



**November 7**

**NOTICE TO PUBLIC  
REQUEST FOR PROPOSAL  
RFP #201500**

**PSYCHOLOGICAL SERVICES**

The City of Winchester will accept proposals until 2:00 p.m. local time on November 30, 2016, in the office of the Finance Department - Purchasing Division, 15 North Cameron Street, 1st Floor - Rouss City Hall, Winchester, Virginia 22601 to provide Psychological testing and related services for the City of Winchester as specified by the Scope of Services. The Contract will be administered by the Human Resources department.

Copies of this Request for Proposal may be obtained upon request from the Office of the Finance Department-Purchasing Agent, telephone (540) 667-1815 ext. 1477, or they may be picked up at the above location. Proposals may be viewed on the City's web page: <http://www.winchesterva.gov/purchasing/itbrfp>

Offerors should carefully examine the specifications and fully inform themselves as to all conditions and matters, which would in any way affect the equipment/materials/service of cost thereof. Should an offeror find discrepancies in or omissions from the specification or request for proposal, he/she should notify the Purchasing Agent and obtain clarification prior to submitting the proposal. Only questions answered by formal Addenda will be binding; oral and other interpretations or classifications will be without legal effect.

The right is reserved, as the interest of the City of Winchester requires, to revise or amend the specifications prior to the date set for opening proposal; the opening date may be postponed if deemed necessary by the City's Purchasing Agent. Such revisions and amendments, if any, will be announced by written Addenda to the specifications. ***In addition, the City of Winchester reserves the right to accept or reject any proposals, in whole or in part, cancel the RFP, prior to award and to waive any formality.***

One (1) original hardcopy, one (1) original electronic copy in.pdf format and two (2) copies of original hardcopy are to be submitted in a sealed envelope bearing the Offerors company name, mailing address, the RFP name, the RFP number, the date and the time due mailed or delivered to:

City of Winchester  
Finance Department - Purchasing Division  
15 North Cameron Street, 1st Floor - Rouss City Hall  
Winchester, Virginia 22601

BY Michael Marzullo  
Purchasing Agent

**CITY OF WINCHESTER, VIRGINIA**

**EMPLOYEE ASSISTANCE PROGRAM**

**RFP #201500**

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## A. INTRODUCTION AND PURPOSE

### INTRODUCTION:

The City, founded in 1744, is the oldest Virginia City west of the Blue Ridge Mountains. Located at the northern entrance to the Shenandoah Valley, the City is the medical, commercial, governmental and financial center for the surrounding area.

The City encompasses 9.3 square miles and is located at the crossroads of U.S. Highways 11, 17, 50, 522, Interstate 81 and State Route 7. Interstate 66, terminating 11 miles south of the City at Interstate 81, provides a third transportation artery to Washington, D.C., 72 miles to the southeast. The City's 2015 population was estimated at 27,284 with 7,650 single family attached and detached homes and over 4,000 multi-family dwelling units.

### PURPOSE:

The purpose of this Request for Proposal (RFP) is to solicit proposals from qualified firms to provide pre-employment and fit fo duty psychological evaluations. Services, as specified herein, will be on an as-needed basis, and enter into a contract through the use of competitive negotiation for the City of Winchester. Approximately 20 employees will require such services annually.

This Request for Proposal (RFP), plus the resulting agreement, shall be consistent with, and governed by the Act, the Virginia Public Procurement Act (VPPA). This award may be awarded to one or more firms and may award this contract in whole or in part.

### TERM OF CONTRACT:

The original contract term shall be twelve (12) months from date of award. The City reserves the right to cancel and terminate this Contract, without penalty, upon ten (10) days written notice to contractor. The parties understand and agree that the City, at its sole option, may renew this Contract for four (4) additional twelve (12) month periods.

### PRE-PROPOSAL CONFERENCE:

None required.

### SCHEDULE OF EVENTS:

1.	RFP Distribution	November 7, 2016
2.	Proposal Submissions Due	November 30, 2016 at 2:00P.M. Local time
3.	Interviews	TBD
4.	Award of Contract	TBD

## B. SCOPE OF SERVICES

The services detailed in this section are to be performed for the City of Winchester on a contractual basis to meet the following minimum criteria:

1. **GENERAL:** The City of Winchester is soliciting proposals from qualified firms to provide psychological services.
2. **SERVICE PERFORMANCE AND DELIVERABLES:** The contractor shall provide the following minimum standards for services.
  - a. Fitness for duty evaluations –Referred City employees who must be evaluated by the psychological services provider prior to being certified to return to duty.
  - b. Pre-employment psychological evaluation – referrals of applicants by the City to determine the candidate’s suitability for employment. Feedback should include psychological written testing (tests to

be administered must be included in the Proposal) and evaluation interview. Written results will become the property of the City of Winchester and the results will be distributed to the applicant as deemed necessary through the City's Human Resources department.

