### APPENDIX C: PROPOSAL CHECKLIST

**Bond Sale Financial Advisory Services**

|  |  |  |
| --- | --- | --- |
|   |  |   |
| Firm Name |  | Date |
| **Technical Proposal** |
| 1. | Did the Firm provide an electronic version of the Technical Proposal? | Yes |  | No |  |
| 2. | Does the proposal contain all components of the Technical Proposal, as stated below?  | Yes |  | No |  |
|  | A. | **Table of Contents** | Yes |  | No |  |
|  | B. | **Executive Summary** | Yes |  | No |  |
|  | C. | **Discussion Topics** | Yes |  | No |  |
|  | D. | **Staff Experience and Qualifications** |  |  |  |  |
|  |  | * Identify staff consistent with definitions in Form 1
 | Yes |  | No |  |
|  |  | * Project organizational chart
 | Yes |  | No |  |
|  |  | * Qualifications and experience of staff assigned
 | Yes |  | No |  |
|  |  | * Staff resumes
 | Yes |  | No |  |
|  |  | * Staff availability statement
 | Yes |  | No |  |
|  | E. | **Firm Experience and Qualifications** |  |  |  |  |
|  |  | * Summary of technical expertise and capabilities
 | Yes |  | No |  |
|  |  | * Direct prior experience
 | Yes |  | No  |  |
| 3. | Excluding table of contents, staff resumes, and letters of reference, is the Technical Proposal 15 pages or fewer? | Yes |  | No |  |
| **Cost Proposal (electronic version)** |
| 1. | Did the Firm provide an electronic version of the Cost Proposal? | Yes |  | No |  |
| 2. | Did the Firm complete and sign Form 1: Cost Proposal Form? | Yes |  | No |  |
| **Administrative Proposal (electronic version)** |
| 1. | Did the Firm provide an electronic version of the Administrative Proposal?  | Yes |  | No  |  |
| 2. | Did the Firm submit signed copies of:  |  |  |  |  |
|  |  | * Form 2: Firm Information and Attestation
 | Yes |  | No |  |
|  |  | * Form 3: Non-Collusive Bidding Certification
 | Yes |  | No |  |
|  |  | * Form 4: Firm Assurances of No Conflict of Interest or Detrimental Effect
 | Yes |  | No |  |
|  |  | * Form 5: MWBE and Equal Employment Opportunities Requirements, Forms 5.1, 5.2, 5.3 and 5.4
 | Yes |  | No |  |
|  |  | * Form 6: Response to the Diversity Practices Questionnaire, with supporting documentation
 | Yes |  | No |  |
|  |  | * Form 7: Vendor Responsibility Questionnaire (hardcopy or submitted electronically in the State’s VendRep system) for the Firm and any subcontractor anticipated to receive a subcontract in excess of $100,000
 | Yes |  | No  |  |
|  |  | * Form 8: Procurement Lobbying Form
 | Yes |  | No  |  |
|  |  | * Form 9: Disclosure of Pending or Prior Lawsuits, Conflicts of Interest, or Investigations or Disciplinary Actions
 | Yes |  | No |  |
|  |  | * Form 10: Freedom of Information Law Redaction Request
 | Yes |  | No |  |
|  |  | * Form 11: Executive Order No. 177 Certification
 | Yes |  | No |  |
|  |  | * Form 12: Sexual Harassment Prevention Certification
 | Yes |  | No  |  |
|  |  | * Form 13: Certification Under Executive Order No. 16
 | Yes |  | No |  |

APPENDIX D: SAMPLE MEMORANDUM OF UNDERSTANDING

**MEMORANDUM OF UNDERSTANDING**

**BETWEEN**

**NEW YORK STATE DIVISION OF THE BUDGET**

**AND**

**[AUTHORIZED ISSUER]**

This Memorandum of Understanding (MOU) is made by and between the New York State Division of the Budget (the Division or DOB) and [Authorized Issuer].

Whereas, on November 6, 2023, the Division released a Request for Proposals for Bond Sale Financial Advisory Services to assist in its oversight role of State-supported debt that is issued by [Authorized Issuer] and for which debt service is paid by the State of New York;

Whereas, in April 2024 a contract will be awarded to a Primary and Secondary Bond Sale Financial Advisor for covered State-supported debt issues (Numbers C000\_\_\_ and C000\_\_\_, henceforth “Bond Sale Financial Advisory Services Contracts”); and

Whereas, [Authorized Issuer] understands that compensation for these Bond Sale Financial Advisory Services performed for state-backed debt issues will be paid from the bond proceeds received from that sale;

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the Parties agree as follows:

1. **Duties and Obligations of the Parties**
	* 1. Pursuant to the Bond Sale Financial Advisory Services Contracts, an estimated invoice for each bond sale will be provided to the Division and [Authorized Issuer] before the pricing period. Once the sale is complete, the invoice will be adjusted as necessary and will be submitted to the Division and [Authorized Issuer].
		2. The Division will review the invoice to ensure that the services were provided as noted and the charges on the invoices are consistent with the hourly rates and within the not-to-exceed per bond sale transaction cap bid established in the Contract.
		3. Upon approval of an invoice, by the Division, its staff will transmit its written approval of the invoice to [Authorized Issuer].
		4. Upon receipt of the approval from the Division, [Authorized Issuer] will pay the Bond Sale Financial Advisor.

**II. Term**

The terms and conditions of this Memorandum of Understanding will remain in effect during the term of the Bond Sale Financial Advisory Services Contracts from April 1, 2024 until March 31, 2029.

The terms and conditions of this Memorandum of Understanding can be extended, withdrawn or amended by agreement of all parties. Any modification of the terms shall be done in accordance to Part III of this agreement (see below).

**III. Modification**

The foregoing contains the entire agreement between the participating entities and no modification thereof shall be binding unless the same is in writing and signed by duly authorized representatives of the respective participating entities.

In witness whereof, the Parties have executed this agreement effective as of the day and year first written above.

**IV. Counterparts**

This Memorandum of Understanding may be signed in any number of counterparts, each of which shall be an original, with same effect as if the signatures hereto and thereto were upon the same instrument.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name

Title

**[Authorized Issuer]**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name

Title

**Division of the Budget**

FORM 1: COST PROPOSAL

**Please submit an electronic version, as part of your proposal, to the addressee noted in Section 2.5 (Submission of a Complete Three-Part Proposal).**

The Cost Proposal is an integral component of a Firm’s three-part submission. Firms should take particular care to ensure the Cost Proposal is completed fully and in complete accordance with the instructions. Firms are advised to submit questions about or requests for clarification of the Cost Proposal by **November 20, 2023**, the due date for submission of Firm Inquiries.

**The Cost Proposal Form must be completed in its entirety according to the following instructions:**

* **The Cost Proposal Form must include a not-to-exceed cost for each transaction type in each Contract Year listed in Form 1.**
* The Cost Proposal should include an hourly rate (U.S. dollars) for each title described below and the number of hours that  title will be used in providing services for the given Contract Year.  If a Firm does not staff one of the titles, still provide an hourly rate for that title, but the number of hours should be listed as zero (0).  Please note, if no rate is provided for a title in any Contract Year, the Firm will not be able to bill for that title in that Contract Year.
* Each person proposed to perform services in response to this RFP should be listed next to the corresponding title provided on the Form.  Firms are required to use the titles provided, even if these titles are not consistent with the Firm’s existing titles.
* The Cost Proposal Form must include a separate not-to-exceed cost for both a competitive bond sale transaction and a negotiated bond sale transaction for each Contract Year.
* The cost proposal should include only one rate for each title in each Contract Year.
* Hourly fees must include reproduction, travel, postage and any other expenses related to these services.
* **Please note, if the information requested on Form 1 is not complete, the Division may not be able to calculate a cost score, and the proposal may be rejected as non-responsive.**
* The Cost Proposal Form must be signed by an individual authorized to bind the bidding Firm contractually.

