

From: [Charuni Patibanda](#)
To: [Garces, Nympha \(Federal\)](#)
Cc: [Keith Kaneko](#); [Karl Muller](#)
Subject: AltaSea EDA Notes
Date: Wednesday, February 21, 2018 3:22:00 PM
Attachments: [image002.png](#)

Nympha,

Thanks again for the call last week. We are very excited to be working with on the AltaSea project. To make sure we are on the right track, please confirm that the below procurement process is acceptable:

Because AltaSea's design phase is complete, AltaSea may issue a Bid-Build Request for Proposal for General Contractor pursuant to C.F.R 200.320(d)(5). AltaSea may issue an RFP that includes a qualification section and may be scored on a best value basis as opposed to a strict low bid basis because of the specialized skills required to complete the project.

AltaSea's project includes both infrastructure improvements and improvements to the physical warehouse structures. The RFP can include both of these scopes of work. AltaSea will clearly denote the EDA/infrastructure work separately from the other work in the bidding documents.

Thanks so much for your help!
Best,
Char

§ 200.320 Methods of procurement to be followed.

(d) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type [contract](#) is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

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- (2)** Proposals must be solicited from an adequate number of qualified sources;
- (3)** The [non-Federal entity](#) must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;
- (4)** [Contracts](#) must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors

considered; and

(5) The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

Glaser Weil

Charuni Patibanda | Attorney

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From: [Garces, Nympha \(Federal\)](#)
To: [Charuni Patibanda](#)
Cc: [Keith Kaneko](#); [Karl Muller](#); [Eric Johnson \(Ericj@Victory-Group.com\)](#)
Subject: AltaSea EDA Notes
Start: Thursday, March 1, 2018 4:00:00 PM
End: Thursday, March 1, 2018 4:30:00 PM
Location: 206-220-7729
Attachments: [image001.jpg](#)
[image002.png](#)
[image003.jpg](#)

From: Garces, Nympha (Federal)
Sent: Tuesday, February 27, 2018 5:22 PM
To: 'Charuni Patibanda' <cpatibanda@glaserweil.com>
Cc: Keith Kaneko <kkaneko@gafcon.com> <mailto:kkaneko@gafcon.com>; Karl Muller <kmuller@altasea.org> <mailto:kmuller@altasea.org>; Eric Johnson (Ericj@Victory-Group.com) <mailto:Ericj@Victory-Group.com>) <Ericj@Victory-Group.com> <mailto:Ericj@Victory-Group.com>
Subject: RE: AltaSea EDA Notes

Hi Char,

I will not be at work Friday but I can be available Thursday at 4pm, I can send an invite, you may call my desk no. 206-220-7729.

R/Nympha

From: Charuni Patibanda [mailto:cpatibanda@glaserweil.com]
Sent: Tuesday, February 27, 2018 10:05 AM
To: Garces, Nympha (Federal) <Ngarces@eda.gov> <mailto:Ngarces@eda.gov>
Cc: Keith Kaneko <kkaneko@gafcon.com> <mailto:kkaneko@gafcon.com>; Karl Muller <kmuller@altasea.org> <mailto:kmuller@altasea.org>; Eric Johnson (Ericj@Victory-Group.com) <mailto:Ericj@Victory-Group.com>) <Ericj@Victory-Group.com> <mailto:Ericj@Victory-Group.com>
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<http://www.linkedin.com/company/glaser-weil-fink-jacobs-howard-avchen-&-shapiro-llp?trk=ppro_cprof> <<https://twitter.com/GlaserWeil>>

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(3) The non-Federal entity <https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iiframe=true&def_id=e70d4d5b3d21f635ea2aec391214bde6&term_occur=4&term_src=Title:2:Subtitle:A:Chapter:II:Part:200:Subpart:D:Subjgrp:31:200.320> must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;

(4) Contracts <https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iiframe=true&def_id=dad614c8a49266d2767ab3a834546ad5&term_occur=5&term_src=Title:2:Subtitle:A:Chapter:II:Part:200:Subpart:D:Subjgrp:31:200.320> must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

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<http://www.linkedin.com/company/glaser-weil-fink-jacobs-howard-avchen-&-shapiro-llp?trk=ppro_cprof> <<https://twitter.com/GlaserWeil>>

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Cc: [Keith Kaneko](#); [Karl Muller](#); [Eric Johnson \(Ericj@Victory-Group.com\)](#)
Subject: RE: AltaSea EDA Notes
Date: Tuesday, February 27, 2018 10:05:38 AM
Attachments: [image002.png](#)

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From: Garces, Nympha (Federal) [mailto:Ngarces@eda.gov]
Sent: Friday, February 23, 2018 1:21 PM
To: Charuni Patibanda <cpatibanda@glaserweil.com>
Cc: Keith Kaneko <kkaneko@gafcon.com>; Karl Muller <kmuller@altasea.org>
Subject: RE: AltaSea EDA Notes

