



REQUEST FOR PROPOSALS

FOR

PROJECT ENGINEERING SERVICES

May 3, 2019

Tahoe Transportation District

P.O. Box 499

Zephyr Cove, NV 89448

INTRODUCTION

The Tahoe Transportation District (TTD) is seeking the services of a qualified firm to conduct engineering services for the US50/South Shore Community Revitalization Project (Project). TTD is a bi-state, special purpose transportation district that delivers capital projects in the Lake Tahoe basin. Examples of TTD projects include road realignments, bridges, roundabouts, complete streets, parking, shared use paths, and transit facilities. These projects are located in both California and Nevada and require cooperation and involvement from various federal, state and local entities, including the Tahoe Regional Planning Agency (TRPA), federal agencies, state agencies, counties, cities, and other local jurisdictions.

All of TTD's projects serve transportation purposes and help to accomplish regional transportation goals. At the same time, some of TTD's projects also create development opportunities that further other public purposes and goals.

Supporting project information can be found at <http://tahoetransportation.org>.

This Request for Proposals (RFP) describes the general Scope of Services, necessary proposal components, selection process, and required format of the proposals, as well as a sample of TTD's Standard Professional Services Agreement.

The prime firm in response to this RFP shall be a firm, organization or vendor licensed to conduct business in their respective disciplines in the State of California and Nevada.

TTD reserves the right to award any number of contracts it deems necessary. This RFP does not commit TTD to award a contract. TTD reserves the right to accept or reject any or all proposals. No proposal shall be binding upon TTD until after a contract is executed by duly authorized representatives of TTD and the selected firm. No minimum amount of work is implied or guaranteed under the contract.

SCOPE OF SERVICES

The successful firm will be a highly skilled and experienced project team comprised of seasoned, well-rounded team members with related experience in the following areas discussed below. The selected firm will be responsible for all aspects of the preliminary engineering associated with the specific components outlined below. The selected firm must be familiar with NDOT, Caltrans and FHWA processes for project delivery and the administration of the full variety of State, Federal and local funding sources. The project is funded by a combination of regional, state and federal grants and local dollars. Current design is at approximately 30 percent design level and was prepared for environmental analysis and cost estimate purposes.

The firm's team shall have road and facility planning, design and engineering experience in managing large-scale civil projects (streets, drainage, utilities and other improvements) and vertical projects (transit-oriented development and facilities). Services shall include preliminary engineering services including but not limited to: recommendations for project delivery, utility relocation analysis, tracking budgets, preparing cost estimates and risk management. Providing construction cost/cost of work, monitoring schedules, ROW determination, overseeing quality of all aspects of the project; communication with the project team; coordinating with all other applicable consultants.

Project engineering will be completed in two phases. Phase 1 will include the preliminary engineering up to 60 percent design completion, including but not limited to:

- Plan view of proposed site grading and drainage improvements and identification of all major road components, including curb, gutter, sidewalks, parking areas, buildings and structures.
- Utility relocation study to include a future utility capacity analysis.
- Utility plan sheets identifying proposed improvements with existing utilities clearly identified in locations where conflicts could exist.
- Profile for gravity sanitary sewer and future sewer needs assessment.
- Roadway and drainage structure plan and profile sheets with appropriate horizontal and vertical design information.
- Preliminary geotechnical and land surveys.

Phase 2 will encompass all final project design and construction drawings, Phase 2 should not be included in the cost estimate. TTD shall at its sole discretion reserve the right to retain the services of the selected firm for one or both phases. The selected firm will work alongside the TTD and other consultants/firms to deliver necessary project engineering.

The preliminary engineering work will consist of three separate, but related components of the project. The components, along with relevant tasks, are described as follows:

US 50 Realignment:

Upon the issuance of the first Notice to Proceed (NTP), work associated with this phase will consist of all preliminary engineering work associated with the realignment of US 50 from just west of the Pioneer Trail intersection in California to Lake Parkway in Nevada. The realignment would begin at a relocated Pioneer Trail intersection located to the west of the existing intersection and proceed south along existing Moss Road. It would then turn east onto the Montreal Road alignment, passing behind (southeast of) the Heavenly Village shopping complex, and continuing along the existing Montreal Road and Lake Parkway alignments before ending at a new two-lane roundabout at the existing US 50/Lake Parkway intersection. The new realignment will have four 11-foot wide travel lanes, 5-foot shoulders, and turn pockets at major intersections and driveways. New signalized intersections would be located at Heavenly Village Way and the driveway entrance to Harrah's. A new pedestrian bridge over the new highway will link the Harrah's parking lot to the Van Sickle Bi-State Park along the state line. A significant amount of utility work is anticipated within and throughout the corridor. Specific tasks may include:

- Develop innovative engineering solutions for all project components
- Prepare a transportation management plan
- Prepare a utility relocation and capacity study and design recommendations
- Determination of existing utilities
- Conduct geotechnical and land surveys
- Determination of all necessary Right-of-Way acquisition based on preliminary project design
- Securing all necessary rights-of-entry for private property
- Ensure all designs meet NDOT and Caltrans expectations and standards
- Develop landscape plans, irrigation plans, and vegetative maintenance plans consistent with relevant policies and ordinances
- Ensure all designs meet current standards in addressing multi-modal functionality
- Update project costs, prepare a finance plan as needed and provide any information necessary for securing additional funds

- Assist in coordination, communication and, if necessary, preparation of inter-local agreements with stakeholders
- Participate in the partnering process with project stakeholders
- Construction sequence plan
- Signage and wayfinding plan

Rocky Point Neighborhood Amenities Plan:

The new highway realignment will transect the Rocky Point neighborhood and require the displacement of approximately 76 residential units and significantly alter the physical appearance of the neighborhood. As such, a condition of project approval stipulates that specific improvements be made to the neighborhood on both sides of the new highway alignment. Improvements shall be detailed in an amenities plan that will be submitted to TRPA for review and approval. The plan is to be developed with input from the neighborhood representatives and shall provide details for a community park and green space, sidewalks, lighting and wayfinding signage to link people to crossings, transit services and stops. The plan shall also include all noise mitigation measures identified in the project environmental analysis.

New “Main Street”:

The existing US 50 right-of-way between Pioneer Trail and Lake Parkway would be relinquished to the City of South Lake Tahoe in California and Douglas County in Nevada and would become a new “Main Street.” In the environmental document, the new Main Street would be reduced to one travel lane in each direction for most, but not all of the length, with landscaped medians and left-turn pockets at major intersections and driveways. Bicycle lanes and pedestrian amenities will be added and/or upgraded throughout the project site.

As part of the post approval design process for the former US 50 alignment, a Main Street Management Plan will be developed to create a complete, multi-modal street environment which will enhance the business environment and visitor experience. This may include a refinement of the analyzed proposal. The management plan will be developed by a firm, along with a Stakeholder Working Group and a Technical Working Group led by TTD’s partner agency the Tahoe Regional Planning Agency. The selected firm will be required to work closely and collaboratively with all applicable parties to meld the proposed Main Street design concept with practical engineering solutions. Specific tasks may include:

- Assist in coordination between the Stakeholder Working Group, Technical Working Group and other consultants
- Engage and work with property owners, business owners, utility providers, public works departments, emergency service and law enforcement providers, and others as needed
- Determine baseline conditions for ingress/egress, traffic circulation for existing conditions, and assess for improvements related to management plan proposed goals
- Provide real-time feedback as to the feasibility of proposed project Main Street designs
- Conduct risk management, value analysis, constructability and maintainability reviews to ensure project quality
- Assist in the coordination with all impacted agencies and stakeholders
- Ensure adequate utility relocation
- Determine right-of-way acquisition and relocation based on preliminary project design

- Continue partnering process with stakeholders
- Ensure all designs meet NDOT and Caltrans, local jurisdictions, utility jurisdictions, and others expectation and standards

Deliverables shall be prepared, stamped and signed by a Professionally Registered California and/or Nevada State Licensed Civil Engineer, dependent on project location, for engineering projects. Other tasks requiring a professional license, such as licensed landscape architects, may be required as well.

PROPOSAL REQUIREMENTS

A. Form of Proposals

Proposals shall include, at a minimum, the following information presented in a clear and concise format. Firms are solely responsible for the accuracy and completeness of its proposal. Incomplete proposals may be rejected.

