

Contract Documentation

INVITATION FOR BID

TO PROVIDE TELECOMMUNICATIONS RELAY SERVICES

FOR THE

CALIFORNIA RELAY SERVICE

*Issued by the
Deaf and Disabled Telecommunications Program
1939 Harrison Street, Suite 520
Oakland, California 94612*

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SECTION 1. INTRODUCTION AND OVERVIEW OF REQUIREMENTS

I. PURPOSE OF THIS INVITATION FOR BID

The Deaf & Disabled Telecommunications Program (DDTP) has issued this Invitation for Bid (hereinafter referred to as the IFB) to select qualified contractors to provide intrastate California Telecommunications Relay Services (TRS or CRS). It is the intent of the DDTP that this IFB be awarded to multiple vendors for the provision of standard services as described in the IFB, specifically:

- A. that the nature of the competitive procurement will be to establish the rate(s) for intrastate TRS "minimum standard" services in California which all providers of CRS "minimum standard" services will charge and for which the DDTP will provide reimbursement through the mechanisms defined herein, and
- B. that the lowest bidder will establish those rates, and will contract with the DDTP to become the "primary" and "default" provider of CRS services in California, and
- C. that the primary provider will appoint an official of that corporation to serve as a non-voting member of the Deaf and Disabled Telecommunications Program Administrative Committee (DDTPAC), a non-voting member of the California Relay Service Advisory Committee (CRSAC) which meetings must be attended by the representative, and a non-voting member of the Equipment Program Advisory Committee (EPAC), and
- D. that the primary vendor will have use of the DDTP's 800 numbers designated for the California Relay Service, and
- E. that other responsible providers (secondary providers) will enter into contracts with the DDTP to provide CRS standard services for which they will be reimbursed by the DDTP at the rate established by this procurement and using 800 numbers acquired by them for such purpose, and
- F. that secondary providers must appoint an official of their respective corporations to serve as a non-voting member of the California Relay Service Advisory Committee (CRSAC) which meetings must be attended by the representative and may appoint a non-voting member of the DDTPAC and a non-voting member of the EPAC, and
- G. that primary and secondary providers develop and provide TRS services other than those minimum standard services to enhance their market share and further, that the various providers may or may not receive reimbursement from the DDTP based on mechanisms provided for in this IFB and the Master Agreement, and

- H. that the master agreement, during its term, may be joined by other responsible vendors wishing to provide CRS services according to its terms and conditions, and
- I. finally, that the intended term of the Master Agreement is 3 years with two 1-year renewable options.

II. SCOPE OF THE IFB AND VENDOR ADMONISHMENT

This IFB contains the instructions governing the requirements for a firm quotation to be submitted by interested vendors, the format in which the proposal information is to be submitted and the materials to be included therein, the requirements which must be met to be eligible for consideration, and vendors' responsibilities before and after award.

This procurement will follow a phased approach designed to increase the likelihood that the Final Proposal will be received without disqualifying defects. The objective of the additional steps is to ensure that the vendors clearly understand the DDTP's requirements before attempting to develop their final solutions; to ensure that the DDTP clearly understands what each vendor intends to propose before these proposals are finalized; and, to give the DDTP and each vendor an opportunity to modify its proposal to correct problems. Vendors often do not understand the importance of the details of each step. Specific information regarding steps is found in Section 2, RULES GOVERNING COMPETITION.

If a vendor expects to be afforded the benefits of the steps included in this IFB, the vendor must take the responsibility to:

- O Carefully read the entire IFB;**
- O If clarification is necessary, ask appropriate questions in a timely manner;**
- O Submit all required responses, complete to the best of vendor's ability, by the required dates and times (Section 1.F.);**
- O Make sure that all procedures and requirements of the IFB are accurately followed and appropriately addressed; and**
- O Carefully reread the entire IFB before submitting a proposal.**

Note: In order to continue receiving correspondence relative to this procurement (proposal addenda, etc.), prospective vendors must submit a written notification to the Procurement Official listed below in Paragraph D, of their intent to respond to this procurement by the key action date listed in Section 1.F. as "intention to bid letter."

III. AVAILABILITY

Successful bidders must be able to meet the requirements of this IFB for the full term of the contract.

IV. PROCUREMENT OFFICIAL

The Procurement Official and the mailing address to send proposals, questions or copies of protests is:

Ms. Shelley Bergum
Executive Director
Deaf & Disabled Telecommunications Program
505 – 14th Street, Suite 400
Oakland, California 94612
(510) 302-1100 (voice)
(510) 302-1101 (TTY)
(510) 302-1130 (FAX)

V. DDTP CONTACT

Same as the Procurement Official in Paragraph D, above.

VI. KEY ACTION DATES

Listed below are the important actions, dates and times by which the actions must be taken or completed. If the DDTP finds it necessary to change any of these dates, it will be accomplished by addendum.

