



## Public Service Commission of the District of Columbia

1333 H Street, N.W., 7th Floor, East Tower  
Washington, D.C. 20005 (202) 626-5100

June 5, 2009

RE: Formal Case No. 1076  
RFP No. PSC-09-07

Dear Prospective Offerors:

The District of Columbia Public Service Commission (“Commission”) invites you to review and respond to the Request for Proposal (“RFP”) No. PSC-09-07, related to Formal Case No. 1076. This RFP may result in the award of a contract for **LEGAL SERVICES** to the Commission in issuing a decision in Formal Case No. 1076, regarding its consideration of the application of Pepco for authority to increase existing retail rates for electrical distribution service in the District of Columbia.

The RFP documents are attached, except for the Standard Contract Provisions. See instructions provided below to obtain this document and other RFP documents. All proposals are due **no later than 4:00 p.m., Friday, June 26, 2009.**

Instructions on the proposal requirements can be found on the Commission website: go to [www.dcpsc.org](http://www.dcpsc.org) (homepage) and click on Contracting and Procurement. Next click on Request for Proposals and then click on the RFP for Formal Case No. 1076.

Thank you for your interest in doing business with the Commission. We welcome your responses.

**Your proposal must disclose in writing any interest or relationship that could affect your impartiality in this proceeding, or which might create an appearance of partiality or bias. The Commission will evaluate any potential conflicts of interest and will take appropriate measures to address any conflict, potential conflict or appearance of impropriety.**

The Commission will review all proposals submitted and will notify you or your firm, in writing, if your proposal is accepted. The Commission will not pay for work begun without written authorization. Should you require additional contract related information please contact Christopher G. Lipscombe, Staff Attorney, at 202-626-5140. The Commission looks forward to receiving your proposal. Thank you for your continued interest.

Enclosures

cc: Jesse P. Clay, Deputy Ex. Director  
Christopher G. Lipscombe, Staff Attorney

**PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA**

**REQUEST FOR PROPOSALS (RFP No. PSC-09-07)**

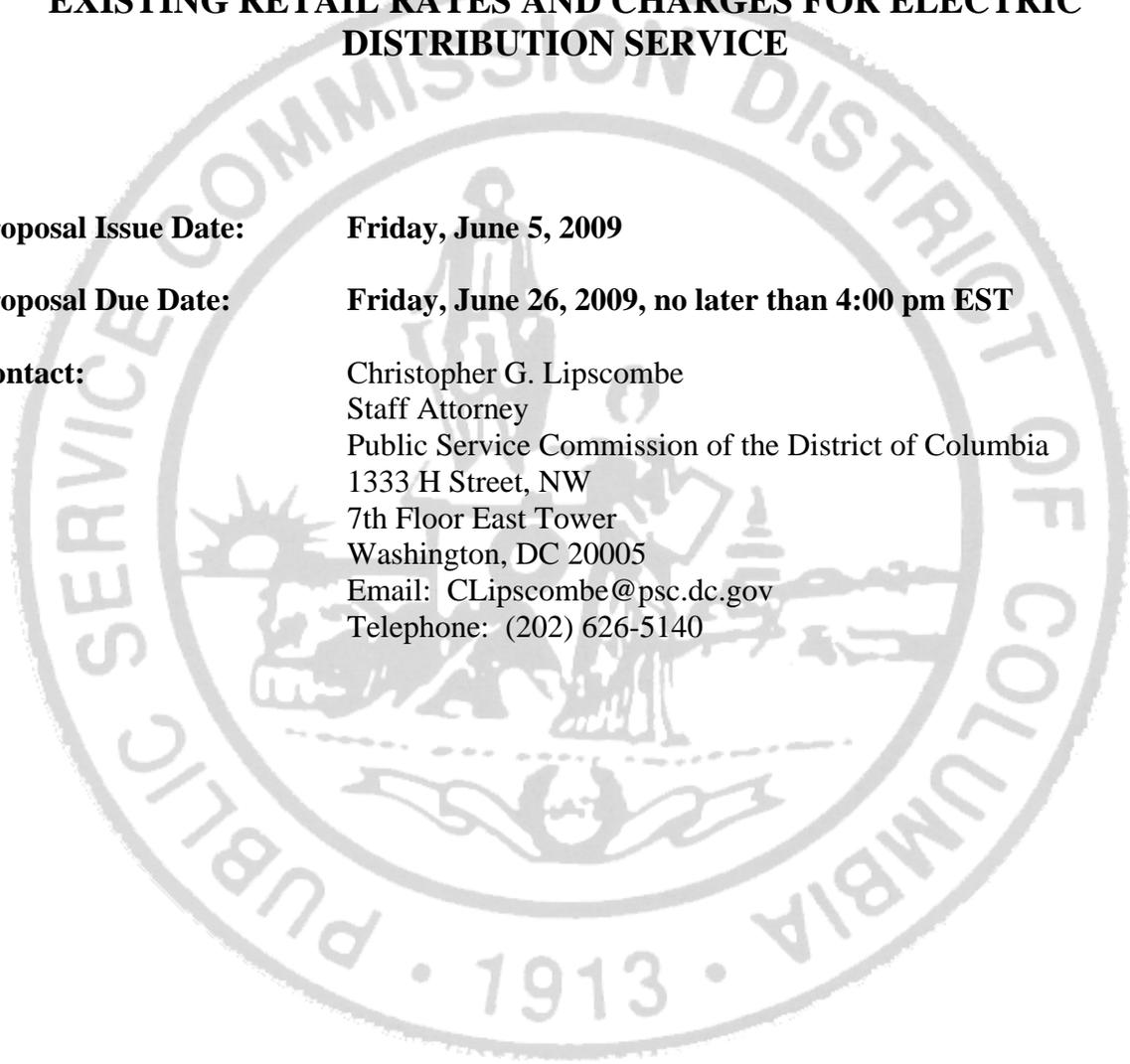
**Formal Case No. 1076**

**IN THE MATTER OF THE APPLICATION OF THE POTOMAC  
ELECTRIC POWER COMPANY FOR AUTHORITY TO INCREASE  
EXISTING RETAIL RATES AND CHARGES FOR ELECTRIC  
DISTRIBUTION SERVICE**

