

The Rhode Island Energy Efficiency and
Resources Management Council
("EERMC")

Request for Proposals
("RFP")

RFP Title:	Legal Services
RFP Number:	EERMC-2020-02
RFP Issuance Date:	July 20, 2020
Due Date to submit Questions:	Monday, August 3, 2020 at 5pm ET
RFP Submission Deadline:	Monday, August 24, 2020 at 5pm ET

SECTION 1: GENERAL INFORMATION

- 1.1. **Summary.** The Rhode Island Energy Efficiency and Resources Management Council (“EERMC”) is issuing this request for proposals (“RFP”) to solicit proposals from qualified offerors to provide legal services beginning April 1, 2021 as described in Section 5 of this RFP.
- 1.2. **EERMC.** EERMC is a council authorized, created and established pursuant to the laws of the State of Rhode Island (“State”). See R.I. Gen. Laws §42-140.1-3. EERMC council members are appointed by the State Governor with the advice and consent of the State Senate, and the Commissioner of the Rhode Island Office of Energy Resources (“OER”) serves as the EERMC executive director. See R.I. Gen. Laws §42-140.1-4. In accordance with R.I. Gen. Laws §42-140.1-6, EERMC is authorized to engage consultants and professional services as necessary and appropriate to fulfil its statutory purposes which are to:
- Evaluate and make recommendations, including, but not limited to, plans and programs, with regard to the optimization of energy efficiency, energy conservation, energy resource development; and the development of a plan for least-cost procurement for the State;
 - Provide consistent, comprehensive, informed and publicly accountable stake-holder involvement in energy efficiency, energy conservation, and energy resource management;
 - Monitor and evaluate the effectiveness of programs to achieve energy efficiency, energy conservation, and diversification of energy resources; and
 - Promote public understanding of energy issues and of ways in which energy efficiency, energy conservation, and energy resource diversification and management can be effectuated.
- 1.3. **State Purchases Act.** In general, the State Purchases Act, R.I. Gen. Laws §37-2-1 et seq., applies to every expenditure of public funds by any State governmental entity or public agency within the State. EERMC, as a council established by the Rhode Island General Assembly, is issuing this solicitation and selection for award in accordance with the underlying purposes and policies of the State Purchases Act. Any prospective offeror or offeror who wishes to submit a written protest in accordance with R.I. Gen. Laws §37-2-52, must submit the protest to the Commissioner of the Rhode Island Office of Energy Resources via email at energyresources@energy.ri.gov.
- 1.4. **Equal Opportunity Policy.** In accordance with R.I. Gen. Laws §28-5.1-10, any selected offeror(s) who contract(s) with EERMC must possess the same commitment to equal opportunity as prevails under federal contracts controlled by federal executive orders 11246, 11625 and 11375. The selected offeror(s) may be required to submit an equal employment opportunity plan as proof of commitment. For more information, please contact the Rhode Island Equal Opportunity Office within the Rhode Island Department of Administration’s

Office of Diversity, Equity & Opportunity at 401.222.6398 or visit <http://odeo.ri.gov/offices/eoo>.

