

REQUEST FOR PROPOSALS (#3)

MASTER DEVELOPMENT PROJECT (Current Prison Land Development Project and a New Prison Development Project)

Prison Relocation and Development Authority
State of Utah

Project # 
Issue Date: 

CHAPTER 1

1.1 GENERAL INFORMATION AND OVERVIEW

1.1.1 GENERAL DESCRIPTION OF THE ISSUED RFPS

Utah Code §63C-13-104.3 directs the State of Utah, Prison Relocation and Development Authority (hereinafter Authority”) to issue a request for proposals inviting persons to submit proposals on a new prison development project, current prison land development project, or a master development project. This RFP is issued under the authority of Utah Procurement Code, Title 63G, Chapter 6a; the Prison Relocation and Development Authority Act, Title 63C, Chapter 13 and all applicable laws. All offerors are deemed to have knowledge of the applicable laws governing this RFP, which are hereby incorporated by reference as a part of this RFP and a part of the requirements.

This RFP is one of three issued by the Authority. **Each of the three RFPS referred to below may be awarded to multiple offerors.**

RFP 1 is soliciting proposals for a **new prison development project** at one or more suitable locations in the State of Utah other than the location of the current Draper State Prison. The proposal may be for part or all of the inmate population at the current Draper Prison and may provide for future expansion needs.

RFP 2 is soliciting proposals for a **current prison land development project** which means a project which includes the transfer of ownership, demolition and developing the current prison land of the Draper Prison site West of Interstate I-15 as well as the Department of Corrections Administration Building and Fred House Training Academy East of Interstate I-15. Proposals may be for part or all of this land and facilities. Proposals may be from public and private entities.

RFP 3 is soliciting proposals for a **Master Development Project** which means a project that includes all the aspects of RFP #1 and #2 above.

The purpose of this RFP #3 is to solicit competitive proposals as required under Utah Code Annotated §63C-13-104.3(1)(b) from experienced, responsive, responsible, and financially sound persons for a comprehensive **Master Development Project** to relocate the Utah State Prison *and* develop the existing Draper Prison site. This also includes the Dept. of Corrections Administration Building and Training Building East of Interstate of I-15.

Offerors must include in their proposals a proposed conceptual plan. The conceptual plan may incorporate some or all of the features of the comprehensive, long-term general plan (ref. Utah Code Annotated §10-9a-401) of the municipality, or municipalities in which the offerors proposed new prison facilities are located. **The**

plan may be for all or part of the property referred to herein.

This RFP is designed to provide basic information sufficient to solicit proposals from qualified individuals, groups of individuals, or firms, but (except to the extent expressly provided otherwise) is not intended to limit a proposal's content or exclude any relevant, important, or essential information. Proposals may be submitted by private or public persons or entities.

Offerors submitting a proposal in response to this Master Development Project RFP are encouraged to submit proposals for RFP #1 for a new prison development project and RFP #2 for current prison land development as described in subsection 1.1.1 of this RFP.

1.1.2 PUBLIC RECORD: All aspects and provisions of any submittal to the Authority, all documents, concepts, conceptual plans, designs, or any other information that is submitted by any offeror and contained in any proposal is to be public record. No offeror shall mark any aspect as trade secret, business confidential or any other confidentiality. Any such marking will not be valid and the State may publish the information without any liability whatsoever. Therefore, if any offeror is concerned about the provision of confidential information, such offeror is advised not to submit such confidential information.

1.1.3 STATE OWNERSHIP OF PROPOSALS AND CONTENTS. The State of Utah shall own the information, contents and ideas presented in any offer submitted pursuant to this Solicitation. The State may share freely with the public and any selected offeror or offerors any and all documents, concepts, designs, or any other information that is submitted by any offeror and contained in any proposal without any liability whatsoever. By submitting a proposal, each offeror certifies that the offeror itself owns the information, concepts and all contents submitted to the State of Utah and agrees to indemnify the State of Utah, its officers, employees, agents and anyone for whom the State of Utah may be liable, for the State of Utah's use or distribution of such information, concepts and contents.

1.2 PROCUREMENT APPROACH

Stages. This procurement will be conducted in multiple stages. There may be a single or multiple award or one or more offerors. The stages are:

- **Stage I** – Acceptable Offeror Selection. (Short-listing). Stage I provides for the establishment of qualified persons or firms as determined by a preliminary review of proposals to determine the following: Whether a proposal is timely received, meets all mandatory minimum requirements, the offeror is responsible, the offer is responsive to all material aspects of the RFP, and therefore the offer is classified as “acceptable” which allows it to proceed to Stage II. If such a proposal is not “acceptable,” it will

be disqualified from further consideration and will not move on to Stage II;

- **Stage II – Interviews.** The purpose of the interview is to allow the offeror to present its qualifications and past performance, management plan, conceptual plan, schedule and general plan for accomplishing the comprehensive **Master Development Project**. It will also provide an opportunity for the Authority or evaluation committee to seek clarifications from the offeror. The Authority will notify eligible offerors of the date and time of the interview and who should be in attendance. The Authority may establish time limits for the interview. The Authority may allow for attendance by electronic means if request in writing in advance and in the Authority’s sole discretion. The method of presentation is also at the discretion of the offeror.
- **Stage III – Scoring.** Stage III will consists of a detailed evaluation of acceptable proposals from those interviewed. The Authority or an evaluation committee appointed by the Authority, will evaluate proposals against the weighted criteria identified in this RFP and on the “RFP EVALUATION SCORESHEET.” **Each aspect of the evaluation criteria must be addressed in detail in the proposal.** To be considered technically qualified and in the competitive range in Stage II **a proposal must meet all the minimum mandatory scores identified in any criteria as well as a minimum score of 75% of the total technical points available** to move forward to Stage III Interviews. If only one proposal meets the mandatory minimum requirements for each criteria and receives a minimum score of 75%, the Authority reserves the right, but is not required, to reduce the mandatory minimum requirements and the minimum score requirement at its discretion in order to maximize competition. If the Authority chooses to reduce the mandatory minimum requirements for each criteria or the minimum score requirement it shall be done in 5% increments until at least two qualified proposals are obtained.
- **Stage IV – Recommendation and Contract Process.** This process includes the Authorities recommendations of the successful offeror(s) to the Governor and Legislature, and if so approved, the contract negotiation and contract execution process.

