



# 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: September 6, 2013*

**Due: September 27, 2013 no later than 3:00 P.M. (Central Standard Time)**

### **RFP # 14-008-12**

### **Consulting Services for Development Of Promotional Examinations (Shelby County Fire Department)**

Shelby County Government is soliciting written proposals, on a competitive basis, from interested and qualified companies or professionals to contract for Consulting Services to Develop Promotional Examinations for various positions within the Shelby County Fire Department. 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.

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 3:00 PM on Friday September 27, 2013.** Proposals should be addressed to:

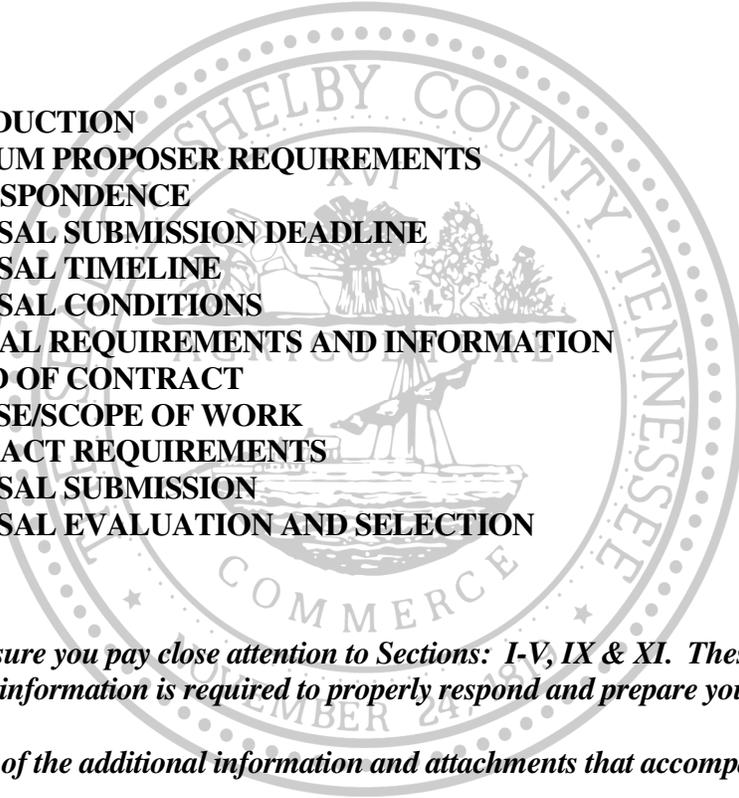
Andre Z. Woods, Buyer  
Shelby County Government  
Purchasing Department  
160 N. Main St., Suite 550  
Memphis, TN 38103

**The package containing the original and five (5) copies of your proposal must be sealed and marked with the Proposer's name and "CONFIDENTIAL" RFP 14-008-12 CONSULTING SERVICES FOR DEVELOPMENT OF PROMOTIONAL EXAMINATIONS noted on the outside.**

Sincerely,

Andre Z. Woods, Buyer  
Shelby County Government  
Purchasing Department

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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 (the “County”), on behalf of the Shelby County Fire Department is seeking proposals from interested and qualified Consultants to develop Promotional Examinations (the “Services”), for the rank of Driver, Lieutenant, and Battalion Chief positions within the Shelby County Fire Department. The examinations(s) should accurately and directly reflect the tasks performed and the knowledge required at each level and identify those employees who have the highest probability for success on the job. This Request for Proposal (“RFP”) is being released to invite interested and qualified Consultants to prepare and submit proposals in accordance with instructions provided where one successful candidate will be selected and invited to enter into a contractual relationship with Shelby County for the Services outlined in this RFP. In this RFP, the terms Proposer and Consultant are used interchangeably unless the context indicates otherwise.

## II. MINIMUM PROPOSER REQUIREMENTS

All Proposers must:

1. Have at least five (5) years experience in development and validation of promotional examinations.
2. Have sufficient, competent and skilled staff, with experience in performing the Services.
3. Have all appropriate licenses and certifications required in the State of Tennessee to perform the Services and procure all permits, pay all charges, taxes and fees.
4. Independent contractors (sole proprietors) must adhere to State of Tennessee Public Chapter No. 436, known as the “Tennessee Lawful Employment Act” (effective date of 01/01/12). Proof and documentation of employment eligibility must be included with the proposal.
5. **Apply** and **qualify** for a vendor number and an Equal Opportunity Compliance (EOC) certification number through our EOC Administration (*see the details outlined in Section VII General Requirement / e. Selection Criteria*) **prior to submitting your response.**
6. Attest that you adhere to all Title VI requirements and provide proof/documentation if necessary.
7. Provide proof of the minimum insurance requirements (**MANDATORY**, please review closely).

