Trinity River Authority of Texas

Requests for Proposals
For The
Beneficial Use of Biogas

Release Date: August 8, 2023

Introduction

The Trinity River Authority of Texas (Authority) is a governmental agency of the State of Texas created by Tex. Rev. Civ. Stat. Ann. art. 8280-188 and operating pursuant to special and general law. Pursuant to the Professional Services Procurement Act, the Authority hereby issues this "Request for Proposals" (RFP) for the beneficial use of biogas as described herein.

The Authority owns and operates the Central Regional Wastewater System Treatment Plant ("CRWS" and or "Plant") located at 6500 Singleton Blvd. in Grand Prairie, Texas. The Plant is in the commissioning phase of its Thermal Hydrolysis Process (THP) project which is anticipated to be completed by the end of 2023. The Authority wishes to optimize energy production from the existing digesters at the Plant. The successful Proposer ("Contractor") will be required to finance the improvements necessary to do so as described herein and enter into a purchase agreement and lease agreement with the Authority.

The proposed project scope is to build a biogas recovery and processing facility (Project) as set forth in more detail through this request and includes, but is not limited to, digester retrofits and improvements for maximizing biogas production and electrical power generation for the Plant use or export to the grid.

The purpose of this RFP is to identify a high quality and experienced Contractor with expertise in financing, design-build execution, and operation of biogas processing and production facilities, power generation from biogas, anaerobic digestion and wastewater treatment processes. Contractor shall clearly define in its proposal its Project approach, including work, supply and proposed contract structure. The Authority is open to consider Contractor recommendations and deviations from the approach described in this RFP. The Contractor shall conduct all of its operations so as not to interfere with the Plant operations and not interfere with the Plant's ability to comply with its permits or with applicable state or federal laws or regulations.

The successful Contractor will enter into a contract to design, build, finance, operate and maintain the Project. It is expected that the Contractor and the Authority will share in any revenue generated by the Project.

Proposals are due no later than 2:00 pm Central Standard Time on Friday, September 15, 2023.

A mandatory tour of the Plant will be scheduled and conducted prior to the submission date. This will be the only tour of the Plant. **No individual or private tours will be conducted.**

Background

The Plant is located at 6500 Singleton Blvd. in Grand Prairie, Texas (see location map, Figure 1) and is owned, operated and maintained by the Authority. The Plant receives wastewater flows from 21 contracting parties. The Plant is currently rated at an annual average daily flow capacity of 189 million gallons per day (MGD) and generates approximately 685 wet tons per day of biosolids which are classified as "A/B" per the criteria established by the Texas Commission on Environmental Quality (TCEQ). Once dewatered, the biosolids are land applied at 135 different sites located in 13 different counties in the greater Dallas-Fort Worth Metroplex area, typically within a 75-mile radius of the Plant.