<u>Action</u>	<u>Date</u>
1. Release of IFB.	11/01/95
2. Deadline for procurement official to receive questions or requests for clarification of the IFB at the bidder s conference	11/10/95
3. Bidder s Conference	11/16/95
4. Last day to submit proposed Master Agreement, intention to bid letter, signed confidentiality statement, and financial responsibility information.	11/30/95
5. Last day to finalize proposed Master Agreement language	12/29/95

6. Last day to submit final questions for clarification of IFB prior to submittal of draft proposal. 01/08/96
7. Last day to request a change in the requirements of the IFB 01/08/96
8. Last day to protest the requirements of the IFB01/23/96
9. Submission of draft bid02/07/96
10. Confidential discussions with individual vendors. 03/01/96 to 03/06/96
11. Submission of final bid. 04/01/96
12. DDTP approval of evaluation recommendation05/21/96
13. Notification of intent to recommend award.05/21/96
14. Last day to protest selection. 05/28/96
15. Submit Recommendation to Award to CPUC 06/12/96
16. CPUC Award Decision. 07/24/96
17. Contract award and execution 08/07/96
18. Ready-for-Use. 10/11/96

VII. INTENTION TO BID

Vendors wishing to participate in the IFB must submit written notification of their intention to bid on this procurement in accordance with Section 2.II.F, Vendor's Intention to Bid, in order to receive additional information. Only those vendors acknowledging interest in the IFB will receive further correspondence regarding this procurement. The letter should identify the contact person for the solicitation process, and include a telephone and fax number. There is to be only one (1) contact person during the process. Information related to a Vendor will be given only to the designated contact person. The letter is to also identify the Vendor's intention related to contract language.

Types of financial responsibility information include annual reports and currently audited balance sheets for the firm that is bidding. The DDTP shall have the option to require additional information.

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SECTION 2. RULES GOVERNING COMPETITION

I. IDENTIFICATION AND CLASSIFICATION OF BID REQUIREMENTS

A. Requirements

The DDTP has established certain requirements with respect to bids to be submitted by prospective contractors. The use of "shall," "must," or "will" (except to indicate simple futurity) in the IFB indicates a requirement or condition from which a deviation if not material may be waived by the DDTP.

A deviation from a requirement is material if the deficient response is not in substantial accord with the IFB requirements, provides an advantage to one bidder over other bidders, or has a potentially significant effect on the delivery, quantity or quality of items bid, amount paid to the vendor, or on the cost to the DDTP. Material deviations cannot be waived.

B. Desirable Items

The words "should" and "may" in the IFB indicate desirable attributes or conditions, but are non-mandatory in nature. Deviation from, or omission of, such a desirable feature, even if material, will not in itself cause rejection of the bid.

II. BIDDING REQUIREMENTS AND CONDITIONS

A. General

A bidder's Final Bid is an irrevocable offer for 90 days following the scheduled date for contract award specified in Section 1. A bidder may extend the offer in the event of a delay of contract award.

B. Invitation for Bids Documents

This IFB includes, in addition to an explanation of the DDTPAC's needs which must be met, instructions which prescribe the format and content of bids to be submitted and the model of the Master Agreement to be executed between the DDTP and successful bidders.

If a bidder discovers any ambiguity, conflict, discrepancy, omission, or other error in this IFB, the bidder shall immediately notify the DDTP of such error in writing and request clarification or modification of the document. Modifications will be made by addenda issued pursuant to Paragraph G, Addenda, below. Such clarifications shall be given by written notice to all parties who have been furnished an IFB for bidding purposes, without divulging the source of the request for same.

If the IFB contains an error known to the bidder, or an error that reasonably should have been known, the bidder shall bid at its own risk. If the bidder fails to

notify the DDTP of the error prior to the date fixed for submission of bids, and enters into the Master Agreement, the bidder shall not be entitled to additional compensation or time by reason of the error or its later correction.

C. Examination of the Work

The bidder should carefully examine the entire IFB and any addenda thereto, and all related materials and data referenced in the IFB or otherwise available to the bidder, and should become fully aware of the nature of the work, the quantities of the work, and the conditions to be encountered in performing the work. Specific conditions to be examined may be listed in the IFB section on ADMINISTRATIVE REQUIREMENTS.

D. Questions Regarding the IFB

Bidders requiring clarification of the intent or content of the IFB or on procedural matters regarding the competitive bid process may request clarification by submitting questions, with the envelope clearly marked "Questions Relating to DDTP CRS IFB", to the DDTP Official listed in Section 1. To ensure a response, questions must be received in writing by the scheduled date(s) given in Section 1. Question and answer sets will be provided to all bidders without identifying the submitters.

A bidder who desires clarification or further information on the content of the IFB, but whose questions relate to the proprietary aspect of that bidder's proposal and which, if disclosed to other bidders, would expose that bidder's proposal, may submit such questions in the same manner as above, but also marked "CONFIDENTIAL," not later than the scheduled date specified in Section 1 to ensure a response. The bidder must explain why any questions are sensitive in nature. If the DDTP concurs that the disclosure of the question or answer would expose the proprietary nature of the proposal, the question will be answered and both the question and answer will be kept in confidence.

If the DDTP **does not concur** with the proprietary aspect of the question, the question will not be answered in this manner and the bidder will be so notified.

