



# Shelby County Tennessee

Mark H. Luttrell, Jr. Mayor

## **Request for Proposal**

### **Shelby County Government**

### **Purchasing Department**

160 N. Main, Suite 550  
Memphis, TN 38103

*Issued: April 20, 2012*

*Due: May 4, 2012 no later than 4:00 P.M. (Central Standard Time)*

### **RFP # 12-004-57**

### **REPLACEMENT OF FUEL STORAGE TANKS**

### **SHELBY COUNTY SERVICE STATION,**

### **511 ALABAMA**

Shelby County Government is soliciting proposals for the provision of Construction Services to provide for the Replacement of Fuel Storage Tanks located at Shelby County Service Station, 511 Alabama Avenue, Memphis, Tennessee 38103. Information regarding this RFP is located on the County's website at [www.shelbycountyttn.gov](http://www.shelbycountyttn.gov). At the top of the home page, click on the links "Department," "P" for the Purchasing Department and "Bids" to locate the name of the above-described RFP.

A **Voluntary** pre-bid conference will be held at 1:30 PM, Friday, April 27, 2012 at Shelby County Support Services, Conference Room, 584 Adams Avenue, Memphis, Tennessee 38103.

Please be on time late arrivals will not be allowed to attend the pre-bid conference.

Copies of the project manual and drawing can be downloaded from our web site located at [www.shelbycountyttn.gov](http://www.shelbycountyttn.gov). At the top of the home page, click on the links “Department,” “P” for the Purchasing Department and “Bids” to locate the name of the above-described RFP.

If you prefer, bound copies of the project manual and drawing can be obtained from Fisher & Arnold located at 9180 Crestwyn Hills Drive, Memphis, Tennessee 38125 for a \$75.00 non-refundable deposit.

The proposal, as submitted, should include all estimated costs related to the services requested by the RFP specifications. If selected, your proposal will be the basis for negotiating a contract with Shelby County Government. Your proposal must be received in the Shelby County Purchasing Department **no later than 4:00 p.m. on May 4, 2012.** Proposals should be addressed to:

**Nelson Fowler, Manager A  
Shelby County Government  
Purchasing Department  
160 N. Main St., Suite 550  
Memphis, TN 38103**

The package containing an original (clearly identified as original) and three (3) copies of your proposal must be sealed and marked with the Proposer’s name and “**CONFIDENTIAL, REPLACEMENT OF FUEL STORAGE TANKS, SHELBY COUNTY SERVICE STATION, 511 ALABAMA AVENUE , RFP # 12-004-57**” noted on the outside.

Sincerely,

**Nelson Fowler, Manager A  
Shelby County Government  
Purchasing Department**

cc: Cliff Norville, Support Services  
Diep Tran, Support Services

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***Note: Please make sure you pay close attention to Sections: I-V, IX & XI. These sections will clearly outline what information is required to properly respond and prepare your RFP response.***

***Please download all of the additional information and attachments that accompany this RFP.***

## I. INTRODUCTION

Shelby County Government's Support Services Department (the "County") is seeking proposals from interested and qualified contractors for Replacement of Fuel Storage Tanks, 511 Alabama Avenue, Memphis, Tennessee 38103. This Request for Proposal (RFP) is being released to invite interested and qualified firms to submit proposals in accordance with instructions provided where the successful candidate will be selected and invited to enter into a contractual relationship with Shelby County for the Services outlined in this RFP.

## II. MINIMUM PROPOSER REQUIREMENTS

Proposer must:

1. Must submit a Bid Bond in the amount of 5% of their bid. This bond must be submitted with your bid.
2. Have prior to the bid due date all appropriate licenses and certifications required in the State of Tennessee for the performance of the Services in accordance with the provisions of this RFP. Also, license number, amount, expiration date, and classification must be listed on the outside of the bid envelope per state requirement.
3. The successful contractor must be able to submit a performance/labor material bond separate bonds each in the amount of 100% of the amount of the contract.
4. Firms located within the boundaries of Shelby County are required to have a current Shelby County Business License or be considered exempt from the license requirement by the Shelby County Clerks Office.
5. Must attend our pre-bid conference.
6. Must submit LOSB Form B with their bid and attached to the out side of the envelope.
7. Also, see Item # IX page 24 for forms to be submitted with your bid.
8. Prime and LOSB contractors must **apply** and **qualify** for an Equal Opportunity Compliance (EOC) certification number through our EOC Administration prior to submitting your response.
9. Independent contractors (sole proprietors) must adhere to State of Tennessee Public Chapter No. 436, know as the "Tennessee Lawful Employment Act (effective date of 1/1/2012). Proof and documentation of employment eligibility must be included with the proposal.