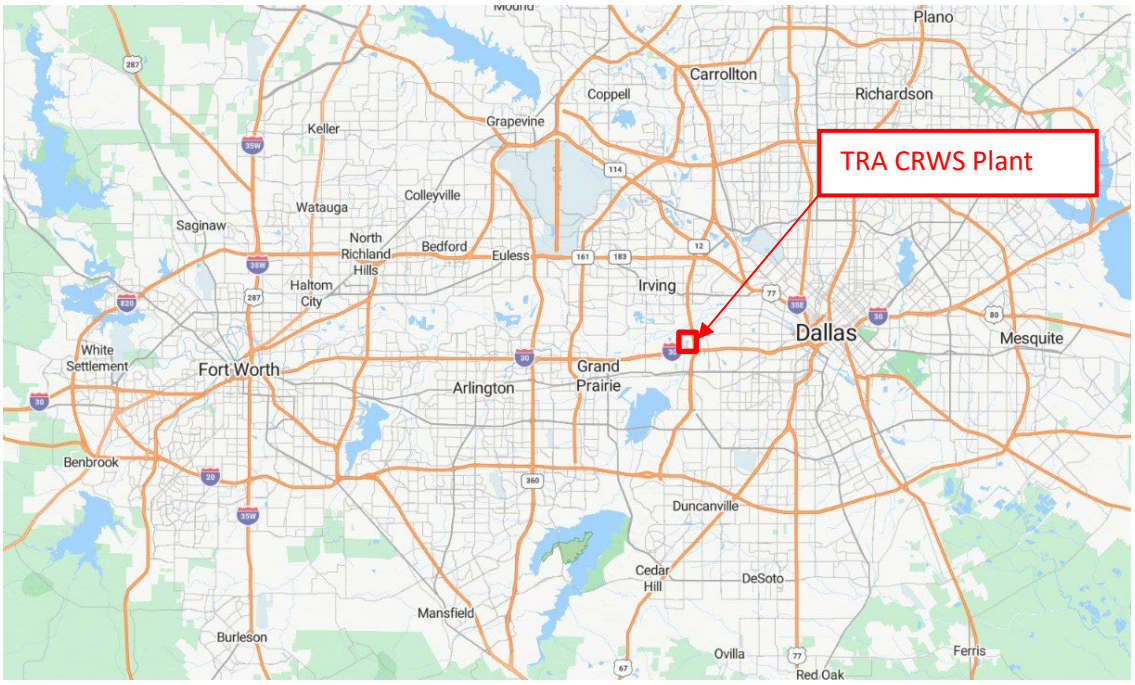

Figure 1: CRWS Treatment Facility Location

Thermal Hydrolysis Process (THP)

In 2017, the Authority awarded a project for the construction of THP at the Plant. The construction project is currently in the Commissioning Phase which should be completed by the end of 2023. Once fully on line, the Plant will produce approximately 400 wet tons per day of Class "A" biosolids per the criteria established by the TCEQ. Parties responding to this RFP are encouraged to propose any revenue-generating ideas for beneficial use of biogas.

The THP project also included the construction of three mesophilic anaerobic digesters which generate a considerable amount of biogas (see Table 1 for the combined production of all three digesters). The biogas production rates shown in Table 1 are estimates and the Contractor would assume the risk for variations from a base annual average rate (e.g., 1,900 SCFM). The biogas contains approximately 58-60 % methane as it exits the digesters and is routed to three bio-scrubbers (see Figure 3). The bio-scrubbers reduce the hydrogen sulfide content to approximately 100-150 parts per million (ppm). From the bio-scrubbers, the biogas is currently routed to the three gas fired boilers and waste gas flares. Once the overall THP project is online and the bio-scrubbers are commissioned, the treated biogas will be used to fuel the

boilers that supply the needed steam for the THP process. A process flow diagram of the THP system is shown in Figure 2.

