



ANDREW M. CUOMO
GOVERNOR

ANTHONY J. ALBANESE
ACTING SUPERINTENDENT

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
ONE COMMERCE PLAZA, SUITE 1850
ALBANY, NY 12257

REQUEST FOR PROPOSAL FOR
ENVIRONMENTAL MODIFICATIONS EVALUATORS
FOR THE MEDICAL INDEMNITY FUND

REQUEST FOR PROPOSAL FOR

IF YOU ARE NOT BIDDING, PLACE AN "X" IN THE APPROPRIATE BOX AND RETURN THIS PAGE ONLY TO THE ADDRESS SET FORTH IN THIS LETTER:

WE ARE UNABLE TO BID AT THIS TIME BECAUSE _____

WE REQUEST REMOVAL OF OUR NAME FROM THE MAILING LIST FOR _____

NAME OF COMPANY: _____

PRINTED OR TYPED NAME: _____

TITLE: _____ DATE: _____

TABLE OF CONTENTS

	TOPIC	PAGE
	SUBMISSION OF PROPOSAL	1
	PREAMBLE	2
SECTION 1	INTRODUCTION	3
1.1	DEFINITIONS	3
1.2	PURPOSE	3
1.3	BACKGROUND	4
SECTION 2	CONTRACTOR RESPONSIBILITIES AND TECHNICAL REQUIREMENTS	5
2.1	CONTRACTOR RESPONSIBILITIES	5
2.2	QUALIFICATION OF BIDDERS	8
2.3	PERFORMANCE REQUIREMENTS	9
SECTION 3	COST REQUIREMENTS	10
SECTION 4	TERMS AND CONDITIONS	10
4.1	CONTRACT/AGREEMENT DOCUMENTS	10
	(A) SAMPLE CONTRACT/AGREEMENT	
	(B) STATE FINANCE LAW "PROCUREMENT LOBBYING LAW"	
	(C) CONSULTANT DISCLOSURE	
4.2	RFP APPENDICES	11
	(A) APPENDIX A: STANDARD CLAUSES FOR ALL NEW STATE CONTRACTS	
	(B) APPENDIX B: GENERAL SPECIFICATIONS	
	(C) OTHER APPENDICES	
4.3	AGREEMENT PERIOD AND RENEWAL	12
4.4	TERMINATION	12
	(A) TERMINATION FOR CONVENIENCE	
	(B) TERMINATION FOR NON-COMPLIANCE WITH STATE FINANCE LAW	
4.5	BONDING REQUIREMENTS	13
4.6	BIDDER ASSURANCES	13
4.7	PROCEDURE FOR AMENDMENTS OF AGREEMENT	13
4.8	PRICE ADJUSTMENTS	13
4.9	OWNERSHIP AND TITLE TO DELIVERABLES	13
4.10	INTERPRETATION AND DISPUTES	14
4.11	ADDITIONAL SECURITY/CONFIDENTIALITY REQUIREMENTS	14
4.12	PATENT/COPYRIGHT INDEMNIFICATION	14
4.13	CONFLICTS	14
	(A) FEDERAL LOBBYING CERTIFICATION	
	(B) CONFLICT OF INTEREST	
4.14	ORAL PRESENTATIONS	15
4.15	PERIOD OF VALIDITY	15
4.16	MINORITY AND WOMEN-OWNED BUSINESS EQUAL EMPLOYMENT OPPORTUNITIES AND GOALS	16
4.17	LIQUIDATED DAMAGES	16
4.18	CONFORMANCE TO RFP	16
4.19	DATE/TIME WARRANTY	17
SECTION 5	ADMINISTRATIVE	17
5.1	INQUIRIES	17

5.2	PRE-BID CONFERENCE	17
5.3	SUBMISSION OF PROPOSALS	17
5.4	BIDDER DEBRIEFING	18
5.5	DEPARTMENT'S RIGHTS TO PROPOSALS	18
SECTION 6	PROPOSAL FORMAT AND CONTENT	18
6.1	OVERVIEW	18
6.2	GENERAL REQUIREMENTS AND APPEARANCE	19
6.3	TECHNICAL SUBMITTAL REQUIREMENTS (PART I)	19
6.4	COST SUBMITTAL REQUIREMENTS (PART II)	20
SECTION 7	PROPOSAL EVALUATION CRITERIA	20
7.1	OVERVIEW AND METHOD OF AWARD	20
	(A) OVERVIEW	
	(B) METHOD OF AWARD	
7.2	TECHNICAL SUBMITTAL EVALUATION	22
7.3	COST SUBMITTAL EVALUATION	22
SECTION 8	ATTACHMENTS	23

REQUEST FOR PROPOSAL FOR

TITLE: ENVIRONMENTAL MODIFICATIONS EVALUATORS

DATE: June 17, 2015

TIMETABLE OF KEY EVENTS:

Event:	Date:
➤ RFP Issue Date	6/17/15
➤ Deadline for Questions	6/26/15
➤ Deadline for Receipt of Proposals	7/15/15

Submission Of Proposal

Enclosed is a REQUEST FOR PROPOSAL on the above. Firms interested in being considered for this engagement should deliver six (6) proposals with original signed cover letters (signed by an individual authorized to represent the firm) to:

Mr. Steven McClellan
Procurement and Budget
New York State Department of Financial Services
One Commerce Plaza, Suite 1850
Albany, NY 12257
(518) 474-6848

Proposals must be delivered in their entirety by 2:00 p.m. Eastern Time on the date specified above as the Deadline for Receipt of Proposals.

