

ALABAMA 9-1-1 BOARD

Next Generation 911 Systems and Services RFP

AL-NG911-RFP-16-001

**Sections 1, 2, and 3 – GENERAL INSTRUCTIONS**

1-20-2016

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# SECTION 1 GENERAL INSTRUCTIONS

The Board reserves the right to accept or reject, in whole or part, any and all Proposals and to waive informalities.

Proposals to be binding for two-hundred and forty (240) days following the Proposal opening date.

## 1.1 RFP OUTLINE

The outline of this RFP document is described below:

|  |  |
| --- | --- |
| **Section** | **Description** |
| **Section 1 – General Information and Requested Products or Services** | This section provides an overview of the RFP, general timelines for the process, and a summary of the products/services being solicited by the Board via this RFP |
| **Section 2 – Proposal Preparation Instructions** | This section provides instructions on the format and content of the RFP including a Letter of Transmittal, Business Proposal, Technical Proposal, and a Cost Proposal |
| **Section 3 – Proposal Evaluation Criteria** | This sections discusses the evaluation criteria to be used to evaluate respondents’ proposals |
| **Attachment A**  | Sample Contract |
| **Attachment B** | Business Proposal Template |
| **Attachment C** | Cost Proposal Template  |
| **Attachment D** | Technical Proposal Template |
| **Attachment E** | Q&A Template  |
| **Attachment F** | Letter of Intent **(see note below)\*** |

**\*NOTE: LETTER OF INTENT**

Each Respondent is requested to provide a letter of intent indicating their intention to bid on this project. This letter must be on company letterhead and signed by the Respondent’s authorized representative. The letter of intent may be emailed to Leah Missildine (leah@al911board.com).

## 1.2 QUESTION/INQUIRY PROCESS

All questions/inquiries regarding this RFP must be submitted in writing by the deadline of **3:00 p.m. Central Time** on **2/19/2016**. Questions/Inquiries may be submitted in **Attachment E, Q&A Template**, via email toleah@al911board.com and must be received by the time and date indicated above.

Following the question/inquiry due date, the State will compile a list of the questions/inquiries submitted by all Respondents. The responses will be posted according to the RFP timetable established in **Section 1.16**. The question/inquiry and answer link will become active after responses to all questions have been compiled. Only answers submitted will be considered official and valid by the Board. No Respondent shall rely upon, take any action, or make any decision based upon any verbal communication with any Board employee.

**Inquiries are not to be directed to any staff member of the Board. Such action may disqualify Respondent from further consideration for a contract resulting from this RFP.**

If it becomes necessary to revise any part of this RFP, or if additional information is necessary for a clearer interpretation of provisions of this RFP prior to the due date for proposals, an addendum will be issued. If such addenda issuance is necessary, the Board may extend the due date and time of proposals to accommodate such additional information requirements, if required.

## 1.3 DUE DATE FOR PROPOSALS

All proposals must be received at the address below by the Board no later than **3:00 p.m. Central Time** on **[3/4/2016]**. Each Respondent must submit **one** **original hard-copy** (marked “Original”) and **one hard-copy** (marked “Copy”), **one original CD-ROM or USB drive (marked “Original”) and seven** **(7)** complete copies **on SEPERATE CD-ROM/USB drives** of the proposal, including the **Transmittal Letter** and other related documentation as required in this RFP. The **original** CD-ROM/USB Drive will be considered the official response in evaluating responses for scoring and protest resolution. **The respondent’s proposal response on this CD/USB drive may be posted on the AL911 Board Website, if recommended for selection.** Each copy of the proposal must follow the format indicated in **Section Two** of this document. Unnecessarily elaborate brochures or other presentations, beyond those necessary to present a complete and effective proposal, are not desired. All proposals must be addressed to:

Alabama 9-1-1 Board

Reference: AL-NG911-RFP-16-001

1 Commerce ST

Suite 610

Montgomery, AL 36104

**If you hand-deliver solicitation responses:** Proposals will be hand delivered to the office of the Alabama 9-1-1 Board, 1 Commerce Street, Suite 610, Montgomery, AL 36104, during regular business hours, which are Monday through Friday, 8:00 a.m. – 4:30 p.m. Central Time. Due to security measures within the building, place a phone call to the office at 334-440-7911 no later forty-eight (48) hours prior to planned hand-delivery time to arrange contact with a Board employee.