1. Cover Letter
 - a) Contact information and a signature by an authorized officer or employee of the firm.
 - b) Briefly explain firm's approach to providing excellent service.
 - c) Include a statement of acknowledgement of having received all addenda, if any are issued.
2. Firm Profile
 - a) Provide a summary of the firm's areas of expertise and experience as related to this RFP. Include a brief description of the prime firm, including number of employees and years in business, as well as the firm's overall approach and strategy to delivering collaborative solutions for complex, public sector problems.
 - b) Provide a summary of the firm and team's past experience with similar projects.
 - c) Provide a summary of the firm and team's past experience working on projects within the Lake Tahoe Basin.
3. Project Personnel/Team
 - a) The principal-in-charge shall be a Professional Engineer (Civil) currently licensed in the States of California and Nevada.
 - b) Provide an organizational chart of the firm, including principal-in-charge and key support staff.
 - c) Include background of the firm/team, number of professionals (by discipline) and support staff, major focus of practice, range of services and references. Provide resumes of the principal-in-charge (not included in page count) and each key staff member.
 - d) The firm must have experience with innovative contracting (Design Build, Design Build Finance, and Construction Manager at Risk or Construction Manager/General Contractor) and Public Private Partnerships and must have a minimum of five (5) years of experience managing similar projects.
 - e) TTD has not established a DBE goal for this contract. However, proposers are encouraged to obtain DBE participation for this contract.
 - f) Other applicable factors.

4. Relevant Experience – Prime Firm
 - a) Provide description for up to five (5) relevant projects recently completed by the prime firm that demonstrate your team’s particular strength(s) and experience. The description for each project should include the following information:
 - i. Project name and location
 - ii. Brief description of project and its relevance to the type of work TTD has identified
 - iii. Indicate whether the prime firm was the lead consultant and provide a description of the team’s role on the project. Identify the principal-in-charge or project lead
 - iv. Approximate construction cost
 - v. Construction completion date
 - vi. Firm’s fee for the project
 - vii. Client/Agency reference
5. US 50/South Shore Community Revitalization Project Understanding & Approach
 - a) Describe the team’s experience in providing engineering and design services for projects similar in size and scope to the project.
 - b) Describe the team’s technical understanding of the project’s requirements.
 - c) Identify specific methods to be used to deliver project requirements.
 - d) Identify potential risks, complications, or difficulties that might be encountered in the implementation of required services, along with suggested resolutions for each.
 - e) Describe ability to work with TTD staff, community groups, public agencies, utility providers and other stakeholders, and translate various requirements and interests into a successful project in a complex multi-jurisdictional environment. Highlight the firm’s experience employing innovative and effective techniques for community and stakeholder engagement.
 - f) Other applicable factors.
6. Fee Proposal
 - a) Firms will clearly label the fee proposal as "CONFIDENTIAL" and provide this information in a separate sealed envelope.
 - b) The elements of the fee proposal shall include the following:
 - i. A not-to-exceed lump sum for basic services.
 - ii. An itemization of the expected level of services to be provided by each sub-consultant, including hours of work and corresponding fees.
 - iii. An estimated fee for customary reimbursable expenses to be invoiced separately and considered as professional services.
 - iv. An hourly rate schedule, valid for a period of twelve (12) months following the contract execution date, for each member of the firm who will be working on the project.
7. Specifically indicate any requirements in this RFP which are not acceptable or cannot be performed.
8. Specifically indicate any contract provisions attached as Attachment A which are not acceptable and propose any alternative language or terms.
9. Provide a signed copy of the Lobbying Certification attached as Attachment B.

10. Provide a signed copy of the Certification Regarding Debarment, Suspension and other Responsibility Matters attached as Attachment C.
11. Provide a statement which discloses any past on-going or potential conflicts of interest that the firm may have as a result of performing the work/services.

Proposals should not exceed 20 pages (with the exception of attached materials which shall not be counted for purposes of the page limit). Attachments should be labeled as attachments and included separately with the proposal.

B. Costs of Proposals

Issuance of this RFP does not commit TTD, in any way, to pay any costs incurred in preparing and submitting a proposal. TTD will not reimburse responding firms, including the selected firm, for any expenses incurred in preparing or submitting proposals. All costs related to preparing and submitting a proposal shall be paid by the respondent.

C. Licenses, Permits, Taxes

The price or prices for the work shall include full compensation for all taxes, permits, etc. that the respondent is or may be required to pay.