Proposals received in whole or in part after 2:00 p.m. Eastern Time on the date specified above shall not be considered. Those proposals that do not furnish all of the information requested herein may not be considered. The Department reserves the right to reject any and all proposals if, in its judgment, the work proposed will not accomplish the objectives of this project or does not meet all of the requirements of this Request for Proposal. **Electronic or fax submissions will not be accepted.**

In order to expedite the selection process, proposals must also include the firm's full name, address, telephone and fax numbers, e-mail address and federal tax identification number. Your bid envelope must be clearly marked "BID NO. C000414, DO NOT OPEN UNTIL JULY 15, 2015".

An Agreement will be entered into with up to 6 Bidders in Region 1, and up to 4 Bidders in each of the other Regions.

Should you have any questions, please contact Mr. Steven McClellan at rfp@dfs.ny.gov.

New York State Department of Financial Services
Preamble

The information contained herein should be used for the sole purpose of responding to this request.

This Request for Proposal (RFP) is not an offer and does not commit the New York State Department of Financial Services (the “Department”) to a contract/agreement. Furthermore, the Department is not under any obligation to pay the costs, in whole or in part, incurred during the preparation of a response to this RFP.

The Department reserves the right to accept or reject any and all proposals; to correct any computational errors in the proposal(s); to utilize any or all ideas from the proposals and to adopt all or any part of the proposal(s) submitted. All proposals shall become the property of the Department.

As an agency of the State of New York, all responses submitted to the Department may be disclosed pursuant to requests for access made under the New York Freedom of Information Law (FOIL) provided, however, that there are no statutory restrictions that may exempt documents from FOIL disclosure. All work products described herein may also be subject to FOIL disclosure.

The State does not indemnify Contractors/Vendors.

Section 1. Introduction

1.1 Definitions

Unless further defined below, terms have the meanings set forth in Appendix B.

The term “Agreement” in this RFP shall mean the contract entered into between the Department and the selected Bidder.

The term “Bidder” in the RFP shall mean those companies or individuals who respond to the Department’s request for solutions to its present needs.

The term “Contractor” in this RFP shall mean the selected provider whose name and principal address appear on the proposal and signature page.

The term “Fund Administrator” shall mean the Administrator of the New York State Indemnity Fund, as designated by the Superintendent of Financial Services.

The term “Region” in this RFP shall mean a region as set forth in Section 2.1(e).

1.2 Purpose

The purpose of this procurement is to obtain evaluation services from contractors who are qualified to perform evaluations of environmental modification (Emod) projects requested by enrollees of the New York State Medical Indemnity Fund (“MIF”). This procurement is for the following types of evaluations: initial evaluation, bid evaluation and post-modification evaluation.

The regulations governing the operation of the MIF define an environmental modification as follows:

“Environmental modification” (“Emod”) means an interior or exterior physical adaptation to the residence in which an enrollee lives that is necessary to ensure the health, welfare, and safety of the enrollee, enables him or her to function with greater independence in the community and/or helps avoid institutionalization, and has been ordered by a physician. Emods include but are not limited to: ramps, widened doorways and handrails, roll-in showers, vertical lifts, elevators only when there is no other safe and cost effective alternative and cabinet and shelving adaptations. Emods do not include any routine home maintenance. Emods also do not include adaptations or modifications that are of general utility and that do not provide direct medical or remedial benefit to the enrollee. With respect to new construction, Emods do not include modifications needed as a result of avoidable barriers created by the new

construction floor plan.

The regulations governing the MIF require that the evaluator be a rehabilitative agency, rehabilitative specialist, or an independent building contractor who has significant experience working with Americans with Disabilities Act (“ADA”) building standards and accessibility guidelines.

1.3 Background

The New York State Department of Financial Services, created by combining the New York State Banking and Insurance Departments aims to modernize regulatory oversight of the financial services industry. Superintendent Lawsky’s key objectives for the new Department are enhancing New York’s status as the world’s financial center, vigorously protecting consumers, and preventing systemic risk.

The Superintendent, in order to better supervise financial products and services, including those subject to the provisions of the Insurance Law and the Banking Law may take any actions necessary to:

- foster the growth of the financial industry in New York and spur state economic development through judicious regulation and vigilant supervision;
- ensure the continued solvency, safety, soundness and prudent conduct of the providers of financial products and services;
- ensure fair, timely and equitable fulfillment of the financial obligations of such providers;
- protect users of financial products and services from financially impaired or insolvent providers of such services;
- encourage high standards of honesty, transparency, fair business practices and public responsibility;
- eliminate financial fraud, other criminal abuse and unethical conduct in the industry; and
- educate and protect users of financial products and services and ensure that users are provided with timely and understandable information to make responsible decisions about financial products and services.

The Department has main offices in New York City and Albany. The total staff is approximately 1,350.

The MIF was established in 2011 to provide a funding source for future costs necessary to meet the health care needs of plaintiffs in medical malpractice actions who have received either court-approved settlements or judgments deeming the

plaintiff's neurological impairments to be birth-related. The Superintendent of the Department of Financial Services is designated by law as the administrator of the Fund. The Superintendent has contracted with Alicare, Incas Fund Administrator to perform the day-to-day operations of the fund, including claims processing, case management, prior approval of certain services, etc.

The MIF's operation and administration is subject to regulations promulgated by the New York State Department of Health. The regulations are at 10 NYCRR § 69-10.1 et seq.

