
SAN ANTONIO WATER SYSTEM PURCHASING DEPARTMENT

Issued By: Robert Garcia
BID NO.: 11-1136

Date Issued: May 17, 2011

FORMAL INVITATION FOR BIDS
ANNUAL CONTRACT FOR DATADOMAIN RENEWAL MAINTENANCE SUPPORT

Sealed bids addressed to the Purchasing Director, San Antonio Water System, 2800 US Hwy 281 North, P.O. Box 2449, San Antonio, TX 78298-2449 will be received until **3:00 p.m., June 1, 2011** and then publicly opened and read aloud for furnishing materials or services as described received herein below,

The San Antonio Water System Purchasing Department is willing to assist any bidder(s) in the interpretation of bid provisions or explanation of how bid forms are to be completed. Assistance may be received by visiting the Purchasing Office in the SAWS Main Office, 2800 US Hwy 281 North, San Antonio, TX 78212, or by calling (210) 233-3819.

This invitation includes the following:

Invitation for Bids
Terms and Conditions of Invitation for Bids

Specifications and General Requirements
Price Schedule

The undersigned, by his/her signature, represents that he/she is authorized to bind the Bidder to fully comply with the Specifications and General Requirements for the amount(s) shown on the accompanying bid sheet(s). By signing below, Bidder has read the entire document and agreed to the terms therein.

Signer's Name: _____ Firm Name: _____
(Please Print or Type)

Address: _____

Signature of Person Authorized to Sign Bid _____ City, State, Zip Code: _____

Email Address: _____ Telephone No.: _____

Fax No.: _____

Please complete the following:

Prompt Payment Discount: _____% _____days. (If no discount is offered, Net 30 will apply.)

Please check the following blanks which apply to your company:

Ownership of firm (51% or more):

Non-minority Hispanic African-American Other Minority (specify) _____

Female Owned Handicapped Owned Small Business (less than \$1 million annual receipts or 100 employees)

Indicate Status: Partnership Corporation Sole Proprietorship Other (specify) _____

Tax Identification Number: _____

TERMS AND CONDITIONS OF INVITATION FOR BIDS

READ CAREFULLY

1. GENERAL CONDITIONS

Bidders (hereinafter “bidders”, “vendors” or “contractors”) are required to submit their bids upon the following expressed conditions:

- (a) Bidders shall thoroughly examine the drawings, specifications, schedule(s), instructions and all other contract documents.
- (b) Bidders shall make all investigations necessary to thoroughly inform themselves regarding plant and facilities for delivery of material and equipment as required by the bid conditions. No plea of ignorance by the bidder of conditions that exist or that may hereafter exist as a result of failure or omission on the part of the bidder to make the necessary examinations and investigations, or failure to fulfill in every detail the requirements of the contract documents, will be accepted as a basis for varying the requirements of SAWS or the compensation to the vendor.
- (c) Bidders are advised that all SAWS contracts are subject to all legal requirements provided for in state and federal statutes. Any bid, after being opened, becomes subject to the Public Information Act, Government Code Chapter 552; therefore bidders must clearly indicate any portion of the submitted bid that the bidder claims is not subject to public inspection under the Public Information Act.
- (d) No officer or employee of SAWS shall have a financial interest, direct or indirect, in any contract with SAWS, or shall benefit financially, directly or indirectly, in the sale to SAWS of any materials, supplies or services, except on behalf of SAWS as an officer or employee. This prohibition extends to all SAWS boards and commissions other than those which are purely advisory.

2. PREPARATION OF BIDS

Bids will be prepared in accordance with the following:

- (a) All information required by the bid form shall be furnished or the bid may be deemed non responsive. The bidder shall print or type name and manually sign the schedule.
- (b) Where there is an error in extension of price, the unit price shall govern. Any bid that is considered for award by each unit or line item, must include a price for each unit or line item for which the bidder wishes to be considered. Any ambiguity in the bid as a result of omission, error, unintelligible or illegible wording shall be construed in the favor of SAWS.

Any bid that is considered for award on an “all or none” basis must include a price quote for all units or line items. In an “All or None” bid, a unit price left blank shall be tabulated as a “zero”, and shall be deemed to be offered at no cost to SAWS.

- (c) Alternate bids may be allowed at the sole discretion of SAWS.
- (d) Proposed delivery time must be shown and shall include weekends and holidays, unless specified otherwise in this IFB.
- (e) Bidders will neither include federal taxes nor State of Texas limited sales excise and use taxes in bid prices since SAWS is exempt from payment of such taxes. An exemption certificate will be signed by SAWS where applicable upon request by bidder.