1.3 PROCUREMENT SCHEDULE

The anticipated procurement schedule, which may be modified by the Authority at any time, with such modification posted on the DFCM website, is as follows:

PROJECT NAME:		MASTER DEVELOPMENT PROJECT PRISON RELOCATION – STATE OF UTAH		
AUTHORITY PROJECT NO.		_____		
Event	Day	Date	Time	Place
RFP Issued	Wednesday	October 2, 2013	5:00 PM	DFCM web site*
Last Day to Submit Questions	Wednesday	October 23, 2013	5:00 PM	Kurt Baxter – DFCM E-mail: kbaxter@utah.gov
Addendum Deadline	Wednesday	October 30, 2013	3:00 PM	DFCM web site *
Complete Proposals Due	Wednesday	November 13, 2013	12:00 NOON	Denise Austin Room 4110 State Office Bldg Capitol Hill Complex SLC, UT 84114
Anticipated Start Date for Interviews	Monday	November 18 , 2013	TBA	TBA
Public Hearings as required by Utah Code Annotated §63C-13-104.3(1)(e)	TBA	TBA	TBA	TBA
Authority Commences drafting of Recommendation	Tuesday	January 13, 2014	N/A	N/A
Recommendation provided to the Governor and Legislature	Friday	January 24, 2014	TBA	TBA

1.4 PROCUREMENT PROCESS

1.4.1 ISSUING OFFICE

The Division of Facilities Construction and Management (DFCM) is the Issuing Office for the procurement process on behalf of the Authority.

1.4.2 DFCM WEBSITE

This RFP, all addenda, and all related solicitation materials (not available via web links contained in this RFP) will be posted on the State of Utah’s Division of Facilities Construction and Management’s website.

1.4.3 QUESTIONS

Questions will be accepted up until the cut-off date and time for question submission. The

cut-off date and time is October 23, 2013 at 2:00 p.m. Mountain Daylight Time. All questions concerning this RFP must be submitted to Kurt Baxter at kbaxter@utah.gov. An offeror shall not contact anyone in State of Utah Government, other than Kurt Baxter, in regard to this RFP. Only answers issued by DFCM shall be the official position of the State of Utah. The State will not accept verbal questions from offerors. Such questions and/or communications initiated by any prospective offeror may constitute a violation of Subsection 1.4.1 of this RFP. Offerors should periodically check the DFCM website for posted questions, answers and addenda.

Any modification to this procurement shall be made by addendum issued by the State Division of Facilities Construction and Management and posted on the DFCM website. Only authorized and properly issued addenda shall constitute the official position of the State and shall be binding.

Anyone submitting a response to this solicitation, that is based on a source other than the information provided on the DFCM website for this Solicitation, assumes full risk including the possibility of a determination of non-responsiveness and may be rejected at the sole discretion of the State.

1.4.4 RFP CANCELLATION

The State of Utah and the Authority may cancel this RFP at any time or to issue a new RFP without liability for any costs in preparation of any proposal, appearance at an interview or any aspect of this RFP process. The Authority reserves the right to reject any or all proposals.

1.4.5 RFP AMENDMENTS

The Authority reserves the right to amend the RFP at any time. A new proposal due date and time may be provided to all potential offerors if any amendment is deemed to have a significant impact on the preparation of proposals.

1.4.6 PROPOSAL SUBMISSION

Each proposal must be submitted in an original and thirteen hard copies including the transmittal letter. Electronic proposals and copies will not be considered. **All proposals (original and copies) must be physically received by the State of Utah, Department of Administrative Services, Division of Facilities Construction and Management, Room 4110 State Office Building, Capitol Hill, Salt Lake City, Utah 84114 no later than 12:00 NOON, Mountain Standard Time, November 13, 2013. Late proposals (original and copies) will not be accepted under any circumstances and will be returned to the offeror unopened. The offeror is responsible for the delivery of the proposal and all copies at the time, date and place stated herein and any delay by a delivery carrier (USPS, UPS, Fedex, etc.) for whatever reason is at the sole risk of the offeror and will still be considered late.**

The outside cover of the package containing the Proposal shall be marked:

RFP#3
MASTER
DEVELOPMENT
PROJECT
(Offeror's Name)

PROJECT NUMBER:

Any amendments to the Proposal shall be submitted in the same manner consistent with the instructions described in this section and clearly labeled as "Amendment to Proposal." Any such amendment must be submitted at the place, time and deadline as the original proposal.

The name, title, mailing address, and telephone number of the offeror's authorized agent with the authority to bind the firm and answer critical questions concerning the proposal must be stated clearly in proposal. Offerors must furnish all information requested in the proposals. References to information submitted with previous proposals, requests for information (RFI) or otherwise previously provided will not satisfy this provision and may cause rejection of the proposal.

1.4.7 WITHDRAWAL OF PROPOSAL

Prior to the proposal due time and date, a submitted proposal may be withdrawn by submitting a written request for its withdrawal, signed by the offeror's authorized agent, to the Issuing Office.