**Please Note: As a part of doing business with Shelby County, each individual, company, or organization is required to obtain a vendor number and an “Equal Opportunity Compliance” certification number.**

***You can access the online application to receive the numbers indicated above at [www.shelbycountyttn.gov](http://www.shelbycountyttn.gov) and click the link “Department” at the top, then P for Purchasing Department, then click on the link “Conducting business with Shelby County”. Please download the application instructions and read thoroughly prior to accessing the application.***

***If you have any questions regarding the application, you may contact Purchasing at (901) 222-2250 or the EOC Administration at (901) 222-1100.***

### **III. CORRESPONDENCE**

**All correspondence, proposals and questions concerning the RFP are to be submitted to:**

**Nelson Fowler, Manager A  
Shelby County Government  
160 N. Main St. Suite 550  
Memphis, TN 38103**

Respondents requesting additional information or clarification are to contact Nelson Fowler in writing at [nelson.fowler@shelbycountyttn.gov](mailto:nelson.fowler@shelbycountyttn.gov) at the address listed above. Questions should reference the section of the RFP to which the question pertains and all contact information for the person submitting the questions. ***IN ORDER TO PREVENT AN UNFAIR ADVANTAGE TO ANY RESPONDENT, VERBAL QUESTIONS WILL NOT BE ANSWERED. The deadline for submitting questions will be Tuesday, May 1, 2012 by 12:00 p.m. (CST).*** These guidelines for communication have been established to ensure a fair and equitable process for all respondents.

***Note: All written questions submitted by the deadline indicated above will be answered and submitted to the respondent via email.***

**Please be aware that contact with any other personnel (other than the person clearly identified in this document) within Shelby County regarding this RFP may disqualify your company from further consideration.**

### **IV. PROPOSAL SUBMISSION & DEADLINE**

All proposals must be received at the address listed above no later than **May 4, 2012 @ 4:00 p.m. (CST)**. Facsimile or e-mailed proposals will not be accepted since they do not contain original signatures. Postmarks will not be accepted in lieu of actual receipt. Late or incomplete proposals may not be opened and considered. Under no circumstances, regardless of weather conditions, transportation delays, or any other circumstance, will this deadline be extended.

## V. PROPOSAL TIMELINE

Shelby County reserves the right to modify this timeline at any time. If the due date for proposals is changed, all prospective proposers shall be notified.

<b>Request for Proposals Released</b>	<b>Friday, April 20, 2012</b>
<b>Voluntary Pre-bid (if applicable)</b>	<b>Friday, April 27, 2012, 1:30 PM</b>
<b>Proposal Due Date</b>	<b>Friday, May 4, 2012 by 4:00 pm (CST)</b>
<b>Notification of Award</b>	<b>May/June 2012</b>
<b>Services to Commence</b>	<b>July 1, 2012 or immediately upon execution of the contract</b>

The County may reproduce any of the proposer's proposal and supporting documents for internal use or for any other purpose required by law.

## VI. PROPOSAL CONDITIONS

### a. Contingencies

This RFP does not commit the County to award a contract. The County reserves the right to accept or reject any or all proposals if the County determines it is in the best interest of the County to do so. The County will notify all proposers, in writing, if the County rejects all proposals.

### b. Modifications

The County reserves the right to issue addenda or amendments to this RFP.

### c. Proposal Submission

To be considered, all proposals must be submitted in the manner set forth in this RFP. It is the proposer's responsibility to ensure that its proposals arrive on or before the specified time.

### d. Incurred Costs

This RFP does not commit the County to pay any costs incurred in the preparation of a proposal in response to this RFP and Proposers agree that all costs incurred in developing this RFP are the Proposer's responsibility.

### e. Final Authority

The final authority to award a contract rests solely with the Shelby County Purchasing Department.

### f. Proposal Validity

Proposals submitted hereunder will be firm for at least ninety (90) calendar days from the due date unless otherwise qualified.

**g. Disclosure of Proposal Contents**

Proposer understands and acknowledges that the County is a governmental entity subject to the laws of the State of Tennessee and that any reports, data or other information supplied to the County is subject to being disclosed as a public record in accordance with the laws of the State of Tennessee. All proposals and other materials submitted become the property of Shelby County Government.

**h. LOSB**

The County encourages the utilization of locally-owned small businesses as sources of subcontract work. The County notifies all respondents that all firms and/or individuals shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Title VI of the Civil Rights Act of 1964, as amended.

**LOCALLY OWNED SMALL BUSINESS PURCHASING PROGRAM RULES AND REGULATIONS:**

- (i) The Administrator of Purchasing in conjunction with the Administrator of EOC shall identify certain goods and services required by the County to be set aside for special purchasing procedures for locally owned small businesses.
- (ii) Only certified locally owned small businesses will be allowed to submit competitive bids on the goods or services identified under paragraph (i) above.
- (iii) The Administrator of Purchasing shall, in conjunction with the Administrator of EOC, annually review the Shelby County Capital Improvement Program to determine those projects with a construction cost of \$250,000 or more. Contracts amounting to at least ten percent (10%) of the construction costs of such project shall be awarded to locally owned small businesses as defined herein, except as set forth in sub-paragraph (vi) of this section, either as part of the conditions of the solicitation for general contractors bidding on these projects, or as separate bids issued by the County for subcontracts that may be assigned to general contractors.
- (iv) After adhering to all other bidding and purchasing requirements of the County, not inconsistent with this part, if no bids are received from locally owned small businesses, then the County may solicit bids for the goods or services from all other sources.
- (v) On all purchases and/or contracts entered into by the County, the Purchasing Administrator or his or her designee shall have the right to negotiate with any supplier of goods or services to the County for the inclusion of locally owned small business subcontractors and/or suppliers in the contract award.
- (vi) Failure by a supplier or proposer to include locally owned small business sub-contractors or suppliers in its bid or contract may be grounds for rejection of said bid or contract unless the supplier or proposer can show documented evidence of good cause why none were included.