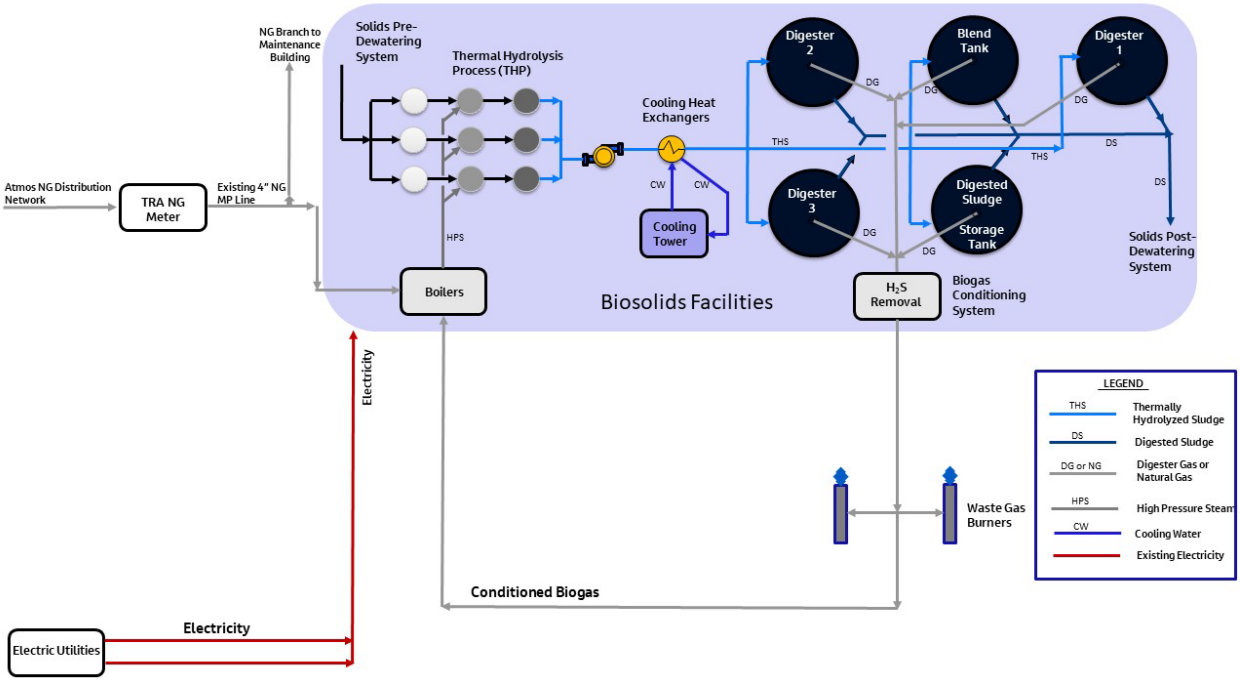

Figure 2: Process Flow Diagram of Existing THP Digestion and Biogas System.

As illustrated in Figure 2, three CAMBI B6-4 THP units are installed to meet the required design conditions to provide adequate capacity and redundancy. Each unit (or "train") has a maximum throughput capacity of 90 tons of dry solids per day and has one pulper, four reactors, and one flash tank.

The THP pretreated sludge (approximately 10 percent solids concentration by weight) feeds three 2.5-million-gallon, mesophilic anaerobic digesters operating at approximately 100° F. A fourth digester is planned to be constructed in 2025.

Table 1: Combined Biogas Production (Three Digesters)- Current and Projected Conditions

Year	Unit	Annual Average	Maximum Month	Peak 2-Week	Peak Day
2023	SCFM	**1,900**	136,560	142,200	182,040
2023	ACFH	79,039 **(1.897)**	94,880	98,799	126,479
2040	SCFH	122,580 **(2.94)**	147,210	153,240	196,140
2040	ACFH	85,167 **(2.04)**	102,280	106,469	136,276

Each gas-fired boiler requires approximately 20,500 SCFH (or 340 SCFM) of fuel. Each boiler is rated at 200 psi and a gross output of 16.7 million BTU/hour (See Figure 4). The boilers are currently configured to be fueled by either natural gas supplied by Atmos, liquified natural gas (LNG) currently supplied by Sapphire Gas Solutions, Inc. or biogas.

Table 2 shows the anticipated characteristics of the biogas after the bio-scrubbers.

Table 2: Biogas Characteristics After the Bio-Scrubbers

Biogas Constituents	Value or Range
Methane	55% to 65% (by volume); Avg. = 59%
Hydrogen Sulfide	100 – 150 parts per million (ppm)
Carbon Dioxide	35% to 45% (by volume); Avg. = 39%
Ammonia	100 ppm
Dew Point	98° F
Gas Pressure	10 – 20 inches (water column gauge)

Figure 3: H_2S Conditioning System

Figure 4: One of Three Steam Boilers

The existing natural gas supply to the Plant is medium pressure (20-25 psig) and is delivered through 1,700 linear feet (LF) of 6" and 4" pipeline from the Atmos meter (near the Singleton Bridge entrance) through the Plant to the Boiler Building which houses the three boilers (see Figure 6 for existing lines). Natural gas is also used at the Plant's Maintenance Building.

Desired Objectives for the Beneficial Use of Biogas

The Authority's objective for the Project is to collect revenue for the biogas produced at the Plant. Start collecting revenue as soon as possible. If the amount paid by the Contractor for the biogas is greater than the cost of natural gas, then all the biogas could be processed by the Contractor. If the amount paid is less than the cost of natural gas, then only the excess biogas, after use by the boilers, would be processed by the Contractor. The Authority reserves the a Right-of-Refusal for the biogas produced by the digesters and the renewable natural gas (RNG) or electricity that is produced by the Contractor. The biogas can be acquired by the Contractor before the bio-scrubbers or afterwards.

