# REQUEST FOR STATEMENT OF QUALIFICATIONS

# RE-BID RSQ No.: 24-07-3411SB

PARTICIPATING LENDER FOR NAVAJO SSBCI – PHASE 01

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# REQUEST FOR STATEMENT OF QUALIFICATIONS

**Statement Submission Deadline:** 4:00pm MST on Monday, July 14, 2025.
**RSQ Name**: Participating Lender for Navajo SSBCI – Phase 01
**RSQ No.:** 24-07-3411SB

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# REQUEST FOR STATEMENT OF QUALIFICATIONS

## 1.0 INTRODUCTION

The Navajo Nation is seeking *multiple* Participating Lenders with Division of Economic Development ("DED") to implement programs under the Navajo Nation State Small Business Credit Initiative ("NNSSBCI" or "SSBCI") through this Request for Statements of Qualification ("RSQ"). The selected Participating Lender(s) will administer two approved SSBCI loans by deploying the SSBCI dollars to Navajo business owners:

- Navajo Loan Guaranty Program ("NLGP") - Loan range: $250,000 - $20,000,000; and
- Navajo Loan Participation Program ("NLPP") - Loan range: $1,000,000 - $20,000,000.

The 2021 American Rescue Plan Act reauthorized the 2012 State Small Business Credit Initiative to empower small businesses to access capital for job-creating opportunities post pandemic. States and US territories were allocated $10 Billion, and for the first time, Tribal governments received an allocation of $500 Million.

The Navajo Nation has an approximate $88.7 million SSBCI allocation from the US Treasury ("Treasury") and until 2032 to deploy the funds to Navajo business owners through approved SSBCI programs. On behalf of the Navajo Nation, DED is the implementing entity and oversight of the SSBCI programs. Designed by the Treasury, the SSBCI program aims to support entrepreneurs by reducing the hurdles often associated with getting loans. The program works by lowering the risk for lenders, encouraging them to invest in small businesses and promote job creation, economic development, and overall community well-being.

The NNSSBCI presents an unprecedented opportunity for Navajo small business owners. If the Navajo Nation is successful in deploying its SSBCI dollars, a minimum of $178 million in business financing will be unlocked for eligible Navajo businesses.

### 1.1 RSQ OBJECTIVE

The objective of this RSQ is for DED to select and contract with the most advantageous bank/financial entity as a Participating Lender(s) for administering NNSSBCI approved loan programs to Navajo business owners on and off the reservation.

### 1.2 RSQ SCHEDULE

| Schedule of Activities | Date |
|---|---|
| Issuance of RSQ | 7/2/2025 |
| RSQ questions due by | 4:00pm MST on 7/11/2025 |
| Statement Submission Deadline | 4:00pm MST on 7/14/2025 |
| Statement review begins | 7/14/2025 |
| Anticipated date of contract Award | 7/15/2025 |

### 1.3 RSQ Question Submission

Any inquiries regarding this RSQ should be submitted in an attached PDF file to an e-mail with the subject line: "Question on RSQ 24-07-3411SB." Such question e-mails should be submitted to Myron Rintala, SPPS, at mrrintala@navajo-nsn.gov prior to 4:00pm MST on 07/11/2025. Any inquiries received after this deadline will receive no response.

Inquiries made in any other manner or to any other individual or Navajo Nation office regarding this RSQ will not be answered. Answers to all questions will be advertised in the same manner as this RSQ in advance of the Submission Deadline. Only answers issued in this manner shall be an official response to questions.

## 2.0 SCOPE OF WORK

### 2.1 Project Location

The project location is the DED office located in the Karigan Professional Office Complex; 100 Taylor Rd. St. Michaels, Arizona 86511.

The selected Participating Lender(s) will attend a Contract Start-up meeting at the DED office in St. Michaels following selection and complete execution of the contract. Additionally, the selected Participating Lender(s) may also be required to attend onsite or other meetings that take place away from the DED office.