(vii) Any locally owned small business awarded a contract or purchase order under this section shall not sublet, subcontract or assign any work or services awarded to it without the prior written consent of the Mayor or the Purchasing Administrator.

(viii) As to those purchases below the requirement for a formal bid solicitation (currently, under \$15,000) and not included in the locally owned small business set aside, the Administrator of Purchasing shall determine if any locally owned small business offers that product or service. If so, at least one such eligible locally owned small business should be included in the vendors contacted for an opportunity to bid, and the Administrator of Purchasing may, at his discretion, designate in a purchase order the purchase of such goods and services from the identified locally owned small business.

(ix) In those situations where a locally owned small business as defined herein, engages in open competitive bidding for County contracts, the Administrator of Purchasing shall provide for a preference for the locally owned small business where responsibility and quality are equal. Said preferences shall not exceed five percent (5%) of the lowest possible bidder meeting specifications. The preference shall be applied on a sliding scale in the following manner:

- a. A preference of up to five percent (5%) shall be allowed for contracts up to \$500,000.00;
- b. A preference of up to three and one-half percent (3.5%) shall be allowed for contracts up to \$750,000.00;
- c. A preference of two and one-half percent (2.5%) shall be allowed for contracts up to \$1,000,000.00;
- d. A preference of two percent (2%) shall be allowed for contracts that exceed \$1,000,000.00.

(x) For construction contracts over \$2,000,000.00, the Administrator of Purchasing shall provide for a preference of two percent (2%) to general contractors meeting the requirements of Section 1, Subparagraph B, if fifty percent (50%) or more of the total work comprising the bid has been or will be awarded to certified locally owned small businesses. The fifty percent (50%) subcontracting threshold must be met prior to contract execution.

(xi) The Administrator of Purchasing may divide a single bid package for any purchase of goods and services into two or more smaller bid packages in any case that the Administrator of Purchasing reasonably believes that the smaller bid packages will result in a greater number of bids by locally owned small businesses.

(xii) The Administrator of Purchasing, upon approval of the County Mayor, may establish special insurance and bonding requirements for certified locally owned small businesses so long as they are not in conflict with the laws of the State of Tennessee.

(xiii) The Administrator of Purchasing, with the approval of the County Mayor, shall adopt and promulgate, and may from time to time, amend rules and regulations not inconsistent with the provisions of this ordinance, governing the purchase of goods and services from locally owned small business concerns to effectuate and implement the Locally Owned Small Business Purchasing Program within the intent of this ordinance.

(xiv) The Administrator of EOC shall, in conjunction with the Administrator of Purchasing, provide a written quarterly report to the Mayor and Board of Commissioners which shall include a summary of the purchases selected for this program, a listing of the contracts awarded to locally owned small businesses for the period, and the dollar amounts of each such contract, and the percentage which such contracts bear to the total amount of purchases for the period.

**i. Living Wage Ordinance and Prevailing Wage Ordinance**

**Living Wage** - In accordance with Ordinance Number 328, commonly referred to as the Living Wage Ordinance, all persons/entities engaged in service contracts with the County, including but not limited to both prime and subcontractors, shall pay a Living Wage to employees for all work performed on said service contract, as defined in the Living Wage Ordinance. Proof of such compensation must be evidenced as required in the Living Wage Ordinance.

**Prevailing Wage** – Any firm, individual, partnership or corporation awarded a contract by the COUNTY for the construction of, improvement, enlargement, alteration or replacement of a public work or project in excess of \$500,000 and any subcontractors of such public work or project in excess of \$100,000 (“Recipient”) shall be required to pay local prevailing wages and benefits for laborers, mechanics, or other listed classifications as defined by the Tennessee Department of Labor. The prevailing wage rate shall be the most current State of Tennessee prevailing wage established by the Tennessee Department of Labor For Region 1 (Shelby County). The benefit rates shall be the most current rates described in the published schedule by the Memphis and West Tennessee County Code of Ordinances. The applicable rate shall be determined at the time that the project is awarded. In instances where prevailing wage applies, Prevailing Wage will override the Living Wage requirement.

**j. Non-discrimination and Title VI**

The contractor hereby agrees, warrants, and assures compliance with the provisions of Title VI and VII of the Civil Rights Act of 1964 and all other federal statutory laws, which provide in whole or in part that no person shall be excluded from participation or be denied benefits of or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the contractor on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal, Tennessee State Constitutional or statutory law. The contractor shall upon request

show proof of such non-discrimination and shall post in conspicuous places available to all employees and applicants notices of non-discrimination. Any recipient entity shall be subject to the requirements of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq., and regulations promulgated pursuant thereto. It shall develop a Title VI implementation plan with participation by protected beneficiaries as may be required by such law or regulations. To the extent applicable, such plan shall include Title VI implementation plans sub-recipients of federal funds through the entity. The contractor shall produce the plan upon request of Shelby County Government. Failure to provide same shall constitute a material breach of contract.