The regulations require prior approval of an enrollee's request for an Emod. The regulations define the meaning of the term "environmental modification" and set forth the requisite standard of review for determining whether a requested Emod qualifies for coverage by the MIF. The regulations require three different evaluations over the course of the approval of and final payment for an Emod, which include: an initial evaluation, a bid evaluation and a post-modification evaluation.

Section 2. Contractor Responsibilities and Technical Requirements

This section sets forth the contractor responsibilities and technical requirements for this RFP. The proposal shall set forth the Bidder's ability to meet these requirements.

2.1 Contractor Responsibilities

(a) The contractor must be qualified and able to perform one or more of the following kinds of evaluation for Emods in one or more regions, upon assignment by the Superintendent or his designee:

(1) Initial evaluation. An initial evaluation requires the contractor to review a statement of medical necessity from the enrollee's treating physician explaining the needs of the enrollee, and to make a visit to the home to examine the home in its current state and determine whether it needs modification in accordance with the regulations governing the MIF.

The contractor will be required to prepare a report that specifies the description of the Emod (or Emods) recommended by the evaluator, the need for the Emod, the reason the proposed Emod was selected, whether it is the most cost-effective approach to fulfilling the enrollee's need for the Emod and whether there are any safety concerns associated with the proposed Emod, and if so, how they will be addressed. The report shall also include pictures and/or a floor plan that shows where the Emod will be constructed.

An initial evaluation report must also explain how the materials to be used in constructing the Emod are cost effective in comparison to alternative materials. An evaluator must also prepare a summary of the

proposed Emod that describes the Emod to be constructed or installed in sufficient detail to allow contractors to successfully bid on the project.

In the event that there is a subsequent request for changes to the specifications in terms of alternative or substitute equipment or the scope of work involved in the approved Emod, the Contractor may also be asked to assess whether the changes are appropriate and reasonable and to report the findings.

Bid Evaluation. A bid evaluation requires the evaluator to review the 3 bids that have been submitted for the construction or installation of an Emod or Emods approved by the Fund Administrator. The bid evaluator must evaluate the qualifications of each bidder and the content of each bid to determine whether each bid is acceptable. In determining whether a bidding contractor is qualified, the bid evaluation will take into account whether the contractor has any outstanding judgments on file and whether any complaints have been upheld against the contractor by the Better Business Bureau or the New York State Department of Law.

An acceptable bid is one that includes a description of the scope of work and specifications of the Emod and a statement signed by the contractor or a person duly authorized to sign for the contractor stating that the work will be done in a workmanlike manner, using materials suitable for purposes of the project and the safety of the enrollee and household members, and will comply will all applicable building and zoning laws.

A bid evaluator shall ensure that each bid provides for the complete scope of work and the proper construction of the Emod, and that each bid relies upon the use of cost-effective materials. A bid evaluation may require the evaluator to contact bidders to ask questions or request additional information from the bidders.

The bid evaluator shall submit a report to the Fund Administrator stating the evaluator's findings regarding the qualification of the bidders, the completeness of the bids (including scope of work), and whether each contractor signed the required statement that the work will be done properly and safely in compliance with building and zoning laws. The evaluator may be asked to recommend a bidder for selection based on his or her experience and expertise.

- (2) Post-modification evaluation. A post-modification evaluation will require the evaluator to make a site visit to examine the completed Emod to determine whether the Emod as installed or constructed meets the enrollee's functional needs and is in compliance with the initial evaluation, including adherence to safety and all applicable building code standards. If the modification meets these requirements, the evaluator shall prepare a report stating that the modification meets the

requirements. If the modification does not meet these requirements, the evaluator shall prepare a report stating the reasons that the modification is not in compliance.

Each type of evaluation requires the evaluator to prepare a written report that meets the requirements of the requisite regulation. The report must be submitted to the Fund Administrator. The initial evaluation can be expected to require multiple pages, given the amount of detail required. However, the bid evaluation and the post-modification report may be shorter since these evaluations only require verification that certain requirements have been satisfied.

- (b)** Contractor shall bill for hours necessary to complete the evaluation and the report. Contractor shall bill no more than 10 hours for an initial evaluation, 4 hours for evaluation of bids, 2 hours for a post-modification evaluation and 2 hours for a consultation regarding changes to the approved Emods, provided that Contractor may bill for additional time if such time is pre-authorized by the Fund Administrator upon a showing by the Contractor that additional time is necessary based upon the scope of the proposed Emod.
- (c)** Contractor shall review and be able to refer to and apply the provisions of the New York State Medical Indemnity Fund Regulations set forth in 10 NYCRR § 69-10 that apply to environmental modifications. Contractor shall become familiar and comply with changes to the regulations that pertain to environmental modifications immediately after such changes become effective. In the event of any conflict between the regulations, as amended from time to time, and the duties set forth herein, the Contractor shall comply with the regulation.
- (d)** Qualified bidders may include rehabilitation evaluation agencies, rehabilitative specialists or independent building contractors with significant experience working with ADA building standards and accessibility guidelines.
- (e)** Contract shall provide evaluation services in the Region or Regions designated for that Contractor, when assigned by the Superintendent or his designee. The regions include the following counties:

 - (1) Region 1: Bronx, Kings, Nassau, New York, Queens, Richmond, Rockland, Suffolk, and Westchester;
 - (2) Region 2: Columbia, Delaware, Dutchess, Greene, Orange, Putnam, Sullivan and Ulster;
 - (3) Region 3: Albany, Montgomery, Rensselaer, Saratoga, Schenectady, Schoharie, and Washington;
 - (4) Region 4: Clinton, Essex, Franklin, Fulton, Hamilton, Herkimer,

Jefferson, Lewis, St. Lawrence and Warren;

(5) Region 5: Broome, Cayuga, Chemung, Chenango, Cortland, Madison, Oswego, Oneida, Onondaga, Otsego, Seneca, Schuyler, Tioga and Tompkins; and

(6) Region 6: Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Livingston, Monroe, Niagara, Ontario, Orleans, Steuben, Wayne, Wyoming, and Yates.

