

# STATE OF OREGON



## COVER PAGE

### OREGON HOUSING AND COMMUNITY SERVICES DEPARTMENT

### REAC INSPECTIONS

Request for Proposal ("RFP")

RFP #7443

Date of Issue: January 9, 2023

Closing Date and Time: February 22, 2023, 5:00 PM PST

Single Point of Contact ("SPC"): Alexis Kackley Procurement and Contract Specialist

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(Attachments are posted as separate documents to OHCS' Procurement website)

## SECTION 1: GENERAL INFORMATION

### 1.1 INTRODUCTION

The State of Oregon, acting by and through its Housing and Community Services Department, (“OHCS”), is issuing this Request for Proposal (“RFP”) for to solicit services of a HUD Certified Real Estate Assessment Center (“REAC”) Inspector for its risk sharing project finances. OHCS needs ongoing REAC Inspections throughout the State of Oregon. The REAC Inspector must be certified by the U.S. Department of Housing and Urban Development (“HUD”).

Additional details on the Scope of the goods or Services or both are included in Section 2.4, Scope of Work/Specifications.

OHCS anticipates the award of one Price Agreement from this RFP, which may result in project Work Order Contracts (“WOCs”).

The initial term of the Price Agreement is anticipated to be two calendar years with options to renew up to a cumulative maximum of seven years.

### 1.2 SCHEDULE

Event	Date	Time
Issue RFP	January 9, 2023	Cover Page
Questions / Requests for Clarification Due Date	February 7, 2023	5:00 pm PST
Answers to Questions/ Requests for Clarification Issues (approx.)	February 13, 2023	
Proposal Due Date (Application Due)	February 22, 2023	5:00 pm PST
RFP Protest Period Ends	Schedule defined under OAR 813- 005-0025	

The table above represents a tentative schedule of events. All times are listed in Pacific Time. All dates listed are subject to change.

### 1.3 SINGLE POINT OF CONTACT (SPC)

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.

## SECTION 2: AUTHORITY, OVERVIEW, AND SCOPE

### 2.1 AUTHORITY AND METHOD

Agency is issuing this RFP pursuant to its authority under Oregon Administrative Rule (OAR)

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125-246-0170(2) including but not limited to Oregon Revised Statutes (ORS) chapters 456 and 458, OAR chapter 813, divisions 5 and 6, as well as applicable rules.

OHCS is using the Competitive Procurement Procedures, pursuant to OAR 813 Divisions 5 and 6. OHCS may use a combination of the methods for Competitive Procurement Procedures.

## **2.2 OVERVIEW AND PURPOSE**

### **2.2.1 Agency Overview and Background**

OHCS is Oregon's Housing Finance Agency ("HFA"), providing financial and program support to create and preserve opportunities for quality, affordable housing for Oregonians of lower and moderate income.

OHCS administers programs that provide housing stabilization from preventing and ending homelessness, assisting with utilities to keep someone stable, to financing multifamily affordable housing, to encouraging homeownership. It delivers these programs primarily through grants, price agreements and loan agreements with local partners and community-based providers and has limited direct contact with low-income beneficiaries. OHCS' sources of funds are varied and include federal and state resources that have complex regulatory compliance requirements, and thus stewardship, compliance monitoring, and asset management are all critical functions played by OHCS.

The mission of OHCS is to provide stable and affordable housing and engage leaders, to develop integrated statewide policy that addresses poverty and provides opportunity for Oregonians.

The Asset & Preservation Management Section of OHCS monitors the continuing compliance of units that has received Risk Sharing funds in accordance with HUD regulations contained in 24 CFR Part 266. The Risk Share Loan Program provides below-market interest rate permanent mortgage loans by issuing pooled tax-exempt bond financing for affordable multifamily rental housing projects.

## **2.3 SCOPE OF WORK**

The awarded Proposer shall perform REAC inspections using the guidelines as set forth by the U.S. Department of Housing and Urban Development <https://www.hud.gov/reac> (which may be amended from time to time).

