professional judgment and expertise. This could include, but is not limited to, comparison of the adequacy of the PG&E risk assessment framework to the best available international standards for risk assessment in relevant industries.

**Deliverable 4:** Report to CPSD Project Manager regarding chosen criteria.

## Phase II: Primary Analysis

**Task 8:** Assess the adequacy of PG&E's assessment of the physical condition for the functional areas specified in this RFP (electric distribution, electric generation or gas distribution assets and the related systems); including the physical and cyber security and any associated vulnerabilities.

**Deliverable 5:** A Final Report including, but not necessarily limited to subchapters addressing the following areas and concerns:

A review of the testimony and analysis that PG&E provided in its risk assessment related to the safety-related capital investment expenditures and O&M expenses requested in the PG&E 2014 Test Year GRC Notice of Intent. The Final Report should be written with the following question in mind: Was the risk assessment performed in a professional manner consistent with the best available industry standards and practices?

Other specific questions and issues the Final Report should address include:

- Is the risk assessment based on standard engineering and concepts recognized and accepted in the industry today?
  - Has PG&E adequately assessed the physical condition of its system (physical assets and systems)?
- Are the projects prioritized by PG&E those that will address and mitigate the risks to public safety identified in the risk assessments? Did PG&E follow and use its risk assessments and project prioritization methods as it proposed to develop Capital Expenditures and O&M expense projections?
- Based on the available alternatives, did the Utility propose the prudent alternative? What alternatives were not considered? Is the data used to develop the alternatives verifiable and accurate?
  - Can the Consultant determine whether the proposed projects reduce the likelihood of incidents, accidents,

injuries, fatalities and property damage?

- Can the Consultant determine the potential reduction in injuries, fatalities, and/or property damage achieved by pursuing these safety related projects?
- Can the Consultant verify whether additional levels of spending in capital and O&M, would result in an associated or corresponding increase in the level of safety to the public and employees?
- Has PG&E assessed the probability and consequences of failure on employee and public and utility employee safety and the ability to continue providing service to customers, including critical customers?
- An assessment of the overarching decision-making framework that PG&E uses to determine its Capital Investment Plans and O&M expenses related to safety, including:
  - The quality of the decision analysis PG&E performed
  - The quality of the safety-related project prioritization methods used
- Appropriateness: Is the level of funding just and reasonable to mitigate the identified risks to public safety?
- Has the utility proposed adequate levels of funding (capital expenditures and O&M expenses) based on the necessary safety improvements identified by the risk assessments?
- Compared to an identified norm or standard, are PG&E's methods consistent with industry best practices?
- Are PG&E's methods consistent with any evidence-based studies?
- Are there recommendations related to CPSD inspections and audits identifying findings, nonconformance, or violations that ought to be considered priorities for the mitigation of safety concerns from Commission inspections and audits?

**Additional Activities (To be completed concurrently with other Phase activities)**

**Optional Phase III: More Detailed Cyber Security Review**

**Task 9:** For the subject area of analysis, at the request of the CPSD Project Manager, the Consultant should be prepared to analyze PG&E's current physical and cyber security structure and identify vulnerabilities, and make recommendations. The consultant should work with PG&E's security officers and CPUC staff to review PG&E's security program for critical infrastructure protection and determine if PG&E:

- Performs an internal security review.
- Addresses all required security program elements based on recognized industry resources such as NISTIR 7628 as reference when performing cyber security review.
- Includes in its security review annual report the findings, corrective actions and PG&E prepares, implements, and tracks the corrective plans and schedule to completion.
- Trains its senior management and front-line employees in emergency response, terrorism/criminal activity, natural disasters, and training the employees on identifying and reporting suspicious behaviors (anti-terrorism training).
- Performs Threat and Vulnerability Assessments (TVA) for physical and cyber security and identifies facilities and systems containing critical assets and whether PG&E has implemented a background screening process for all new hires and contractors.
- The Contractor should evaluate whether there are software issues within PG&E as most security breaches happen within the company and not from outside sources, and Evaluate PG&E's security officers' knowledge on internal network security, for example, whether most security breaches happen within the company.
- The Contractor should evaluate how the hardware and wiring are set up to identify potential risk or if there is a standard protection of encryption, dedicated IPs, Firewalls, VPN tunnels, and MAC filtering which are all standard of practices.