3. **CONTRACTOR QUALIFICATIONS:** The Contractor shall be experienced and provide documentation that its firm has been in the industry for at least five (5) years. Local, state or federal government experience is preferred. The Contractor shall employ at least one (1) licensed psychologist and or one (1) licensed psychiatrist. All levels of service, herein, shall be performed by a licensed psychologist or licensed psychiatrist. The contractor may be required to supply documentation to further satisfy this requirement to the City of Winchester. Complete Contractor Data Sheet (Attachment A).
  
4. **CONTRACT ADMINISTRATION:**
  - a. The director of the City's Human Resources shall be the Contract Administrator and may authorize a designee delegated to perform these duties as outlined.
  - b. The City's Purchasing Agent, Finance Department, shall be the contracting officer.

## **C. SELECTION PROCEDURE**

This Request for Proposals is divided into two parts:

- Part I - Written submission of Firm Experience and Qualifications; and
- Part II - Interviews and presentations from Part I short-listed firms, only.

### **PART I**

1. Statements of firms' experience and qualifications must be submitted in the form defined under Submittal Requirement (Section D).
2. A Selection Committee composed of City officials will evaluate and rank all firms.
3. Firms will be evaluated and ranked in accordance with the Part I – Evaluation Criteria detailed in Section E.

### **PART II**

1. The Selection Committee may conduct formal interviews with the short-listed firms and based on the results of the process to this point, the highest ranked firm(s) may be invited to make a presentation to the Selection Committee.
2. The Selection Committee will complete the final evaluation and rank the firms as set forth in Section E below, in order to identify up to two (2) firms whose professional qualifications and proposed services are deemed most meritorious per Virginia Code §2.2-4301.

## **D. SUBMITTAL REQUIREMENT**

1. **GENERAL INSTRUCTIONS:**
  - a. RFP Response: In order to be considered for selection, offerors must submit a complete response to this RFP. One (1) original hardcopy, two (2) copies and one (1) original electronic copy in pdf format are to be submitted in a sealed envelope bearing the company name, mailing address, the RFP name, the RFP number, the date and the time due mailed or delivered to: City of Winchester, Finance Department - Purchasing Division, 15 North Cameron Street, 1st Floor-Rouss City Hall,

Winchester, Virginia 22601. No other distribution of the proposal shall be made by the offeror. Offerors must clearly label the original with the word "ORIGINAL" on the cover and must clearly label all copies with the word "COPY" on the cover.

- b. Late Proposals: It is the responsibility of the firm to ensure the Purchasing Agent receives the submittal by the proposal due date and time. Late Proposals will be returned to offeror unopened, if the container is properly identified with the firm's return address.

2. **PROPOSAL PREPARATION:**

- a. Proposals shall be signed by an authorized representative of the offeror. All information requested should be submitted. Failure to submit all information requested may result in the Purchasing Agent requiring prompt submission of missing information and/or giving a lowered evaluation of the proposal. Proposals which are substantially incomplete or lack key information may be rejected by the Purchasing Agent
- b. Proposals shall be prepared simply and economically, providing a straightforward, concise description of capabilities to satisfy the requirements of the RFP. Emphasis should be placed on completeness and clarity of content. Avoid excessive content and unrelated work samples.
- c. Proposals should be organized in the order in which the requirements are presented in the RFP. All pages of the proposal should be numbered. All documentation submitted with the proposal should be contained in that single volume.
- d. Ownership of all data, materials and documentation originated and prepared for the City pursuant to the RFP shall belong exclusively to the City and be subjected to public inspection in accordance with the Virginia Freedom of Information Act. Trade secrets or proprietary information submitted by an offeror shall not be subject to the public disclosure under the Virginia Freedom of Information Act; however, the offeror must invoke the protections of §2.24342F of the Code of Virginia, in writing, either before or at the time the data or other material is submitted. The written notice must specifically identify the data or materials to be protected and state the reasons why protection is necessary. The proprietary or trade secret submitted must be identified by some distinct method such as highlighting or underlining and must indicate only the specific words, figures, or paragraphs that constitute trade secrets or proprietary information. The classification of an entire proposal document, line item prices, and/or total proposal prices as proprietary or trade secrets is not acceptable and will result in rejection of the proposal.