### 2.2 NNSSBCI Programs

The DED is seeking a Participating Lender to administer NLGP and NLPP on behalf of the Navajo Nation. The Scope pf Work ("SOW") for a Participating Lender(s) is as follows:

#### *2.2.1 Navajo Loan Guarantee Program Overview ($250,000 - $20,000,000)*

The NLGP will provide small business loans to eligible small business borrowers, targeting borrowers with less than 500 employees and not allowing loans to borrowers with more than 750 employees. Within these parameters, the Navajo Nation will establish and refine the scope of eligibility for small businesses based on lessons learned through NLGP implementation, so long as the requirements for eligibility ensure primary benefit to Navajo owned and Navajo Nation owned businesses, and may provide for benefit to other small businesses clearly demonstrating substantial Navajo benefit (e.g., through significant employment opportunity for Navajo members).

The selected Participating Lender(s) will create reserve accounts not to exceed any guaranty commitment. The selected Participating Lender(s) and DED will administer the NLGP reserve accounts, which may involve a separate fund for each lender. The guarantee shall be for the full term of the loan. Funds held in each of the reserve accounts will be released from the reserve and restored to the NLGP's capital account as each borrower repays their loan to the lender. In other words, as the loan balance is reduced through repayment, the reserve amount for the loan guarantee will be reduced and the corresponding funds will be recycled for new loan guarantees.

The NNSSBCI funding will have a fifty percent (50%) guaranty average and be matched by the Participating Lender(s) to provide, at a minimum, a 1:1 private match. Under this structure, the Participating Lender(s) will have an average of fifty percent (50%) of the loan risks, and will follow all SSBCI reporting requirements.

#### *2.2.2 Navajo Loan Participation Program Overview ($1,000,000 - $20,000,000)*

The NLPP will provide small business loans to eligible small business borrowers with less than 500 employees and without allowing NNSSBCI supported small business loans to borrowers with more than 750 employees. Within these parameters, the Navajo Nation will establish and refine the scope of eligibility for small businesses based on lessons learned through NLPP implementation, so long as the requirements for eligibility ensure primary benefit to Navajo owned and Navajo Nation owned businesses, and may provide for benefit to other small businesses clearly demonstrating substantial Navajo benefit (e.g., through significant employment opportunity for Navajo members).

The selected, when interested, Participating Lender(s) will participate in loans by purchasing a portion of the loan offered by Participating Lender(s) through their typical small business loan programs. For example, Participating Lender(s) may offer fixed term loans, revolving credit lines, balloon loans, interest only loans, construction loans or short-term bridge loans. The participation interest will be no more than eighty percent (80%) and no less than ten percent (10%), with an anticipated average participation rate of twenty percent (20%). Additionally, the financial entity will be allowed to participate in loans for no more than eighty percent (80%) and no less than 10%. We anticipate an average twenty percent (20%) participation rate to meet SSBCI leverage requirements. At initial deployment, loan participation rates may be higher to meet deployment goals of the NNSSBCI program and will taper off toward the end of the 10-year program. The DED will monitor the loan participation rates through monthly and quarterly reporting and will adjust the percentage targets for participating lenders accordingly.

### 2.3 ALLOCATION OF FUNDS

For purposes of administering the NNSSBCI Loan Programs in this RSQ, the Navajo Nation will receive a total allocation of $88,739,540.00 from the U.S. Department of Treasury issued in three tranches/payments.

### 2.4 ESTABLISHING SSBCI LOAN PROGRAM FUND

Within thirty (30) days of contract execution, and prior to the receipt of funds from Navajo Nation, the selected Participating Lender(s) shall establish an "SSBCI Loan Program Fund" maintained in a federally insured bank account(s). The SSBCI Loan Program Fund shall not be commingled with other funds.

