

**Town of Tewksbury**

**Request for Proposals**  
**For**  
**Zoning Bylaw Review and Update**

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## LEGAL NOTICE

### REQUEST FOR QUALIFICATIONS

### **Zoning Bylaw Review and Update**

The Town of Tewksbury is seeking proposals for a Zoning Bylaw Review and Update. The selected firm shall have demonstrated previous experience in providing specified services to similar projects, preferably in Massachusetts. A complete RFQ may be obtained, without charge, by contacting the Town of Tewksbury Town Manager's Office at (978) 640-4300. It is recommended that respondents to this request familiarize themselves with the detailed RFQ.

It is the intent of the Awarding Authority to award a contract within sixty (60) business days after receiving the proposals.

The deadline for submitting proposals to the Tewksbury Town Manager's Office is at 2:00PM, March 25, 2016. Proposals should be addressed to Richard A. Montuori, Town Manager, Tewksbury Town Manager's Office, 1009 Main Street, Tewksbury, MA. 01876. Proposals must be clearly labeled "**Proposal for Zoning Bylaw Review and Update**".

## **I. PROJECT BACKGROUND**

The Town of Tewksbury through the Department of Community Development, hereinafter referred to as the “Town”, is seeking proposals from qualified firms/individuals referred to as the “Proposer”, to provide professional services associated with a Zoning Bylaw Review and Update. The current Zoning Bylaw was adopted by Tewksbury Town Meeting in 2002 and has been amended 120 times since adoption. The Planning Board approved a Master Plan on September 15, 2003 which was endorsed at Town Meeting in May 2004. The Town is currently completing an update to the 2003 Master Plan. In December 2015, the Board of Selectmen voted to create a Zoning Bylaw Committee, hereinafter referred to as the “Committee” to assist in the process of the project proposed in this request.

## **II. PROJECT GOALS**

Goal 1: Review current zoning bylaw and planning documents of the Town. Provide written audit of bylaw identifying problems and areas of concern.

Goal 2: Work with the Town and the Committee to involve the general public in the development of an updated zoning bylaw by using a variety of public outreach techniques throughout the process.

Goal 3: Present draft of updated zoning bylaw at joint meeting of the Committee, Board of Selectmen, Planning Board and Zoning Board of Appeals.

Goal 4: Make necessary revisions based upon joint meeting and Planning Board public hearing for Town Meeting action.

The firm selected will be required to execute Town of Tewksbury’s Services Agreement or if the Town desires another agreement approved by the Town. See Expanded Scope of Services (Section IV) for more detail.

## **III. REQUEST FOR PROPOSAL INSTRUCTIONS**

### **Proposal Instruction**

The requirements set forth in these “RFP Instructions” shall become an integral part of a subsequent contractual arrangement.

### **Receipt of Proposals**

The deadline for submitting proposals to the Tewksbury Town Manager’s Office is at 2:00PM, March 25, 2016. Proposals should be addressed to Richard A. Montuori, Town Manager, Tewksbury Town Manager’s Office, 1009 Main Street, Tewksbury, MA. 01876. Proposals must be clearly labeled **Proposal for Zoning Bylaw Review and Update**.

No proposal received after the time established for receiving said proposals will be considered regardless of the cause for delay in the receipt of any such proposal(s).

Questions concerning this Request for Proposals must be submitted in writing to: Steven J. Sadwick, Director of Community Development, Town of Tewksbury, 1009 Main Street, Tewksbury MA, 01876. Questions may be delivered, mailed, emailed or faxed. The email address is [ssadwick@tewksbury-ma.gov](mailto:ssadwick@tewksbury-ma.gov). Written responses will be mailed, emailed or faxed to all proposers on record as having picked up the RFP.

### **Marking of Envelopes**

Original and Four (4) copies of the proposal to:

**Richard A. Montuori, Town Manager**  
**Tewksbury Town Manager's Office**  
**1009 Main Street**  
**Tewksbury, MA 01876**

No later than: 2:00PM on March 25, 2016.

Postmarks will not be considered. It is the sole responsibility of the applicant to be sure that the proposal arrives on time. Proposals should be clearly marked **“Proposal for Zoning Bylaw Review and Update.”**

### **Proposal Form**

All proposals shall be received and evaluated in conformance with the requirements of Applicable Law and the RFP.