3. **PART I - SUBMITTAL CONTENT:** Proposal Submittal shall contain the following information presented in the following order:

- a. List the three (3) most relevant references in regards to providing psychological services.
- b. Summarize qualifications of key individuals to be assigned to the work. Full resumes may be attached as an appendix. Information and/or resumes must exhibit qualifications and experience of the individual in the type of work to be conducted with emphasis on services similar in nature to those expected.
- c. List any outside services to be used. Describe the anticipated scope of services by sub-consultants and how they will be coordinated. Specific names of sub-consultants are preferred at this time. The intent of this section is to ascertain what outside services the firm will require.
- d. Provide documentation that the firm is licensed under the applicable laws of the Commonwealth of Virginia and the City of Winchester. Foreign (out of state) corporations desiring to transact business in the Commonwealth of Virginia must register with the State Corporation Commission

in accordance with Title 13.1 of the Code of Virginia. SCC identification should be provided with the proposal.

- e. Complete Attachment A-Contractor Data Sheet.
- f. Describe, explain and/or show how your firm will meet the Scope of Services.
- g. Explain and show your standard invoicing procedures.
- h. Describe your confidentiality procedures and how will they be implemented and compliance to HIPPA privacy and security standards?
- i. Is there any pending litigation with your firm and has your firm ever had been convicted of a malpractice lawsuit? Have any of your employees ever had their professional license(s) suspended or revoked?
- j. Provide a lump sum fee for: 1.) pre-employment psychological evaluation, 2.) fitness-for-duty evaluation
- k. Verify that required insurance coverage is available (*insurance certificates need not be submitted until the award stage*).

**4. PART II - SUBMITTAL CONTENT**

- a. Presentation by Firms and Formal Interview (Optional). Summarize the capabilities of the firm to meet the needs of the City. Presentation should depict how staff will be organized to accomplish the work and where they will be located. Demonstrate the availability of resources for the successful completion of the services. Question and Answer period.

## E. EVALUATION CRITERIA

Each member of the Selection Committee will individually evaluate each firm on the basis of the following criteria. The Purchasing Agent will then develop a composite ranking of each firm and rank the firms from first to last.

<b>PART I - Evaluation Criteria</b>	<b>Score (Pts.)</b>
▪ Experience and qualifications of key individuals to be assigned to the work.	40
▪ Qualifications and experience of the firm in performing requested services.	20
▪ Familiarity and knowledge local government needs and requirements.	10
▪ Firm's pricing schedule and cost of services (Purchasing Agent will score)	20
▪ Degree of firm's capability to perform tasks in-house	5
▪ Overall quality and completeness of proposal	5

### **PART II - Evaluation Criteria**

- Final adjustments to Part I criteria may be made by each member of the Selection Committee upon conclusion of the interview.
- References: Three (3) references may be reviewed before the Selection Committee selects up to two (2) firms to begin negotiations.

**Compensation:** Offeror will not be compensated for the cost of proposal preparation whether or not an award is consummated.

**Investigations:** The Selection Committee may make such reasonable investigations, as it deems proper and necessary to determine the ability of the firm to perform the work. The Selection Committee and/or its representative(s) reserve the right to inspect the firm's physical premises prior to award to satisfy questions regarding the firm's capabilities.

## F. QUESTIONS

Questions regarding this solicitation must be submitted in writing, at least five (5) days prior to the proposal due date, to [Michael.Marzullo@winchesterva.gov](mailto:Michael.Marzullo@winchesterva.gov). The Purchasing Agent will issue a written addendum to any inquiries that alter the scope of the proposal. All other contacts with City personnel concerning this solicitation are prohibited. Submit inquiries to:

Michael Marzullo  
Purchasing Agent  
City of Winchester  
540-667-1815 Ext. 1477

[Michael.Marzullo@winchesterva.gov](mailto:Michael.Marzullo@winchesterva.gov)