D. Disadvantaged Business Enterprise (DBE) Requirements

TTD hereby notifies firms that in regard to any contract entered into pursuant to this RFP, Disadvantaged Business Enterprises (DBE's) will be afforded equal opportunities to submit proposals and will not be discriminated against on the grounds of race, color, sex, disability, or national origin in consideration of an award.

A DBE is defined as a small business concern which is at least 51% owned and controlled by one or more socially and economically disadvantaged individuals, or in the case of any publicly owned business, at least 51% of the stock of which is owned by one or more socially and economically disadvantaged individuals. Socially and economically disadvantaged include Women, Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, and Asian-Indian Americans.

E. Equal Employment Opportunity

Each firm must agree that it will not discriminate in hiring, promotion, treatment, or other terms and conditions of employment based on race, sex, national origin, age, disability, or in any way violate Title VII of the 1964 Civil Rights Act and amendments, except as permitted by said laws.

F. Public Record/Confidential Information

All responses become property of TTD. All responses, including the accepted proposal and any subsequent contract, become public records per the requirements of state public records laws. Proprietary material must be clearly marked as such. Pricing and service elements of the successful proposal are not considered proprietary information.

TTD will treat all information submitted in a proposal as available for public inspection once TTD has selected a contractor. If you believe that you have a legally justifiable basis for protecting the confidentiality of any information contained within your proposal, you must identify any such information, together with the legal basis of your claim in your proposal, and present such information separately as part of your response package. This portion of the submittal must be clearly marked “Confidential.”

The final determination as to whether TTD will assert your claim of confidentiality on your behalf shall be at the sole discretion of TTD. If TTD makes a determination that your information does not meet the criteria for confidentiality, you will be notified. Any information deemed to be non-confidential shall be considered a public record.

PROCUREMENT PROCESS

A. RFP Schedule

Release date of RFP	May 3, 2019
Deadline for Questions/Written Comments	3:00 p.m. PST May 17, 2019
Response to Questions	May 20, 2019
Deadline for Submittals	3:00 p.m. PST May 31, 2019
Interviews, if necessary	June 10-11, 2019
Notification to award contract	June 17, 2019
TTD Board Approval	July 12, 2019

B. Addenda and Clarifications

Any changes, additions or clarifications to this RFP will be made by amendments (addenda). Any additional supporting materials and addenda will be posted on the TTD website, <http://tahoetransportation.org/doing-business/rfp-info>.

Requests for clarifications about this RFP may be submitted at any time prior to 3:00 p.m. on May 17, 2019. Requests should be submitted in writing via e-mail to: Judi Allen, Executive Assistant, jallen@tahoetransportation.org.

Responses will be posted on the TTD website, <http://tahoetransportation.org/doing-business/rfp-info>, no later than May 20, 2019.

C. Delivery of Proposals

Firms must deliver one (1) electronic version of their proposal on a CD or USB flash drive. Delivery shall be made either (1) in-person or courier service to the Tahoe Transportation District, Attn: Judi Allen, 128 Market Street, Suite 3F, Stateline, NV 89448 or (2) via mail at P.O. Box 499, Zephyr Cove, NV 89448.

Please mark the envelope as “RFP for Project Engineering Services.” Proposals must be received no later than 3:00 p.m. on May 31, 2019 to be considered responsive.

Proposals shall be submitted no later than the deadline time and date specified above. Firms shall respond to the written RFP and any exhibits, attachments, or amendments. A responding firm’s failure to submit proposals as required before the deadline shall cause the submittal to be disqualified.

Responding firms assume the risk of the method of dispatch chosen. TTD assumes no responsibility for delays caused by any delivery service. Postmarking by the due date shall not substitute for actual receipt of the submittal by TTD. Late submittals shall not be accepted nor shall additional time be granted to any responding firm.

D. Evaluation Process

A technical advisory committee will review and evaluate the submitted proposals for responsiveness to the RFP in order to determine whether proposers possess the qualifications necessary to provide the goods and services.

The selection will be based on the proposal offering the best approach and qualifications to TTD. Fees will not be subject to valuation. In negotiating a contract with the qualified successful firm, refinements to fee, scope and schedule will be jointly determined through negotiations with the most qualified firm after conclusion of the evaluation process.

TTD may request clarifications of proposals directly from the proposers. TTD reserves the right to waive any minor irregularities, informalities or oversights in the RFP documents, or any corresponding proposals at its sole discretion. TTD reserves the right to reject all proposals.