- (f) Assignments will be based upon enrollee need. The Department does not guarantee that the Contractor will receive assignments or a particular number of assignments. Assignments will be made by the Fund Administrator, with preference given to the Contractor located nearest to the location of the proposed Emod, provided that the Contractor is available and is free of conflicts of interests. A Contractor may be considered unavailable for an assignment if the Contractor does not return the Fund Administrator's call within 2 business days. The total compensation paid to each Contractor for evaluations shall not exceed \$200,000 per contract year.
- (g) In the event that Contractor has not completed an assigned evaluation and the evaluation is reassigned, Contractor shall cooperate with the reassignment by providing the succeeding evaluator with a copy of all relevant documents in Contractor's possession, and by consulting with the succeeding evaluator.

2.2 Qualification of Bidders

- (a) **Relevant Experience:** The Bidder should describe any previous experience in performing similar types of assessments or evaluations, and/or in the construction or installation of environmental modifications. The Bidder should describe experience working with Americans with Disabilities Act/ADA building compliance, and service or installation of Assistive Technologies, including a description of the work performed. All Bidders should indicate any special certifications received or held by the Bidder or members of their staff such as C.E.A.C. (Certified Environmental Access Consultants) or C.A.P.S (Certified Aging-In-Place Specialist).
- (b) **References:** Submit at least three (3) separate references other than employees of the Department of Financial Services, preferably from government agencies, programs for the disabled, or other customers with similar needs or objectives. For each reference include the following:
- name of company/agency for which work was performed and brief description of its business;
 - name, address and phone number of company/agency contact person;

- description of work performed and/or services provided, including description of (1) all deliverables (reports, presentations, etc.) and (2) all timeframes and deadlines of work performed and/or services provided, noting whether or not these timelines and deadlines were met;
 - period of engagement; the beginning and ending dates of the work performed; and
 - results/client outcomes.
- (c) **Staffing and Resumes for Key Personnel:** The Bidder should provide a description of the qualifications and category of individuals who would perform the required work, including resumes. The Bidder should describe the number of staff at each level and include resumes of staff that would be available for this engagement.
- (d) **Conflicts of Interest & Disclosure:** The Bidder should state whether it has any conflict of interest, actual or perceived, that would prevent Bidder from functioning under an agreement with the Department. The Bidder shall identify any relationships or arrangements it has with the Department or with any entity under contract with the Department, including Alicare, Inc., or other NYS agency or program. The Bidder should also disclose relationships that the Bidder or any of its principals have with any construction firm that is in the business of constructing environmental modifications.

2.3 Performance Requirements

- (a) **Timelines** – The Contractor must make site visits, if required, and complete each evaluation assigned to Contractor, including an initial evaluation, bid evaluation, or post-modification evaluation, within a reasonable time after being selected to conduct a particular evaluation, not to exceed 15 days from the date the contractor has received all necessary information. If the evaluation is not completed in a timely fashion, the Department or its designee may reduce the payment due the contractor as liquidated damages, as described in Section 4.17, and/or may assign the evaluation to another contractor. If the evaluation is so reassigned, the original contractor shall not be compensated for services.
- (b) **Subcontracting** - The selected Contractor must assume full responsibility for the services offered in the proposal for the duration of the agreement. The Contractor shall be so liable even when the Contractor subcontracts a portion of the service. Subcontracting shall be permitted only with the prior written approval of the Department.
- (c) **Failure to Comply** - Failure of Contractor to comply with any of the above requirements may be considered grounds for agreement termination by the Department. The Contractor shall be liable for any costs incurred by the

Department relating to the fulfillment of an agreement should the agreement be terminated because the Contractor failed to perform.

- (d) **Serve as Witness** - The Contractor must be able to appear and testify as a witness on behalf of the Department related to work performed pursuant to an agreement, including attendance at administrative hearings involving review of an Emod request for which Contractor prepared an evaluation report.

Section 3. Cost Requirements

Cost Proposal-Fee Schedule – A cost proposal, in the format set forth in section 7.3, is to be submitted at the same time as the remainder of the proposal but in a separate sealed package.

Section 4. Terms and Conditions

4.1 Contract/Agreement Documents

(a) Sample Contract/Agreement

A sample contract/agreement incorporating standard language that would be executed by the Contractor and the Department is appended hereto as Appendix E.

(b) Vendor Responsibility

The **Department** 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/vendor_index.htm or go directly to the VendRep System online at <https://portal.osc.state.ny.us>.

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 ciohelpdesk@osc.state.ny.us.

Vendors opting to complete and submit a paper questionnaire can obtain the appropriate questionnaire from the VendRep website www.osc.state.ny.us/vendrep or may contact the **Department** or the Office of the State Comptroller's Help Desk for a copy of the paper form.

(c) Contractor Certification

The requirements of State Tax Law Section 5-a regarding Contractor Certification are hereby incorporated into this RFP and will be incorporated into the resulting Agreement. Bidder is required to comply with the requirements thereof as found in the Contractor Certification Forms appended hereto as Appendix G.