Scope of Project

- Contractor will design, fund and implement/construct any necessary facilities to deliver biogas from the Plant to delivery points as Contractor proposes.
- Contractor shall propose and or recommend its ability to develop a facility whereby the Plant conveys biogas produced to a treatment facility to be designed and built by

Contractor, compresses and conveys purified gas to a common carrier pipeline, and utilizes natural gas from a common carrier pipeline to power existing gas driven equipment at the Plant.

- Contractor shall make recommendations regarding connection points and alignment of proposed pipelines to and from the proposed biogas treatment facility, to existing gas pipelines and the Plant.
- Contractor shall make a projection of biogas generation at the Plant over the next ten years using existing flow projections as the basis.
- Contractor must demonstrate its experience and expertise in acquiring approval from the US EPA for Renewable Natural Gas ("RNG") regulatory credits and must describe its plan to sell and monetize the RNG produced at the Plant.

The Authority is also interested in revenue sharing from the electricity or TNG produced by the Contractor.

Revenue Share Gross Revenue from Biogas

- Contractor shall propose a gas royalty to the Authority for the biogas generated at the Plant and any regulatory credits for the sale of RNG.
- Revenue sharing for RIN's generated per the Renewable Fuel Standard (RFS) program by the (EPA).
- Sharing of any Investment Tax Credits (ITCs) or Production Tax Credits (PTCs) should this project qualify for such under the Clean Energy Tax Provisions of the Inflation Reduction Act; and
- Authority shall have a right to use the RNG or electricity that is produced by the Contractor.
- Parties responding to this RFP are encouraged to propose any revenue-generating idea for beneficial use of biogas.

Contractor may lease property within the Plant to construct and operate any facility which the Contractor deems necessary for the beneficial use of the biogas, as approved by the Authority. The Contractor will own, operate, and maintain all contractor-supplied equipment and appurtenances.

The Authority will consider proposals that include Contractor operation of facilities associated with the anaerobic digesters (i.e., boilers, bio-scrubbers, waste gas flares, pipelines and appurtenances which send the scrubbed biogas to the waste gas flares, pipelines from the digesters to the bio-scrubbers, booster blower(s), gas conditioning building, and the blowers/pipelines which send the scrubbed biogas to the Boiler Building).

Conditioning the Biogas to Pipeline Quality RNG for Sale to an End User

Should the Contractor desire to condition the biogas to "pipeline quality", the conditioning facility could be located within the Plant site as shown in Figure 5. This site can be leased from the Authority by the Contractor to construct, operate, and maintain such facility.

Figure 5: Potential Location for Contractor-Supplied Equipment

The Project would include means of injecting the RNG into the Atmos 30-inch high pressure (HP) Natural Gas (NG) line. The Contractor will coordinate with Atmos on the pressure of this HP line and requirements for connection, Although Atmos has previously stated that they are not interested in purchasing the RNG, they are willing to transport the RNG via their existing distribution system at no-cost to the Authority or the Contractor. A possible route for this RNG HP injection line is shown in Figure 6. The Contractor would be responsible for the RNG HP line and connection agreement with Atmos.