Each proposal set must clearly state “Non-Price Services Proposal” and include a separate sealed envelope containing a “Price Proposal.”

A proposal Review Committee shall separate the “Price Proposal” from the “Non-Price Services Proposal”. The “Price Proposal” will not be opened until a review and ranking of the Services “Non-Price Services Proposal” by the Review Committee.

The “Town” will refer each “Non-Price Services Proposal” to the Review Committee, which will determine whether it meets the minimum evaluation criteria set herein. Failure of a proposal to meet a minimum criterion will disqualify the proposal from further consideration. The Committee shall state in writing its reason for disqualifying any proposal.

Price Proposals should include a lump sum to undertake the Zoning Bylaw Review and Update as well as hourly billable rates for staff/employees.

Each proposer shall complete the attached minimum evaluation criteria form identified as Attachment A and Application Form in Attachment F.

### **Plan of Services**

A statement and outline of the scope of the firm's services are to be provided.

### **Interpretation of Contract Documents**

All interpretations and supplemental instructions will be in the form of written addenda to the specifications, which, if issued, will be mailed or faxed to all proposers on record as having

requested the RFP. Addenda shall be made available to proposers not later than three days prior to the date fixed for the receipt of proposals at the Tewksbury Town Manager's Office, to the attention of Richard A. Montuori. Failure of any proposer to receive any such addendum or interpretation shall not relieve any proposer from any obligation under his submission. All addenda as issued shall become part of the contract documents.

### **Modification of Proposals**

A proposer may correct or modify a proposal by written notice received by the awarding authority prior to the receipt deadline. Modifications must be submitted in a sealed envelope clearly labeled "Modification No. \_\_\_\_." Each modification must be numbered in sequence, and must reference the original RFP.

After the receipt deadline, a proposer may not change any provision of the proposal in a manner prejudicial to the interests of the "Town" or fair competition. Minor informalities will be waived or the proposer will be allowed to correct them. If a mistake and the intended proposal are clearly evident on the face of the document the mistake will be corrected to reflect the intended correct proposal, and the proposer will be notified in writing; the proposer may not withdraw the proposal. A proposer may withdraw a proposal if a mistake is clearly evident on the face of the document, but the intended correct proposal is not similarly evident.

### **Withdrawal of Proposals**

Proposals may be withdrawn prior to the time of receipt of proposals, only on written request to the awarding authority. No proposer shall withdraw his proposal within a period of sixty (60) days after the date set for the receipt of proposals.

### **Unexpected Closures**

If at the time of the scheduled receipt deadline, the Town Manager's Office is closed due to uncontrolled events such as fire, snow, ice, wind, building evacuation, etc. the receipt of proposals will be postponed to the next normal business day at the time posted in the request for proposals. Proposals will be accepted until that date and time.

### **References and Company Background**

Must complete FORM RCB-1 and include with RFP.

### **Rule for Award of Contract**

The Town will award a contract to the proposer offering the most advantageous proposal, taking into consideration all evaluation criteria as well as price. The "Town" reserves the right upon the basis of such evaluations to reject the proposal of any and all proposers who do not in its estimation pass under such evaluations or to select other than the apparent lowest price proposal if the evaluations or other investigations indicate that such action is in the best interests of the "Town".

Action on the award will be taken within thirty (30) days, excluding Saturdays, Sundays and legal holidays, after receiving the proposals. The Tewksbury Town Manager will be the awarding

authority and all awards will be made in the best interest of the “Town”. Following positive action by the Awarding Authorities, contracts and purchase orders will be issued accordingly.

### **Licensing**

The “Proposer” shall possess and comply with all required and necessary licenses as may be specified by Federal, State and/or Local authorities, related to the delivery of services referred to in this RFP.

### **Execution of Contract**

Upon the acceptance of each selected consultant’s submittal, the Town will incorporate into its Standard Contract, appropriate specifics for this procurement and submit the contract to the successful consultant for signing. In the event that the selected consultant fails, neglects or refuses to execute the contract within a specified number of days after receiving a copy of the contract from the Town, the Town may at its option terminate and cancel its action in awarding the contract and the contract shall become null and void and of no effect.

