

Request for Proposal for Sell Side Services City of Milwaukee, Wisconsin Water Works

I. Summary

The City of Milwaukee (City) seeks to engage a Sell Side Advisor Team to provide comprehensive Sell Side Services relating to the Water Works of the City.

Questions are due by **4:00 pm Central Time on March 25, 2009**

Proposals are due by **4:00 pm Central Time on April 9, 2009**

If you are likely to prepare a response, please respond IMMEDIATELY via e-mail to rsli@milwaukee.gov of the Comptroller's Office with the following information:

- **Firm Name**
- **Contact name, phone number, fax number, and e-mail address.**

This information will allow the City to distribute additional information and clarifications, if needed, to all of the potential Proposers.

II. Background

Pursuant to City of Milwaukee (the "City") Common Council File #081086 (see attached), the Comptroller's office of the City is soliciting proposals from qualified firms to serve as a Sell Side Advisor Team in the exploration of public-private partnership (PPP) opportunities related to the City's Water Works as described below. The Sell Side Advisor Team will provide a complete range of sell side services, including valuation, financial, technical and legal related services for a potential long-term lease of the utility, for the evaluation and execution of alternatives that may be in the City's best interest.

The City intends to explore the feasibility of entering into a long term agreement with a qualified private entity involving the long term transfer of public assets - asset management rights of the Water Works - in exchange for a range of financial, liability transfer, and risk mitigation benefits. The City is looking at ways to provide an ongoing new revenue source for the City. Should the utility be leased, it is anticipated that the net proceeds will be placed in an endowment type fund in order to provide the City with a stable source of new revenue. This effort will proceed in four phases, each to be approved by the Common Council:

- I. **Selection of a Sell Side Advisor Team** including approval of the necessary funding.
- II. **Preliminary Valuation** including review of the Utility and all operating parameters under which the Utility will operate under the lease agreement for the purpose of obtaining a preliminary valuation of the Water Utility.
- III. **Bidding & Selection** including an updated valuation of the Utility.
- IV. **Contract Execution & Closing** of a long term lease-concession agreement with the selected lessee including transfer of funds and operations.

The City's water utility is a well-run, well-maintained, high quality source of drinking water for City residents and some neighboring communities. Requirements of a successful lease include maintaining the quality of water and service that City residents expect to receive, as well as maintaining the excellent operating condition of the utility.

Information about the Water Utility, including prior year Annual Reports, can be found at:
<http://www.water.mpw.net/>

The year 2007 financial information for the Water Utility can be found in the City's 2007 CAFR:
<http://isdweb1.ci.mil.wi.us/citygov/cms/comptroller/2007FinancialReportWEB.pdf>

III. EBE Participation

The City of Milwaukee has an Emerging Business Enterprise Program for the purpose of increasing the level of Emerging Business Enterprise participation in City Contracts. An Emerging Business Enterprise is a small business concern that is owned, operated and controlled by one or more individuals who are at an economic or social disadvantage, or are disadvantaged with respect to education, employment, residence or business location or lack of business training. Firms that are City of Milwaukee certified Emerging Business Enterprises are encouraged to submit proposals.

Proposers who do utilize a City certified EBE for this contract will be eligible for up to 10 additional points for subcontracting a portion of the work with a City certified EBE vendor. In order to qualify for these additional EBE points, Proposers must provide details in their proposal response as to the percentage of the contract (a minimum of 18% is desired, but not required) that will be subcontracted to the EBE vendor and a description of the meaningful services that the EBE subcontractor will be performing. Whether any or all of the 10 points are awarded will depend upon the meaningfulness of the proposed qualified EBE firm's participation.

Note: The proposed EBE firm(s) must be an EBE firm certified with the City at the time the Proposals are due.

For information on the City's EBE Program, contact EBEP Office at (414) 286-8749.

IV. Details of Services Requested

The City anticipates the following milestones in the privatization process. The City reserves the right to discontinue the privatization process at any time for any reason.

Phase I – Selection of a Financial Advisor Team

The City desires to engage a team (the "Team") led by a sell side advisor (the "Team Leader"). The City requires a single point of contact, with one firm (the Sell Side Advisor) responsible for managing the engagement and all work products produced by the Team. It is anticipated that the Sell Side Advisor will assemble a team that includes legal and engineering expertise. While it is anticipated that the Sell Side Advisor will be the Team Leader, the City will entertain legal, engineering or other firms serving as the Team Leader. In either instance, the City will enter into a single contract with the lead entity.

Phase Ia: Your proposal will be the basis for completion of this Phase. The City will select a few Teams from the proposals submitted by Sell Side Advisors which reflect an appropriate level of expertise and experience related to water system, utility, or similar PPP agreements. This review is anticipated to take 30 to 60 days from the opening of responses.