If the bidder believes that one or more of the IFB requirements is onerous, unfair, or imposes unnecessary constraints to the bidder, the bidder may request a change to the IFB by submitting, in writing, the recommended change(s) and the facts substantiating this belief and reasons for making the recommended change(s). Such request must be submitted to the DDTP Official by the date specified in Section 1 for submitting a request for change.

Oral answers shall not be binding on the DDTP.

E. Bidder's Conference

A Bidder's Conference will be held, during which vendors will be afforded the opportunity to meet with DDTP personnel and discuss the content of the IFB and the procurement process. Written questions received prior to the cutoff date for submission of such questions, as noted in Section 1, will be answered at the conference without divulging the source of the query.

The DDTP may also accept oral questions during the conference and will make a reasonable attempt to provide answers prior to the conclusion of the conference. A transcript of the discussion, or those portions which contain the questions and appropriate answers, will normally be transmitted within approximately ten (10) working days to all vendors present at the bidder's conference. If questions asked at the conference cannot be adequately answered during the discussion, answers will be provided with the transcribed data.

Oral answers shall not be binding on the DDTP.

F. Vendor's Intention to Bid

Vendors who have been furnished a copy of the IFB for bidding purposes are asked to state their intention by the date specified in Section 1, KEY ACTION DATES, with respect to submission of bids. The DDTP is also interested as to a vendor's reasons for not submitting a bid; as, for example, requirements which cannot be met or unusual terms and conditions which arbitrarily raise costs. Vendors are asked to categorize their intent as follows:

1. Intends to submit a bid and has no problem with the IFB requirements.
2. Intends to submit a bid, but has one or more problems with the IFB requirements for reasons stated in this response.
3. Does not intend to submit a bid, for reasons stated in this response, and has no problem with the IFB requirements.
4. Does not intend to submit a bid because of one or more problems with the IFB requirements for reasons stated in this response.

If vendors have indicated significant problems with the IFB requirements, the DDTP will examine the stated reasons for the problems and will attempt to resolve any issues in contention, if not contrary to the DDTP's interest, and will amend the IFB if appropriate. All vendors who have been furnished a copy of the IFB for bidding purposes will be advised by the DDTP of any actions taken as a result of the vendor's responses. If after such actions, a vendor determines that the requirements of the IFB unnecessarily restrict its ability to bid, then the vendor is allowed five (5) working days to submit a protest to those IFB requirements or the DDTP's action, according to the instructions contained in Paragraph V.A. of this section.

Hereafter, for the purposes of the instructions of this IFB, all vendors who have indicated their intent to submit a Final Bid are called bidders until such time that

the bidder withdraws or other facts indicate that the bidder has become nonparticipating.

G. Addenda

The DDTP may modify the IFB prior to the date fixed for submission of Final Bids by issuance of an addendum to all parties who are participating in the bidding process at the time the addendum is issued, unless the amendments are such as to offer the opportunity for nonparticipating vendors to become participating, in which case the addendum will be sent to all parties receiving the IFB for bidding purposes. Addenda will be numbered consecutively. If any vendor determines that an addendum unnecessarily restricts its ability to bid, then the vendor is allowed five (5) working days to submit a protest to the addendum according to the instructions contained in Paragraph V.A. of this section.

H. Bonds

The DDTP reserves the right to require a faithful performance bond or other security document as specified in the IFB from the vendor(s) in an amount not to exceed the estimated amount of the contract.

I. Joint Bids

A joint bid (two or more bidders quoting jointly on one bid) may be submitted and each participating bidder must sign the joint bid. If the contract is awarded to joint bidders, then it shall be one indivisible contract. Each joint bidder will be jointly and severally responsible for the performance of the entire contract, and the joint bidders must designate, in writing, one individual having authority to represent them in all matters relating to the contract. The DDTP assumes no responsibility or obligation for the division of orders or purchases among the joint bidders.

J. Exclusion for Conflict of Interest

No consultant shall be paid out of DDTP funds for developing recommendations on the acquisition of DDTP products or services or assisting in the preparation of a feasibility study, if that consultant is to be a source of such acquisition or could otherwise directly and/or materially benefit from DDTP adoption of such recommendations or the course of action recommended in the feasibility study. Further, no consultant shall be paid out of DDTP funds for developing recommendations on the disposal of surplus DDTP products, if that consultant would directly and/or materially benefit from DDTP adoption of such recommendations.

K. Follow-on Contracts

No person, firm, or subsidiary thereof who has been awarded a consulting services contract, or a contract which includes a consulting component, may be awarded a contract for the provision of services, delivery of goods or supplies, or any other related action which is required, suggested, or otherwise deemed appropriate as an end product of the consulting services contract. Therefore, any consultant who contracts with DDTP to develop formal recommendations for the acquisition of DDTP products or services is precluded from contracting for any work recommended in the formal recommendations. (Formal recommendations include, among other things, feasibility studies.)

III. BIDDING STEPS

A. General

The Final Bid is a mandatory step for all bidders; all other steps are optional.