The awarded Proposer shall adhere to the following requirements, including but not be limited to:

- a. Maintain an "Active" HUD REAC Inspector Certification to conduct all segments of the physical inspection as mandated by REAC.
- b. Have a comprehensive understanding of the inspection protocol; including any/all required updates as well as the software necessary to conduct the inspections.
- c. Perform objective, factual, physical inspections based on the current REAC Physical Inspection Protocol.

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- d. Provide all equipment, transportation, travel, materials and other services as needed to complete the work.
- e. Notify OHCS Price Agreement Administrator of date and time inspection scheduled and with whom the management agent/site contact is.
- f. Submit in writing immediate and full disclosure to OHCS Price Agreement Administrator upon discovering an organizational conflict of interest with respect to the inspection.
- g. Immediately notify OHCS Price Agreement Administrator in writing upon any type of cancellation or date change of an inspection.
- h. Inspector notifies the OHCS Price Agreement Administrator when the REAC inspection has been completed. Upon inspection completion, inspector will send a completed copy of the findings report to HUD for approval; once approved, the completed findings report will be submitted to the Price Agreement Administrator.

The awarded Proposer shall conduct the following Tasks:

### **Task 1. Property Inspections.**

Complete all REAC inspections identified per calendar year within each Ideal Future Date (IFD) required timeframe. This date will not change unless HUD changes a property IFD past the Price Agreement expiration date. In this case, the property will be inspected in lieu of the new IFD.

### **Task 2. Inspection Reports.**

Following completion of inspections, complete all required reporting procedures required by HUD and provide complete copies to OHCS' Price Agreement Administrator.

All WOC deliverables shall be considered those tangible resulting work products that are to be delivered to OHCS such as reports, drafts, collected data, documented interview findings, documented meeting attendance, interim findings and draft and final reports. Additional information will be provided in the individual WOCs.

## **SECTION 3: PROCUREMENT REQUIREMENTS**

### **3.1 MINIMUM PROPOSER REQUIREMENTS**

- Must be an "Active" UPCS Inspector with current REAC Certification from HUD. Include your inspector number for verification purposes.
- Must have a minimum of two years' experience conducting/completing REAC inspections.
- Must be registered with the Oregon Secretary of State Corporation Division Business Registry to do business in Oregon at the time of Price Agreement execution.

### **3.2 MINIMUM SUBMISSION REQUIREMENTS**

#### **3.2.1 Proposal Submissions**

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

- Response to the Round 1 Evaluation Criteria

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- Disclosure Exemption Affidavit (Attachment B), as applicable
- Proposer Information and Certification Sheet (Attachment C)
- Reference Check Form (Attachment D)
- Culturally Specific Organization (Attachment 1), Optional as applicable

### 3.2.2 Proposal Page Limits

Proposal is limited to two (2) pages double-sided (or four (4) single-sided 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:

- Cover Page
- Table of Contents
- Disclosure Exemption Affidavit (Attachment B)
- Proposer Information and Certification Sheet (Attachment C)
- Reference Check Form (Attachment D)
- Proposed Fees/Cost Plan
- Certified Disadvantaged Business Outreach Plan (Attachment E)
- Responsibility Inquiry (Attachment F)
- Response to Information in section 5.3
- Culturally Specific Organization (Attachment 1), Optional as applicable

### 3.2.3 Proposal Format

Proposal should follow the format and reference the sections listed in the Proposal Requirements section.

**Proposer shall submit one (1) electronic copy of its Proposal to [OHCS.contracts@oregon.gov](mailto:OHCS.contracts@oregon.gov) as an attachment by the Closing Date/Time on the Cover Page. Please reference RFP #7443 in the Subject Line of all email communication.**

In addition, 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 Affidavit of Trade Secret (Attachment B) and a fully redacted electronic version of its Proposal, clearly identified as the redacted version.