Phase Ib: Teams selected for further consideration in Phase Ia above will be asked for a written response to additional in-depth questions, including more detailed information about the Team. The City will then interview each Team to discuss its proposal, including follow-up written questions, prior to the Comptroller's selection of a Team. This is anticipated to take an additional 30 to 60 days. Fee quotes provided at this phase shall be deemed firm for 120 days from the date written Phase Ib responses are due. Material deviation in the fees estimated in the proposal for Phase Ia will be grounds for disqualification.

The Common Council will approve the Sell Side Advisor and Team selected through Phase Ia and Ib and the required funding authority for Sell Side Advisor Team services.

Note: It is anticipated that there are many qualified Sell Side Advisor Teams that may submit responses, and fewer qualified legal and engineering firms. As such, firms are permitted to be named on multiple team proposals, however only one proposal will be accepted per Team Leader. For example ABC Legal Firm may be named on proposals submitted by XYZ and Acme Sell Side Advisor. ABC Legal Firm may also submit a proposal listing ABC Legal Firm as the Team Leader. However, only one proposal with ABC, XYZ, or Acme as Team Leader will be accepted. In the event multiple proposals are submitted by one Team Leader, the City will decide which proposal will be evaluated.

Phase II – Preliminary Valuation

The Team Leader will develop options to meet the City's goals, and review the options with the Comptroller's Office. Selected option(s) will be further reviewed by the Team for legal, regulatory, and engineering issues. Parameters regarding the operation of the Utility will be identified during this Phase. Based upon this review, the Team Leader will estimate the value(s) of the option(s).

The Comptroller will recommend to the Common Council the option(s) to pursue and funding for more in-depth analysis as necessary. The Common Council must approve before proceeding.

Phase III – Bidding & Selection

The Team will address arising issues (clear hurdles), prepare the detailed information for bidders, and pre-qualify the bidders. Based upon the in-depth analysis, the Team Leader will update the estimate of the value(s) of the option(s).

The Common Council will approve the option(s) to offer for bidding, and parameters authorizing negotiations with the highest bidder(s).

Phase IV – Contract Execution and Closing

The Team will conduct the bidding and the negotiations with the highest bidder(s).

The Common Council will approve the execution of the final contract.

The Team will assist in the transfer of assets and operations to the successful bidder.

Financial Advisor and the Team

The City desires to engage a Sell Side Advisor Team possessing extensive financial, legal, and engineering expertise for Phases II-IV (the “Project”). **The Team Leader will serve as the primary contact and be responsible for project management and the overall Team performance. As such, the Team Leader shall recommend legal, engineering, and other firms to assist in the review.** While it is anticipated that a Sell Side Advisor will be the leader of the Team, the City will entertain legal, engineering, or other firms serving as the Team Leader. In such instances, please adjust your response to questions as may be appropriate.

In the Phase Ia response, the Team Leader will propose members of the team to provide expertise including areas where the Team Leader subcontracts for certain services such as legal and engineering services. Proposed fees and/or fee structure for all services are required. In the Phase Ib response, the Team Leader will provide additional information on the proposed Team members, and present a fee quote that will be binding upon all members of the Team.

Phase Ib responses will include each Team member. The City reserves the right to request substitution of Team members.

In order to maintain a clear line of responsibility, the City requires contracting with one entity, with that entity sub-contracting with the remainder of the Team as required.

The process outlined above will provide adequate interview and presentation opportunity for those firms selected for further consideration. In order to promote an open and fair evaluation of all proposals, proposers shall refrain contacting other City officials, City officers, members of the Public Debt Commission, or Department of Public Works personnel, regarding this proposal. Such contact will be grounds for disqualification.

V. Format for Proposal Submission/Sequence:

Proposers are required to submit 5 copies (one clearly marked bound original, three clearly marked bound copies, and one clearly marked unbound copy) to:

**W. Martin Morics, Comptroller
Attention: Richard Li re PPP
200 E Wells St, Room 404
Milwaukee, WI 53202**

Closing Date: April 9, 2009

The original copy of the proposal shall be clearly marked “original”. The Proposer’s name and address must be clearly marked on all copies of the proposal. Respondents may submit their proposals anytime prior to the opening date and time. **Proposals must be received in their entirety no later than 4:00 PM (Central Time) on April 9, 2009 in Room 404 of City Hall.**

Proposals received after the due date and time will not be considered and will be returned to the Proposer unopened. Regardless of the method used for delivery, Proposers shall be wholly responsible for the timely delivery of submitted proposals to the address detailed herein.

