

The governing rules for Federally funded RFPs are as follows

1 Proposal Submission

Each Offeror is allowed one submission only. Alternative proposals will be rejected. Information on format and content is found in the section of this RFP labeled [Proposal Format and Content](#).

MCTS uses a Bonfire portal for Proposal submission. Proposals must be uploaded on Bonfire by the deadline set forth in Section 1 using the following link: <https://ridemcts.bonfirehub.com/opportunities>.

Uploading large documents may take significant time, depending on the size of the file(s) and your internet connection speed.

Minimum system requirements: Internet Explorer 11, Microsoft Edge, Google Chrome, or Mozilla Firefox. Javascript must be enabled. Browser cookies must be enabled.

The maximum upload file size is 1,000 MB.

You will receive an email confirmation receipt with a unique confirmation number once you finalize your submission. Note that each item of Requested Information will only be visible after the Closing Time.

Offerors may contact Bonfire at Support@GoBonfire.com for technical questions related to their submission. A help forum may be found at <https://bonfirehub.zendesk.com/hc>.

2 Proposal Opening

Proposals will be received at a set place, date, and time, but will not be opened publicly given the nature of the RFP, which is a negotiated procurement, and not a sealed bid.

3 Conflict of Interest

By submission of a Proposal, Offeror represents and warrants that (i) any employees, consultants, or other persons associated with MCTS who have been or are associated with the Offeror have not participated in the preparation of the Proposal, (ii) that such person(s) have not conveyed to the Offeror any information pertaining to this RFP, and (iii) will not participate in any of the work hereunder, except with the specific written approval of MCTS.

4 References

MCTS reserves the right to contact any party not listed as a reference that has previously used or is presently using Offeror's products or services. MCTS also reserves the right to use any available source to obtain or verify information about the proposed products and services. MCTS will rely on information obtained through site visits, management interviews, MCTS' own investigations and information submitted by the Offeror during the RFP process.

5 Addendum

In the event that it becomes necessary to provide additional clarifying data or information, or to revise any part of this RFP, revisions/amendments and/or supplements will be distributed on the Bonfire site. Offerors shall be responsible to obtain all documents pertaining to the RFP via the website: <https://ridemcts.bonfirehub.com/opportunities/>.

6 Wisconsin Open Records Law

Proposal responses are subject to disclosure pursuant to applicable Open Records Law. Any request to withhold information from release as proprietary and confidential must be clearly stated on the Proprietary Information Disclosure Form and submitted as part of the Proposal response. Such requests will be handled in accordance with applicable Milwaukee County Ordinances, State of Wisconsin procurement regulations, and the Wisconsin public records law. Cost or pricing always becomes public information and therefore cannot be kept confidential. The standard to withhold information from release is high. When such standard is met, it is the Offeror's responsibility to defend the determination in the event of an appeal or litigation.

MCTS has the sole right to determine whether designations made by an offeror qualify as trade secrets under Wisconsin's Public Record law.

All proposals and related materials submitted in response to this RFP shall remain confidential. Offerors shall not disclose any information pertaining to this RFP to third parties without the written consent of MCTS.

7 Proposal Responses

All materials submitted in response to the RFP become the property of MCTS. Data contained in a Proposal, all documentation provided therein, and innovations developed as a result of the contracted commodities or services cannot be copyrighted or patented. All data, documentation and innovations become the property of MCTS. MCTS also reserves the right to use ideas presented in response to this RFP notwithstanding selection or rejection of proposals.

8 False Information

If MCTS determines that an Offeror purposefully or willfully submitted false information in response to this RFP, the Offeror will not be considered for an award and any resulting Agreement that may have been executed may be immediately terminated.

9 Incurring Costs

MCTS shall not be liable for any cost incurred by Offerors in preparing and submitting a Proposal. This is inclusive of any legal fees for work performed or representation by Offeror's legal counsel during any and all phases of the RFP process, any appeal or administrative review process.

10 Amending a Proposal

Proposals may not be amended after the Proposal deadline for submission, except as set forth herein, i.e., through the clarifications and BAFO process.