3. DESCRIPTION OF SUPPLIES

Any catalog or manufacturer's reference used in describing an item is merely descriptive, and not restrictive, unless otherwise noted, and is used only to indicate type and quality of material. Each bid must clearly identify the proposed product, the quantity of the product, model, and type, as applicable. Prorata adjustments to packaging and pricing may be allowed at the sole discretion of SAWS.

4. ASSURANCE OF COMPLIANCE - EQUAL EMPLOYMENT OPPORTUNITY AND SMALL AND/OR MINORITY BUSINESS ADVOCACY REQUIREMENTS

It is the policy of SAWS that Small and/or Minority Business Enterprises shall have the maximum practicable opportunity to participate in the performance of public contracts. Bidder agrees that if this bid is accepted, he/she will not engage in employment practices which have the effect of discriminating against employees or prospective employees because of race, color, religion, national origin, sex, age, handicap or political belief or affiliation. In addition, bidder agrees, by submittal of this bid, that he/she will abide by all applicable terms and provisions of this Nondiscrimination Clause and the Small Business Advocacy Clause. These clauses are available in SAWS Small Minority Women Business Division and the Contracting Department's Office.

5. SAMPLES, DEMONSTRATIONS AND TESTING

At SAWS request and direction, bidder shall provide product samples and/or testing of items bid to ensure compliance with specifications. Samples, demonstrations and/or testing may be requested prior to award of the contract, upon delivery and/or at any point during the term of resulting contract. After notification, samples, demonstrations and/or testing must be provided within **ten** days. Failure to provide samples prior to award of contract will disqualify bidder from consideration. All samples (including return thereof), demonstrations and/or testing shall be at the expense of the bidder. Samples will be returned upon request; otherwise, samples will become property of SAWS, **ten** days after award of the contract.

6. SUBMISSION OF BIDS

- (a) Bids shall be enclosed in sealed envelopes addressed to the Purchasing Department, San Antonio Water System. The name and address of bidder, the date and hour of the bid opening, bid number and title of the bid solicitation shall be marked on the outside of the envelope(s).
- (b) Bids must be submitted on the forms furnished. Bids, however, may be modified provided such modifications are sealed and received by the Purchasing Department prior to the time and date set for the bid opening. However, the San Antonio Water System shall not be responsible for lost or misdirected bids or modifications.
- (c) By submittal of this bid, bidder certifies to the best of his/her knowledge that all information is true and correct.

7. REJECTION OF BIDS

- (a) SAWS may reject a bid if:
 - 1. The bidder misstates or conceals any material fact in the bid; or
 - 2. The bid does not strictly conform to law or the requirements of the bid;
 - 3. The bid is conditional, except that the bidder may qualify the bid for acceptance by SAWS on an "All or None" basis or a "Best Value Item" basis. An "All or None" basis bid must include all items upon which bids are invited.

- (b) SAWS may, reject all bids whenever it is deemed in the best interest of SAWS to do so, and may reject any part of a bid unless the bid has been qualified as provided in Par. 7 (a) 3 above. SAWS at its sole discretion may also waive any minor informalities or irregularities in any bid, to include failure to submit sufficient bid copies, failure to submit literature or similar attachments, or business affiliation information.

8. WITHDRAWAL OF BIDS

Bids may not be withdrawn after the time set for the bid opening, unless approved by SAWS Purchasing Director.

9. LATE BIDS OR MODIFICATIONS

Bids and modifications received after the time set for the bid opening will not be considered.

10. CLARIFICATION TO BID SPECIFICATIONS

- (a) If any person contemplating submitting a bid for this contract is in doubt as to the true meaning of the specifications, other bid documents, or any part thereof, he/she may submit to SAWS Director of Purchasing, (Director) on or before five calendar days prior to scheduled opening, a request for clarification. All such requests for information shall be made in writing and the person submitting the request will be responsible for its prompt delivery. Any interpretation of the bid, if made, will be made only by Addendum duly issued. A copy of such Addendum will be mailed or delivered to each person receiving bids. SAWS will not be responsible for any other explanation or interpretation of the proposed bid made or given prior to the award of the contract. Any objections to the specifications and requirements as set forth in this bid must be filed in writing with the Director on or before **five** calendar days prior to the scheduled opening.
- (b) SAWS reserves the right to request clarification to assist in evaluating the bidder's response when the bid response is unclear with respect to product pricing, packaging or other factors. The information provided is not intended to change the bid response in any fashion and such information must be provided within **two** days from request.

11. INVOICING, PAYMENT AND DISCOUNTS

- (a) Address for Invoices. All invoices must be sent to San Antonio Water System, Attn: Accounts Payable, P.O. Box 2449, San Antonio, Texas 78298-2449.