**Description of Titles**

The following represents the general descriptions for the staffing categories to be utilized in the Firm’s proposal.

**Qualifications of Engagement Partner**

The Engagement Partner should have significant direct experience (greater than five years) in Financial Advisory Services relating to municipal bond offerings, including but not limited to those services specifically outlined in Section 1.3 of the RFP.

**Qualifications of Project Manager**

The Project Manager will coordinate and delegate the assignments to the staff, and serve as the point of contact for the Division regarding new issues, project status, meetings, and deliverables. The Project Manager will also be responsible for updating

the Engagement Partner on the status of a project and any issues that may arise. The Project Manager should have at least three years of experience providing Financial Advisory Services relating to municipal bond offerings.

**Qualifications of Senior Analyst**

The Senior Analyst working under the Project manager will be responsible for performing the more complex analytical work, depending on the project, as well as day-to-day activities. The Senior Analyst should have at least two years experience in Financial Advisory Services in the public sector, with a minimum of one year in services relating to municipal bond offerings.

**Qualifications of Analyst**

The Analyst will complete day-to-day project activities under the supervision of the Project Manager and with the Senior Analyst. The Analyst should have at least one year of experience in relevant financial advisory services.

**FORM 1:**

**NYS Division of the Budget**

**Request for Proposals: Bond Sale Financial Advisory Services**

**Cost Proposal Form**

|  |  |
| --- | --- |
| **Firm Name**: |  |

|  |
| --- |
| **Contract Year 2024-2025** **Competitive Transaction**  |
| **Job Title** | **Name** | **Estimated Hours** | **Hourly Rate** | **Total Cost**  |
| Engagement Partner  |  |  |  |  |
| Project Manager |  |  |  |  |
| Senior Analyst |  |  |  |  |
| Analyst |  |  |  |  |
| **Total Not-to-Exceed Cost for One Competitive Transaction in****Contract Year 2024-2025** |  |

|  |
| --- |
| **Contract Year 2024-2025** **Negotiated Transaction**  |
| **Job Title** | **Name** | **Estimated Hours** | **Hourly Rate** | **Total Cost**  |
| Engagement Partner  |  |  |  |  |
| Project Manager |  |  |  |  |
| Senior Analyst |  |  |  |  |
| Analyst |  |  |  |  |
| **Total Not-to-Exceed Cost for One Negotiated Transaction in** **Contract Year 2024-2025** |  |

|  |  |  |
| --- | --- | --- |
| **Authorized Signatory for the**  **Firm** |  | **Name (print or type)** |
|  |  |  |
| **Title** |  | **Date** |

**FORM 1:**

**NYS Division of the Budget**

**Request for Proposals: Bond Sale Financial Advisory Services**

**Cost Proposal Form**

|  |  |
| --- | --- |
| **Firm Name**: |  |

|  |
| --- |
| **Contract Year 2025-2026** **Competitive Transaction**  |
| **Job Title** | **Name** | **Estimated Hours** | **Hourly Rate** | **Total Cost**  |
| Engagement Partner  |  |  |  |  |
| Project Manager |  |  |  |  |
| Senior Analyst |  |  |  |  |
| Analyst |  |  |  |  |
| **Total Not-to-Exceed Cost for One Competitive Transaction in** **Contract Year 2025-2026** |  |

|  |
| --- |
| **Contract Year 2025-2026** **Negotiated Transaction**  |
| **Job Title** | **Name** | **Estimated Hours** | **Hourly Rate** | **Total Cost**  |
| Engagement Partner  |  |  |  |  |
| Project Manager |  |  |  |  |
| Senior Analyst |  |  |  |  |
| Analyst |  |  |  |  |
| **Total Not-to-Exceed Cost for One Negotiated Transaction in** **Contract Year 2025-2026** |  |

|  |  |  |
| --- | --- | --- |
| **Authorized Signatory for the**  **Firm** |  | **Name (print or type)** |
|  |  |  |
| **Title** |  | **Date** |

**FORM 1:**

**NYS Division of the Budget**

**Request for Proposals: Bond Sale Financial Advisory Services**

**Cost Proposal Form**

|  |  |
| --- | --- |
| **Firm Name**: |  |

|  |
| --- |
| **Contract Year 2026-2027** **Competitive Transaction**  |
| **Job Title** | **Name** | **Estimated Hours** | **Hourly Rate** | **Total Cost**  |
| Engagement Partner  |  |  |  |  |
| Project Manager |  |  |  |  |
| Senior Analyst |  |  |  |  |
| Analyst |  |  |  |  |
| **Total Not-to-Exceed Cost for One Competitive Transaction in** **Contract Year 2026-2027** |  |

|  |
| --- |
| **Contract Year 2026-2027****Negotiated Transaction**  |
| **Job Title** | **Name** | **Estimated Hours** | **Hourly Rate** | **Total Cost**  |
| Engagement Partner  |  |  |  |  |
| Project Manager |  |  |  |  |
| Senior Analyst |  |  |  |  |
| Analyst |  |  |  |  |
| **Total Not-to-Exceed Cost for One Negotiated Transaction in** **Contract Year 2026-2027** |  |

|  |  |  |
| --- | --- | --- |
| **Authorized Signatory for the**  **Firm** |  | **Name (print or type)** |
|  |  |  |
| **Title** |  | **Date** |

**FORM 1:**

**NYS Division of the Budget**

**Request for Proposals: Bond Sale Financial Advisory Services**

**Cost Proposal Form**

|  |  |
| --- | --- |
| **Firm Name**: |  |

|  |
| --- |
| **Contract Year 2027-2028** **Competitive Transaction**  |
| **Job Title** | **Name** | **Estimated Hours** | **Hourly Rate** | **Total Cost**  |
| Engagement Partner  |  |  |  |  |
| Project Manager |  |  |  |  |
| Senior Analyst |  |  |  |  |
| Analyst |  |  |  |  |
| **Total Not-to-Exceed Cost for One Competitive Transaction in** **Contract Year 2027-2028** |  |

|  |
| --- |
| **Contract Year 2027-2028****Negotiated Transaction**  |
| **Job Title** | **Name** | **Estimated Hours** | **Hourly Rate** | **Total Cost**  |
| Engagement Partner  |  |  |  |  |
| Project Manager |  |  |  |  |
| Senior Analyst |  |  |  |  |
| Analyst |  |  |  |  |
| **Total Not-to-Exceed Cost for One Negotiated Transaction in** **Contract Year 2027-2028** |  |

|  |  |  |
| --- | --- | --- |
| **Authorized Signatory for the**  **Firm** |  | **Name (print or type)** |
|  |  |  |
| **Title** |  | **Date** |