- 1.5. Minority and Women Business Enterprises.** In accordance with R.I. Gen. Laws §37-14.1-4, small businesses owned and controlled by one or more women who are economically disadvantaged (“WBEs”) or small businesses owned and controlled by one or more minorities who are economically disadvantaged (“MBEs”) shall have the maximum opportunity to participate in all procurements of goods or services involving funds administered by EERMC.
- 1.6. Disability Business Enterprises.** In accordance with R.I. Gen. Laws §37-2.2-3.1, small disadvantaged businesses owned and controlled by one or more individuals who have a disability (“Disability Business Enterprise”) shall have the maximum opportunity to participate in all procurements of goods or services involving funds administered by EERMC.
- 1.7. ISBE Utilization.** The term “ISBE” pertains to individuals who own small business enterprises and means all businesses that are certified as a WBE or MBE by the Rhode Island Office of Diversity, Equity & Opportunity (“ODEO”) or as a Disability Business Enterprise by the Governor’s Commission on Disabilities. In order for an offeror to receive credit for ISBE utilization either as an ISBE itself or through the utilization of a subcontractor that is an ISBE, the business must possess certification at the time the proposal is submitted to EERMC. To determine whether a business is certified by the State as an MBE or WBE or to become certified, please contact ODEO at 401.222.6398 or visit <http://odeo.ri.gov/offices/mbeco/>. To determine whether a business is certified by the State as a Disability Business Enterprise or to become certified, please contact the Rhode Island Governor’s Commission on Disabilities at 401.462.0100 or visit <http://www.disabilities.ri.gov/>. Offerors will receive between 0-6 evaluation points based on their proposed ISBE utilization rates. Each offeror must submit its proposed ISBE utilization rate as part of its proposal as instructed herein.
- 1.8. Utilization of Subcontractors.** Subcontractors are permitted, provided that their use must be clearly indicated in the proposal. To the extent possible, all proposed subcontractors must be identified in the proposal.
- 1.9. Public Disclosure of Proposals.** All proposals received by EERMC in connection with this RFP are subject to the Rhode Island Access to Public Records Act (“APRA”), R.I. Gen. Laws §38-2-1, et. seq. Once an award is made and upon receiving an APRA request, all proposals will be released by EERMC unless EERMC finds that the certain portions of information contained within the proposals are exempt from public disclosure pursuant to R.I. Gen. Laws §38-2-2(4). Offerors are advised to clearly mark or label “confidential” any portions of information within their proposals that they believe are “[t]rade secrets and commercial or financial information obtained from a person, firm, or corporation which is of a privileged or confidential nature.” When responding to an APRA request, EERMC will take into consideration any information marked by the

offeror as confidential. However, broad disclaimers that label the entire proposal as confidential will not help EERMC in its APRA analysis and may not be considered.

- 1.10. Costs Associated with Submitting a Proposal.** All costs associated with developing or submitting a proposal in response to this RFP, or to provide oral or written clarification of its content shall be borne by the offeror. EERMC assumes no responsibility for these costs.
- 1.11. Right to Cancel this RFP.** In accordance with R.I. Gen. Laws §37-2-23, this RFP may be cancelled at any time and/or all proposals may be rejected.
- 1.12. Misdirected Proposals.** Any proposals misdirected to other state locations, or which are otherwise not in the email inbox of the Contact Person at the time of the submission deadline for any cause will be determined to be late and may not be considered.
- 1.13. Proposals Irrevocable.** Proposals are considered to be irrevocable for a period of not less than sixty (60) days following the submission deadline, and may not be withdrawn, except with the express written permission of EERMC.
- 1.14. EERMC Website.** Offerors are instructed to peruse the EERMC website and any other pertinent websites listed in Section 2.1 of this RFP on a regular basis, as additional information relating to this solicitation may be posted there from time to time. See Section 2.1 of this RFP for pertinent website address(es).
- 1.15. Right to Transact Business in Rhode Island.** In accordance with R. I. Gen. Laws §7-1.2-1, et seq., no foreign corporation, a corporation without a Rhode Island business address, shall have the right to transact business in the State until it shall have procured a Certificate of Authority to do so from the Rhode Island Department of State. Please contact the Rhode Island Secretary of State's Business Services Division at 401.222.3040 or visit <http://sos.ri.gov/divisions/business-portal> for more information. This is a requirement only of the selected offeror(s).
- 1.16. Availability of Funds.** The purchase of services under an award made pursuant to this RFP will be contingent on the availability of funds.
- 1.17. Insurance.** Prior to being issued a final award, the selected offeror(s) will be required to possess all necessary insurance, as determined by the EERMC, and continue to possess such insurance throughout the life of the award.
- 1.18. Indemnification.** The selected and awarded offeror shall hold harmless and indemnify the EERMC and the State from and against any and all losses, damages, claims, suits, actions, liabilities, and/or expenses, including, without limitation, attorneys' fees and disbursements of any character that arise from, are in connection with or are attributable to the performance or nonperformance of the offeror or its subcontractors under an award stemming from this RFP.

SECTION 2: AGENCY CONTACT PERSON AND OFFEROR SUBMISSION AND FORMATTING REQUIREMENTS

2.1 Contact Person. Any communication regarding this RFP must be made in writing and directed to the Contact Person whose information is listed in the table below. Revised and/or additional information regarding this solicitation may be posted on the Pertinent Website(s) listed in the table below.