**Deliverable 6:** Report of analysis.

<p><b>Task 10:</b> Review and assess prudence of analysis and recommendations made by other Parties (DRA, TURN, and other intervenors to PG&amp;E 2014 Test Year GRC).</p>	<p><b>Deliverable 7:</b> Summary memo for CPSD Project Manager.</p>
<p><b>Task 11:</b> Provide expert witness testimony, as needed. In its proposal, the Consultant should separately identify the expenses related to appearing as an expert witness to support its Final Report findings if requested to appear by CPSD Project Manager (traveling, testifying within the timeframe set for the PG&amp;E 2014 Test Year GRC hearing schedule, and post-hearing activities). The standard timeframe for a CPUC GRC is show in in D.07-07-004 (link below).  <a href="http://docs.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/70174.htm">http://docs.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/70174.htm</a></p>	<p><b>Deliverable 8:</b> Upon request, the Consultant will be available to appear at the Evidentiary Hearing and be cross-examined by other parties at the hearing. The Consultant will provide its work papers that support its Final Report at the time the Final Report is accepted by CPSD.</p>
<p><b>Task 12:</b> Education and knowledge transfer to Commission staff. Consultant will provide recommended “evaluative criteria” (i.e. objective criteria, acceptance criteria) that Commission staff will use to perform these analyses in the future.</p>	<p><b>Deliverable 9:</b> Throughout all phases of the project the Consultant will be called upon to provide detailed memos and up to day-long training sessions to that outline and document the analytical steps they've used as a way to enable staff to perform the evaluation itself in the future. There will also be a final "lessons learned" session to conclude the engagement.</p>

**4. Timeframe:** The Final Report (Deliverable #5) and all tasks and deliverables preceding the report will be received by the CPUC within six months from contract signing. All other deliverables will be completed within twelve months from contract signing.

**5. Location:** The primary location will be the San Francisco CPUC office, located at 505 Van Ness St. Some travel to PG&E offices may be required.

**6. Acceptance Criteria**

If a written deliverable is not accepted, CPSD will provide the rationale in writing within five days of receipt of the deliverable. All written deliverables must be in an electronic format that can be used by the CPUC. The final report may be a PDF, but must be accompanied by source documents, that is, the original MS Word and Excel documents used to create all text, tables, and data used therein. In addition, all external research used to support the final report must be fully cited.

**7. Other Reporting Requirements**

The contractor will provide status reports as deemed appropriate and necessary by CPSD.

## **Exhibit B – Budget Detail and Payment Provisions**

### **1. Invoicing and Payment**

A. For services satisfactorily rendered, and upon receipt and approval of the invoices, the State agrees to compensate the Contractor for actual expenditures incurred in accordance with the rates specified herein, which is attached hereto and made a part of this Agreement.

#### **B. Compensation**

As compensation for the satisfactory completion of the services as specified in **Exhibit A**, Contractor shall be entitled to a sum not to exceed **\$ X** unless the amount is increased by amendment hereto as provided in Exhibit C. Payments not to exceed this total sum shall be made as set forth in the attached schedule. Billing rates shall be as specified in **Attachment 1**.

#### **C. Testifying**

If the CPUC directs the Contractor to testify in support of the Contractor's work product(s), the Contractor shall be compensated for services related to the preparation and offer of testimony as described in **Exhibit A** at the rates specified in **Attachment 1**. Payment for attendance at such occasions shall be made only for those persons specified by the Commission's Project Manager.

#### **D. Travel and Other Expenses**

State will reimburse Contractor for reasonable travel expenses incurred in the performance of this Agreement. Reasonable travel expenses are defined as transportation, lodging, meals and incidental expenses in conformance with State rules and regulations. Travel expenses will be reimbursed at the same rate as provided for State management employees, as outlined in Standard Form 262. Total expenses claimed under this Agreement shall be included in the total amount encumbered **\$ X** under this Agreement.