### 3.2.4 Authorized Representative

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

## 3.3 PROPOSAL REQUIREMENTS

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

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Responses to each section and subsection should be labeled to indicate the item being addressed. Responses to this RFP should be written in plain language. Proposal must describe in detail how requirements of this RFP will be met and may provide additional related information.

Proposals should be straightforward and address the requests of the RFP.

### **3.3.1 Proposer Information and Certification Sheet**

Proposers 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.

### **3.3.2 References**

Provide two (2) reference contacts (Reference Check Form – Attachment D) 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.

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

### **3.3.3 Certificate of Insurance**

Submit Proposer's most recent Certificate of Insurance, if available. This document is not a mandatory submittal item. At Proposal submittal, this Certificate of Insurance does not need to match the insurance requirements listed in the Sample Price Agreement (Attachment A – Exhibit B); however, the insurance requirements in the Sample Price Agreement (Attachment A – Exhibit B) will be required prior to execution of the Price Agreement and is not subject to negotiations.

### **3.3.4 Responsibility Inquiry**

Prior to award, Proposer shall be required to complete and submit the Responsibility Inquiry (Attachment F).

## **SECTION 4: SOLICITATION PROCESS**

### **4.1 PUBLIC NOTICE**

The RFP, including all Addenda and attachments, is published on the OHCS' Procurement website at <https://www.oregon.gov/ohcs/procurement/Pages/procurement-opportunities.aspx> RFP documents will not be mailed to prospective Proposers.

OHCS shall advertise all Addenda, if any, on OHCS' Procurement website. Prospective Proposer is solely responsible for checking OHCS' Procurement website to determine whether or not any Addenda have been issued. Addenda are incorporated into the RFP by this reference.

## 4.2 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; (OHCS.Contracts@oregon.gov);
- 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 Section 1.2, the Schedule.

## 4.3 SOLICITATION PROTESTS

### 4.3.1 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 proposed Sample 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 and Proposer may take exception to the terms and conditions of the Sample Price Agreement marked as negotiable as set forth in the Negotiations Section.

### 4.3.2 Protests to Addenda

Prospective Proposers 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.

### 4.3.3 All Protests must:

- Comply with procedure under OAR 813-005-0025;
- Be delivered to the SPC via email (OHCS.Contracts@oregon.gov) or hard copy (see cover page for address);
- 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;

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- 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.

### **4.3.4 Protest Response**

Agency will endeavor to respond to all protests submitted in a timely manner while giving due consideration to the nature of the protests. Agency reserves the right not to consider protests that do not comply with OAR 813- 005-0025.

### **4.4 PROPOSAL DELIVERY OPTIONS**

Proposer is solely responsible for ensuring its Proposal is received by the SPC in accordance with the RFP requirements before Closing. Agency is not responsible for any delays in mail or by common carriers or by transmission errors (electronic or otherwise) or delays or mistaken delivery. Proposals submitted by any means not authorized may be rejected.

### **4.5 PROPOSAL MODIFICATION OR WITHDRAWAL**

If a Proposer wishes to make modifications to a submitted Proposal, it must submit its modification in the authorized method listed in Section 3. 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 or hard copy prior to closing in accordance with OAR 137-047-0440. To be effective the notice must include the RFP number.

### **4.6 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.

### **4.7 PUBLIC OPENING**

There will not be a public opening for this RFP. Proposals received will not be available for inspection until after the resulting Price Agreement is executed.

### **4.8 PROPOSAL REJECTION**

Agency 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, although an electronic signature is acceptable.
- Proposer has liquidated and delinquent debt owed to the State or any department or agency of the State.

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- Proposer fails to meet the responsibility requirements of ORS 279B.110.
- Proposer makes any contact regarding this RFP with State representatives such as State employees or officials other than the SPC or persons authorized by the SPC, or makes inappropriate contact with the SPC.
- Proposer attempts to influence a member of the Evaluation Committee.
- A Proposal is conditioned on Agency'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.

