

Blue Mountain Translator District

LPTV Station

OTT Streaming

Request for Proposal

Date of Issue: February 21, 2020

Closing Date and Time: March 13, 2020 at 12:00 PM PST

Single Point of Contact (SPC): Alex McHaddad, Executive Director

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Blue Mountain Translator District promotes equal opportunity for all individuals without regard to age, color, disability, marital status, national origin, race, religion or creed, sex or gender, sexual orientation, or veteran status.

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General Information

Introduction

Blue Mountain Translator District is issuing this Request for Proposals for a low power television station authorized by the Oregon Legislative Assembly in SB 394 (2019). Operations for this channel will be supported by station donors and underwriters who will receive enhanced recognition in signals broadcast by BMTD and delivered via other means to distribute signals. Alongside an over-the-air channel, BMTD intends to launch a streaming version of the channel and consider distribution on a cable TV channel.

The channel will operate in accordance with a Strategic Plan Approved by the Board of Directors. Channel operations will be overseen by the LPTV Advisory Committee.

BMTD will award a contract to create a version of the channel delivered "Over the Top" to view on the World Wide Web by individuals who pay a service charge to maintain translators operated by the District. A vendor will provide all physical and digital components of a streaming service for operation in northeast Oregon. A vendor that can provide components for a streaming service that can be used to deliver content via alternative methods, including over the air broadcast, cable TV, and additional online platforms, is preferred.

Schedule

Event	Date	Time
Posting/Distribution of RFP:	February 21, 2020	9:00 AM
Questions / Requests for Clarification Due	February 28, 2020	12:00 PM
Answers to Questions / Requests for Clarification Issued (approx.)	March 6, 2020	
RFP Protest Period Ends	7 calendar days prior to RFP Closing	
Closing (Proposal Due)	March 13, 2020	
Opening of Proposal	March 16, 2020	9:00 AM

Presentations, Demonstrations, or Interviews	March 17, 2020 - March 21, 2020
Issuance of Notice of Intent to Award (approx.)	March 25, 2020
Award Protest Period Ends	7 calendar days after Notice of Intent to Award

Single Point of Contact

The SPC for this RFP is identified on the Cover Page, along with the SPC's contact information. Proposer shall direct all communications related to any provision of the RFP only to the SPC, whether about the technical requirements of the RFP, contractual requirements, the RFP process, or any other provision.

Authority, Overview, and Scope

Authority and Method

BMTD is issuing this RFP pursuant to its authority under ORS 354.675.

BMTD is using the Competitive Sealed Proposal method, pursuant to ORS 279B.060 and OAR 125-247-0260. BMTD may use a combination of the methods for Competitive Sealed Proposals, including optional procedures: a) Competitive Range; b) Discussions and Revised Proposals; c) Revised Rounds of Negotiations; d) Negotiations; e) Best and Final Offers; and f) Multistep Sealed Proposals.

Definition of Terms

For the purposes of this RFP, capitalized words are defined in OAR 125-246-0110 or as defined below.

- Cable TV: Delivery of television signals to TV viewers via physical cables run directly between headends and structures.
- Low Power Television (LPTV): TV stations with effective radiated power of less than 15 kW.
- Noncommercial Station: Broadcast station that is not funded by the sale of advertisements.
- Translator: Broadcast station that relays signals from one geographic region to another.
- Translator District: In Oregon, a special district authorized by ORS Chapter 354 to operate TV relay stations.
- Over The Air (OTA): Distribution of content from broadcast stations that can be received using an antenna.

- Over The Top (OTT): Distribution of content online that can be viewed on the web or mobile devices.
- PEG TV: Public, educational, and government access TV channels distributed via cable TV.

Overview and Purpose

District Overview and Background

Blue Mountain Translator District is a local government special district created in 1978 to retransmit TV signals from Portland and Boise in Baker and Union Counties in northeast Oregon.

Project Overview and Background

In 2019, the Oregon Legislative Assembly passed SB 394, which authorized translator districts to own and operate their own low power television stations. SB 394 also authorizes translator districts to "Distribute signals for the channels and subchannels via alternative methods." Blue Mountain Translator District is prioritizing the creation of a noncommercial LPTV station serving northeast Oregon with the intent to have a viable version of the channel operating by Q3 2020, either as an operational LPTV station, or a streaming website accessible to residents who pay an annual service charge to maintain BMTD's translators. BMTD may pursue broadcast of this channel on cable TV service in the future.

Due to uncertainty with the regulatory approval process at the Federal Communications Commission, BMTD aims to have an OTT version of a local LPTV station operational by Q3 2020 regardless of whether an OTA channel is broadcasting. A vendor that can create a streaming service will be preferred if the components necessary to create a streaming service can simultaneously be utilized to distribute content via alternative methods, including streaming, cable TV, and other online platforms.