(d) State Finance Law – “Procurement Lobbying Law”

The requirements of State Finance Law Sections 139-j and 139-k are hereby incorporated into this RFP and any resulting agreement. The Bidder is required to comply with all requirements of State Finance Law Sections 139-j and 139-k. Further information and forms are appended hereto as Appendix H.

State Finance Law Section 139-k provides that the procurement contract award shall contain a certification by the Contractor that all information provided to the Department with respect to Sections 139-j and 139-k is complete, true and accurate and the resulting contract shall contain a provision authorizing the Department to terminate the contract in the event such certification is found to be intentionally false or intentionally incomplete. This contract language authorizes termination, but does not mandate termination.

(e) Consultant Disclosure

The requirements of State Finance Law Sections 8 and 163 regarding Consultant Disclosure are hereby incorporated into this RFP and will be incorporated into the resulting Agreement. Bidder is required to comply with all requirements thereof as found in the Consultant Disclosure Information and Forms appended hereto as Appendix I.

4.2 RFP Appendices

(a) Appendix A: Standard Clauses for All New York State Contracts

The terms of Appendix A, Standard Clauses for All New York State Contracts, attached hereto, are hereby incorporated into this RFP and any resulting agreement. The Contractor is required to adhere to the clauses in Appendix A which include the recent additions regarding the use of tropical hardwoods, the MacBride Fair Employment Principles and the Omnibus Procurement Act. Bidder should keep Appendix A for its records.

(b) Appendix B: General Specifications

The terms of Appendix B, General Specifications, attached hereto, are hereby incorporated into this RFP and shall govern any situations not covered by this RFP or Appendix A. Bidder should keep Appendix B for its records.

(c) Other Appendices

The following forms are also included in the bid package. Some forms must be signed and submitted with your bid while others are included for informational purposes only. Please read them and follow the instructions.

- **Appendix C: Nondiscrimination in Employment in Northern Ireland: MacBride Fair Employment Principles** – Must be completed and submitted with bid.
- **Appendix D: MWBE Requirements and Forms** - Must be completed and submitted with bid.
- **Appendix E: Sample Agreement.** – Bidder should keep Appendix E for its records.
- **Appendix F: Vendor Responsibility Information & Forms** – Must be completed and submitted with bid.
- **Appendix G: ST-220 Tax Certification Information and Forms** – Must be completed and submitted with bid.
- **Appendix H: State Finance Law – “Procurement Lobbying Law” Information and Forms** – Must be completed and submitted with bid.
- **Appendix I: Consultant Disclosure Information and Forms** – Must be completed and submitted with bid.
- **Appendix J: Encouraging Use of N.Y. Businesses** – Must be completed and submitted with bid.

4.3 Agreement Period and Renewal

The anticipated term of the agreement shall be 5 years commencing on the date of approval of the agreement by the New York State Office of the Comptroller.

4.4 Termination

See “Executory Clause” in Appendix A and “Suspension of Work” and “Termination” in Appendix B.

- (a) **Termination for Convenience:** The Department retains the right to terminate the agreement, or any part thereof, without reason, provided that the Contractor is given at least thirty (30) days written notice of the Department’s intent to terminate. This provision should not be understood as waiving the

Department's right to terminate the agreement for cause or to stop work immediately for unsatisfactory work, but is supplementary to that provision.

(b) Termination for Non-compliance with State Finance Law:

State Finance Law Section 139-k provides that this procurement contract shall contain a provision authorizing the Department to terminate the contract in the event that the required certification is found to be intentionally false or intentionally incomplete. This contract language authorizes termination, but does not mandate termination.

4.5 Bonding Requirements

See "Performance/Bid Bond" in Appendix B.

- There are no bonds required for this contract.

4.6 Bidder Assurances

The Bidder warrants that it has carefully reviewed the needs of the Department for Environmental Modifications Evaluators, as described in the RFP and its attachments and otherwise communicated in writing by the Department to the Bidder, that it has familiarized itself with the Department's specifications, and it warrants that it can provide such services as described in the RFP and as represented in its proposal.

The Bidder agrees that it will perform its obligations hereunder in accordance with all applicable Federal, State, and local laws, rules and regulations now or hereafter in effect, including the regulations under which the MIF operates, which are at 10 NYCRR § 69-10.1, et seq.

The Bidder warrants and affirms that the terms of the RFP and any resultant agreement do not violate any contracts or agreements to which it is a party, and that its other contractual obligations will not adversely influence its capabilities to perform under the agreement.

4.7 Procedure for Amendments of Agreement

See "Modification of Contract Terms" in Appendix B and "Entire Agreement" in Appendix E.

Any request by the Contractor for changes or amendments in any part of the agreement shall be made in writing to the Department.

4.8 Price Adjustments

Prices shall be firm for the term of the agreement.

4.9 Ownership and Title to Deliverables

Evaluation Reports prepared by contractor pursuant to this contract are the property of the Department. See also “Department property” in Appendix B.

4.10 Interpretation and Disputes

See “Conflicting Terms” in Appendix A.

4.11 Additional Security/Confidentiality Requirements

See also “Security” in Appendix B.