## G. SPECIAL TERMS AND CONDITIONS:

1. **AWARD:** Selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals on the basis of the evaluation factors included in the Request for Proposals, including price, if so stated in the Request for Proposals. Negotiations shall be conducted with the offerors so selected. Price shall be considered, but need not be the sole determining factor. After negotiations have been conducted with each offeror so selected, the agency shall select the offeror which, in its opinion, has made the best proposal, and shall award the contract to that offeror. The City of Winchester may cancel this Request for Proposals or reject proposals at any time prior to an award, and is not required to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous (*Code of Virginia, § 2.2-4359D*). Should the City of Winchester determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror. The award document will be a contract incorporating by reference all the requirements, terms and conditions of the solicitation and the contractor's proposal as negotiated.
2. **AUDIT:** The contractor shall retain all books, records, and other documents relative to this contract for three (3) years after final payment, or until audited by the City of Winchester, whichever is sooner. The City, its authorized agents, and/or City auditors shall have full access to and the right to examine any of said materials during said period.
3. **RENEWAL OF CONTRACT:** This contract may be renewed by the City of Winchester for four (4) successive twelve (12) periods under the terms and conditions of the original contract.. Price increases may be negotiated only at the time of renewal.
4. **COOPERATIVE PROCUREMENT:** Any successful Bidder/Offeror, may at his sole discretion, allow any public body, locality, authority, agency, and school board of the Commonwealth to participate in the Invitation to Bid for the purpose of combining requirements to increase efficiency or reduce administrative expenses.
5. **ADVERTISING:** In the event a contract is awarded for supplies, equipment, or services resulting from this bid/proposal, no indication of such sales or services to the City of Winchester will be used in product literature or advertising. The contractor shall not state in any of its advertising or product literature that the City of Winchester or any agency or institution of the Commonwealth has purchased or uses its products or services.
6. **BID ACCEPTANCE PERIOD:** Any bid in response to this solicitation shall be valid for (120) days. At the end of the (120) days the bid may be withdrawn at the written request of the bidder. If the bid is not withdrawn at that time it remains in effect until an award is made or the solicitation is canceled.
7. **PRIME CONTRACTOR RESPONSIBILITIES:** The contractor shall be responsible for completely supervising and directing the work under this contract and all subcontractors that he may utilize, using his best skill and attention. Subcontractors who perform work under this contract shall be responsible to the prime contractor. The contractor agrees that he is as fully responsible for the acts and omissions of his subcontractors and of persons employed by them as he is for the acts and omissions of his own employees.
8. **SUBCONTRACTS:** No portion of the work shall be subcontracted without prior written consent of the Purchasing Agent or designee. In the event that the contractor desires to subcontract some part of the work specified herein, the contractor shall furnish the Purchasing Agent, or designee the names, qualifications and experience of their proposed subcontractors. The contractor shall, however, remain

fully liable and responsible for the work to be done by its subcontractor(s) and shall assure compliance with all requirements of the contract.

9. **OWNERSHIP OF INTELLECTUAL PROPERTY:** All copyright and patent rights to all papers, reports, forms, materials, creations, or inventions created or developed in the performance of this contract shall become the sole property of the City of Winchester. On request, the contractor shall promptly provide an acknowledgment or assignment in a tangible form satisfactory to the City to evidence the City's sole ownership of specifically identified intellectual property created or developed in the performance of the contract.
10. **QUANTITIES:** Quantities set forth in this solicitation are estimates only, and the contractor shall supply at bid prices actual quantities as ordered, regardless of whether such total quantities are more or less than those shown.

## **H. CITY OF WINCHESTER REQUIRED GENERAL TERMS AND CONDITIONS:**

1. APPLICABLE LAWS AND COURTS
2. ANTI-DISCRIMINATION
3. ETHICS IN PUBLIC CONTRACTING
4. IMMIGRATION REFORM AND CONTROL ACT OF 1986
5. DEBARMENT STATUS
6. ANTITRUST
7. MANDATORY USE OF CITY FORM AND TERMS AND CONDITIONS
8. CLARIFICATION OF TERMS
9. PAYMENT
10. PRECEDENCE OF TERMS
11. QUALIFICATIONS OF BIDDERS OR OFFERORS
12. TESTING AND INSPECTION
13. ASSIGNMENT OF CONTRACT
14. SEVERABILITY
15. CHANGES TO THE CONTRACT
16. DEFAULT
17. TAXES
18. USE OF BRAND NAMES
19. TRANSPORTATION AND PACKAGING
20. INSURANCE
21. ANNOUNCEMENT OF AWARD
22. DRUG-FREE WORKPLACE
23. NONDISCRIMINATION OF CONTRACTORS
24. AVAILABILITY OF FUNDS
25. LICENSES AND PERMITS
26. TERMINATION
27. HOLD HARMLESS

These General Terms and Conditions are required for all sealed and unsealed written solicitations issued by the City of Winchester for procurements that are subject to the Winchester City Code unless changed, deleted or revised by the City Attorney.