Purpose

As proposed at legislative hearings on SB 394, the primary purpose of the operation of LPTV stations by translator districts is to distribute local news and information, and generate additional revenue to operate TV translators. BMTD intends to promote the creation and distribution of media on the District's local distribution outlets, as well as other public access channels and services throughout the state, region, and country. Finally, BMTD hopes to reinvest in the communities where content is created by sharing revenue from OTT advertising, and OTA donations and underwriting, with content creators.

An OTT streaming service allows BMTD to ensure that content is distributed through several alternative methods. Access to an OTT

version of an LPTV station will be a valuable component of service offered to NE Oregon TV viewers by the District. If components of an OTT service can be used to distribute signals via alternative methods, creating the OTT service in 2020 regardless of whether an OTA station is operating provides district officials with time to become familiar with operating procedures. The Board of Directors believes that this is an acceptable timeline to create the OTT service.

Scope of Work/Specifications - Streaming Service

The ideal vendor must provide both physical equipment and online components necessary to create and maintain a streaming service. Due to the prevalence of existing firms specializing in creating OTT versions of TV channels, BMTD will review offerings from firms already providing this service rather than list project specifications.

Elements of the ideal streaming service include:

- The restriction of access to content for viewers who have paid a service charge to BMTD.
- The ability to distribute multiple live feeds of continuous content.
- The ability to maintain online archives of content for on-demand view by viewers.
- The ability to use equipment and online components to distribute content via alternative methods, including OTA broadcast, cable TV, and additional online platforms.
- The creation and maintenance of applications to view live video streams and archived content on additional platforms besides a web browser, including smart TV's and mobile devices.
- Methods for syndicating content procured by the District, as well as for receiving syndicated content distributed by other TV stations and content creators.

Procurement Requirements

Minimum Qualifications

The primary goal of this RFP is to contract with an entity capable of creating an OTT version of an LPTV channel. To be considered for evaluation as a Sponsor Recruitment partner, the Proposal must demonstrate how Proposer meets all requirements of this section:

- Proposer must be appropriately licensed to conduct business in the state of Oregon.
- Proposer must demonstrate a history of creating and maintaining OTT versions of TV channels. Preference will be given to entities that currently create OTT versions of PEG Channels.
- Proposer must employ the personnel necessary to create and maintain an OTT version of BMTD's channel.

- Proposer must include testimonials and references from customers for whom they have provided services.
- Proposer may include awards and recognitions for services they provide.
- Proposer must include D&B rating.

Minimum Submission Requirements

Proposal Submissions

To be considered for evaluation, Proposal must contain each of the following elements (further detailed in Proposal Requirements section below):

- Executive Summary
- Administrative Proposal
- Technical Proposal
- Disclosure Exemption Affidavit (Attachment B) - submit 1 copy only
- Proposer Information and Certification Sheet (Attachment C)
- Reference Check Form (Attachment D)
- Price Proposal Form (Attachment E)
- COBID Certification / Outreach Plan (Attachment F) - submit 1 copy only
- Responsibility Inquiry (Attachment G) - submit 1 copy only
- Key Persons and Resumes
- Work Samples

Proposal Page Limits

Proposal is limited to 30 pages. Any pages exceeding this limit will not be provided to the evaluation committee or considered in the evaluation. The following items do not count toward the page limit:

- Disclosure Exemption Affidavit (Attachment B)
- Proposer Information and Certification Sheet (Attachment C)
- Reference Check forms
- Price Proposal
- COBID Certification / Outreach Plan (Attachment F)
- Responsibility Inquiry (Attachment G)
- Work samples

Proposal Format and Quantity

Proposal should follow the format and reference the sections listed in the Proposal Requirements section. Responses to each section and subsection should be labeled to indicate the item being addressed. Price information must be submitted as a separate electronic file/sealed envelope.

OPTION 1 - hard copies only

Proposer shall submit its Proposal and all other submittal requirements using only white 8 ½" x 11" Recycled Paper, minimum 12 point font. Proposer shall submit a copy of its Proposal and all other submittal requirements, with Attachment C - Proposer Information and Certification Sheet bearing the Proposer's authorized representative's Signature, and XX additional copies. If Proposer believes any of its Proposal is exempt from disclosure under Oregon Public Records Law (ORS 192.311 through 192.478), Proposer shall complete and submit the Disclosure Exemption Affidavit (Attachment B) and Proposer also shall submit a fully redacted version of its Proposal, clearly identified as the redacted version.

Proposer shall submit its Proposal in a sealed package addressed to the SPC with the Proposer's name and the RFP number clearly visible on the outside of the package.