**FORM 1:**

**NYS Division of the Budget**

**Request for Proposals: Bond Sale Financial Advisory Services**

**Cost Proposal Form**

|  |  |
| --- | --- |
| **Firm Name**: |  |

|  |
| --- |
| **Contract Year 2028-2029** **Competitive Transaction**  |
| **Job Title** | **Name** | **Estimated Hours** | **Hourly Rate** | **Total Cost**  |
| Engagement Partner  |  |  |  |  |
| Project Manager |  |  |  |  |
| Senior Analyst |  |  |  |  |
| Analyst |  |  |  |  |
| **Total Not-to-Exceed Cost for One Competitive Transaction in** **Contract Year 2028-2029** |  |

|  |
| --- |
| **Contract Year 2028-2029****Negotiated Transaction**  |
| **Job Title** | **Name** | **Estimated Hours** | **Hourly Rate** | **Total Cost**  |
| Engagement Partner  |  |  |  |  |
| Project Manager |  |  |  |  |
| Senior Analyst |  |  |  |  |
| Analyst |  |  |  |  |
| **Total Not-to-Exceed Cost for One Negotiated Transaction in** **Contract Year 2028-2029** |  |

|  |  |  |
| --- | --- | --- |
| **Authorized Signatory for the**  **Firm** |  | **Name (print or type)** |
|  |  |  |
| **Title** |  | **Date** |

**FORM 2: FIRM INFORMATION AND ATTESTATION**

**PLEASE SUBMIT WITH ADMINISTRATIVE PROPOSAL**

**Please Note: A “No” response to questions three through seven (3-7) may be grounds for disqualification from this procurement.**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|

|  |  |
| --- | --- |
| **RFP Name:** | **Bond Sale Financial Advisory Services** |
| **Proposal Date:** | **December 8, 2023 @ 12:00 PM ET** |

 |
| **1** | **Information Regarding the Firm’s Firm:** |

|  |  |
| --- | --- |
| **Name:** |  |
| **Address:** |  |
| **City, State, Zip Code:** |  |
| **Telephone Number:** |  |
| **Taxpayer ID:** |  |
| **NYS Vendor ID:** |  |

 |
| **2** | **Primary Contact Concerning this Proposal:** |

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |  |  |  |
| **Title:** |  |  |  |
| **Address:** |  |  |  |
| **City, State, Zip Code:** |  |  |  |
| **Telephone Number:** |  |  |  |
| **Email address:** |  |  |  |

 |
| **3** | **Irrevocable Offer:** | **The rates quoted are an irrevocable offer that is good through the execution of a contract.**  | [ ] Yes | [ ]  No |
| **4** | **Willingness to Perform All Services:** | **The Firm is willing to, and capable of performing all of the deliverables and services described in this RFP.**  | [ ] Yes | [ ]  No |
| **5** | **Firm Guarantees:** | **The Firm certifies it can and will provide and make available, at a minimum, all services set forth in the RFP.** | [ ] Yes | [ ]  No |
| **6** | **Firm Warranties:** | * 1. **Firm warrants that it is willing and able to comply with New York laws with respect to foreign (non-New York) corporations.**
	2. **Firm warrants that it is willing and able to obtain an errors and omissions insurance policy providing a prudent amount of coverage for the willful or negligent acts, or omissions of any officers, employees or agents thereof.**
	3. **Firm warrants that it will not delegate or subcontract its responsibilities under an agreement without the written permission of the Division.**
	4. **Firm warrants that all information provided by it in connection with this proposal is true and accurate.**
 | [ ] Yes | [ ]  No |
| **7** | **RFP and Contractual Requirements:** | 1. **The Firm agrees to be bound by the Contractual Requirements found in Section 5 of the RFP.**
2. **The Firm has read Section 6, Reservation of Rights, and agrees that the rights and prerogatives as detailed in that Section are retained by the Division of the Budget.**
3. **The Firm has read, understands, and accepts the provisions of Appendix A, Standard Clauses for NYS Contracts, and Appendix B, Sample Contract, without change or amendment.**
 | [ ] Yes | [ ]  No |
|  **8** |

|  |
| --- |
| **By my signature on this Firm Information and Attestation, I certify that I am authorized to bind** **the Firm contractually and that the above information is true and accurate.** |
| **Typed or Printed Name of Authorized Representative of the Firm** |
| **Title/Position of Authorized Representative of the Firm** |
| **Signature** |

**Date** |

**FORM 3: NON-COLLUSIVE BIDDING CERTIFICATION**

In accordance with New York State Finance Law, § 139-d, by submitting its bid, each Firm and each person signing on behalf of any other Firm certifies, and in the case of a joint bid, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his or her knowledge and belief:

1. The prices of this bid have been arrived at independently, without collusion, consultation, communication, or agreement, for the purposes of restricting competition, as to any matter relating to such prices with any other Firm or with any competitor;
2. Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the Firm and will not knowingly be disclosed by the Firm prior to opening, directly or indirectly, to any other Firm or to any competitor; and
3. No attempt has been made or will be made by the Firm to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Name: |  |  | Title: |  |
| Signature: |  |

*Joint or combined bids by Companies or Firms must be certified on behalf of each participant.*

|  |  |  |
| --- | --- | --- |
|  |  |  |
| Legal name of Person, Firm or Corporation |  | Legal name of Person, Firm or Corporation |
| Name: |  |  | Name: |  |
| Title: |  |  | Title: |  |

**FORM 4: FIRM ASSURANCES OF NO CONFLICT OF INTEREST OR DETRIMENTAL EFFECT**

The Firm offering to provide services pursuant to this RFP, as a contractor, joint venture contractor, or subcontractor, or consultant, attests that its performance of the services outlined in this RFP does not and will not create a conflict of interest with nor position the Firm to breach any other contract currently in force with the State of New York.

Furthermore, the Firm attests that it will not act in any manner that is detrimental to any State project on which the Firm is rendering services. Specifically, the Firm attests that:

1. The fulfillment of obligations by the Firm, as proposed in the response, does not violate any existing contracts or agreements between the Firm and the State;
2. The fulfillment of obligations by the Firm, as proposed in the response, does not and will not create any conflict of interest, or perception thereof, with any current role or responsibility that the Firm has with regard to any existing contracts or agreements between the Firm and the State;
3. The fulfillment of obligations by the Firm, as proposed in the response, does not and will not compromise the Firm’s ability to carry out its obligations under any existing contracts between the Firm and the State;
4. The fulfillment of any other contractual obligations that the Firm has with the State will not affect or influence its ability to perform under any contract with the State resulting from this RFP;
5. During the negotiation and execution of any contract resulting from this RFP, the Firm will not knowingly take any action or make any decision which creates a potential for conflict of interest or might cause a detrimental impact to the State as a whole including, but not limited to, any action or decision to divert resources from one State project to another;
6. In fulfilling obligations under each of its State contracts, including any contract which results from this RFP, the Firm will act in accordance with the terms of each of its State contracts and will not knowingly take any action or make any decision which might cause a detrimental impact to the State as a whole including, but not limited to, any action or decision to divert resources from one State project to another;
7. No former officer or employee of the State who is now employed by the Firm, nor any former officer or employee of the Firm who is now employed by the State, has played a role with regard to the administration of this contract procurement in a manner that may violate section 73(8)(a) of the State Ethics Law; and
8. The Firm has not and shall not offer to any employee, member or director of the State any gift, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence said employee, member or director, or could reasonably be expected to influence said employee, member or director, in the performance of the official duty of said employee, member or director or was intended as a reward for any official action on the part of said employee, member or director.