1. **APPLICABLE LAWS AND COURTS:** This solicitation and any resulting contract shall be governed by the laws of the Commonwealth of Virginia. Any dispute arising from the performance or non-performance of this Agreement shall be resolved or otherwise litigated in the Circuit Court for the City of Winchester, Virginia or the Fourth Circuit Federal District Court in Harrisonburg, Virginia. The agency and the contractor are encouraged to resolve any issues in controversy arising from the award of the contract or any contractual dispute following the Winchester City Code, Chapter 21-61. The contractor shall comply with all applicable federal, state and local laws, rules and regulations.
2. **ANTI-DISCRIMINATION:** By submitting their (bids/proposals), (bidders/offerors) certify to the City of Winchester that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the *Virginia Public Procurement Act (VPPA)*. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious Contractor, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (*Code of Virginia*, § 2.2-4343.1E).

In every contract over \$10,000 the provisions in 1. and 2. below apply:

1. During the performance of this contract, the contractor agrees as follows:
  - a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
  - b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.
  - c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.
2. The contractor will include the provisions of 1. above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.
3. **ETHICS IN PUBLIC CONTRACTING:** By submitting their (bids/proposals), (bidders/offerors) certify that their (bids/proposals) are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other (bidder/offeror), supplier, manufacturer or subcontractor in connection with their (bid/proposal), and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.
4. **IMMIGRATION REFORM AND CONTROL ACT OF 1986:** By submitting their (bids/proposals), (bidders/offerors) certify that they do not and will not during the performance of this contract employ illegal alien workers or otherwise violate the provisions of the federal Immigration Reform and Control Act of 1986.

5. **DEBARMENT STATUS:** By submitting their (bids/proposals), (bidders/offerors) certify that they are not currently debarred by the Federal Government, Commonwealth of Virginia, or by any City, Town or City from submitting bids or proposals on contracts for the type of goods and/or services covered by this solicitation, nor are they an agent of any person or entity that is currently so debarred.
6. **ANTITRUST:** By entering into a contract, the contractor conveys, sells, assigns, and transfers to the City of Winchester all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the City of Winchester under said contract.
7. **MANDATORY USE OF CITY FORM AND TERMS AND CONDITIONS:** Failure to submit a bid/proposal on the official City form provided for that purpose may be a cause for rejection of the bid/proposal. Modification of or additions to the General Terms and Conditions of the solicitation may be cause for rejection of the bid/proposal; however, the City of Winchester reserves the right to decide, on a case by case basis, in its sole discretion, whether to reject such a bid/proposal.
8. **CLARIFICATION OF TERMS:** If any prospective (bidder/offeror) has questions about the specifications or other solicitation documents, the prospective (bidder/offeror) should contact the buyer whose name appears on the face of the solicitation no later than five working days before the due date. Any revisions to the solicitation will be made only by addendum issued by the Purchasing Agent, or designee.
9. **PAYMENT:**
  1. **To Prime Contractor:**
    - a. Invoices for items ordered, delivered and accepted, or actual services performed shall be submitted by the contractor directly to the payment address shown on the purchase order/contract. All invoices shall show the City contract number and/or purchase order number; social security number (for individual contractors) or the federal employer identification number (for proprietorships, partnerships, and corporations).
    - b. Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however.
    - c. All goods or services provided under this contract or purchase order, that are to be paid for with public funds, shall be billed by the contractor at the contract price, regardless of which department is being billed.
    - d. The following shall be deemed to be the date of payment: the date of postmark in all cases where payment is made by mail.
    - e. **Unreasonable Charges.** Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges which appear to be unreasonable will be researched and challenged, and that portion of the invoice held in abeyance until a settlement can be reached. Upon determining that invoiced charges are not reasonable, the City of Winchester shall promptly notify the contractor, in writing, as to those charges which it considers unreasonable and the basis for the determination. A contractor may not institute legal action unless a settlement cannot be reached within thirty (30) days of notification. The provisions of this section do not relieve an agency of its prompt payment obligations with respect to those charges which are not in dispute (*Code of Virginia, § 2.2-4363*).
  2. **To Subcontractors:**