OPTION 2 - electronic copy only

Proposer shall submit one copy of its Proposal and all other submittal requirements, with Attachment C - Proposer Information and Certification Sheet bearing the Proposer's authorized representative's Signature, on USB drive, DVD, or CD in one of the following formats: Adobe Acrobat (pdf), Microsoft Word (docx), or Microsoft Excel (xlsx). The total combined file size of all documents should be compressed so it does not exceed 10 megabytes. If Proposer believes any of its Proposal is exempt from disclosure under Oregon Public Records Law (ORS 192.311 through 192.478), Proposer shall submit a fully redacted version of its Proposal, clearly identified as the redacted version.

OPTION 3 - combination

Proposer shall submit both a hard copy on white 8 ½" x 11" Recycled Paper and an electronic copy on electronic media such as USB drive, DVD, or CD. The total combined size of the Proposal and Coversheet should be compressed so it does not exceed 10 megabytes.

The Proposer Information and Certification Sheet (Attachment C) must bear the Proposer's authorized representative's Signature. If Proposer believes any of its Proposal is exempt from disclosure under Oregon Public Records Law (ORS 192.311 through 192.478), Proposer shall submit a fully redacted version of its Proposal, clearly identified as the redacted version.

Proposer shall submit its Proposal in a sealed package addressed to the SPC with the Proposer's name and the RFP number clearly visible on the outside of the package.

Proposer's electronic copy of the Proposal on USB drive, DVD, or CD must be formatted using Adobe Acrobat (pdf), Microsoft Word (docx), or Microsoft Excel (xlsx).

Authorized Representative

Failure of the authorized representative to sign the Proposal may subject the Proposal to rejection by BMTD.

Proposal Requirements

Proposal must address each of the items listed in this section and all other requirements set forth in this RFP. Proposer shall describe the Goods to be provided or the Services to be performed or both. A Proposal that merely offers to provide the goods or services as stated in this RFP may be considered non-Responsive to this RFP and will not be considered further.

Proposal should not include extensive artwork, unusual printing or other materials not essential to the utility and clarity of the Proposal. Include only marketing or advertising material in the Proposal as requested in the Minimum Requirements section. Proposal should be straightforward and address the requests of the RFP. Proposal containing unsolicited marketing or advertising material may receive a lower evaluation score if specific information is difficult to locate.

Proposer Information and Certification Sheet

Proposer shall complete and submit the Proposer Information and Certification Sheet (Attachment C).

Failure to demonstrate compliance with Oregon Tax Laws and sign the Proposer Information and Certification Sheet may result in a finding of non-Responsibility.

References

Provide 5 references from current or former client firms for similar projects performed for any clients within the last 5 years. References must be able to verify the quality of previous, related Work.

BMTD may check to determine if references provided support Proposer's ability to comply with the requirements of this RFP. BMTD may use references to obtain additional information, or verify any information needed. BMTD may contact any reference (submitted or not) to verify Proposer's qualifications.

OPTION 1 - Reference sends completed reference form to SPC

Proposer shall send the Reference Check Form (Attachment D) to its references. Reference forms must be completed by the reference, and sent to the SPC. Reference forms must be received prior to Closing. Reference forms not received before Closing will not be scored.

Price Proposal

- For each activity described in the Scope of Work, the Price Proposal must include identifiable costs indicated both as a desired commission from OTA sponsor recruitment and OTT ad sales, along with the dollar amount necessary to make this venture financially viable for the Proposer(s). Include time estimates for completing each activity, and a summary of all proposed costs.
- The Price Proposal must include separate line items for personnel, travel, supplies, other costs, and administrative and overhead charges.
- For all fully loaded personnel costs, the Price Proposal must include the name and title of all positions for each individual staff person who will perform the Work, and list the salary/wage and fringe rate separately for each such individual.

Key Persons and their Resumes

Specify key persons to be assigned to this project, and include a current resume (not to exceed two pages each) for each individual that demonstrates qualifications and experience for the Work described.

Project Implementation Plan

Briefly describe how Proposer would carry out the major activities of this project in context with the Scope of Work. Provide a comprehensive management plan that the Proposer intends to follow. Illustrate how the plan will serve to coordinate and accomplish the Work.

Solicitation Process

Public Notice

The RFP and attachments are published on BMTD's website; announced in local newspapers serving northeast Oregon, southeast Washington, and Idaho's Treasure Valley region; and provided to potential partners solicited by BMTD due to their geographic proximity to the District. RFP documents will not be mailed to prospective Proposers.

Modifications, if any, to this RFP will be made by written Addenda published in the document on BMTD's website, with notifications provided to prospective proposers by email only. Prospective Proposer is solely responsible for checking BMTD's website and email inbox to determine whether or not any Addenda have been issued. Addenda are incorporated into the RFP by this reference.

Pre-Proposal Conference

A Pre-Proposal conference will not be held for this RFP.

