

**INTRODUCTION**



**LOS ANGELES COUNTY**

**DEPARTMENT OF BEACHES AND HARBORS**

**INVITATION FOR BIDS (IFB)**

**FOR**

**CONCESSION SERVICES AT COUNTY OWNED AND OPERATED BEACHES  
WILL ROGERS (CHAUTAUQUA)**

**(2014)**

**Prepared By  
Los Angeles County  
Department of Beaches and Harbors**

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These guidelines are intended to provide general information only and are subject to revision. The rights and obligations of any party contracting with the County will be determined in accordance with the terms of the applicable contract and applicable law.

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1.0 GENERAL INFORMATION

1.1 Purpose

The Los Angeles County Department of Beaches and Harbors is issuing this Invitation for Bids (IFB) to solicit bids from qualified Bidders who can provide quality and convenient concession services to all visitors to the Los Angeles County owned and operated beaches and at the following location:

1.1.1 Concession Licenses – Type, Authorized Activity, Concession Premises

Concession Premises	Type (combined)	Authorized Activity (combined)
Will Rogers (Chautauqua)	Beach Merchandise Sales and Rentals	Sales and rental of beach related recreational equipment
	Concession Stand	Selling food and beverage from a concession building
	Bike and Skate Rentals	Rentals of Bikes and Skates

1.2 Overview of Solicitation Document

This Invitation for Bids (IFB) is composed of the following parts:

**GENERAL INFORMATION:** Specifies the Bidder’s minimum requirements, provides information regarding some of the requirements of the License and explains the solicitation process.

**INSTRUCTIONS TO BIDDERS:** Contains instructions to Bidders in how to prepare and submit their bid.

**BID REVIEW AND SELECTION PROCESS:** Explains how the bids will be reviewed and selected.

**APPENDICES:**

**A-SAMPLE LICENSE:** Sample License terms and conditions, including the scope of work.

**B-EXHIBITS:** Exhibits accompanying the Sample License.

**C-CONCESSION PREMISES, AUTHORIZED ACTIVITY, COUNTY OWNED TRADE FIXTURES:** Exhibits that identify the locations of each County facility where services are to be provided; describes the Authorized Activities; and lists County owned trade fixtures available at some concession stands.

**D-FORMS:** Forms 3 through 20 contained in Appendix D-Forms, must be completed and included in the bid.

**1.3 Definitions**

Words shall be construed to have the meanings set out in Appendix A-Sample License, Paragraph 2.0, "Definitions", unless otherwise apparent from the context in which they are used.

**1.4 Bidder's Minimum Requirements**

Interested and qualified Bidders must demonstrate their ability to successfully provide the required management and operation of concessions at the locations noted in Subparagraph 1.1.1 of this IFB. Qualified Bidders are invited to submit bid(s), provided they meet the following Minimum Requirements:

Bidder(s) and/or key personnel must demonstrate a minimum of five (5) years experience within the last ten (10) years providing services equivalent or similar to the concession services as outlined in Subparagraph 1.1.1. Submitted Appendix D-Form 5, "Prospective Contractor References", and Appendix D-Form 6, "Prospective Contractor List of Contracts", will be used to assess and verify required experience.

**1.5 Guaranty Payments**

To ensure that a Bidder will faithfully accept and execute the License once it is awarded, each proposal must be submitted with a Guaranty Payment. The Guaranty Payment shall be in the appropriate amount listed below for each respective License and be in the form of a Cashier's or Official Check made payable to Los Angeles County Department of Beaches and Harbors. ANY PROPOSAL THAT IS RECEIVED WITHOUT A GUARANTY PAYMENT IN THE PROPER AMOUNT AND FORM WILL BE AUTOMATICALLY REJECTED.

Type of License (combined)	Guaranty Payment
Beach Merchandise, Bike & Skate Rentals, Concession Stand	\$ 3,000.00

**Return of Guaranty Payments**

All Guaranty Payments of rejected bids will be returned upon awarding of Licenses by the Board of Supervisors to successful Bidders.

The Guaranty Payment of an awarded bid will be applied to the Security Deposit (Appendix A-Sample License, Paragraph 8.0, "Security Deposit") for the License upon completion of the process of acceptance of the License. The process for acceptance of the License shall include, but not be limited to, the execution of the License and delivery of the required balance of Security Deposit, insurance certificate, health permit, business license, and any other documents necessary for the operation of Authorized Activity under the awarded License, and required under the IFB. A Bidder who is awarded a License will forfeit the Guaranty Payment for failure to execute and return the License to the Director within seven (7) days after receipt, or failure to complete the process of acceptance of the License, as defined in this Subparagraph, within fifteen (15) business days after executing and returning the License to the Director.

**1.6 Format/Documentation**

All submitted bids must comply with the IFB format, documentation and requirements set forth in Paragraph 2.0, "Instructions to Bidders".

### 1.7 **Compliance with County / Government Programs**

Bidders must agree to comply with the all County and/or other government programs or ordinances, including the following:

- Certification of No Conflict of Interest
- County Lobbyist Ordinance
- Local Small Business Enterprise (SBE) Preference Program
- Bidder's Equal Employment Opportunity (EEO) Certification
- Willingness to Consider GAIN/GROW Participants
- Contractor Employee Jury Service Program
- Transitional Job Opportunities Preference Program
- Artificial Trans Fat Reduction Program
- Child Support Compliance Program
- Earned Income Credit
- Injury and Illness Prevention Program
- Recycled-Content Paper
- Referral and Consideration of County Employees for Employment
- Safely Surrendered Baby Law

### 1.8 **Required Forms**

Bidders must complete and submit Forms 3 through Form 20 (inclusive), found in Appendix D-Forms, with the bid.

### 1.9 **County Rights and Responsibilities**

The County has the right to amend the IFB by written addendum, which, if any, The County is responsible only for that which is expressly stated in the solicitation document and any authorized written addenda thereto. Such addendum shall be made available to each person or organization which County records indicate has received this IFB, and can be accessed by visiting our website at:

<http://beaches.lacounty.gov/wps/portal/dbh/government/>

and click "Request for Proposals" link.. Should such addendum require additional information not previously requested, failure to address the requirements of such addendum may result in the bid not being considered, as determined in the sole discretion of the County. The County is not responsible for and shall not be bound by any representations otherwise made by any individual acting or purporting to act on its behalf.

### 1.10 **Director to Interpret IFB**

Should there be any uncertainty, ambiguity, or discrepancy in the terms of the IFB or any dispute about their meaning or applicability, the Director shall be consulted and will interpret them. The Director's interpretation shall be binding upon all parties. Should any Bidder rely on any uncertain or ambiguous provision of the IFB without referring the matter for resolution to the Director, the Bidder does so at his or her own risk.