Contact Person	Becca Trietch
Mailing Address	Rhode Island Office of Energy Resources One Capitol Hill, 4 th floor Providence, RI 02908
Email Address	eermc.rfp@gmail.com
Pertinent Website(s)	http://www.riermc.ri.gov/request-for-proposals/

2.2 Important Dates. Important dates regarding this RFP are listed in the table below.

RFP Issuance Date	July 20, 2020
Pre Proposal Conference Date	Not Applicable
Written Questions Due Date	Monday, August 3, 2020 at 5pm. (Eastern Time).
Submission Deadline	Monday, August 24, 2020 at 5pm. (Eastern Time).

2.3 Pre Proposal Conference. There will be no pre-proposal conference for this RFP.

2.4 Written Questions. Prospective offerors may submit written questions pertaining to this RFP. Questions must be emailed as a Microsoft WORD or searchable PDF attachment to the Contact Person. The deadline to submit questions is listed within the table in Section 2.2 of this RFP. Questions and EERMC’s responses will be posted on the Pertinent Website(s).

2.5 Amendments to this RFP. If this RFP is amended or addendums are issued, written notice of the amendments and/or addendums will be posted on the Pertinent Website(s).

2.6 Submission Deadline. Each Proposal will include three (3) components: technical, cost, and ISBE. All three components must be received by the Contact Person by the Submission Deadline as listed within in the table in Section 2.2 of this RFP.

2.7 Submission Requirements. Each Proposal must be emailed to the Contact Person and must include the following:

- One (1) original technical component.
- One (1) original cost component. The original cost component must be a separate file from the technical component and be labeled as “Cost Proposal”.
- One (1) original ISBE component. This original ISBE component must be a separate file from the technical component and be labeled as “ISBE Proposal”.
- The electronic files must be in a searchable PDF or Microsoft WORD format unless otherwise permitted by the Contact Person. Please label each file as “Technical Proposal” or “Cost Proposal” or “ISBE Proposal”.

2.8 Formatting of Written Documents. For clarity, the technical component should be typed and sections should be clearly labeled to correspond with the pertinent RFP sections. These documents should use 1” margins on 8.5”x 11” paper using a font of 12 point. Technical components should be a maximum of fifteen (15) pages not counting any attachments. Each attachment should be referenced appropriately within the proposal section and the attachment title should reference the proposal section it is applicable to. The Cover Sheet, Cost component and ISBE component should be typed using the attached templates.

SECTION 3: EVALUATION AND SELECTION PROCESS

3.1 Technical Review Team. Proposals will be evaluated and scored by a technical review team in accordance with the criteria contained herein. The chief purchasing officer, or the technical review team through delegated authority from the chief purchasing officer, will make a recommendation to the EERMC. An award shall be made to the responsible offeror(s) whose proposal is determined to be the most advantageous to the EERMC, taking into consideration price and the evaluation factors set forth in this solicitation. The EERMC is responsible for the final selection of an offeror. The EERMC reserves the right to award one, multiple, or no awards based on the proposals received. The EERMC also reserves the right to reissue the RFP at its sole discretion.

3.2 Technical Component Evaluation Stage. To advance to the second stage of the evaluation process, which factors in the cost and ISBE components, the offeror must earn a technical component score of at least 60 (85.7%) out of the maximum 70 technical points. Any proposal with a technical component score of less than 60 points will not have the cost or ISBE components opened nor evaluated and the proposal will be dropped from further consideration.

3.3 Cost & ISBE Components. Proposals scoring 60 technical points or higher will be evaluated for cost and assigned up to a maximum of 30 points in the cost category. In addition, proposals scoring 60 technical points or higher will be evaluated for ISBE participation and assigned up to a maximum of 6 points in the ISBE participation category bringing the potential maximum score to 106 points.