- (a) The Contractor must provide secure and confidential storage for hard copy and electronically stored information. Under no circumstances will any records, hard copy or electronic, nor any information contained therein, be released to any person, agency or organization without specific written permission of the Department. All data storage, posting, and access must comply with the minimum policies, standards, and procedures found in the Federal Health Insurance Portability and Accountability Act (“HIPAA”) and the Health Information Technology for Economic and Clinical Health Act (“HITECH”) and the New York State Cyber Security Policy 03-002. The Contractor and any subcontractor shall be required to enter into a HIPAA Business Associate Agreement that is acceptable to DOH and the Department.
- (b) A detailed discussion of the Bidder’s data security procedures and controls must be included in the proposal. At a minimum, this discussion should address:
 - The identity and qualifications of the person(s) responsible for computer security;
 - Steps taken to safeguard data at each step of the data collection lifecycle, as well as information posted on the Web site;
 - Data security and confidentiality protocols, including employee access;
 - Employee training and any written policies on confidentiality;
 - Data redundancy and back-up plans including plans in the event of a catastrophic loss of equipment or facilities; and
 - An understanding of HIPPA and HITECH related restrictions and requirements
- (c) Contractor shall be required to disclose to the Department its receipt of any subpoena that requests information about the MIF or any of its enrollees within 24 hours of receiving the subpoena.

4.12 Patent/Copyright Indemnification

See “Indemnification Relating to Third Party Rights” in Appendix B.

4.13 Conflicts

(a) Federal Lobbying Certification

Section 1352 of Title 31 of the U.S. Code requires that funds appropriated to a Federal agency be subject to a requirement that any Federal contractor or grantee (such as the State) must be required to certify that no Federal funds will be used to lobby or influence a Federal officer or a Member of Congress. The certification the State has been required to sign provides that the language of this certification be included in the contract documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly. The certification also requires the completion of Federal lobbying reports and the imposition of a civil penalty of \$10,000 to \$100,000 for failing to make a required report. As a sub-recipient, the Contractor understands and agrees to the Federal requirements for certification and disclosure.

(b) Conflict of Interest

Contractor represents and warrants that it has no conflict, actual or perceived, that would prevent it from performing its duties and responsibilities under the Agreement. Contractor shall disclose the relationships it or its principals have had with any entity regulated by the Department or with any entities that build or install environmental modifications in the region in which Contractor is assigned, during the two years before the date of this Agreement. During the term of this Agreement Contractor shall disclose any relationships it proposes to enter into with any entity regulated by the Department or with any entities that build or install environmental modifications in the region in which Contractor is assigned. During the term of this Agreement, Contractor shall also notify the Department upon assignment to an evaluation for a relative or business associate of any principal or employee of the Contractor. These disclosures must contain all facts material to any actual or potential conflict of interest. Department may consider and approve, in writing, alternative guidelines proposed by Contractor to redress any actual or perceived conflict of interest only when Department deems such action appropriate.

4.14 Oral Presentations

The Department, at its discretion, may elect to have Bidders provide oral presentations of their proposals. All Bidders deemed by the Department as eligible to receive an award will be given the opportunity to provide such oral presentations. Unless oral presentations are made a part of the evaluation process and points are assigned, oral presentations are for clarification purposes only. (See Section 7.1

“Method of Award.”)

4.15 Period of Validity

Each Bidder’s proposal must include a statement as to the period during which the provisions of its proposal will remain valid. A minimum of six (6) months from the Deadline for Receipt of Proposals is required.

4.16 Minority and Women-Owned Business Equal Employment Opportunities and Goals

Article 15-A of the New York State Executive Law §§ 310–318 (“the Statute”) was enacted to promote equality of employment and economic opportunities for minority group members and women in State contracting activities. The New York State Department of Financial Services (“Department”) fully supports the efforts of the State of New York to promote Equal Employment Opportunity (EEO) for all persons and promote equality of economic opportunity for minority group members and women who own business enterprises.

The Department has developed compliance requirements, forms and procedures to ensure that Contractors (to include those who submit bids/proposals in an effort to be selected for contract award as well as those successful bidders/proposers with whom Department enters into State Contracts) and proposed or actual Subcontractors receiving subcontracts of over \$25,000 comply with requirements concerning Equal Employment Opportunities for Minority Group Members and Women and meaningful participation opportunities for certified minority-owned or women-owned business enterprises (MWBEs) in the Department procurement process. Contractors participating in and/or selected for procurement opportunities with the Department shall fulfill their obligations to comply with applicable Federal, State and Local requirements concerning Equal Employment Opportunity and opportunities for MWBEs, including but not limited to, the Statute and its implementing regulations as promulgated by the New York State Division of Minority and Women's Business Development (“DMWBD”) and set forth at 5 NYCRR Parts 140-144).

The parties shall refer to Appendix D, attached and incorporated by reference herein, for the specific EEO/MWBE requirements and associated forms required by this procurement. Forms shall be submitted without any changes to any the Department goals specified in Appendix D of this RFP. Copies of the required Department Forms are identified in Appendix D.

4.17 Liquidated Damages

If the Contractor fails to complete services in accordance with specifications, or within the times specified herein, it is understood, and the Bidder and subsequent Contractor hereby agrees, that the amount of one percent (1%) of the contracted value per day up to the value of contracted equipment and services shall be deducted

from the monies due the Contractor for each intervening calendar day, not as a penalty, but as liquidated damages. However, the Contractor shall not be liable if failure to perform arises out of causes beyond its control and without the fault or negligence of the Contractor (Acts of God, the public enemy, fires, floods, freight embargoes, regulated telephone company delays, etc.).