**If you ship or mail solicitation responses:** United States Postal Express and Certified Mail are both delivered to:

Alabama 9-1-1 Board

Reference: AL-NG911-RFP-16-001

1 Commerce ST

Suite 610

Montgomery AL, 36104

It is the responsibility of the Respondent to make sure that solicitation responses are received on or before the designated time and date. Late submissions will not be accepted.

Regardless of delivery method, all proposal packages must be **sealed** and clearly marked with the RFP number, due date, and time due.  Unsealed bids will not be accepted. Any proposal not received by the due date and time will not be considered. Any late proposals will be returned, unopened, to the Respondent upon request. All rejected proposals not claimed within 30 days of the proposal due date will be destroyed.

No more than one proposal per Respondent may be submitted.

Neither the State nor the Board accepts any obligations for costs incurred by Respondents in anticipation of being awarded a contract.

## 1.4 PRE-PROPOSAL CONFERENCE

A mandatory pre-proposal conference will be held on **[2-10-2015]** at **[1 Commerce ST, Montgomery, AL 36104].** While the intent of the pre-bid is on-site participation, participation can include attendance via a conference bridge. Specific conference bridge information will be provided in an addendum to this RFP.

At this conference, potential respondents may ask questions about the RFP and the RFP process. Respondents are reminded that no answers issued verbally at the conference are binding on the State or the Board and any information provided at the conference, unless it is later issued in writing, also is not binding on the Board.

## 1.5 MODIFICATION OR WITHDRAWAL OF OFFERS

Modifications to responses to this RFP may only be made in the manner and format consistent with the submittal of the original response, acceptable to the Board clearly identified as a modification.

The Respondent’s authorized representative may withdraw the proposal, in person, prior to the due date. Proper documentation and identification will be required before the Procurement Division will release the withdrawn proposal. The authorized representative will be required to sign a receipt for the withdrawn proposal.

Modification to, or withdrawal of, a proposal received by the Procurement Division after the exact hour and date specified for receipt of proposals will not be considered.

## 1.6 PRICING

Pricing on this RFP must be firm and remain open for a period of not less than **240 days** from the proposal due date. Any attempt to manipulate the format of the document, attach caveats to pricing, or submit pricing that deviates from the format provided in **Attachment C** will put your proposal at risk.

Please refer to the Cost Proposal sub-section under **Section 2** for a detailed discussion of the proposal pricing format and requirements.

## 1.7 PROPOSAL CLARIFICATIONS AND DISCUSSIONS, AND CONTRACT DISCUSSIONS

The Board reserves the right to request clarifications on proposals submitted to the Board. The Board also reserves the right to conduct proposal discussions, either oral or written, with Respondents. These discussions could include request for additional information, request for cost or technical proposal revision, etc. Additionally, in conducting discussions, the Board may use information derived from proposals submitted by competing respondents only if the identity of the respondent providing the information is not disclosed to others. The Board will provide equivalent information to all respondents which have been chosen for discussions. Discussions, along with negotiations with responsible respondents may be conducted for any appropriate purpose.

A sample contract is provided in **Attachment A**. Any requested changes to the sample contract **must be submitted** with your response (See **Section 2.3.5** for details). The Board reserves the right to reject any of these requested changes. It is the Board’s expectation that any material elements of the contract will be substantially finalized prior to contract award.

## 1.8 BEST AND FINAL OFFER

The Board will ask for best and final offers from those Respondents determined by the Board to be reasonably viable for contract award.

Following evaluation of the best and final offers, the Board may select for final contract negotiations/execution of the solutions that are most advantageous to the Board, considering cost and the evaluation criteria in this RFP.

## 1.9 REFERENCE SITE VISITS

The Board may request a site visit to a Respondent’s working support center to aid in the evaluation of the Respondent’s proposal.

## 1.10 TYPE AND TERM OF CONTRACT

The Board intends to sign a contract with one or more Respondent(s) to fulfill the requirements in this RFP.

The term of the contract shall be for a period of five (5) years from the date of contract execution. There may be five one-year renewals for a total of five (5) additional years at the Board’s option.