**SHELBY COUNTY GOVERNMENT  
LOCALLY OWNED SMALL BUSINESS (LOSB) PROGRAM  
FOR CONSTRUCTION SERVICES**

**REPLACEMENT OF FUEL STORAGE TANKS  
SHELBY COUNTY SERVICE STATION  
511 ALABAMA AVENUE  
MEMPHIS, TENNESSEE 39103**

**General**

Shelby County Government is committed to a policy of non-discrimination pursuant to the Equal Protection provisions of the United States Constitution. It is further the policy of Shelby County that its purchasing and contracting practices encourage the use of Locally-Owned Small Businesses (LOSB's) in all solicitations. In furtherance of these policy objectives, Shelby County seeks to afford all citizens equal opportunities to do business on county contracts and to ensure that all bidders, proposers, or Contractors doing business with Shelby County provide to LOSB's, maximum practicable opportunities, commensurate with availability, price and capabilities required, to participate on contracts which are paid for, in whole or in part, with monetary appropriations from Shelby County.

Shelby County seeks to prevent discrimination against any person or business in pursuit of these opportunities on the basis of race or gender. Shelby County will conduct its contracting and purchasing programs so as to discourage any discrimination and will actively seek to resolve all claims of discrimination brought against Shelby County or any Contractors involved in such contracting and purchasing programs.

Shelby County has determined that 25% of the contract shall be contracted with LOSB's vendors. For assistance and information regarding LOSB participation, Bidders shall contact:

Ms. Doris Vester  
Office of Equal Opportunity Compliance  
Board of Commissioners of Shelby County  
160 North Main Street, Suite 969  
Memphis, Tennessee 38103  
Phone: 901-222-1100  
Fax: 901-222-1101  
E-mail: Doris.Vester@shelbycountyttn.gov

## Definitions

The definitions used in this document are as follows:

1. **“Bidder”** or **“Proposer”** means any person, firm, partnership, association, or joint venture seeking to be awarded a contract or subcontract to provide goods, commodities or services.
2. **“Certification”** or **“Certified”** means a Business that is certified by Shelby County Government under the LOSB program.
3. **“Commercially useful function”** means being responsible for the management and performance of a distinct element of the total work.
4. **“Contractor”** shall mean any person or business enterprise that submits a bid or proposal to provide labor, goods, or services to Shelby County by contract for profit in the area of construction or construction-related activities; and, any person or firm who supplies or provides labor, goods, or services to Shelby County by contract for profit.
5. **“Efforts to Achieve LOSB Participation”** means that the Contractor will solicit LOSB Participation with respect to the procurement and will consider all sub-bids and quotations received from LOSB’s. When a subcontract is not awarded to the LOSB, the Contractor must document the reason(s) the award was not made and substantiate that documentation in writing pursuant to the provisions of this Program.
6. **“Locally Owned Small Business (LOS B)”** means a business whose home office is located in Shelby County, whose annual revenues do not exceed \$3,000,000 and who has been certified by Shelby County Office of Equal Opportunity Compliance.
7. **“Non-LOS B”** means a business, which is not certified as a LOSB.
8. **“Unavailable”** means either that: (1) there is no LOSB providing goods or services requested; or, (2) no LOSB submitted a bid.

## Requirements and Compliance

All firms or entities seeking to become Contractors as outlined herein are required to make good faith efforts to achieve LOSB participation when submitting a proposal or bidding on Shelby County procurements. Bidders and proposers shall not discriminate on the basis of race or gender when soliciting bids in the performance of Shelby County’s procurements. Discrimination complaints brought to the attention of Shelby County Office of Equal Opportunity Compliance (or its designee) will be reviewed and investigated to the extent necessary to determine the validity of such complaints and what actions, if any, should be taken by Shelby County.

## Policies and Procedures

Shelby County may adopt policies and procedures as necessary to carry out and implement its powers and duties with regard to the LOSB Program. It is the goal of Shelby County to encourage participation by LOSB’s and to adopt rules and regulations which achieve to the greatest extent possible a level of participation by LOSB’s taking into account the total number of all Contractors and suppliers. Therefore, Shelby County will review each procurement request to determine the maximum potential for utilization of LOSB’s. This review is based on the availability of qualified LOSB’s providing goods or services as it relates to the scope of the bid or procurement process. The following procedures may be utilized during the procurement process.

### 1. Pre-Bid Activity

- a. Bid Language  
Shelby County may insert language into each bid specification describing the LOSB Program to assure that all prospective bidders are aware of the requirements to make efforts to utilize LOSB's.
- b. Notification  
Shelby County may provide written notification to Contractors and LOSB's regarding: pre-bid conferences; technical assistance to LOSB's; LOSB Program procedures and required documentation; and, provide a list of LOSB's who have expressed an interest in competing for the bid or in performing as a subcontractor.

## 2. Contractor's Responsibilities

- a. Efforts to Achieve LOSB Participation  
All entities seeking to become Contractors are required to make efforts to achieve maximum LOSB participation, as outlined in this LOSB Program, when submitting a response to a bid or negotiated proposal in response to a Shelby County procurement opportunity. Such Efforts should be documented on **LOSB Form "A."**
- b. Utilization  
Contractors are required to utilize legitimate LOSB's in order to receive credit for the utilization of a LOSB. Contractors must document all LOSB's to be utilized, the percentage of utilization and the intended scope of work. Such information should be submitted on **LOSB Form "B."** This documentation must be submitted with the bid or negotiated proposal document.
- c. Commercially Useful Functions  
All LOSB's identified on **LOSB Form "C"** or **LOSB Form "D"** shall perform a Commercially Useful Function.
- d. Unavailability  
If a potential Contractor's efforts to obtain LOSB participation are unsuccessful due to the unavailability of a LOSB, the Contractor will submit a statement of unavailability. **LOSB Form "A."**
- e. Pre-Work Conference  
Any Contractor who is the successful bidder shall be required to attend a conference with Shelby County prior to beginning the work. The primary purpose of this conference is to review the project scope and review LOSB participation as outlined in **LOSB Form "B."** Shelby County will also review the Statement of Intent to Perform as a Subcontractor or Provide Supplies or Services as documented on **LOSB Form "C."**
- f. Post-Award Change  
Any Contractor who determines that a LOSB identified on **LOSB Form "B"** cannot perform shall request approval from Shelby County to contract with an alternate subcontractor pursuant to this LOSB Program. Such request will be reviewed and approved only after adequate documentation for the proposed change is presented.
- g. LOSB Certification  
Each month the Contractor shall submit **LOSB Form "D"** certifying all payments made to LOSB's.