### 2.5 MINIMUM REPORTING REQUIREMENTS

Each quarter and each calendar year, the selected Participating Lender(s) shall submit a report (a total of five reports per year) to DED, with a copy to the Navajo Nation Department of Justice ("DOJ") and Office of the Controller ("OOC"), containing any information the Treasury requires, as defined in the Capital Program Reporting Guidance applicable at the time of the report, and any Navajo Nation reporting requirements.

### 2.6 ADMINISTRATIVE COSTS ALLOWED

To cover expenses related to the administration and operation of the NNSSBCI Loan Programs, selected Participating Lender(s) shall be entitled to retain up to five percent (5%) of the first SSBCI allocation and up to three percent (3%) of the second and third allocations. Such administrative expenses shall be supported by documentation of actual expenses incurred to validate the costs claimed, as required and governed by the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. 200 Subpart E.

### 2.7 MEANINGFUL LENDER PARTICIPATION AND LENDING TARGETS

The selected Participating Lender(s) must have at least twenty percent (20%) capital at risk (measured in terms of the total amount of loans or other financing being made available simultaneously with the closing on the Enrolled Loan) or such other percentage as set forth in the Navajo Nation's or Treasury's SSBCI rules and regulations so that the Navajo Nation may achieve a minimum of a $1:$1 private to public investment ratio. In addition, the selected Participating Lender(s) will: (a) target Navajo businesses with an average Borrower size of 100 employees or less; (b) notwithstanding the Maximum Enrolled Loan Amount, target average loan sizes ranging from $5,000 to $1,000,000; and (c) target SEDI borrowers consistent with the requirements of Treasury and the marketing and outreach plan to be provided by the Participating Lender(s) to the Navajo Nation.

## 3.0 STATEMENTS OF QUALIFICATION GUIDELINES

### 3.1 REQUIRED COMPLIANCE WITH RSQ

Carefully read and become familiar with this RSQ's requirements, including those for the form and format for submission of a Statement of Qualifications ("Statement"). Offerors submitting Statements for consideration must ensure the Statement conforms to all requirements of this RSQ and is received before the Offer Submission Deadline.

### 3.2 METHOD AND DEADLINE FOR OFFER SUBMISSION

#### *3.2.1 Statement Submission Deadline*

Offerors must submit their Statement on or before 4:00pm MST, 07/14/2025. The DED will accept no Statements, including amendments or corrections, after this time.

#### *3.2.2 Allowed method of submission*

Offerors must e-mail their Statements as a PDF file attached to or via a downloadable link to Myron Rintala, SPPS, at mrrintala@navajo-nsn.gov before the Submission Deadline according to the requirements of this Section 3.0. The DED will not accept Statements submitted in any other manner.

### 3.3 STATEMENT SUBMISSION REQUIRED FORM & FORMAT

#### *3.3.1 Form of Submitted Statement*

Offerors shall submit one (1) complete copy of their Statement as a PDF file that is attached to a cover e-mail. The cover email will be the transmitting document for the submission. Hand-

delivered, mailed, facsimile, telephonic, or instant messaging submission is not allowed and any Statement submitted in such manner will automatically be rejected.

All attachments to the cover e-mail must be delivered as a PDF file. All Offerors should password protect their PDF files and provide the password for accessing the file in the cover e-mail. Multiple files may use the same password.

The DED will not merge or otherwise manipulate any documents in a submitted Statement. The DED may, at its sole discretion, disqualify any Statement submitted that does not conform with the form, format, and order requirements of this RSQ.

### *3.3.2 Cover E-mail Required Content*

An Offeror's cover e-mail shall include the following:

1. identifying information of the Offeror, including its name, physical and mailing addresses, organizational structure type (corporation, sole proprietorship, etc.); and
2. the name, title, and signature of the person authorized to bind the Offeror to its Statement and in a contract.

If the Offeror is a joint venture or partnership, it shall also include the above information for all of the participating organizations. All attachments to the cover e-mail must be a PDF file.