- (b) Information Required On Invoice.

All invoices must be in a form and content approved by SAWS. SAWS may require modification of invoices if necessary in order to satisfy SAWS that all billing is proper and pursuant to the terms of the contract. Invoices are required to show each SAWS Purchase Order Number. Invoices must be legible. Items billed on invoices must be specific as to applicable stock, manufacturer, catalog or part number (if any). All invoices must show unit prices for each item being billed, the quantity of items being billed and the total for each item, as well as the total for all items on the invoice. If prices are based on list prices basis, then the list prices, the percentage discount or percentage surcharge, net unit prices, extension and net total prices must be shown. Prompt payment discount offered shall be shown separately on the invoice.

- (c) Payment by SAWS. SAWS shall have not less than 30 days to pay for goods or services. Time for payment, including payment under discount terms, will be computed from the later of: (1) the date SAWS receives conforming goods under the contract; (2) the date performance of the service under the contract is completed; or (3) the date SAWS receives a correct and valid invoice for the goods or services. Payment is deemed to be made on the date of mailing of the check. Payment is made in US dollars only.

This provision shall not apply where there is a bona fide dispute between SAWS and Vendor about the goods delivered or the service performed that causes the payment to be late, or where the invoice is not mailed to the address provided herein.

The payment amount due on invoices may not be manually altered by SAWS personnel. Once disputed items are reconciled, Vendor must submit a corrected invoice, or a credit memorandum for the disputed amount, or the item must be issued by the vendor. SAWS will not make partial payments on an invoice where there is a dispute.

- (d) **NECESSITY OF TIMELY INVOICE / WAIVER OF PAYMENT** NOTWITHSTANDING THE FORGOING, SAWS CANNOT PAY FOR ANY GOODS OR SERVICES WITHOUT AN INVOICE. VENDOR MUST INVOICE SAWS NO LATER THAN 90 CALENDAR DAYS FROM THE DATE GOODS ARE DELIVERED OR SERVICES RENDERED. FAILURE TO SUBMIT AN INVOICE WITHIN SAID 90 DAY SHALL NEGATE ANY LIABILITY ON THE PART OF SAWS AND CONSTITUTE A WAIVER BY VENDOR OF ANY AND ALL RIGHT OR CLAIMS TO COLLECT MONEYS THAT VENDOR MAY RIGHTFULLY BE OTHERWISE ENTITLED TO FOR GOODS OR SERVICES PERFORMED.
- (e) The total price for all goods and/or services is shown on the Price Schedule. No additional fees or expenses of Vendor shall be charged by Vendor nor be payable by SAWS. The parties hereby agree that all compensable expenses of Vendor are shown on the Price Schedule. If there is a discrepancy on the Price Schedule between the unit price for an item, and the extended price, the unit price shall govern.
- (f) Tax Exemption. The San Antonio Water System is exempt from payment of federal taxes, and State of Texas limited sales excise and use taxes. Bidders must not include such taxes in bid prices. An exemption certificate will be signed by SAWS where applicable upon request by bidder after contract award.
- (g) Prompt Payment Discount. Provided Bidder meets the requirements stated herein, SAWS shall take Bidder's offered prompt payment discount into consideration in determining who the low bidder is. The evaluation will not be based on the discount percentage alone, but rather the net price as determined by applying the discount to the bid price, either per line item or total bid amount. However, SAWS reserves the right to reject a discount if the percentage is too low to be of value to the SAWS, all things considered. SAWS may also reject a discount if the percentage is so high as to create an overly large disparity between the price SAWS would pay if it is able to take advantage of the discount and the price SAWS would pay if it were unable to pay within the discount period. SAWS may always reject the discount and pay within the 30 day period, at SAWS sole option.

SAWS will not consider discounts that provide fewer than 10 days to pay in order to receive the discount.

For example, payment terms of 2% 5, Net 30 will NOT be considered in bid evaluations or in the payment of invoices. However, payment terms of 2% 10, Net 30 will result in a two percent reduction in the bid price during bid evaluation, and SAWS will take the 2% discount if the invoice is paid within the 10 day time period.

12. DISCOUNTS

In connection with any discount offered, time will be computed from the date of receipt of supplies or services, or from the date a correct invoice is received, whichever is the later date. Payment is deemed to be made on the date of mailing of the check.

13. AWARD OF CONTRACT

- (a) Per Section § 252.043 of the Texas Local Government Code, the contract will be awarded to either the lowest responsible bidder or to the bidder who provides goods and/or services at the best value for SAWS. In determining best value, SAWS may consider price, reputation, quality, past relationship with SAWS, SMWB requirements, long term cost and any other relevant factors.