1.4.8 IRREGULARITIES IN PROPOSALS

The Authority reserves the right to waive minor irregularities in proposals providing such action is in the best interest of the State. Where the Authority may waive minor irregularities, such waiver shall in no way modify the RFP requirements or excuse the offeror from full compliance with RFP specifications and other contract requirements if the offeror is awarded the contract. The State also reserves the right to require offerors, at their own expense, to submit written clarification of a proposal in the manner and the format that the State shall require.

1.4.9 BEST AND FINAL OFFERS.

The Authority, in its sole discretion may determine to have a Best and Final Offer Stage. Discussion of a technical proposal may be conducted by the Authority with any offeror who submits an acceptable or potentially acceptable technical offeror under the provisions of the Utah Procurement Code Section 63G-6a-705.

1.4.10 PROPOSALS ARE BINDING

All proposals are required to be signed by a person in authority to bind the offeror to the response, the response cost, and the terms and conditions of the proposals. If the Governor and Legislature approve the issuance of a contract with one or more offerors, the offeror(s) must in good faith execute a contract consistent with the submitted offer(s) no later than July 1, 2014. Failure to abide by the terms of the offer to and including July 1, 2014, provides the right of the State of Utah, in its sole discretion to have the bid bond and earnest forfeited to the State of Utah. By submitting a proposal, the offeror certifies that all information provided by the offeror is true, complete, and accurate, that the offeror is willing and able to furnish the PROPOSED MASTER DEVELOPMENT PROJECT in the manner described in this RFP, that the costs quoted are correct, and that the costs quoted include all charges that will be required in relation to the undertaking and completing the PROPOSED MASTER DEVELOPMENT PROJECT.

1.4.11 RESTRICTIONS ON COMMUNICATIONS WITH STATE STAFF.

From the issue date of this RFP until the Authority makes its official recommendation to the Governor and the Legislative Management Committee, offerors are prohibited from communications with State personnel except for: (1) Kurt Baxter at kbaxter@utah.gov and (2) to the Evaluation Committee representatives as part of the interviews and discussions as part of the RFP process.

Communications made in violation of this provision may result in a disqualification of the proposal and shall result in a disqualification of the proposal if the offeror was provided information that was prejudicial to the fairness of the procurement with other offerors.

1.4.12 COSTS ASSOCIATED WITH RFP AND CONTRACT NEGOTIATIONS

All expenses relating to responding to this RFP or in regard to any contract negotiations resulting from this RFP process, including drafting, research, preparing, submitting, and presenting a proposal, attending meetings, site visits and interviews, discussions, and all printing, mailing, legal and consultant fees, travel, dining, lodging, and communication expenses will be borne by the offeror, whether or not this RFP or contract negotiations continue or are canceled for any reason. The Authority or the State of Utah shall not have any liability for any such costs incurred by an offeror in responding to this RFP or in regard to any contract negotiations resulting from this RFP process.

No offeror will be reimbursed or paid for any concept, strategy, or other information disclosed or included within a proposal.

1.4.13 OFFEROR RESPONSIBILITY

The offeror, which may consist of a person or person(s) shall be jointly and severally liable to the State of Utah for all work and services identified in the proposal, regardless whether the work is to be provided by the offeror or a subcontractor or consultant of the offeror at any tier.

CHAPTER 2 WHO MAY SUBMIT

Any person, firm or entity, public or private, to the extent allowed by law, may submit a proposal in response to this RFP. Such person, firm or entity is also encouraged to submit a response to the RFP issued for the Development of the Current Prison Property as well as the RFP for a new Prison.

CHAPTER 3 PROPOSAL SUBSTANTIVE REQUIREMENTS

3.1 OVERVIEW

The components of the offeror's proposals must comply with the content requirements outlined in this chapter. As stated herein, proposals must be packaged and labeled for submission. The proposal package submitted in Stage 1 must also include the offeror's Transmittal Letter. Requirements for each of these items are presented in this Chapter 3.

3.2 TRANSMITTAL LETTER

The Transmittal Letter must be submitted on the offeror's official business letterhead. The letter is to transmit the proposal and shall identify all materials and enclosures being forwarded collectively as a response to this RFP. The transmittal letter must be signed by an individual authorized to commit the person or entity to the scope of work proposed.

In addition, the transmittal letter must include:

- Identification of the offeror's corporation or other legal entity;
- Certification, if the proposal is submitted by a corporation, partnership or other created legal entity, by the secretary or other appropriate official, other than the signer of the proposal, that the official signing the proposal has the authority to obligate and bind the corporation, partnership or other created legal entity to the terms, conditions, and provisions of the proposal; and
- Certification that the offeror has read the Request for Proposals and all Addenda issued pursuant thereto and agrees to be bound by all the terms of stated therein.

3.3 BID BOND FOR PROPOSED PRISON CONSTRUCTION

In regard to the proposal for new construction, a bid bond for 5% of the amount of the proposed construction of a new prison(s) shall be provided in accordance with Section 63G-6a-1102(1) of the Utah Procurement Code. Failure to meet this requirement will result in disqualification of the offeror.

“63G-6a-1102. Bid security requirements -- Directed suretyship prohibited -- Penalty.

(1) Bid security in an amount equal to at least 5% of the amount of the bid shall be required for all competitive bidding for construction contracts. Bid security shall be a bond provided by a surety company authorized to do business in this state, the equivalent in cash, or any other form satisfactory to the state....”

The bid bond shall be on a form approved by the Division of Facilities Construction and Management and shall comply with Utah Administrative Code Rule R R23-1-40. Acceptable Bid Security; Performance and Payment Bonds.

3.4 EARNEST MONEY FOR PROPOSED DEVELOPMENT OF CURRENT SITE

The Authority reserves the right to require earnest money to secure the offer to purchase the prison property. The Authority may also set a deadline for the provision of the earnest money. Failure to abide by the amount or the deadline, may result in disqualification of the offer.