The original copy of the proposal must be manually signed by an authorized representative of the Proposer’s firm to be considered. **No facsimiles.**

In addition, the City desires a PDF copy of the proposal to be e-mailed to rsli@milwaukee.gov. The PDF may arrive after the due date for the proposals, and is NOT considered part of, nor a substitute for, the hard copy.

Proposal submittal sequence is as follows:

1) Proposal cover page/cover letter that includes:

- a) Name and address of the firm.
- b) Address of the office at which the majority of the services to be provided hereunder will be performed.
- c) Name, telephone number, fax number, and e-mail address of the **ONE** individual responsible for the proposal response who may be contacted for questions, clarifications, etc.
- d) Signature on letter is a signing of the RFP

2) Table of Contents

3) Firm Experience

- a. Briefly describe your firm’s experience in planning and implementing PPP agreements.

- b. List and describe relevant (utility) PPP transactions your firm has participated in over the past five years and the specific role of your firm and the primary members of your firm. If desired, relevant utility PPP's more than 5 years ago may be included.

4) Team Experience

- a) Role, name, address, phone number, and brief resume of your firm's personnel to be involved in the transaction. Identify and describe the qualifications of your firm's team member that will have day-to-day responsibility for the transaction. Include a list of PPP transactions, and the person's role in each transaction.
- b) Proposed legal services firm(s) and planned personnel. Describe the role of the legal component of the Team, and briefly summarize the legal firm's and individuals' qualification for that role. The Team's legal component may include more than one law firm. If more than one firm is used, clearly identify which firm is responsible for which role(s).

NOTE: The City's Bond Counsel may be used for municipal bond tax related issues for outstanding debt. The proposal need not include an estimate of the City's Bond Counsel's fee for these services.

- c) Proposed engineering firm(s) and planned personnel. Describe the role of each engineering component of the Team, and briefly summarize the engineering firm's and individuals' qualification for that role. The Team's engineering component may include more than one engineering firm. If more than one firm is used, clearly identify which firm is responsible for which role(s).

NOTE: City Engineers and other Department of Public Works personnel will be available to provide information known only by the City (operating procedures, etc.). City personnel will not be available to perform inspections or other services, except to accompany Team members while they perform inspections and other services.

- d) Other desired professionals. Explain the role of any other Team member, identify the firm(s) and planned personnel involved, and briefly summarize the qualifications of the firm(s) and individuals.

5) General Approach

(For Items 5 and 6, assume a 99-year lease of the Water Utility is the desired transaction.)

Describe your general approach and timetable for the planning and executing a public-private partnership (PPP) between a private entity and the City within the context of the four Phased approach described above. The timetable should take into account the desired milestones, and should be divided into logical work segments, with proposed work products and decision points produced at the conclusion of each major work segment. Identify major work segments, steps in each work segment, and services to be provided. For timetable purposes, assume Day 0 is the date the Common Council approves the selection of the Team.

6) Estimated value

Estimate the value of a 99-year lease of the City's Water Utility. At this point, we are only asking for a realistic "back of the envelope" valuation based upon current market conditions, information available on the Water Utility's web site, and 2007 financial

information available on the City’s website. Please state major assumptions made in deriving this estimate.

Note: The purpose of the question is to provide the City with some general range of estimates to confirm the viability of the lease approach. Relevant “high level” questions may be asked through the Questions process (see Section VI – Questions). Other contact with the City (such as contact with Department of Public Works personnel) will be grounds for disqualification.

7) Proposed Compensation (estimated)

Estimate the resources by type (financial, legal, engineering & other) and cost for each phase of the project leading to an executed PPP agreement. Then summarize the proposed compensation in a Total Estimated Project Cost.

Identify that portion of estimated cost that would be contingent on a successfully executed transaction versus that portion of estimated cost based on level of effort and time expended. Where a level of effort based fee is specified, the City of Milwaukee would encourage a not-to-exceed limit price wherever feasible. The City contemplates success based compensation to be the primary compensation method. A table, such as the following, would be helpful:

Estimated Consulting Services Cost to the City of Milwaukee

	<u>Advisor</u>	<u>Legal</u>	<u>Engineering</u>	<u>[Other]</u>	<u>Total</u>
Non-Contingent:					
[Phase 1]	\$	\$	\$	\$	\$
[Phase <n>]	\$	\$	\$	\$	\$
Contingent	% of <final valuation price>				
Total	\$	\$	\$	\$	

In Phase Ib of the selection process, a more detailed and binding compensation proposal will be requested. Material increase in pricing between Phase Ia and Phase Ib responses will be grounds for disqualification.