## 3. LOSB Responsibilities

a. **Commercially Useful Function**

It is the responsibility of each LOSB providing subcontracted goods and/or services to submit **LOS Form "C"** certifying that it is performing the work and that it is a Commercially Useful Function.

**Written Agreement**

Shelby County policies and procedures on LOSB participation are designed to create contractual relationships between Contractors and LOSB's. Therefore, a Contractor may utilize the services of a LOSB in estimating and satisfying the scope of work, provided that a written contract/agreement is executed between the Contractor and the LOSB.

**Certification**

To ensure that the ownership and control over decision-making and day-to-day operations of a Certified LOSB is legitimate, Shelby County reserves the right to verify the ownership and control of each LOSB utilized.

**Monitoring LOSB Utilization**

Shelby County intends to monitor and enforce this LOSB Program. Shelby County reserves the right to conduct random audits of each of its Contractor's LOSB's. Shelby County reserves the right to reevaluate a LOSB's certification at any time.

**Efforts to Achieve LOSB Participation**

The Contractor shall consider all bids and/or quotations received from LOSB's. When a subcontract is not awarded by a Contractor to any of the competing LOSB's, the Contractor must document the reason(s) the award was not made to the LOSB's. It is the responsibility of the Contractor to prove that it employed Efforts to Achieve LOSB participation. Evidence supporting the Contractor's Efforts must be documented on **LOS Form "A,"** which must include, but is not limited to, the following:

1. Contractor must submit proof that it solicited LOSB participation through reasonable and available means including, but not limited to:
  - a. Written notices to LOSB's who have the capability to perform the work of the contract or provide the service;
  - b. Direct mailing, electronic mailing, facsimile or telephone requests.
2. Contractor must submit proof that it provided interested LOSB's with adequate information about plans, requirements and specifications of the contract in a timely manner to assist them in responding to a solicitation.
3. Contractor must submit proof that it made Efforts to Achieve LOSB Participation including, but not limited to, proof that it made opportunities available to LOSB suppliers and identified opportunities commensurate with opportunities made available and identified to Non LOSB's. Such proof will include the names of businesses, contact person(s), addresses, telephone numbers, and, a description of the specifications for the work selected for subcontracting.
4. Contractor must submit proof that it allowed LOSB's the opportunity to review bid specifications, blue prints and all other bid related items at no charge. The Contractor must allow sufficient time for review prior to the bid deadline.

5. Contractor must submit proof that it made Efforts to Achieve LOSB Participation by not rejecting a LOSB as unqualified or unacceptable without sound reasons based on a thorough investigation of their capabilities. Contractor must submit proof of the basis for rejecting any LOSB deemed unqualified or unacceptable by the Contractor. The Contractor will not impose unrealistic conditions of performance on LOSB's seeking subcontracting opportunities.

The Contractor must fully cooperate with Shelby County in its post-contract award LOSB Program audit and compliance efforts.

## **Substitution of LOSB's after Contract Award**

In order to make a substitution of a LOSB, a Contractor must make a request to Shelby County. This request must be submitted in writing to Shelby County. Shelby County reserves the right to approve any substitution of a LOSB. The Contractor has the responsibility to provide Shelby County with a reasonable basis for the substitution. If the Contractor desires to substitute the LOSB with a Non-LOSB, then the Contractor must comply with the Effort to Achieve LOSB Participation provisions set forth herein.

## **Noncompliance with LOSB Program**

Any of the following reasons, individually or collectively, may result in suspension from bidding, prohibition from contracting, or cancellation of contracts:

1. The failure to perform according to contract provisions relating to this LOSB Program;
2. Violation of, circumvention of, or failure to comply with the LOSB Program; and/or,
3. Other reasons deemed appropriate by Shelby County.

## **Questions and Information**

Questions regarding this LOSB Program and requests for information should be directed to:

Ms. Doris Vester  
Office of Equal Opportunity Compliance  
Board of Commissioners of Shelby County  
160 North Main Street, Suite 969  
Memphis, Tennessee 38103  
Phone: 901-222-1100  
Fax: 901-222-1101  
E-mail: Doris.Vester@shelbycountyttn.gov

## **Construction**

This LOSB Program is consistent with Shelby County Policies and Procedures. Wherever conflicts exist, the provision in the Shelby County Policies and Procedures will prevail.

## **LOSB Program Forms Description**

- **LOSB Form A -- Certification of Efforts**

Contractors are required to submit **LOSB Form "A"** with proposals as evidence and documentation of efforts that have been made to contact LOSB's for participation as subcontractors, joint venture partners, or suppliers of goods and services. Contractors are required to contact LOSB's and solicit quotes for goods and services. All responses to the Contractor's solicitation should be recorded and reported.