- (b) SAWS reserves the right to accept any item or group of items on this bid, unless the bidder qualifies his/her bid by specific limitations, in accordance with Par.7 (a) 3 above.
- (c) A written award of acceptance (when manifested by an approved Board Resolution and appropriation) mailed or otherwise furnished to the successful bidder results in a binding contract without further action by either party.
- (d) San Antonio Water System reserves the right to utilize previous purchases as a basis for evaluation of bids when future usages are unable to be determined.
- (e) Breaking of tie bids shall be in accordance with the Texas Local Government Code § 271.901.
- (f) Although the information furnished to bidders specified the approximate quantities needed, based on the best available information where a contract is let on a unit price basis, payment shall be based on the actual quantities supplied. SAWS reserves the right to delete items, prior to the awarding of the contract, and purchase said items by other means; or after the awarding of the contract, to increase or decrease the quantities bid in accordance with § 252.048 of the Texas Local Government Code. No changes shall be made without written notification of SAWS.

14. BID PROTEST PROCEDURES

Any bidder who is adversely affected in connection with the solicitation, evaluation, or proposed award of a contract may file a protest appealing the adverse decision to the SAWS Director of Purchasing. The SAWS Director of Purchasing decision on such an appeal shall be final.

Vendor must deliver a written notice of protest to the Purchasing Director within seven (7) calendar days of the posting on SAWS Purchasing website of the intent to award. If vendor does not file a written notice within this time; the vendor will have waived all rights to formally protest the intent to award. It is the vendor's responsibility to check SAWS website posting.

15. DEBRIEFING

Debriefing of contract award is available upon request and after award of the Contract.

16. CONTRACT TERMINATION

TERMINATION-BREACH:

- (a) Should vendor fail to fulfill in a timely and proper manner, as determined solely by the Director of Purchasing, its obligations under this contract, or violate any of the terms of this contract, SAWS shall have the right to immediately terminate the contract. Notice of termination shall be provided in writing to the contractor, effective upon the date set forth in the notice. Such termination shall not relieve the vendor of any liability to SAWS for damages sustained by virtue of any breach by the vendor.

TERMINATION-NOTICE:

- (b) SAWS may terminate this contract without cause. SAWS shall be required to give the vendor notice **ten** days prior to the date of termination of the contract without cause.

TERMINATION-FUNDING:

- (c) SAWS retains the right to terminate this contract at the expiration of each of SAWS budget periods. This contract is conditioned on a best efforts attempt by SAWS to obtain and appropriate funds for payment of any debt due by SAWS herein.

17. DELIVERY OF GOODS/SERVICES

- (a) All materials are to be delivered F.O.B., San Antonio Water System's designated facility.
- (b) Delivery dates pertaining to this invitation must be clearly stated in the bid form where required and include weekends and holidays. Failure to comply with this requirement may be a cause for disqualification of the bid. Unless otherwise specified, delivery at the earliest date is required. The bidder will clearly state in the bid the time required for delivery upon receipt of contract or purchase order. Proposed delivery time must be specific and such phrases "as required", "as soon as possible" or "prompt" may result in disqualification of the bid.
- (c) Upon award of a contract, the vendor is obligated to deliver the goods to the destination specified in the Invitation for Bids or the Purchase Order and bears the risk of loss until delivery. If this Invitation for Bids or Purchase Order does not contain delivery instructions, bidders shall request instructions in writing from the Director. If the delivery instructions contained in the Invitation for Bids allocate delivery costs and risks in a manner contrary to this section, the provisions of this Invitation for Bids shall prevail.
- (d) When delivery is not met as provided for in the contract, the SAWS Purchasing Department reserves the right to make the purchase on the open market, with any cost in excess of the contract price paid by the vendor, in addition to any other damages, direct or consequential, incurred by SAWS as a result thereof. In addition, failure of the vendor to meet the contract delivery dates will be cause for removal of the vendor from SAWS list of eligible bidders as determined by the Purchasing Department.