However, all bidders are strongly encouraged to follow the scheduled steps of this procurement to increase the chance of submitting a compliant Final Bid.

Costs submitted in any submission other than the Final Bid may preclude the bidder from continuing in the process.

B. Draft Bid

The purpose of the Draft Bid is to provide the DDTP with an "almost final" bid in order to identify any faulty administrative aspect of the bid which, if not corrected, could cause the Final Bid to be rejected for ministerial reasons.

The Draft Bid must be complete in every respect as required by the IFB section on PROPOSAL FORMAT, except cost. The inclusion of cost information in the Draft Bid may be a basis for rejecting the bid and notifying the bidder that further participation in the procurement is prohibited.

REVIEW OF THE DRAFT BID BY THE DDTP MAY INCLUDE CONFIDENTIAL DISCUSSIONS WITH INDIVIDUAL BIDDERS AND WILL PROVIDE FEEDBACK TO THE BIDDER PRIOR TO SUBMITTAL OF THE FINAL PROPOSAL. Regardless of the inclusion of a confidential discussion, the DDTP will notify the bidder of any defects it has detected in the Draft Bid, or of the fact that it did not detect any such defects. Such notification is intended to minimize the risk that the Final Bid will be deemed defective; however, THE DDTP WILL NOT PROVIDE ANY WARRANTY THAT ALL DEFECTS HAVE BEEN DETECTED AND THAT SUCH NOTIFICATION WILL NOT PRECLUDE REJECTION OF THE FINAL BID IF SUCH DEFECTS ARE LATER FOUND.

If the DDTP finds it necessary, the DDTP may call for revised Draft Bid submittals, or portions thereof. The bidder will be notified of defects discovered in these submittals as well. Again, THE DDTP WILL NOT PROVIDE ANY WARRANTY THAT ALL DEFECTS HAVE BEEN DETECTED AND THAT SUCH NOTIFICATION WILL NOT PRECLUDE REJECTION OF THE FINAL BID IF SUCH DEFECTS ARE LATER FOUND.

C. Final Bid

The Final Bid must be complete, including all cost information, required signatures, Master Agreement language changes agreed to in writing and corrections to those defects noted by the DDTP in its review of the Draft Bid. If required in the IFB section PROPOSAL FORMAT, then cost data must be submitted under separate, sealed cover. CHANGES THAT APPEAR IN THE FINAL BID, OTHER THAN CORRECTION OF DEFECTS, INCREASE THE RISK THAT THE FINAL BID MAY BE FOUND DEFECTIVE.

D. Confidentiality

Final Bids are public upon approval of the primary vendor by the CPUC; however, the contents of all proposals, draft bids, correspondence, agenda, memoranda, working papers, or any other medium which discloses any aspect of a bidder's proposal shall be held in confidence. Bidders should be aware that marking a document "Confidential" or "Proprietary" in a Final Bid will not keep that document from being released as part of the public record, unless a court or the California Public Utilities Commission has ordered the DDTP not to release the document. The content of all working papers and discussions relating to the bidder's proposal shall be held confidential indefinitely unless the public interest is best served by an item's disclosure because of its direct pertinence to a decision, agreement or the evaluation of the bid. Any disclosure of confidential information by the bidder is a basis for rejecting the bidder's proposal and ruling the bidder ineligible to further participate. Total confidentiality is paramount; it cannot be over emphasized.

E. Submission of Proposals and Bids

The instructions contained herein apply to the Final Bid. They also apply to the Draft Bid, except as noted.

1. Preparation

Proposals and bids are to be prepared in such a way as to provide a straightforward, concise delineation of capabilities to satisfy the requirements of this IFB. Expensive bindings, colored displays, promotional materials, etc., are not necessary or desired. EMPHASIS SHOULD BE CONCENTRATED ON CONFORMANCE TO THE IFB INSTRUCTIONS, RESPONSIVENESS TO THE IFB REQUIREMENTS, AND ON COMPLETENESS AND CLARITY OF CONTENT.

As stated above, the DDTP's review of Draft Bids is cursory. Therefore, bidders are cautioned not to rely on the DDTP, during this evaluation and review, to discover and report to the bidders all defects and errors in the submitted documents. Before submitting each document, the bidder should carefully proof it for errors and adherence to the IFB requirements.

2. Bidder's Cost

Costs for developing proposals and bids are the responsibility entirely of the bidder and shall not be chargeable to the DDTP.

3. Completion of Proposals and Bids

Proposals and bids must be complete in all respects as required by the IFB section on PROPOSAL FORMAT. A Final Bid may be rejected if it is conditional or incomplete, or if it contains any alterations of form or other irregularities of any kind. A Final Bid must be rejected if any such defect or irregularity constitutes a material deviation from the IFB requirements. The Final Bid must contain all costs required by the IFB section on COST. If required in the IFB section PROPOSAL FORMAT, then cost data must be submitted under separate, sealed cover. Draft Bids must contain all information required in the Final Bid except cost.