***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 (EOC)” certification number.***

***You can access the online applications to receive the numbers indicated above at [www.shelbycountyn.gov](http://www.shelbycountyn.gov). To obtain a vendor number and an EOC number, please follow the instructions below:***

**Vendor Number (Purchasing Department)**

At the top of the home page, click on the links “Department”, “P” for the Purchasing Department and “Conducting Business with Shelby County”. The “Vendor Registration” link is at the bottom of the drop down box. Please download the application instructions and read thoroughly prior to accessing the application. (*Applications for a vendor number are accepted online only.*)

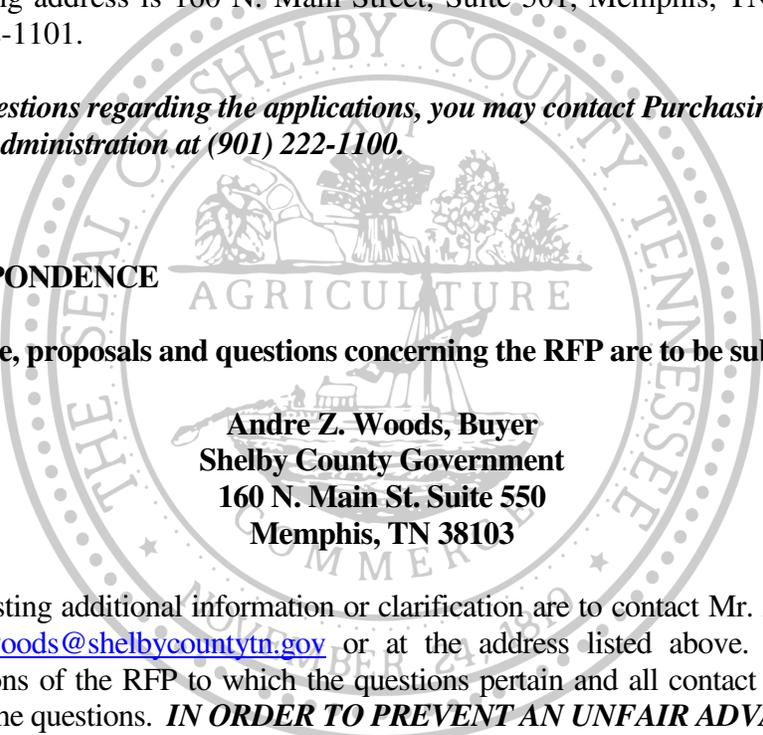
**Equal Opportunity Compliance (EOC) Number (EOC Administration Office)**

At the top of the home page, click on the links “Department”, “E” for the Equal Opportunity Compliance and “Contract Compliance Program”. The “Contract Compliance Packet” link is in the middle of the page. Please print the packet and mail or fax the completed packet to the EOC office. The mailing address is 160 N. Main Street, Suite 501, Memphis, TN 38103. The fax number is 901-222-1101.

*If you have any questions regarding the applications, 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:



**Andre Z. Woods, Buyer  
Shelby County Government  
160 N. Main St. Suite 550  
Memphis, TN 38103**

Respondents requesting additional information or clarification are to contact Mr. Andre Z. Woods in writing at [andre.woods@shelbycountyttn.gov](mailto:andre.woods@shelbycountyttn.gov) or at the address listed above. Questions should reference the sections of the RFP to which the questions pertain 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 September 18, 2013 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 posted on the County’s website at [www.shelbycountyttn.gov](http://www.shelbycountyttn.gov) within 48 hours of the above cut-off date.***

**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 **September 27, 2013 @ 3:00 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, September 6, 2013</b>
<b>Mandatory Pre-Bid Conference</b>	<b>N/A</b>
<b>Questions Due Date</b>	<b>Wednesday, September 18, 2013 at 12:00 pm (CST)</b>
<b>Proposal Due Date</b>	<b>Friday, September 27, 2013 by 3:00 pm (CST)</b>
<b>Notification of Award</b>	<b>October / November 2013</b>
<b>Services to Commence</b>	<b>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 **one year (365) calendar days** from the due date unless otherwise qualified.

**G. Disclosure of Proposal Contents**

The 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 (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 Providers bidding on these projects, or as separate bids issued by the County for subcontracts that may be assigned to general Providers.

(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 sub-Providers and/or suppliers in the contract award.

(vi) Failure by a supplier or Provider to include locally owned small business sub-Providers or suppliers in its bid or contract may be grounds for rejection of said bid or contract unless the supplier or Provider 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 five-tenths 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 Providers 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.

## **VII. GENERAL REQUIREMENTS AND INFORMATION**

### **A. Scope of Contract**

The County wishes to engage in a contractual relationship with the best-qualified proposer selected through a competitive process that will work well with the County's personnel in the performance of the Services in a manner that is cost-effective and practical of which price is but one of the selection criteria. The Consultant must be prepared to begin immediately upon receipt of a fully executed contract and written "Notice to Proceed" from the County. The term of the contract will begin upon the execution of the contract and should conclude at the completion of the project

## **B. Introduction**

The Shelby County Human Resources Department is responsible to oversee and ensure fair and unbiased promotion of employees under its Civil Service Merit System. The department recognizes the importance of using well-designed and valid selection procedures to make accurate and legally defensible promotional decisions about its employees. This commitment includes those bargaining unit employees who are represented by Local 2585, International Association of Firefighters.