**Proposal Issue Date:** Friday, June 5, 2009

**Proposal Due Date:** Friday, June 26, 2009, no later than 4:00 pm EST

**Contact:** Christopher G. Lipscombe  
Staff Attorney  
Public Service Commission of the District of Columbia  
1333 H Street, NW  
7th Floor East Tower  
Washington, DC 20005  
Email: CLipscombe@psc.dc.gov  
Telephone: (202) 626-5140



## SCOPE OF WORK

The Contractor(s) will provide legal services to the Public Service Commission of the District of Columbia (“Commission”) in Formal Case No. 1076 (“F.C. No. 1076”) regarding the Potomac Electric Power Company’s (“Pepco”) Application requesting authority to increase existing retail rates for electric distribution service in the District of Columbia.

### **BACKGROUND**

On May 22, 2009, Pepco filed an Application with the Commission requesting authority to increase existing distribution service rates and charges for electric service in the District of Columbia by \$51.7 million, representing an increase of approximately 13.9% in Pepco’s distribution revenues.<sup>1</sup> The requested rates are designed to collect \$425 million in total distribution revenues. Pepco requests authority to earn an 8.88% rate of return, including a return on common equity of 11.50%.

### **F.C. No. 1076 SCOPE OF WORK (“SOW”)**

#### **1. General Requirements**

The Contractor will provide legal services to the Commission in issuing a final decision in F.C. No. 1076, regarding its consideration of the application of PEPCO for an increase in its retail rates for electric distribution service in the District of Columbia.

The Contractor’s duties include, but are not limited to:

- A. Reviewing and analyzing PEPCO’s application, testimony, and accompanying filings;
- B. Reviewing and analyzing docket filings, testimony, and comments filed by other parties, if any;
- C. Preparing for any required hearing(s), including preparing Commission inquiries, if necessary, attending meetings with Commissioners concerning hearings, if necessary, and attending any required hearing(s);
- D. Drafting appropriate memoranda for the Commission, procedural orders, data requests, any required opinions and Order(s) on issues designated for consideration, and other electric ratemaking issues, as necessary;
- E. Reviewing petitions for reconsideration if any are filed, and drafting orders relating to said petitions;

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<sup>1</sup> Formal Case No. 1076, *In the Matter of the Application of the Potomac Electric Power Company For Authority To Increase Existing Retail Rates and Charges for Electric Distribution Service*, filed May 22, 2009.

**RFP No. PSC-09-07**

- F. Reviewing and analyzing appropriate Commission decisions, case law, and other appropriate statutory and legal precedent;
- G. Drafting the Commission’s responsive brief(s) for submission to the D.C. Court of Appeals, if any;
- H. Preparing for participation in any moot session regarding oral argument of the Commission’s briefs, if necessary; and
- I. Providing advice and conferring with Commissioners and Staff, as necessary.

**BUSINESS & CONTRACT TERMS**

It is anticipated that the contract will be for one base year with two one-year option periods that can be exercised by the Commission in its sole discretion.

**AUTHORITY**

This RFP is being released pursuant to the Commission’s Procurement Regulations, 15 DCMR, Chapter 22, which is published on the Commission’s website at [www.dcpsc.org](http://www.dcpsc.org).

**RFP AVAILABILITY**

The request for proposals will be published on the Public Service Commission of the District of Columbia’s website at [www.dcpsc.org](http://www.dcpsc.org). A proposal also may be obtained by written request to:

Tiffany Frazier  
Regulatory Affairs Specialist  
Public Service Commission of the District of Columbia  
1333 H Street, NW, 7th Floor East Tower  
Washington, DC 20005  
Email: [TFrazier@psc.dc.gov](mailto:TFrazier@psc.dc.gov)  
Telephone: (202) 626-0568

**CLARIFYING INFORMATION**

Any company or person wishing to obtain clarifying information about this request for proposals may submit inquiries *in writing only* to:

Christopher G. Lipscombe  
Staff Attorney  
Public Service Commission of the District of Columbia  
1333 H Street, NW, 7th Floor East Tower  
Washington, DC 20005  
Email: [CLipscombe@psc.dc.gov](mailto:CLipscombe@psc.dc.gov)

**RFP No. PSC-09-07**

All inquiries for information must be made in writing and submitted to the Commission on or before **June 15, 2009**, to the attention of Christopher Lipscombe at the above stated address. E-mail inquiries are acceptable and preferred. The RFP number, PSC-09-07, must be identified in the written request for information.

In order to assure that no prospective Offeror may obtain a competitive advantage because of acquisition of information unknown to other prospective Offerors, answers to all written questions timely received will be posted on the Commission's Contracting and Procurement webpage, [www.dcpsc.org](http://www.dcpsc.org) under RFP No.: PSC-09-07 by close of business, **Friday, June 19, 2009**.