- **LOSB Form B -- LOSB Utilization Plan**

A Contractor is required to submit **LOS Form "B"** with its Proposal in order to identify all LOSB's they propose to utilize in providing the goods and services included in the Proposal. Contractors may only include a proposed provider of goods or services on **LOS Form "B,"** if the entity is a legitimate LOSB. Additionally, if such entity will provide services, Contractors may only list LOSB's on **LOS Form "B"** if the entity will perform a Commercially Useful Function. The Successful Contractor will be required to finalize and submit **LOS Form "B"** prior to award of a contract. **LOS Form "B"** will be incorporated into the contract and will become a contractual obligation of the Successful Contractor. **LOS Form "B"** shall not be changed or altered after award of a contract without approval from Shelby County. The Contractor is required to provide written notice describing the reasons for any proposed change to Shelby County and to obtain approval from Shelby County of any changes to **LOS Form "B."**

- **LOS Form C** –Statement of Intent to Perform as a Subcontractor or Provide Supplies or Services

Contractors are required to have each subcontracted LOSB providing services complete **LOS Form "C"** certifying that it is performing the work and that it is a Commercially Useful Function.

- **LOS Form D** – Statement of Payments to LOSB's

Contractors are required to record and maintain information regarding the utilization of LOSB's and all other information during the performance of awarded contracts. This information shall be recorded and maintained on **LOS Form "D."** The form is required to be submitted to Shelby County each month. **LOS Form "D"** must be completed in its entirety with information regarding the types of goods purchased from LOSB's or the types of services rendered by LOSB's and dollars amounts paid for their goods or services.

**Shelby County  
 LOSB Program**

**LOS B FORM A**

**CERTIFICATION OF EFFORTS TO ACHIEVE LOSB PARTICIPATION**

(To Be Submitted with the Bid/Proposal)

**Company Name:** \_\_\_\_\_

**Bid No.:** \_\_\_\_\_

I certify that the following efforts were made to achieve LOSB participation:

		YES	NO
A	Provided written notices to LOSB's who have the capability to perform the work of the contract or provide the service		
B	Direct mailing, electronic mailing, facsimile or telephone requests		
C	Provided interested LOSB's with adequate information about plans, requirements and specifications of the contract in a timely manner to assist them in responding to a solicitation		
D	Allowed LOSB's the opportunity to review bid specifications, blue prints and all other bid/RFP related items at no charge, and allowed sufficient time for review prior to the bid deadline		
E	Acted in good faith with interested LOSB's, and did not reject LOSB's as unqualified or unacceptable without sound reasons based on a thorough investigation of their capabilities		
F	Did not impose unrealistic conditions of performance on LOSB's seeking subcontracting opportunities		

Additionally, I contacted the referenced LOSB's and requested a bid/proposal. The responses I received were as follows:

Name and Address of LOSB	Type of Work And Contract Items, Supplies or Services to be Performed	Response	Reason for Not Accepting Bid/Proposal

*(If additional space is required, this form maybe duplicated)*

**If applicable, please complete the following:**

I hereby certify that LOSB's were "Unavailable" as defined in the LOSB Program to submit bids to provide goods and services for this RFP/Bid's purpose.

Reasons for the "Unavailability":

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Submitted by:

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Authorized Representative Signature

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Title

---

Date

**Shelby County  
 LOSB Program  
 LOSB FORM B  
 LOSB UTILIZATION PLAN  
 (To Be Submitted with the Bid/Proposal)**

**Company:** \_\_\_\_\_  
**Bid No.:** \_\_\_\_\_

I, \_\_\_\_\_, do certify that on the following procurement opportunity,  
 (Contractor)  
 \_\_\_\_\_, the following LOSB's will be utilized as sub-contractors, suppliers,  
 (Opportunity)  
 or to provide professional services:

Name	Description of Work	Contract Value	LOSB Number

*(If additional space is needed this form may be duplicated)*

TOTAL CONTRACT VALUE: \_\_\_\_\_

TOTAL % OF LOSB PARTICIPATION: \_\_\_\_\_

*The successful bidder/proposer is required to finalize and submit this form prior to award of a contract. Joint Venture Agreements, partnering agreements and all pertinent information must be presented prior to contract award. This information will be incorporated into the contract and will become a contractual obligation of the successful bidder/proposer. The finalized LOSB Form B shall not be changed or altered after award of a contract without approval from Shelby County. The successful bidder/proposer is required to provide written notice describing the reasons for the change to Shelby County to obtain approval of any changes to LOSB Form B.*

Submitted by:

\_\_\_\_\_  
 Authorized Representative Signature

\_\_\_\_\_  
 Title

\_\_\_\_\_  
 Date

**Shelby County  
LOSB Program  
LOSB FORM C**

**STATEMENT OF INTENT TO PERFORM AS A SUBCONTRACTOR OR  
PROVIDE SUPPLIES OR SERVICES  
(To Be Submitted Prior to Contract Award)**

**Company Name:** \_\_\_\_\_

**Bid No.:** \_\_\_\_\_

I, \_\_\_\_\_, intend to provide supplies or services in connection with the  
(Subcontractor/Provider)  
above **bid/proposal** request as a LOSB.