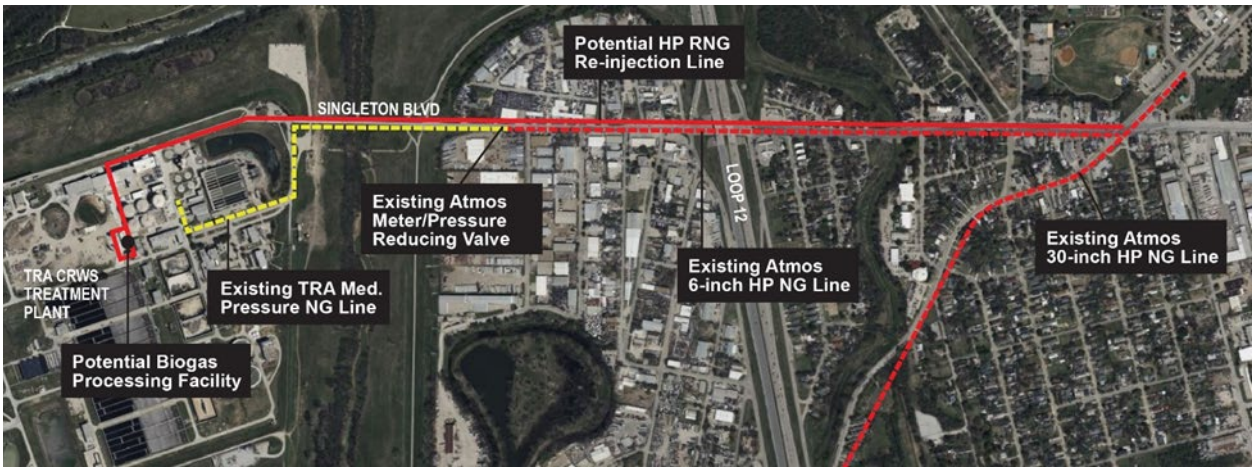

Figure 6: Potential Routing for the Injection Line from Biogas Conditioning Facility to Atmos Network

The Contractor will be responsible for coordination with Atmos and will incur all costs associated with the design and construction of this line from the proposed biogas conditioning facility to the Atmos network.

The Authority is open to considering other beneficial uses of the biogas and variations to injecting RNG into the Atmos network to avoid the time and cost of constructing said injection pipeline. Some processing and transportation alternatives might include:

- Transporting compressed RNG (CRNG) via truck or by rail. The CRWS treatment plant has an active rail spur used to receive chemicals. See rail spur location on Figure 5. The Contractor would be responsible for contracting with the rail company to receive and transport CRNG to the End User.
- Converting RNG to liquified RNG (LRNG) for transport via truck or rail, similar to CRNG as described above.

Converting the Biogas to Electricity for Sale by the Contractor to an End User

The Contractor may propose to convert biogas to fuel a cogeneration plant via a combined heat and power (CHP) system and have a power purchase agreement (PPA) with an electric utility.

The Contractor may opt for a combination of RNG/CHP system and may phase the construction of the system to expedite the conversion of biogas to renewable energy and to spread the Contractor's capital costs over time.

The Authority will seek to have first-right-of-refusal to any electricity generated by the CHP facility. The decision by the Authority will be driven by multiple factors such as current rate of electricity, the availability of electricity to meet plant processing needs, or other. The Authority will compensate the Contractor for electricity metered and used by the CRWS The cost of the electricity will be negotiated within the contract. Currently, the Authority pays a low rate for electricity (~3 cents/kWh).

Additional Alternatives

The Authority is open to review additional alternatives to beneficially use the biogas. Contractors are encouraged to propose solutions that will beneficially use the biogas as soon as possible and improve the reliability of supply fuel to the stream boilers for operation of the THP digestion facility.

Submission of Proposals

Contractors shall submit five hard copies of its Proposal **NO LATER THAN 2pm on Friday, September 15, 2023** to Christa Lopez, Deputy General Counsel, at 5300 South Collins, Arlington, Texas 76018 and one electronic version of its Proposal to lopezcr@trinityra.org. Contractors shall also submit its proposal to www.civcastusa.com, however, a Proposal shall not be deemed received until the hard copies are timely delivered to the Authority.

Outline of Proposal

(1) Contractor name, physical address, phone number, email address and contact person. Description of the prospective private entity or group of entities

- Primary point of contact for the Contractor that will enter into the Biogas Project contract with the Authority
- List the Primary Biogas Facility Design Entity
- List the General Contractor/Construction Company
- List the Facility Operation Company
- List the Finance Company

(2) Description of system for beneficial use of biogas

- Proposed technology for processing the biogas to RNG
- Describe and/or illustrate the required space on site for the facility
- Describe and/or illustration the point of connection for biogas (e.g., before or after the bio-scrubbers)
- State the required minimum generation rate for biogas that the Plant will need to deliver for the Contractor's use. This amount may include the anticipated volume that the Plant currently uses or is anticipated to use for the THP boilers. The Authority is willing to investigate use of alternative fuel for the boilers if, in the opinion of the Authority, it is in the Authority's best economic and beneficial interest to do so (e.g., if more revenue would be collected from the sale of the biogas than the cost of natural gas to fuel the boilers.)
- List all additional utility requirements (e.g., electricity, natural gas, water, drain, etc.). State approximate demands for each.