**TIMING/DEADLINE FOR SUBMISSION OF PROPOSALS**

The times stated in this document refer to Eastern Standard Time (EST) where appropriate. The closing date for proposals is **no later than 4:00 pm, Friday, June 26, 2009**. A proposal received after this deadline will not be considered. **Submit two (2) originals and three (3) copies under seal to:**

Christopher G. Lipscombe  
Staff Attorney  
Public Service Commission of the District of Columbia  
1333 H Street, NW  
7th Floor East Tower  
Washington, DC 20005  
Email: [CLipscombe@psc.dc.gov](mailto:CLipscombe@psc.dc.gov)  
Telephone: (202) 626-5140

**ELIGIBLE OFFERORS**

To be eligible Offerors must be neutral and impartial and not advocate specific positions to the Commission in proceedings not related to matters of the scope of work in this RFP. Eligible Offerors must demonstrate technical capabilities, competence, and resources to perform the duties as delineated in the Scope of Work, Section 1, of this RFP.

**PROPOSAL REQUIREMENTS**

Proposals submitted in response to this request must meet the following conditions to be considered for selection. Proposals submitted by facsimile will not be accepted under any circumstances.

**PROPOSALS MUST BE WRITTEN ENTIRELY ON 8½" x 11" PAPER. PROPOSALS SHOULD INCLUDE NECESSARY APPENDICES AND ATTACHMENTS. PROPOSALS SHOULD BE STAPLED IN THE TOP LEFT CORNER OR BOUND IN A 3-RING BINDER.**

**PROPOSALS MUST BE SUBMITTED IN A MANNER THAT DOES NOT**

**CARRY ANY BENEFIT, KEEPSAKE, OR VALUE FOR MEMBERS OF THE REVIEW PANEL.**

Proposals shall begin with a cover page that clearly states the name of the Offeror and the name, address, telephone number, fax number, and email address, if available, of the Offeror's contact person who may be contacted directly regarding the proposal. The cover page shall make up the cover of the proposal. All parts of the proposal after the cover page must be filed under seal. A proposal must be submitted in the format outlined below. Prepare consecutively numbered pages with index tabs for each section, as outlined below.

**SOURCE SELECTION**

The Commission will award the contract to the Offeror(s) that, in light of all factors, best meets the requirements of this proposal. Each Offeror will be evaluated in accordance with the procedures set forth in this RFP and the Commission's procurement regulations. The Commission's selection will be based on the Evaluation Criteria in Attachment A.

**ANTICIPATED SCHEDULE OF ACTIVITIES<sup>2</sup>**

Publish RFP on Commission website	June 5, 2009
RFP questions from Offerors due to Commission	June 15, 2009
Responses to questions posted on Commission website	June 19, 2009
Deadline for submission of proposals	June 26, 2009
Selection approved by Commission	June 29, 2009
Contract Negotiations	June 30, 2009
Contract Award	July 1, 2009
Commencement of project activities	Immediately following award

**LIST OF ATTACHMENTS**

Attachment A	Evaluation Criteria
Attachment B	Government of the District of Columbia Standard Contract Provisions, for use with District of Columbia Government Supply and Services Contracts, March 2007.
Attachment C	Disclosure Statement
Attachment D	Tax Certification Affidavit

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2 **Disclaimer:** Dates are subject to change.

**SECTION A: SPECIAL PROVISIONS**

**A.1 Preference for Local and Disadvantaged Business Enterprises or Businesses Operating in an Enterprise Zone**

**General:** Under the provisions of the Small, Local and Disadvantaged Business Enterprise Development and Assistance Amendment Act of 2005,<sup>3</sup> preference shall be given to Offerors that are certified by the Department of Small and Local Business Development (“DSLBD”) as having resident business ownership, being a Local Business Enterprise, being a Disadvantaged Business Enterprise, or as operating in an Enterprise Zone. (A copy of the certification acknowledgment letter must be submitted with the Offeror’s submission and, if applicable, the Technical Proposal). In accordance with the laws, the following preferences shall be awarded in evaluating an Offeror’s proposal:

- Three (3) points shall be awarded if the Offeror is certified as a small business enterprise;
- Five (5) points shall be awarded if the Offeror is certified as resident-owned business;
- Ten (10) points shall be awarded if the Offeror is certified as a longtime resident business;
- Two (2) points shall be awarded if the Offeror is certified as a local business enterprise;
- Two (2) points shall be awarded if the Offeror is certified as a local business enterprise with its principal office located in an enterprise zone; and
- Two (2) points shall be awarded if the Offeror is certified as a disadvantaged business enterprise.

A Certified Business Enterprise (“CBE”) shall be entitled to any or all of the preferences provided in this section, but in no case shall a CBE be entitled to a preference of more than 12 points or a reduction in price of more than 12 percent.

**Information:** For information regarding the application process, contact the DSLBD at the following address or telephone number:

Department of Small and Local Business Development  
Government of the District of Columbia  
One Judiciary Square  
441 - 4th Street, N.W., 9<sup>th</sup> Floor, Suite 970 N  
Washington, D.C. 20001  
(202) 727-3900 (Telephone Number)  
(202) 724-3786 (Facsimile Number)

Any Offeror with Local Business Enterprise or Disadvantaged Business Enterprise certification as its joint venture or constituent entity, shall be entitled to the applicable

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<sup>3</sup> D.C. Code § 2-218.01 *et. seq.* (2006 Repl. & Supp. 2008).

**RFP No. PSC-09-07**

preference points provided for in the Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act, Part D, Subpart 2, Sec. 2343 in direct proportion to the percentage of the effort to be performed by the Local Business Enterprise or Disadvantaged Business Enterprise. A copy of the certification acknowledgment letter must be submitted with the Offeror's Proposal.