11 Proposal Response Held Firm for 90 Days

Offerors' Proposal, including pricing, shall remain in full force and effect for later of 90 days or contract award pursuant to this RFP.

12 Withdrawal of Proposal

Proposals shall be irrevocable until RFP award unless the Proposal is withdrawn. Offerors may withdraw a Proposal at any time up to the Proposal closing date and time from Bonfire. For assistance contact Support@GoBonfire.com or visit the help forum at <https://bonfirehub.zendesk.com/hc>. The Offeror may submit another Proposal at any time up to the Proposal closing date and time.

After the RFP closing date, a written request must be made to the RFP Administrator to withdraw a Proposal. Requests for withdrawal after the RFP closing date may or may not be approved at the sole discretion of MCTS.

13 Offeror Commitment, Availability, Proposal Validity

The successful Offeror shall maintain their availability to close this transaction for a period of six (6) after submitting its Proposal.

14 MCTS' Reservation of Rights

If it is the best interest of MCTS, MCTS reserves the right to (1) make a partial award, an aggregate award, award to more than one Offeror or make no award at all; (2) reject all Proposals received in response to this RFP; (3) modify, cancel or re-publish the RFP at any time prior to contract award; (4) accept or reject all or part of any Proposal submitted; (5) request clarifying information verbally or in writing; (6) waive minimum requirements; (7) waive minor irregularities in any Proposal; (8) allow minor irregularities to be cured by allowing submission of documents submitted incorrectly or inadvertently omitted, (9) allow minor irregularities to be cured by allowing inclusion of a signature that was inadvertently omitted; (10) accept late proposals, and/or (11) add or subtract goods or services during the RFP process, all without explanation to the Offerors. Determination that such action is in the best interest of MCTS is within the sole discretion of MCTS.

MCTS also reserves the right to request and/or require additional disclosures, acknowledgments, and/or warranties, relating to, without limitation, confidentiality, EEOC compliance, collusion, disbarment, and/or conflict of interest, at any time during the procurement process.

15 Full and Open Competition (49 U.S.C. § 5325(a)).

MTS conducts all of its third-party procurements using full and open competition as provided in and as determined by FTA.

16 Exclusionary or Discriminatory Specifications (49 U.S.C. § 53)

MTS does not use exclusionary or discriminatory specifications in its procurement, unless authorized by other applicable federal laws, regulations, or requirements. 49 U.S.C. § 5325(h).

17 Award Process

Responsiveness Review

The Proposals will be reviewed for compliance with mandatory submission requirements by the Procurement department. Failure to meet mandatory submission requirements may result in rejection of the Proposal, subject to MCTS' Reservation of Rights herein. Note that Proposals that are incomplete, conditioned or qualified in any way, contain erasures or alterations, include alternate proposals or other items not called for in RFP documents, are otherwise not in conformity with the law or with these instructions, or include any other irregularities may be rejected as nonresponsive.

Proposal Scoring

An Evaluation Committee (“Committee”) will be chosen consisting of members who have been selected because of their professional expertise and knowledge of the subject matter of this RFP. The Committee will score responsive Proposals according to the criteria set forth herein. The Committee may engage in consensus scoring at their discretion.

The Committee reserves the right to use Subject Matter Experts (“SMEs”), including the RFP Administrator, who are not voting Committee members as technical advisors where specialized knowledge is helpful, such as in the review of Offeror’s financial stability, contract exceptions, etc. In the event an SME is used, that person will be given access to all proposal materials. Participation of SMEs need not be disclosed.

The Committee reserves the right to have a subset of the Committee determine which Proposals are in a competitive range to pass on to the Committee of the whole. The Committee of the whole will then evaluate the shortlisted Proposers as set forth herein.

Cost/Revenue

The points for the Cost/Revenue shall be determined by Procurement based upon an objective formula. The lowest cost Offeror shall be given the maximum number of cost/revenue points. The remaining Offerors will be scored using the formula $\text{Lowest Offeror's Price} / \text{Offeror's Proposed Price} \times (\# \text{ points available})$.