3.5 EXECUTIVE SUMMARY

The proposal shall contain a one or two page executive summary that briefly describes the offeror’s proposal. This summary shall serve to highlight the major features of the proposal. The reader should be able to determine the essence of the proposal by reading the executive summary.

3.6 EXCEPTIONS OR DEVIATIONS FROM THE RFP

The Offerer’s proposal shall not have exceptions or deviations from the requirements of the RFP. If the Offeror wishes to contend that there should be an exception or deviation from the RFP, then the Offeror must submit that request as part of a question by the deadline for questions in the Project Schedule. Material deviations or exceptions to the requirements of the RFP in an offer may result in rejection of a response on the grounds that the response is not responsive to the RFP. By submitting a proposal in response to this RFP, offeror acknowledges that the requirements, scope, and evaluation process described in this RFP are fair, equitable, not unduly restrictive, understood, and agreed to by the offeror.

3.7 LIST OF ISSUES

Provide a Management Plan regarding particular issues for the CURRENT PRISON LAND DEVELOPMENT PROJECT AND THE NEW PRISON DEVELOPMENT PROJECT. The following is not an exhaustive list of aspects of the Project that should be identified in the Management Plan.

1. A complete narrative of the offeror's proposal for the Master Development Project, the offeror's ability to perform, the approach and method of performance, and the resources necessary to execute the performance. This narrative shall demonstrate the offeror's understanding of the overall performance expectations and clearly indicate all options and alternatives proposed. Identify all applicable laws, codes, standards, rules, ordinances and regulations that apply and how the proposal complies with such applicable laws, codes, standards, rules, ordinances and regulations. Identify how the proposal complies with standard practices in the United States, the State of Utah, and the affected local governments for a project of this size, type and magnitude.
2. Describe the prison location(s) and operational functions based on single or multiple locations. Incorporate cutting edge technology, telemedicine, video court proceedings, video Board of Pardon Proceedings, video visitation, plans and processes (based on experience or actual operations) that will significantly reduce the construction and operational costs for the life of the facilities.
3. Analyze existing conditions at the current and proposed site(s), including but not limited to, soil conditions, geotechnical studies, groundwater, utilities, sewer, water, electricity, and other site specific parameters. A comprehensive utility impact and connection fee analysis must be provided. Redundancy of all utilities and infrastructure must be addressed for new prison sites. In regard to the Draper Prison Site, Administration Building and Fred House Training Academy, describe the plan to develop taking into account existing high voltage power lines, utility easements, railroad lines, canals, and other encumbrances. Provide all appraisals, maps, diagrams, drawings, plats, plans, charts, models or other materials that relate to any of the proposed development of the current site and other prison sites.
4. Identity and describe how relocation will occur to one or more sites in the State of Utah.
5. Provide planning for the types and space needs for facilities including a short term and long term plan.
6. Provide the life cycle analysis for various types of construction. A specific life cycle for the proposed type of construction may be specified in an addendum to this RFP.
7. Identify and describe how regular meetings with the appropriate officials and stakeholders will occur.
8. Address demolition requirements and procedures, including safety of persons and property.
9. Identify the number of proposed prison beds, prison cells, dorms, and security levels related to the facilities. Describe whether the prison should be centralized or de-centralized and whether special de-centralized prisons are allocated by gender, geriatric, mental health, addiction, sex offender, programming and other criteria. Describe any coordination with Counties in the State of Utah for any housing of prisoners at any particular County and how it will function from a program standpoint as well as financial.
10. Identify how the proposal addresses the legal obligations of the Utah Department of Corrections as well as the interests of the State of Utah in reducing recidivism and the best practices

of providing programs for persons that are incarcerated with the goal of successful re-entry into the community as appropriate.

11. Address the accessibility of volunteers, family and visitors.
12. Address the medical needs, proximity to medical facilities, and medical service contracts related to the new site(s).
13. Address the Operation and Maintenance considerations, including but not limited to, energy consumption, as well as other costs and efficiencies.
14. Provide schedules with milestones of Design, Construction, Commissioning, furnishing and move-in for the new prison site(s).
15. Provide schedules with milestones of Design and Construction related to the current Draper Prison site.
16. Describe the Construction model, such as design-bid-build, design-build, or Construction Manager/General Contractor.
17. Describe whether the proposed prison(s) are to be privatized in whole or in part. (In part, means that some services, such as food preparation, medical services, etc. may be privatized while other aspects are not privatized.)
18. Address security and safety concerns for the occupants, staff and public.
19. Address access to ancillary services (telemedicine, video proceedings, probation, courts, prosecutors, legal defenders, Board of Pardons, etc.).
20. Address the accommodation of expansions, existing and future technologies.
21. Address all pertinent issues surrounding private or public development of the current prison site.
22. Describe the impact on Utah taxpayers.
23. Describe the environmental, historical and archeological impacts of the proposed prison construction on other site(s) and land development of the current site (air quality, water, etc.)
24. Describe your organization and allocation of resources. Include corporate and partnership information, the date established, type of ownership (public company, subsidiary, partnership, etc.), as well as the plan for providing the sufficient allocation of resources for the Project.
25. Describe your administrative structure that includes personnel of sufficient background, training, size, scope, and authority to perform the proposed and required responsibilities to the satisfaction of the State. Identify all key team members related to the Project as well as provide an organizational chart. Key team members that are identified

and used for purposes of the evaluation may not be changed at any time without the advance written approval of the State, which approval shall not be unreasonably withheld.

However, if such approval is reasonably withheld, then the Offeror will not make such a change or will be disqualified. Provide a list of references, including a contact person's phone number and email address for all such key team members.

26. Identify how operation and maintenance manuals, training and other activities related to transferring knowledge regarding the performance pursuant to this RFP is to be accomplished.