**A.2 Time**

Unless otherwise specified in this RFP, time, if stated in number of days, shall include Saturdays, Sundays, and holidays.

**A.3 Licensing, Accreditation and Registration**

The selected Offeror shall comply with all applicable District of Columbia and federal licensing, accreditation, and registration requirements and standards necessary for the performance of the contract.

**A.4 Limitation of Authority**

Only the Commission or a person with prior written authority from the Commission shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause(s) or condition(s) of the contract. Furthermore, any alteration, amendment, modification, or waiver of any clause or condition of this RFP is not effective or binding unless made in writing and signed by the Commission or its authorized representative.

**A.5 Conformance with Laws**

It shall be the responsibility of the selected Offeror to perform under the contract in conformance with the Commission's Procurement Regulations and all statutes, laws, codes, ordinances, regulations, rules, requirements, orders, and policies of governmental bodies, including, without limitation, the U.S. Government and the District of Columbia government; and it is the sole responsibility of the selected Offeror to determine the Procurement Regulations, statutes, laws, codes, ordinances, regulations, rules, requirements, orders and policies that apply and their effect.

**SECTION B: PROPOSAL REQUIREMENTS**

**B.1. List of Required Documentation**

Each Offeror will be required to submit the following information with its proposal:

- a. An executive summary that provides an overview
- b. A statement of the Offeror's experience
- c. A list of key individuals and their resumes
- d. A detailed cost and price proposal
- e. A CBE Utilization Plan (if applicable)

**B.2 Work Plan(s)**

The Offeror must describe clearly, specifically, and as completely as possible the details for carrying out the responsibilities of the duties associated with the Scope of Work, Section 1, of this RFP, as soon as possible after the contract award, including a mechanism and timeline for all deliverables. The proposal must include a schedule that identifies key milestones, tasks, activities, and events pertinent to the tasks and duties as outlined in the Scope of Work, Section 1 of this RFP.

**B.3 Prior Experience and Qualifications**

Describe the Offeror's prior experience performing activities similar to the duties and responsibilities as outlined in the Scope of Work, Section 1, of this RFP. If the Offeror has not worked on a similar project, please provide evidence of experience relevant to the duties as outlined in the Scope of Work, Section 1, of this RFP. The Offeror should demonstrate that it is familiar with Title 34 of the D.C. Code as it relates to electricity matters and have extensive knowledge of electric power issues and policies. Additionally, the Offeror should provide at least three references, preferably clients for whom similar work has been previously performed, including contact information for such client.

**B.4 Personnel**

Identify the persons who will perform the work described in this RFP and provide a detailed resume for each individual that describes the qualifications applicable to the performance of the tasks for which they would be responsible. Please include an organizational chart showing reporting relationships of team personnel. The Commission must be notified of any personnel changes if individuals assigned to work on this project are relieved of their responsibilities. Offerors shall designate one individual as the project manager and this person shall be responsible for project management, reporting, coordination, and accountability for the entire project.

**B.5 Budget**

Costs must be justified in terms of activities and objects of expenditure, and must be reasonable and necessary to the project as outlined in the Scope of Work, Section 1, of this RFP. Financial resources must be adequately and appropriately allocated among cost

categories in a cost-effective and prudent business manner to accomplish the RFP objectives and activities. Services to be purchased from other agencies, subcontractors, including any amounts subcontracted to CBEs, consultants, or others must be specified.

**B.6 Statement Regarding Potential Conflicts of Interest**

The Offeror shall identify any relationships between itself or its employees and the companies under the jurisdiction of the Commission, or any subsidiaries or affiliates of such companies. The extent, nature and time aspects must be identified. If there have been no such relationships, a statement to that effect shall be included in the proposal. Failure to provide the statement on potential conflicts of interest will automatically disqualify the Offeror.

**B.7 Financial Capability**

Offerors shall describe the financial capability of the organization to complete the work required and to sustain its operations for the term of the contract. Acceptable evidence of financial capability includes an audited financial statement within the past 12 months from a certified public accountant.

**B.8 Insurance**

**B.8.1 Required Policies**

The selected Offeror shall be required to maintain (i) workers compensation insurance in accordance with statutory limits; (ii) a general liability insurance policy with limits of at least the value of the contract; (iii) an employer's liability policy; and (iv) an umbrella policy providing coverage at least as extensive as the underlying policies.

**B.8.2 Required Endorsements**

All policies required hereunder must show the selected Offeror as the certificate holder and must contain language requiring a sixty (60) day prior notification directly to the Commission.

All insurance policies shall be issued by insurers licensed to do business in the District of Columbia and any insuring company is required to have a minimum rating of an A-Class C in Best's Key Rating Guide published by A.M. Best and Company, Inc.

**B.9 Corporate Information**

Offeror, if incorporated, shall attach a current franchise tax Certificate of Good Standing, issued by the District of Columbia's Office of Tax and Revenue, to the proposal. Offerors shall provide to the Commission their 9-digit Federal Employer's Identification Number or Social Security Number if Offeror is an individual. If a domestic corporation, Offeror shall also provide to Commission the corporation's charter number issued by the District of Columbia Department of Consumer and Regulatory Affairs. If a foreign corporation, the Offeror shall also provide a copy of a valid Certificate of Authority to do business in the District of Columbia issued by the District of Columbia Department of Consumer and Regulatory Affairs.