18. PERFORMANCE DEPOSIT

- (a) The following provisions shall apply only when a performance deposit is specified as required in this Invitation for Bids.
- (b) The successful vendor must furnish the San Antonio Water System with a performance deposit in the amount set forth in the Invitation For Bids. This deposit is not to be submitted with the bid, but must be presented to the Purchasing Department within **ten** days from request.
- (c) The San Antonio Water System will not enter into a contract or issue a purchase order until the successful vendor has complied with the performance deposit provisions.
- (d) The performance deposit shall be in the form of a performance bond (in a form acceptable to SAWS Attorney), cashier's check, certified check upon a state or national bank or trust company, or a check on such bank or trust company signed by a duly authorized officer thereof (checks to be drawn payable to SAWS of San Antonio), or a Certificate of Deposit from such bank or trust company assigned to the San Antonio Water System.
- (e) The performance deposit of the successful vendor shall be returned by SAWS upon completion of the contract and final acceptance of all items in accordance with conditions thereof.
- (f) Failure of successful vendor to perform any of the services required by this contract within **ten** days of receipt of written demand for performance from SAWS, or failure of vendor to correct or replace defective goods or products within **ten** days from receipt of written demand therefore, shall constitute a total breach of this contract and shall cause this contract to terminate immediately upon the expiration of the ten day period. However, the Director may return all or part of the performance deposit to the vendor if the Director determines, in the Director's sole discretion, that the failure to perform the conditions of this contract was the result of acts or events over which the vendor had no control. The determination shall then be final and binding on all parties.

19. INDEPENDENT CONTRACTOR

It is expressly understood and agreed by both parties hereto that SAWS is contracting with the successful vendor as an independent contractor. The parties hereto understand and agree that SAWS shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the successful vendor under this contract and that the successful vendor has no authority to bind SAWS.

20. BID RESULT REQUEST

Any party who wishes to be provided documents relating to the bid results shall make a request in writing. Pursuant to state law, SAWS may assess a fee in order to recoup the cost related to providing the requested information.

21. PATENTS/COPYRIGHTS

The successful vendor agrees to indemnify and hold SAWS harmless from any claim involving patent infringement or copyrights on goods supplied.

22. INDEMNIFICATION

BIDDER covenants and agrees to FULLY INDEMNIFY, DEFEND and HOLD HARMLESS, SAWS and the board members, employees, officers, directors, volunteers and representatives of SAWS, individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon SAWS directly or indirectly arising out of, resulting from or related to BIDDER'S activities under this contract, including any acts or omissions of BIDDER, any agent, officer, director, representative, employee, consultant or subcontractor of BIDDER, and their respective officers, agents employees, directors and representatives while in the exercise of the rights or performance of the duties under this contract. The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of SAWS, its officers or employees, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT BIDDER AND SAWS ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE SAWS UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.

The provisions of this INDEMNITY are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. BIDDER shall advise SAWS in writing within 24 hours of any claim or demand against SAWS or BIDDER known to BIDDER related to or arising out of BIDDER's activities under this contract, and shall see to the investigation and defense of such claim or demand at BIDDER's cost. SAWS shall have the right, at its option and at its own expense, to participate in such defense without relieving BIDDER of any of its obligations under this paragraph.

23. INSURANCE

If required, specific insurance provisions will be included in these bid specifications. An original, completed insurance certificate and all applicable endorsements, meeting the requirements set forth in these specifications, **must be submitted within 10 days of a request from SAWS.** The successful vendor must maintain, at all times

during performance of the contract, the insurance detailed in these bid specifications. Failure to provide these documents may result in disqualification of the bid, or cancellation of the contract, after award.

24. ACCEPTANCE BY SAWS

SAWS shall have a reasonable time (but not less than 30 days) after receipt to inspect the goods and services tendered by vendor. SAWS at its option may reject all or any portion of such goods or services which do not, in SAWS sole discretion, comply in every respect with all terms and conditions of the contract. SAWS may elect to reject the entire goods and services tendered even if only a portion thereof is nonconforming. If SAWS elects to accept nonconforming goods and services, SAWS, in addition to its other remedies, shall be entitled to deduct a reasonable amount from the price thereof to compensate SAWS for the nonconformity. Any acceptance by SAWS, even if non-conditional, shall not be deemed a waiver or settlement of any defect in such goods and services.

25. WARRANTY

The supplies or services furnished under this contract shall be covered by the most favorable commercial warranties given to any customer for same or similar supplies or services.

REJECTION OF DISCLAIMERS OF WARRANTIES & LIMITATIONS OF LIABILITY. ANY TERM OR CONDITION IN ANY DOCUMENT FURNISHED BY VENDOR, DISCLAIMING THE IMPLIED WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE, OR ATTEMPTING TO LIMIT VENDOR'S LIABILITY SHALL BE OF NO FORCE OR EFFECT, AND SHALL BE STRICKEN FROM THE CONTRACT DOCUMENTS AS IF NEVER CONTAINED THEREIN.

26. CHANGE ORDERS

No oral statement of any person shall modify or otherwise change, or affect the terms, conditions or specifications stated in the resulting contract. All change orders will be made in writing by the San Antonio Water System Purchasing Department.