27. Warranties. Describe the warranties for any portions of the work provided pursuant to this RFP.

28. Describe how the proposed development will be coordinated with the necessary transportation systems and transportation plans, including mass transit.

29. Describe the impact on current employees at the Draper Prison site as well as the Administration Building and the Fred House Training Academy.

30. Describe in the proposal how the needs of the Utah Correctional Industries will be accommodated currently and in the future, to advance the ability of inmates to obtain the necessary skills for re-entry in the community.

31. Describe the impact on the economy of the State of Utah, including but not limited to, the availability of high paid employment opportunities and the ability to train Utah workers for high paid jobs.

32. Describe any coordination or role of the Gunnison Prison facility with any new proposed prison development.

33. Describe how the proposed development takes into account coordination and minimization of impacts on surrounding properties and communities.

34. Confirm that your entity agrees to all the provisions of the attached Standard Terms and Conditions and understands that these provisions will be part of any contract issued as a result of this Request for Proposal process.

35. Offeror must provide all necessary documentation that offeror and those that will be performing are appropriately licensed in the State of Utah.

36. Other information as deemed appropriate by the Authority may be requested in an Addendum or as part of the contract negotiations.

37. Offerors also may include other additional information and risk management plans as part of their proposal.

3.8 FINANCIAL PLAN AND STATUTORY REQUIREMENTS

In accordance with Utah Code Section 63C-13-104.7, Request for proposals process, provide the following:

1. A proposed conceptual plan for the development of the current prison site and the provision of a relocated prison(s). A conceptual plan included in a proposal may incorporate some or all of the features of a general plan described in Utah Code, Title 10, Chapter 9a, Part 4, General Plan.

2. The proposal shall identify and quantify sources of funds that the proposal relies on for its financial feasibility, including identifying and quantifying which of the following possible sources of funds the proposal relies on:

- (a) money derived from the sale of the current prison land;
- (b) savings realized from funds that had been intended for maintenance and upkeep of the current prison but that will not be spent on the current prison due to the construction of a new prison;
- (c) the amount of future construction costs anticipated to be spent for prison facilities but that will not be spent due to the construction of a new prison;
- (d) reductions in future years' budgets of the Department of Corrections that equal the savings realized due to greater efficiencies in the operation of a new prison over the anticipated cost of operating the current prison;
- (e) proceeds from the issuance of bonds;
- (f) legislative appropriations;
- (g) financing provided by the developer; and
- (h) any other source of funds that the offeror proposes to be made available in order to implement the new prison development project, current prison land development project, or master development project.

3. (a) The proposal shall:

- (i) specify and quantify which sources of funds the proposal relies on for its financial feasibility;
- (ii) identify any changes in state law the offeror recommends be made in order to facilitate the implementation of the new prison development project, current prison land development project, or master development project; and
- (iii) comply with all other requirements of the request for proposals.

(b) Recommended changes to State laws that a proposal identifies under Subsection (3)(a)(ii) are for informational purposes only, and does not affect the weight to a proposal based on any recommended changes it contains or does not contain.

3.9 COST PROPOSAL

Before submitting a proposal, each offeror shall carefully examine the RFP; shall familiarize itself with the current and proposed prison site(s); shall fully inform themselves as to all existing conditions and limitations; and shall include in the proposal the cost of all items required by the RFP. The proposal shall identify the purchase price for the current prison property, including the

Draper Prison site West of Interstate I-15, the Department of Corrections Administration Building and the Fred House Training Academy. The proposal shall also identify the cost to the State of Utah for the land, facilities, infrastructure, and any proposed privatization of the operation of the facility, staff or programs. The cost proposal should also take into account any demonstrated benefits to the economy of the State of Utah.

3.10 TERMINATION OR DEBARMENT CERTIFICATIONS

The offeror must submit a certification that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from soliciting work by any governmental department or agency. The contractor must also certify that neither it nor its principals have been terminated during the performance of a contract or withdrew from a contract to avoid termination. If the contractor cannot certify these two statements the offeror shall submit a written explanation of the circumstances for review by the Authority or Evaluation Committee. Offerors are to submit these certifications with their proposal.

CHAPTER 4 INTERVIEWS

The purpose of the interview is to allow the offeror to present its qualifications and past performance, management plan, conceptual plan, schedule, cost proposal and general plan for accomplishing the comprehensive **Master Development Project**. It will also provide an opportunity for the Authority or evaluation committee to seek clarifications from the offeror. The Authority will notify eligible offerors of the date and time of the interview and who should be in attendance. The Authority may establish time limits for the interview. The Authority may allow for attendance by electronic means if request in writing in advance and in the Authority's sole discretion. The method of presentation is also at the discretion of the offeror.

The proposed primary project management personnel, including the project manager and superintendent, should be in attendance. The project manager is the offeror's representative who will be in daily control of the construction site. The project manager has overall job authority, will be in attendance at all job meetings, and is authorized by the contractor to negotiate and sign any and all change orders in the field, if necessary. Unless otherwise noted, the attendance of subcontractors is at the discretion of the offeror. The offeror shall discuss during the interview the proposed project schedule, identifying major work items with start and stop dates that are realistic and critical subcontractors and if they have reviewed and agreed to the schedule.

CHAPTER 5 PUBLIC HEARINGS

Public Hearings as Required: The Authority will

- (a) hold at least one public hearing in the municipality within which the current prison is located to receive public comment on proposals on a current prison land development project; and
- (b) hold at least one public hearing in each location where a new prison is proposed to be located under proposals on a new prison development project.

Upon request of the Authority, Offeror and key personnel of Offeror shall be available at the applicable public hearing(s).