Exhibit II-A at the end of this Section 2 entitled COMPETITIVE BIDDING AND BID RESPONSIVENESS emphasizes the requirements of competitive bidding and contains examples of common causes for rejection of bids. Bidders are encouraged to review this exhibit.

4. False or Misleading Statements

Bids which contain false or misleading statements, or which provide references which do not support an attribute or condition claimed by the bidder, may be rejected. If, in the opinion of the DDTP, such information was intended to mislead the DDTP in its evaluation of the bid, and the attribute, condition, or capability is a requirement of this IFB, then it will be the basis for rejection of the bid.

5. Signature of Bid

A cover letter (which shall be considered an integral part of the Final Bid) shall be signed by an individual who is authorized to bind the bidding firm contractually. The signature must indicate the title or position that the individual holds in the firm. An unsigned Final Bid shall be rejected. The Draft Bid must also contain the cover letter, similarly prepared, including the title of the person who will sign, but need not contain the signature.

6. Delivery of Proposals and Bids

Mail or deliver proposals and bids to the Procurement Official listed in Section 1. If mailed, then use certified or registered mail with return receipt requested.

Proposals and bids must be received in the number of copies stated in the IFB section on PROPOSAL FORMAT and not later than the dates and times specified in Section 1. One copy must be clearly marked "Master Copy." All copies of proposals and bids must be under sealed cover which is to be plainly marked "DRAFT BID", or "FINAL BID" for "DDTP CRS IFB". Also, the sealed cover of all submittals, except the Final Bid, shall be clearly marked "CONFIDENTIAL," and shall state the scheduled date and time for submission. Draft Bids not submitted under sealed cover will be returned for sealing. Final Bids not received by the date and time specified in Section 1, or not sealed, will be rejected. As required in the IFB section PROPOSAL FORMAT, all cost data must be submitted under separate, sealed cover and clearly marked "COST DATA." If cost data is required to be submitted separately sealed, and is not submitted in this manner, then the bid will be rejected. Proposals and bids submitted under improperly marked covers may be rejected. If discrepancies are found between two or more copies of the proposal or bid, then the proposal or bid may be rejected. However, if not so rejected, then the Master Copy will provide the basis for resolving such discrepancies. If one copy of the Final Bid is not clearly marked "Master Copy," the DDTP may reject the bid; however, the DDTP may at its sole option select, immediately after bid opening, one copy to be used as the Master Copy.

7. Withdrawal and Resubmission/Modification of Bids

A bidder may withdraw its Draft Bid at any time by written notification. A bidder may withdraw its Final Bid at any time prior to the bid submission time specified in Section 1 by submitting a written notification of withdrawal signed by the bidder authorized in accordance with Paragraph III.E.5., Signature of Bid. The bidder may thereafter submit a new or modified bid prior to such bid submission time. Modification offered in any other manner, oral or written, will not be considered.

F. Rejection of Bids

The DDTP may reject any or all bids and may waive any immaterial deviation or defect in a bid. The DDTP's waiver of any immaterial deviation or defect shall in no way modify the IFB documents or excuse the bidder from full compliance with the IFB specifications if awarded the contract.

G. Evaluation and Selection Process

1. General

Proposals and bids will be evaluated according to the procedures contained in the IFB section on BID EVALUATION. Special instructions and procedures apply to Draft Bids.

2. Evaluation Questions

During the evaluation and selection process, the DDTP may desire the presence of a bidder's representative for answering specific questions, orally and/or in writing.

3. Demonstration

This procurement may require a demonstration of the bidder's response to specific requirements (including benchmark requirements) before final selection in order to verify the claims made in the bid, corroborate the evaluation of the bid, and confirm that the hardware and software are actually in operation; in which case prior notice will be given. The bidder must make all arrangements for demonstration facilities at no cost to the DDTP. The location of the demonstration will be determined by the bidder; however, its performance within California is preferred and will be attended at the DDTP's expense. Demonstration outside California will be attended only if the bidder agrees to reimburse the DDTP for travel and *per diem* expenses. The DDTP reserves the right to determine whether or not a demonstration has been successfully passed. See Section on DEMONSTRATION for additional information.

4. Errors in the Final Bid

An error in the Final Bid may cause the rejection of that bid; however, the DDTP may at its sole option retain the bid and make certain corrections. In determining if a correction will be made, the DDTP will consider the conformance of the bid to the format and content required by the IFB, and any unusual complexity of the format and content required by the IFB.

- a) If the bidder's intent is clearly established based on review of the complete Final Bid submittal, the DDTP may at its sole option correct an error based on that established intent.
- b) The DDTP may at its sole option correct obvious clerical errors.
- c) The DDTP may at its sole option correct discrepancy and arithmetic errors on the basis that if intent is not clearly established by the complete bid submittal, then the Master Copy shall have priority over additional copies, the bid narrative shall have priority over the Master Agreement, the Master Agreement shall have priority over the cost sheets, and within each of these, the lowest level of detail will prevail.