Questions/Requests for Clarifications

All inquiries, whether relating to the RFP process, administration, deadline or method of award, or to the intent or technical aspects of the RFP must:

- Be delivered to the SPC via email;
- Reference the RFP number;
- Identify Proposer's name and contact information;
- Refer to the specific area of the RFP being questioned (i.e. page, section and paragraph number); and
- Be received by the due date and time for Questions/Requests for Clarification identified in the Schedule.

Solicitation Protests

Protests to RFP

Prospective Proposer may submit a Written protest of anything contained in this RFP, including but not limited to, the RFP process, Specifications, Scope of Work, and the Sample Contract/Price Agreement. This is prospective Proposer's only opportunity to protest the provisions of the RFP, except that Proposer may protest Addenda as provided below.

Protests to Addenda

Prospective Proposer may submit a Written protest of anything contained in the respective Addendum. Protests to Addenda, if issued, must be submitted by 5 p.m. Pacific Time of the second Business Day or the date/time specified in the respective Addendum, or they will not be considered. Protests of matters not added or modified by the respective Addendum will not be considered.

All Protests Must:

- Be delivered to the SPC via email;
- Reference the RFP number;
- Identify prospective Proposer's name and contact information;
- Be sent by an authorized representative;
- State the reason for the protest, including:
 - the grounds that demonstrate how the Procurement Process is contrary to law, Unnecessarily Restrictive, legally flawed, or improperly specifies a brand name; and
 - evidence or documentation that supports the grounds on which the protest is based

- State the proposed changes to the RFP provisions or other relief sought;
- Protests to the RFP must be received by the due date and time identified in the Schedule; and
- Protests to Addenda must be received by the due date identified in the respective Addendum.

Proposal Delivery Options

Proposer is solely responsible for ensuring its Proposal is received by the SPC in accordance with the RFP requirements before Closing. BMTD is not responsible for any delays in mail or by common carriers or by transmission errors or delays, or for any mis-delivery for any reason. A Proposal submitted by any means not authorized below will be rejected. The following delivery options are permitted for this RFP:

OPTION 1 - Mail or Parcel delivery.

A Proposal may be submitted through the mail or via parcel carrier, and must be clearly labeled and submitted in a sealed envelope, package or box. The outside of the sealed submission must clearly identify the Proposer's name and the RFP number. It must be sent to the attention of the SPC at the address listed on the Cover Page.

OPTION 2 - In-person delivery

A Proposal may be hand delivered, and must be clearly labeled and submitted in a sealed envelope, package or box. A Proposal will be accepted, prior to Closing, during BMTD's normal Monday - Friday business hours of 8:00 a.m. to 12 p.m. Pacific Time, except during State of Oregon holidays and other times when BMTD is closed. The outside of the sealed submission must clearly identify the Proposer's name and the RFP number. It must be delivered to the attention of the SPC at the address listed on the Cover Page.

OPTION 3 - Any combination of the above delivery methods

Proposal Modification or Withdrawal

If a Proposer wishes to make modifications to a submitted Proposal it must submit its modification in one of the authorized methods listed in the Proposal Delivery Options section. To be effective the notice must include the RFP number and be submitted to the SPC prior to Closing.

If a Proposer wishes to withdraw a submitted Proposal, it must submit a Written notice signed by an authorized representative of its intent to withdraw to the SPC via email, fax, hard copy prior to closing in accordance with OAR 125-247-0440. To be effective the notice must include the RFP number.

Proposal Due

A Proposal (including all required submittal items) must be received by the SPC on or before Closing. All Proposal modifications or withdrawals must be received prior to Closing.

A Proposal received after Closing is considered LATE and will NOT be accepted for evaluation. A late Proposal will be returned to the Proposer or destroyed.

Public Opening

A public Opening will be held on the date and time listed in the Schedule and at the location stated on the Cover Page. Only the name of the Proposer will be read at the Opening, no other information will be made available at that time. Proposals received will not be available for inspection until after the evaluation process has been completed and the notice of Intent to Award is issued pursuant to OAR 125-247-0630.

Proposal Rejection

BMTD may reject a Proposal for any of the following reasons:

- Proposer fails to substantially comply with all prescribed RFP procedures and requirements, including but not limited to the requirement that Proposer's authorized representative sign the Proposal.
- Proposer has liquidated and delinquent debt owed to the State or any department or agency of the State.
- Proposer fails to meet the responsibility requirements of ORS 279B.110.
- Proposer makes any contact regarding this RFP with District representatives such as District contactors or officials other than the SPC or those the Board of Directors authorizes, or inappropriate contact with the SPC.
- Proposer attempts to influence a member of the Evaluation Panel.
- Proposal is conditioned on BMTD's acceptance of any other terms and conditions or rights to negotiate any alternative terms and conditions that are not reasonably related to those expressly authorized for negotiation in the RFP or Addenda.