CHAPTER 6 EVALUATION CRITERIA

6.1 EVALUATION CRITERIA.

Each proposal will be evaluated based on the factors described in this Section of the RFP. The Authority or evaluation committee appointed by the Authority, will score proposals in accordance with the following criteria and points. Minimum points are provided in each category. Failure to meet the minimum number of points in any category shall disqualify the proposal from any further consideration.

This Stage III consists of a detailed evaluation of acceptable proposals from those interviewed. The Authority or an evaluation committee appointed by the Authority, will evaluate proposals against the weighted criteria identified in this RFP and on the “RFP EVALUATION SCORESHEET.” **Each aspect of the evaluation criteria must be addressed in detail in the proposal.** To be considered technically qualified and in the competitive range in Stage II a **proposal must meet all the minimum mandatory scores identified in any criteria as well as a minimum score of 75% of the total technical points available** to move forward to Stage III Interviews. If only one proposal meets the mandatory minimum requirements for each criteria and receives a minimum score of 75%, the Authority reserves the right, but is not required, to reduce the mandatory minimum requirements and the minimum score requirement at its discretion in order to maximize competition. If the Authority chooses to reduce the mandatory minimum requirements for each criteria or the minimum score requirement it shall be done in 5% increments until at least two qualified proposals are obtained.

Points Criteria

- 20** **Strength of Team.** This includes the demonstrated experience of the offeror and the key individuals making up the offeror’s team in undertaking and completing projects that are similar in size, scope and magnitude as the Master Development Project, including the ability of the offeror to meet the requirements of this RFP. **The offeror must receive at least 15 points in this category in order to be qualified and be considered for a possible award of contract.**
- 35** **Project Management Approach.** Based on the information provided in the statements of qualifications, the management plan, information presented in the proposal and the interview process, the proposal will be scored as to the approach to the project, identification and management of risks, the items listed in Chapter 3 of this RFP, and addressing the specific concerns related to the development of the current land and proposed prison site(s).

Additionally, Utah Code §63C-13-104.3(1)(g) requires the Authority to give additional weight to a proposal that contemplates using contractors, material providers, and laborers from within the State of Utah. The offeror must receive at least 26 points in this category in order to be qualified and be considered for a possible award of contract.

- 10** **Schedule.** The schedule and milestones presented to complete all tasks in the proposal will be evaluated as to how well it meets the objectives of the project in the interest of the State of Utah. Reasonable time periods that are efficient will receive a higher score. **The offeror must receive at least 7 points in this category in order to be qualified and be considered for a possible award of contract.**
- 35** **Cost.** The overall cost and cost-effectiveness of the proposal to develop the current prison land, including properties stated herein that are East and West of Interstate I-15 as well as that of the proposed prison(s); all as identified in the Cost Proposal. This also includes the financial and other demonstrated benefits to the economy of the State of Utah. **The offeror must receive at least 26 points in this category in order to be qualified and be considered for a possible award of contract.**

CHAPTER 7 RECOMMENDATION AND CONTRACT PROCESS

7.1 AUTHORITY RECOMMENDATION

The Authority may decide whether to recommend that one of the proposals or a combination of proposals for a new prison development project, current prison land development project, or master development project be accepted and that a contract be awarded to the person or persons who submitted the proposal or combination of proposals.

If the Authority decides to recommend a proposal or combination of proposals for awarding a contract for a new prison development project, current prison land development project, or **Master Development Project** to the person or persons who submitted the proposal or combination of proposals, the Authority shall submit its written recommendation to the Governor and the Legislative Management Committee.

7.2 GOVERNOR AND LEGISLATURE APPROVAL REQUIRED.

Award of a contract for the PROPOSED DEVELOPMENT PROJECT is contingent upon the approval of the Legislature and Governor through their adoption of a concurrent resolution or other legislation indicating approval of the feasibility, overall cost, cost-effectiveness, and concepts involved in the NEW PRISON DEVELOPMENT PROJECT, CURRENT PRISON LAND DEVELOPMENT PROJECT, or MASTER DEVELOPMENT PROJECT.

7.3 NEGOTIATION AND PROJECT DEFINITION:

Subject to the approval of the Governor and the Legislature, the appropriate State official will enter into negotiations for the actual contract. Any resulting contract will be on a form approved by the Office of the Utah Attorney General. The selected contractor must comply with Utah's statutes regarding Workers' Compensation Insurance and submit written proof of that compliance. The selected contractor will also need to provide evidence of comprehensive liability coverage for its employees and of insurance to protect the State against claims by the contractor's personnel. The contract will also require the Contractor to provide all insurance and indemnification in a form, manner and type as required by the Utah Division of Risk Management.

While the Authority is working on greater Project Definition, the Authority is seeking input from the private and public sectors as to the best solutions for the development of the current prison land and relocating the current prison facility to one or more locations.

Therefore, it is understood that there may be limits to the level of definition in proposals and that the most qualified entity or entities that are selected will be in a negotiation process with the State of Utah when the Project Definition is more refined.

The Authority is hiring a Master Planner and Programming Consultant to assist with the review of proposals and Project Definition. There may be added Project Definition in an addendum to this RFP and there may be added Project Definition required prior to the execution of a contract with those that are successful in the RFP process. If an agreement cannot be reached with the highest ranked offeror(s), then the State may choose to enter into the negotiations with the next highest ranked offeror(s), and so forth.

7.4 APPROVAL BY THE DIVISION OF FINANCE

If there are State financial obligations, an approval as to the availability of funds by the Utah Division of Finance is required. Offeror understands that there is a debt limit in the Utah Constitution and that there is an obligation by the Utah Division of Finance to ascertain the availability of funds before the full execution and delivery of a contract that involves any expenditure or debt of the State of Utah.