### 1.11 **License Term**

It is anticipated that the license term to be recommended to the Board of Supervisors shall be for a period of four (4) years and eleven (10) months, commencing May 1, 2014 and ending March 31, 2019, with five (5) 1-year options. Options may be exercised at the sole discretion of the Director. The Director may extend the final License term on a year-to-year basis for up to five (5) years at his/her sole discretion. It is further

anticipated that the License shall become effective on the later of May 1, 2014, or approval by the Board of Supervisors.

**1.12 Days of Operation**

To fulfill the needs of visitors and beachgoers, the Licensee is required to provide services and shall be open for business every day from Memorial Day Weekend through to Labor Day Weekend of each year during the License Term, including the County recognized holidays Memorial Day, Independence Day, and Labor Day. The only exception is when a condition exists which is beyond the control of the Licensee, including but not limited to fire, earthquake, flood, storm, war, riot or insurrection, or other similar event that prevents the Licensee from engaging in the Authorized Activity from the Premises. The minimum daily hours of operation during this period of time shall be from 10 A.M. to 5 P.M. Director shall have the right to change the mandatory operational days and hours as Director deems appropriate.

**1.13 Contact with County Personnel**

All contact regarding this IFB or any matter relating thereto must be in writing and may be mailed, e-mailed or faxed as follows:

Los Angeles County Department of Beaches and Harbors  
Asset Management Division  
Attention: Linda Nava, "IFB-Concessions 2014-WR"  
13837 Fiji Way  
Marina del Rey, CA 90292  
E-mail: lnava@bh.lacounty.gov Phone:  
Phone: (310) 301-0300  
Fax: (310) 821-6345

If it is discovered that Bidder contacted and received information from any County personnel, other than the person specified above, regarding this solicitation, County, in its sole determination, may disqualify their bid from further consideration.

**1.14 Final License Award by the Board of Supervisors**

Notwithstanding a recommendation by the Department, the Board of Supervisors retains the right to exercise its judgment concerning the selection of a bid and the terms of any resultant agreement, and to determine which bid best serves the interests of the County. The Board is the ultimate decision making body and makes the final determinations necessary to arrive at a decision to award, or not award, a License. The License shall be awarded through a competitive process to the responsible and responsive Bidder(s) whose qualifications are determined most suitable for the intended purpose of the County. The County reserves the right to make a total award, a combination of awards, or to reject all bids, whichever is in the best interest of the County.

**1.15 Mandatory Requirement to Register on County's WebVen**

Prior to submittal of bid(s), prospective Bidders must register in the County's WebVen. The WebVen contains the Bidder's business profile and identifies the goods/services the business provides. Registration can be accomplished online via the Internet by accessing the County's home page at [http://lacounty.info/doing\\_business/main\\_db.htm](http://lacounty.info/doing_business/main_db.htm).

**1.16 County Option to Reject Bids**

The Department may, at its sole discretion, reject any or all bids submitted in response to this solicitation. The Department shall not be liable for any costs incurred by a Bidder



in connection with the preparation and submission of any bid. The County reserves the right to waive inconsequential disparities in a submitted bid.

#### **1.17 Notice to Bidders Regarding the Public Records Act**

1.17.1 Responses to this solicitation shall become the exclusive property of the County. Absent extraordinary circumstances, the recommended Bidder's bid will become a matter of public record when (1) contract negotiations are complete; (2) Department receives a letter from the recommended Bidder's authorized officer that the negotiated contract is the firm offer of the recommended Bidder; and (3) Department releases a copy of the recommended Bidder's bid in response to a "Notice of Intent to Request a Proposed Contractor Selection Review" under Board Policy No. 5.055.

Notwithstanding the above, absent extraordinary circumstances, all bids will become a matter of public record when the Department's Bidders recommendation appears on the Board agenda.

Exceptions to disclosure are those parts or portions of all bids that are justifiably defined as business or trade secrets, and plainly marked by the Bidder as "Trade Secret," "Confidential," or "Proprietary."

1.17.2 The County shall not, in any way, be liable or responsible for the disclosure of any such record or any parts thereof, if disclosure is required or permitted under the California Public Records Act or otherwise by law. **A blanket statement of confidentiality or the marking of each page of the proposal as confidential shall not be deemed sufficient notice of exception. The Bidders must specifically label only those provisions of their respective bid which are "Trade Secrets," "Confidential," or "Proprietary" in nature.**

#### **1.18 Indemnification and Insurance**

Licensee shall be required to comply with the indemnification provisions contained in Appendix A-Sample License, Subparagraph 30.23, "Indemnification". The Contractor shall procure, maintain, and provide to the County proof of insurance coverage for all the programs of insurance along with associated amounts specified in Appendix A-Sample License, Paragraph 31.0, "General Provisions for all Insurance Coverage", and Paragraph 32.0, "Insurance Coverage". Proof must be provided to County no less than ten (10) business days prior to the commencement date of the License term.

#### **1.19 SPARTA Program**

A County program, known as 'SPARTA' (Service Providers, Artisan and Tradesman Activities) may be able to assist potential Licensees in obtaining affordable liability insurance. The SPARTA Program is administered by the County's insurance broker, Merriwether & Williams. For additional information, Proposers may call Merriwether & Williams toll free at (800) 420-0555 or can access their website directly at [www.2sparta.com](http://www.2sparta.com).

#### **1.20 Injury and Illness Prevention Program (IIPP)**

Licensee shall be required to comply with the State of California's Cal OSHA's regulations. Section 3203 of Title 8 in the California Code of Regulations requires all California employers to have a written, effective Injury and Illness Prevention Program (IIPP) that addresses hazards pertaining to the particular workplace covered by the program.

**1.21 Background and Security Investigations**

Background and security investigations of Contractor's staff may be required at the discretion of the County as a condition of beginning and continuing work under any resulting contract. The cost of background checks is the responsibility of the Bidder.

**1.22 Confidentiality and Independent Contractor Status**

As appropriate, Bidder shall be required to comply with the "Confidentiality" provision contained in Subparagraph 29.6, and the "Independent Contractor Status" provision contained in Subparagraph 30.22, in Appendix A-Sample License.

**1.23 Conflict of Interest**

No County employee whose position in the County enables him/her to influence the selection of a Contractor for this IFB, or any competing IFB, nor any spouse of economic dependent of such employees, shall be employed in any capacity by a Bidder or have any other direct or indirect financial interest in the selection of a Contractor. Bidder shall certify that he/she is aware of and has read Section 2.180.010 of the Los Angeles County Code as stated in Appendix D-Form 8, "Certification of No Conflict of Interest".

**1.24 Determination of Bidder Responsibility**

1.24.1 A responsible Bidder is a Bidder who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity and experience to satisfactorily perform the License. It is the County's policy to conduct business only with responsible Bidders.