## **4.9 EVALUATION PROCESS**

### **4.9.1 Responsiveness and Responsibility Determination**

#### **4.9.1.1 Responsiveness Determination**

A Proposal received prior to Closing will be reviewed to determine if it is Responsive to all RFP requirements including compliance with the Minimum Proposer Requirements section and the Minimum Submission Requirements section. If the Proposal is unclear, the SPC may request clarification from the Proposer. The Proposer must respond within three (3) working days of the date an email has been sent from the Agency. 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, Agency may waive mistakes in accordance with OAR 137-047-0470 and OAR chapter 813, divisions 5 and 6.

Agency may use its discretionary action in accordance with OAR 813-006-0040.

#### **4.9.1.2 Responsibility Determination**

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

### **4.9.2 Evaluation Overview**

Members of an Evaluation Committee will independently evaluate each Proposal meeting all Responsiveness requirements. Evaluation Committee members may change and OHCS may have additional or fewer evaluators for optional rounds of competition. Evaluators will assign a score for each evaluation criterion based on the categories described below, and the Proposer must describe how they meet any other requirements that may be specified in this RFP.

SPC may request further clarification and reserves the right to request additional information to assist the Evaluation Committee in gaining additional understanding of a Proposal. Agency may conduct additional evaluation rounds, interviews, discussions and negotiations with interested Proposers who submit Proposals found to be reasonably likely to be selected for an award. If such negotiations are held, Agency may establish a date for best and final offers.

Agency may award a Price Agreement to a Proposer whose Proposal is most advantageous to

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Agency. Agency reserves the right to award a Price Agreement to the Proposer who will best meet the requirements of this RFP, and not necessarily to the interested Proposer with the lowest cost price.

### 4.9.3 Scored Evaluation Criteria & Scored Questions (Round 1)

A total of 100 maximum points are possible for Round 1. See the POINT AND SCORE CALCULATIONS section for a detailed breakdown by category. Proposer shall demonstrate how the Proposal addresses the following evaluation criteria:

**A. Background and Experience (Total maximum 30 points).** Proposer must provide written statements that address the following:

1. Describe your company/business. Include the location of your business in relation to Oregon and your ability to timely schedule and conduct REAC inspections throughout the State of Oregon and complete the required reporting.
2. Describe your and your company's/business's experience scheduling and conducting REAC inspections. Include your qualifications that allow you to schedule and conduct REAC inspections. Provide your Inspector ID number and details pertaining to your most recent HUD inspector evaluation.

**B. Proposal Structure (Total maximum 10 points).** Proposer must provide written statements (Section 3.2.1) that address the following:

- Submitting completed documents and forms
- Addressing each of the items listed and referenced in section 4
- Submitting a Proposal within page limit
- Responding to evaluation criteria in chronological order
- Labeling each response with the evaluation criteria number and title

**C. Outline your and your company's/business's plan to continue this work over the next 5 years (Total maximum 30 points).** The initial term of award is two years with the ability to amend to a cumulative period of seven years.

**D. Cost Proposal (Total maximum 30 points).** Include in your Proposal a Cost Proposal that explains how Proposer prefers to charge for Services. All expenses must be included in your Cost Proposal such as travel, office supplies, etc.

### 4.10 TIEBREAKERS

In selecting between two or more equally qualified bidders in a competitive procurement, preference will be given to the Proposal maximizing program objectives. OHCS shall award the Price Agreement in accordance with the procedures outlined in OAR 813-006-0010(8).

### 4.11 POINT AND SCORE CALCULATIONS

Scores are the points assigned by each evaluator.

The maximum points possible for each evaluation item are listed in the table below.