### *3.3.3 Cover E-mail Required Subject*

Offerors shall send their cover e-mail with the subject line:

1. "[Offeror Name], Statement for RSQ 24-07-3411SB;" or, where applicable
2. "[NBOA Priority Classification] – [Offeror Name], Statement for RSQ 24-07-3411SB."

To corroborate the use of NBOA Priority Classification in the subject of the cover e-mail, the Offeror shall also attach a copy of its current NBOA Priority Classification certificate as a separate PDF file from the Statement.

Failure of an Offeror to separately attach its NBOA Priority Classification certificate to its cover e-mail shall result in DED opening the Statement as a Non-NBOA Priority offer regardless of the subject line.

### *3.3.4 Titling PDF Files*

The Offeror shall title all PDF file attachments to the cover e-mail in the following manner:

| **Item** | **Required Title** |
|---|---|
| Statement | [Offeror Name]_Statement for RSQ 24-07-3411SB |
| Cost Proposal | [Offeror Name]_Cost Proposal for RSQ 24-07-3411SB |
| NBOA Priority Classification Certificate | [Offeror Name]_NBOA Priority [#] Certificate Statement for RSQ 24-07-3411SB |

### *3.3.5 Page Limit*

An Offeror's submission, which includes both the Statement PDF and the Cost Proposal PDF files, shall not exceed fifty (50) letter-sized pages, including text and/or graphic material. The only items exempt from this page limit are:

1. where applicable, an NBOA Priority Classification certificate if submitted as a whole page;
2. the cover e-mail transmitting the Statement;
3. any table of contents; and
4. divider pages that are blank or bearing only the section titling information—e.g., "Section I: Introduction."

The Cost Proposal PDF does not have a required page limit; however, the Cost Proposal PDF shall be included in the total number of letter-sized pages submitted with the Statement—e.g., a submitted Statement PDF is forty-five (45) letter-sized pages while the Cost Proposal PDF is five (5) letter-sized pages.

### *3.3.6 Statement Components*

An Offeror's Statement shall include the Offeror's background information; statements of financial viability; details of staff credentials, including copies of certificates; and the expected methodologies and description of key staff for the project.

The Offeror's background information includes the Offeror's:

1. name(s);
2. physical and mailing address;
3. contact information and preferred method of communication;
4. legal form (e.g., sole proprietor, partnership, corporation);
5. date of and legal place of formation;
6. structure in terms of size, range, types of services offered, and clientele; and
7. principal officer's name (e.g., President, Chairman, Vice President(s), Secretary, Chief Operating Officer, Chief Financial Officer, General Manager(s)) and length of time each officer has performed in their field of expertise.

The Statement shall also demonstrate the Offeror's financial viability through submission of statements and evidence establishing a response to whether the Offeror, or any parent company (if any):

1. has ever filed for bankruptcy or any form of reorganization under the federal bankruptcy laws or code;
2. has ever received sanctions of any sort or is currently under investigation by any regulatory or governmental body, regardless of jurisdiction; and
3. has ever had a contract cancelled for cause.

If the Offeror responds to any of the above statements in the affirmative, it shall provide evidence and an explanation of the reason.

A Statement shall also include:

1. detailed methodologies to be implemented for this project;

2. a description of key staff for the project, including title, credentials, and years of experience in their role;
3. a declaration that the Offeror will not subcontract or attempt to subcontract any of the work related to this RSQ;
4. evidence of established track record for providing the services required in this RSQ;
5. a list of previous accomplishments from other completed contracts, including website addresses and address/contact information of business references; and
6. a minimum of three (3) client references with contact information for the Offeror.