(3) Provide three or more descriptions and references for similar biogas projects for which the Contractor has or currently is performing biogas recovery. Describe the history in performing this type of work including:

- Description of the facility including biogas cleaning and/or conditioning processes
- Installation date
- State dates of service (from/to)
- Describe the issues, challenges and solutions that made the particular public private partnership (P3) successful. Include lessons learned from the project.

(4) List and describe recommendations for the P3 agreement. Include the following:

- Length of agreement
- Terms and conditions
- Revenue sharing plan
- Operating requirements
- Biogas characteristics
- Anticipated timeline from "Notice to Proceed" (NTP) to purchasing biogas from the Authority
- Apportionment of risks for unforeseen conditions inherent in the proposed approach or technology

(5) Financial Strength of Contractor

- Provide a copy of most recent audited financial statements with audit opinion.
- Provide a copy of current financial statements.
- Provide the following financial ratios: working capital, debt-to-equity, debt coverage, gross profit margin, net profit margin.
- Proposer must be financially strong and stable. Contractor must show proof of at least 50% available equity in form of cash.
- Alternatively, the Proposer shall show an unconditional letter of credit from an A+ rated financial institution for the propose capital improvements.
- Provide written correspondence from a Texas-admitted surety company evidencing ability to provide performance bond in an amount equal to 100% of the Project cost.

(6) Organization chart or Project Team matrix that identifies the Contractor's Project Team, their responsibilities and qualifications and all sub-consultants to be utilized. Names, email addresses and contact numbers for all sub-consultants must be provided.

(7) Identify the anticipated tasks to be performed by sub-contractors or outside consultants and estimate percentage (%) of work anticipated for each sub consultant on this Project. Identify the Historically Underutilized Business (HUB) total percent participation.

(8) Identify challenges, issues and solutions. Describe the proposed technical approach and factors to accomplish the Scope of Work. Utilize illustrations.

(9) Identify critical paths or potential road blocks that may delay the project schedule, such as coordination with major stakeholders or typical project-specific permitting approval durations. A project Gantt chart is not requested.

(10) Illustrate Quality Assurance/Quality Control process and procedures anticipated and how phases of work will be integrated to deliver this Project. Quality Assurance/Quality Control plan will count towards the page limit. Describe how activities will be monitored and coordinated to ensure Project success. Include a Project Quality Manager (PQM) for the project along with their resume that shall include their experience as a PQM. The PQM will report directly to the Project Manager and will be in charge of all quality management activities for the project. The PQM's full time position shall involve quality management and shall not be a co-worker or project manager who is "acting" as the PQM solely for this project. The PQM should not also be a project manager responsible for the completion of other projects, but rather a Senior Technical Advisor (employee of the Contractor) or a sub-consultant whose primary duty is quality management.

(11) Acknowledge ability to execute contract with the Authority. A sample PSA is available on Civcast. The scope of the final agreement will be negotiated between the Authority and the selected Respondent. The Authority's indemnity requirements will not be modified or negotiated.

(12) Corporate Authorization Resolution or Equivalent: Submit a listing by name or position of the individuals authorized to contractually bind the company.

(13) Utilization of Historically Underutilized Business (HUB) Enterprises: In fulfilling its duties it is anticipated that the Contractor may subcontract to individuals, corporations, organizations, governments or governmental subdivisions or agencies, partnerships, associations, or other legal entities. Such subcontracts may be entered into only with written approval from the Authority. The Authority encourages the Contractor to provide equal opportunity to historically underutilized business enterprises, and the Contractor agrees that qualified HUB enterprises, including minority-owned and woman-owned businesses, and labor-surplus Contractors located in the Project area shall have the maximum practicable opportunity to participate in the performance of the Authority contracts and subcontracts. The selected Contractor shall attempt to achieve 25 percent participation by HUB enterprises in the performance of this Project. If the 25 percent participation goal is not achieved, the Contractor shall provide evidence that a good faith effort was made to reach the goal.