Incorporated by reference into the contract which is to be entered into by the Town and the selected consultants pursuant to this RFP will be all of the information presented in or with this RFP and the consultant's response thereto, and all written communications between the Town and the successful consultant whose submittal is accepted.

A designated official of the consultant and the Town of Tewksbury shall execute the contract.

### **Insurance Coverage**

Within (5) days after award of this contract, and prior to the commencement of any work activity, the “Proposer” shall deposit with the “Town”; certificates from insurers clearly stating that the insurance policies required in the following paragraphs have been issued to the “Proposer” . The certificate must be in a form satisfactory to the “Town”. For the duration of this contract evidence of said coverage shall be filed with the Town Manager’s Office. Liability policies shall name the Town of Tewksbury, as an additional insured.

### **Worker’s Compensation**

The “Proposer” shall, before commencing the contract, provide by insurance for the payment of compensation, and the furnishing of other benefits under Chapter 152 of the General Laws to all persons employed under the contract, and shall continue such insurance in force and effect during the term thereof. Statutory limits shall apply.

### **Comprehensive General Liability Insurance**

The “Proposer” shall carry Public Liability Insurance with an insurance company satisfactory to the “Town” so as to hold the “Town” harmless from any and all claims for damages arising out of bodily injury or destruction of property caused by accident resulting from the use of implements, equipment, or labor used in the performance of the contract or from any neglect, default, or omission or want of proper care, or misconduct on the part of the “Proposer” or for anyone in his employ during the execution of the work. Minimum coverage shall be as follows:

Comprehensive General Liability insurance policy with the following limits of coverage: Bodily

Injury, One Million Dollars (\$1,000,000) each person/each occurrence; Property Damage, One Million Dollars (\$1,000,000) each occurrence; Two Million Dollars (\$2,000,000) General Aggregate per project..

A Comprehensive Automobile insurance policy with the following limits: Bodily Injury, One Million Dollars (\$1,000,000) each person/each occurrence; or a Combined Single Limit of One Million Dollars (\$1,000,000) and Property Damage; One Million Dollars (\$1,000,000) each occurrence, or a Combined Single Limit of One Million Dollars (\$1,000,000) for owned, hired and non-owned autos.

Professional Liability Insurance covering claims arising out of errors, omissions and acts by Consultant in rendering professional services, in the amount of \$1,000,000.00

Umbrella Excess Liability coverage in the amount of One Million Dollars (\$1,000,000) over all Liability Insurance.

Include Indemnification to indemnify and hold harmless the Town of Tewksbury in the performance of the Services under this Agreement.

Provide the Town with Federal taxpayer identification number (FID).

The "Proposer" agrees to save, defend, indemnify and hold harmless the "Town" against any and all suits, claims or liabilities of every name, nature or description arising out of or in consequence of the acts of its agents, servants or employees, in the performance of the obligations under this contract or by reason of its failure to fully comply with the terms of this contract, such indemnity to run to the Town Officers, Agents and employees of the Town Tewksbury and The Tewksbury Town Manager's Office .

The "Proposer" shall not cancel, change or revise any insurance relating to this contract without at least 15 days prior notice to Richard A. Montuori, Town Manager Prior to the effective date of any such cancellation, the "Proposer" shall take out new insurance to cover the policies so canceled and shall provide certificates stating that such insurance is in effect.

### **Breach of Contract**

In the case of failure on the part of the "Proposer" to execute the work as per agreement, the "Town" reserves the right to terminate the contract, satisfying its wants through another "Proposer", and the "Town" may collect from the original "Proposer" any difference in price as a result of such failure on the part of the original "Proposer" . "Failure" shall be interpreted as meaning willful non-compliance of any item included in the specifications.

This contract may not be terminated for any other reason than that set forth in the above paragraph, unless by mutual consent of both parties to the contract, and then only if a minimum of thirty (30) days' notice of intent to seek to terminate the contract is given in writing to all parties to the contract.

Exercise of the rights herein specified shall not impair or affect the "Client's" right to recover the damages for breach of contract.

### **Contractual Liability**

Failure to perform when such failure is due to an act of God, public enemy, fire, strikes, labor difficulties, transportation embargoes, or other similar causes beyond the control of the "Proposer", shall be good and sufficient reason for excuse from contractual liability.