3.4 Scoring. Proposals will be reviewed and scored based upon the following criteria:

Criteria	Points Available
Overview and Work Plan	35
Qualifications and Experience	25
Project Management and Organization	10
Total Technical Points	70
Cost	30
Total Possible Evaluation Points	100
ISBE Bonus Points	6
Total Possible Points	106

3.5 Calculation of Cost Points. The offeror with the lowest cost proposal shall receive one hundred percent (100%) of the available points for cost. All other offerors shall be awarded cost points based upon the following formula:

$$(\text{lowest cost proposal} / \text{offeror's cost proposal}) \times \text{available points}$$

For example, if Offeror A is the offeror with the lowest cost proposal of \$65,000 and Offeror B proposes a cost of \$100,000 and the total points available are 30, Offeror A would get the full 30 points and Offeror B's cost points are calculated as follows: $\$65,000 / \$100,000 \times 30 = 19.5$ points.

3.6 Calculation of ISBE Points. See Sections 1.5, 1.6 and 1.7 of this RFP for more information. EERMC adheres to 150-RICR-90-10-1 entitled *Regulations Governing Participation by Small Business Enterprises in State Purchases of Goods and Services and Public Works Projects*. The offer with the highest ISBE participation rate shall receive one hundred percent (100%) of the available points for ISBE. All other offerors shall be awarded ISBE points based upon the following formula:

$$(\text{offeror's proposed ISBE participation rate} / \text{offeror with highest ISBE participation rate}) \times \text{available points}$$

For example, if Offeror A has the highest ISBE participation rate of 20% and Offeror B proposes an ISBE participation rate of 12% and the total points available are 6, Offeror A would get the full 6 points and Offeror B's cost points are calculated as follows: $12\% / 20\% \times 6 = 3.6$ points. See Sections 3.7 and 3.8 of this RFP for information on how ISBE participation rates are calculated.

3.7 ISBE Participation Rate if the Offeror is an ISBE. The ISBE participation rate for an offeror who is an ISBE shall be expressed as a percentage and shall be calculated by taking the sum of the amount of the offeror's total contract price that will be subcontracted to ISBEs and the amount that will be self-performed by the offeror and dividing that number by the ISBE offeror's total contract price. For example if the offeror's total contract price is \$100,000.00 and it subcontracts a total of \$12,000.00 to ISBEs and will perform a total of \$8,000.00 of the work itself, the offeror's ISBE participation rate would $(\$12,000 + \$8,000)/\$100,000 = 20\%$.

3.8 ISBE Participation Rate if the Offeror is not an ISBE. The ISBE participation rate for an offeror who is not an ISBE shall be expressed as a percentage and shall be calculated by taking the amount of the offeror's total contract price that will be subcontracted to ISBEs and dividing that number by the ISBE offeror's total contract price. For example if the offeror's total contract price is \$100,000.00 and it subcontracts a total of \$12,000.00 to ISBEs, the offeror's ISBE participation rate would $\$12,000/\$100,000 = 12\%$.

SECTION 4: OFFEROR'S SUBMISSIONS

Each offeror must submit a proposal containing the following information. When responding to each section below, please label responses with the corresponding RFP section.

- I. Cover Sheet.** The offeror must complete, execute, and submit the RFP Cover Sheet which is attached hereto.
- II. Technical Proposal.** An offeror's technical proposal must include the following information:
 - A. Overview.** The overview should lay out the offeror's understanding of the scope of work, describe the offeror's proposed project work plan and approach, and explain how the offeror is well suited to achieve the project objectives.
 - B. Work Plan.** The offeror should describe its proposed project work plan in detail. Specifically, the offeror should describe how all components of the Scope of Work will be addressed.
 - C. Company Profile.** Provide an overview of history, length of time in business, organizational and staff capacity, core competencies, and any other resources uniquely suited to achieving project objectives.
 - D. Relevant Experience:** Describe offeror's experience with similar projects.