E. Selection Criteria

TTD staff will select the firm that staff believes will provide the best value. In reviewing the proposals, and negotiating with selected firms, TTD will consider the following evaluation criteria:

CATEGORY	MAX POINTS
Qualifications and Experience of Firm	25
Qualifications and Experience of Proposed Staff/Team	25
Project Specific Approach: Understanding of the Approach, Scope and Familiarity with Local, State and Federal Procedures	25
Operational/Organizational Approach to the Scoping, Scheduling & Quality of Delivering a Project, and References	25

If the TTD elects to interview, the submitting firms shall be notified of the interview schedule. The same attached evaluation criteria form will be used for all reviews. Failure of a firm to appear at the interview will be considered non-responsive and that firm will be eliminated from any further consideration.

All evaluators may use the information submitted in the firm’s proposal and presented at the interview, if applicable, to arrive at the final ranking. The firms will be ranked and an agreement shall be negotiated following the selection of a firm. If an acceptable agreement cannot be reached with the initial firm selected, the TTD shall proceed to negotiate with the next most qualified firm or consider reposting the RFP if necessary and acceptable agreement cannot be negotiated.

F. Negotiation and Award

TTD will work with the selected firm to negotiate a contract between TTD and the selected firm. All costs incurred by the firm in connection with this work and negotiations shall be borne by the firm and

the firm shall have no right to reimbursement from TTD. The contract will then be brought to TTD's Board of Directors with a staff recommendation for contract award.

In the event that TTD and the selected firm fail to finalize the specifications and components for the system, or fail to negotiate a contract, TTD will reject the selected firm's proposal. In the event of rejection, the firm shall have no right to reimbursement for costs incurred by the firm in connection with any work and negotiations. TTD will then select another firm that staff believes will provide the best value and work and negotiate with that firm.

If TTD decides to award and receives approval from TTD's Board of Directors, the agreement will be sent to the firm for signature. No proposal shall be binding upon TTD until after the agreement is executed by duly authorized representatives of the firm and TTD.

G. Contract Duration

TTD expects all preliminary engineering work to be completed by September of 2020. In the event of unanticipated delays, the project timeframe may be extended at TTD's sole discretion, for a duration adequate to accommodate such delays.

A contract may be terminated pursuant to Section 1 of the TTD's standard contract services agreement (Attachment A). All project documents shall be transferred to TTD at the time of termination and shall become the sole property of TTD.

TERMS, CONDITIONS, AND EXCEPTIONS

A. Required Review and Waiver of Objections by Responding Firms

Responding firms should carefully review this RFP and all attachments, including but not limited to the *Standard Contract*, for comments, questions, defects, objections, or any other matter requiring clarification or correction (collectively called "comments"). Comments concerning RFP objections must be made in writing and received by TTD no later than the date specified above.

Protests based on any objection shall be considered waived and invalid if these faults have not been brought to the attention of the TTD, in writing, by the deadline for written comments.

If a firm that has not been selected wishes to dispute the award recommendation, the protest must be submitted in writing to the contact listed below no later than five (5) calendar days after announcement of the selected firm, detailing the grounds, factual basis and providing all supporting information. Protests will not be considered for disputes of proposal requirements and specifications. Failure to submit a timely written protest to the contact listed below will bar consideration of the protest.

B. Submittal Preparation, Interview and Negotiation Costs

TTD shall not be responsible for and/or shall not pay any costs associated with the preparation, submittal, or presentation of any proposals, and costs incurred by the responding firms during the interview and negotiations phase of the solicitation process.

The TTD will not be liable for Federal, State, or local excise taxes.

The TTD reserves the right to negotiate final contract terms with any firm selected. The contract between the parties will consist of the final executed contract, the RFP together with any modifications thereto, and the awarded firm's proposal, together with any modifications and clarifications thereto that are incorporated at the request of the TTD during the evaluation and negotiation process. In the event of any conflict or contradiction between or among these documents, the documents shall control in the following order of precedence: the final executed contract, addenda to the RFP, the RFP, any modifications and clarifications to the awarded Proposer's proposal, and the awarded Proposer's proposal. Specific exceptions to this general rule may be noted in the final executed contract.

No announcement concerning the award of a contract as a result of this RFP can be made without the prior written approval of the TTD.