#### **Good Faith, Fraud and Collusion**

The proposer hereby certifies that no officer, agent or employee of the Tewksbury Town Manager's Office or The Town of Tewksbury ("Town"), has a special interest in the RFP; that the proposer is competing solely on their own behalf without connection with, or obligation to, any undisclosed person or firm; that this proposal is made in good faith without fraud, collusion or connection of any kind with any other bidder for the same work (**See Non-Collusion form**). **Form must be executed and returned with proposal.**

#### **Acknowledgement of ADA and Section 504**

The "**Town**" acknowledges the existence of the Americans with Disabilities Act (ADA) of 1990, and Section 504 of the Rehabilitation Act of 1973. The rights guaranteed within these Acts shall apply to this contract.

#### **No Assignment**

Assignment by a successful consultant to any third party of any contract based on the RFP or any monies due shall be absolutely prohibited and will not be recognized by the Town unless approved in advance by the Town in writing.

#### **Confidentiality**

Under the Massachusetts General Laws, the Town cannot assure the confidentiality of any materials or information that may be submitted by a consultant in response to this RFP. Thus consultants who choose to submit confidential information do so at their own risk.

#### **Length of Contract**

The initial term of the contract shall be for one year. However, the Town of Tewksbury, at its sole option, may extend the contract for a maximum of two additional one-year terms.

#### **Rights to Submitted Material**

All submittals, response inquiries, or correspondence relating to or in reference to this RFP, and all reports, charts, displays, schedules, exhibits and other documentation submitted by consultants shall become the property of the Town when received.

#### **Non-Discrimination in Employment and Affirmative Action**

The consultant shall not discriminate against any qualified employee or applicant for employment because of race, color, national origin, ancestry, age, sex, religion or physical or mental handicap. The consultant agrees to comply with all applicable Federal and State statutes, rules and regulations prohibiting discrimination in employment including: Title VII of the Civil Rights Act

of 1973; Massachusetts General Laws Chapter 151B Section 4 (1); and all relevant administrative orders and executive orders.

If a complaint or claim alleging violation by the consultant of such statutes, rules, or regulations is presented to the Massachusetts Commission Against Discrimination (MCAD) the consultant agrees to cooperate with MCAD in the investigation and disposition of complaint or claim.

In the event of the consultant's non-compliance with the provisions of this section, the Town shall impose such sanctions, as it deems appropriate, including but not limited to the following:

- A. Withholding of payments due the consultant until the consultant complies; and
- B. Termination or suspension of any contract or agreement pursuant to this RFP.

#### **IV. SCOPE OF SERVICES**

The general scope of services shall include, but not be limited to, the following tasks:

1. Prepare a written audit of the Zoning Bylaw to identify problems with the following:
  - Structure and format,
  - Ease of access and navigability,
  - Clarity of language and presentation,
  - Internal conflicts and inconsistencies,
  - Obsolete or missing provisions,
  - Updates to implement recently completed plans, if any,
  - Provisions that need to be updated to conform with Chapter 40A and current case law, and
  - Other matters deemed significant by the Consultant.
  - The zoning audit process should include interviews with Town staff and frequent users of the Zoning Bylaw, e.g., developers, civil engineers, attorneys, as well as meetings with the Planning Board and Board of Appeals.
2. Prepare a framework paper (discussion document) and preliminary outline of the revised zoning bylaw. The framework paper should describe options for the Town to consider in addressing issues identified in the zoning audit, including the addition of illustrations, where appropriate, to improve clarity.
3. Prepare drafts and revisions of the recodified Zoning Bylaw. For planning purposes, the Consultant should assume three drafts and a reading period for each. The third reading draft should be the “consensus” version that includes all changes that will be presented to town meeting for adoption.
- 4.

#### **Public Participation**

A Zoning Bylaw Committee will be established to work with the Consultant to coordinate the Work Plan and facilitate public meetings. The initial meeting will be held as a kick-off meeting with Staff and the Committee.

The Consultant will meet five (5) times with the Committee as follows:

- 1) Kick-off meeting
- 2) Deliver and discuss results of audit

- 3) Receive input of Draft 1
- 4) Receive input of Draft 2
- 5) Receive input of Draft 3

Consultant shall present Draft 3 to joint meeting of Committee, Board of Selectmen, Planning Board and Zoning Board of Appeals.