- a. A contractor awarded a contract under this solicitation is hereby obligated:
    - (1) To pay the subcontractor(s) within seven (7) days of the contractor's receipt of payment from the City of Winchester for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or
    - (2) To notify the agency and the subcontractor(s), in writing, of the contractor's intention to withhold payment and the reason.
  - b. The contractor is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the contract) on all amounts owed by the contractor that remain unpaid seven (7) days following receipt of payment from the City of Winchester, except for amounts withheld as stated in (2) above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier contractor performing under the primary contract. A contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of the City of Winchester.
10. **PRECEDENCE OF TERMS:** The following General Terms and Conditions APPLICABLE LAWS AND COURTS, ANTI-DISCRIMINATION, ETHICS IN PUBLIC CONTRACTING, IMMIGRATION REFORM AND CONTROL ACT OF 1986, DEBARMENT STATUS, ANTITRUST, MANDATORY USE OF CITY FORM AND TERMS AND CONDITIONS, CLARIFICATION OF TERMS, PAYMENT shall apply in all instances. In the event there is a conflict between any of the other General Terms and Conditions and any Special Terms and Conditions in this solicitation, the Special Terms and Conditions shall apply.
  11. **QUALIFICATIONS OF (BIDDERS/OFFERORS):** The City of Winchester may make such reasonable investigations as deemed proper and necessary to determine the ability of the (bidder/offeror) to perform the services/furnish the goods and the (bidder/offeror) shall furnish to the City of Winchester all such information and data for this purpose as may be requested. The City of Winchester reserves the right to inspect (bidder's/offeror's) physical facilities prior to award to satisfy questions regarding the (bidder's/offeror's) capabilities. The City of Winchester further reserves the right to reject any (bid/proposal) if the evidence submitted by, or investigations of, such (bidder/offeror) fails to satisfy the City of Winchester that such (bidder/offeror) is properly qualified to carry out the obligations of the contract and to provide the services and/or furnish the goods contemplated therein.
  12. **TESTING AND INSPECTION:** The City of Winchester reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specifications.
  13. **ASSIGNMENT OF CONTRACT:** A contract shall not be assignable by the contractor in whole or in part without the written consent of the City of Winchester.
  14. **SEVERABILITY OF CONTRACT:** In the event that any provision shall be adjudged or decreed to be invalid, such ruling shall not invalidate the entire Agreement but shall pertain only to the provision in question and the remaining provisions shall continue to be valid, binding and in full force and effect.
  15. **CHANGES TO THE CONTRACT:**
    1. A public contract may include provisions for modification of the contract during performance, but no fixed-price contract may be increased by more than twenty-five percent of the amount of the contract or ten thousand dollars (\$10,000), whichever is greater, without the advance written approval of the City Council. In no event may the amount of any contract, without adequate consideration, be increased for any purpose, including, but not limited to, relief of an offeror from the consequences of an error in its bid or offer (Winchester City Code 21-44).
    2. Changes can be made to the contract in any of the following ways:

- a. The parties may agree in writing to modify the scope of the contract. An increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the contract.
  - b. The City of Winchester may order changes within the general scope of the contract at any time by written notice to the contractor. Changes within the scope of the contract include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The contractor shall comply with the notice upon receipt. The contractor shall be compensated for any additional costs incurred as the result of such order and shall give the City of Winchester a credit for any savings. Said compensation shall be determined by one of the following methods:
    1. By mutual agreement between the parties in writing; or
    2. By agreeing upon a unit price or using a unit price set forth in the contract, if the work to be done can be expressed in units, and the contractor accounts for the number of units of work performed, subject to the City of Winchester's right to audit the contractor's records and/or to determine the correct number of units independently; or
    3. By ordering the contractor to proceed with the work and keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the contract. The same markup shall be used for determining a decrease in price as the result of savings realized. The contractor shall present the City of Winchester with all vouchers and records of expenses incurred and savings realized. The City of Winchester shall have the right to audit the records of the contractor as it deems necessary to determine costs or savings. Any claim for an adjustment in price under this provision must be asserted by written notice to the City of Winchester within thirty (30) days from the date of receipt of the written order from the City of Winchester. If the parties fail to agree on an amount of adjustment, the question of an increase or decrease in the contract price or time for performance shall be resolved in accordance with the procedures for resolving disputes provided by the Disputes Clause of this contract or, if there is none, in accordance with the disputes provisions of the City of Winchester Code. Neither the existence of a claim nor a dispute resolution process, litigation or any other provision of this contract shall excuse the contractor from promptly complying with the changes ordered by the City of Winchester or with the performance of the contract generally.
16. **DEFAULT:** In case of failure to deliver goods or services in accordance with the contract terms and conditions, the City of Winchester, after due oral or written notice, may procure them from other sources and hold the contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which the City of Winchester may have.
17. **TAXES:** Sales to the City of Winchester are normally exempt from State sales tax. State sales and use tax certificates of exemption, Form ST-12, will be issued upon request.
18. **USE OF BRAND NAMES:** Unless otherwise provided in this solicitation, the name of a certain brand, make or manufacturer does not restrict (bidders/offerors) to the specific brand, make or manufacturer named, but conveys the general style, type, character, and quality of the article desired. Any article which the public body, in its sole discretion, determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted. The (bidder/offeror) is responsible to clearly and specifically identify the product being offered and to provide sufficient descriptive literature, catalog cuts and technical detail to enable the City of Winchester to determine if the product offered meets the requirements of the solicitation. This is required even if offering the exact brand, make or manufacturer specified. Normally in competitive sealed bidding only the information furnished with the bid will be considered in the evaluation. Failure to furnish adequate data for evaluation purposes may result in declaring a bid nonresponsive. Unless the (bidder/offeror) clearly indicates in its (bid/proposal) that the product offered is an equal product, such (bid/proposal) will be considered to offer the brand name product referenced in the solicitation.

19. **TRANSPORTATION AND PACKAGING:** By submitting their (bids/proposals), all (bidders/offerors) certify and warrant that the price offered for FOB destination includes only the actual freight rate costs at the lowest and best rate and is based upon the actual weight of the goods to be shipped. Except as otherwise specified herein, standard commercial packaging, packing and shipping containers shall be used. All shipping containers shall be legibly marked or labeled on the outside with purchase order number, commodity description, and quantity.
20. **INSURANCE:** By signing and submitting a bid or proposal under this solicitation, the bidder or offeror certifies that if awarded the contract, it will have the following insurance coverage at the time the contract is awarded. For construction contracts, if any subcontractors are involved, the subcontractor will have workers' compensation insurance in accordance with §§ 2.2-4332 and 65.2-800 et seq. of the *Code of Virginia*. The bidder or offeror further certifies that the contractor and any subcontractors will maintain this insurance coverage during the entire term of the contract and that all insurance coverage will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

**MINIMUM INSURANCE COVERAGES AND LIMITS REQUIRED FOR MOST CONTRACTS:**

1. Workers' Compensation - Statutory requirements and benefits. Coverage is compulsory for employers of three or more employees, to include the employer. Contractors who fail to notify the City of Winchester of increases in the number of employees that change their workers' compensation requirements under the *Code of Virginia* during the course of the contract shall be in noncompliance with the contract.
2. Employer's Liability - \$100,000.
3. Commercial General Liability - \$1,000,000 per occurrence. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage. The City of Winchester must be named as an additional insured and so endorsed on the policy.
4. Automobile Liability - \$1,000,000 per occurrence. (Only used if motor vehicle is to be used in the contract.)

**NOTE: In addition, various Professional Liability/Errors and Omissions coverages are required when soliciting those services as follows:**

<u>Profession/Service</u>	<u>Limits</u>
Accounting	\$1,000,000 per occurrence, \$3,000,000 aggregate
Architecture	\$2,000,000 per occurrence, \$6,000,000 aggregate
Asbestos Design, Inspection or Abatement Contractors	\$1,000,000 per occurrence, \$3,000,000 aggregate

Health Care Practitioner (to include Dentists, Licensed Dental Hygienists, Optometrists, Registered or Licensed Practical Nurses, Pharmacists, Physicians, Podiatrists, Chiropractors, Physical Therapists, Physical Therapist Assistants, Clinical Psychologists, Clinical Social Workers, Professional Counselors, Hospitals, or Health Maintenance Organizations.)

\$1,925,000 per occurrence, \$3,000,000 aggregate

(Limits increase each July 1 through fiscal year 2010, as follows:

July 1, 2009 - \$2,000,000. This complies with §8.01-581.15 of the *Code of Virginia*.