#### *3.3.7 Statement Required Documentation*

To be considered for contract award as a Participating Lender(s), an Offeror's Statement must contain the following, completed documents:

1. certificates and licenses held by the Offeror or its employees relevant to the subject matter of this RSQ;
2. certificate of Offeror's NBOA Priority Classification, if applicable (include regardless of whether also sent as a separate attachment to the cover e-mail);
3. Certificate of Good Standing issued by the Business Regulatory Department within the past twelve (12) months showing that Offeror is authorized to operate on the Navajo Nation;
4. Navajo Nation Certification of Non-Debarment and Non-Suspension;
5. Internal Revenue Service ("IRS") Form W-9 containing the Offeror's Federal Employee Identification Number; and
6. Certificate of Insurance showing Offeror's current general and professional liability insurance coverage.

#### *3.3.8 Statement Required Order*

The DED will not search a submitted Statement to locate required documentation or information. The Statement attached to the cover e-mail must be organized and indexed in the following order:

1. Offeror's required background information;
2. financial viability statements;
3. any other Offeror qualifications and experiences;
4. the Offeror's project approach, including methodologies, time expectations, and key staff; and
5. required documentation in the order provided in Section 3.4.6;

### 3.4 COST PROPOSAL REQUIRED

#### *3.4.1 Cost Proposal Submitted as Separate File*

In addition to its Statement, an Offeror shall also submit a separate, password protected PDF file containing a Cost Proposal attached to the cover e-mail.

#### *3.4.2 Fee Arrangement*

The Cost Proposal should provide a discussion of a proposed fee arrangement based on each of the following alternative arrangements, or a combination thereof, according to the services set forth in the SOW:

1. Compensation on a fixed annual cost, payable monthly;
2. Compensation on a flat fee basis for specific areas or projects; and

#### *3.4.3 Navajo Nation Sales Tax*

The Cost Proposal shall contain all appropriate taxes, including the Navajo Sales Tax. All goods delivered or work performed within the territorial jurisdiction of the Navajo Nation is subject to six percent (6%) Navajo Sales Tax, 24 N.N.C. §§ 601 *et seq.*.

#### *3.4.4 Assets Under Management Fees Disallowed*

Cost Proposals that include fees charged based on assets under management are not permitted and any Statement submitted with such structure will be rejected.

### 3.5 Additional Statement Guidance

#### *3.5.1 Navajo Business and Opportunity Act Certification*

It is the responsibility of the Offeror to identify whether they are a priority certified vendor under the Navajo Nation Business Opportunity Act ("NBOA") according to the requirements of this RSQ. An Offeror claiming NBOA Priority Classification must include in its Statement a copy of its NBOA Priority Certificate that is current as of the Submission Deadline. Submission of an out-of-date certificate, or omission of a certificate, in a Statement claiming NBOA Priority Classification shall result in evaluation of the Statement as a Non-NBOA Priority classified submission.

Joint Ventures or Partnership claiming NBOA Priority Classification shall submit a NBOA Priority Certificate in the name of the Joint Venture or Partnership.

#### *3.5.2 Subcontracting Disallowed*

The selected Participating Lender(s) shall not subcontract any work for either the NLGP or the NLPP. There shall be no exceptions to this requirement at any time.

#### *3.5.3 Identifying Proprietary Information*

It is the Offeror's responsibility to mark all proprietary information submitted to the Navajo Nation should as such. Information marked as proprietary shall be treated with confidentiality in accordance with the Navajo Nation Privacy Act, 2 N.N.C. § 81 *et seq.*.

### 3.6 Correcting or Amending a Submitted Statement

An Offeror may correct or amend a previously submitted statement, so long as the Offeror submits the amended or corrected Statement prior to the Submission Deadline. To correct or amend a Statement prior to the Submission Deadline, the Offeror must provide:

1. a cover e-mail signed by a duly authorized representative detailing that the Offeror is providing an amended or corrected Statement; and

2. one (1) complete copy, in its entirety, of the corrected or amended Statement PDF file.

Once received, DED will not open or consider the previously submitted Statement.

### 3.7 Withdrawal of a submitted Statement

Any Offeror may withdraw its Statement prior to the Submission Deadline. To withdraw its Statement, the Offeror must provide a cover e-mail signed by a duly authorized representative detailing that the Offeror has withdrawn its Statement. Notification in any other form shall not suffice.