8) EBE Participation

- a. Name and address of the certified City of Milwaukee EBE firm you propose to use. This firm must be an approved EBE firm at time of proposal opening.
 - b. Describe how you propose to include and effectively utilize an EBE firm as part of the Team.
- 9) Signed copy of all addendums, if applicable. Note: response to questions is an addendum, and your signature indicates that you have received the addendum.
- 10) Signed copy of the Designation of Confidential & Proprietary Information document. This document is to be submitted with the proposal even if nothing is designated as confidential or proprietary.

VI. Questions

Questions regarding this RFP are to be submitted via email (preferred) or by fax to:

Richard Li
Email: rsli@milwaukee.gov
Fax: (414) 286-0653

Questions are due no later than Wednesday, March 25, 2009 at 4:00 p.m. The City intends to respond to questions as soon as possible after receipt, and will post responses in the form of an addendum to the RFP on the City's Comptroller webpage no later than Monday, March 30, 2009. Interpretations or changes made to this RFP in any other manner will not be binding. **Questions received after March 25, 2009 will not be accepted.**

VIII. RFP Evaluation Criteria

The City reserves the right to waive any irregularities in a proposal.

<u>Criteria</u>	<u>Points</u>
A. Compliance with Proposal Submission Requirements	Pass/Fail
B. Experience and Capabilities of the Team Leader	40
C. Experience and Capabilities of the Team	20
D. Overall Impression	25
D. Fees	<u>15</u>
Total	100

EBE – Effective utilization of a City of Milwaukee Certified EBE subcontractor in a meaningful way – Proposers can earn up to 10 additional points.

Notes: Follow-up questions, interviews, and other information (such as investigation of respondents) will be used to further refine the evaluation committee's scores.

VII. Guidelines

By virtue of submitting a proposal, Proposers are acknowledging:

- The City reserves the right to accept or reject any or all submissions. Such reasons include, but are not limited to: a proposal not being responsive to the RFP; is deemed to be outside the fiscal constraint; not in the City's best interest; the City desires not to proceed with the transaction; the City is not comfortable with any proposal; etc. The City reserves the right to reconsider any proposal submitted at any phase of the review. It also reserves the right to meet with select Proposers at any time to gather additional information. Furthermore, the City reserves the right to delete and/or add services up until the final contract signing.
- Conflicts of interest between any Team member and a potential bidder for the Water System will not be permitted. Should any question regarding conflict of interest arise, the potential bidder should contact Mr. Li as provided above.
- The City reserves the right to terminate the contract at any time.

VIII. Negotiations

The City may, at its sole option, open negotiations with the Proposers after the proposal closing date and prior to award.

IX. Incurred Costs

Those vendors submitting proposals do so entirely at their expense. There is no expressed or implied obligation by the City to reimburse any individual or firm for any costs incurred in preparing or submitting the proposals, for providing additional information when requested by the City or for participating in any selection interviews and contract negotiations.

X. Follow-up Interview Requirements

The City may conduct discussions with Proposers who submitted a proposal. Proposers must be available for interviews/presentations at City facilities (preferred) on specific dates or by conference call if selected.

XI. Assignment

The Proposer may not reassign any award made as a result of this RFP, without prior written consent from the City.

XII. Award

The City will select the respondent whose proposal best meets the City's needs as defined in this RFP. Contractual commitments are contingent upon the availability of funds. All contracts are subject to approval of the City's legal counsel prior to execution. Once awarded, the contract will be the final expression of the agreement between the parties and may not be altered, changed, or amended except by mutual agreement in writing.

XIII. Certificate of Independent Price Determination

By submission of a proposal, each respondent certifies, that in connection with this procurement:

- The fees and other costs in this proposal have been arrived at independently, without consultation, communication, or agreement with any other respondent (other than members of the Team); with any competitor; or with any City employee(s) or consultant(s) for the purpose of restricting competition on any matter relating to this RFP.
- Unless otherwise required by law, the fees and other costs which have been quoted in this proposal have not been knowingly disclosed by the Proposer and will not knowingly be disclosed by the Proposer prior to award directly or indirectly to any other proposer or to any competitor.

- No attempt has been made or will be made by the Proposer to induce any other person or firm to submit or not to submit a proposal for the purpose of restricting competition.

XIV. Jurisdiction, Venue, Choice of Law

This RFP and any resulting contract shall be governed by and construed according to the laws of the State of Wisconsin.

XV. Professional Liability Coverage:

In addition to complying with the City of Milwaukee's Standard Insurance Requirements for General Liability, Automobile and Worker's Compensation coverage, the successful Proposer must also provide evidence of Professional Liability Insurance Coverage with a limit of \$1,000,000.00 per occurrence.

Dated: March 3, 2009