1.24.2 Bidders are hereby notified that, in accordance with Chapter 2.202 of the County Code, the County may determine whether the Bidder is responsible based on a review of the Bidder's performance on any contracts, including but not limited to County contracts. Particular attention will be given to violations of labor laws related to employee compensation and benefits, and evidence of false claims made by the Bidder against public entities. Labor law violations which are the fault of the subcontractors and of which the Bidder had no knowledge shall not be the basis of a determination that the Bidder is not responsible.

1.24.3 The County may declare a Bidder to be non-responsible for purposes of this License if the Board of Supervisors, in its discretion, finds that the Bidder has done any of the following: (1) violated a term of a contract with the County or a nonprofit corporation created by the County; (2) committed an act or omission which negatively reflects on the Bidder's quality, fitness or capacity to perform a contract with the County, any other public entity, or a nonprofit corporation created by the County, or engaged in a pattern or practice which negatively reflects on same; (3) committed an act or omission which indicates a lack of business integrity or business honesty; or (4) made or submitted a false claim against the County or any other public entity.

1.24.4 If there is evidence that the apparent highest ranked Bidder may not be responsible, the Department shall notify the Bidder in writing of the evidence relating to the Bidder's responsibility, and its intention to recommend to the Board of Supervisors that the Bidder be found not responsible. The Department shall provide the Bidder and/or the Bidder's representative with an opportunity to present evidence as to why the Bidder should be found to be responsible and to rebut evidence which is

the basis for the Department's recommendation.

1.24.5 If the Bidder presents evidence in rebuttal to the Department, the Department shall evaluate the merits of such evidence, and based on that evaluation, make a recommendation to the Board of Supervisors. The final decision concerning the responsibility of the Bidder shall reside with the Board of Supervisors.

1.24.6 These terms shall also apply to proposed subcontractors of Bidders on County contracts.

## **1.25 Bidder Debarment**

1.25.1 The Bidder is hereby notified that, in accordance with Chapter 2.202 of the County Code, the County may debar the Bidder from bidding or proposing on, or being awarded, and/or performing work on other County contracts for a specified period of time, which generally will not exceed five (5) years but may exceed five (5) years or be permanent if warranted by the circumstances, and the County may terminate any or all of the Bidder's existing contracts with County, if the Board of Supervisors finds, in its discretion, that the Bidder has done any of the following: (1) violated a term of a contract with the County or a nonprofit corporation created by the County; (2) committed an act or omission which negatively reflects on the Bidder's quality, fitness or capacity to perform a contract with the County, any other public entity, or a nonprofit corporation created by the County, or engaged in a pattern or practice which negatively reflects on same; (3) committed an act or offense which indicates a lack of business integrity or business honesty; or (4) made or submitted a false claim against the County or any other public entity.

1.25.2 If there is evidence that the apparent highest ranked Bidder may be subject to debarment, the Department shall notify the Bidder in writing of the evidence which is the basis for the proposed debarment, and shall advise the Bidder of the scheduled date for a debarment hearing before the Contractor Hearing Board.

1.25.3 The Contractor Hearing Board shall conduct a hearing where evidence on the proposed debarment is presented. The Bidder and/or Bidder's representative shall be given an opportunity to submit evidence at that hearing. After the hearing, the Contractor Hearing Board shall prepare a tentative proposed decision, which shall contain a recommendation regarding whether the Bidder should be debarred, and, if so, the appropriate length of time of the debarment. The Bidder and the Department shall be provided an opportunity to object to the tentative proposed decision prior to its presentation to the Board of Supervisors.

1.25.4 After consideration of any objections, or if no objections are received, a record of the hearing, the proposed decision and any other recommendation of the Contractor Hearing Board shall be presented to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny or adopt the proposed decision and recommendation of the Contractor Hearing Board.

1.25.5 If a Bidder has been debarred for a period longer than five (5) years, that

Bidder may, after the debarment has been in effect for at least five (5) years, submit a written request for review of the debarment determination to reduce the period of debarment or terminate the debarment. The County may, in its discretion, reduce the period of debarment or terminate the debarment if it finds that the Bidder has adequately demonstrated one or more of the following: (1) elimination of the grounds for which the debarment was imposed; (2) a bona fide change in ownership or management; (3) material evidence discovered after debarment was imposed; or (4) any other reason that is in the best interests of the County.

1.25.6 The Contractor Hearing Board will consider requests for review of a debarment determination only where (1) the Bidder has been debarred for a period longer than five (5) years; (2) the debarment has been in effect for at least five (5) years; and (3) the request is in writing, states one or more of the grounds for reduction of the debarment period or termination of the debarment, and includes supporting documentation. Upon receiving an appropriate request, the Contractor Hearing Board will provide notice of the hearing on the request. At the hearing, the Contractor Hearing Board shall conduct a hearing where evidence on the proposed reduction of debarment period or termination of debarment is presented. This hearing shall be conducted and the request for review decided by the Contractor Hearing Board pursuant to the same procedures as for a debarment hearing.

1.25.7 The Contractor Hearing Board's proposed decision shall contain a recommendation on the request to reduce the period of debarment or terminate the debarment. The Contractor Hearing Board shall present its proposed decision and recommendation to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.

1.25.8 These terms shall also apply to proposed subcontractors of Bidders on County contracts.

1.25.9 Appendix B-Exhibit C, "Listing of Contractors Debarred in Los Angeles County", provides a link to the County's website where there is a listing of Contractors that are currently on the Debarment List for Los Angeles County.

#### **1.26 Bidder's Adherence to County Child Support Compliance Program**

1.26.1 Bidders shall 1) fully comply with all applicable State and Federal reporting requirements relating to employment reporting for its employees; and 2) comply with all lawfully served Wage and Earnings Assignment Orders and Notice of Assignment and continue to maintain compliance during the term of any contract that may be awarded pursuant to this solicitation. Failure to comply may be cause for termination of a contract or initiation of debarment proceedings against the non-compliant Contractor (County Code Chapter 2.202).

## **1.27 Gratuities**

### **1.27.1 Attempt to Secure Favorable Treatment**

It is improper for any County officer, employee or agent to solicit consideration, in any form, from a Bidder with the implication, suggestion or statement that the Bidder's provision of the consideration may secure more favorable treatment for the Bidder in the award of a Contract or that the Bidder's failure to provide such consideration may negatively affect the County's consideration of the Bidder's submission. A Bidder shall not offer or give either directly or through an intermediary, consideration, in any form, to a County officer, employee or agent for the purpose of securing favorable treatment with respect to the award of a Contract.

### **1.27.2 Bidder Notification to County**

A Bidder shall immediately report any attempt by a County officer, employee or agent to solicit such improper consideration. The report shall be made either to the County manager charged with the supervision of the employee or to the County Auditor-Controller's Employee Fraud Hotline at (800) 544-6861. Failure to report such a solicitation may result in the Bidder's submission being eliminated from consideration.