Firms responding to this Request for Proposals should note that the Division recognizes that conflicts may occur in the future because a Firm may have existing or new relationships. The Division will review the nature of any such new relationship and reserves the right to terminate the contract for cause if, in its judgment, a real or potential conflict of interest cannot be cured.

|  |  |
| --- | --- |
| Firm Name:  |  |
| Name, Title: |  |
| Signature: |  | Date: |  |

This form must be signed by an authorized executive or legal representative.

**FORM 5: MWBE AND EQUAL EMPLOYMENT OPPORTUNITIES REQUIREMENTS**

**CONTRACTOR REQUIREMENTS AND PROCEDURES FOR PARTICIPATION BY NEW YORK STATE EXECUTIVE LAW, ARTICLE 15-A (PARTICIPATION BY MINORITY GROUP MEMBERS AND WOMEN WITH RESPECT TO STATE CONTRACTS)**

By submitting a bid or proposal, a Firm will be required to submit the following documents and information as evidence of compliance with the requirements and procedures established in Section 9 of this RFP:

1. Firm agrees to submit with the bid a Workforce Composition Plan (Form 5.1) identifying the anticipated work force to be utilized on the Contract and if awarded a Contract, will, upon request, submit to the Division, a workforce utilization report identifying the workforce actually utilized on the Contract if known.
2. Firms are required to submit an MWBE Utilization Plan (Form 5.2) and Notice of Intent to Participate (Form 5.3) with their bid or proposal. Any modifications or changes to the MWBE Utilization Plan after the Contract award and during the term of the Contract must be reported on a revised MWBE Utilization Plan and submitted to the Division.
3. The Division will review the submitted MWBE Utilization Plan and advise the Firm of the Division’s acceptance or issue a notice of deficiency within 30 days of receipt.
4. If a notice of deficiency is issued, Firm agrees that it shall respond to the notice of deficiency within seven (7) business days of receipt by submitting to the Division, a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by the Division to be inadequate, the Division shall notify the Firm and direct the Firm to submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals on the Request for Waiver form. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.
5. The Division may disqualify a Firm as being non-responsive under the following circumstances:
6. If a Firm fails to submit a MWBE Utilization Plan;
7. If a Firm fails to submit a written remedy to a notice of deficiency;
8. If a Firm fails to submit a request for waiver; or
9. If Division determines that the Firm has failed to document good faith efforts.
10. Firms are required to submit a Minority- and Women-owned Business Enterprise and Equal Employment Opportunity Policy Statement, Form 5.4, to the Division with its bid or proposal. If Firm, or any of its subcontractors, does not have an EEO Policy, the Division may require the Contractor or subcontractor to adopt the attached model statement.

**Please Note: Failure to comply with the requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions of enforcement proceedings as allowed by the Contract.**

Attachments:

* Form 5.1 – Workforce Composition Form
* Form 5.2 – Firm’s intended Utilization Plan for MWBE subcontractor participation. The successful Firm will be required to formally submit the Utilization Plan within three days of notification of selection.
* Form 5.3 – Notice of Intent to Participate
* Form 5.4 –Equal Employment Opportunity Policy Statement - If Firm, or any of its subcontractors, does not have an existing EEO policy statement, the Division may require the Firm or subcontractor to adopt the attached model statement.
* Form 5.5 – Request for Waiver Form

**FORM 5.1: WORKFORCE COMPOSITION FORM**

|  |
| --- |
| **INSTRUCTIONS: All Firms submitting responses to this procurement must complete and submit this Workforce Composition Form as part of their proposal. Firms should include only the staff that will provide services under this procurement.** |
| **Firm Name:** | **Federal Identification No.:** |
| **Address:** | **Procurement No.:** |
| **City, State, Zip Code:** |
| **Description of Work:** |
| **Enter the total number of incumbents by race, sex, and ethnic group status in each of the EEO – Job Categories identified.****See below for information regarding race/ethnicity identification and protected class group members.** |
| **EEO – JOB CATEGORY** | **TOTAL** | **MALE (M)** | **FEMALE (F)** | **WHITE** | **BLACK** | **HISPANIC** | **ASIAN** | **NATIVE AMERICAN** | **DISABLED** | **VETERAN** |
| **M** | **F** | **M** | **F** | **M** | **F** | **M** | **F** | **M** | **F** | **M** | **F** | **M** | **F** |
| **Officials/Administrators** |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| **Professionals** |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| **Technicians** |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| **Sales Workers** |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| **Office/Clerical** |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| **Craft Workers** |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| **Laborers** |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| **Service Workers** |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| **PREPARED BY (Signature)** | **Date** |
|  **PRINTED OR TYPED NAME AND TITLE OF PREPARER** | **TELEPHONE NO.** | **EMAIL ADDRESS** |

|  |
| --- |
| **CLASS DEFINITIONS** |
| **Hispanic** – All persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race. | **Black** (Not of Hispanic origin) – All persons having origins in any of the Black racial groups of Africa. |
| **American Indian or Alaskan Native** – All persons having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition. | **Asian or Pacific Islander** – All persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands. This area includes, for example, China, India, Japan, Korea, the Philippine Islands, and Samoa. |
| **Vietnam Era Veteran** – A veteran who served at any time between and including January 1, 1963 and May 7, 1975. | **Disabled Individual** –Any person having a physical or mental impairment that substantially limits one or more major life activity, has a record of such an impairment; or is regarded as having such an impairment. |

**FORM 5.2: MWBE UTILIZATION PLAN**

|  |
| --- |
| **INSTRUCTIONS: All Firms submitting responses to this procurement must complete this MWBE Utilization Plan and submit it as part of their proposal. The Plan must contain a detailed description of the services to be provided by each Minority and/or Woman-Owned Business Enterprise (MWBE) identified by the Firm.** |
| **Firm Name:**  | **Federal Identification No.:** |
| **Address:** | **Procurement No.:** |
| **City, State, Zip Code:** | **MWBE Goals: MBE: 15% WBE: 15%** |
| **1. MWBE Subcontractors/Suppliers Name, Address, Email Address, Telephone No.** | **2. Classification** | **3. Federal ID No.** | **4. Detailed Description of Work (Attach additional sheets, if necessary.)** | **5. Dollar Value of Subcontracts/Supplies** |
| **A.** | **NYS ESD Certified****[ ]  MBE****[ ]  WBE** |  |  |  |
| **B.**  | **NYS ESD Certified****[ ]  MBE****[ ]  WBE** |  |  |  |
| **6. WAIVER REQUESTED: MBE: [ ]  YES [ ]  NO If YES, submit Attachment A-5.5. WBE: [ ]  YES [ ]  NO If YES, submit Attachment A-5.5.** |
| **PREPARED BY (Signature):** **NAME AND TITLE OF PREPARER (Print or Type):\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_****DATE: Firm’s Certification Status: [ ]  MBE [ ]  WBE** | **TELEPHONE NO.:** | **EMAIL ADDRESS:** |
| **SUBMISSION OF THIS FORM CONSTITUTES THE FIRM’S ACKNOWLEDGEMENT AND AGREEMENT TO COMPLY WITH THE MWBE REQUIREMENTS SET FORTH UNDER NYS EXECUTIVE LAW, ARTICLE 15-A. FAILURE TO SUBMIT COMPLETE AND ACCURATE INFORMATION MAY RESULT IN NONCOMPLIANCE AND/OR PROPOSAL DISQUALIFICATION.** | **\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*FOR DOB USE ONLY\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*** |
| **REVIEWED BY:** | **DATE:** |
| **UTILIZATION PLAN APPROVED: [ ]  YES [ ]  NO Date:\_\_\_\_****MBE CERTIFIED: [ ]  YES [ ]  NO WBE CERTIFIED: [ ]  YES [ ]  NO****WAIVER GRANTED: [ ]  YES [ ]  NO** **Total Waiver [ ]  Partial Waiver [ ]** **NOTICE OF DEFICIENCY ISSUED: [ ]  YES [ ]  NO** **Date: \_\_\_\_\_** |