7.5 SECURITY CONCERNS OF PERSONNEL

Offeror understand that the Offeror and Offeror's employees, agents, contractors, subcontractors, consultants and anyone for who Offeror may be responsible for, at any tier, is subject to applicable security clearances of the Utah Department of Corrections, Department of Homeland Security, Department of Public Safety and any other law enforcement agency of appropriate jurisdiction, and Offeror bears the sole risk of any lack of such security clearance.

7.6 ETHICS AND PENALTIES

By submitting an offer, Offeror certifies that Offeror is aware that there must be compliance with Utah Code Section 63C-13-108 which provides for ethical and conflict of interest requirements for the Authority members. Offeror will not knowingly participate in any activity that would result in a violation of Utah Code Section 63C-13-108.

By submitting an offer, Offeror certifies that there must be compliance with Utah Code Part 23 “Unlawful Conduct and Penalties,” Sections 63G-6a-2301 through 63G-6a-2307, and Offeror shall comply with these Sections of Utah Code as well as assumes the risk of noncompliance at its own expense.

7.7 GOVERNING LAW

This RFP is subject to the laws of the state of Utah, including Utah Code Title 63G, Chapter 6a, Utah Procurement Code.

7.8 DOCUMENTS INCORPORATED BY REFERENCE:

Proposals and the Contract must comply with the following:

1. Current copies of the DFCM General Conditions dated May 25, 2005 and all Supplemental General Conditions are available upon request at the DFCM office and on the DFCM web site at <http://dfcm.utah.gov> - “Standard Documents” – “Reference Documents” – “Supplemental General Conditions”, and are hereby made part of these contract documents by reference. The Agreement and General Conditions dated May 25, 2005 have been updated from versions that were formally adopted and in use prior to this date. The changes made to the General Conditions are identified in a document entitled Revisions to General Conditions that is available on DFCM’s web site at <http://dfcm.utah.gov>.
2. The DFCM Design Manual dated March 15, 2006.

APPENDIX A

STATE OF UTAH STANDARD TERMS AND CONDITIONS – a.k.a. ATTACHMENT A

- 1. AUTHORITY:** Provisions of this contract are pursuant to the authority set forth in 63G-6a, Utah Code Annotated, 1953, as amended, applicable administrative rules, and applicable statutes.
- 2. CONTRACT JURISDICTION, CHOICE OF LAW, AND VENUE:** The provisions of this contract shall be governed by the laws of the State of Utah. The parties will submit to the jurisdiction of the courts of the State of Utah for any dispute arising out of this Contract or the breach thereof. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake Co.
- 3. LAWS AND REGULATIONS:** The Contractor and any and all supplies, services, equipment, and construction proposed and furnished under this contract will comply fully with all applicable Federal, State and local laws, rules regulations and ordinances.
- 4. RECORDS ADMINISTRATION:** The Contractor will maintain, or supervise the maintenance of all records necessary to properly account for the payments made to the Contractor for costs authorized by this contract. These records will be retained by the Contractor for at least four years after the contract terminates, or until all audits initiated within the four years have been completed, whichever is later. The Contractor agrees to allow the State and Federal auditors, and State agency staff, access to all the records to this contract, for audit and inspection, and monitoring of services. Such access will be during normal business hours, or by appointment.
- 5. CERTIFY REGISTRATION AND USE OF EMPLOYMENT "STATUS VERIFICATION SYSTEM":** The Status Verification System, also referred to as "E-verify" applies to this contract.

5.1 Status Verification System

1. Each offeror and each person signing on behalf of any offeror certifies as to its own entity, under penalty of perjury, that the named Contractor has registered and is participating in the Status Verification System to verify the work eligibility status of the contractor's new employees that are employed in the State of Utah in accordance with UCA Section 63G-11-103.
2. The Contractor shall require that the following provision be placed in each subcontract at every tier: "The subcontractor shall certify to the main (prime or general) contractor by affidavit that the subcontractor has verified through the Status Verification System the employment status of each new employee of the respective subcontractor, all in accordance with Section 63G-11-103 and to comply with all applicable employee status verification laws. Such affidavit must be provided prior to the notice to proceed for the subcontractor to perform the work."
3. The State will not consider a proposal for award, nor will it make any award where there has not been compliance with this Section.
4. Manually or electronically signing the Proposal is deemed the Contractor's certification of compliance with all provisions of this employment status verification certification required by all applicable status verification laws including UCA Section 63G-11-103.

5.2 Indemnity Clause for Status Verification System

1. Contractor (includes, but is not limited to any Contractor, Design Professional, Designer or Consultant) shall protect, indemnify and hold harmless, the State and its officers, employees, agents, representatives and anyone that the State may be liable for, against any claim, damages or liability arising out of or resulting from violations of the above Status Verification System Section whether violated by employees, agents, or contractors of the following: (a) Contractor; (b) Subcontractor at any tier; and/or (c) any entity or person for whom the Contractor or Subcontractor may be liable.
2. Notwithstanding Section 1. above, Design Professionals or Designers under direct contract with the State shall only be required to indemnify the State for a liability claim that arises out of the design professional's services, unless the liability claim arises from the Design Professional's negligent act, wrongful act, error or omission, or other liability imposed by law except that the design professional shall be required to indemnify the State in regard to subcontractors

or subconsultants at any tier that are under the direct or indirect control or responsibility of the Design Professional, and includes all independent contractors, agents, employees or anyone else for whom the Design Professional may be liable at any tier.

6. CONFLICT OF INTEREST: Contractor certifies that it has not offered or given any gift or compensation prohibited by the laws of the State of Utah to any officer or employee of the STATE or participating political subdivisions to secure favorable treatment with respect to being awarded this contract.