Evaluation Process

Responsiveness and Responsibility Determination

A Proposal received prior to Closing will be reviewed to determine if it is Responsive to all RFP requirements including compliance with Minimum Qualifications section and Minimum Submission Requirements section. If the Proposal is unclear, the SPC may request clarification from Proposer. However, clarifications may not be used

to rehabilitate a non-Responsive proposal. If the SPC finds the Proposal non-Responsive, the Proposal may be rejected, however, the Board of Directors may waive mistakes in accordance with OAR 125-247-0470.

Responsiveness Determination

BMTD will determine if an apparent successful Proposer is Responsible prior to award and execution of the Contract/Price Agreement. Selected Proposer(s) shall submit a signed Responsibility Inquiry form (Attachment G) within 5 Business Days of receipt of Intent to Award notice.

At any time prior to award, BMTD may reject a Proposer found to be not Responsible.

Responsibility Determination

BMTD will determine if an apparent successful Proposer is Responsible prior to award and execution of the Contract/Price Agreement. Selected Proposer(s) shall submit a signed Responsibility Inquiry form (Attachment G) within 5 Business Days of receipt of Intent to Award notice.

At any time prior to award, BMTD may reject a Proposer found to be not Responsible.

Evaluation Criteria

SCORE	EXPLANATION
10	OUTSTANDING - Response meets all the requirements and has demonstrated in a clear and concise manner a thorough knowledge and understanding of the subject matter and project. The Proposer provides insight into its expertise, knowledge, and understanding of the subject matter.
6 - 9	VERY GOOD - Response provides useful information, while showing experience and knowledge within the category. Response demonstrates above average knowledge and ability with no apparent deficiencies noted.
5	ADEQUATE - Response meets all requirements in an adequate manner. Response demonstrates an ability to comply with guidelines, parameters, and requirements with no additional information put forth by the Proposer.

1 - 4	FAIR - Proposer meets minimum requirements, but does not demonstrate sufficient knowledge of the subject matter.
0	RESPONSE OF NO VALUE - An unacceptable response that does not meet the requirements set forth in the RFP. Proposer has not demonstrated knowledge of the subject matter.

Evaluation Criteria

SCORE	EXPLANATION
10	OUTSTANDING - Response meets all the requirements and has demonstrated in a clear and concise manner a thorough knowledge and understanding of the subject matter and project. The Proposer provides insight into its expertise, knowledge, and understanding of the subject matter.
6 - 9	VERY GOOD - Response provides useful information, while showing experience and knowledge within the category. Response demonstrates above average knowledge and ability with no apparent deficiencies noted.
5	ADEQUATE - Response meets all requirements in an adequate manner. Response demonstrates an ability to comply with guidelines, parameters, and requirements with no additional information put forth by the Proposer.
1 - 4	FAIR - Proposer meets minimum requirements, but does not demonstrate sufficient knowledge of the subject matter.
0	RESPONSE OF NO VALUE - An unacceptable response that does not meet the requirements set forth in the RFP. Proposer has not demonstrated knowledge of the subject matter.

Each Proposal meeting all Responsiveness requirements will be independently evaluated by members of the selection panel. The selection panel shall include two members of the Board assisted by the Executive Director. Evaluators will assign a score for each evaluation criterion listed below in this section up to the maximum points available in the Point and Score Calculation section.

SPC may request further clarification to assist the Evaluation Committee in gaining additional understanding of Proposal. A response to a clarification request must be to clarify or explain portions of the already submitted Proposal and may not contain new information not included in the original Proposal.

Price Evaluation

BMTD includes minimum 30% weight on price evaluation. Per ORS 279B.060 (3) (e) and (9) (a), in solicitations advertised on or after 1/1/2019, and before 1/2/2020, the proposed contract price must be weighted at not less than 30% of the total weight given to all factors in the final evaluation of a proposal (unless the board of directors approves a waiver as provided under ORS 279B.060(9) (b)). For additional information regarding these requirements visit <https://www.oregon.gov/das/procurement/pages/sb1565.aspx>

Subjective Evaluation on Price

BMTD will perform a subjective evaluation on price.

Preferences

Oregon Supplies and Services

BMTD prefers Oregon goods and services, and for evaluation purposes, per ORS 279A.128, BMTD shall subtract 10% from the price for any Proposer proposing all Goods fabricated or processed or all Services performed entirely in Oregon before calculating the price score.

Reciprocal Preferences

For evaluation purposes per OAR 125-246-0310, BMTD shall add a percent increase to each out-of-state Proposer's Proposal price that is equal to the percent preference, if any, given to a Resident Proposer in the Proposer's state.

Recycled Materials

In comparing Goods from two or more Proposers, if at least one Proposer offers Goods manufactured with Recycled Materials, and at least one Proposer does not, BMTD will select the Proposer offering Goods manufactured from Recycled Materials if each of the conditions specified in ORS 279A.125 (2) exists following any adjustments made to the price of the Goods according to any applicable reciprocal preference.