#### **E. Invoices**

Invoices shall include the Agreement Number and shall be submitted in quadruplicate not more frequently than monthly in arrears to:

California Public Utilities Commission  
Contracts Office, Room 2008  
505 Van Ness Ave.  
San Francisco, CA 94102

Said invoices will be subject to verification and approval by the Commission's Contract Manager and Project Managers, and shall include the name, address, and I.D. Number of the Contractor. Invoices shall also include a summary identifying the amount claimed for each task, the category(s) of professional services as identified in Contractor's Proposal/work plan or work order, the number of hours claimed for each task and the total claimed, a description of the labor services provided, the amount of the invoice, and an authorized Contractor signature. The invoice must also include a brief narrative progress report describing the context of the work completed during the invoice period. Travel expenses will be claimed in accordance with the regulations specified in Section 1.D above.

Progress payment will be made monthly, in arrears, on the basis of work performed towards completion of the contract deliverables. Ten percent (10%) retention shall be withheld from each invoice including billable hours and expenses. The retention shall become payable upon the satisfactory completion of the Agreement or at the completion of each separate task if the specific task is not a foundation for succeeding tasks leading to the completion of a finished project, report or

plan.

**2. Budget Contingency Clause**

- A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.
- B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an agreement amendment to Contractor to reflect the reduced amount.

**3. Prompt Payment Clause**

Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927.

### **Exhibit C - General Terms and Conditions**

The General Terms and Conditions will be included in the agreement by reference to the following website:

<http://www.documents.dgs.ca.gov/ols/GTC-610.doc>

The contract will adhere to General Terms and Conditions – 610.



## **Exhibit D - Special Terms and Conditions**

### **1. Excise Tax**

The State of California is exempt from federal excise taxes, and no payment will be made for any taxes levied on employees' wages. The State will pay for any applicable State of California or local sales or use taxes on the services rendered or equipment or parts supplied pursuant to this Agreement. California may pay any applicable sales and use tax imposed by another state.

### **2. Settlement of Disputes**

In the event of a dispute, Contractor shall file a "Notice of Dispute" with the California Public Utilities Commission, Executive Director or designee within ten (10) days of discovery of the problem. Within ten (10) days, the Executive Director or designee shall meet with the Contractor and Project Manager for purposes of resolving the dispute. The decision of the Executive Director or designee shall be final.

In the event of a dispute, the language contained within this Agreement shall prevail over any other language including that of the bid proposal.

### **3. Evaluation of Contractor**

Performance of the Contractor under this Agreement will be evaluated. The evaluation shall be prepared on Contract/Contractor Evaluation Sheet (STD 4), an addendum maintained in the Agreement file. For consultant agreements, a copy of the evaluation will be sent to the Department of General Services, Office of Legal Services, if it is negative and over \$5,000.

### **4. Potential Subcontractors**

Nothing contained in this Agreement or otherwise, shall create any contractual relation between the State and any subcontractors, and no subcontract shall relieve the Contractor of his responsibilities and obligations hereunder. The Contractor agrees to be as fully responsible to the State for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Contractor. The Contractor's obligation to pay its subcontractors is an independent obligation from the State's obligation to make payments to the Contractor. As a result, the State shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor.

### **5. DVBE SB548 – Replacement of Disabled Veteran Business Enterprise Subcontractors**

Contractor understands and agrees that should award of this contract be based in part on their commitment to use the Disabled Veteran Business Enterprise (DVBE) subcontractor(s) identified in their bid or offer, per military and Veterans Code 999.5 (e), a DVBE subcontractor may only be replaced by another DVBE subcontractor and must be approved by the Department of General Services (DGS). Changes to the scope of work that impact the DVBE subcontractor(S) identified in the bid or offer and approved DVBE substitutions will be documented by contract amendment.

Failure of Contractor to seek substitution and adhere to the DVBE participation level identified in the bid or offer may be cause for contract termination, recovery of damages under rights and remedies due to State, and penalties as outlined in M&VC § 999.9; Public Contract Code (PCC) § 10115.10, or PCC § 4110 (applies to public works only).

## **Exhibit E - Additional Provisions**

### **1. Consultant - Staff Expenses**

The Contractor represents that it has or shall secure at its own expense, all staff required to perform the services described in this Agreement. Such personnel shall not be employees of or have any contractual relationship with any governmental entity.

### **2. Subcontracts**

Contractor shall submit any proposed subcontracts to the State for its written approval before entering into the same. No work shall be subcontracted without the prior approval of the State. Upon termination of any subcontract, the State shall be notified immediately.