## 1.11 CONFIDENTIAL INFORMATION

Respondents are advised that materials contained in proposals are subject to the Alabama Public Records Law (Sec. 36-12-40 Ala. Code 1975, as amended) and the Alabama Bid Law (Sec. 41-16-24 Ala. Code 1975, as amended) and after the contract award, the entire RFP file may be viewed and copied by any member of the public , including news agencies and competitors. Prices are not confidential information.

## 1.12 TAXES

Proposals should not include any tax from which the Board is exempt.

## 1.13 SECRETARY OF STATE REGISTRATION

If awarded the contract, the Respondent will be required to register, and be in good standing, with the Secretary of State. The registration requirement is applicable to all limited liability partnerships, limited partnerships, corporations, S-corporations, nonprofit corporations and limited liability companies. Information concerning registration with the Secretary of State may be obtained by contacting:

Secretary of State of Alabama

Voice: 334-242-5324

Fax: 334-240-3138

Physical Address:

Alabama State House

11 South Union Street, Suite 119

Montgomery, AL 36130

Mailing Address:

P.O. Box 5616

Montgomery, AL 36103-5616

## 1.14 COMPLIANCE CERTIFICATION

Responses to this RFP serve as a representation that it has no current or outstanding criminal, civil, or enforcement actions initiated by the State, and it agrees that it will immediately notify the State of any such actions. The Respondent also certifies that neither it nor its principals are presently in arrears in payment of its taxes, permit fees or other statutory, regulatory or judicially required payments to the State. The Respondent agrees that the State may confirm, at any time, that no such liabilities exist, and, if such liabilities are discovered, that Board may bar the Respondent from contracting with the Board, cancel existing contracts, withhold payments to setoff such obligations, and withhold further payments or purchases until the entity is current in its payments on its liability to the State and has submitted proof of such payment to the State.

## 1.15 AMERICANS WITH DISABILITIES ACT

The Respondent specifically agrees to comply with the provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq*. and 47 U.S.C. 225).

## 1.16 SUMMARY OF RFP MILESTONES

The following timeline is only an illustration of the RFP process. The dates associated with each step are not to be considered binding. Due to the unpredictable nature of the evaluation period, these dates are commonly subject to change. At the conclusion of the evaluation process, all Respondents will be informed of the evaluation team’s findings.

***Key RFP Dates***

| **Activity** | **Date** |
| --- | --- |
| Issue of RFP | 1-20-2016 |
| Pre-Proposal Conference | 2-10-2016 |
| Deadline to Submit Written Questions | 2-19-2016 |
| Response to Written Questions/RFP Amendments | 2-26-2016 |
| Submission of Proposals | 3-4-2015 |
| ***The dates for the following activities are target dates only. These activities may be completed earlier or later than the date shown.*** |
| Proposal Evaluation | March – May 2016 |
| Proposal Discussions/Clarifications (if necessary) | 3-16-2016 |
| Oral Presentations (if necessary) | April 2016 |
| Demonstration Evaluation (if necessary) | May 2016 |
| Best and Final Offers (if necessary) | May 2016 |
| RFP Award Recommendation | June 2016 |
| Board Contract Review | TBD |
| Board Contract Approval | TBD |

# SECTION 2 PROPOSAL PREPARATION INSTRUCTIONS

## 2.1 GENERAL

To facilitate the timely evaluation of proposals, a standard format for proposal submission has been developed and is described in this section. All Respondents are required to format their proposals in a manner consistent with the guidelines described below:

1. Each Section and requirement must be addressed in the Respondent’s proposal.
2. The Transmittal Letter must be in the form of a letter.
3. The business and technical proposals must be organized under the specific section titles as listed below.
4. The electronic copies of the proposal submitted via CD-ROM/USB drive should be organized to mirror the sections below and the attachments.
5. Each item, i.e. Transmittal Letter, Business Proposal, Technical Proposal, Cost Proposal, etc., must be separate stand-alone electronic files on the CD-ROM/USB drive. **Please do not submit your proposal as one large file.**
6. Whenever possible, please submit all attachments in their original format as provided in the RFP package.

## 2.2 TRANSMITTAL LETTER

**The Transmittal Letter must address the following topics except those specifically identified as “optional.”**

### 2.2.1 Agreement with Requirements listed in Section 1-General Instructions

The Respondent must explicitly acknowledge understanding of the general information presented in Section 1 and agreement with any requirements/conditions listed in Section 1.