- d) The DDTP may at its sole option correct errors of omission, and in the following four situations, the DDTP will take the indicated actions if the bidder's intent is not clearly established by the complete bid submittal.
 - i) If an item is described in the narrative and omitted from the contract and cost data provided in the bid for evaluation purposes, then it will be interpreted to mean that the item will be provided by the bidder at no cost.
 - ii) If a minor item is not mentioned at all in the Final Bid and is essential to satisfactory performance, then the bid will be interpreted to mean that the item will be provided at no cost.
 - iii) If a major item is not mentioned at all in the Final Bid, then the bid will be interpreted to mean that the bidder does not intend to supply that item.
 - iv) If a major item is omitted, and the omission is not discovered until after contract award, then the bidder shall be required to supply that item at no cost.
- e) In the event an ambiguity or discrepancy between the general requirements described in Section 4 (Proposed Status of CRS) and the specific technical requirements set forth in Section 6 (Technical Requirements) is detected after the opening of bids, Section 6, and the bidder's response thereto, shall have priority over Section 4, and the bidder's response thereto. Refer to Paragraph II.B. regarding immediate notification to the DDTP contact when ambiguities, discrepancies, omissions, *et cetera* are discovered.

H. Award of Contract

Award of contract, if made, will be in accordance with the IFB section on BID EVALUATION to a responsible bidder whose Final Bid complies with all the requirements of the IFB documents and any addenda thereto, except for such immaterial defects as may be waived by the DDTP. Award, if made, will be made within ninety (90) days after the scheduled date for Contract Award specified in Section 1; however, a bidder may extend the offer beyond 90 days in the event of a delay of contract award.

Written notification of the DDTP's intent to award will be made to all bidders.

If a bidder, having submitted a Final Bid, can show that its bid, instead of the bid selected by the DDTP, should be selected for contract award according to the rules of Paragraph III.G., then the bidder will be allowed five (5) working days to submit a protest to the Intent to Award, according to the instructions contained in Paragraph V.A. of this section.

I. Debriefing

A debriefing may be held after contract award at the request of any bidder for the purpose of receiving specific information concerning the evaluation. The discussion will be based primarily on the technical and cost evaluations of the bidder's Final Bid. A debriefing is not the forum to challenge the IFB specifications or requirements.

IV. CONTRACTUAL INFORMATION

A. Specific Terms and Conditions

In traditional competitive bidding, the Master Agreement (or contract) to be awarded is included in the solicitation document in its final form, and any alteration by a bidder will result in rejection of its bid. The DDTP is willing to consider alternate terms and conditions that do not compromise the service to be provided and that may be mutually beneficial to the vendor and the DDTP. In recognition of this, the form of the Master Agreement attached shall be used as a basis for the substitution and/or insertion of vendor-specified language by the bidder. Terms and conditions which do not comply in substance with all material requirements of the IFB, which are contrary to the best interests of the DDTP, or which are in opposition to DDTP policy, will not be accepted.

B. Approval of Proposed Master Agreement

All approved changes to the Master Agreement shall be included in the IFB by addendum at least five days prior to the date final bids are due.

C. Term of Contract

The DDTP intends to retain the required service for at least the period specified elsewhere in this IFB. Ideally, the term of the contract will be for the specified period. If the DDTP requires the contract to be terminated during the contract period, such a requirement will be specified in the IFB section on ADMINISTRATIVE REQUIREMENTS. The DDTP may accept a contract for a longer period than specified if, at the sole option of the DDTP, the contract may be terminated at the end of the period specified without the payment of termination charges.

V. OTHER INFORMATION

A. Protests

Before a protest is submitted regarding any issue other than selection of the primary and secondary providers, the bidder must make full and timely use of the procedures described in this Section 2 to resolve any outstanding issue(s) between the bidder and the DDTP. The procurement procedure is designed to give the bidder and the DDTP adequate opportunity to submit questions and discuss the requirements before the Final Bid is due. The protest procedure is made available in the event that a bidder cannot reach a fair agreement with the DDTP after exhausting these procedures. In such cases, a protest may be submitted according to the procedure below.

If a bidder has submitted a bid which it believes to be totally responsive to the requirements of the IFB and the bidder believes the DDTP has incorrectly selected a bidder for award as primary or secondary provider, then the bidder may submit a protest of the selection as described below. Protests regarding selection of the primary and secondary providers will be heard and resolved by the California Public Utilities Commission whose decision will be final.

All protests must be made in writing, signed by an individual authorized under Paragraph III.E.5., Signature of Bid, and contain a statement of the reason(s) for protest; citing the law, rule, regulation or procedures on which the protest is based. The protester must provide facts and evidence to support the claim.

Protests must be mailed or delivered to:

Ms. Shelley Bergum
Executive Director
Deaf & Disabled Telecommunications Program
505 – 14th Street, Suite 400
Oakland, California 94612

All protests to the IFB or protests concerning the evaluation, recommendation, or other aspects of the selection process must be received by the Executive Director of the DDTP as promptly as possible, but not later than the respective times and dates specified in Section 1 for such protests. Certified or registered mail must be used unless delivered in person, in which case the protester should obtain a receipt of delivery.