27. ASSIGNMENT

Except as otherwise stated herein, Vendor may not sell, assign, pledge, transfer or convey any interest in this contract, nor delegate the performance of any duties hereunder, by transfer, by subcontracting or any other means, without the prior written approval and consent of the SAWS Purchasing Director. As a condition of such consent, if such consent is granted, Vendor shall remain liable for completion of the services and provision of goods outlined in this contract in the event of default by the successor vendor, assignee, transferee or subcontractor. Any attempt to transfer, pledge or otherwise assign this Contract without said written approval, shall be void and shall confer no rights upon any third person.

28. INTERLOCAL PARTICIPATION

- (a) SAWS may, from time to time, enter into Interlocal Cooperation Purchasing Agreements with other governmental entities or governmental cooperatives (hereafter collectively referred to as "Entity" or "Entities") to enhance SAWS purchasing power. At SAWS sole discretion and option, SAWS may inform other Entities that they may acquire items listed in this Invitation for Bids (hereafter "IFB"). Such acquisition(s) shall be at the prices stated herein, and shall be subject to bidder's acceptance. Entities desiring to acquire items listed in this IFB shall be listed on a rider attached hereto, if known at the time of issuance of the IFB. SAWS may issue subsequent riders after contract award setting forth additional Entities desiring to utilize this bid. VENDOR shall sign and return any subsequently issued riders within **ten** calendar days of receipt.
- (b) In no event shall SAWS be considered a dealer, remarketer, agent or other representative of Vendor or Entity. Further, SAWS shall not be considered and is not an agent; partner or representative of the Entity making purchases hereunder, and shall not be obligated or liable for any such order.

- (c) Entity purchase orders shall be submitted to Vendor by the Entity.
- (d) Vendor authorizes SAWS use of Vendor's name, trademarks and Vendor provided materials in SAWS presentations and promotions regarding the availability of use of this contract. SAWS makes no representation or guarantee as to any minimum amount being purchased by SAWS or Entities, or whether Entity will purchase utilizing SAWS contract.

SAWS WILL NOT BE LIABLE OR RESPONSIBLE FOR ANY OBLIGATIONS, INCLUDING, BUT NOT LIMITED TO, PAYMENT, AND FOR ANY ITEM ORDERED BY AN ENTITY OTHER THAN SAWS.

29. QUESTIONS

Questions regarding interpretation of bids, bid results or bid awards should be directed to the Purchasing Department at (210) 233-3819.

SPECIFICATIONS AND GENERAL REQUIREMENTS

PERIOD OF CONTRACT: Contract shall begin upon the effective date of award and terminate on July 12, 2012.

At SAWS option, this Contract may be renewed under the same terms and conditions for an additional one (1) year periods. Renewals shall be in writing and signed by SAWS Director of Purchasing or his designee, without further action by the San Antonio Water System Board of Trustees, subject to and contingent upon appropriation of funding therefore.

SAWS shall also have the right to extend this contract under the same terms and conditions beyond the original term or any renewal thereof, on a month to month basis, not to exceed 6 months. Said month to month extensions shall be in writing, signed by SAWS Director of Purchasing or his designee, and shall not require Board approval, subject to and contingent upon appropriation of funding therefore.

SCOPE: The San Antonio Water System is soliciting bids for the Maintenance Renewal of the DataDomain Hardware and Software currently installed and operational in our Data Center. The Maintenance Renewal shall include all hardware/software licenses and extend support from the current expiration date through July 12, 2012.

STANDARD REQUIREMENTS

1. Prospective bidders must prove beyond any doubt to SAWS Purchasing Department that they are duly qualified, capable, bondable, etc. to fulfill and abide by the specifications herein listed.
2. When contractor cannot abide by terms and conditions in fulfilling the contract, contractor must supply service or supplies from other sources at the contract price. If contractor delays in the above, SAWS reserves the right to purchase on the open market and charge contractor the difference between contract price and the purchase price.
3. The Annual Contract shall include the following terms and conditions:
 - a. An Annual Contract purchase order will not be issued for each SAWS department authorized to place orders against this annual contract. A contract purchase order will be issued per order. Vendor must have the Contract Purchase Order before making any delivery. Payment will be made by SAWS on a monthly basis.
 - b. All invoices must be submitted in singular and show each purchase order number and corresponding SAWS department. Invoices must be legible. Items billed on invoices must be specific as to applicable stock, manufacturer, catalog or part number (if any). All items must show unit prices or otherwise specified. If prices are based on discounts from list, then list prices, discounts in terms of percentage, and net prices must be shown. If prices are based on list prices basis, then the list prices, the "plus" in terms of percentage, and net unit prices, extensions and net total prices must be shown. In connection with any term discount offered, time will be computed from the first of the month following receipt of supplies or services, or a correct invoice. Payment is deemed to be made on the date of mailing of the check.
 - c. Bidders' facilities and equipment may be a determining factor in making the bid award. All bidders may be subject to inspection of their facilities and equipment.