### 2.2.2 Summary of Ability and Desire to Supply the Required Products or Services

The Transmittal Letter must briefly summarize the Respondent’s ability to supply the requested products and/or services that meet the requirements defined in **Section 2.3** of this General Instructions portion of the RFP. The letter must also contain a statement indicating the Respondent’s willingness to provide the requested products and/or services subject to the terms and conditions set forth in the RFP including, but not limited to, mandatory contract clauses.

### 2.2.3 Signature of Authorized Representative

A person authorized to commit the Respondent to its representations and who can certify that the information offered in the proposal meets all general conditions including the information requested in **Section 2.3.4**, must sign the Transmittal Letter.

**In the Transmittal Letter, please indicate the principal contact for the proposal along with an address, telephone and fax number as well as an e-mail address, if that contact is different than the individual authorized for signature.**

### 2.2.4 Respondent Notification

Unless otherwise indicated in the Transmittal Letter, Respondents will be notified via e-mail.

It is the Respondent’s obligation to notify the Board of any changes in any address that may have occurred since the origination of this solicitation. The Board will not be held responsible for incorrect vendor/contractor addresses.

### 2.2.5 Other Information

This item is optional. Any other information the Respondent may wish to briefly summarize will be acceptable.

## 2.3 ATTACHMENT B - BUSINESS PROPOSAL

The Business Proposal must address the following topics except those specifically identified as “optional.” **The Business Proposal Template is Attachment B.**

### 2.3.1 General (optional)

This section of the business proposal may be used to introduce or summarize any information the Respondent deems relevant or important to the Board’s successful acquisition of the products and/or services requested in this RFP.

### 2.3.2 Respondent’s Company Structure

The legal form of the Respondent’s business organization, the state in which formed (accompanied by a certificate of authority), the types of business ventures in which the organization is involved, and a chart of the organization are to be included in this section. If the organization includes more than one product division, the division responsible for the development and marketing of the requested products and/or services in the United States must be described in more detail than other components of the organization.

### 2.3.3 Company Financial Information

This section must include the Respondent’s financial statement, including an income statement and balance sheet, for each of the five most recently completed fiscal years. The financial statements must demonstrate the Respondent’s financial stability. If the financial statements being provided by the Respondent are those of a parent or holding company, additional financial information should be provided for the entity/organization directly responding to this RFP.

### 2.3.4 Integrity of Company Structure and Financial Reporting

This section must include a statement indicating that the CEO and/or CFO has taken personal responsibility for the thoroughness and correctness of any/all financial information supplied with this proposal. The particular areas of interest to the State in considering corporate responsibility include the following items: separation of audit functions from corporate boards and board members, if any, the manner in which the organization assures board integrity, and the separation of audit functions and consulting services. The Board will consider the information offered in this section to determine the responsibility of the Respondent.

The Sarbanes Oxley Act of 2002, H.R. 3763, is NOT directly applicable to this procurement; however, its goals and objectives may be used as a guide in the determination of corporate responsibility for financial reports.

### 2.3.5 Contract Terms/Clauses

A sample contract that the Board expects to execute with the successful Respondent(s) is provided in **Attachment A**. This contract contains both mandatory and non-mandatory clauses. Mandatory clauses are listed below and are non-negotiable. Other clauses are highly desirable. It is the Board’s expectation that the final contract will be substantially similar to the sample contract provided in **Attachment A**.

In your Transmittal Letter please indicate acceptance of these mandatory contract terms. In this section, please review the rest of the contract and indicate your acceptance of the non-mandatory contract clauses. If a non-mandatory clause is not acceptable as worded, suggest specific alternative wording to address issues raised by the specific clause. If you require additional contract terms, please include them in this section. To reiterate, it is the Board’s strong desire to not deviate from the contract provided in the attachment and as such the Board reserves the right to reject any and all requested changes.

The mandatory contract terms are as follows:

* Duties of Contractor, Rate of Pay, and Term of Contract
* Authority to Bind Contractor
* Compliance with Laws
* Drug-Free Workplace Provision and Certification
* Employment Eligibility
* Funding Cancellation
* Governing Laws
* Indemnification
* Non-Discrimination Clause
* Ownership of Documents and Materials
* Payments
* Penalties/Interest/Attorney’s Fees
* Termination for Convenience
* Non-Collusion and Acceptance

Any or all portions of this RFP and any or all portions of the Respondents response may be incorporated as part of the final contract

### 2.3.6 References

The Respondent must include a list of at three (3) clients for whom the Respondent has provided products and/or services that are the same or similar to those products and/or services requested in this RFP.