I am prepared to perform a “**Commercially Useful Function**” in connection with the above project.

The following are the work items to be performed:

\_\_\_\_\_  
\_\_\_\_\_

at the following price: \$ \_\_\_\_\_.

**If applicable, please complete the following:**

I have or will enter into a formal agreement with \_\_\_\_\_ for the above-  
(Company)  
described scope of work, supplies, or services conditioned upon the execution of a contract  
with Shelby County.

I hereby certify that this statement is true and correct:

Business Information:

Business: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_

Facsimile: \_\_\_\_\_

Submitted by:

\_\_\_\_\_  
Authorized Representative (Print)

Title \_\_\_\_\_

Authorized Representative's Signature \_\_\_\_\_

Date \_\_\_\_\_

**Shelby County  
 LOSB Program  
 LOSB FORM D**

**STATEMENT OF PAYMENTS TO LOSB'S**  
 (To Be Submitted Monthly and with Final Payment Request)

Company Name: \_\_\_\_\_

Name/Contract No.: \_\_\_\_\_

Payment Request Number: \_\_\_\_\_

Name of Firm	Description of work	Total Amount Due This Month	Total Dollars Paid To Date	% of Contract Completed	Start Date of Contract	End Date of Contract

*(If additional space is needed this form may be duplicated)*

I hereby certify that this statement is true and that above payments have been made.

Business Information:

Business: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

Facsimile: \_\_\_\_\_

Submitted by:

\_\_\_\_\_

Authorized Representative (Print)

\_\_\_\_\_

Title

\_\_\_\_\_

Authorized Representative's Signature

\_\_\_\_\_

Date

**VII DRUG-FREE WORKPLACE AFFIDAVIT**

**STATE OF** \_\_\_\_\_

**COUNTY OF** \_\_\_\_\_

The undersigned, principal officer of \_\_\_\_\_, an employer of five (5) or more employees contracting with \_\_\_\_\_ County government to provide construction services, here states under oath as follows:

1. The undersigned is a principal officer of \_\_\_\_\_ (hereinafter referred to as the "Company"), and is duly authorized to execute this Affidavit on behalf of the Company.
2. The Company submits this Affidavit pursuant to T.C.A. § 50-9-113, which requires each employer with no less than five (5) employees receiving pay who contracts with the state or any local government to provide construction services to submit an affidavit stating that such employer has a drug-free workplace program that complies with Title 50, Chapter 9, of the *Tennessee Code Annotated*.
3. The Company is in compliance with T.C.A.~ 50-9-113. Further affiant saith not.

Principal Officer

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Before me personally appeared \_\_\_\_\_ with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who acknowledged that such person executed the foregoing affidavit for the purposes therein contained.

Witness my hand and seal at office this \_\_\_\_\_ day of \_\_\_\_\_ 20

Notary Public

My commission expires:

**VIII GRATUITY DISCLOSURE FORM**

**Shelby County Ethics Commission**

**INSTRUCTIONS:** This form is for all persons receiving any Shelby County Government contract, land use approval or financial grant money to report any gratuity that has been given, directly or indirectly, to any elected official, employee or appointee (including their spouses and immediate family members) who is involved in the decision regarding the contract, land use approval, or financial grant of money.

**1. NAME**

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**2. DATE OF GRATUITY**

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**3. NATURE AND PURPOSE OF THE GRATUITY**

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**4. NAME OF THE OFFICIAL, EMPLOYEE, APPOINTEE, OR FAMILY MEMBER WHO RECEIVED THE GRATUITY**

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**5. NAME OF THE PERSON OR ENTITY THAT PROVIDED THE GRATUITY**

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**6. ADDRESS OF THE PERSON OR ENTITY THAT PROVIDED THE GRATUITY**

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**7. DESCRIPTION OF THE GRATUITY**

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**8. COST OF THE GRATUITY (If cost is unknown and not reasonably discernible by the person giving the gratuity, then the person giving the gratuity shall report a good faith estimate of the cost of the gratuity.)**

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**9. The information contained in this Gratuity Disclosure Form, and any supporting documentation or materials referenced herein or submitted herewith, is true and correct to the best of my knowledge, information and belief and affirm that I have not given, directly or indirectly, any gratuity to any elected official, employee or appointee (including spouse and immediate family members) that has not been disclosed and I affirm that I have not violated the provisions of the Shelby County Government Code of Ethics.**

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**Signature**

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**Date**

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**Print Name**

*A copy of your completed form will be placed on the Shelby County Internet website.*

**IX FORMS TO BE SUBMITTED:**

**LOSB FORM A: MUST BE COMPLETED AND SUBMITTED IN YOUR BID ENVELOPE.**

**LOSB FORM B: MUST BE COMPLETED, SUBMITTED WITH YOUR BID AND ATTACHED TO THE OUTSIDE OF THE ENVELOPE DOCUMENTING ALL LOSB'S TO BE UTILIZED, THE PERCENTAGE OF UTILIZATION AND THE INTENDED SCOPE OF THE WORK.**

**LOSB FORM C- MUST BE COMPLETED AND SUBMITTED BY EACH LOSB PROVIDING SUBCONTRACTED GOODS AND OR SERVICES CERTIFYING THAT THEY ARE PERFORMING THE WORK AND THAT IT IS A COMMERCIALY USEFUL FUNCTION. ONLY REQUIRED AFTER THE AWARD OF THE BID.**