4. Price must remain firm for the duration for the contract period.
5. Award will be made to the overall responsive lowest bidder.
6. Base period for award will be through July 12, 2012.
7. It is anticipated that award of this contract will be made within 60 days following the date of the bid opening.
8. Questions pertaining to bid will be answered by Mr. Robert Garcia at (210) 233-3818 or via e-mail rgarcia@saws.org.
9. Technical question will be directed to Mr. Fabius Bascon at (210) 233-3742 or via e-mail fbascon@saws.org with a copy to Robert Garcia. .
- 10. Items purchased from this contract shall be through marketplace with SAWS terms and conditions prevailing or shall be provided in accordance with all terms and conditions under DIR Go Direct program criteria for DataDomain Renewal Hardware / Software and guidelines adopted by the San Antonio Water System.**
- 11. Bidders shall provide their DIR contract document and number with their bid if bidding under Go Direct Program.**
12. NOTE: Any manufacturer, brand and model numbers used in these specifications are for the purpose of describing and establishing minimum requirements or level of quality, standard of performance, and design required, and in no way intended to prohibit the bidding of other manufacturers' items of equal specifications.
13. SAWS requires no implementation or installation services for the software.
14. SAWS requires Technical Support, 24 X 7 NBD replacement.
15. SAWS is requesting pricing for maintenance support coverage through July 2012.
16. In the event addition licenses have been added or deleted unit price shall remain the same. All license coverage shall be prorated through July 12TH of the expiring year.

PRICE SCHEDULE
Initial award will be for base period through 7/12/2012

<u>Description/Serial/FAC</u>	<u>Mfg</u>	<u>Item Part#</u>	<u>QTY</u>	<u>Unit Price</u>	<u>Extended Price</u>
SYSTEM; DD690 CTRL; NFS; CIFS (ROHS) 12 Nov 2010 to 12 Jul 2012	DATDOM	DD690-CTL	1	\$ _____	\$ _____
OPTION; ES20 STORSHELF; 16 TB; DUALCTRL 12 Nov 2010 to 12 Jul 2012	DATDOM	C-E16-DC	1	\$ _____	\$ _____
OPTION; ES20 STORSHELF; 16 TB; DUALCTRL 12 Nov 2010 to 12 Jul 2012	DATDOM	C-E16-DC	1	\$ _____	\$ _____
LICENSE; BOOST; DD690 12 Nov 2010 to 12 Jul 2012	DATDOM	L-BST-690	1	\$ _____	\$ _____
OPTION; ES20 STORSHELF; 16 TB; DUALCTRL 21 Jul 2011 to 12 Jul 2012	DATDOM	C-E16-DC	1	\$ _____	\$ _____
OPTION; ES20 STORSHELF; 16 TB; DUALCTRL 21 Jul 2011 to 12 Jul 2012	DATDOM	C-E16-DC	1	\$ _____	\$ _____
SYSTEM; DD690 CTRL; NFS; CIFS (ROHS) 21 Jul 2011 to 12 Jul 2012	DATDOM	DD690-CTL	1	\$ _____	\$ _____
LICENSE; REPLICATOR; DD690 21 Jul 2011 to 12 Jul 2012	DATDOM	L-REP-690	1	\$ _____	\$ _____
LICENSE; BOOST; DD690 21 Jul 2011 to 12 Jul 2012	DATDOM	L-BST-690	1	\$ _____	\$ _____
LICENSE; REPLICATOR; DD690 21 Jul 2011 to 12 Jul 2012	DATDOM	L-REP-690	1	\$ _____	\$ _____
TOTAL					\$ _____

Statement:

“Effective January 1, 2006, Chapter 176 of the Texas Local Government Code requires that persons, or their agents, who seek to contract for the sale or purchase of property, goods, or services with SAWS, shall file a completed conflict of interest questionnaire with the Purchasing Department not later than the 7th business day after the date that the person: (1) begins contract discussions or negotiations with SAWS; or (2) submits to SAWS an application, response to a request for proposals or bids, correspondence, or another writing related to a potential agreement with SAWS. The conflict of interest questionnaire form is available from the Texas Ethics Commission at www.ethics.state.tx.us <<http://www.ethics.state.tx.us>>. Completed conflict of interest questionnaires may be mailed or delivered by hand to the Office of the Purchasing Department. If mailing a completed conflict of interest questionnaire, mail to: Office of the Purchasing Department, P.O. Box 2449, San Antonio, TX 78298-2449. If delivering a completed conflict of interest questionnaire, deliver to: Office of the Purchasing Department, SAWS Main Office, Tower I, 5th floor, 2800 US Hwy 281 North, San Antonio, TX 78212.”