**FORM 5.3: MWBE SUBCONTRACTORS AND SUPPLIERS NOTICE OF INTENT TO PARTICIPATE**

**NEW YORK STATE DIVISION OF THE BUDGET**

|  |
| --- |
| **INSTRUCTIONS: A separate Notice of Intent to Participate must be completed by each MWBE identified on the MWBE Utilization Plan (Form 4.3). Parts A & C must be completed by the Firm and Part B must be completed by MBE and/or WBE subcontractors/suppliers. Signed and completed form(s) must be returned as part of your proposal.** |
|  |
| **PART A****Firm Name: Federal Identification No.:** **Address: Telephone No.:** **City, State, Zip Code: Email Address:**  |
|  |
| **PART B****THE UNDERSIGNED INTENDS TO PROVIDE SERVICES OR SUPPLIES IN CONNECTION WITH THE ABOVE PROCUREMENT:****Name of MWBE: Federal Identification No.:** **Address: Telephone No.:** **City, State, Zip Code: Email Address:** **DESCRIPTION OF SERVICES OR SUPPLIES:****DESIGNATION: [ ]  MBE Subcontractor [ ]  WBE Subcontractor [ ]  MBE Supplier [ ]  WBE Supplier** **PART C****WAIVER Requested: MBE: [ ]  YES [ ]  NO If YES, submit Attachment A-5.5. WBE: [ ]  YES [ ]  NO If YES, submit Attachment A-5.5.** **THE QUALIFICATION OF THE UNDERSIGNED AS A MBE AND/OR WBE IS CONFIRMED (CHECK ONE):****[ ]  The undersigned is a certified MWBE by the New York State Division of Minority and Woman-Owned Business Development (MWBD) (copy of certifying letter attached).****[ ]  The undersigned has applied to New York State’s Division of Minority and Woman-Owned Business Development (MWBD)** **for MWBE certification.****THE UNDERSIGNED IS PREPARED TO PROVIDE SERVICES OR SUPPLIES AS DESCRIBED ABOVE AND WILL ENTER INTO A FORMAL AGREEMENT WITH THE FIRM CONDITIONED UPON THE FIRM’S EXECUTION OF A CONTRACT WITH THE DIVISION OF THE BUDGET.****The estimated dollar amount of the agreement is: $ Signature of Authorized Representative of MWBE Firm****Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** **Printed or Typed Name and Title of Authorized Representative of MWBE Firm** |

**FORM 5.4: MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES –**

**EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT**

**M/WBE AND EEO POLICY STATEMENT**

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the (awardee/contractor)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ agree to adopt the following policies with respect to the project being developed or services rendered at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

|  |
| --- |
| **M/WBE** |

|  |
| --- |
| **EEO** |

This organization will and will cause its contractors and subcontractors to take good faith actions to achieve the M/WBE contract participations goals set by the State for that area in which

the State-funded project is located, by taking the following steps:

1. Actively and affirmatively solicit bids for contracts and subcontracts from qualified State certified MBEs or WBEs, including solicitations to M/WBE contractor associations.
2. Request a list of State-certified M/WBEs from AGENCY and solicit bids from them directly.
3. Ensure that plans, specifications, request for proposals and other documents used to secure bids will be made available in sufficient time for review by prospective M/WBEs.
4. Where feasible, divide the work into smaller portions to enhanced participations by M/WBEs and encourage the formation of joint venture and other partnerships among M/WBE contractors to enhance their participation.
5. Document and maintain records of bid solicitation, including those to M/WBEs and the results thereof. The Contractor will also maintain records of actions that its subcontractors have taken toward meeting M/WBE contract participation goals.
6. Ensure that progress payments to M/WBEs are made on a timely basis so that undue financial hardship is avoided, and that bonding and other credit requirements are waived or appropriate alternatives developed to encourage M/WBE participation.

 (a) This organization will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on state contracts.

(b)This organization shall state in all solicitation or advertisements for employees that in the performance of the State contract all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex disability or marital status.

(c) At the request of the contracting agency, this organization shall request each employment agency, labor union, or authorized representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of this organization’s obligations herein.

(d) The Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. The Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

(e) This organization will include the provisions of sections (a) through (d) of this agreement in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the State contract.

Agreed to this \_\_\_\_\_\_\_\_day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2\_\_\_-\_\_\_\_\_\_\_\_

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_is designated as the Minority Business Enterprise Liaison

 (Name of Designated Liaison)

responsible for administering the Minority and Women-Owned Business Enterprises- Equal Employment

Opportunity (M/WBE-EEO) program.

**M/WBE Contract Goals**

\_\_\_\_\_\_\_\_percent Minority and Women’s Business Enterprise Participation

\_\_\_\_\_\_\_\_percent Minority Business Enterprise Participation

\_\_\_\_\_\_\_\_percent Women’s Business Enterprise Participation

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 (Authorized Representative)

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**ATTACHMENT A-5.5: REQUEST FOR WAIVER FORM**

|  |
| --- |
| **INSTRUCTIONS: SEE PAGE 2 OF THIS ATTACHMENT FOR REQUIREMENTS AND DOCUMENT SUBMISSION INSTRUCTIONS.** |
| **Firm Name:** | **Federal Identification No.:** |
| **Address:** | **Procurement No.:** |
| **City, State, Zip Code:** | **MWBE Subcontract Goals: MBE: 15% WBE: 15%** |
| **By submitting this form and the required information, the company certifies that every Good Faith Effort has been taken to promote MWBE participation pursuant to the MWBE requirements set forth under this procurement.** |
| **Firm is requesting a: [ ]  Total [ ]  Partial [ ]  Certification [ ]  Conditional**1. **[ ]  MBE Waiver – A waiver of the MBE Goal for this procurement is requested.**
2. **[ ]  WBE Waiver – A waiver of the WBE Goal for this procurement is requested.**
3. **[ ]  ESD Certification Waiver – A waiver of the requirement that the MBE/WBE be certified by Empire State Development (ESD). (Check here if MBE/WBE is NOT ESD certified.)**
4. **[ ]  Conditional Waiver – (Attach separate sheet outlining special conditions or extenuating circumstances.)**
 |
| **Prepared By (Signature)** | **Date** |
| **Printed or Typed Name and Title of Preparer** | **Telephone Number** | **Email Address** |
| **SUBMISSION OF THIS FORM CONSTITUTES THE FIRM’S ACKNOWLEDGEMENT AND AGREEMENT TO COMPLY WITH THE MWBE REQUIREMENTS SET FORTH UNDER NYS EXECUTIVE LAW, ARTICLE 15-A. FAILURE TO SUBMIT COMPLETE AND ACCURATE INFORMATION MAY RESULT IN NONCOMPLIANCE AND/OR PROPOSAL DISQUALIFICATION.** | **\*\*\*\*\*\*\*\*\*\*\*\*\* FOR DIVISION USE ONLY \*\*\*\*\*\*\*\*\*\*\*\*\*\*** |
| **REVIEWED BY:** | **DATE:** |
| **MWBE Certified: [ ]** **MWBE Not Certified: [ ]**  |
| **Waiver Granted: [ ]  YES [ ]  NO****[ ]  Total Waiver [ ]  Partial Waiver****[ ]  ESD Certification Waiver [ ]  \*Conditional****[ ]  Notice of Deficiency****\*Comments:** |