C. Statement of Qualifications Withdrawal

To withdraw a proposal, the responding firm must submit a written request, signed by an authorized representative, to the Contract Coordinator. After withdrawing a previously submitted proposal, the Responding Firm may submit another proposal at any time up to the deadline for submitting proposals.

D. Statement of Qualifications Amendment

TTD shall not accept any amendments, revisions, or alterations to proposals after the deadline for proposal submittal unless such is formally requested, in writing, by TTD.

E. Statement of Qualifications Errors

Responding firms are liable for all errors or omissions contained in their proposals. Responding firms shall not be allowed to alter proposal documents after the deadline for submitting a proposal.

F. Incorrect Statement of Qualifications Information

If TTD determines that a responding firm has provided, for consideration in the evaluation process or contract negotiations, incorrect information which the responding firm knew or should have known was materially incorrect, that submittal shall be determined non-responsive, and the proposal shall be rejected.

Any irregularities or lack of clarity in the RFP must be brought to TTD's attention as soon as possible so that corrective addenda may be furnished to all Proposers.

Alterations, modifications or variations to a proposal may not be considered unless authorized by the RFP or by an addendum or an amendment to the RFP.

Proposals which appear unrealistic in the terms of technical commitments, lack of technical competence, or are indicative of failure to comprehend the complexity and risk of this contract, may be rejected.

Proposer understands and acknowledges that the representations above are material and important, and will be relied on by the TTD in its evaluation of a proposal. Any misrepresentation by a proposer shall be treated as fraudulent concealment from the TTD of the true facts relating to the proposal.

G. Assignment and Subcontracting

The Proposer and proposed Subcontractor(s) may not subcontract, transfer, or assign any portion of the contract without prior, written approval from TTD. Each subcontractor / subconsultant must be approved in writing by TTD. The substitution of one subcontractor / subconsultant for another may be made only at the discretion of TTD and with prior written approval from TTD.

Notwithstanding the use of approved subcontractor/subconsultant, the Selected Firm(s), if awarded a contract under this RFP, shall be the prime contractor and shall be responsible for all work performed.

A proposal submitted in response to this RFP must identify any subconsultants, and outline the contractual relationship between the awarded Proposer and each such subconsultant.

The awarded Proposer will be the sole point of contract responsibility. The TTD will look solely to the awarded Proposer for the performance of all contractual obligations which may result from an award based on this RFP, and the awarded Proposer shall not be relieved for the non-performance of any or all of its subconsultants.

H. Proposal of Additional Services

If a responding firm indicates the capability and offers services in addition to those required by and described in this RFP, these additional services may be added to the contract before contract signing at the sole discretion of the TTD. The cost for any such additional services shall be mutually agreed upon by the selected firm(s) and TTD, and incorporated into the contract before contract signing.

I. Licensure

Before a contract pursuant to this RFP is signed, the selected firm(s) must hold all necessary, applicable business and professional licenses. TTD may require any or all responding firms to submit evidence of proper licensure.

J. Disclosure of Submittal Contents

All proposals and other materials submitted in response to this RFP procurement process become the property of TTD and will not be returned. Selection or rejection of a submittal does not affect this right. All proposal information, including any detailed price and cost information, shall be held in confidence during the evaluation and selection process. Upon the completion of the evaluation and selection process, indicated by approval of a contract for services emanating from this RFP by the TTD Board, the proposals and associated materials shall be open for review by the public to the extent allowed by the *California Public Records Act*. By submitting a proposal, the responding firm acknowledges and accepts that the contents of the submittal and associated documents shall become open to public inspection.

K. Proprietary Information

The master copy of each proposal shall be retained for official files and will become public record after the award of a contract unless the proposal or specific parts of the proposal can be shown to be exempt by law. Each responding firm will clearly label part of a submittal as "CONFIDENTIAL" if the responding firm thereby agrees to indemnify and defend the TTD for honoring such a designation. The failure to so label any information that is released by TTD shall constitute a complete waiver of all claims for damages caused by any release of the information. If a public records request for labeled information is

received by TTD, TTD will notify the responding firm of the request and delay access to the material until seven (7) working days after notification to the responding firm. Within that time delay, it will be the duty of the responding firm to act in protection of its labeled information. Failure to so act shall constitute a complete waiver.