In keeping with this, Human Resources Department is seeking outside expertise for the development and validation of promotional examinations for the rank of Driver, Lieutenant and Battalion Chief of the Shelby County Fire Department. The examination(s) should accurately and directly reflect the tasks performed and the knowledge required at each level and identify those employees who have the highest probability for success on the job.

The project will include work on job analysis and test construction. All work conducted for this project will be in accordance with professional standards and the Uniform Guidelines on Employee Selection Procedures.

The primary objective of this project is to develop promotional examinations which will test the apparent abilities, skills and attributes that are critical to adequate job performance and which might be measured by tests. The examination should be fair and non-discriminatory and lead to decisions about people based on predicted levels of job performance. Finally, the examinations should be flexible to the extent that future changes in the job can be accommodated by making only minimal changes to the examination.

### **1. Project Briefing**

Since about 1972, the Fire Department has evolved from a group of volunteer firefighters, to part volunteer - part paid, to a 100% paid firefighting department. It is managed by a paid professional Fire Chief and one (1) Deputy Chief. The Department provides urban and suburban fire, rescue and E.M.S. service to 331 square miles with a population of 116,128.

The U. S. Department of Labor developed and installed an Apprenticeship Program in 1977 in order to train and certify journeyman fire fighters. The State of Tennessee used this Apprenticeship Program as a base line for State programs. The Department also works with the State of Tennessee Fire Fighters Training Commission. The levels of certification are Recruit, Fire Fighter I and Fire Fighter II.

Promotional examinations were reviewed and updates made by an outside Consultant in 2009 for the Driver, Lieutenant and Battalion Chief ranks. All three ranks participated in a two-part examination process. The Driver, Lieutenant and Battalion Chief ranks were administered a multiple choice written examination. The Lieutenant and Battalion Chief ranks participated in

Oral interviews (Fire/ Emergency Scene Simulations) and a Practical (field) examination was administered to the Driver rank.

Changes in the organization and its functions have resulted in the need to develop customized written (multiple choice) tests for all three ranks and a review/update of the oral interviews (Fire/Emergency scene simulations) for the Lieutenant and Battalion Chief ranks. There is also a need to develop a new Driver Practical (field) test.

The following information on the organization of the Fire Department is provided:

1. Complement:

- a. Seventy-six (76) Fire Privates (Recruit through Firefighter III - bargaining unit employees)
- b. Twenty - seven (27) Drivers (Firefighter IV - bargaining unit employees)
- c. Twenty - seven (27) Lieutenants (Firefighter V - non-bargaining)
- d. Six (6) Battalion Chiefs (Firefighter VI – non-bargaining) and one (1) Administrative Battalion Chief.

2. Primary Duties:

- a. Battalion Chiefs are responsible for twenty-four (24) hour supervision of all engine houses and firefighters in a district.
- b. Lieutenants are responsible for total operation of their assigned engine house and its employees on a twenty-four (24) hour shift. Also, acts as Battalion Chief when necessary.
- c. Drivers are responsible for the operation and upkeep of the fire apparatus they operate, and current knowledge of the territory in which they travel. Also act as Lieutenants when necessary.

**2. Scope of the Project**

It is our preference that promotional examinations for the Fire Department include components which are consistent with validated promotional examinations administered to employees of other para-militaristic organizations within County Government.

It is also our preference to use validated standardized examinations; this method would require less maintenance each yearly promotional cycle and therefore should be less costly. Scheduled updates, study materials and additional forms are more readily available.

We would like the Consultant to develop customized written multiple choice tests consistent with the I.F.S.T.A manuals, S.C.F.D. SOP manual, S.C.F.D. Rules & Regulations, Memorandum of Understanding w/Local 2585 and directly related to the knowledge, skills and abilities needed to perform at that level.

### **3. Services Required**

Consultant will be required to perform the following Services:

- a. Consultant will conduct a job analysis on all ranks.
- b. Consultant will validate standardize promotional examinations for all ranks based on the job analysis, and State of Tennessee requirements for Fire Fighter II, Driver, Officer I and Officer II.
- c. Consultant will develop customized written multiple choice tests for three (3) ranks based on the job analysis and I.F.S.T.A requirements.
- d. Consultant will review/update oral interviews (Fire/Emergency scene simulations) for the Lieutenant and Battalion Chief ranks.
- e. Consultant will develop a Driver Practical (field) test based on the job analysis and I.F.S.T.A requirements without Driver Obstacle Course.
- f. Consultant will provide a written outline of each phase for test development with corresponding time frames for completion.
- g. Consultant will provide a written outline of the administration and scoring procedures for each examination.
- h. Consultant will recommend appropriate study materials for the Battalion Chief, Lieutenant and Driver ranks.
- i. Consultant will recommend a validation approach and a method for analyzing possible disparate or adverse impact.

### **4. Deliverables**

The selected Consultant must provide the following deliverables, each of which should be addressed in the proposal.

- a. Final job analysis results for all three (3) ranks, Battalion Chief, Lieutenant and Driver.
- b. Customized written (multiple-choice) test(s) for all three (3) ranks (Driver, Lieutenant and Battalion Chief) and scoring keys for all three (3) tests.
- c. Oral interview(s) (Fire/Emergency scene simulations) and a method for scoring for the Lieutenant and Battalion Chief ranks.
- d. A completely new Driver Practical (field) examination and scoring.
- e. Examination administration and scoring procedures for all examinations.
- f. A recommendation for study material for all ranks.
- g. Method of analyzing results to measure validity and possible disparate impact.