- E. **Examples of Prior Work:** If possible, reference two or three examples of previous projects that best display the offeror's ability and experience with work of a similar nature. Specify the role the offeror played in each project.
 - F. **Reference Information:** Provide names, email addresses, telephone numbers, and permission to contact three former or current clients for which the offeror has performed work in the last three years.
 - G. **Identification of Staff and Subcontractors.** List all staff and subcontractors proposed as members of the offeror's team.
 - H. **Staff Responsibilities.** Specifically describe each of staff and subcontractor duties, responsibilities, and areas of concentration for the project.
 - I. **Staff Experience.** Please include resumes, curricula vitae, or statements of prior experience and qualification. An organizational chart showing roles and responsibilities on the project is desirable. The team may include subcontractors; however, the lead offeror will be solely responsible for the management and deliverables of the team.
 - J. **Conflicts of Interests.** Describe any known conflicts of interest between offeror or an affiliate of offeror and any distribution company, or any affiliates of the foregoing. In addition, describe any known conflicts of interest between offeror or an affiliate of offeror and any member of the EERMC.
 - K. **Litigation.** Describe any litigation, disputes, claims or complaints, or events of default or other failure to satisfy contract obligations, or failure to deliver products, involving offeror or an affiliate of offer, and relating to providing services similar to the services being solicited by the EERMC.
 - L. **Investigation.** Confirm that offeror, and the directors, employees and agents of offeror and any affiliate of offeror are not currently under investigation by any governmental agency and have not in the last four years been convicted or found liable for any act prohibited by state or federal law in any jurisdiction involving conspiracy, collusion or other impropriety with respect to bidding on any contract.
- III. **Cost Proposal.** Offerors must separate their cost proposals from their technical proposals and submit cost proposals as a separate file. Please complete, execute, and submit a cost proposal using the cost proposal form template attached hereto. Offerors must complete both Task Sheets Page(s) and the All-Inclusive Price Page. The Scope of Work is expected to require a commitment of approximately 125 hours per year starting on April 1, 2021, with an option for the EERMC to decide whether to renew and continue the selected consultant's work in 2022 and 2023.
- IV. **ISBE Proposal.** Offerors must separate their ISBE proposals from their technical proposals and submit ISBE proposals as a separate file. To be eligible for ISBE points, an offeror must complete, execute, and submit the ISBE form template

attached hereto. Offerors must complete both the List of ISBE Page and the ISBE Participation Rate Page. Failure to submit an ISBE proposal will result in the offeror receiving 0 points in the ISBE scoring category. See RFP Sections 1.5, 1.6, 1.7, 3.6, 3.7, and 3.8 for additional information.

SECTION 5: PROJECT DESCRIPTION AND SCOPE OF WORK

- 5.1 Summary:** The Rhode Island Energy Efficiency and Resource Management Council (“EERMC”) is issuing this request for proposals (“RFP”) to solicit proposals from qualified offerors to provide legal services beginning April 1, 2021. The EERMC provides oversight of the energy efficiency and system reliability programs and initiatives which are proposed and administered by the electric and gas utility distribution company as required by R.I.G.L. § 39-1-27.7.
- 5.2 Background and Motivation.** The EERMC works closely with the Office of Energy Resources (OER) and its staff; issues reports on its work to the state General Assembly; and appears before the Public Utilities Commission (“PUC”) on various regulatory matters. The EERMC also engages a Consultant Team in order to achieve its statutory purposes as defined in R.I.G.L. § 42-140.1-3. The selected offeror will be expected to work closely with the EERMC, its Consultant Team, and OER to fulfill the purposes of the EERMC and to provide guidance on how the Council can maintain its compliance with all applicable laws.
- 5.3 Scope of Work:** The EERMC is seeking proposals to provide legal services to the EERMC including, but not limited to, the following:
- A.** Represent and advise the EERMC on all legal matters pertaining to its statutory obligations where appropriate and necessary.
 - B.** Prepare and provide legal interpretations on all legislative mandates including, but not limited to, energy efficiency, renewable energy and distributed generation, upon request.
 - C.** As directed by the EERMC, review policies developed by the EERMC and/or its Consultant Team on a range of issues germane to the EERMC’s statutory authority including, but not limited to, triennial and annual energy efficiency and system reliability plan development and implementation; efficiency and system reliability standards development; energy efficiency savings targets; program budget and financing; cost-effectiveness; evaluation, monitoring, and verification; financing; and performance incentives, as needed.
 - D.** Provide written responses to any information requests from third parties upon request of the EERMC.