Consultant shall prepare a hearing draft with navigation guides for use at the Planning Board's public hearing.

Consultant shall prepare for and attend town meeting to assist with presenting the recodified Zoning Bylaw.

**Final Product(s)**

Prepare final draft zoning bylaw for Town Meeting vote. This may include a revised zoning map.

## **V. QUALIFICATIONS**

**All firms must possess the following minimum qualifications:**

1. Experience developing and recodifying zoning bylaws.
2. Experience and clear understanding of Massachusetts General Law Chapter 40A and other case law relevant to zoning in Massachusetts.
3. Experience developing and recommending policies and procedures related to zoning implementation.
4. Experience setting goals, analyzing complex problems, generating alternative solutions, and providing recommendations and implementation strategies.
5. Sufficient levels of staff to complete the project.
6. Must have prior to signing of the contract:
  - A. Professional Liability Insurance as stated in the RFP
  - B. Workers Compensation Insurance in accordance with all applicable states laws.
  - C. Liability Insurance stated in the RFP
7. The Review Committee shall require a Certificate of Insurance in accordance with the above requirements from an insurance company licensed to do business in the Commonwealth of Massachusetts.
8. Submit Federal taxpayer identification number (FID).
9. Proposer must have a minimum of three (3) years of satisfactory performance under at least three (3) different contracts similar to the proposed contract.

## **VI. SELECTION PROCEDURES**

**The Review Committee will review all proposals and select one firm for a short list. The selection of the finalist will be based on the following criteria:**

1. Prior similar experience of the firm and the experience and qualifications of the personnel assigned to the project.
2. Past performance on public sector projects.
3. Financial Stability.
4. Completed application form for “Proposer” Services in Attachment F
5. Identity and qualifications of all consultants who will work with the applicant on the projects if applicable
6. Any other criteria that the Review Committee considers relevant for the project.

7. Scope of services offered and the appropriateness to the needs of the Town.
8. Quality of past work and evaluation of past clients.
9. All other criteria as listed in Attachment B.

## **VII. GENERAL AND SPECIAL PROVISIONS**

1. The Review Committee reserves the right to cancel this Request for Proposals, or to accept or reject any and all proposals, waive informalities, and to award contracts as may be in the best public interest of the "Town".
2. All proposals become the property of the Tewksbury Town Manager's Office & the Town of Tewksbury.
3. The firm selected shall be expected to comply with all applicable federal and state laws in the performance of services.
4. The consideration of all proposals and subsequent selection of an architectural firm shall be made without regard to race, color, sex, age, handicap, religion, political affiliation, or national origin.
5. The successful firm shall adhere to the provisions of the Fair Employment Practices Law of the Commonwealth of Massachusetts (See Gen. Laws c. 151B).
6. The provisions relating to non-discrimination and affirmative action in employment shall flow through all contracts and sub-contracts that the successful firm may award as a result of this contract.
7. Firms and/or individuals preparing proposals may be asked to provide additional information and/or may be requested to make a presentation of their proposal.
8. Proposals must be unconditional.
9. Selection shall be subject to additional discussions and/or negotiations based on proposals received.
10. The Town is an EEO/AA/MBE employer. Women and minority owned businesses are encouraged to apply.
11. No protests regarding the validity or appropriateness of the specifications or of the Request for Proposals will be considered unless the protest is filed in writing with the Town prior to the closing date for proposals. Should a protest be rejected or disallowed the protester may within forty-eight (48) hours (except Saturdays, Sundays, and State holidays) appeal this decision in writing to the Review Board.

## **VIII. MINIMUM EVALUATION CRITERIA**

Each applicant shall indicate his/her agreement with each of the following questions as part of their submission.

To merit further consideration of a proposal by the Selection Committee the applicant must indicate “yes” and comply, where appropriate, with each statement below.