### **C. Project Time Frame**

The County anticipates awarding the initial contract term by October, 2013 and will begin work immediately upon execution of the contract through June 30, 2014. The Provider must be prepared to begin immediately upon receipt of a Notice to Proceed.

**D. Reservation of Rights**

The County reserves the right, for any reason to accept or reject any one or more proposals, to negotiate the term and specifications for the services provided, to modify any part of the RFP, or to issue a new RFP. The County may at any reasonable time, at its expense, make an audit of the proposer's books relative to the Accounts.

**E. Selection Criteria**

Each proposal response will be evaluated on the criteria outlined in Section II & VII of this document. Each proposer should set out in its response to this RFP to clearly identify the qualifications of its company and each individual who will work on this project.

As part of the qualification process each vendor will be required to apply for an EOC # and provide workforce utilization information. Please contact the EOC Administration @ 901-222-1100 to obtain the necessary documents and to ask any questions that you may have regarding this information.

**F. Additional Information and References**

Any additional information that would be helpful to the County in evaluating a proposal, including a list of current and former clients with a similar profile to Shelby County, should be submitted. At least three (3) former clients who have terminated in the last five (5) years should be included on this list.

**VIII. AWARD OF CONTRACT**

Proposers are advised that the lowest cost proposal will not necessarily be awarded the contract, as the selection will be based upon qualification criteria as deemed by the County and as determined by the selection committee and the County Mayor.

**IX. PURPOSE / SCOPE OF WORK**

To select the best-qualified proposer (hereinafter referred to as "Provider") and award a County-approved contract for professional services to perform the Services and to satisfactorily complete all activities associated with the Services.

**Proposers must respond and comply with all of the above services. The Proposer may not submit a proposal for services not listed in the above request.**

## X. CONTRACT REQUIREMENTS

The successful Proposer will be expected to enter into a contract incorporating the following terms and conditions, and such additional terms and conditions standard to services of this type.

### A. General Requirements

1. Control. All services by the Provider will be performed in a manner satisfactory to the County, and in accordance with the generally accepted business practices and procedures of the County.
2. Provider's Personnel. The Provider certifies that it presently has adequate qualified personnel to perform all services required under this Contract. The Provider will supervise all work under this Contract. The Provider further certifies that all of its employees assigned to serve the County have such knowledge and experience as required to perform the duties assigned to them. Any employee of the Provider who, in the opinion of the County, is incompetent, or whose conduct becomes detrimental to the work, shall immediately be removed from association with services under this Contract.
3. Independent Status.
  - a. Nothing in this Contract shall be deemed to represent that the Provider, or any of the Provider's employees or agents, are the agents, representatives, or employees of the County. The Provider shall be an independent Provider over the details and means for performing its obligations under this Contract. Anything in this Contract which may appear to give the County the right to direct the Provider as to the details of the performance of its obligations under this Contract or to exercise a measure of control over the Provider is solely for purposes of compliance with local, state and federal regulations and means that the Provider shall follow the desires of the County only as to the intended results of the scope of this Contract.
  - b. It is further expressly agreed and understood by the Provider that neither it nor its employees or agents are entitled to any benefits which normally accrue to employees of the County; that the Provider has been retained by the County to perform the services specified herein (not hired) and that the remuneration specified herein is considered fees for services performed (not wages) and that invoices submitted to the County by the Provider for services performed shall be on the Provider's letterhead.

4. Termination Or Abandonment.

- a. It shall be cause for the immediate termination of this Contract if, after its execution, the County determines that either:
  - i. The Provider or any of its principals, partners or corporate officers, if a corporation, including the corporation itself, has pled nolo contendere, or has pled or been found guilty of a criminal violation, whether state or federal, involving, but not limited to, governmental sales or purchases, including but not limited to the rigging of bids, price fixing, or any other collusive and illegal activity pertaining to bidding and governmental contracting.
  - ii. The Provider has subcontracted, assigned, delegated, or transferred its rights, obligations or interests under this Contract without the County's consent or approval.
  - iii. The Provider has filed bankruptcy, become insolvent or made an assignment for the benefit of creditors, or a receiver, or similar officer is appointed to take charge of all or part of Provider's assets.
- b. The County may terminate the Contract upon five (5) days written notice by the County or its authorized agent to the Provider for the Provider's failure to provide the services specified under this Contract.
- c. This Contract may be terminated by either party by giving thirty (30) days written notice to the other before the effective date of termination. In the event of such termination, the Provider shall be entitled to receive just and equitable compensation for any satisfactory work performed as of the termination date; however, the Provider shall not be reimbursed for any anticipatory profits that have not been earned as of the date of termination.
- d. All work accomplished by the Provider prior to the date of such termination shall be recorded and tangible work documents shall be transferred to and become the sole property of the County prior to payment for services rendered.
- e. Notwithstanding the above, the Provider shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of the Contract by the Provider and the County may withhold any payments to the Provider for the purpose of setoff until such time as the exact amount of damages due the County from the Provider is determined.