(14) All materials and information submitted are subject to the Texas Public Information Act. By submission of said materials and information, proposers waive any claim to the confidentiality nature of those materials and information. All materials received by the Authority shall be conclusively presumed subject to public disclosure under the Texas Public Information Act. Any material submitted by the Contractor considered proprietary shall be cleared marked and identifiable. If a public information request for such information is received by the Authority, the Authority will notify the Contractor and allow the Contractor to submit a brief to the Attorney General Office for denial of disclosure. The Attorney General's opinion shall be final.

Selection Process

(1) Proposal Evaluation: Authority will select an Evaluation Committee to review, evaluate, and rank all Proposals according to the numerical scoring criteria listed in this RFP. The Contractors deemed most qualified may be asked to participate in interviews or a Contractor may be selected based upon the numerical scoring criteria.

(2) Interviews: Interviews may be conducted if requested by the Authority. Interviewees will provide clarification regarding the Proposal with respect to their qualifications and their understanding of the proposed scope of services. Interviews and site visits may also be conducted with project references provided by the Respondent in the Proposal.

Communication Restrictions

(1) Contractors or their representatives are prohibited from communicating with any Authority officials, including Authority staff or directors, regarding the RFP, from the time the RFP is released until it has been acted upon by the Board of Directors.

(2) The prohibition on communication includes “thank you” letters, phone calls, emails, and any contact that results in the direct or indirect discussion of the RFP and/or Proposal submitted by Respondents.

(3) Violation of this provision by a Respondent and/or their agent may lead to disqualification of the Respondent’s Proposal from consideration.

(4) Respondents may submit any questions concerning this RFP in writing or by e-mail to the contact person below. Only answers issued by formal written addenda shall be final and binding upon the Authority. No interpretation or clarification of the meaning of any part of the RFP made orally by the Authority to any Respondent will be binding upon the Authority

Christa R. Lopez

Deputy General Counsel

Trinity River Authority of Texas

5300 South Collins St.

Arlington, TX 76018

Email: lopezcr@trinityra.org

Phone: 817-467-4343

(5) Questions regarding this RFP must be received prior to the time stated in the schedule in order to allow ample time for distribution of answers and/or addenda to this RFP.

(6) Submittal Clarification: The Authority reserves the right to contact any Respondent for clarification after responses are opened and/or to further negotiate with any Respondent if such is deemed desirable by the Authority.

Requests for Debriefings Contractors not selected for a contract award may request a debriefing for this RFP. Debriefing requests may be sent after the notification of decision, but must be scheduled to occur within 30 days of the Authority Board of Directors award of a contract. Requests for debriefings after 30 days of award will not be granted. To schedule a debriefing, please send a written or e-mail request to the contact person listed above.

Other Requirements Other key requirements Contractors should note are as follows:

(1) All related design services shall be performed by a qualified and independent Contractor or team of Contractors directly contracted to a prime consultant.

(2) Performance history with the Authority may affect your competitiveness.

(3) All contracts will require the provision for a "Right-to-Audit" clause.

(4) The Authority will retain the right to approve or disapprove all sub-consultant selections on all Project work.

(5) The Authority will retain the right to approve or disapprove any changes/ variances of proposed sub-consultants and their proposed work from the original submittal of the selected Respondents.

Reservation of Rights

(1) The Authority reserves the right to:

(a) Reject any and all Proposals received.

(b) Issue a subsequent RFP.

(c) Cancel, postpone or extend the entire RFP.

(d) Remedy technical errors in the RFP process.

(e) Negotiate with any, all, or none of the Respondents to the RFP, subject to the requirements of the Professional Services Procurement Act.

(f) Accept the written Proposal as an offer.

(g) Waive informalities and irregularities or accept and review a non-conforming Proposal.

(h) Accept multiple Proposals.

(i) Make multiple or no recommendation(s) to the Authority's Board of Directors.

(j) Supplement, amend or otherwise modify this RFP without prior notice.

(k) Conduct investigations with respect to the qualifications and experience of each Respondent included in its Proposal.