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Sent: Wednesday, February 21, 2018 3:21 PM
To: Garces, Nympha (Federal) <Ngarces@eda.gov>
Cc: Keith Kaneko <kkaneko@gafcon.com>; Karl Muller <kmuller@altasea.org>
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From: [Garces, Nympha \(Federal\)](#)
To: [Charuni Patibanda](#)
Cc: [Keith Kaneko](#); [Karl Muller](#)
Subject: RE: AltaSea EDA Notes
Date: Friday, February 23, 2018 1:21:00 PM
Attachments: [image002.png](#)

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Subject: RE: AltaSea EDA Notes
Date: Tuesday, February 27, 2018 5:43:58 PM
Attachments: [image002.png](#)

Thanks Nympha! Will do.

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From: [Garces, Nympha \(Federal\)](#)
To: [Charuni Patibanda](#)
Cc: [Keith Kaneko](#); [Karl Muller](#); [Eric Johnson \(Ericj@Victory-Group.com\)](#)
Subject: RE: AltaSea EDA Notes
Date: Tuesday, February 27, 2018 5:22:00 PM
Attachments: [image002.png](#)

Hi Char,

I will not be at work Friday but I can be available Thursday at 4pm, I can send an invite, you may call my desk no. 206-220-7729.

R/Nympha

From: Charuni Patibanda [mailto:cpatibanda@glaserweil.com]
Sent: Tuesday, February 27, 2018 10:05 AM
To: Garces, Nympha (Federal) <Ngarces@eda.gov>
Cc: Keith Kaneko <kkaneko@gafcon.com>; Karl Muller <kmuller@altasea.org>; Eric Johnson (Ericj@Victory-Group.com) <Ericj@Victory-Group.com>
Subject: RE: AltaSea EDA Notes

Thanks Nympha. Can we set another call with you to discuss the specifics of our project? We have a few more follow up questions. We are available Thursday after 4pm and are open most of the day on Friday.

We really appreciate all your attention to this matter.

Best,
Char

Glaser Weil

Charuni Patibanda | Attorney

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From: Garces, Nympha (Federal) [mailto:Ngarces@eda.gov]
Sent: Friday, February 23, 2018 1:21 PM
To: Charuni Patibanda <cpatibanda@glaserweil.com>
Cc: Keith Kaneko <kkaneko@gafcon.com>; Karl Muller <kmuller@altasea.org>

Subject: RE: AltaSea EDA Notes

Hi Char,

Please refer to the regulation carefully. Qualification based and “not” using the lowest responsive bid as a basis for contract selection is only allowed for “Professional services such as for the Architectural and Engineering firms”. We discussed about your third party Construction Management Services that is still to be contracted (Inspection Services budget), this is the one that can include qualification based RFP. General Construction requires lowest responsive bids as the basis for selection of successful bid.

If you use an architect as a general contractor and use the CFR 200.320 (d) (5) selection process, the actual construction part will not pass under the procurement regulation and will not be eligible for EDA participation, only the construction management part is going to follow the procurement regulation. This is one reason why the CMGC / DBB or any other alternative method for construction although allowed, is actually complicated in that the procurement, cost principles and other regulations still has to be met.

If you are going to bid both projects at the same time, please note that everything has to be clearly itemized/separated. There are going to be harder items to split such as general requirements - administrative, mobilization/demobilization, temporary offices/facilities and supplies, security, and maybe more but you have to have a way to separate them and assign correctly to the right project.

Hope this is clear, if not, let me know so we can discuss further.

R/Nympha

From: Charuni Patibanda [<mailto:cpatibanda@glaserweil.com>]

Sent: Wednesday, February 21, 2018 3:21 PM

To: Garces, Nympha (Federal) <Ngarces@eda.gov>

Cc: Keith Kaneko <kkaneko@gafcon.com>; Karl Muller <kmuller@altasea.org>

Subject: AltaSea EDA Notes

Nympha,

Thanks again for the call last week. We are very excited to be working with on the AltaSea project. To make sure we are on the right track, please confirm that the below procurement process is acceptable:

Because AltaSea’s design phase is complete, AltaSea may issue a Bid-Build Request for Proposal for General Contractor pursuant to C.F.R 200.320(d)(5). AltaSea may issue an RFP that includes a qualification section and may be scored on a best value basis as opposed to a strict low bid basis because of the specialized skills required to complete the project.

AltaSea’s project includes both infrastructure improvements and improvements to the physical warehouse structures. The RFP can include both of these scopes of work. AltaSea will clearly denote the EDA/infrastructure work separately from the other work in the bidding documents.

Thanks so much for your help!

Best,

Char

§ 200.320 Methods of procurement to be followed.

(d) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type [contract](#) is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

(1) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;

(2) Proposals must be solicited from an adequate number of qualified sources;

(3) The [non-Federal entity](#) must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;

(4) [Contracts](#) must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

(5) The [non-Federal entity](#) may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.



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