**LOSB FORM D-MUST BE COMPLETED AND SUBMITTED BY THE SUCCESSFUL CONTRACTOR EACH MONTH CERTIFYING ALL PAYMENTS MADE TO LOSB'S.**

**DRUG FREE WORKPLACE AFFIDAVIT - MUST BE COMPLETED AND SUBMITTED WITH YOUR BID.**

**BID BOND - ALL BIDS MUST BE ACCOMPANIED BY A BANK CERTIFIED CHECK OF BANK DRAFT, LETTER OF CREDIT ISSUED BY ANY NATIONAL BANK OR APPROVED BID BOND FOR NOT LESS THAN 5% (PERCENT) OF THE AMOUNT OF THE BID. ALL PROPOSAL GUARANTEES SHALL BE MADE OUT TO THE COUNTY OF SHELBY.**

**NOTE: THE SUCCESSFUL CONTRACTOR WILL SUBMIT LOSB FORM C AND D.**

**FAILURE TO SUBMIT THE REQUIRED FORMS MAY RESULT IN YOUR BID BEING REJECTED AS BEING IN NON-COMPLIANCE WITH BID REQUIREMENTS.**

## X. NOTICE TO BIDDERS

April 20, 2012

### Receipt of Bids:

Request For Proposal's for the improvements described herein will be received at THE OFFICE OF THE SHELBY COUNTY ADMINISTRATOR OF PURCHASING, ROOM 550, SHELBY COUNTY ADMINISTRATION BUILDING, 160 NORTH MAIN, MEMPHIS, TENNESSEE 38103, until FRIDAY, May 4, 2012 @ 4:00 PM.

**NOTE: THERE WILL BE NO PUBLIC BID OPENING FOR THIS BID.**

### 2. Description of Work:

- a. The proposed work is officially known as: **“REPLACEMENT OF FUEL STORAGE TANKS, 511 ALABAMA AVENUE, MEMPHIS, TENNESSEE 38103”**

### 3. Pre-Bid Meeting/Bid Documents:

bidders are encouraged to attend a pre-bid meeting to be held AT 1:30 pm, Friday, April 27, 2012 at the following location: Shelby County Support Services, 584 Adams Avenue, Conference Room, Memphis, Tennessee 38103.

Copies of the project manual and drawing can be downloaded at our web site located at [www.shelbycountyttn.gov](http://www.shelbycountyttn.gov). At the top of the home page, click on the links “Department,” “P” for the Purchasing Department and “Bids” to locate the name of the above-described RFP.

If you prefer, bound copies of the project manual and drawing can be obtained from Fisher & Arnold located at 9180 Crestwyn Hills Drive, Memphis, Tennessee 38125 for a \$ 75.00 non- refundable deposit.

### 4. Instruction to Bidders:

- (a) The REQUEST FOR PROPOSAL MUST BE DOWNLOADED FROM THE SHELBY COUNTY GOVERNMENT WEBSITE at [www.shelbycountyttn.gov](http://www.shelbycountyttn.gov) and click the link “Department” at the top, then P for the Purchasing Department, then click on the link “Bids.”
- (b) All bids must be accompanied by a bank cashier's check or bank draft, letter of credit issued by any national bank or certificate of deposit therein, duly assigned, or certified check or approved bid bond for not less than five (5) percent of the amount of the bid. All proposal guarantees shall be made out to the COUNTY OF SHELBY.

- i. All bidders must be licensed by the Tennessee State Board of Licensing
- ii. General Contractors Evidence of this license must appear on the title page of the Proposal in the space provided, and on the exterior of the sealed envelope. The envelope enclosing each bid must show the Contractor's name, license number, expiration date thereof, and license classification of the contractor(s) bidding for the prime contract and for the masonry, electrical, plumbing, heating, ventilation, and air conditioning subcontracts in accordance with TCA 62-6-119. Lacking all of this information, the bid shall be rejected and returned to the bidder unopened.

**5. EOC Requirements:**

- a. As a condition precedent to bidding, bidders shall have received a current "Equal Opportunity Compliance Eligibility Number" which must be attached to each bid submission. To receive an E.O.C. Eligibility Number, specific information must be received by the E.O.C. Department at least 48 hours prior to the bid opening. To verify your E.O.C. Number or to receive information for obtaining a number, contact the E.O.C. Department, 222-1100.
- b. Use of Locally Owned Small Business (LOSB) participation on County projects is mandatory.
- c. Bidders are encouraged to contact County-certified LOSB firms from a listing that can be obtained from Shelby County EOC Department, 160 North Main Street, Suite 969, Memphis, Tennessee 38103. Bidders may also provide the names of firms they believe would qualify as LOSB firms, by notifying the E.O.C. Department and filing the required forms at least five (5) working days prior to the bid opening
- d. A Locally Owned Small Business is defined as a sole proprietorship, corporation, partnership, or joint venture located within Shelby County and at least 51% owned, operated and managed by a Shelby County resident and having an average annual ale of \$5,000,000.00 or less over the past three (3) years.

**6. Rejection of Bids:**

The **COUNTY OF SHELBY** reserves the right to reject any and all proposals and to waive technicalities in any proposal.

**BY ORDER OF:**

**CLIFTON DAVIS**

**PURCHASING ADMINISTRATOR**

**SHELBY COUNTY GOVERNMENT**