**B.10 Debarment and Suspension**

By submitting a proposal to the Commission, the Offeror understands, agrees and certifies that:

- a. Submitting a proposal with a false statement is a material breach of contract and shall void the submitted proposal and any resulting contract, and the Offeror shall be removed from all lists for future contracting opportunities with the District of Columbia.
- b. The Commission may debar and suspend the Offeror for:
  - i. Engaging in contract fraud or a criminal offense incident to, obtaining, attempting to obtain, or performing a public contract or subcontract. Payments due under the contract will be applied towards any debt, including but not limited to, delinquent taxes owed to the District of Columbia;
  - ii. Violation of federal or state antitrust statutes arising out of submission of bids and proposals;
  - iii. Engaging in acts involving embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, false statements, tax evasion, or any other offense indicating a lack of business integrity or business honesty; and
  - iv. Conviction for any other offense that indicates a lack of business integrity of the Offeror.
- c. The Commission, in its discretion, may debar or suspend any Offeror contractor as a result of:
  - i. Willful failure to perform in accordance with contract specifications within the time limit provided in a contract
  - ii. A record of failure to perform or of unsatisfactory performance of the terms of one or more contracts;
  - iii. False assertion of status giving rise to special benefits under the laws of the District of Columbia.

- d. To the best knowledge of the person signing the proposal for the Offeror: the Offeror, its affiliates, subsidiaries, officers, directors, and employees are not currently under investigation by any governmental agency and have not in the last 4 years been convicted, found liable, or pleaded guilty for any act prohibited by state or federal law, in any jurisdiction, involving conspiracy or collusion with respect to bidding or proposing on any public contract, except as disclosed by the Offeror in its proposal.
- e. To the best of the knowledge of the person signing the proposal for the Offeror and except as otherwise disclosed by the Offeror in its proposal, the Offeror has no outstanding delinquent obligations to the District of Columbia including, but not limited to, any state tax liability not being contested on appeal or other obligation of the Offeror that is owed to the District of Columbia.
- f. Each Offeror, by submitting its proposal, authorizes all District of Columbia agencies to release to the Commission, information related to liabilities to the District of Columbia including, but not limited to, taxes, unemployment compensation, and workers' compensation liabilities.

### **SECTION C: PROPOSAL ORGANIZATION AND SUBMISSION**

This section outlines specific information necessary for the proper organization and manner in which Offerors' Proposals should be proffered.

#### **C.1 Submission Identification**

Submissions shall be proffered as two (2) originals and three (3) copies, and the Offeror's submission shall be placed in a sealed envelope conspicuously marked: **“Submission in Response to RFP No. PSC-09-07, Formal Case No. 1076: Request for Legal Services to the Commission regarding Pepco’s Application with the Commission requesting authority to increase existing retail rates for electric distribution service in the District of Columbia.”**

#### **C.2 Delivery or Mailing of Submissions**

Submissions should be delivered or mailed to:

Christopher G. Lipscombe  
Staff Attorney  
Public Service Commission of the District of Columbia  
1333 H Street, NW  
7th Floor East Tower

Washington, DC 20005  
Email: CLipscombe@psc.dc.gov  
Telephone: (202) 626-5140

**C.3 Date and Time for Receiving Submissions**

**Submissions shall be received no later than 4:00 pm, EST, on Friday, June 26, 2009.** The Offeror assumes the sole responsibility for timely delivery of its submission, regardless of the method of delivery.

**C.4 Submission Size, Organization and Offeror Qualifications**

All submissions shall be typewritten and submitted on 8-1/2" x 11" bond paper. Telephonic, email, telegraphic, and facsimile submissions shall not be accepted. The Commission is interested in a qualitative approach to presentation material. Brief, clear and concise material is more desirable than quantity.

**C.5 Acknowledgment of Amendments and Addenda**

Offerors shall acknowledge receipt of any amendment(s) or addenda to this RFP: (a) by signing and returning the amendment(s) or addenda, or (b) by letter or telegram, including mailgrams or by facsimile. The Commission must receive the acknowledgment by the date and time specified for receipt of submissions. An Offeror's failure to acknowledge any amendment(s) or addenda may result in rejection of its proposal.

**SECTION D: GENERAL REQUIREMENTS**

**D.1 Contact Person**

For information regarding this RFP please contact:

Christopher G. Lipscombe  
Staff Attorney  
Public Service Commission of the District of Columbia  
1333 H Street, NW  
7th Floor East Tower  
Washington, DC 20005  
Email: CLipscombe@psc.dc.gov  
Telephone: (202) 626-5140

**D.2 Explanations to Prospective Offerors**

Each Offeror should carefully examine this RFP and all amendments, addenda or other revisions, and thoroughly familiarize itself with all requirements prior to proffering a submission. Should an Offeror find discrepancies or ambiguities in, or omissions from, the RFP and amendments, addenda or revisions, or otherwise desire an explanation or interpretation of the RFP any amendments, addenda, or revisions, it must submit a request for interpretation or correction in writing. Any information given to an Offeror concerning the solicitation shall be furnished promptly to all other Offerors as an amendment or addendum to this RFP if in the sole discretion of the Commission that information is necessary in proffering submissions or if the lack of it would be prejudicial to any other prospective Offerors. Oral explanations or instructions given before the award of the contract shall not be binding.

**D.3 Failure to Tender Submissions**

Recipients of this RFP not responding with a submission shall advise Chris Lipscombe by email whether they want to receive future solicitations for similar requirements. It is also requested that such recipients advise Chris Lipscombe of the reason for not proffering submissions in response to this RFP. If a recipient does not proffer a submission and does not notify the Commission that future solicitations are desired, the recipient's name may be removed from the applicable mailing list.