7. INDEPENDENT CONTRACTOR: Contractor will be an independent Contractor, and as such will have no authorization, express or implied to bind the STATE to any agreements, settlements, liability or understanding whatsoever, and agrees not to perform any acts as agent for the STATE, except as expressly set forth herein. Compensation stated herein will be the total amount payable to the Contractor by the STATE. The Contractor will be responsible for the payment of all income tax and social security tax due as a result of payments received from the STATE for these contract services. Persons employed by the STATE and acting under the direction of the STATE will not be deemed to be employees or agents of the Contractor.

8. INDEMNITY CLAUSE: The Contractor will release, protect, indemnify and hold the STATE and the respective political subdivisions and their officers, agencies, employees, harmless from and against any damage, cost or liability, including reasonable attorney's fees for any or all injuries to persons, property or claims for money damages arising from acts or omissions of the Contractor, his employees or subcontractors or volunteers.

9. EMPLOYMENT PRACTICES CLAUSE: The Contractor agrees to abide by the provisions of Title VI and VII of the Civil Rights Act of 1964 (42 USC 2000e) which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age; and Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities. Also, the Contractor agrees to abide by Utah's Executive Order, dated March 17, 1993, which prohibits sexual harassment in the work place. To the extent allowed by law, this provision shall not apply to any non-profit organization that is exempt from such provisions.

10. SEVERABILITY: If any provision of this contract is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected; and the rights and obligations of the parties will be construed and enforced as if the contract did not contain the particular provision held to be invalid.

11. RENEGOTIATION OR MODIFICATIONS: The terms of this contract will not be waived, altered, modified, supplemented or amended in any manner whatsoever without prior written approval of the State Officials specifically authorized to renegotiate or modify this contract for the State of Utah.

12. DEBARMENT: The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract), by any governmental department or agency. If the Contractor cannot certify this statement, attach a written explanation for review by the STATE. The Contractor must notify the Director of the Division of Facilities Construction and Management within 30 days if debarred by any governmental entity during the Contract period.

13. TERMINATION: Termination provisions will be expressly provided in the contract form provided by the State of Utah.

14. NONAPPROPRIATION OF FUNDS: The Contractor acknowledges that the State cannot contract for the payment of funds not yet appropriated by the Utah State Legislature. If funding to the State is reduced due to an order by the Legislature or the Governor, or is required by State law, or if federal funding (when applicable) is not provided, the State may terminate this contract or proportionately reduce the services and purchase obligations from the State upon 30 days written notice. In the case that funds are not appropriated or are reduced, the State will reimburse Contractor for products delivered or services performed through the date of cancellation or reduction, and the State will not be liable for any future commitments, penalties, or liquidated damages.

15. TAXES: The offeror and Contractor is responsible for ascertaining the applicable tax laws that apply to the proposal and the contract.

16. INSPECTIONS: The contract will provide for the right of the State of Utah and other governments with appropriate jurisdiction to inspect the performance, design and construction as a result of the Request for Proposals. Contractor shall cooperate in good faith with such inspections

17. PATENTS, COPYRIGHTS, ETC.: The Contractor will release, indemnify and hold the State of Utah, its officers, agents and employees harmless from liability of any kind or nature, including the Contractor's use of any copyrighted or un-copyrighted composition, secret process, patented or un-patented invention, article or appliance furnished or used in the performance of this contract.

18. ASSIGNMENT/SUBCONTRACT: Contractor will not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this contract, in whole or in part, without the prior written approval of the State Director of the Division of Facilities Construction and Management.

19. DEFAULT AND REMEDIES: This will be described in the contract prepared by the State.

20. FORCE MAJEURE: Neither party to this contract will be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. The STATE may terminate this contract after determining such delay or default will reasonably prevent successful performance of the contract.

21. HAZARDOUS CHEMICAL INFORMATION: The Contractor will provide one set of the appropriate material safety data sheet(s) and container label(s) upon delivery of any hazardous material.

22. PAYMENT AND PERFORMANCE BOND

In regard to the proposal for new construction, a payment and performance bond will be required in order to obtain a contract for the construction in accordance with Section 63G-6a-1103(1) of the Utah Procurement Code for 100% of the proposed construction cost.

“63G-6a-1103. Bonds necessary when contract is awarded -- Waiver -- Action -- Attorney fees.

(1) When a construction contract is awarded under this chapter, the contractor to whom the contract is awarded shall deliver the following bonds or security to the state, which shall become binding on the parties upon the execution of the contract:

(a) a performance bond satisfactory to the state that is in an amount equal to 100% of the price specified in the contract and is executed by a surety company authorized to do business in this state or any other form satisfactory to the state; and

(b) a payment bond satisfactory to the state that is in an amount equal to 100% of the price specified in the contract and is executed by a surety company authorized to do business in this state or any other form satisfactory to the state, which is for the protection of each person supplying labor, service, equipment, or material for the performance of the work provided for in the contract.”

23. Permits. Contractor is responsible for all permits licenses as required by law. In concurrence with the requirements for permitting in the DFCM General Conditions, it is the responsibility of the Contractor to obtain the fugitive dust plan requirements from the Utah Division of Air Quality and the SWPPP requirements from the Utah Department of Environmental Quality and submit the completed forms and pay any permit fee that may be required for this specific project.

**Approval of Issuance by the Office of the Governor, State of Utah
Pursuant to UCA 63C-13-104.3(1)(b)**

Signature

Date

**Approval of Issuance by the Director of the Division of Facilities Construction and
Management Pursuant to UCA 63C-13-104.3(1)(b)**

Signature

Date

[63C-13-104.3. Authority duties and responsibilities.

97 (1) The authority shall:

98 (a) consult with the division in formulating a request for proposals under Subsection

99 (1)(b);

100 (b) with the approval of the director of the division and the written approval of the

101 governor, and in accordance with Title 63G, Chapter 6a, Utah Procurement Code, issue a . . .]