Tiebreakers

Oregon Supplies: If BMTD receives Proposals identical in price, fitness, availability and quality and chooses to award a Contract/Price Agreement, BMTD shall award the Contract/Price

Agreement in accordance with the procedures outlined in OAR 125-246-0300.

Point and Score Calculations

TOTAL POINTS POSSIBLE :		70
1	Firm or division currently creates OTT versions of TV channels, providing equipment and online infrastructure necessary for operations and maintenance. Firms specializing in creating and maintaining OTT versions of PEG channels are preferred.	10
2	OTT platform can restrict viewership behind a paywall.	10
3	OTT platform includes the capability to stream multiple live feeds of content.	10
4	OTT platform provides the capability to store archived content for on-demand viewing.	10
5	The OTT platform can be used to distribute content via alternative methods, including OTA broadcast, cable TV, and additional online platforms.	10
6	Firm or division can create software to view live video streams and archived content on additional platforms besides a web browser, including smart TV's and mobile devices.	10
7	Firm or division provides a method for syndicating content procured by the District, as well as for receiving syndicated content distributed by other TV stations and content creators.	10

PROPOSAL TOTAL	x/70
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The SPC will average all scores for each evaluation criterion. The average score will be used as a percentage multiplier of the maximum possible points for that criterion. 7=10%, 14=20%, 70=100%, etc. Price points are calculated as stated in the Price Evaluation section.

Ranking of Proposers

The SPC will average the scores for each Proposal in a given round of competition (calculated by totaling the points awarded by each Evaluation Committee member and dividing by the number of members).

BMTD will rank all Proposers at the conclusion of the evaluation and scoring and may, in BMTD's sole discretion, determine an apparent successful Proposer with no additional rounds of competition. If additional rounds are conducted, BMTD will rank advancing Proposers at the conclusion of each subsequent round and may determine an apparent successful Proposer at any time during the solicitation process.

The SPC will combine the average score for each Proposal with Proposer's price score and reference score. After any applicable preference has been applied, SPC will describe the rank order for each Proposer, with the highest score receiving the highest rank, and successive rank order determined by the next highest score.

Next Step Determination

At the conclusion of a round of competition, BMTD may choose to conduct additional round(s) of competition if in the best interest of the District. Additional rounds of competition may consist of, but will not be limited to:

- Interviews
- Presentations/Demonstrations/Additional Submittal Items
- Discussions and submittal of revised Proposals
- Serial or simultaneous negotiations
- Best and Final Offers

Competitive Range Determination

If BMTD, in its sole discretion, determines that one or more additional rounds of competition is necessary, it will select a Competitive Range to indicate the Proposers that will be invited to participate in a subsequent round. The Competitive Range may include all, or at BMTD's sole discretion, some (based primarily on a natural break in the distribution of scores), of the Proposers from a previous round. BMTD will post a notice at www.bmtd.org of its Competitive Range Determination and provide details about the process and schedule for the subsequent round.

Competitive Range Protest

Proposers excluded from a round may submit a Written protest of Competitive Range. Protests must:

- Be emailed to the SPC;
- Reference the RFP number;
- Identify Proposer's name and contact information;
- Be sent by an authorized representative
- State the reason for the protest; and
- Be received within 7 calendar days after issuance of the Notice of the Competitive Range unless a different due date and time is specified in such notice.

BMTD will address all protests within a reasonable time and will issue a Written decision to the respective Proposer. Protests that do not include the required information may not be considered by BMTD.

Award and Negotiation

Award Notification Process

Award Consideration

BMTD, if it awards a Contract/Price Agreement, shall award a Contract/Price Agreement to the highest ranking Responsible Proposer(s) based upon the scoring methodology and process described in Section 4. BMTD may award less than the full Scope defined in this RFP.

Intent to Award Notice

BMTD will notify all Proposers in Writing that BMTD intends to award a Contract/Price Agreement to the selected Proposer(s) subject to successful negotiation of any negotiable provisions.

Intent to Award Protest

Protest Submission

An Affected Proposer shall have 7 calendar days from the date of the Intent to Award notice to file a Written protest.

A Proposer is an Affected Proposer only if the Proposer would be eligible for Contract/Price Agreement award in the event the protest was successful and is protesting for one or more of the following reasons as specified in ORS 279B.410:

- All higher ranked Proposals are non-Responsive.
- BMTD has failed to conduct an evaluation of Proposals in accordance with the criteria or process described in the RFP.

- BMTD abused its discretion in rejecting the protestor's Proposal as non-Responsive.
- BMTD's evaluation of Proposal or determination of award otherwise violates ORS Chapter 279B or ORS Chapter 279A.
- If BMTD receives only one Proposal, BMTD may dispense with the evaluation process and Intent to Award protest period and proceed with Contract/Price Agreement Negotiations and award.