B. News Releases

Any publications or news releases relating to a contract resulting from this IFB shall not be made without **prior written approval** of the DDTP Official listed in Section 1.

C. Disposition of Proposals and Bids

All materials submitted in response to this IFB will become the property of the DDTP and will be returned only at the DDTP's option and at the bidder's expense. The Master Copy shall be retained for official files and will become a public record after the date and time for final CPUC approval as specified in Section 1, KEY ACTION DATES. However, confidential financial information submitted in support of the requirement to show bidder responsibility will be returned upon request.

D. Contacts for Information

Bidders may contact the Procurement Official listed in Section 1 for any additional information. The DDTP may provide specifically requested information to any or all bidders as it deems appropriate. The DDTP reserves the right to charge to defray expenses incurred in producing the requested information.

Oral communications of DDTP officers and employees concerning this IFB shall not be binding on the DDTP and shall in no way excuse the bidder of any obligations set forth in this IFB.

Exhibit II A
COMPETITIVE BIDDING AND BID RESPONSIVENESS

The purpose of competitive bidding is to secure public objectives in the most value-effective manner and avoid the possibilities of graft, fraud, collusion, etc. Competitive bidding is designed to benefit the public body (the DDTP, in the present context), and is not for the benefit of the bidders. It is administered to accomplish its purposes with sole reference to the public interest. It is based upon full and free bidding to satisfy DDTP specifications, and acceptance by the DDTP of the most value-effective solution to the DDTP's requirements, as determined by the evaluation criteria contained in the IFB.

Competitive bidding is not defined in any single statute but is more in the nature of a compendium of numerous court decisions. From such court decisions, the following rules have evolved, among others:

1. Invitations for Bids must provide a basis for full and fair competitive bidding among bidders on a common standard, free of restrictions tending to stifle competition.
2. The DDTP may modify the IFB, prior to the date fixed for submission of bids, by issuance of an addendum to all parties who have been furnished with the IFB for bidding purposes.
3. To have a valid bid, the bid must respond and conform to the invitation, including all the documents that are incorporated therein. A bid which does not comply literally may be rejected.
4. For a variance between the request for bids and the bid to be such as to preclude acceptance (the bid must be rejected), the variance or deviation must be a material one.
5. The DDTP usually has the express or implied right to reject any and all bids in the best interests of the DDTP. Bids cannot, however, be selectively rejected without cause.
6. Bids cannot be changed after the time designated for receipt and opening thereof. No negotiation as to the scope of the work, amount to be paid, or contractual terms is permitted.
7. A competitive bid, once opened and declared, is in the nature of an irrevocable option and a contract right of which the public agency cannot be deprived without its consent, unless the requirements for rescission are present. All bids become public documents.

8. Bids cannot be accepted "in part," unless the invitation specifically permits such an award.
9. Contracts entered into through the competitive bidding process cannot later be amended, unless the Invitation for Bids includes a provision, to be incorporated in the contract awarded, providing for such amendment.

Many of the causes for rejection of bids arise from either an incomplete understanding of the competitive bidding process or administrative oversight on the part of the bidders. The following examples are illustrative of more common causes for rejection of bids. These examples are listed to assist potential bidders in submission of responsive bids.

1. A bid stated, "The prices stated within are for your information only and are subject to change."
2. A bid stated, "This proposal shall expire thirty (30) days from this date unless extended in writing by the ____ Company." (In this instance award was scheduled approximately 45 days after bid submittal date.)
3. A personal services contract stated, "_____, in its judgment, believes that the required schedules are extremely optimistic and probably unobtainable. Nevertheless, will exercise its best efforts..."
4. A bid stated, "This proposal is not intended to be of a contractual nature."
5. A bid contained the notation "prices are subject to change without notice."
6. A bid was received with unacceptable modifications to the Purchase Contract.
7. A bid stated, "...this proposal is preliminary only and the order, when issued, shall constitute the only legally binding commitment of the parties."
8. A bid was delivered to the wrong office.
9. A bid was delivered after the date and time specified in the IFB.
10. An IFB required the delivery of a performance bond covering 25 percent of the proposed contract amount. The bid offered a performance bond to cover "x" dollars which was less than the required 25 percent of the proposed contract amount.

SECTION 3. CURRENT STATUS OF CRS

I. HISTORY OF THE DDTP AND CRS

A. Legislative History

The California Relay Service began on January 1, 1987 in response to California legislation passed in 1983 (SB 244) requiring the formation of a statewide dual-party relay system. The legislation directed the California Public Utilities Commission (CPUC) to initiate an investigation and conduct public hearings to determine the most cost-effective method of providing dual-party relay service. The legislation also directed the CPUC to seek the advice, counsel, and assistance of statewide non-profit consumer organizations of the deaf during the development and implementation of the system. This legislation is included in the California Public Utilities Code at Section 2881.

B. Funding Mechanism

The legislation also established that the funding mechanism for the California Relay Service was to be the same as for the already established equipment distribution program. This funding mechanism is a usage-sensitive surcharge assessed to all California ratepayers monthly on their telephone bills. This surcharge is currently .3% of all intrastate charges and is collected by all telephone companies in California and remitted to the D.E.A.F. Trust, which is the fund established for this purpose. The D.E.A.F. Trustee is the Bank of America, and payment is made to all program vendors from this fund.