### **1.27.3 Form of Improper Consideration**

Among other items, such improper consideration may take the form of cash, discounts, service, and the provision of travel or entertainment, or tangible gifts.

## **1.28 Notice to Bidders Regarding the County Lobbyist Ordinance**

The Board of Supervisors of the County of Los Angeles has enacted an ordinance regulating the activities of persons who lobby County officials. This ordinance, referred to as the "Lobbyist Ordinance", defines a County Lobbyist and imposes certain registration requirements upon individuals meeting the definition. The complete text of the ordinance can be found in County Code Chapter 2.160. In effect, each person, corporation or other entity that seeks a County permit, license, franchise or contract must certify compliance with the ordinance. As part of this solicitation process, it will be the responsibility of each Bidder to review the ordinance independently as the text of said ordinance is not contained within this IFB. Thereafter, each person, corporation or other entity submitting a response to this solicitation, must certify that each County Lobbyist, as defined by Los Angeles County Code Section 2.160.010, retained by the Bidder is in full compliance with Chapter 2.160 of the Los Angeles County Code by completing and submitting "Familiarity with the County Lobbyist Ordinance Certification", as set forth in Appendix D-Form 9, as part of their bid.

## **1.29 Federal Earned Income Credit**

The Licensee shall notify its employees, and shall require each subcontractor to notify its employees, that they may be eligible for the Federal Earned Income Credit under the federal income tax laws. Such notice shall be provided in accordance with the requirements set forth in Appendix B-Exhibit D, "IRS Notice 1015".

## **1.30 Consideration of GAIN/GROW Participants for Employment**

As a threshold requirement for consideration for contract award, Bidders shall demonstrate a proven record of hiring participants in the County's Department of Public Social Services Greater Avenues for Independence (GAIN) or General Relief Opportunity for Work (GROW) Programs or shall attest to a willingness to consider GAIN/GROW participants for any future employment openings if the participants meet the minimum qualifications for that opening. Additionally, Bidders shall attest to a

willingness to provide employed GAIN/GROW participants access to the Bidder's employee mentoring program, if available, to assist these individuals in obtaining permanent employment and/or promotional opportunities. Bidders who are unable to meet this requirement shall not be considered for contract award. Bidders shall complete and return the form, Attestation of Willingness to Consider GAIN/GROW Participants, as set forth in Appendix D-Form 12, "Attestation of Willingness to Consider Gain/Grow Participants", along with their bid.

**1.31 County's Quality Assurance Plan**

After license award, the County or its agent can evaluate the Licensee's performance under the license on a periodic basis. Such evaluation will include assessing Licensee's compliance with all terms in the License and performance standards identified in the Sample License. Licensee's deficiencies which the County determines are severe or continuing and that may jeopardize performance of the License will be reported to the Department. The report will include improvement/corrective action measures taken by the County and Licensee. If improvement does not occur consistent with the corrective action measures, the County may terminate the License in whole or in part, or impose other penalties as specified in the License.

**1.32 Recycled Bond Paper**

Bidder shall be required to comply with the County's policy on recycled bond paper as specified in Appendix A-Sample License, Paragraph 42.0, "Recycled Bond Paper".

**1.33 Safely Surrendered Baby Law**

The Licensee shall notify and provide to its employees, and shall require each subcontractor to notify and provide to its employees, a fact sheet regarding the Safely Surrendered Baby Law, its implementation in Los Angeles County, and where and how to safely surrender a baby. The fact sheet is set forth in Appendix B-Exhibit E, "Safely Surrendered Baby Law", of this solicitation document and is also available on the Internet at [www.babysafela.org](http://www.babysafela.org) for printing purposes.

**1.34 County Policy on Doing Business with Small Business**

1.34.1 The County has multiple programs that address small businesses. The Board of Supervisors encourages small business participation in the County's contracting process by constantly streamlining and simplifying our selection process and expanding opportunities for small businesses to compete for our business.

1.34.2 The Local Small Business Enterprise Preference Program requires the Company to complete a certification process. This program and how to obtain certification are further explained in Subparagraph 1.37, "Local Small Business Enterprise Preference Program".

1.34.3 The Jury Service Program provides exceptions to the Program if a company qualifies as a Small Business. It is important to note that each Program has a different definition for Small Business. You may qualify as a Small Business in one Program but not the other. Further explanation of the Jury Service Program is provided in Subparagraph 1.36, "Jury Service Program".

1.34.4 The County also has a Policy on Doing Business with Small Business that is stated in Appendix B-Exhibit A, "County of Los Angeles Policy on Doing Business with Small Business".



### 1.35 Jury Service Program

The prospective license is subject to the requirements of the County's Contractor Employee Jury Service Ordinance ("Jury Service Program") (Los Angeles County Code, Chapter 2.203). Prospective Licensees should carefully read the "Jury Service Ordinance", Appendix B-Exhibit B, and the pertinent jury service provisions of the Sample License-Appendix A, Subparagraph 27.7, "Compliance with the County's Jury Service Program", both of which are incorporated by reference into and made a part of this IFB. The Jury Service Program applies to both Contractors and their Subcontractors. Bids that fail to comply with the requirements of the Jury Service Program will be considered non-responsive and excluded from further consideration.

1.35.1 The Jury Service Program requires Contractors and their Subcontractors to have and adhere to a written policy that provides that its employees shall receive from the Contractor, on an annual basis, no less than five days of regular pay for actual jury service. The policy may provide that employees deposit any fees received for such jury service with the Contractor or that the Contractor deduct from the employee's regular pay the fees received for jury service. For purposes of the Jury Service Program, "employee" means any California resident who is a full-time employee of a Contractor and "full-time" means 40 hours or more worked per week, or a lesser number of hours if: 1) the lesser number is a recognized industry standard as determined by the County, or 2) the Contractor has a long-standing practice that defines the lesser number of hours as full-time. Therefore, the Jury Service Program applies to all of a Contractor's full-time California employees, even those not working specifically on the County project. Full-time employees providing short-term, temporary services of 90 days or less within a 12-month period are not considered full-time for purposes of the Jury Service Program.

1.35.2 There are two ways in which a Contractor might not be subject to the Jury Service Program. The first is if the Contractor does not fall within the Jury Service Program's definition of "Contractor". The Jury Service Program defines "Contractor" to mean a person, partnership, corporation or other entity which has a contract with the County or a Subcontract with a County Contractor and has received or will receive an aggregate sum of \$50,000 or more in any 12-month period under one or more County contracts or subcontracts. The second is if the Contractor meets one of the two exceptions to the Jury Service Program. The first exception concerns small businesses and applies to Contractors that have 1) ten or fewer employees; and, 2) annual gross revenues in the preceding twelve months which, if added to the annual amount of this Contract is less than \$500,000, and, 3) is not an "affiliate or subsidiary of a business dominant in its field of operation". The second exception applies to Contractors that possess a collective bargaining agreement that expressly supersedes the provisions of the Jury Service Program. The Contractor is subject to any provision of the Jury Service Program not expressly superseded by the collective bargaining agreement.