Clarification

MCTS may request or require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of Offeror’s proposal and/or to determine an offeror’s compliance with the requirements of the RFP.

Verbal Presentation/Interview of Top-Scoring Offerors

Top scoring Offerors in a competitive range based on an evaluation of the written Proposal(s) may be requested to participate in a verbal presentation/interview to support and clarify their Proposals, if requested by MCTS. MCTS will make every reasonable attempt to schedule each presentation at a time and location that is agreeable to the Offeror. Failure of an Offeror to participate on the date scheduled may result in rejection of the Offeror's Proposal.

The evaluation committee may adjust any Offeror’s scores upward or downward based upon the presentation.

Demonstrations

Top-scoring Offeror(s) in a competitive range may be required to install and demonstrate their product(s) and/or service(s) at a MCTS’ site. MCTS will furnish detailed specifications concerning the demonstration site and the particular test it will use to exercise the Offeror’s product(s) and/or service(s). Failure of an Offeror to furnish the product(s) and/or service(s) they have proposed for demonstration within the time constraints of the preceding paragraph may result in rejection of that Proposal. Failure of any product(s) and/or service(s) to meet MCTS specified requirements during the demonstration may result in rejection of the Offeror’s proposal.

The successful demonstration of Offeror’s product(s) and/or service(s) does not constitute acceptance by MCTS. Any product(s) and/or service(s) furnished by Offeror for the purposes of this demonstration must be identical in every respect to those which will be furnished if a contract results.

18 Single Proposal

If only a single proposal is received, MCTS may require that the Offeror provide the necessary cost or pricing data to enable MCTS to perform a cost or price analysis to ensure that the proposal price is fair and reasonable. If requested, the Offeror shall provide the cost or price data within five (5) working days of the date requested. MCTS reserves the right to reject or accept the proposal based on the cost or pricing data. Where only one responsive and responsible proposal is received, MCTS may also negotiate price with the sole responsive Offeror.

19 Best and Final Offer (“BAFO”)

MCTS reserves the right to request one or more Offerors to participate in a BAFO process. BAFOs may be used within the sole discretion of MCTS, including but not limited to circumstances where no single response addresses all the specifications, where the costs submitted by all Offerors are too high, where two or more Offerors are virtually tied after the evaluation process, or where all Offerors’ submitted responses that are unclear or deficient in one or more areas. If a BAFO is utilized, Offerors may be required to submit revisions to the RFP response. MCTS will send out a BAFO request to invited Offerors that sets forth the areas of the Proposal to be covered, and the date and time by when the BAFO must be returned. All Offerors will be treated equally, and no information will be transmitted from one Offeror about the other Offeror’s offer during the process MTS reserves the right to apply additional criteria not listed in the

original RFP to the BAFO process, to remove criteria or apply all new criteria provided the criteria is communicated to the Proposers in the BAFO request.

20 Method of Award

Award will be made to Responsive, Responsible Offeror(s) determined to provide the best value to MCTS based upon evaluation of the criteria listed in this RFP. See FTA Circular 4220.1F.

21 Responsible Review

Prior to issuance of a Notice of Intent to Award, the Procurement Department will determine that the putative successful Offeror is Responsible, taking into account factors such as the following: The Offerors' past performance with MCTS or and other entities; a satisfactory record of integrity and business ethics; no instances of debarment or suspension from doing business with the Government; compliance with affirmative action rules and DBE/TBE requirements; possessing the necessary organization, experience, accounting, and operational controls, and technical skills to perform the work; compliance with applicable licensing and tax laws and regulations; sufficient financial resources; the necessary production, construction, and technical equipment and facilities to perform; and ability to meet the required delivery or performance schedule. See 49 U.S.C. § 5325(j).

22 Intent to Award/Negotiation

A Notice of Intent to Award will be issued prior to RFP award. MCTS may negotiate all Contract terms, including the award amount, with the putative awardee. If Contract negotiations cannot be concluded successfully with the putative awardee, MCTS may negotiate a Contract with the Offeror providing the next Best Value Offeror.