(l) Request additional information or clarification.

(2) All responses and their contents will become the property of the Authority.

(3) The Authority assumes no obligation, responsibilities or liabilities, fiscal or otherwise, to reimburse all or parts of the costs incurred or alleged to have been incurred by parties considering a response to or preparing and submitting a response to this RFP, including responding to information or clarification requests, preparing resubmittals, attending potential interviews and negotiations, and any other activities included as part of the procurement process. All such costs shall be borne solely by each Respondent and its team members.

(4) If a satisfactory contract cannot be negotiated with the most qualified Respondent, the Authority shall formally end negotiations with that Respondent, select the next most qualified Respondent, and attempt to negotiate a contract with that Respondent.

Resources

(1) General guidelines for working with the Authority can be found at http://www.trinityra.org.

(2) Additional reference documents can be found on the Civcast site located at www.civcastusa.com

Criteria for Evaluating Proposals

Rating Category	Description	Maximum Point Value
A	Proposer's Qualifications and Experience of Company and Proposed Personnel	20
B	Proposer's Narrative Project Approach, Project Sequence and Schedule	40
C	Financial Benefit: price paid for biogas, amount of biogas to be purchased, start date of biogas purchase	40
	Total	**100**

Proposal Review and Evaluation

Proposals will be opened and evaluated in accordance with Texas Government Code Chapter 2269.

The Selection Committee comprised of Authority staff will individually score Proposals based on its review of Proposals received and information gained from interviews (if applicable) with Proposers. The Authority will then enter into negotiation with the Contractor with the highest averaged score. If a successful contract can be negotiated between the Contractor and the Authority, then management will make a recommendation for award of the Contract to the highest scored Contractor to the Authority's Board of Directors.

Authority may conduct such investigations as it deems necessary to establish the responsibility, qualifications, and financial ability of consultants, individuals or entities proposed to deliver the Project in accordance with the Contract Documents.

Evaluation for Rating Categories

Rating Category A – Contractor's Qualifications and Experience of Company and Proposed Personnel

This category will evaluate information demonstrating experience and past performance on projects of similar scope and scale. The Contractor's ability to utilize Historically Underutilized Business (HUB) Enterprises will be a consideration in the Proposal review. Any additional narrative shall not exceed one page.

Information regarding Contractor's financial capability, safety and litigation history shall also be considered.

A maximum of 20 points may be obtained in this category.

Rating Category B – Contractor's Narrative Project Approach, Project Sequence, and Schedule

Contractor shall submit a detailed narrative not to exceed 10 pages (including any necessary exhibits that are exempt of page count) on their approach toward completing the Project. Contractor must demonstrate its ability and knowledge to meet the scope of the Project and achieve the revenue goals of the Authority as stated herein.

A maximum of 40 points may be obtained in this category.

Rating Category C – Financial Benefit

Category C shall describe the share of all revenues realized from the sale or monetization of biogas.

Category C should also include the timing for when the Authority can expect the revenues to be paid to the Authority.

A maximum of 40 points may be obtained in this category.

Ranking of Proposals

Authority will consider the qualifications of Contractors in addition to the proposed Project approach, Proposal price, and Proposal Project Schedule, as set forth in the evaluation criteria above.

Authority reserves the right to waive any irregularities in determining the Contractor's qualifications and reserves the right to require the submission of additional information.

Authority reserves the right to reject any Contractor where circumstances and developments have, in the opinion of the Authority, changed the qualifications or responsibilities of the Contractor.

The qualifications of any Contractor shall not deprive Authority of the right to accept a Proposal, which in its judgment offers the best value to the Authority, reject any and all Proposals, waive irregularities in Proposals, or reject non-conforming, non-responsive, or conditional Proposals.

Misstatements in the documents submitted for evaluation may be grounds for rejection of a Proposal. Any such misstatement, if discovered after award of the Contract to such Contractor, may be grounds for immediate termination of the Contract. Additionally, the Contractor shall be liable to Authority for any additional costs or damages to Authority resulting from such misstatements, including costs and attorney's fees for collecting such costs and damages.

Authority shall evaluate and rank each Contractor as established herein above and in accordance with state law.