## 4.0 STATEMENT EVALUATION

### 4.1 Goal for evaluation

The goal of statement evaluation is to select the most responsive and responsible Offeror that best demonstrates qualifications necessary for serving the needs of the NNSSBCI programs as outlined in the SOW. This RSQ's SOW represents the minimum requirements necessary for an Offeror to receive a contract award.

### 4.2 Evaluation Team

Statements received prior to the Submission Deadline shall be evaluated by an evaluation team. Offerors should be prepared to provide any additional information the team requests for clarification and to allow for fair evaluation of all Statements.

### 4.3 Process for Statement Opening and Review

The DED shall not open Statements publicly. Statement opening and evaluation shall be conducted in accordance with the NBOA and the Procurement Act and Regulations.

The DED will first open and evaluate the Statements of all Offerors appropriately identified as Priority No. 1 under the NBOA. The DED will make its selection from these Offerors should it identify one meeting the intent of this RSQ and all factors for evaluation.

If DED determines there are no responsive and responsible, or if there are no Statements from, Priority No. 1 Offerors, DED shall next open and evaluate Statements of all Offerors appropriately identified as Priority No. 2 under the NBOA. The DED will make its selection from these Offerors should it identify one meeting the intent of this RSQ and all factors for evaluation.

If DED determines there are no responsive and responsible, or if there are no Statements from Priority No. 2 entities, DED shall open and evaluate all remaining Statements. The DED will make its selection from these Offerors should it identify one meeting the intent of this RSQ and all factors for evaluation.

If DED determines there are no Statements responsive and responsible Offerors, it reserves the right to request submission of Alternate Statements and Cost Proposals from Offerors or terminated this RSQ at its own discretion.

## 4.4 Reject Non-Compliant Statements

The DED shall reject all statements not in compliance with the requirements of this RSQ or Navajo Nation law and regulation, including for, but not limited to, the following reasons:

- a Statement does not conform to or fully address the SOW;
- a Statement attempts to impose conditions that modify any requirements of the SOW or this RSQ;
- a Statement attempts to or limits the Offeror's liability to the Navajo Nation;
- the Offeror unreasonably fails to provide in a timely manner any additional information requested by the evaluation team; or
- DED receives an unsigned Statement.

Failure to sign a Statement by the person authorized to bind the Offeror shall not be waived as an irregularity or mandatory change in requirements allowed under Section 6.2.2; it is not curable after the Submission Deadline.

## 4.5 Evaluation Factors

DED will consider Statements received before the Submission Deadline and assess them based upon the information provided in the Statement against the details of this RSQ.

The following criteria will be used in the evaluation of Statements:

| **Criteria** | **Points Eligible** |
|---|---|
| *Presentation of Response* | *Up to 20* |
| Clarity of Statement | |
| Statement organization and presentation indicates understanding of SOW | |
| Statement conformance to requirements of this RFP | |
| Provision of Required Documents | |
| *Offeror Qualifications* | *Up to 50* |
| References Provided | |
| Background information | |
| Financial Viability | |
| Experience and past work of Offeror demonstrating capabilities | |
| Related Experience and/or Education (credentials) of staff | |
| *Technical Requirements* | *Up to 20* |
| Offeror presentation of evidence regarding expertise/experience | |
| Presented Methodologies | |
| *Cost Proposal (pre-negotiation of final budget)* | *Up to 10* |
| **TOTAL POSSIBLE POINTS** | **100** |

The following criteria will be given considerable weight in the statement evaluation process:

- the perceived effectiveness of the Offeror's Statement in relation to the SOW;

- the Offeror's performance history and ability to timely meet the needs and deadlines of the NNSSBCI Programs;
- the Offeror's experience working with governments, in particular tribal governments; businesses; banks; and financial institutions;
- the Offeror's proven, by submission of clear evidence, of success in leading and completing valuation projects;
- the Offeror's length of experience in Financial Analysis and/or Commercial Loan Underwriting;
- the Offeror's ability to provide and deliver qualified personnel with the knowledge and skills required to effectively and efficiently execute the services proposed in the SOW;
- declaration by the Offeror that it will not subcontract any of work relating to this RSQ.