Protests Must

- Be delivered to the SPC via email
- Reference the RFP number
- Identify Proposer's name and contact information
- Be signed by an authorized representative
- Specify the grounds for the protest
- Be received within 7 calendar days of the Intent to Award notice

Response to Protest

BMTD will address all timely submitted protests within a reasonable time and will issue a Written decision to the respective Proposer. Protests that do not include the required information may not be considered by BMTD.

Apparent Successful Proposer Submission Requirements

Proposer(s) who are selected for a Contract/Price Agreement award under this RFP will be required to submit additional information and comply with the following:

Insurance

Prior to award, Proposer shall secure and demonstrate to BMTD proof of insurance as required in this RFP or as negotiated. Insurance Requirements are found in Exhibit B of Attachment A.

Taxpayer Identification Number

Proposer shall provide its Taxpayer Identification Number (TIN) and backup withholding status on a completed W-9 form when requested by BMTD or when the backup withholding status or any other relevant information of Proposer has changed since the last submitted W-9 form, if any.

Business Registry

If selected for award, Proposer shall be duly authorized by the State of Oregon to transact business in the State of Oregon before executing the Contract/Price Agreement. Visit <http://sos.oregon.gov/business/pages/register.aspx> for Oregon Business Registry information.

Responsibility Inquiry

Prior to award, Proposer shall be required to complete and submit Attachment G – Responsibility Inquiry.

Pay Equity Certification

If selected for award and the Contract/Price Agreement value exceeds \$500,000 and Proposer employs 50 or more full-time workers, Proposer shall submit to BMTD a true and correct copy of an unexpired Pay Equity Compliance Certificate, issued to the Proposer by the Oregon Department of Administrative Services. For instructions on how to obtain the Certificate, visit

www.oregon.gov/das/Procurement/Documents/SB491PayEquity.pdf.

ORS 279B.110(2)(f) requires that Proposer provide this prior to execution of the Contract/Price Agreement.

Nondiscrimination in Employment

As a condition of receiving the award of a Contract/Price Agreement under this RFP, Proposer must certify by their Signature on Attachment C - Proposer Information and Certification Sheet, in accordance with ORS 279A.112, that it has in place a policy and practice of preventing sexual harassment, sexual assault, and discrimination against employees who are members of a protected class. The policy and practice must include giving employees a written notice of a policy that both prohibits, and prescribes disciplinary measures for, conduct that constitutes sexual harassment, sexual assault, or unlawful discrimination.

Pay Equity Compliance

As required by [ORS 279B.235 or ORS 279C.520], Contractor shall comply with ORS 652.220 and shall not discriminate against any of Contractor's employees in the payment of wages or other compensation for work of comparable character, the performance of which requires comparable skills, or pay any employee at a rate less than another for comparable work, based on an employee's membership in a protected class.

Commencing on January 1, 2019, Contractor must comply with ORS 652.220 as amended and shall not unlawfully discriminate against any of Contractor's employees in the payment of wages or other compensation for work of comparable character on the basis of an employee's membership in a protected class. "Protected class" means a group of persons distinguished by race, color, religion, sex, sexual orientation, national origin, marital status, veteran status, disability or age. Contractor's compliance with this section constitutes a material element of this Contract/Price Agreement and a failure to comply constitutes a breach that entitles BMTD to terminate this Contract/Price Agreement for cause.

Contractor may not prohibit any of Contractor's employees from discussing the employee's rate of wage, salary, benefits, or other compensation with another employee or another person. Contractor may not retaliate against an employee who discusses the employee's rate of wage, salary, benefits, or other compensation with another employee or another person.

Contract Price Agreement Negotiation

Negotiation

After selection of a successful Proposer, BMTD may enter into Contract/Price Agreement negotiations with the successful Proposer. By submitting a Proposal, Proposer agrees to comply with the requirements of the RFP, including the terms and conditions of the Sample Contract/Price Agreement (Attachment A), with the exception of those terms listed below for negotiation.

Proposer shall review the attached Sample Contract/Price Agreement and note exceptions.

Proposer must submit those exceptions to BMTD during the Questions / Requests for Clarification period set forth in Section 1.2. Unless BMTD agrees to modify any of the terms and conditions, BMTD intends to enter into a Contract/Price Agreement with the successful Proposer substantially in the form set forth in Sample Contract/Price Agreement (Attachment A).

It may be possible to negotiate some provisions of the final Contract/Price Agreement; however, BMTD is not required to make any changes and many provisions cannot be changed. Proposer is cautioned that the State of Oregon believes modifications to the standard provisions constitute increased risk and increased cost to the State. Therefore, BMTD will consider the Scope of requested exceptions in the evaluation of Proposal.