5. Subcontracting, Assignment Or Transfer. Any subcontracting, assignment, delegation or transfer of all or part of the rights, responsibilities, or interest of either party to this Contract is prohibited unless by written consent of the other party. No subcontracting, assignment, delegation or transfer shall relieve the Provider from performance of its duties under this contract. The County shall not

be responsible for the fulfillment of the Provider's obligations to its transferors or sub-Providers. Upon the request of the other party, the subcontracting, assigning, delegating or transferring party shall provide all documents evidencing the assignment.

6. Conflict Of Interest. The Provider covenants that it has no public or private interest and shall not acquire, directly or indirectly, any interest which would conflict in any manner with the performance of its services. The Provider warrants that no part of the total contract amount provided herein shall be paid directly or indirectly to any officer or employee of the County as wages, compensation, or gifts in exchange for acting as officer, agent, employee, sub-Provider to the Provider in connection with any work contemplated or performed relative to this Contract.
7. Covenant Against Contingent Fees. The Provider warrants that it has not employed or retained any company or person other than a bona fide employee working solely for the Provider, to solicit or secure this Contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Provider any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, the County will have the right to recover the full amount of such fee, commission, percentage, brokerage fee, gift, or other consideration.
8. Employment of County Workers.
  - a. The Provider shall not engage, on a full or part-time or other basis during the period of the Contract, any professional or technical personnel who are in the current employment of the County.
  - b. Notwithstanding the foregoing, no prior County official or employee may be employed by or receive compensation, wages or benefits from the Provider for a period of one (1) year from employment separation from the County if during the period of employment with the County the employee or official had any direct or indirect involvement with the Provider's services or operations provided to the County.
9. Arbitration. Any dispute concerning a question of fact in connection with the work not disposed of by agreement between the Provider and the County will be referred to the Shelby County Contract Administrator or his/her duly authorized representative, whose decision regarding same will be final.
10. General Compliance With Laws.
  - a. If required, the Provider shall certify that it is qualified and duly licensed to do business in the State of Tennessee and that it will take such action as, from

time to time, may be necessary to remain so qualified and it shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Contract.

- b. The Provider shall, at all times, observe and comply with all federal, state, and local laws, ordinances, and regulations in any manner affecting the conduct of the work. The preceding shall include, but is not limited to, compliance with all Equal Employment Opportunity laws, the Fair Labor Standards Act, Occupational Safety and Health Administration (OSHA) requirements and the Americans with Disabilities Act (ADA) requirements.
  - c. This Contract will be interpreted in accordance with the laws of the State of Tennessee. By execution of this Contract the Provider agrees that all actions, whether sounding in contract or in tort, relating to the validity, construction, interpretation and enforcement of this Contract will be instituted and litigated in the courts of the State of Tennessee, located in Shelby County, Tennessee, and in no other. In accordance herewith, the parties to this Contract submit to the jurisdiction of the courts of the State of Tennessee located in Shelby County, Tennessee.
11. Nondiscrimination. The Provider hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Provider 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 Provider shall upon request show proof of such nondiscrimination, and shall post in conspicuous places available to all employees and applicants notices of nondiscrimination.
  12. Entire Agreement. This Contract contains the entire Contract of the parties and there are no other promises or conditions in any other Contract whether oral or written. This Contract supersedes any prior written or oral Contracts between the parties.
  13. Amendment. This Contract may be modified or amended, only if the amendment is made in writing and is signed by both parties.
  14. Severability. If any provision of this Contract is held to be unlawful, invalid or unenforceable under any present or future laws, such provision shall be fully severable; and this Contract shall then be construed and enforced as if such unlawful, invalid or unenforceable provision had not been a part hereof. The remaining provisions of this Contract shall remain in full force and effect and shall not be affected by such unlawful, invalid or unenforceable provision or by its severance here from. Furthermore, in lieu of such unlawful, invalid, or unenforceable provision, there shall be added automatically as a part of this

Contract a provision as similar in terms to such unlawful, invalid or unenforceable provision as may be possible, and be legal, valid and enforceable.

15. No Waiver Of Contractual Right. No waiver of any term, condition, default, or breach of this Contract, or of any document executed pursuant hereto, shall be effective unless in writing and executed by the party making such waiver; and no such waiver shall operate as a waiver of either (a) such term, condition, default, or breach on any other occasion or (b) any other term, condition, default, or breach of this Contract or of such document. No delay or failure to enforce any provision in this Contract or in any document executed pursuant hereto shall operate as a waiver of such provision or any other provision herein or in any document related hereto. The enforcement by any party of any right or remedy it may have under this Contract or applicable law shall not be deemed an election of remedies or otherwise prevent such party from enforcement of one or more other remedies at any time.
16. Matters To Be Disregarded. The titles of the several sections, subsections, and paragraphs set forth in this contract are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of the provisions of this Contract.
17. Subject To Funding. This Contract is subject to annual appropriations of funds by the Shelby County Government. In the event sufficient funds for this Contract are not appropriated by Shelby County Government for any of its fiscal period during the term hereof, then this Contract will be terminated. In the event of such termination, the Provider shall be entitled to receive just and equitable compensation for any satisfactory work performed as of the termination date.
18. Travel Expenses. All travel expenses payable under this Contract shall be in accordance with the County Travel Policy and Procedures. This includes advance written travel authorizations, submission of travel claims, documentation requirements, and reimbursement rates. The County will make no travel advances.
19. Incorporation Of Other Documents.
  - a. The Provider shall provide services pursuant to this Contract in accordance with the terms and conditions set forth within the Shelby County Request for Proposals/Bids, as well as, the Response of the Provider thereto, all of which are maintained on file within the Shelby County Purchasing Department and incorporated herein by reference.
  - b. It is understood and agreed between the parties that in the event of a variance between the terms and conditions of this Contract and any amendment thereto and the terms and conditions contained either within the Request for Proposals/Bids or the Response thereto, the terms and conditions of this