Insurance/Risk Management	\$1,000,000 per occurrence, \$3,000,000 aggregate
Landscape/Architecture	\$1,000,000 per occurrence, \$1,000,000 aggregate
Legal	\$1,000,000 per occurrence, \$5,000,000 aggregate
Professional Firm	\$2,000,000 per occurrence, \$6,000,000 aggregate
Surveying	\$1,000,000 per occurrence, \$1,000,000 aggregate

21. **ANNOUNCEMENT OF AWARD:** Upon the award or the announcement of the decision to award a contract over \$50,000, as a result of this solicitation, the Purchasing Agent will publicly post such notice on the City of Winchester's web site ([www.winchesterva.gov/purchasing](http://www.winchesterva.gov/purchasing)) for a minimum of 10 days.
22. **DRUG-FREE WORKPLACE:** During the performance of this contract, the contractor agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "*drug-free workplace*" means a site for the performance of work done in connection with a specific contract awarded to a contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

23. **NONDISCRIMINATION OF CONTRACTORS:** A bidder, offeror, or contractor shall not be discriminated against in the solicitation or award of this contract because of race, religion, color, sex, national origin, age, disability, faith-based organizational status, any other basis prohibited by state law relating to discrimination in employment or because the bidder or offeror employs ex-offenders unless the state agency, department or institution has made a written determination that employing ex-offenders on the specific contract is not in its best interest. If the award of this contract is made to a faith-based organization and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the public body shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.
24. **AVAILABILITY OF FUNDS:** In the event that funds are not appropriated for this Contract for any City fiscal year, following the City's current year, the Contract shall terminate automatically as of the last day for which funds were appropriated without the City providing written notice to the Contractor prior to the date of termination. The City shall not consider termination of the Contract pursuant to this section default. Upon such termination, the City shall be released from any obligation to make future payments and shall not be liable for cancellation or termination charges.
25. **LICENSES AND PERMITS:** Contractors will be responsible for all licenses and permits, if required. Any person, firm, or corporation responding to this invitation to bid which is required to have a current and valid City of Winchester business license and, in fact, does not, will not be considered a "responsive bidder" as such term is defined by the Code of Virginia §2.2-4301, as amended. Any bid received from such an entity may be rejected, at the City's sole option, for that reason alone. In addition, the successful bidder or offeror will be required to produce affirmative evidence, satisfactory to the Purchasing Agent, or designee that it has such a license, or is not required to have such a license, prior to approval and execution of any contract to perform the work herein described.
26. **TERMINATION:**
  - a. Termination for Convenience: The City may terminate a contract, in whole or in part, whenever the parties determine it to be in their best interest, without showing cause, upon giving ten (10) days written notice to the vendor.
  - b. Termination for Default: When the vendor has not performed or has unsatisfactorily performed the contract, the City may terminate the contract for default. Upon termination for default, payment may be withheld at the discretion of the City. The Vendor will be paid for work satisfactorily performed prior to termination.

- 27 **HOLD HARMLESS:** Bids/Proposal shall provide that during the term of the contract, including warranty period, for the successful bidder/offeror indemnifying, defending, and holding harmless the City, its officers, employees, agent and representatives thereof from all suits, actions, claims of any kind, including attorney's fees, brought on account of any personal injuries, damages, or violation of rights sustained by any person or property in consequence of any neglect in safeguarding contract work, or on account of any act or omission by the contractor or his employees, or from any claims or amounts arising from violation of any law, bylaw, ordinance, regulation or decree. The vendor agrees that this clause shall include claims involving infringement of patent or copyrights.

**ATTACHMENT A**

**CONTRACTOR'S DATA SHEET**

**1.) General:**

- a. FIN or FEI Number: \_\_\_\_\_ if Company, Corporation, or Partnership
- b. Social Security Number \_\_\_\_\_ if Individual.
- c. How many years has your organization been in business?  
\_\_\_\_\_
- d. Provide State Corporation Commission id number \_\_\_\_\_
- e. *Debarment/Suspension List:* Firms shall confirm in writing that they are not currently on any debarment or suspension list of any local, state or federal government. Any firm found to be listed shall be rejected as non-responsive.  
\_\_\_\_\_

**2.) Provide list of licensed phycologist/psychiatrist preform services:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**3.) Attach a list of at least three (3) most relevant references in regards to providing psychological services references.**