<b>TOTAL POINTS POSSIBLE FOR ROUNDS:</b>		100
<b>ROUND 1 POINTS POSSIBLE (Section 4.9.3)</b>		100
A	Background and Experience	30
B	Proposal Structure	10
C	Please describe the current and complete scope of work conducted by your Company	30
D	Cost Proposal	30

**4.12 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).

Agency will rank all Proposals at the conclusion of the evaluation and scoring and may, in OHCS’ sole discretion, determine an apparent successful Proposal with no additional rounds of competition. If additional rounds are conducted, OHCS will rank advancing Proposal at the conclusion of each subsequent round and may determine an apparent successful Proposal at any time during the solicitation process.

The SPC will combine the average score for each Proposal. SPC will describe the rank order for each Proposal, with the highest score receiving the highest rank, and successive rank order determined by the next highest score.

**4.13 NEXT STEP DETERMINATION**

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

- Presentations/Demonstrations/Interviews
- Additional Submittal Items
- Discussions and Submittal of Revised Proposals
- Serial or Simultaneous Negotiations
- Revised Rounds of Negotiations

**SECTION 5: AWARD AND NEGOTIATION**

**5.1 AWARD NOTIFICATION PROCESS**

**5.1.1 Award Consideration**

**5.1.2 OHCS, if it awards a Price Agreement, shall award a Price Agreement to the**

**highest ranking Responsible Proposer(s) based upon the scoring methodology and process described in Section 4. OHCS may award less than the full Scope defined in this RFP. OHCS, in its sole discretion, may make additional award(s) for up to 36 months following the close of this solicitation. OHCS may select the next ranked Responsive and Responsible Proposer, issue an Intent to Award notice. If agreement with that Proposer is not reached, OHCS may offer award to the next ranked Proposer and so on until agreement is reached or until OHCS terminates the process. OHCS may require reconfirmation of the qualifications and staffing of any Proposer.** Intent to Award Notice

Agency will notify all Proposers in writing by issuing an Intent to Award notice that OHCS intends to award a Price Agreement to the selected Proposer(s) subject to successful negotiation of any negotiable provisions.

## **5.2 APPARENT SUCCESSFUL PROPOSER SUBMISSION REQUIREMENTS**

A Proposer who is selected for an award under this RFP will be required to submit additional information and comply with the following:

### **5.2.1 Insurance**

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

### **5.2.2 Taxpayer Identification Number**

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

### **5.2.3 Business Registry**

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

## **5.3 PRICE AGREEMENT NEGOTIATION**

### **5.3.1 Negotiation**

After selection of a successful Proposer, OHCS may enter into Price Agreement negotiations with the successful Proposer. By submitting a Proposal, Proposer agrees to comply with the requirements of this RFP, including the terms and conditions of the Sample Price Agreement (Attachment A), with the exception of those terms reserved for negotiation such as the Statement of Work and Insurance requirements.

In submitting its response to this RFP, a Proposer must review the attached Sample Price Agreement and note exceptions.

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

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

The Price Agreement, including any subsequent negotiated changes, is subject to prior approval by the Oregon Department of Justice.

Agency is unable to negotiate those items 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 30 calendar days of the Intent to Award notice, OHCS may terminate Negotiations and commence Negotiations with the next highest-ranking Proposer.

## **SECTION 6: ADDITIONAL INFORMATION**

### **6.1 CERTIFIED FIRM PARTICIPATION**

ORSC Chapter 200, Agency 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. Agency 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 Price Agreement has potential subcontracting opportunities, the successful Proposer may be required to submit a completed Certified Disadvantaged Business Outreach Plan (Attachment E) prior to execution.

### **6.2 GOVERNING LAWS AND REGULATIONS**

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 Marion 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

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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.

### **6.3 CANCELLATION OF RFP; REJECTION OF PROPOSAL; NO DAMAGES.**

OHCS 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 State or OHCS, as determined by OHCS. Neither the State nor OHCS 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.

### **6.4 COST OF SUBMITTING A 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.