23 Protest and Appeals

Protests as to Form and Content

Protests as to form and content of Bid, RFP or RFQ documents must be submitted not less than 15 days prior to the procurement due date. A day is exclusive of Saturdays, Sundays and MCTS-recognized holidays ("Day"). Protests shall be in writing, specifically state the reason for the protest, and be delivered via email to both the RFP Administrator and the Procurement Department Designee (huslabar@mcts.org).

The Procurement Director or their designee shall review protests and determine whether modification is appropriate. Any significant changes to the procurement will result in a revised due date and addendum, publicized in the same manner as the original procurement. A significant change is one that, in the sole view of the Procurement Director, is likely to attract or interest additional offerors announced. If the protest is rejected, the protestor shall be notified. The decision of the Procurement Director is final and cannot be appealed.

Protests as to Responsiveness

RFPs/RFQs

The RFP/RFQ Administrator must inform the Offeror of a determination of non-responsiveness via email, detailing the reason(s) for the determination. The email will be sent to the individual signing the RFP or RFQ submission.

The Offeror must submit any protest from a determination of non-responsiveness within 3 Days (to the hour) of the issuance of the email notifying the Offeror of the non-responsiveness determination. The protest must be in writing, specifically state the reason for the protest, and be delivered via email to both the RFP/RFQ Administrator and to the Procurement Department Designee (huslabar@mcts.org).

The Procurement Director or their designee shall review protest(s) and issue a decision as soon as practicable. The Procurement Director or their designee shall affirm, reverse or modify the RFP Administrator's decision. The decision of the Procurement Director is final and cannot be appealed.

Bids

The Purchasing Agent will inform Bidders of a determination of non-responsiveness in the Notice of Intent to Award to the individual signing the Bid response. Protest procedures are as set for in the Protest to Awards section.

Protests to Notice of Intent to Award

Protests concerning the Notice of Intent to Award must be submitted within 3 Days (to the hour) of the issuance of the Notice of Intent to Award. The Notice of Intent to Award is sent via email to the individual signing the submission documents on behalf of the Offeror/Bidder; all Offerors/Bidders will be sent a Notice of Intent to Award. The 3 Days will run from the date and time stamp on the sent email.

The Procurement Director or their designee shall review the protest and notify the protestor of a decision in writing via email within 5 Days of receipt of the protest if possible, or as soon as practicable if not possible. No contract shall be awarded while a protest is pending. A protest that is untimely or fails to clearly state the reason for said protest shall be

invalid. The decision of invalidity of a protest is final and cannot be appealed. The substantive decision of the Notice of Intent to Award may be appealed as set forth herein.

Purchasing Appeals Committee

A Purchasing Appeals Committee comprised of three members shall hear any appeal of a Notice of Intent to Award only. A representative of Milwaukee Transport Service's Corporate Legal Counsel shall be on the committee. The Procurement Director shall be a technical advisor to the Committee.

Appeal of Protests to Award

Protests of a Notice of Intent to Award shall be made to the Purchasing Appeals Committee by emailing a written request to the Procurement Department Designee (huslabar@mcts.org) within 3 Days (to the hour) of issuance of the decision on the Protest of Notice of Intent to Award, as reflected on the date and time stamp on email responding to the Protest of the Notice of Intent to Award.

The email shall clearly state the grounds upon which the protest is based and clearly request an Appellate Hearing. No contract shall be awarded until the final disposition of the protest.

The Chairperson of the Purchasing Appeals Committee or their designee shall notify all interested persons of the time and place of the Appeal Hearing. The Purchasing Appeals Committee shall affirm, reverse or modify the decision of the Procurement Director's and the final Administrative decision. Decisions shall be made with 10 Days of the appeal, if possible, or as soon as practicable if not possible.

24 Negotiated Procurement

This is a negotiated procurement. A Proposal submitted in response to this RFP is an offer that can be accepted by MCTS to create a binding contract, without negotiation with any Offeror. Negotiation of terms will be as set forth in the Contract section of this RFP.