- E. Upon request by the EERMC, attend EERMC meetings, Executive Committee meetings, Subcommittee meetings, Energy Efficiency and/or System Reliability Procurement Technical Working Group Meetings and other ad hoc committees that may be formed, as necessary.
- F. Represent the EERMC at all relevant regulatory proceedings conducted by the PUC including, but not limited to, evidentiary hearings, technical sessions, and open meetings, as needed.
- G. Assist in the preparation, development, and delivery of testimony, data requests, and other regulatory support materials necessitated by relevant PUC proceedings, as needed.
- H. Provide legal support and representation with respect to relevant state and regional entities, as requested by the EERMC.
- I. Represent the EERMC on all other matters necessary to advance the statutory responsibilities of the EERMC, as directed.
- J. Management of an interest-bearing client account from which invoices approved by OER on behalf of the EERMC are paid.
- K. Provide other legal services on an as needed basis.

An offeror must be a member of the Rhode Island Bar and must maintain such membership as a condition of providing services.

The term of a contract signed pursuant to the terms of this Request for Proposals will be twelve (12) months from the date of contract signature. Upon satisfactory performance and availability of funds, the contract may be extended, under the same terms and conditions, by the EERMC for not more than two (2) additional twelve (12) month periods, without re-bidding, and upon mutual agreement in writing.

If an offeror identifies a need for additional tasks or services, the offeror may indicate such additions in the project proposal.

5.4 Required Deliverables

- Legal memos providing legal interpretations, advice and/or reviews, as requested
- Email communications, as needed
- Legal testimony, as required
- Information Requests, as required
- Monthly fund balance updates with interest, withdrawal, and deposit summaries

- The EERMC requires monthly invoicing of itemizing services rendered in the previous calendar month. Invoices shall be submitted by the tenth (10th) day of each month to the EERMC Executive Committee or its authorized designee. If no legal services were provided in the previous month, the Applicant shall submit an invoice stating such.

5.5 Expected Tasks and Timeline

Milestone	Anticipated Date
Proposal Award	November/December 2021
Selected Offer to Begin Work	April 1, 2021
Monthly Invoices	Submit by the 10 th day of the following month
Interim Tasks & Services	Rolling
Possible Extension of Work for 2022	March 2022

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RFP Cover Sheet

Offeror's Name:	
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RFP Information	
Title of RFP:	
RFP Number:	

Offeror Information	
Legal Name of Offeror:	
Type of Entity (i.e. corporation, partnership, sole proprietorship):	
Mailing Address of Primary Place of Business:	
Phone Number:	
Website:	

Contact Person for the Offeror	
Name:	
Title:	
Mailing Address:	
Phone Number:	
Email Address:	

Signature of Authorized Person

Date

Printed Name, Title

Cost Proposal - Task Sheets

Offeror's Name:	
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Task Sheets. Please add or delete rows for team members and add or delete task tables as needed.

Task 1:			
Labor Costs			
Subcontractor or Team Member Name and/or Job Title	Hourly Rate	Estimated Hours	Evaluated Price (Hourly Rate * Estimated Hours)
Additional expenses that are not included in hourly rate			
Description of Expense		Price	
Total Task Price:		\$ _____	

Cost Proposal - All-Inclusive Price and Signature Page

Offeror's Name:	
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One All-Inclusive Price. This number represents the sum of all total task prices and any other costs and expenses charged to EERMC.

All-Inclusive Price:	\$ _____
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Signature of Authorized Person

Date

Printed Name, Title

ISBE Proposal – List of ISBEs Page

Offeror's Name:	
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Please see Sections 1.5, 1.6, 1.7, 3.6, 3.7, and 3.8 of the RFP for additional information.

Is the offeror a State certified ISBE (MBE, WBE or Disability Business Enterprise):	YES <input type="radio"/>	NO <input type="radio"/>
	If YES, provide the total dollar amount representing work that will be done by the offeror: <div style="text-align: right; margin-top: 10px;">\$ _____</div>	

Identification of ISBE Subcontractors (Please add rows as necessary)		
ISBE Subcontractor's Name	ISBE Mailing Address, Email Address, and Phone Number	The total dollar amount representing work that will be done by the ISBE Subcontractor
		\$ _____
		\$ _____
		\$ _____

ISBE Proposal – Participation Rate and Signature Page

Offeror's Name:	
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A. Total amount of dollars representing work that will be done by the ISBEs:	\$ _____
B. All-Inclusive Price Listed in the Cost Proposal:	\$ _____
ISBE Participation Rate (=A/B):	_____ %

Signature of Authorized Person

Date

Printed Name, Title