**MWBE REQUIREMENTS AND WAIVER SUBMISSION**

**When completing the Request for Waiver Form please check all boxes that apply. To be considered, the Request for Waiver Form must be accompanied by documentation for items 1 – 10, as listed below. Copies of the following information and all relevant supporting documentation must be submitted along with the request:**

1. A statement setting forth your basis for requesting a partial or total waiver.
2. The names of general circulation, trade association, and MWBE-oriented publications in which you solicited MWBEs for the purposes of complying with your participation goals.
3. A list identifying the date(s) that all solicitations for MWBE participation were published in any of the above publications.
4. A list of all MWBEs appearing in the NYS Directory of Certified Firms that were solicited for purposes of complying with your MWBE participation levels.
5. Copies of notices, dates of contact, letters, and other correspondence as proof that solicitations were made in writing and copies of such solicitations, or a sample copy of the solicitation if an identical solicitation was made to all MWBEs.
6. Provide copies of responses made by MWBEs to your solicitations.
7. Provide a description of any contract documents, plans, or specifications made available to MWBEs for purposes of soliciting their bids and the date and manner in which these documents were made available.
8. Provide documentation of any negotiations between you, the Contractor, and the MWBEs undertaken for purposes of complying with your MWBE participation goals.
9. Provide any other information you deem relevant which may help us in evaluating your request for a waiver.
10. Provide the name, title, address, telephone number, and email address of contractor’s representative authorized to discuss this waiver request.

**Note: Unless a Total Waiver has been granted, Firms will be required to submit all reports and documents pursuant to the provisions set forth in the procurement and/or contract, as deemed appropriate by the Division, to determine MWBE compliance. In cases where the Division grants a full or partial waiver of MWBE participation goals, the waiver request will be posted to the Division’s website.**

**FORM 6: MWBE DIVERSITY PRACTICES**

Pursuant to New York State Executive Law §313-a, and 5 NYCRR §142.3, all agencies and authorities must evaluate the diversity practices of Firms to best value procurements expected to exceed $250,000, whenever practical, feasible and appropriate. Evaluating diversity practices of Firms as part of the procurement process provides contractors with an incentive to develop mutually beneficial relationships with New York State certified MWBEs outside of the context of state contracting. These relationships help to build the capacity of MWBEs, and enhance their ability to perform ever increasing roles in state contracting.

Diversity practices are intended to be applied on procurements in which agency personnel exercise their subjective judgment in selecting one or more successful contractors on the basis of best value, not on procurements that are awarded based on lowest price.

For this procurement, the Division has determined, pursuant to New York State Executive Law Article 15-A, that the assessment of the diversity practices of Firms to this solicitation is practical, feasible and appropriate.

**Accordingly, Firms are required to submit responses, including documentation, to the Diversity Practices Questionnaire, Form 6.1, to the Division as part of its Administrative Proposal.** The questionnaire consists of eight (8) questions for Firms to answer. Please note that some questions request supporting documentation to support certain answers. A scoring rubric for the Diversity Practices Questionnaire can be found in Form 6.2

Attachments:

* Form 6.1 – Diversity Practices Questionnaire
* Form 6.2 – Diversity Practices Scoring Matrix

**FORM 6.1: DIVERSITY PRACTICES QUESTIONNAIRE**

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, as \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (title) of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_firm or company (hereafter referred to as the company), swear and/or affirm under penalty of perjury that the answers submitted to the following questions are complete and accurate to the best of my knowledge:

1. 1. Does your company have a Chief Diversity Officer or other individual who is tasked with supplier diversity initiatives? Yes or No

If Yes, provide the name, title, description of duties, and evidence of initiatives performed by this individual or individuals. No points will be awarded if the response simply identifies an individual or individuals.

1. What percentage of your company’s gross revenues (from your prior fiscal year) was paid to New York State certified minority and/or women-owned business enterprises as subcontractors, suppliers, joint-venturers, partners or other similar arrangement for the provision of goods or services to your company’s clients or customers?
2. What percentage of your company’s overhead (i.e., those expenditures that are not directly related to the provision of goods or services to your company’s clients or customers) or non-contract-related expenses (from your prior fiscal year) was paid to New York State certified minority- and women-owned business enterprises as suppliers/contractors?[[1]](#footnote-2)
3. Does your company provide technical training[[2]](#footnote-3) to minority- and women-owned business enterprises? Yes or No

If Yes, provide a description of such training which should include, but not be limited to, the date the program was initiated, the names and the number of minority- and women-owned business enterprises participating in such training, the number of years such training has been offered and the number of hours per year for which such training occurs.

1. Is your company participating in a government approved minority- and women-owned business enterprise mentor-protégé program?

If Yes, identify the governmental mentoring program in which your company participates and provide government-generated evidence, such as an agreement or acceptance letter, demonstrating the extent of your company’s commitment to the governmental mentoring program. Government-generated documentation supporting your company’s participation in a mentoring program must be provided to receive points.

1. Does your company include specific quantitative goals for the utilization of minority- and women-owned business enterprises in its non-government procurements? Yes or No

If Yes, provide a description of such non-government procurements (including time period, goal, scope and dollar amount) and indicate the percentage of the goals that were attained.

1. Does your company have a formal minority- and women-owned business enterprise supplier diversity program? Yes or No

If Yes, provide documentation of program activities and a copy of policy or program materials.

1. Does your company plan to enter into partnering or subcontracting agreements with New York State certified minority and women-owned business enterprises if selected as the successful respondent? Yes or No

If Yes, complete the attached Utilization Plan

All information provided in connection with the questionnaire is subject to audit and any fraudulent statements are subject to criminal prosecution and debarment.

|  |  |
| --- | --- |
| Signature of Owner/Official |  |
| Printed Name of Signatory |       |
| Title |       |
| Name of Business |       |
| Address |       |
| City, State, Zip |       |

STATE OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

COUNTY OF ) ss:

On the \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_, 201\_, before me, the undersigned, a Notary Public in and for the State of \_\_\_\_\_\_\_\_\_\_, personally appeared \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to this certification and said person executed this instrument.