4.18 Conformance to RFP

Any exceptions or objections to the terms, conditions, and requirements of this RFP, including the Sample Agreement included as Appendix E, are governed and are to be submitted in accordance with the “Extraneous Terms” clause in Appendix B. Bidders are cautioned that any such exception or objections may render their bid non-responsive.

4.19 Date/Time Warranty

See “Date/Time Warranty” as currently set forth in paragraph 72(g) in Appendix B.

Section 5. Administrative

5.1 Inquiries

All inquiries concerning this RFP should be addressed to the following:

Steve McClellan
Procurement and Budget
One Commerce Plaza, Suite 1850
Albany, NY 12257
FAX (518) 486-6809
rfp@dfs.ny.gov
(518) 474-6848

All questions should be submitted to rfp@dfs.ny.gov citing the particular proposal section and paragraph number. Prospective Bidders should note that all clarifications and exceptions, including those relating to the terms and conditions of the agreement, are to be resolved prior to the submission of a proposal. Answers to all questions of a substantive nature will be given to all prospective Bidders in the form of a formal addendum, which will be annexed to and become part of the resultant agreement. See Page 1 for deadline to submit questions.

5.2 Pre-Bid Conference

- No Pre-Bid Conference

5.3 Submission of Proposals

See “Bid Submission” in Appendix B.

Proposals are due in their entirety at the time and date specified on Page 1 hereof. Proposals received in whole or in part after this deadline shall not be considered.

All proposals and accompanying documentation will become the property of the Department and will not be returned. The content of each Bidder's proposal will be held in strict confidence during the bid evaluation process, and no details of any proposal will be discussed outside the evaluation process. The successful Bidder's proposal and a copy of the specification will be made part of the agreement. Therefore, an official authorized to commit the company to an agreement must sign the proposal.

5.4 Bidder Debriefing

An unsuccessful Bidder may request a debriefing within 45 days from the date of the Department's letter advising that the Bidder was not selected. The debriefing would be limited to the reasons that the Bidder's proposal was not selected. Debriefings would be held at Department offices located at One Commerce Plaza, Albany, New York.

5.5 Department's Rights to Proposals

By submitting a proposal, the Bidder covenants not to make any claim for, or have any right to, damages because of any misinterpretation or misunderstanding of the specification, or because of any misinformation or lack of information. The Department has the following prerogatives with regard to proposals submitted:

- To change any of the scheduled dates upon appropriate notification to all prospective Bidders;
- To accept or reject any or all proposals;
- To correct any arithmetic errors in any or all proposals;
- To waive or modify minor irregularities in proposals, after notification to the Bidder;
- To adopt any part or all of a successful Bidder's proposal;
- To utilize any and all ideas submitted in the proposals unless those ideas are protected by legal patent or property right;
- To negotiate with the selected Bidder prior to agreement award;
- To begin negotiations with another Bidder should the Department be unsuccessful in negotiating an agreement with the selected Bidder within 45 calendar days.

Section 6. Proposal Format and Content

6.1 Overview

This section identifies the information that all Bidders must include in their proposals to the Department.

A uniform proposal format is required so that the Department can fairly evaluate all proposals. For each item listed below, please respond in order and provide the material required. Brochures, reproduced, copied or printouts of marketing literature may not be substituted for the proposal narratives and responses specified. Cross-references in the main proposal to any appendices are required. The Department will not review appendices or supplemental material for which a purpose is not clearly indicated.

For the purposes of evaluation, each proposal must be submitted in two (2) parts. Part I consists of the Technical Submittal. Part II consists of the Cost Submittal. Each part must be complete in itself in order that the evaluation of both parts can be accomplished independently and concurrently, and that the Technical Submittal can be evaluated strictly on the basis of its merits. Cost information is not to be included in Part I. Both parts must be sealed separately.

The rules established for proposal content and format will be enforced. Variations from the rules prescribed herein may subject the respondent to outright disqualification. It is in the best interests of the Bidder to become familiar with the constraints imposed on its proposal, so that the evaluation process can proceed in a timely manner.

All proposals must be either hand written, typewritten or printed with original signatures. Proposals submitted hand written in pencil will be disqualified. The Department prefers that the proposals not be hand written, but this is not mandatory, provided the respondent uses ink or an indelible pen.

6.2 General Requirements and Appearance

(a) Cover Letter: Submit a cover letter on your letterhead, signed by an officer or director of your organization, certifying (1) the accuracy of all information in your proposal, (2) compliance with requested contents, and (3) how long your proposal will remain valid which must be a minimum of six (6) months from the deadline for the receipt of proposals.

(b) Executive Summary: Submit an executive summary of your proposal covering its main features and benefits which distinguish it. Do not exceed three (3) pages.

(c) Equal Opportunity and Nondiscrimination: An assurance that the firm is

an equal opportunity employer and will comply with all relevant Federal and State Equal Opportunity and Nondiscrimination Laws, Regulations and Executive Orders must be included.

6.3 Technical Submittal Requirements (Part I)

- (a) See Section 2. Contractor Responsibilities and Technical Requirements.
- (b) Include information about the Bidder's experience regarding the specific services required. Experience to be considered includes but is not limited to:
 - (a) familiarity with applicable laws and regulations, including the regulations that pertain to the MIF or similar programs, and state and local building codes;
 - (b) experience with ADA building standards and accessibility guidelines, and
 - (c) the construction industry.
- (c) A description of how the bidder plans to perform the services while ensuring all requirements are met within the applicable timeframes.