**D.4 Protests**

Protests shall be governed by Section 2206 of the Commission's Procurement Regulations (15 DCMR § 2206). As provided in Section 2206.1, protests alleging defects in this solicitation must be filed within ten (10) business days of the solicitation. If an alleged defect does not exist in this initial RFP, but was incorporated into the RFP by an amendment or addendum, a protest based on that defect must be filed before the next closing time established for proffering submissions. In all other cases, a protester shall file the protest within ten (10) days

after the protester knows or should have known, whichever is earlier, of the facts and circumstances upon which the protest is based. All protests must be made in writing to the Office of the Commission's Secretary and must be filed in duplicate. Protests shall be served on the PSC by obtaining written and dated acknowledgment of receipt from the Commission's Secretary's Office. Protests received by the Commission after the indicated period shall not be considered. To expedite handling of protests, the envelope shall be labeled "Protest". The written protest shall be signed by the protester or its representative and shall include at a minimum the following:

1. Name, address and telephone number of the protester;
2. Appropriate identification of the procurement, i.e. the RFP number and if a contract has been awarded, its number;
3. A concise statement of the grounds for the protest and a specific request for a ruling from the Chief Contracting Officer of the Commission; and
4. Supporting exhibits, evidence or documents to substantiate any claims, unless not available within the filing time, in which case the expected availability date should be indicated.

Appeal from the decision of the Chief Contracting Officer shall be governed by the provisions of 15 DCMR §2207. The decision of the Commission shall be final in the matters raised by the appeal.

This section is intended to summarize the bid protest procedures and is for the convenience of the Offerors only. To the extent any provision of this section is inconsistent with the Commission's Procurement Regulations, the more stringent provisions shall prevail.

**D.5 Contract Award**

This procurement is being conducted in accordance with the provisions of Chapter 22 of Title 15 of the District of Columbia Municipal Regulations ("Commission's Procurement Regulations").

**D.6 Written or Oral Discussions**

Section 2202.12 of the Commission's Procurement Regulations permits the Chief Contracting Officer to conduct oral discussions with Offerors that tender submissions to expedite the proposal evaluation process.

**D.6.1 Award without Discussions**

In order to meet the award schedule, the Commission will make every effort to award the prospective contract without either written or oral discussions. Therefore, each Offeror is advised that it should submit a complete and thorough submission that is fully compliant with the instructions in this RFP.

**D.6.2 Written or Oral Discussions**

If the Chief Contracting Officer elects to hold discussions with Offerors, then a competitive range will be established based on the Evaluation Criteria set forth Attachment A of this RFP. Upon completion of discussions, the Chief Contracting Officer will issue to all Offerors in the competitive range a request for best and final offers. After receipt of best and final offers, the Chief Contracting Officer will not reopen discussions unless it is clearly in the best interest of the Commission to do so.

**D.7 Retention of Submissions**

All submissions shall be retained by the Commission and therefore shall not be returned to Offerors.

**D.8 Examination of Submissions**

Offerors are expected to examine the requirements of all instructions (including all amendments, addenda, attachments and exhibits) in this RFP. Failure to do so shall be at the sole risk of the Offeror and may result in disqualification.

**D.9 Late Submissions: Modifications**

Any submission or best and final offer received at the office designated in this RFP after the exact time specified for receipt shall not be considered. Any modification of a submission, including a modification resulting from the Chief Contracting Officer's requests for best and final offers, is subject to the same conditions as in Section C of this RFP.

The only acceptable evidence to establish the time of receipt at the Commission is the time-date stamp of the Commission on the submission wrapper or other documentary evidence of receipt maintained by the Commission. Notwithstanding any other provisions of this RFP to the contrary, a late modification of an otherwise successful submission that makes the terms more favorable to the Commission may be considered at any time it is received and may be accepted.

Submissions shall be irrevocable and remain in full force and effect for a period not less than 120 days after receipt of submissions.

**D.10 No Compensation for Preparation of Submissions**

The Commission shall not bear or assume any financial obligations or liabilities regarding the preparation of any submissions submitted in response to this RFP, or prepared in connection therewith, including, but without limitation, any submissions, statements, reports, data, information, materials or other documents or items.

**D.11 Rejection of Submissions**

The Commission reserves the right, in its sole discretion to:

1. Cancel this solicitation or reject all submissions;
2. Reject submissions that fail to prove the Offeror's responsibility;
3. Reject submissions containing conditions and/or contingencies that in the Commission's sole judgment, make the submission indefinite, incomplete, otherwise non-responsive, or otherwise unacceptable for award;
4. Waive minor irregularities in any submission provided such waiver does not result in an unfair advantage to any Offeror;
5. Take any other action within the applicable Procurement Regulations or law; and,
6. Reject the submission of any Offeror that has submitted a false or misleading statement, affidavit or certification in connection with such submission to this RFP.

**SECTION E: EVALUATION CRITERIA and AWARD PROCESS**

**E.1 Evaluation Process**

The Commission shall evaluate proposals and any best and final offers in accordance with the provisions of the Evaluation Criteria set forth in Attachment A of this RFP.

**E.2 Evaluation Committee**

Each proposal shall be evaluated in accordance with the Evaluation Criteria in Attachment A, by an Evaluation Committee. The Evaluation Committee shall prepare a written report summarizing its findings and submit the same to the source selection official. Based on the information submitted by the Offerors in response to this RFP and the report prepared by the Evaluation Committee, the source selection official shall select proposals that are determined to best meet the criteria in this proposal.