C. Initial CRS System

The system that was initially established in 1987 was for AT&T to provide the California Relay Service in conjunction with the local telephone companies in California. AT&T hired and trained the operators, obtained the facility and equipment used in the provision of the service, and billed CRS users for any interLATA calls made through CRS. The local exchange companies billed users for any intraLATA calls made through CRS. At that time, interstate and international calls were not provided through CRS. The service was monitored by the D.E.A.F. Trust Administrative Committee, which had been previously established by the CPUC to also monitor California's specialized telecommunications equipment distribution program. AT&T had no contract with the D.E.A.F. Trust Administrative Committee, and provided the service on a cost-reimbursement basis.

D. Program Restructuring

In 1989, the CPUC expanded the scope of the Deaf and Disabled Telecommunications Program by expanding the size of and re-naming the D.E.A.F. Trust Administrative Committee and appointing two new advisory committees. The administrative committee was re-named the Deaf and Disabled

Telecommunications Program Administrative Committee (DDTPAC). The two new advisory committees appointed were the California Relay Service Advisory Committee (CRSAC) and the Equipment Program Advisory Committee (EPAC). The CRSAC was assigned the responsibility of monitoring the service quality of CRS and making recommendations to the DDTPAC for improvements. DDTPAC was assigned the responsibility of reviewing monthly CRS invoices from the provider and approving payment of the invoices. The DDTPAC was also assigned the responsibility of making recommendations to the CPUC regarding any major changes in the service or provision of the service.

E. Transition to Current CRS System

The new and expanded consumer involvement in the program gave rise to new interests and concerns about both the equipment distribution component and the relay service component of the program. In 1990, the DDTPAC decided to seek competitive bids from any and all potential vendors who might be interested in providing CRS. The DDTPAC appointed a subcommittee to write an RFP and to review the responses and make a recommendation to the DDTPAC for a vendor for the service. The RFP elicited three responses, from AT&T, MCI, and Sprint. After review of the proposals, the DDTPAC's subcommittee recommended to DDTPAC that the new CRS contract be awarded to Sprint. The DDTPAC approved the recommendation which was forwarded to the CPUC. On October 11, 1991, the CPUC issued Resolution T-14638, affirming Sprint as the vendor for the California Relay Service and approving Sprint's Advice Letter filing with its accompanying contract. The contract was approved for an initial three-year period, with two one-year renewal options. The DDTPAC has exercised each of its one-year renewal options, and the contract will now finally expire on October 11, 1996.

II. CURRENT CRS CONTRACTUAL ARRANGEMENT

A. Current Provider

Under the current contract approved by the CPUC, Sprint carries and bills for all calls relayed through CRS, unless a user requests another certified carrier that has established the necessary interconnection arrangements with Sprint to complete CRS calls. If another carrier completes a CRS call, that carrier also bills the customer.

B. Call Revenues

Sprint is required to remit to the DDTP on a monthly basis all revenues collected from customers for intrastate toll or long distance calls made through CRS. This is because Sprint is also compensated by the DDTP on a per minute basis for all intrastate calls made through CRS. If the call revenues were also retained by Sprint, Sprint would be double-collecting for CRS calls. Callers may place interstate and international calls through CRS, but Sprint is not reimbursed by the DDTP for those calls.

C. Reimbursement

Sprint bills the DDTP and is reimbursed for providing CRS on a total minute of service basis. All minutes of use involved in a CRS call, including call set-up, call duration, and call wrap-up, are tracked and reported to the DDTP and reimbursed at the contractual per minute rate.

D. Committee Participation

The CPUC has established a position on each of the three DDTP committees for a representative of the CRS vendor. Sprint is required by the contract to appoint a representative to serve on the Deaf and Disabled Telecommunications Program Administrative Committee (DDTPAC), the California Relay Service Advisory Committee (CRSAC), and the Equipment Program Advisory Committee (EPAC). The representatives to DDTPAC and CRSAC serve in a voting capacity, and the representative to EPAC is a non-voting member.

All three DDTP committees meet monthly in meetings open to the public with an agenda item for public input. Through these meetings, both DDTPAC and CRSAC receive valuable comments and input from CRS users about suggestions for how the service can be improved. The CRSAC focuses primarily on service quality, new features and functions, and outreach issues. The DDTPAC reviews and approves the monthly CRS invoice and oversees the CRS budget.

E. DDTP Staff

The three DDTP committees are supported by a paid independent staff, headed by an Executive Director, which manages all day-to-day business of the program. The DDTP staff also serves as the major liaison with the D.E.A.F. Trustee and with all program vendors, including all of the local telephone companies who provide equipment and with the CRS vendor. The DDTP Executive Director serves as the contract administrator.

III. CALL VOLUMES

A. Outbound Call Volumes

Average monthly outbound call volumes at CRS have grown steadily since the service began in 1987, as the following chart illustrates.