



State of Utah

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Lieutenant Governor

Department of Administrative Services

D'ARCY DIXON PIGNANELLI
Executive Director

Division of Facilities Construction and Management

F. KEITH STEPAN
Director

ADDENDUM #1

Date: 12 January 2006

To: Consultants

From: Lyle Knudsen, Project Manager, DFCM

Reference: University of Utah
College of Humanities Building – CM/GC
DFCM Project No. 05196750

Subject: **Addendum No. 1**

Pages	Addendum	2 pages
	<u>Attachment "A"</u>	<u>3 pages</u>
	Total	5 pages

Note: This Addendum shall be included as part of the Contract Documents. Items in this Addendum apply to all drawings and specification sections whether referenced or not involving the portion of the work added, deleted, modified, or otherwise addressed in the Addendum. Acknowledge receipt of this Addendum in the space provided on the Bid Form. Failure to do so may subject the Bidder to disqualification.

1.1 GENERAL

Proposers shall acknowledge receipt of this addendum by entering the Addendum number on the "PROPOSAL" which is part of the "Request for Proposals."

1.2 DFCM has started requiring a "Claim of Business Confidentiality Form" be filled out and submitted with the proposal. Will this new requirement be added to this project?

*Yes. The "Claim of Business Confidentiality Form" **must** be included with the Proposal. (Reference Attachment "A")*

- 1.3 Would there be an opportunity to discuss with DFCM what is appropriate to list on the form and what will be done with the information after the selection?

If a contractor has a question about what to claim for “business confidentiality,” they should advise DFCM as soon as possible in writing prior to submitting their proposal. DFCM will keep the “marked” areas as confidential unless the director or other appropriate authority determines that such matter does not meet the State law requirements for the requested confidentiality. The contractor will be advised of this prior to any public release of such claimed confidential matter and will be given an opportunity to address the issue prior to any such release. Contractors should limit their marking of portions of the proposal to only those portions that they believe meet the requirements of the statute indicated on the “Claim of Business Confidentiality Form”.

- 1.4 With only 6 construction firms attending the mandatory meeting you thought that a short-listing will not be required. If that is the case will the interview date change? Can you provide that new date?

*The Short Listing has been cancelled. **The interview date has been changed to February 17, 2006.** The location of the interview is the same location as the Mandatory Meeting; LNCO, conference room.*

End of Addendum

ATTACHMENT "A"

**IMPORTANT INSTRUCTIONS TO CLAIM BUSINESS
CONFIDENTIALITY**

Provided with this Addendum #1 is the Claim of Business Confidentiality Form. To claim business confidentiality, this form must be submitted with the proposal or any other submitted documents.

We have also provided some of the statutory references of the Utah Governmental Records Access and Management Act (GRAMA).

This explanation should be made for each provision, paragraph or section that meets the requirements for a Claim of Business Confidentiality.

Examples of what may qualify for a Claim of Business Confidentiality: client lists, non-public financial statements and certain reference information.

Example of what does not qualify for a Claim of Business Confidentiality: the amount of each offeror's cost proposal shall be disclosed after the contract is awarded. [Utah Administrative Code R23-1-15 (9)(b)]

You will be notified if there is a concern about your submitted Claim of Business Confidentiality, prior to any public release of such claimed information.

STATUTORY REFERENCES FOR CONFIDENTIALITY CLAIM:

This provides some examples of protects records under GRAMA.

GRAMA, Utah Code Ann., Subsection 63-2-304, provides in part that the following records are protected if properly classified by a government entity:

UCA 63-2-304. Protected records.

(1) **trade secrets** as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63-2-308 (Business Confidentiality Claims) [NOTE: Trade Secrets in 13-24-2 is defined as:

"Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, or process, that:

(a) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and

(b) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.];

(2) commercial information or non-individual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63-2-308; . . .

[this statute provides further examples of protected records]

UCA 63-2-308. Confidentiality claims.

(1) (a) (i) Any person who provides to a governmental entity a record that the person believes should be protected under Subsection 63-2-304(1) [**TRADE SECRET**] or (2) [**COMMERCIAL INFORMATION OR NON-INDIVIDUAL FINANCIAL INFORMATION**] or both Subsections 63-2-304(1) and (2) **shall provide with the record:**

(A) a written claim of business confidentiality; and

(B) a concise statement of reasons supporting the claim of business confidentiality. .

. .

CLAIM OF BUSINESS CONFIDENTIALITY FORM

Pursuant to Utah Code Ann., Subsections 63-2-304(1) and (2), and in accordance with Section 63-2-308, **(insert company name)** asserts a claim of business confidentiality to protect the following information submitted as part of a Request for Proposals.

Please see the Statutory References for Confidentiality Claim on the preceding page, especially in regard to the definition of trade secrets and other information that can be protected from public disclosure under GRAMA.

This statement of reasons supporting the claim of business confidentiality applies to the following information on this proposal:

Page	Paragraph	Reason

If more space is needed, please insert additional rows and provide additional pages.

Signed:

Date:

Printed Name and Title