1. Has the “Proposer” conformed in all material respects to the submission requirements as set forth in the RFP? YES\_\_\_ NO\_\_\_
2. Has the “Proposer” the experience to prepare studies, project cost estimates, bid documents and provide project administrative services? YES\_\_\_ NO\_\_\_
3. Has the “Proposer” read this Request for Proposal and understood their role? YES\_\_\_ NO\_\_\_
4. Has the “Proposer” a minimum of five years’ experience in the development of master plans in Massachusetts? YES\_\_\_ NO\_\_\_
5. Has the “Proposer” provided a detailed description of at least four (4) recent similar projects on which the “Proposer” has performed similar services? YES\_\_\_ NO\_\_\_
6. Has the “Proposer” not been debarred under M.G.L., chapter 149, Section 44C? YES\_\_\_ NO\_\_\_

**After evaluating the minimum criteria the remaining proposals shall be evaluated by the Review Committee based on the comparative evaluation criteria specified in Attachment B. In analyzing responses to the evaluative criteria, the Review Committee shall consider the qualifications of the applicant and make any investigations deemed relevant to the selection process. Attributes of services proposed, investigations into qualifications, project team, prior relevant experience, past performance, ability to meet project time schedules, and responsibility of the applicant may also be considered. The Review Committee will confirm claims of past experience and may request finalists to attend an interview to further explain or clarify their summary statement of qualifications or other elements of their proposal.**

## **IX. COMPARATIVE CRITERIA**

Proposals will be evaluated by the Review Committee on the basis of submission requirements and the following ranking criteria in addition to those listed in “Selection Procedure”:

### **1. Relevant experience of proposer and/or proposed project staff:**

***Highly Advantageous:*** The proposer has at least five (5) years of experience consulting for a municipality on similar type projects of comparable size and scope to this project.

***Advantageous:*** The proposer has at least three (3) years of experience consulting for a municipality on similar type projects of comparable size and scope to this project.

***Not Advantageous:*** The proposer has less than three (3) years of experience consulting for a municipality on similar type projects of comparable size and scope to this project.

### **2. Proposer's demonstrated ability to complete projects on a timely basis:**

**Highly Advantageous:** All four of the proposer's references indicate that the projects were completed on schedule or with minimal, insignificant delays.

**Advantageous:** Only one of the proposer's references indicates that the project was completed with substantial delays attributable to the proposer.

**Not Advantageous:** Two of the proposer's references indicate that the project was completed with substantial delays attributable to the proposer.

**Unacceptable:** All four of the proposer's references indicate that the project was completed with substantial delays attributable to the proposer.

### **3. Evaluation of the proposed plan:**

**Highly Advantageous:** The proposal contains a clear and comprehensive plan that addresses all of the project objectives stated in the RFP.

**Advantageous:** The proposal contains a clear plan that addresses most of the project objectives stated in the RFP.

**Not Advantageous:** The proposal does not contain a clear path that addresses most of the project objectives stated in the RFP.

### **4. Prior Experience with Tewksbury Town Manager's Office & Town of Tewksbury ("Town"):**

**Highly Advantageous:** Awarded contracts by Tewksbury Town Manager's Office & Town of Tewksbury ("Town") to provide similar services during the past five years.

**Advantageous:** Familiar with the Town of Tewksbury through third party agreements to provide services.

**Not Advantageous:** Has not visited project sites and reviewed work areas.

### **5. Proposals will be rated on these criteria as follows:**

- **Highly Advantageous** - Proposal excels on specified criteria.
- **Advantageous** - Proposal fully meets the evaluation standard, which has been specified.
- **Not Advantageous** - Proposal does not fully meet the evaluation standard, is incomplete or unclear, or both.
- **Unacceptable** - Proposal does not meet the specified criteria.

## **X. COMPARATIVE EVALUATION CRITERIA**

The Tewksbury Town Manager's Office and the Town of Tewksbury ("Town") places a premium on the applicants approach to the project and the ability to present a program of services, which complies with the required Project Scope in a manner which is clear, concise and complete with respect to required activities. The "Town", will find it unacceptable if such a program of services is not included, or is included in an incomplete manner. Proposals that address required items, but only in general or vague terms that do not adequately represent tasks to be performed will be given the rating of not advantageous. Proposals which address all required items in an adequate manner but are unclear in some respects which leave questions on the part of the "Town" as to key aspects of the manner in which tasks will be performed will be given the rating of advantageous. Proposals, which excel in all respects in clearly and concisely addressing all required elements of the Scope of Services shall be given the rating of highly advantageous.