1.35.3 If a Contractor does not fall within the Jury Service Program's definition of "Contractor" or if it meets any of the exceptions to the Jury Service Program, then the Contractor must so indicate in the "Contractor Employee Jury Service Program - Certification Form and Application for Exception", Appendix D-Form, and include with its submission all

necessary documentation to support the claim such as tax returns or a collective bargaining agreement, if applicable. Upon reviewing the Contractor's application, the County will determine, in its sole discretion, whether the Contractor falls within the definition of Contractor or meets any of the exceptions to the Jury Service Program. The County's decision will be final.

### **1.36 Local Small Business Enterprise Preference Program**

1.36.1 The County will give Local SBE preference during the solicitation process to businesses that meet the definition of a Local Small Business Enterprise (Local SBE), consistent with Chapter 2.204.030C.1 of the Los Angeles County Code. A Local SBE is defined as: 1) A business certified by the State of California as a small business and, 2) has had its principal office located in Los Angeles County for at least one year. The business must be certified by Internal Services Department as meeting the requirements set forth in 1 and 2 above prior to requesting the Local SBE Preference in a solicitation.

1.36.2 To apply for certification as a Local SBE, businesses may register at the Internal Services Department's web-site at <http://laosb.org>.

1.36.3 Certified Local SBEs must request the SBE Preference in their solicitation responses and may not request the preference unless the certification process has been completed and certification affirmed. Businesses must attach the Local SBE Certification Letter to Appendix D-Form 10, "Request for Local SBE Preference Program Consideration and CBE Firm/Organization Information", with their proposal. Sanctions and financial penalties may apply to a business that knowingly, and with intent to defraud, seeks to obtain or maintain certification as a certified Local SBE.

1.36.4 Information about the State's small business enterprise certification regulations is in the California Code of Regulations, Title 2, Subchapter 8, Section 1896 et seq., and is also available on the California Department of General Services Office of Small Business Certification and Resources Web site at <http://www.pd.dgs.ca.gov/smbus/default>.

### **1.37 Local Small Business Enterprise (SBE) Prompt Payment Program**

It is the intent of the County that Certified Local SBEs receive prompt payment for services they provide to County departments. Prompt payment is defined as 15 calendar days after receipt of an undisputed invoice.

### **1.38 Notification to County of Pending Acquisitions/Mergers by Proposing Company**

The Bidder shall notify the County of any pending acquisitions/mergers of their company. This information shall be provided by the Bidder on Appendix D-Form 4, "Bidder's Organization Questionnaire/Affidavit". Failure of the Bidder to provide this information may eliminate its bid from any further consideration.

### **1.39 Transitional Job Opportunities Preference Program**

1.39.1 In reviewing bids, the County will give preference to businesses that are certified by the County as Transitional Job Opportunity vendors, consistent with Chapter 2.205 of the Los Angeles County Code. A Certified Transitional Job Opportunity vendor is, and has been such for



three (3) years, an entity: 1) that is a non-profit organization recognized as tax exempt pursuant to Section 501 (c) (3) of the Internal Revenue Services Code; set forth, under penalty of perjury, such information as requested by the County on either electronic or hard copy forms, along with their application form and three most recent annual tax returns to the department with their proposal response to the contracting solicitation for which they are competing; 2) has been in operation for at least one year providing transitional job and the related supportive services to program participants; and 3) provide a profile of their program with a description of their program components designed to assist program participants, number of past program participants, and any other information requested by a contracting department.

1.39.2 Transitional Job Opportunities vendors must request the preference in their solicitation response and may not receive the preference until their certification has been affirmed by the applicable department. County must verify the Transitional Job Opportunity vendor certification prior to applying the preference. Sanctions and financial penalties may apply to a Bidder that knowingly and with intent to defraud seeks to obtain or maintain certification as a Transitional Job Opportunities vendor.

1.39.3 To request the Transitional Job Opportunities Preference, Bidder must complete the “Transitional Job Opportunities Preference Application” in Appendix D–Form 14, and submit it along with all supporting documentation with their bid.

#### **1.40 County’s Defaulted Property Tax Reduction Program**

The prospective contract is subject to the requirements of the County’s Defaulted Property Tax Reduction Program (“Defaulted Tax Program”) (Los Angeles County Code, Chapter 2.206). Prospective Contractors should carefully read the Defaulted Tax Program ordinance, Appendix B-Exhibit F, and the pertinent provisions of the Appendix A-Sample License, Paragraphs 53.0 and 54.0, both of which are incorporated by reference into and made a part of this solicitation. The Defaulted Tax Program applies to both Contractors and their Subcontractors. Bidders shall be required to certify that they are in full compliance with the provisions of the Defaulted Tax Program and shall maintain compliance during the term of any contract that may be awarded pursuant to this solicitation or shall certify that they are exempt from the Defaulted Tax Program by completing “Certification of Compliance with the County’s Defaulted Property Tax Reduction Program”, Appendix D-Form 15, “Certificate of Compliance with the County’s Defaulted Property Tax Reduction Program”. Failure to maintain compliance, or to timely cure defects, may be cause for termination of a contract or initiation of debarment proceedings against the non-compliance contractor (Los Angeles County Code, Chapter 2.202). Bids that fail to comply with the certification requirements of the Defaulted Tax Program will be considered non-responsive and excluded from further consideration.

## 2.0 INSTRUCTIONS TO BIDDERS

This Paragraph contains key project dates and activities as well as instructions to Bidders in how to prepare and submit their bid.

### 2.1 County Responsibility

The County is not responsible for representations made by any of its officers or employees prior to the execution of the License unless such understanding or representation is included in the License.

### 2.2 Truth and Accuracy of Representations

False, misleading, incomplete, or deceptively unresponsive statements in connection with a bid shall be sufficient cause for rejection of the bid. The evaluation and determination in this area shall be at the Director's sole judgment and his/her judgment shall be final.

### 2.3 IFB Timetable

The timetable for this IFB is as follows:

- Release of IFB .....March 18, 2014
- Request for a Solicitation Requirements Review Due.....March 26, 2014
- Questions Due .....3:00 p.m. (PST), March 27, 2014
- Questions and Answers Released.....March 31, 2014
- Deadline for Receipt of Bids .....3:00 p.m. (PST), April 3, 2014

### 2.4 Solicitation Requirements Review

A person or entity may seek a Solicitation Requirements Review by submitting Appendix D–Form 1, “Transmittal Form to Request a Solicitation Requirements Review”, to the Department conducting the solicitation as described in this Subparagraph. A request for a Solicitation Requirements Review may be denied, in the Department's sole discretion, if the request does not satisfy all of the following criteria:

1. The request for a Solicitation Requirements Review is made within ten (10) business days of the issuance of the solicitation document.
2. The request for a Solicitation Requirements Review includes documentation, which demonstrates the underlying ability of the person or entity to submit a bid.
3. The request for a Solicitation Requirements Review itemizes in appropriate detail, each matter contested and factual reasons for the requested review; and
4. The request for a Solicitation Requirements Review asserts either that:
  - a. application of the minimum requirements, evaluation criteria and/or business requirements unfairly disadvantages the person or entity; or,
  - b. due to unclear instructions, the process may result in the County not receiving the best possible responses from prospective Vendor.