**ATTACHMENT A**

**PROPOSAL EVALUATION CRITERIA**

**I. BASIS OF AWARD**

- A.** The Commission will award the contract to the responsible Offeror(s) whose offer(s) conform(s) to the solicitation and is most advantageous to the Commission, taking into consideration cost and other criteria set forth in this document and based upon the specified evaluation criteria.
- B.** In evaluating and selecting the Offeror(s) for award, the Commission may award the contract to a higher-rated, higher-priced Offeror where the offer is consistent with the evaluation criteria set forth below, and the Commission determines that any added benefits are worth the price premium. While the Commission shall strive to exercise maximum objectivity, the source selection process by its very nature is subjective and professional judgment is implicit and necessary.

**II. EVALUATION OF PROPOSALS**

- A.** Proposals will be evaluated in two major evaluation areas:
1. Non-Cost: Non-Cost is comprised of:
    - Technical; and
    - Certified Business Enterprise Participation (“CBE”).
  2. Cost/Price.
- B.** Within the Non-Cost area, the Technical evaluation element is comprised of two factors: (1) Technical Approach; and (2) CBE. The maximum number of points that may be awarded for the factors in the Non-Cost area are reflected below:
- |                                 |            |
|---------------------------------|------------|
| ▪ Technical Area:               | 100 points |
| ▪ CBE                           | 12 points  |
| ▪ Maximum Non-Cost Total Points | 12 points  |
- C.** Cost/Price will not be given a specific score, however it will be carefully considered in performing an integrated assessment of the proposals leading to selection of the best value Offeror.
- D.** Regarding the points in the Non-Cost evaluation, the total point scores will not be necessarily determinative of award. Offerors should recognize that Cost/Price may also contribute substantially to the contract award decision. As the evaluation of competing Offeror proposals in the Non-Cost area become more equal in rating, the more important Cost/Price will become in selecting best value to the Commission.

- E.** The Commission reserves the right to reject any or all proposals determined to be inadequate or unacceptable, or to cancel this Request for Proposals, regardless of evaluation, if it is determined to be in the best interest of the Commission.
- F.** The Commission may award a contract on the basis of initial offers received, without discussion. Therefore, each initial proposal should contain the Offeror's best terms for both Non-Cost and Cost/Price.

**III. NON-COST FACTORS FOR AWARD**

**TECHNICAL:** The Technical evaluation area is composed of two (2) specific factors. These factors, with their associated maximum point score, are described below. As part of the evaluation of these factors, the Commission will also perform a Proposal Risk Assessment. The Proposal Risk Assessment will consider any inherent risk in the Offeror's technical proposal that may adversely impact schedule, cost and performance.

**A. FACTOR: Technical Approach 50 points**

The evaluation criteria for Technical Approach for the Scope of Work ("SOW") are:

- 1. The thoroughness, clarity and soundness of the proposed approach in providing the services as outlined in the RFP, Section 1, Scope of Work. **30 points**
- 2. Project management expertise, including the work-plan for implementing the project and for meeting the deadlines for the scheduled deliverables, and the method of adjusting to changing circumstances and tracking the progress of the project. **20 points**

**B. FACTOR: Corporate/Government Experience, Project Staff 50 Points**

The two (2) evaluation criteria for Corporate and Government Experience and Project Staff are:

- 1. The experience and quality of past performance of the Offeror's firm in providing legal consulting services similar to those required by this solicitation to corporate and/or government clients on current and past contract efforts. **30 points**
- 2. The collective qualifications, experiences, capabilities and quality of the consultants proposed for the Offeror's team; the appropriate proportion of work to be performed by each consultant and staff

member, identified by name; and the experience, qualifications, capabilities and quality of past performance of the individual staff members proposed to perform the required tasks. **20 points**

**3. FACTOR: CBE**

**12 points**

Pursuant to the provisions of the Small, Local and Disadvantaged Business Enterprise Development and Assistance Act of 2005, (D.C. Official Code § 2-218.01 *et seq.*) a maximum of 12 points may be awarded to bidders who meet the Act's definition(s) of Small, Local and Disadvantaged Business Enterprises. The award of preference points will be made as follows in accordance with the Law: 1) local business enterprises receive four (4) participation points; 2) disadvantaged businesses receive three (3) participation points; 3) businesses with resident ownership receive three (3) participation points; and, 4) businesses located in enterprise zones receive two (2) participation points. No business shall be permitted to receive preference points unless the enterprise has been issued a certificate of registration under the provisions of this law.

**IV. COST/PRICE FACTORS FOR AWARD**

The Cost/Price proposal will be assessed for completeness and realism. Cost will not be given a specific score and/or weight, but will be closely considered in performing an integrated assessment of the proposals leading to selection of the best value Offeror.

1. **Completeness:** To be complete, the Offeror must provide all of the cost/pricing data that is necessary to adequately evaluate the proposal. The Commission will assess the extent to which the cost/price proposal complies with the content and format requirements set forth in the solicitation.
2. **Realism:** Realism is evaluated by assessing the compatibility of proposed costs with proposal scope and efforts. Cost realism analysis seeks to ensure that proposed costs are consistent with the Scope of Work requirements. If an Offeror's proposed cost/price is evaluated as unrealistically low or high, compared to anticipated costs of performance, it may be interpreted by the Commission as an inherent lack of understanding of requirements and may adversely affect the Offeror's evaluation rating and potential to be awarded the contract.