Contract as well as any amendment shall take precedence and control the relationship and understanding of the parties.

20. Contracting With Locally Owned Small Businesses. The Provider shall take affirmative action to utilize Locally Owned Small Businesses when possible as sources of supplies, equipment, construction and services.
21. Incorporation Of Whereas Clauses. The foregoing whereas clauses are hereby incorporated into this Contract and made a part hereof.
22. Waiver Of Proprietary Interest. Notwithstanding anything to the contrary contained herein or within any other document supplied to the County by the Provider, the Provider understands and acknowledges that the County is a governmental entity subject to the laws of the State of Tennessee and that any report, data or other information supplied to the County by the Provider due to services performed pursuant to this Contract is subject to being disclosed as a public record in accordance with the laws of the State of Tennessee.
23. Organization Status And Authority.
  - a. The Provider represents and warrants that it is a corporation, limited liability company, partnership, or other entity duly organized, validly existing and in good standing under the laws of the State of Tennessee; it has the power and authority to own its properties and assets and is duly qualified to carry on its business in every jurisdiction wherein such qualification is necessary.
  - b. The execution, delivery and performance of this Contract by the Provider has been duly authorized by all requisite action and will not violate any provision of law, any order of any court or other agency of government, the organizational documents of the Provider, any provision of any indenture, agreement or other instrument to which the Provider is a party, or by which the Provider's respective properties or assets are bound, or be in conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the properties or assets.
24. Warranty. The Provider warrants to the County that all Services shall be performed in accordance with acceptable standards in the industry applicable to the Services. The Provider shall correct, at its sole cost and expense, any work reasonably deemed to be unsatisfactory by the County. The Provider warrants to the County that all Services shall be in strict compliance with the terms of this Contract, and all applicable governmental laws, rules and regulations.
25. Rights in Data. The County shall become the owner, and the Provider shall be required to grant to the County, or its successors, a perpetual, non-exclusive, non-transferable, royalty-free right, in the County's name, to use any deliverables

provided by the Provider under this Contract, regardless of whether they are proprietary to the Provider or to any third parties.

## **B. Indemnification and Insurance Requirements**

### **1. Responsibilities For Claims And Liabilities.**

- a. The Provider shall indemnify, defend, save and hold harmless the County, and its elected officials, officers, employees, agents, assigns, and instrumentalities from and against any and all claims, liabilities, losses or damages—including but not limited to Title VII and 42 USC 1983 prohibited acts arising out of or resulting from any conduct; whether actions or omissions; whether intentional, unintentional, or negligent; whether legal or illegal; or otherwise that occur in connection with, or in breach of, this Contract or in the performance of the duties hereunder, whether performed by the Provider, its sub-Providers, agents, employees or assigns. This indemnification shall survive the termination or conclusion of this Contract.
- b. The Provider expressly understands and agrees that any insurance protection required by this Contract or otherwise provided by the Provider shall in no way limit the responsibility to indemnify, defend, save and hold harmless the County or its elected officials, officers, employees, agents, assigns, and instrumentalities as herein provided.
- c. The County has no obligation to provide legal counsel or defense to the Provider or its sub-Providers in the event that a suit, claim, or action of any character is brought by any person not party to this Contract against the Provider as a result of or relating to obligations under this Contract.
- d. Except as expressly provided herein, the County has no obligation for the payment of any judgment or the settlement of any claims against the Provider as a result of or relating to obligations under this Contract.
- e. The Provider shall immediately notify the County, c/o Shelby County Government, Contracts Administration, 160 N. Main Street, Suite 550, Memphis, TN 38103, of any claim or suit made or filed against the Provider or its sub-Providers regarding any matter resulting from or relating to Provider's obligations under this Contract and will cooperate, assist and consult with the County in the defense or investigation thereof.
- f. The Provider shall immediately notify the County, c/o Shelby County Government, Contracts Administration, 160 N. Main Street, Suite 550, Memphis, TN 38103, of cancellation or changes in any of the insurance coverage required.