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Notary Public

**FORM 6.2: DIVERSITY PRACTICES SCORING MATRIX**

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **Question #1** **CDO or other person tasked with function**  |  |  |  |  | Yes | No | Total |
|  |  |  |  |  | 5 pts | 0 pts |  |
| **Question #2** **Percentage of prior yr. revenues that involved M/WBEs as subs or JVs/partners** | 20%+ | 15-19% | 10-14% | 5-9% | 1-4% | 0% |  |
|  | 20 pts | 14 pts | 10 pts | 6 pts | 2 pts | 0pts |  |
| **Question #3****Percentage of overhead expenses paid to M/WBEs** | 20%+ | 15-19% | 10-14% | 5-9% | 1-4% | 0% |  |
|  | 16 pts | 10 pts | 7 pts | 4 pts | 1 pts | 0pts |  |
| **Question 4****M/WBE Training** |   |   | Robust | Moderate | Minimum | None |  |
|  |   |   | 16 pts | 8 pts | 4 pts | 0 pts |  |
| **Question #5****M/WBE Mentoring** |   |   | Robust  | Moderate | Minimum | None  |  |
|  |   |   | 12 pts | 8 pts | 4 pts | 0 pts |  |
| **Question #6****Written M/WBE goals included in the Company's procurements** |   |   | Robust | Moderate | Minimum | No |  |
|  |   |   | 20 pts | 12 pts | 6 pts | 0 pts |  |
| **Question #7** **Formal Supplier Diversity Program** |   |   | Robust | Moderate | Minimum | No |  |
|  |   |   | 6 pts | 4 pts | 2 pts | 0 pts |  |
| **Question #8****Utilization Plan** |  |  | Robust | Moderate | Minimum | No |  |
|  |  |  | 5 pts | 3 pts | 1 pts | 0 pts |  |
|  |  |  |  | **Total Diversity Score (Max 100 pts)** |  |  |
|  |  |  |  |  |  |  |  |
|  |  |  |  | **Weighted Score (Max 4 pts.)** |  |  |

**FORM 7: VENDOR RESPONSIBILITY QUESTIONNAIRE INSTRUCTIONS**

A contracting agency is required to conduct a review of a prospective contractor (and each subcontractor whose anticipated fees for the project are estimated to be over $100,000) to provide reasonable assurances that the vendor is responsible. The Division of the Budget recommends that vendors file the required Vendor Responsibility Questionnaire online via the New York State VendRep System. To enroll in and use the New York State VendRep System, see the VendRep System Instructions available at <http://www.osc.state.ny.us/vendrep/index.htm>.

Vendors must provide their New York State Vendor Identification Number when enrolling. To request assignment of a Vendor ID or for VendRep System assistance, contact the Office of the State Comptroller’s Help Desk at 866-370-4672 or 518-408-4672 or by email at ITServiceDesk@osc.state.ny.us.

Vendors opting to complete and submit a paper questionnaire can obtain the appropriate questionnaire from the VendRep website <http://www.osc.state.ny.us/vendrep/> or may contact the Division of the Budget or the Office of the State Comptroller’s Help Desk for a copy of the paper form.

This questionnaire is designed to provide information to assist a contracting agency in assessing a vendor’s responsibility prior to entering into a contract with the vendor. Vendor responsibility is determined by a review of each Firm or Firm’s authorization to do business in New York, business integrity, financial and organizational capacity, and performance history.

Contractors (and subcontractors) must answer every question in the questionnaire and where appropriate additional information may be required for the questionnaire to be complete and accurate. The completed questionnaire and responses will become part of the procurement record.

It is imperative that the person completing the vendor responsibility questionnaire be knowledgeable about the proposing contractor’s business and operations as the questionnaire information must be attested to by an owner or officer of the vendor.

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Vendor Responsibility Questionnaire Requirement:**

The Firm has (Please check the appropriate box):

\_\_\_\_ Certified and filed the Vendor Responsibility Questionnaire on-line via the New York State VendRep System; **OR**

\_\_\_\_ Included a properly executed paper copy of the Vendor Responsibility Questionnaire with the Administrative Proposal.

**FORM 8: PROCUREMENT LOBBYING RESTRICTIONS**

Pursuant to State Finance Law §§139-j and 139-k, certain restrictions are placed on contact with state agencies during the procurement process. The term “Contact” is defined by statute and refers to those oral, written or electronic communications that a reasonable person would infer are attempts to influence the governmental procurement. In addition to obtaining the required identifying information, the state agency must inquire and record whether the person or organization that made the contact was the Offerer or was retained, employed or designated on behalf of the Offerer to appear before or contact the Governmental Entity.

The “Restricted Period” is the period of time commencing with the earliest date of written notice, advertisement or solicitation of a request for proposal, invitation for bids, or solicitation of proposals, or any other method for soliciting a response from Offerers intending to result in a Procurement Contract with a State agency and, ending with the final contract award and approval by, where applicable, the Office of the State Comptroller.

New York State employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the Offerer pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a 4 year period; the Offerer is debarred from obtaining governmental procurement contracts. Further information about these requirements can be found at: <https://ogs.ny.gov/acpl>.

**Any Firm responding to the solicitation must complete the form found below and submit it to the State agency.**

Questions regarding this form may be directed to the Designated Contacts for this solicitation:

Director of Procurement: Michelle Heaslip

Contract Administrator: Roxanne West

Additional Contacts: Barbara Farley

**PROCUREMENT LOBBYING FORM**

|  |  |
| --- | --- |
| 1. | Offerer/ Firm certifies that it understands and agrees to comply with the procedures of the NYS Division of the Budget relative to permissible contacts as required by State Finance Law Section 139-j (3) and Section 139-j (6) (b).  |
| 2. | CONTRACTOR DISCLOSURE OF PRIOR NON-RESPONSIBILITY DETERMINATIONS Pursuant to Procurement Lobbying Law (SFL §139-j) |
|  | (a) | Has any Governmental Entity made a finding of non-responsibility regarding the individual or entity seeking to enter into the Procurement Contract in the previous four years? |
|  |  | [ ]  Yes [ ]  No |
|  | If yes, please answer the following question: |
|  | (b) | Was the basis for the finding of non-responsibility due to a violation of State Finance Law §139-j?  |
|  |  | [ ]  Yes [ ]  No |
|  |  | If “Yes” was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a governmental entity? |
|  |  | [ ]  Yes [ ]  No |
|  |  | If “Yes”, please provide details regarding the finding of non-responsibility:  |
|  | Governmental Entity: |  |
|  | Date of Finding of Non-Responsibility: |  |
|  | Basis of Finding of Non-Responsibility (attach additional sheets as necessary) |
|  |  |  |
|  |  |  |
| 3. |  | Has any governmental entity terminated or withheld a procurement contract with the above-named individual or entity due to the intentional provision of false or incomplete information? |
|  |  | [ ]  Yes [ ]  No |
|  | If yes, provide details: |
|  | Governmental Entity:  |  |
|  | Date of Termination or Withholding of Contract: |  |
|  | Basis of Termination or Withholding: (add additional pages if necessary) |
|  |  |  |
|  |  |  |
| 4. | Offerer/ Firm certifies that all information provided to the Division of the Budget, with respect to State Finance Law Section 139-k is complete, true and accurate. |
| **Name of Offerer’s Firm/Company:** |  |
| **Offerer’s Business Address:** |  |
|  |
| **Offerer’s signature:** |  | **Date:** |  |
|  | *I understand that my signature represents that I am signing and responding to all certifications listed above.*  |
| **Print Name:** |  |
| **Title of Person signing this form:**  |  |

**FORM 9: DISCLOSURE OF PENDING OR PRIOR LAWSUITS, CONFLICTS OF INTEREST, OR INVESTIGATIONS OR DISCIPLINARY ACTIONS**

Disclosure of Pending or Prior Lawsuits, Conflicts of Interest, or Investigations or Disciplinary Actions must be documented and submitted with the Administrative Proposal. Please include the following information:

1. Firms must provide a list of any legal proceedings or investigations concerning the Firm over the last five (5) years, if any, including the nature and outcome of any lawsuit if litigation is complete. Firms must also specifically note any prior or pending lawsuit(s) or litigation between the Firm and any New York State department, agency, board, or commission, if any. The nature of the lawsuit and its outcome, if litigation is complete, should be described briefly below.