If the terminated subcontractor is a DVBE, the contractor must replace the subcontractor within the same participation category and such replacement must be approved by the Commission. Failure to adhere to DVBE Participation may be cause for contract termination and recovery of damages under the rights and remedies due the state under the default section of the contract. The Agreement shall permit the State to audit the Contractor to verify compliance with DVBE regulations.

### **3. Relationship with Contractor and Subcontractor**

Contractor shall be responsible for all actions of subcontractors and all payment to subcontractors. Failure of a subcontractor to perform for any reason shall not relieve Contractor of the responsibility for competent and timely performance of duties under this contract. Commission staff will not deal with subcontractors except through Contractor's Project Manager.

All requests for changes of work within this contract shall be in writing between the Project Manager for Commission and the Project Manager for Contractor.

### **4. Commission Staff**

Commission staff will be permitted to work side by side with Contractor's staff to the extent and under conditions directed by the Commission's Project Manager. In this connection, Commission staff will be given access to all data, working papers, etc., which Contractor may seek to utilize.

### **5. Use of State Personnel**

Contractor will not be permitted to use State personnel for the performance of services which are the responsibility of Contractor unless such use is previously agreed to in writing by the Commission's Project Manager, and an appropriate adjustment in price is made. No charge will be made to contractor for the services of State employees performing coordination or monitoring functions.

### **6. Changes in Time for Performance of Tasks**

The time for performance of tasks and items within the budget, but not the total contract price, may be changed by written approval of the Commission's Project Manager. However, the date for completion, the total contract price, and scope, as well as, all other terms may be altered only by formal amendment of this contract.

### **7. Change of Personnel**

Contractor and Subcontractor's key personnel as indicated in the attached resumes may not be substituted without the Commission's Contract Manager's prior written approval.

## **8. Ownership of Data**

Data developed for this contract shall become the property of the State. It shall not be disclosed without the permission of the Commission's Project Manager. Each report shall also become the property of the State and shall not be disclosed except in such manner and such time as the Commission's Project Manager may direct, with the exception of data which have become part of the public records of the State, as discussed in Paragraph 9.

## **9. Confidentiality of Data/Nondisclosure Agreement**

The Consultant ("Signatory"), by signing this Agreement agrees to perform the task(s) under this Agreement. The signatory recognizes that it must have full and unfettered access to information and documents within the knowledge and possession of various entities under the regulatory jurisdiction of the Commission. The Signatory also recognizes that some of this information may be proprietary, confidential, or privileged in nature.

The Signatory further recognizes that the Commission Staff has broad statutory authority to compel the production of such information subject to the provisions of Public Utilities Code 583 and General Order 66 -C. The Signatory understands that these legal provisions generally preclude public disclosure of information obtained in confidence except during the course of a public hearing or with permission of the Commission.

The Signatory acknowledges that it has received a copy and read Public Utilities Code Section 583 and General Order 66-C, and agrees to be subject to and to fully comply with these legal provisions in discharging its responsibilities. Such compliance includes abiding by the terms of prohibiting public disclosure of confidential information and submitting to the jurisdiction of the Commission for the purposes of enforcing Public Utilities Code Section 583.

The Signatory further recognizes that much of the information obtained during the course of its work for the Commission may be subject to other privileges for nondisclosure, and may not be disclosed without the consent of the Commission or its Staff who include, but are not limited to, attorney work product privilege, the official information privilege, the attorney-client privilege, and other prohibitions precluding disclosure of confidential information.

The Signatory agrees not to disclose any information regarding its work to third parties except with the Commission Staff's express written consent, and to return all documents obtained during the course of the Agreement. The signatory agrees to notify the Commission Staff of any inquires and/or request for disclosure from any such third parties.

The Signatory will not comment publicly to the press or any other media regarding its work, or the Commission's action on the same, except to the Commission Staff, Signatory's own personnel and/or subcontractors involved in the completion of tasks under this agreement, or at a public hearing, or in response to questions from a legislative committee.

In addition, the Signatory agrees that prior to commencement of any work associated with this Agreement, the signatory shall: (1) provide a copy of this section of the Agreement, Public Utilities

Code Section 583 and General Order 66-C to all who will be performing tasks under this Agreement; and (2) inform all those working under this Agreement that they are such to these legal provisions and must comply with Confidentiality of Data Agreement/Nondisclosure Section.