IMPORTANT MAILING INSTRUCTIONS:

MAIL TO: SAN ANTONIO WATER SYSTEM
PURCHASING DIVISION
P.O. BOX 2449
SAN ANTONIO, TX 78298-2449

PHYSICAL ADDRESS: SAN ANTONIO WATER SYSTEM
PURCHASING DIVISION
2800 US HWY 281 NORTH
SAN ANTONIO, TEXAS 78212

MARK ENVELOPE: DATA DOMAIN SOFTWARE RENEWAL
BID NO. 11-1136

OPENING DATE: JUNE 1, 2011 **TIME:** 3:00 P.M.

REMARKS:

SECURITY PROCEDURES

If work will be conducted on SAWS property, involve any SAWS networks or any SAWS facility the Contractor shall ensure a Prime Contractor Data Form (PCDF) and a Background Screening Letter (provided by SAWS Security) is properly completed for all employees performing work under this Agreement and is on file with SAWS Security prior to work commencement. Any person found to have an unacceptable background check will not be allowed to perform work under this Agreement (A waiver may be given by SAWS Security for an unacceptable finding but must be signed off by the Director of SAWS Security). Sub-Contractors performing work must be listed on the PCDF and the Background Screening Letter. Contractor shall be responsible for the accuracy of information on the PCDF and the Background Screening Letter, and for obtaining any and all required items (badges and parking tags) necessary to fulfilling the work under this Agreement. The PCDF and Background Screening Letter must be sent electronically to securitygroup@saws.org. Contractor shall advise the SAWS Project Manager/Inspector of any employee terminations or changes to personnel performing work under this Agreement and the Contractor shall immediately turn in any and all badges and/or parking tags of employees who are terminated or no longer performing work under this Agreement. If there are any changes in the information contained in the PCDF or the Background Screening Letters, Contractor shall immediately notify the SAWS Project Manager/Inspector and provide updated PCDF and Background Screening Letters, with copies to securitygroup@saws.org.

Contractor, its employees, and agents shall obtain a SAWS photo identification badge (Contractor's Badge) and parking tag, prior to any work on SAWS property, which shall be used only for purposes necessary to perform the work under this Agreement. SAWS Badge Office hours are Monday, Wednesday and Friday 8:00am to 12:00pm excluding SAWS holidays (hours are subject to change). Security staff can be contacted at (210) 233-3177 or (210) 233-3338. A replacement fee may be charged for lost or damaged badges or parking tags. As a condition of final payment, Contractor shall return all badges and parking tags to the Security Office. In the event Contractor fails to return all security badges and parking tags, in addition to any other rights or remedies to which SAWS may be entitled at law or in equity, SAWS may withhold from payment to the Contractor the sum of \$500.00 dollars per badge or parking tag as liquidated damages. Contractor agrees that the actual amount of damages for failure to return the badges and/or parking tags are difficult to determine, and the liquidated damages herein are not a penalty, but are a reasonable estimate of the costs and expenses that may be incurred by SAWS for failure to return the badges or parking tags.

SAWS facilities require a SAWS employee to physically escort Contractor at all times. SAWS may, in its sole discretion, waive the escort requirements if the PCDF and a "clean" Background Screening Letter, signed by an authorized representative of Contractor are approved by SAWS Security.

Sub-Contractors must always be under escort of the Contractor while performing work on any SAWS property. Sub-Contractors must display either a company photo badge, with name, or a valid driver's license at all times while working on any SAWS property. Contractor is solely responsible for the actions of its employees, agents, sub contractors and consultants.

Contractor **MUST** be prepared for additional security requirements at its expense if violations of SAWS Security procedures are noted. Some examples of additional requirements include hiring of SAWS approved security guards, temporary fencing, mobile Closed Circuit Television Monitoring trailer(s), or extra lighting. Notwithstanding anything herein to the contrary, any provisions in these Security Procedures that may appear to give SAWS the right to direct Contractor as to details of doing any work under this Agreement or to exercise a measure of control over any security measures or such work shall be deemed to mean that Contractor shall follow the desires of SAWS in the **results** of the work or security measures only.

Advance coordination by Contractor with SAWS Security for these security requirements is necessary to ensure no delays with timely performance of the work. In the event Contractor fails to comply with SAWS Security requirements, SAWS may, with no penalty or claim against SAWS:

- Issue a Work Stoppage Order until the security violation (s) are remedied
- Ask any unidentified or improperly identified person or equipment to leave SAWS site immediately and not return until items are remedied.