Information provided should include the name, address, and telephone number of the client facility and the name, title, and phone/fax numbers of a person who may be contacted for further information.

### 2.3.7 Registration to do Business

Secretary of State

If awarded the contract, the Respondent will be required to be registered, and be in good standing, with the Secretary of State. The registration requirement is applicable to all limited liability partnerships, limited partnerships, corporations, S-corporations, nonprofit corporations and limited liability companies. The Respondent must indicate the status of registration, if applicable, in this section of the proposal.

### 2.3.8 Authorizing Document

Respondent personnel signing the Transmittal Letter of the proposal must be legally authorized by the organization to commit the organization contractually. This section shall contain proof of such authority. A copy of corporate bylaws or a corporate resolution adopted by the board of directors indicating this authority will fulfill this requirement.

### 2.3.9 Subcontractors

The Respondent is responsible for the performance of any obligations that may result from this RFP, and shall not be relieved by the non-performance of any subcontractor.

Any Respondent’s proposal must identify all subcontractors and describe the contractual relationship between the Respondent and each subcontractor. Either a copy of the executed subcontract or a letter of agreement over the official signature of the firms involved must accompany each proposal.

Any subcontracts entered into by the Respondent must be in compliance with all State statutes, and will be subject to the provisions thereof. For each portion of the proposed products or services to be provided by a subcontractor, the technical proposal must include the identification of the functions to be provided by the subcontractor and the subcontractor’s related qualifications and experience.

The combined qualifications and experience of the Respondent and any or all subcontractors will be considered in the Board’s evaluation. The Respondent must furnish information to the Board as to the qualifications of the subcontractor for performance, and any other data that may be required by the Board.

The Respondent must list any subcontractor’s name, address and the state in which formed that are proposed to be used in providing the required products or services. The subcontractor’s responsibilities under the proposal, anticipated dollar amount for subcontract, the subcontractor’s form of organization, and an indication from the subcontractor of a willingness to carry out these responsibilities are to be included for each subcontractor.

### 2.3.10 General Information

Each Respondent must enter your company’s general information including contact information.

### 2.3.11 Experience Serving State Governments

Each Respondent is asked to please provide a brief description of your company’s experience in serving state governments and/or quasi-governmental accounts.

### 2.3.12 Experience Serving Similar Clients

Each Respondent is asked to please describe your company’s experience in serving clients of a similar size to the State that also had a similar scope. Please provide specific clients and detailed examples.

2.4 ATTACHMENT C - COST PROPOSAL

**The Cost Proposal Template is Attachment C**.

The Cost Proposal must be submitted in the original format. Any attempt to manipulate the format of the Cost Proposal document, attach caveats to pricing, or submit pricing that deviates from the format provided in Attachment C will put your proposal at risk.

**Cost Proposal Narrative**

The Respondent should provide a brief narrative (not longer than two pages) in support of each Cost Proposal item. The narrative should be focused on clarifying how the proposed prices correspond directly to the Respondent's Technical Proposal. For example, evaluators will expect detailed explanation of Maintenance and Support to correspond to Maintenance and Support items described in the Technical Proposal.

**Cost Assumptions, Conditions and Constraints**

The Respondent should list and describe as part of its Cost Proposal any special cost assumptions, conditions, and/or constraints relative to, or which impact, the prices presented on the Cost Schedules. It is of particular importance to describe any assumptions made by the Respondent in the development of the Respondent's Technical Proposal that have a material impact on price. It is in the best interest of the Respondent to make explicit the assumptions, conditions, and/or constraints that underlie the values presented on the Cost Schedules. Assumptions, conditions or constraints that conflict with the RFP requirements are not acceptable.

## 2.5 ATTACHMENT D - TECHNICAL PROPOSAL

The Technical Proposal must be divided into the sections as described below. Every requirement made in each section must be addressed in the order given.

The same outline numbers must be used in the response. RFP language should not be repeated within the response. Where appropriate, supporting documentation may be referenced by a page and paragraph number. However, when this is done, the body of the technical proposal must contain a meaningful summary of the referenced material.