Ninety days after any document submitted has become a part of the public records of the State, Signatory may at its own expense, publish or utilize the same but shall include the following legend:

### LEGAL NOTICE

This report was prepared as an account of work sponsored by the California Public Utilities Commission. It does not necessarily represent the views of the Commission or any of its employees except to the extent, if any, that it has formally been approved by the Commission at a public meeting. For information regarding any such action, communicate directly with the Commission at 505 Van Ness Avenue, San Francisco, California 94102. Neither the Commission nor the State of California, nor any officer,

employee, or any of its contractors or subcontractors makes any warranty, express or implied, or assumes any legal liability whatsoever for the contents of this document.

#### **10. Termination-Bankruptcy**

In the event proceedings in bankruptcy are commenced against the Contractor, it is adjudged bankrupt, or a receiver is appointed and qualifies, the State may terminate this agreement by giving five days' notice in writing to the Contractor.

#### **11. Termination at State's Option**

State may at its option terminate this contract, with or without cause, at any time upon giving 30 days notice in writing to Contractor. In such event, Contractor agrees to use all reasonable efforts to mitigate its expenses and obligations hereunder. In such event, State shall pay Contractor for all satisfactory services rendered prior to such notice of termination and for all expenses incurred by Contractor prior to said termination which are not included in charges for service rendered prior to termination and which could not by reasonable efforts of Contractor have been avoided.

#### **12. Termination in Event of Breach**

In the event of any breach of this contract, the State may without any prejudices to any of its other legal remedies terminate this contract upon five days' written notice to the Contractor.

#### **13. Waiver**

No waiver of any breach of this contract shall be held to be a waiver of any other or subsequent breach. All remedies afforded in this contract shall be taken and construed as cumulative: that is, in addition to every other remedy provided herein or by law. The failure of State to enforce at any time any of the provisions of this agreement, or to require at any time performance by Contractor of any of the provisions thereof, shall in no way be construed to be a waiver of such provision nor in any way to affect the validity of this agreement or any part thereof or the right of State to thereafter enforce each and every such provision.

#### **14. Gratuities**

- A. The State may, by written notice to the Contractor, terminate the right of Contractor to proceed under this contract if it is found, after notice and hearing by the State or by Executive Director of the Public Utilities Commission or duly authorized representative, that gratuities were offered or given by the Contractor, or any agent or representative of the Contractor, to any officer or employee of the State with a view toward securing a contract, securing favorable treatment with respect to award amendment, or the evaluation of performance of such contract, provided that the facts upon which either the Commission or the Executive Director makes such findings may be reviewed in any competent court.
- B. In the event this contract is terminated as provided in paragraph 14(A), State shall be entitled (i) to pursue the same remedies against Contractor as it could pursue in the event of the breach of the contract by the Contractor, and (ii) to a penalty in addition to any other damages to which it may be entitled by law, and to exemplary damages in an amount which shall be not less than three nor more than ten times the cost incurred by the Contractor in providing any such gratuities to any such officer or employee.

The rights and remedies of State provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

#### **15. Conflict of Interest**

Contractor agrees to refrain from entering into any relationship which could result in a conflict of interest in the performance of this Agreement; and to notify the Commission's Project Manager promptly of any potential conflict of interest, including sub-contractors. The Commission may exercise its option to terminate this Agreement if a conflict is found.

**16. Agreement is Complete**

Other than as specified herein, no document or communication passing between the parties hereto shall be deemed a part of this Agreement.

**17. Captions**

The clause headings appearing in this agreement have been inserted for the purpose of convenience and ready reference. They do not purport to and shall not be deemed to define, limit, or extend the scope or intent to the clauses to which they appertain.

**18. Force Majeure**

Neither party shall be liable to the other for any delay in or failure of performance, nor shall any such delay in or failure of performance constitutes default, if such delay or failure is caused by "Force Majeure." As used in this section, "Force Majeure" is defined as follows: Acts of war and acts of god such as earthquakes, floods and other natural disasters such that performance is impossible.

**19. Counterparts (OPTIONAL)**

For the convenience of the parties, any number of counterparts of this Agreement may be executed by the parties hereto. Each such counterpart shall, and shall be deemed to be, an original instrument, but all such counterparts taken together shall constitute one and the same agreement.