The Solicitation Requirements Review shall be completed and the Department's determination shall be provided to the requesting person or entity, in writing, within a reasonable time prior to the bid due date. All Requests for Review should be submitted to:

Los Angeles Department of Beaches and harbors  
Asset Management Division  
Attention: Steve Penn, Acting Division Chief  
13837 Fiji Way  
Marina del Rey, CA 90292  
Phone: (310) 301-0300  
Fax: (310) 821-6345

**2.5 Inspection of Premises**

A Bidder interested in obtaining a License should visit and investigate the related facilities and locations before submitting a bid. Inspection of the interior of any Premises may be arranged during office hours, Monday through Thursday by contacting Linda Nava at (310) 301-0300, or E-mail, [lnava@bh.lacounty.gov](mailto:lnava@bh.lacounty.gov).

**2.6 Bidders' Questions**

Bidders may call at the below phone number, or submit written questions regarding this IFB by mail, fax or e-mail to the Real Property Agent identified below. All questions must be received by 3:00 p.m. (PST) March 27, 2014. All questions, without identifying the submitting company, will be compiled with the appropriate answers and issued as an addendum to the IFB.

When submitting written questions, please specify the IFB part, Paragraph/Subparagraph number, and page number and quote the passage that prompted the question. This will ensure that the question can be quickly found in the IFB. County reserves the right to group similar questions when providing answers.

Written questions should be addressed to:

Los Angeles County Department of Beaches and Harbors  
Asset Management Division  
Attention: Linda Nava, "IFB-Concessions 2014 WR-Questions"  
13837 Fiji Way  
Marina del Rey, CA 90292  
[lnava@bh.lacounty.gov](mailto:lnava@bh.lacounty.gov)  
Phone: (310) 301-0300  
Fax: (310) 821-6345

**2.7 Bids Irrevocable for 180 Days**

All bids shall be firm and may not be revoked for a period of 180 days following the final date for submission. However, the Director may, upon written request, permit withdrawal of a bid at his sole discretion.

Until the bid submission deadline, errors in bids may be corrected by a request in writing to withdraw the bid and by resubmission of the bid with the mistakes corrected. Corrections will not be accepted once the deadline for submission of bids has passed.

**2.8 Bid Submission**

THE DEADLINE FOR RECEIPT OF BIDS IS April 3, 2014, 3:00 p.m. (PST).

Bidders may submit multiple bids for different types of Licenses, or the same type of License at different locations. HOWEVER, BIDDERS MUST SUBMIT A SEPARATE BID FOR EACH CONCESSION LICENSE. ALL BIDS MAY BE DELIVERED IN A

SINGLE PACKAGE. FAILURE TO FOLLOW THIS DIRECTIVE MAY RESULT IN A BID BEING REJECTED.

Bids must be received at the address listed below by the deadline date and time. Postmarks will be disregarded. Bids are mailed at the Bidder's risk. One (1) original and one (1) copy, each securely bound or stapled and enclosed in a sealed envelope or box, plainly marked in the upper left-hand corner with the name and address of the Bidder and bearing the words, "**IFB (2014)-BID FOR CONCESSION SERVICES AT COUNTY OWNED AND OPERATED BEACHES AND BURTON CHACE PARK**", must be delivered to the attention of:

Los Angeles County Department of Beaches and Harbors  
Asset Management Division  
Attention: Linda Nava, "IFB-Concessions 2014-WR"  
13837 Fiji Way  
Marina del Rey, CA 90292

**It is the sole responsibility of the submitting Bidder to ensure that its bid is received before the submission deadline. Submitting Bidders shall bear all risks associated with delays in delivery by any person or entity, including the U.S. Mail. Any bids received after the scheduled closing date and time for receipt of bids, as listed in Subparagraph 2.3, "IFB Timetable", will not be accepted and will be returned to the sender unopened at sender's expense. Timely hand-delivered bids are acceptable. No facsimile (fax) or electronic mail (e-mail) copies will be accepted.**

## **2.9 Required Format and Content of Bid**

Bids shall be developed according to the guidelines set forth in this IFB. The bids must be specific and complete in every detail. Failure of a bid to conform to these requirements may result in its rejection. All bids and documents shall be written in the English language and prepared using at least a 10 point font.

Bidders must respond specifically to all elements of the IFB. The content and sequence of bids must follow the "Required Format and Content of Bid". Failure of the bid to conform to these requirements may, at the County's sole discretion, disqualify the bid from consideration.

Additional information may also be requested by the County to clarify information already submitted to help evaluate the bidder's qualifications to perform the Contract work.

### **The bid must include the following:**

#### **2.9.1 Cover Page**

Bidder shall identify the Invitation for Bid by title, the firm's name and address, and the name, telephone number, fax number and E-mail address of the person authorized to make representations for the Bidder and commit the Bidder to a Contract.

#### **2.9.2 Table of Contents**

List all material included in the bid. Include a clear definition of the material, identified by sequential page numbers and by IFB references.

**2.9.3 Forms:**

**1. Offer to Perform/Rent Proposal - Form 3**

Complete and sign the Offer to Perform/Rent Proposal (Form 1). Bidder shall submit the proposed rent for the Premises for the initial License Year. It is the responsibility of the Bidder in calculating the proposed rent to take into consideration the following:

- The cost of renovating/remodeling the Premises, where applicable, as well as the cost to secure and maintain the required insurance coverage as specified in Appendix A-Sample License, Subparagraph 32.0, "Insurance Coverage". The County will not be responsible for repairs, maintenance, or improvements on or at the Premises prior to or during the license term.
- The License is subject to a possessory interest tax. It is in the best interest of all Bidders to contact the County Assessor's Office for information regarding possessory interest taxes before submitting a bid at (213) 974-0789 or visit its website at <http://assessor.lacounty.gov>.
- The adjustment to annual rent as provided for in Paragraph 6.0, "Rent", Appendix A-Sample License.

The Offer to Perform must: (1) state whether the Bidder is an individual proprietor, partnership, joint venture, corporation, limited liability company or other form of entity; (2) identify persons authorized to accept service of legal process in California; and (3) identify the name, title, address and telephone number of each person who is authorized to bind the Bidder to performance of the Contract work.