*Does the Firm have any information pertaining to the above that must be disclosed?* ***If Yes, the Firm must disclose the requisite information as part of the Firm’s Administrative Proposal.***

Yes \_\_\_\_\_\_\_\_ No \_\_\_\_\_\_\_\_\_\_

1. Disclose any existing or contemplated relationship with any other person or entity, including relationships with any member, shareholders of 5% or more, parent, subsidiary, or affiliated firm, which would constitute an actual or potential conflict of interest or appearance of impropriety, relating to other clients/customers of the Firm or former officers and employees of the Agencies and their Affiliates, in connection with your rendering services enumerated in this RFP. If a conflict does or might exist, please describe how your Firm would eliminate or prevent it. Indicate what procedures will be followed to detect, notify the Agencies of, and resolve any such conflicts.

*Does the Firm have any information pertaining to the above that must be disclosed?* ***If Yes, the Firm must disclose the requisite information as part of the Firm’s Administrative Proposal.***

Yes \_\_\_\_\_\_\_\_ No \_\_\_\_\_\_\_\_\_\_

1. The Firm must disclose whether it, or any of its members, shareholders of 5% or more, parents, affiliates, or subsidiaries, have been the subject of any investigation or disciplinary action by the New York State Commission on Public Integrity or its predecessor State entities (collectively, “Commission”), and if so, a brief description must be included indicating how any matter before the Commission was resolved or whether it remains unresolved.

*Does the Firm have any information pertaining to the above that must be disclosed****? If Yes, the Firm must disclose the requisite information as part of the Firm’s Administrative Proposal.***

Yes \_\_\_\_\_\_\_\_ No \_\_\_\_\_\_\_\_\_\_

|  |  |
| --- | --- |
| Firm Name:  |  |
| Name, Title: |  |
| Signature: |  | Date: |  |

**FORM 10: FREEDOM OF INFORMATION LAW REDACTION REQUEST**

The Firm should indicate below if there is specific information in a Firm’s proposal that a Firm claims to be proprietary and/or trade secret information that meets the definition set forth in Section 87(2)(d), the Firm should provide a letter in its Administrative Proposal outlining any specific concerns regarding disclosure under the New York State Freedom of Information Law (Article 6 of the Public Officers Law).

Is the Firm submitting a Freedom of Information Law Redaction request? If Yes, Firm should include the specific details of its request as part of the Firm’s Administrative Proposal.

Yes \_\_\_\_\_\_\_\_ No \_\_\_\_\_\_\_\_\_\_

|  |  |
| --- | --- |
| Firm Name:  |  |
| Name, Title: |  |
| Signature: |  | Date: |  |

### FORM 11: EXECUTIVE ORDER NO. 177 CERTIFICATION

The New York State Human Rights Law, Article 15 of the Executive Law, prohibits discrimination and harassment based on age, race, creed, color, national origin, sex, pregnancy or pregnancy-related conditions, sexual orientation, gender identity, disability, marital status, familial status, domestic violence victim status, prior arrest or conviction record, military status or predisposing genetic characteristics.

The Human Rights Law may also require reasonable accommodation for persons with disabilities and pregnancy-related conditions. A reasonable accommodation is an adjustment to a job or work environment that enables a person with a disability to perform the essential functions of a job in a reasonable manner. The Human Rights Law may also require reasonable accommodation in employment on the basis of Sabbath observance or religious practices.

Generally, the Human Rights Law applies to:

* employers of four or more people, employment agencies, labor organizations and apprenticeship training programs in all instances of discrimination or harassment;
* employers with fewer than four employees in all cases involving sexual harassment; and,
* any employer of domestic workers in cases involving sexual harassment or harassment based on gender, race, religion or national origin.

In accordance with Executive Order No. 177, the Firm hereby certifies that it does not have institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sex, sexual orientation, gender identity, disability, marital status, military status, or other protected status under the Human Rights Law.

Executive Order No. 177 and this certification do not affect institutional policies or practices that are protected by existing law, including but not limited to the First Amendment of the United States Constitution, Article 1, Section 3 of the New York State Constitution, and Section 296(11) of the New York State Human Rights Law.

|  |  |
| --- | --- |
| Firm Name:  |  |
| Name, Title: |  |
| Signature: |  | Date: |  |

### FORM 12: SEXUAL HARASSMENT PREVENTION CERTIFICATION

State Finance Law §139-l requires firms on state procurements to certify that they have a written policy addressing sexual harassment prevention in the workplace and provide annual sexual harassment training to all its employees.

By submission of this bid, each firm and each person signing on behalf of any firm certifies, and in the case of a joint bid each party thereto certifies its own organization, under penalty of perjury, that the firm has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of section two hundred one-g of the labor law.

The Firm’s signature below certifies its compliance with State Finance Law §139-I.

|  |  |
| --- | --- |
| Firm Name:  |  |
| Name, Title: |  |
| Signature: |  | Date: |  |

### FORM 13: CERTIFICATION UNDER EXECUTIVE ORDER NO. 16 PROHIBITING STATE AGENCIES AND AUTHORITIES FROM CONTRACTING WITH BUSINESSES CONDUCTING BUSINESS IN RUSSIA

Executive Order No. 16 provides that “all Affected State Entities are directed to refrain from entering into any new contract or renewing any existing contract with an entity conducting business operations in Russia.” The complete text of Executive Order No. 16 can be found [here](https://www.governor.ny.gov/executive-order/no-16-prohibiting-state-agencies-and-authorities-contracting-businesses-conducting).

The Executive Order remains in effect while sanctions imposed by the federal government are in effect. Accordingly, Firms who may be excluded from award because of current business operations in Russia are nevertheless encouraged to respond to solicitations to preserve their contracting opportunities in case the sanctions are lifted during a solicitation or even after award in the case of some solicitations.

As defined in Executive Order No. 16, an “entity conducting business operations in Russia” means an institution or company, wherever located, conducting any commercial activity in Russia or transacting business with the Russian Government or with commercial entities headquartered in Russia or with their principal place of business in Russia in the form of contracting, sales, purchasing, investment, or any business partnership.

Is Firm an entity conducting business operations in Russia, as defined above? Please answer by checking one of the following boxes:

☐ No, Vendor does not conduct business operations in Russia within the meaning of Executive Order No. 16.

☐ 2.a. Yes, Vendor conducts business operations in Russia within the meaning of Executive

 Order No. 16 but has taken steps to wind down business operations in Russia or is in the process of winding down business operations in Russia. (Please provide a detailed description of the wind down process and a schedule for completion.)

☐ 2.b. Yes, Vendor conducts business operations in Russia within the meaning of Executive

 Order No. 16 but only to the extent necessary to provide vital health and safety services within Russia or to comply with federal law, regulations, executive orders, or directives. (Please provide a detailed description of the services being provided or the relevant laws, regulations, etc.)

☐ 3. Yes, Vendor conducts business operations in Russia within the meaning of Executive

 Order No. 16

The undersigned certifies under penalties of perjury that they are knowledgeable about the Firm’s business and operations and that the answer provided herein is true to the best of their knowledge and belief.

|  |  |
| --- | --- |
| Firm Name:  |  |
| Name, Title: |  |
| Signature: |  | Date: |  |

1. Do not include onsite project overhead. [↑](#footnote-ref-2)
2. Technical training is the process of teaching employees how to more accurately and thoroughly perform the technical components of their jobs. Training can include technology applications, products, sales and service tactics, and more. Technical skills are job-specific as opposed to soft skills, which are transferable. [↑](#footnote-ref-3)