Any referenced document must be included as an appendix to the technical proposal with referenced sections clearly marked. If there are multiple references or multiple documents, these must be listed and organized for ease of use by the Board. **The Technical Proposal Template is Attachment D.**

# SECTION 3 PROPOSAL EVALUATION

## 3.1 PROPOSAL EVALUATION PROCEDURE

The Board has selected a group to act as a proposal evaluation team. Subgroups of this team, consisting of one or more team members, will be responsible for evaluating proposals with regard to compliance with RFP requirements. All evaluation personnel will use the evaluation criteria stated in Section 3.2.

The AL911 Board or their designees will determine, in the exercise of their sole discretion, which proposals offer the best means of servicing the interests of the Board. The exercise of this discretion will be final.

The procedure for evaluating the proposals against the evaluation criteria will be as follows:

Each proposal will be evaluated for adherence to requirements on a pass/fail basis. Proposals that are incomplete or otherwise do not conform to proposal submission requirements may be eliminated from consideration.

Each proposal will be evaluated on the basis of the categories included in Section 3.2. A point score has been established for each category.

If technical proposals are close to equal, greater weight may be given to price.

Based on the results of this evaluation, the qualifying proposal determined to be the most advantageous to the Board, taking into account all of the evaluation factors, may be selected by the Board for further action, such as contract negotiations. If, however, the Board decides that no proposal is sufficiently advantageous to the Board, the Board may take whatever further action is deemed necessary to fulfill its needs. If, for any reason, a proposal is selected and it is not possible to consummate a contract with the Respondent, the Board may begin contract preparation with the next qualified Respondent or determine that no such alternate proposal exists.

## 3.2 EVALUATION CRITERIA

Proposals will be evaluated based upon the proven ability of the Respondent to satisfy the requirements of the RFP in a cost-effective manner. Each of the evaluation criteria categories is described below with a brief explanation of the basis for evaluation in that category. The points associated with each category are indicated following the category name (total maximum points = 100). For further information, please reference the table below. If any one or more of the listed criteria on which the responses to this RFP will be evaluated are found to be inconsistent or incompatible with applicable federal laws, regulations or policies, the specific criterion or criteria will be disregarded and the responses will be evaluated and scored without taking into account such criterion or criteria.

***Summary of Evaluation Criteria:***

|  |  |
| --- | --- |
| **Criteria** | **Points** |
| 1. Adherence to Mandatory Requirements | Pass/Fail |
| 2. Management Assessment/Quality (Business and Technical Proposal) | 70 points |
| 3. Cost (Cost Proposal) | 30 points |
| **Total** | **100 points** |

All proposals will be evaluated using the following approach.

Step 1

In this step proposals will be evaluated only against Criteria 1 to ensure that they adhere to Mandatory Requirements. Any proposals not meeting the Mandatory Requirements will be disqualified.

Step 2

The proposals that meet the Mandatory Requirements will then be scored based on Criteria 2 ONLY. This scoring will have a maximum possible score of 70 points. All proposals will be ranked on the basis of their combined scores for Criteria 2 ONLY. This ranking will be used to create a “short list”. Any proposal not making the “short list” will not be considered for any further evaluation.

Step 2 may include one or more rounds of proposal discussions, oral presentations, clarifications, demonstrations, etc. focused on proposal elements.

Step 3

The short-listed proposals will then be evaluated based on the entirety of the evaluation criteria outlined in the table above.

If the Board conducts additional rounds of discussions and a best and final offer (BAFO) round which lead to changes in either the technical or cost proposal for the short listed Respondents, their scores will be recomputed.

The section below describes the different evaluation criteria.

Adherence to Requirements – Pass/Fail

Respondents passing this category move to Phase 2 and proposal is evaluated for Management Assessment/Quality and Price.

Management Assessment/Quality –70 points

Price –30 points available

Cost scores will then be normalized to one another, based on the lowest cost proposal evaluated. The lowest cost proposal receives a total of 30 points. The normalization formula is as follows:

Respondent’s Cost Score = (Lowest Cost Proposal / Total Cost of Proposal) X 30

The Board or their designees will determine, in the exercise of their sole discretion, which proposals offer the best means of servicing the interests of the Board. The exercise of this discretion will be final.