The Offer to Perform/Rent Proposal-Form 3 shall be signed as follows:

- If an individual or sole proprietor, by the individual owner.
- If a corporation, by two authorized officers. If a partnership, by an authorized general partner.
- If a joint venture, by all joint ventures.
- If a limited liability company, by the managing member or other person(s) specifically authorized by the operating agreement.

A bid will be disqualified if the annual rent offered in the bid is lower than the amount listed under the Minimum Bid column below for the corresponding Concession Premises:

<b>Type of License (combined)</b>	<b>Concession Premises</b>	<b>Minimum Bid</b>
Beach Merchandise Sales and Rentals, Concession Stand, Bike & Skate Rentals	Will Rogers (Chautauqua)	\$5,900

## **2. Bidder's Organization/Affidavit - Form 4**

The Bidder shall complete, sign and date the "Bidder's Organization Questionnaire/Affidavit"–Form 4, as set forth in Appendix D. **The person signing this form must be authorized to sign on behalf of the Bidder and to bind the applicant in a Contract.**

Taking into account the structure of the Bidder's organization, Bidder shall determine which of the below referenced supporting documents the County requires. If the Bidder's organization does not fit into one of these categories, upon receipt of the bid or at some later time, the County may, in its discretion, request additional documentation regarding the Bidder's business organization and authority of individuals to sign Contracts.

If the below referenced documents are not available at the time of bid submission, Bidders must request the appropriate documents from the California Secretary of State and provide a statement on the status of the request.

### **Required Support Documents:**

#### **Corporations or Limited Liability Company (LLC)**

The Bidder must submit the following documentation with the bid:

- A copy of a "Certificate of Good Standing" with the state of incorporation/organization.
- A conformed copy of the most recent "Statement of Information" as filed with the California Secretary of State listing corporate officers or members and managers.

#### **Limited Partnership**

The Bidder must submit a conformed copy of the Certificate of Limited Partnership or Application for Registration of Foreign Limited Partnership as filed with the California Secretary of State, and any amendments.

#### **Pending Litigation and Judgments**

Identify by name, case and court jurisdiction any pending litigation in which Bidder is involved, or judgments against Bidder in the past five (5) years. Provide a statement describing the size and scope of any pending or threatening litigation against the Bidder or principals of the Bidder.

## **3. Prospective Contractor References - Form 5**

Complete the Prospective Contractor List of References (Form 6). Bidder must provide a minimum of five (5) business/financial references where the same or similar scope of Authorized Activity (concession services) was provided. Use additional sheets if necessary.

## **4. Prospective Contractor List of Contracts - Form 6**

Complete the Prospective Contractor List of Contracts (Form 6). The listings must include all Public Entities contracts for the last five (5) years. Use additional sheets if necessary.

## **5. Prospective Contractor List of Terminated Contracts - Form 7**

Complete the Prospective Contractor List of Terminated Contracts (Form 7). The listing must include contracts terminated within the past three (3) years with a

reason for termination.

**County may disqualify a Bidder if:**

- **references fail to substantiate Bidder's description of the services provided; or**
- **the Department is unable to reach the point of contact with reasonable effort. It is the Bidder's responsibility to inform the point of contact of normal working hours.**

**6. Certification of No Conflict of Interest - Form 8**

Bidder shall complete and sign the Certification of No Conflict of Interest Form (Form 8). Failure to submit or fully complete Form 8 may be grounds for disqualification.

**7. Familiarity with the County Lobbyist Ordinance Certification - Form 9**

Bidder shall complete and sign the Familiarity with the County Lobbyist Ordinance Certification (Form 9). Failure to submit or fully complete Form 9 may be grounds for disqualification.

**8. Request for Local SBE Preference Program Consideration and CBE Firm/Organization Information Form - Form 10**

The Bidder shall complete and sign Request for Local SBE Preference Program Consideration and CBE Firm/Organization Information Form (Form 10). Failure to submit or fully complete Form 10 may be grounds for disqualification.

**9. Bidder's EEO Certification - Form 11**

Bidder shall complete and sign the Bidder's Certification (Form 11) and submit it as part of the Bid. Failure to submit or fully complete Form 11 may be grounds for disqualification.

**10. Attestation of Willingness to Consider GAIN/GROW Participants - Form 12**

Bidder shall complete and sign the Attestation of Willingness to Consider GAIN/GROW Participants Form (Form 12). Failure to submit or fully complete Form 12 may be grounds for disqualification.

**11. Contractor Employee Jury Service Program Certification Form and Application for Exception - Form 13**

Bidder shall complete and sign the Contractor Employee Jury Service Program Certification Form and Application for Exception (Form 13). Failure to submit or fully complete Form 13 may be grounds for disqualification.

**12. Transitional Job Opportunities Preference Application (If Applicable) - Form 14**

Bidder shall complete the Transitional Job Opportunities Preference Application (Form 14) and provide all supporting documents.

**13. Certification of Compliance with the County's Defaulted Property Tax Reduction Program - Form 15**

Bidder shall complete the Certification of Compliance with the County's Defaulted Property Tax Reduction Program (Form 15). Failure to submit or fully complete



Form 15 may be grounds for disqualification.

**14. Voluntary Artificial Trans Fat Reduction (ATFR) Program Application – Form 16**

Bidder shall complete the Voluntary Artificial Trans Fat Reduction (AFTR) Program Application (Form 16). Failure to submit or fully complete Form 16 (4 pages) may be grounds for disqualification.

**15. Authorization to Release Information – Form 17**

Bidder shall complete the Authorization to Release Information (Form 17.) Failure to submit or fully complete Form 17 may be grounds for disqualification.

**16. Waiver of Liability, Assumption of Risk, and Indemnity Agreement - Form 18**

Bidders bidding on bike and skate rentals, hang gliding, or any concession that requires a release of liability, must submit a copy of the release with each proposal for review by the Director. Form 18 is an example of a release.

**17. Contractor Acknowledgement and Confidentiality Agreement - Form 19**

Bidder shall complete and sign the Contractor Acknowledgement and Confidentiality Agreement (Form 19.) Failure to submit or fully complete Form 17 may be grounds for disqualification.

**18. Contractor's Administration - Form 20**

The Bidder shall complete the Contractor's Administration (Form 20), and designate the Contract Representative, who shall be responsible for overall management and coordination of Contract work and any authorized officials of the contractor.

**2.9.4 Proof of Insurability**

Bidder must provide evidence of insurability (a letter of commitment, binder or certificate of current insurance coverage) from an insurance company that meets all insurance requirements set forth in the Appendix A-Sample Contract, Paragraphs 31.0 and 32.0. If a Bidder does not currently have the required coverage, a letter from a qualified insurance carrier indicating a willingness to provide the required coverage should the Bidder be awarded a Contract may be submitted with the bid.

**2.9.5 Proof of Licenses**

Bidder must furnish a copy of all applicable licenses.