The DED reserves its right to reassess its evaluation and scoring in response to any subsequent provision of information, submission of an Alternate Statement or Cost Proposal, or based on the findings and outcomes of Offeror interviews.

### 4.6 Offeror Interviews

The DED may conduct interviews with Offerors during the opening and evaluation process for Statements. Such interviews will seek clarification for and/or assurance of full understanding of and responsiveness to the RSQ and the needs of DED.

The DED shall not disclose any information from or in relation to Statements received, including information related to the identity of Offerors or the total number of received Statements.

### 4.7 Negotiation for Award

The DED may negotiate an agreement with the most responsive and responsible Offeror that best demonstrates the qualifications necessary to address the requirements in the SOW and needs for the NNSBCI programs.

## 5.0 CONTRACT AWARD

### 5.1 Notification of Contract Award

Following evaluation of submitted statements, DED anticipates making a contract award for this RSQ.

If DED makes a contract award, it will directly notify the selected Offeror in writing of the notice of intent to award. The selected Offeror must accept the contract award in writing. Once complete, this will begin the process of contract execution on the Navajo Nation. The Awardee will be required to provide additional or updated documentation through this process including but not limited to:

1. an updated and signed IRS Form W-9, which the Navajo Nation will use to report to the IRS all payments it makes to the Awardee.

2. an updated Certificate of Insurance evidencing adequate insurance coverage as will be determined by the Navajo Nation Risk Management Program, which at a minimum will require naming the Navajo Nation as an additional insured party; and
3. an updated and signed Certification of Non-Debarment and Non-Suspension, which will evidence that the Awardee is not currently or pending debarment or suspension in any jurisdiction prior to contract execution.

### 5.2 Right to Award Multiple Contracts; Refuse to Make Award

The DED reserves the right to award a contract to more than one Offeror for the SOW of this RSQ, either in full or in part, and at its own discretion; to refuse any Statement or contract without obligation to either the Navajo Nation or to any Offeror.

## 6.0 RSQ DISCLAIMERS

### 6.1 Offeror Notices

#### *6.1.1 Offeror Acceptance of Navajo Nation Requirements*

The Navajo Nation is a sovereign government and all contracts entered as a result of this RSQ shall comply with Navajo Nation laws, rules, and regulations, and applicable federal laws, rules, and regulations.

Submission of a Statement in response to this RSQ shall constitute:

1. the Offeror's acknowledgement and acceptance of all requirements and conditions governing this procurement, including all Navajo Nation laws, regulations, and policies;
2. that any and all disputes arising under, related to, or in connection with this RSQ and any resulting contract will be resolved under laws of the Navajo Nation; and
3. that the Offeror agrees to be subject to the jurisdiction of Navajo Nation courts and tribunals.

#### *6.1.2 Navajo Nation Ownership of Documents and Materials*

The Navajo Nation shall retain ownership of all documents and materials contained in this RSQ. Once submitted, all documents and materials provided in relation to this RSQ shall become the property of the Navajo Nation. The Navajo Nation shall not return such items to the Offeror.

#### *6.1.3 Incurred Costs*

The Offeror shall be solely responsible for any cost(s) incurred in preparing, transmitting, presenting, or modifying its Statement or other materials for this RSQ.

### 6.2 Navajo Nation Rights

#### *6.2.1 Right to Disqualify*

The DED reserves its right to disqualify any Offeror from consideration for contract award, or to rescind such award, if the Offeror:

1. has previously failed to satisfactorily perform any project or contract with the Navajo Nation or other governmental entity;

2. has previously failed to timely submit required documents or information; or
3. has caused the Navajo Nation to incur unreasonable expenses in relation to the consideration of its submitted Statement or in administration of contract execution.