6.4 Cost Submittal Requirements (Part II)

Part II of the proposal consists of the pricing proposal that sets forth the costs for requested services. The cost submission should be complete, accurate, well-documented, and in the format required (See section 7.3) Cost information is not to be included in the Part I Technical Submittal. All prices must be inclusive of all costs necessary or incidental for proper performance under this agreement. Hourly rates for participation in hearings/litigation must be itemized separately.

Section 7. Proposal Evaluation Criteria

7.1 Overview and Method of Award

(a) Overview

The Superintendent and/or his designee(s) shall evaluate the proposals and select the Bidders that have the requisite experience and staffing to support the work required by the Department and do not have any initial conflicts of interest. It is the Department's intention to use the proposal received for guidance purposes and it may request further clarification if deemed necessary, but only from those Bidders determined to be technically proficient regarding certain points noted in the proposal.

The Department reserves the right to negotiate with the selected Bidders prior to execution of a final agreement.

Other specific criteria for selection are as follows:

- The Bidder's ability to make the commitment of appropriate resources so as to enable the Bidder to complete the engagement within a reasonable timeframe.
- The Bidder's demonstrated comprehension of the essential issues attendant to this engagement, as stipulated in the submitted proposal.
- The Bidder's demonstrated level of competence in, and understanding of, the appropriate field of expertise for which they are being engaged.
- The ability of the staff assigned to this project to make themselves available for meetings with the Department's representatives.
- The ability of staff to communicate effectively.
- The expertise of the staff available for this project.
- The Bidder's fee schedule and estimated costs.

The evaluation of proposals will determine which services provide the "Best Value" to the Department. Under NYS Procurement Guidelines, "Best Value" is the basis for awarding all service contracts... [it] optimizes quality, cost and efficiency, among responsive and responsible offerers."

"Best Value" is not equivalent to "lowest price." "Costs," in the case of "best value" are distinguished from price. Costs *embody* price, and include the costs associated with utilizing the services and the impact of the services on agency programs and operations.

Upon determination of the "best value" proposal, the Department will develop a binding contract agreement with the selected Bidder to provide the services. In the case of failure to execute an agreement with the selected Bidder, the Department may pursue an agreement for the services proposed by the next best-rated Bidder.

The Department will administer any agreement that is executed between the Contractor and the Department.

(b) Method of Award

All proposals received shall be subject to an evaluation by the Department. The Department desires to select up to 6 Bidders in Region 1, and up to 4 Bidders in each of the other Regions, who will provide the "Best Value" taking into consideration the most beneficial combination of qualifications, services and cost and who has met the requirements of this RFP. The Department shall base its decision in part upon the need to ensure that services are available throughout the

State. Only proposals judged to be responsive to the submission requirements set forth in this RFP will be evaluated.

The Technical and Cost sections of each Bidder’s proposal will be evaluated separately. A selection committee will review the two evaluations and make the proposal selection. To meet the minimum requirements for the Technical portion of the evaluation, bidders must receive at least 60% of the total possible technical points. Bids that fail to obtain the minimum 60% will not be further evaluated.

After completion of the Technical and Cost evaluation, a composite score will be assigned to each proposal with the Technical score weighted at 60 points and the Cost score weighted at 40 points. The basis for award will be the highest composite score. The criteria against which each proposal will be evaluated are described below.

7.2 Technical Submittal Evaluation

PROVIDED AS Example only:

(a) Technical Evaluation – (60 %)
1) The extent to which bidders meet the functional descriptions as defined in Section 2 of the RFP.
2) The proposal’s clarity, explicitness, completeness and reasonableness.
3) The relevant experience and qualifications of the Bidder. These include the quality of Bidder’s references, the Bidder’s reputation in the national marketplace, financial stability, and integrity. In this category is the extent Bidders demonstrate a successful history of providing similar services to other organizations, including government agencies the size of the Department.
4) The ability of the bidder to perform the tasks within the specified timeframes.
(b) Cost Evaluation – (40 %)
1) The proposed personnel expenses (i.e. price) for the term of the agreement.
2) The estimated amount of non-personnel out-of-pocket expenses and customary administrative fees, if applicable.

7.3 Cost Submittal Evaluation

ALL COST PROPOSALS SHALL INCLUDE THE REGION OR REGIONS FOR WHICH THE CONTRACTOR IS SUBMITTING THE PROPOSAL TO PROVIDE ENVIRONMENTAL MODIFICATION EVALUATION SERVICES. COST PROPOSALS MUST BE SUBMITTED USING THE FORMAT BELOW:

REGION (ADD ROWS FOR MORE REGIONS)	TYPE OF EVALUATION (INITIAL, BID OR POST-CONSTRUCTION)	HOURLY RATE
	PER SECTION 6.4, PLEASE PROVIDE AN HOURLY RATE FOR PARTICIPATION IN HEARINGS/LITIGATION IN THE BOX TO THE RIGHT	

Section 8. Attachments

- Appendix A: Standard Clauses for All New York State Contracts
- Appendix B: General Specifications
- Appendix C: Nondiscrimination in Employment in Northern Ireland: MacBride Fair Employment Principles
- Appendix D: MWBE Requirements and Forms
- Appendix E: Sample Agreement
- Appendix F: Vendor Responsibility Information and Forms
- Appendix G: ST-220 Tax Certification Information and Forms
- Appendix H: State Finance Law – “Procurement Lobbying Law” Information and Forms
- Appendix I: Consultant Disclosure Information and Forms
- Appendix J: Encouraging Use of N.Y. Businesses