### 3.0 **BID REVIEW AND SELECTION PROCESS**

#### 3.1 **Review Process**

3.1.1 Bids will be examined to determine the highest annual rent. Should one or more of the Bidders request and be granted the Local SBE Preference and/or Transitional Job Opportunities Preference, the highest annual rent will be determined as follows:

**Local SBE Preference:**

Eight percent (8%) of the highest proposed annual rent submitted will be calculated, and that amount will be added to the proposed annual rent submitted by all Local SBE Bidders who requested and were granted the Local SBE Preference.

**Transitional Job Opportunities Preference:**

Five percent (5%) of the highest proposed annual rent submitted will be calculated, and that amount will be added to the proposed annual rent submitted by all Bidders who requested and were granted the Transitional Job Opportunities Preference.

3.1.2 Should there be a tie among one or more bids with the highest annual rent, the Director will allow the tied Bidders two (2) business days to revise and resubmit their proposed annual rent. Once resubmitted, the highest annual rent shall be determined as provided for in Subparagraph 3.1.

3.1.3 The bid with the highest annual rent will be reviewed to determine whether it is responsive and responsible.

The following steps will be performed until it is determined which is the highest annual rent and most responsive and responsible bid.

#### 3.2 **Adherence to Minimum Requirements**

The Department shall review Bidders Required Forms to determine if the Bidder meets the minimum requirements as outlined in Subparagraph 1.4 of this IFB.

Failure of the Bidder to comply with the minimum requirements may eliminate its bid from any further consideration. The County may elect to waive any informality in a bid if the sum and substance of the bid is present.

#### 3.3 **Execution by Selected Bidder(s)**

The License shall be executed first by the Bidder(s) whose bid(s) is (are) selected by the Director for recommended acceptance by the County. The Bidder's failure to execute and return the License to the Director within seven (7) days after its receipt, or such longer time as the Director may allow, shall be deemed to be a refusal to enter into the License, and the Director, in his sole discretion, may either reject all other bids or proceed to recommend the next highest price responsive and responsible Bidder.

#### 3.4 **Disqualification Review**

A bid may be disqualified from consideration because the Department determined it was a non-responsive bid at any time during the review and selection process. If the Department determines that a bid was disqualified due to non-responsiveness, the Department shall notify the Bidder in writing.

Upon receipt of the written determination of non-responsiveness, the Bidder may submit a written request for a Disqualification Review within the timeframe specified in the written determination.

A request for a Disqualification Review may, in the Department's sole discretion, be denied if the request does not satisfy all of the following criteria:

1. The person or entity requesting a Disqualification Review is a Bidder;
2. The request for a Disqualification Review is submitted timely (i.e., by the date and time specified in the written determination); and
3. The request for a Disqualification Review asserts that the Department's determination of disqualification due to non-responsiveness was erroneous (e.g. factual errors, etc.) and provides factual support on each ground asserted as well as copies of all documents and other material that support the assertions.

The Disqualification Review shall be completed and the determination shall be provided to the requesting Bidder, in writing, prior to the conclusion of the review and selection process.

### **3.5 BID REVIEW**

#### **3.5.1 Bidder's Qualifications (Subparagraph 2.10.3)**

Bidder will be evaluated on their experience and capacity as a corporation or other entity to perform the required services based on information provided as requested in Subparagraph 2.10.3, "Forms".

Bidder will be evaluated on the verification of references provided as requested in Subparagraph 2.10.3. In addition to the references provided, a review can include the County's Contract Database and Contractor Alert Reporting Database, if applicable, reflecting past performance history on County or other contracts. This review may impact the evaluation of the bid. Additionally, a review of terminated contracts may be conducted which may impact the evaluation of the bid.

A review will be conducted to determine the significance of any litigation or judgments pending against the Bidder as provided as requested in Subparagraph 2.10.3.

#### **3.5.2 Required Forms**

All forms listed in Subparagraph 2.10.3, Numbers 2 through 20 must be included in the submitted bid.

### **3.6 Department's Proposed Contractor Selection Review**

#### **3.6.1 Proposed Contractor Selection Review**

Any Bidder that has timely submitted a notice of its intent to request a Proposed Contractor Selection Review may submit a written request for a Proposed Contractor Selection Review, in the manner and timeframe as shall be specified by the Department.

A request for a Proposed Contractor Selection Review may, in the Department's sole discretion, be denied if the request does not satisfy all of the following criteria:

1. The person or entity requesting a Proposed Contractor Selection Review is a bidder;
2. The request for a Proposed Contractor Selection Review is submitted timely (i.e., by the date and time specified by the Department);
3. The person or entity requesting a Proposed Contractor Selection Review asserts in appropriate detail with factual reasons one or more of the following grounds for review:
  - a. The Department materially failed to follow procedures specified in its solicitation document. This includes:
    - i. Failure to correctly apply the standards for reviewing the bid format requirements.
    - ii. Failure to correctly apply the standards, and/or follow the prescribed methods, for evaluating the bids as specified in the solicitation document.
    - iii. Use of evaluation criteria that were different from the evaluation criteria disclosed in the solicitation document.
  - b. The department made identifiable mathematical or other errors in evaluating bids, resulting in the Bidder receiving an incorrect score and not being selected as the recommended contractor.
  - c. Another basis for review as provided by state or federal law; and
4. The request for a Proposed Contractor Selection Review sets forth sufficient detail to demonstrate that, but for the Department's alleged failure, the Bidder would have been the lowest cost, responsive and responsible bid or the highest-scored proposal, as the case may be.

Upon completing the Proposed Contractor Selection Review, the Department representative shall issue a written decision to the Bidder within a reasonable time following receipt of the request for a Proposed Contractor Selection Review, and always before the date the contract award recommendation is to be heard by the Board. The written decision shall additionally instruct the Bidder of the manner and timeframe for requesting a review by a County Independent Review (See Subparagraph 3.6.2 below, "County Independent Review Panel Process"..)

### 3.6.2 **County Independent Review Panel Process**

Any Bidder that is not satisfied with the results of the Proposed Contractor Selection Review may submit a written request for review by a County Independent Review in the manner and timeframe specified by the Department in the Department's written decision regarding the Proposed Contractor Selection Review.

A request for review by a County Independent Review Panel may, in the County's sole discretion, be denied if the request does not satisfy all of the following criteria::

1. The person or entity requesting review by a County Independent Review Panel is a Bidder;
2. The request for a review by a County Independent Review Panel is submitted timely (i.e., by the date and time specified by the Department); and
3. The person or entity requesting a County Independent Review Panel has limited the request to items raised in the Proposed Contractor Selection Review and new items that (a) arise from the Department's written decision and (b) are one of the appropriate grounds for requesting a Proposed Contractor Selection Review as listed in Subparagraph 3.6.2, above.

Upon completion of the County Independent Review Panel's review, the ISD will forward its report to the Department, which will provide a copy to the Bidder.