### *6.2.2 Right to Waive Irregularities or Mandatory Requirements*

The DED may, at its own discretion, determine that errors, irregularities, or other misinformation contained in a Statement is of minor consequence and will not result in Statement disqualification. The DED may also waive any mandatory requirement set forth in this RSQ provided that such waiver does not, in DED's sole determination, materially affect the objective nature of the procurement process. Any such determination or waiver shall be applied to all submitted Statement equitably.

### *6.2.3 No Waiver of Sovereign Immunity*

The Navajo Nation is a sovereign government. Any contract resulting from this RSQ shall not waive the sovereign immunity of the Navajo Nation unless explicitly approved by two-thirds vote of the full membership of the Navajo Nation Council.

### *6.2.4 Appropriation Required*

A contract award issued as result of this RSQ is contingent upon the availability of funds. A contract may be terminated or reduced in scope if sufficient funds do not exist. The Offeror shall accept as final DED's decision to terminate a contract or reduce its scope. Any action by the Navajo Nation Council rescinding an appropriation or failing to approve subsequent appropriations shall result in immediate contract termination. The DED shall put into effect such termination or reduction in scope through written notice to the Offeror.

### *6.2.5 Right to Cancel this RSQ*

The DED is not bound to enter a contract under this RSQ and may, at its own discretion, cancel this RSQ, reject all Statements, or issue a subsequent RSQ for the same services.

### *6.2.6 Right to Cancel Contract Award*

The DED reserves its right to refuse to contract in relation to this RSQ if any of the following occurs prior to the execution of a contract:

1. the NNDOJ or OOC has not received all required supporting documentation to review or approve the contract, or any other reasonably requested information;
2. a document, procedure, decision, action, or other event pertaining to the procurement of this RSQ, any pre-procurement activities related to this RSQ, or to the contract award related to this RSQ is in violation of any applicable Navajo, federal, or state law or regulation governing this procurement;
3. the selected Offeror, or any other related person or firm, is ineligible for the award pursuant to applicable Navajo Nation, federal, or state laws or regulations;
4. there has been a change to the SOW or to any other mandatory requirement of this RSQ;
5. there has been a revision of the budget or originally established Maximum Feasible Price for the SOW of this RSQ;
6. a protest has been timely filed in accordance with Navajo Nation law, unless a written determination has been made to proceed with a contract pursuant to Navajo Nation law; or
7. it is in the best interest of the Navajo Nation.

Termination of a contract award shall be issued in writing noticing the reason for termination.

### *6.2.7 Applicable Navajo Nation Laws, Regulations, and Policies*

All Navajo Nation laws and regulations shall govern this procurement, including establishing the eligibility of an Offeror under consideration for a contract award. All interested entities, Offerors, any awardee, and contracting party shall comply with any and all applicable laws, regulations, and policies governing procurement, administration, performance, payment, reporting, and any other matters related to this RSQ. Applicable laws and regulations include, but are not limited to:

- The Navajo Sovereign Immunity Act, 1 N.N.C. § 551 *et seq.*;
- Title 2 of the Navajo Nation Code related to contracts;
- The Navajo Nation Privacy Act, 2 N.N.C. § 81 *et seq.*;
- The Navajo Nation Ethics in Government Law, 2 N.N.C. § 3741 *et seq.*;
- The Navajo Business Opportunity Act, 5 N.N.C. § 201 *et seq.*;
- The Navajo Nation Procurement Act, 12 N.N.C. § 301 *et seq.*;
- The Navajo Nation Procurement Rules and Regulations, resolution BFMY-07-23 adopted by the Budget & Finance Committee of the Navajo Nation Council;
- The Navajo Business and Procurement Act, 12 N.N.C. § 1501 et seq.; and
- The Navajo Preference in Employment Act, 15 N.N.C. § 601 et seq.

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