2. Insurance Requirements. The Provider will provide evidence of the following insurance coverage:

**PROFESSIONAL SERVICES/PROVIDER PROJECTS LESS THAN \$1,000,000**

*Minimum Limits of Insurance*

Provider shall maintain coverage with limits of no less than:

- 1) **Commercial General Liability Insurance** \$1,000,000 limit per occurrence bodily injury and property damage/\$1,000,000 personal and advertising injury/\$2,000,000 General Aggregate/\$2,000,000 Products-Completed Operations Aggregate. Shelby County Government, its elected officials, appointees, employees and members of boards, agencies, and commissions shall be named as additional insureds. The insurance shall include coverage for the following:
- a) Premises/Operations
  - b) Explosion, Collapse, & Underground Property Coverage
  - c) Products/Completed Operations
  - d) Contractual
  - e) Independent Contractors
  - f) Broad Form Property Damage
  - g) Personal Injury and Advertising Liability
- 2) **Business Automobile Liability Insurance** - \$1,000,000 each accident for property damage and bodily injury. Coverage is to be provided on all:
- a) Owned/Leased Autos
  - b) Non-Owned Autos
  - c) Hired Autos
- 3) **Workers Compensation and Employers' Liability Insurance** – Including coverage for sole proprietors, partners, and officers, regardless of requirement by Tennessee State Statute. Policy is to be specifically endorsed to include these individuals for coverage. Employers Liability Coverage is \$1,000,000 per accident. Consultant/Provider waives its right of subrogation against Shelby County for any and all workers' compensation claims.

- 4) ***Professional Liability Errors & Omissions Insurance*** - \$1,000,000 per claim or occurrence/\$3,000,000 annual aggregate. Upon termination or cancellation of any claims-made insurance, the Consultant/Provider shall purchase an extended reporting endorsement and furnish evidence of same to the County or replacement coverage with the appropriate retroactive date to provide coverage for any claims made through the statute of limitations.

All policies will provide for 30 days written notice to Shelby County of cancellation of coverage provided. Ten (10) days notice applicable to non-payment of premium. If insurer is not required by the policy terms and conditions to provide written notice of cancellation to Shelby County, the Consultant/Provider will provide immediate notice to Shelby County. Failure to maintain the required coverage may result in breach of contract.

All insurance policies maintained by the Consultant/Provider shall provide that insurance as applying to Shelby County shall be primary and non-contributing irrespective of such insurance or self-insurance as Shelby County may maintain in its own name and on its own behalf. Any insurance company of the Consultant/Provider shall be authorized to do business in the State of Tennessee and shall carry a minimum rating assigned by A.M. Best & Company's Key Rating Guide of "A-" and a Financial Size Category of "X".

**C. Right to Monitor and Audit**

Access To Records. During all phases of the work and services to be provided hereunder the Provider agrees to permit duly authorized agents and employees of the County to enter the Provider's offices for the purpose of inspections, reviews and audits during normal working hours. Reviews may also be accomplished at meetings that are arranged at mutually agreeable times and places. The Provider will maintain all books, documents, papers, accounting records, and other evidence pertaining to the fee paid under this Contract and make such materials available at their offices at all reasonable times during the period of this Contract and for three (3) years from the date of payment under this Contract for inspection by the County or by any other governmental entity or agency participating in the funding of this Contract, or any authorized agents thereof; copies of said records to be furnished if requested.

**XI. PROPOSAL SUBMISSION**

**A. General**

1. All interested and qualified proposers are invited to submit a proposal for consideration. Submission of a proposal indicates that the proposer has read and understands this entire RFP, including all attachments, exhibits, schedules,

and addenda (as applicable) and all concerns regarding this RFP have been satisfied.

2. Proposals must be submitted in the format described below. Proposals are to be prepared in such a way as to provide a straightforward, concise description of capabilities to satisfy the requirements of this RFP. Expensive bindings, colored displays, promotional materials, etc. are neither necessary nor desired. Emphasis should be concentrated on conformance to the RFP instructions, responsiveness to the RFP requirements, and on completeness and clarity of content.
3. Proposals must be complete in all respects as required in this section. A proposal may not be considered if it is conditional or incomplete.
4. **Hard copy proposals must be received by no later than 3:00 p.m. (CST) on Friday, September 27, 2013, at Shelby County Government Purchasing Department, 160 N. Main St., Suite 550, Memphis, TN 38103.**
5. The proposer agrees to provide the County with any additional information it deems necessary to accurately determine their ability to perform the services proposed. Furthermore, submission of this proposal constitutes permission by this organization for the County to verify all information contained in the proposal. Failure to comply with any request for additional information may disqualify the organization from further consideration. Such additional information may include evidence of financial ability to perform.

#### **B. Proposal Presentation**

1. One (1) original proposal (clearly identified as original) and five (5) copies of the proposal are required.
2. The package containing the original and copies must be sealed and marked with the proposer's name and "**CONFIDENTIAL Consulting Services For Development Of Promotional Examinations, "RFP # 14-008-12,"**" with due date and time indicated.
3. Proposals must be typed. Erasures and "white-out" are not permitted. Mistakes may be crossed out, and corrections may be typed adjacent and initialed in ink by the person signing the proposal. Please identify all attachments, literature and samples, etc., with your firm name and our RFP number.
4. Proposals must be verified before submission as they cannot be withdrawn or corrected after being opened. The County will not be responsible for errors or omissions on the part of the proposers in preparing their proposals. A responsible officer or employee must sign the proposal. Tennessee sales tax shall not be included in the Provider's proposal.