**V. NON-COST RATING SCALE**

The Commission will evaluate and assign a numeric/adjectival rating to the Non-Cost areas of the proposal using the following rating scale:

Non-Cost Proposal Rating Scale

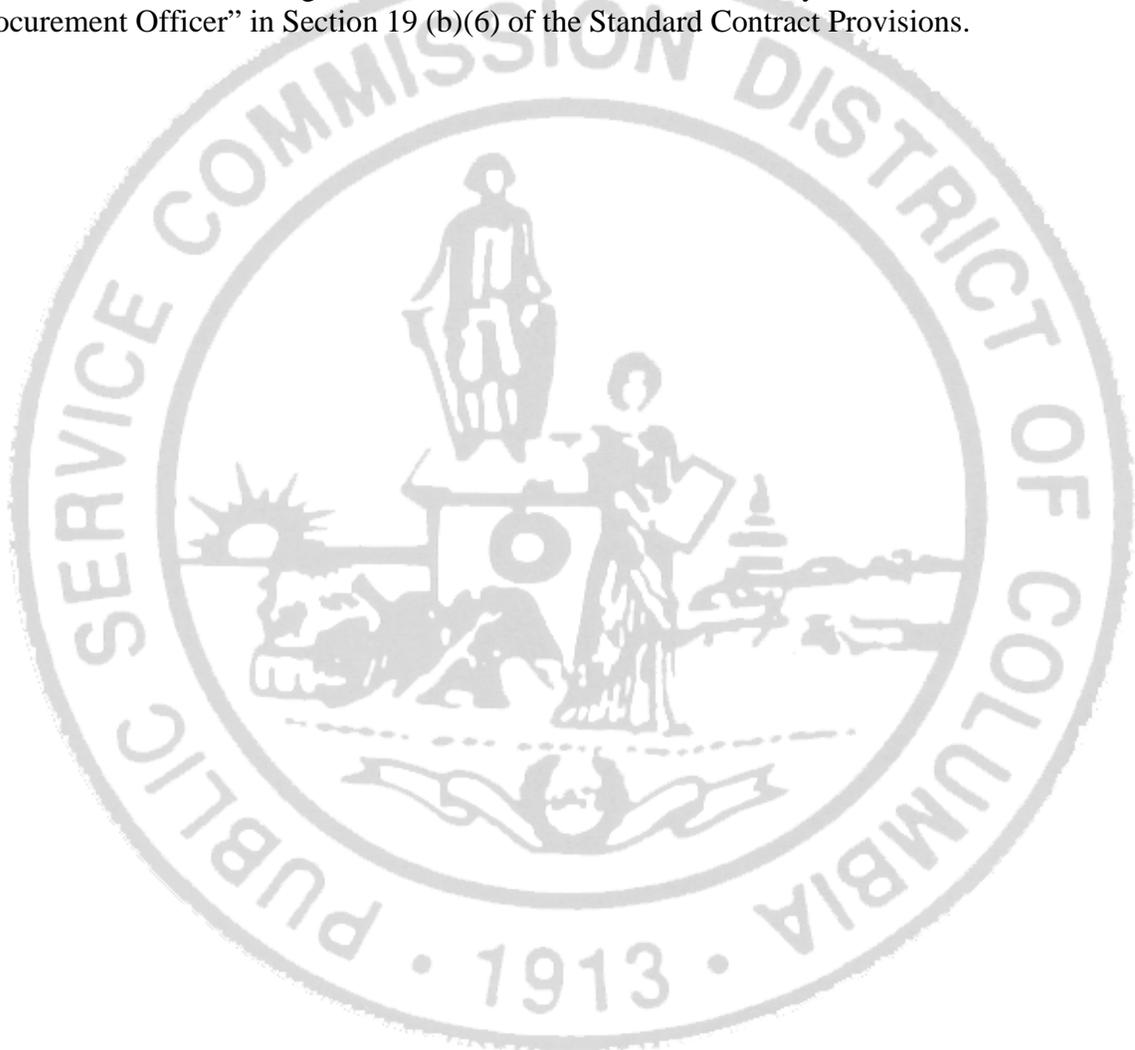
<b>Numerical Point Rating</b>	<b>Rating</b>	<b>Description</b>
0 - 19	Unacceptable	Fails to meet minimum requirements, major deficiencies
20 - 39	Poor	Marginally meets minimum requirements, significant deficiencies.
40 - 59	Acceptable	Meets requirements, only minor deficiencies.
60 - 79	Good	Meets requirements, no deficiencies.
80 - 100	Excellent	Exceeds most, if not all requirements, no deficiencies.

**VI. MINIMUM NON-COST SCORING REQUIREMENT**

Offerors must achieve a minimum of **75 or more points** for the Non-Cost areas of their proposal in order to be considered for contract award. Offerors who do not meet the minimum of 75 points will be deemed technically deficient and therefore will not be given further consideration by the Commission. The Commission will not evaluate the Cost/Price area for those Offerors who do not meet the minimum Non-Cost scoring requirement.

**ATTACHMENT B**

The Commission adopts the “Government of the District of Columbia Standard Contract Provisions, for use with District of Columbia Government Supply and Services Contracts,” (“Standard Contract Provisions”) (March 2007) as a part of this RFP solicitation and provisions of the awarded Contract, except that “Section 14, Disputes” of the Standard Contract Provisions shall not apply. Disputes shall be governed by the Commission’s Procurement Regulations (15 DCMR § 2207). Further, for purposes of this solicitation the Commission’s Contracting Officer shall exercise the authority delineated to the “Chief Procurement Officer” in Section 19 (b)(6) of the Standard Contract Provisions.



**ATTACHMENT C**

DISCLOSURE STATEMENT

Personnel who will perform the work described in this RFP shall disclose to the Commission whether they are related by blood or have worked for the following individuals in the past five (5) years:

Chairperson Betty Ann Kane

Commissioner Lori Murphy Lee

Commissioner Richard E. Morgan