Any subsequent negotiated changes are subject to prior approval of the Board of Directors.

BMTD is willing to negotiate all items, except those listed below:

- Choice of law
- Choice of venue
- Constitutional requirements
- Requirements of applicable federal and State law

In the event that the parties have not reached mutually agreeable terms within 10 calendar days, BMTD may terminate Negotiations and commence Negotiations with the next highest ranking Proposer.

Contractor Selection Methodology

In the event multiple Contract/Price Agreements are awarded, BMTD will use the following methodology to determine from which Contractor to purchase.

- Issue all purchases to the highest ranked Contractor.
- Determine a list of the most commonly purchased items, price compare this list between all awarded Contractors. Issue all purchases to the Contractor with the most favorable Offer. A new comparison will be conducted at least once per year.
- Compare each item between all awarded Contractors, issue Purchase Order to the Contractor with the most favorable Offer.

Additional Information

Certified Participation

Pursuant to Oregon Revised Statute (ORS) Chapter 200, BMTD encourages the participation of small businesses, certified by the Oregon Certification Office for Business Inclusion and Diversity ("COBID") in all contracting opportunities. This includes certified small businesses in the following categories: disadvantaged business enterprise, minority-owned business, woman-owned business, a business that a service-disabled veteran owns or an emerging small business. BMTD also encourages joint ventures or subcontracting with certified small business enterprises. For more information, visit: <https://oregon4biz.diversitysoftware.com/FrontEnd/VendorSearchPublic.asp?XID=6787&TN=oregon4biz>

If the Contract/Price Agreement has potential subcontracting opportunities, the successful Proposer may be required to submit a completed Certified Disadvantaged Business Outreach Plan (Attachment F) prior to execution.

Governing Laws and Regulation

This RFP is governed by the laws of the State of Oregon. Venue for any administrative or judicial action relating to this RFP, evaluation and award is the Circuit Court of Baker County for the State of Oregon; provided, however, if a proceeding must be brought in a federal forum, then it must be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this Section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, to or from any Claim or consent to the jurisdiction of any court.

OWNERSHIP/PERMISSION TO USE MATERIALS

All Proposals are public record and are subject to public inspection after BMTD issues the Notice of the Intent to Award.

Application of the Oregon Public Records Law will determine whether any information is actually exempt from disclosure.

All Proposals submitted in response to this RFP become the Property of BMTD. By submitting a Proposal in response to this RFP, Proposer grants the State a non-exclusive, perpetual, irrevocable, royalty-free license for the rights to copy, distribute, display, prepare derivative works of and transmit the Proposal solely for the purpose of evaluating the Proposal, negotiating a Contract/Price Agreement, if awarded to Proposer, or as otherwise needed to administer the RFP process, and to fulfill obligations under Oregon Public Records Law (ORS 192.311 through 192.478). Proposals, including supporting materials, will not be returned to Proposer unless the Proposal is submitted late.

Cancellation of RFP; Rejection of Proposal; No Damages .

Pursuant to ORS 279B.100, BMTD may reject any or all Proposals in-whole or in-part, or may cancel this RFP at any time when the rejection or cancellation is in the best interest of the District, as determined by the Board. Neither the State nor BMTD is liable to any Proposer for any loss or expense caused by or resulting from the delay, suspension, or cancellation of the RFP, award, or rejection of any Proposal.

Cost of Submitting Proposal

Proposer shall pay all the costs in submitting its Proposal, including, but not limited to, the costs to prepare and submit the Proposal, costs of samples and other supporting materials, costs to participate in demonstrations, or costs associated with protests.

Statewide E-Waste/Recovery Procedure

If applicable, Proposer shall include information in its Proposal that demonstrates compliance with the Statewide E-Waste/Recovery Procedure #107-011-050_PR. Visit the DAS website www.oregon.gov/das and use the search bar feature to locate the procedure.

Recyclable Products

Proposer shall use recyclable products to the maximum extent economically feasible in the performance of the Services or Work set forth in this document and the subsequent Contract/Price Agreement. (ORS 279B.025)

Printing, Binding, and Stationary Work

Except as provided in ORS 282.210(2), all printing, binding and stationery work, including the manufacture of motor vehicle

registration plates and plates required to be affixed to motor carriers, for the State or any county, city, town, port district, school district, or other political subdivision, must be performed within the State.

Checklist Disclaimer

Any checklists that may be contained in this RFP are provided only as a courtesy to prospective Proposer. BMTD makes no representation as to the completeness or accuracy of any Checklist. Prospective Proposer is solely responsible for reviewing and understanding the RFP and complying with all the requirements of this RFP, whether listed in a checklist or not. BMTD not is liable for any claims, or subject to any defenses, asserted by Proposer based upon, resulting from, or related to, Proposer's failure to comprehend all requirements of this RFP.