## C. PROPOSAL FORMAT

Response to this RFP must be in the form of a proposal package that must be submitted in the following format: **Please download the attachment to this document.** The Proposal Response Sheet (*required document*) should be the first page of your written response.

1. Cover Page – Submit on letterhead stationery, signed by a duly authorized officer, employee, or agent of the organization/firm submitting the proposal that must include the following:
  - a. A statement that the proposal is being submitted in response to the Request for Proposal-Consulting Services for Development of Promotional Examinations, RFP #14-008-12.
  - b. A statement indicating which individuals, by name, title, address, telephone number, and signature are authorized to negotiate with the County on behalf of the organization/firm.
  - c. A statement certifying that:
    - i. the Proposer's signatory is an agent authorized to submit proposals on behalf of the organization/firm;
    - ii. all declarations in the proposal and attachments are true to the best of reasonable knowledge;
    - iii. all aspects of the proposal, including cost, have been determined independently, without consultation with any other prospective Proposer or competitor for the purpose of restricting competition.
    - iv. the offer made in the proposal is firm and binding for 90 days after receipt of the proposal by the County; and
    - v. all aspects of this RFP and the proposal submitted are binding for the duration if this proposal is selected and a contract awarded.
2. Company Information and Experience

The following information must be submitted as a part of your proposal:

- a. Individual or firm name and address.
- b. Demonstrated experience in the field of testing development and validation; describe your involvement in projects of similar and scope.
- c. Names of specific individuals who would be committed to this project and document their experience or similar projects. This should include both prime consultant and sub-consultant staff.
- d. Submit at least three (3) references of firms for whom you have provided a similar service. Include firm name, address, telephone number and the name of a person who may be contacted.

- e. Present a schedule for completion including a time frame for each component of the Project. Indicate estimated time of completion for total project with target dates.
- f. Submit your proposed cost estimates for this project. Reference your firm's method of developing this charge (hourly, daily, per phase, etc.) in the event components are added to the project at a later date.
- g. Will you have computer access for this project? If so, please state what hardware and/or software and where the hardware is located.

Please feel free to submit any additional information about your firm which you consider relevant for consideration by Shelby County Government.

## **XII. PROPOSAL EVALUATION AND SELECTION**

### **A. Evaluation Process**

1. Initial Review – All proposals will be initially evaluated to determine if they meet the following minimum requirements:
  - a. The proposal must be complete, in the required format, and be in compliance with all the requirements of the RFP.
  - b. Proposers must meet the Minimum Proposer Requirements outlined in Section II of this RFP.
2. Technical Review – Proposals meeting the above requirements will be evaluated on the basis of the following criteria:
  - a. Each proposal will be reviewed by a special Ad-Hoc Committee which may elect to schedule a personal presentation and interview with one or more of the proposers.
  - b. All proposals submitted in response to this RFP will be evaluated based on the following criteria:
    - i. Quality and responsiveness of the proposal.
    - ii. Qualification of the Proposer.
    - iii. Qualifications of the Principal and Key Staff assigned to work on the project.
    - iv. Ability to present a clear understanding of the nature and scope of the project.
    - v. Project methodology.
    - vi. References.
    - vii. Previous experience with projects involving test development and validation for para-militaristic organizations.

- viii. Proposed cost to Shelby County Government.
- ix. Time frame for completion.

3. Oral Presentation.

Shelby County Government reserves the right to interview, or to require an oral presentation from, any respondent for clarification of information set forth in the proposer's response. In this regard, at the discretion of the evaluation committee, some or all proposers who submit a proposal in response to this RFP may be asked to submit to an interview or give an oral presentation of their respective proposals to the evaluation committee. If so, this is not to be a presentation restating the proposal, but rather an in-depth analysis of certain qualifications of the proposer. The interview or oral presentation, if utilized, is intended to provide an opportunity for the proposer to clarify or elaborate on its qualifications without restating the proposal. The interview or oral presentation is to be a fact finding and explanation session only and is not to be used to negotiate any terms of the contract. If required, the time and location of such interview or oral presentation will be scheduled by the Administrator of Purchasing or his designee. Interviews and oral presentations are strictly an option of Shelby County Government or its evaluation committee and, consequently, may or may not be conducted. All travel expenses to and from the interview or oral presentation shall be the responsibility of the proposer.

4. Selection will be based on determination of which proposal best meets the needs of the County and the requirements of this RFP.

**B. CONTRACT AWARD**

Contract(s) will be awarded based on a competitive selection of proposals received. The proposers are advised that the lowest cost proposal will not necessarily be awarded the Contract, as the selection will be based upon qualification criteria as deemed by the County and as determined by the selection committee and the County Mayor. The proposals submitted will be evaluated by the County. All decisions are made at the discretion of the County.

The contents of the proposal of the successful proposer will become contractual obligations and failure to accept these obligations in a contractual agreement may result in cancellation of the award.

The County reserves the right to negotiate any portions of the successful proposer's fees and scope of work or utilize their own resources for such work.