

New Jersey Department of Law and Public Safety, Division of Law

Responses to Questions - Request for Qualifications for Potential Responsible Party Investigation and Evaluation

Question 1. Page 18- Indemnification and Insurance, Section 2.11.

If a company does not own any automobiles, insurance carriers generally will not endorse additional insureds. Will the State amend this requirement in Section 2.11.2 b to exclude this requirement if a company does not own any vehicles?

If a responding party can establish to the Division of Law's satisfaction that neither the responding party nor the responding party's subcontractors own any vehicles, and that all contract work would be satisfactorily performed using the personal vehicles of the responding party's employees and/or the personal vehicles of the responding party's subcontractors'/independent contractors' employees, the automobile insurance requirements of Section 2.11.2b would not apply.

Question 2. Page 18- Indemnification and Insurance Section 2.11.3 Professional Liability Insurance.

Will the State consider lowering the amount of Professional Liability Insurance limits from \$5,000,000 to \$1,000,000 each claim/\$2,000,000 aggregate for consulting firms that are not classified as professional services providers e.g., law firms, accounting firms, engineering firms, etc.?

Yes, the Professional Liability Insurance requirement in Section 2.11.3 is changed from \$5,000,000 to \$1,000,000 each claim/\$2,000,000 aggregate.

Question 3. Page 18, Section 3.0- Proposal requirements.

The RFQ requests, "for the purpose of evaluating which responding party is to be considered the best qualified firm to perform the services... certain information including narrative descriptions of how each Task and Subtask will be accomplished including, but not limited to, "how the responding party plans to use specific labor categories to accomplish the work, what tools the responding party will utilize, to accomplish the work," Because much of this information is

proprietary and disclosure of such could impact a company's competitive advantage, will the State confirm that the responder's proposal will not be publically available through the New Jersey open records laws?

Unless excluded from disclosure under the New Jersey Open Public Records Act ("OPRA"), N.J.S.A. 47:1A-1 et seq., and New Jersey common law, all information submitted by a party in response to a solicitation is considered public information. "Trade secrets and proprietary commercial or financial information obtained from any source," however, are deemed to be confidential under ORPA and are not "government records" as defined by OPRA. See N.J.S.A. 47:1A-1.1. Thus, trade secrets and proprietary information are excluded from disclosure under OPRA. In its response to the RFQ, a party may designate specific information as being proprietary in nature and not subject to disclosure under the trade secrets/proprietary exclusion of N.J.S.A. 47:1A-1.1, though the State reserves the right to make the determination as to whether the information in fact is proprietary or confidential. Under no circumstances will the Division of Law honor a request to designate an entire proposal as proprietary or confidential or honor a claim of copyright protection for an entire proposal. In the event of any challenge to the responding party's assertion of confidentiality with which the State does not concur, the responding party shall be solely responsible for defending its designation.