



Request For Proposals (RFP) #C000585
for
Livery Insurance Rate Study and Rate Recommendations

Issue Date: September 25, 2024

Proposals Due Date: October 29, 2024 by 3:00pm Eastern Time

<https://www.dfs.ny.gov>

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Section 1: Timetable of Key Events

Event:	Date and Time:
RFP C000585 Issue Date:	Wednesday, September 25, 2024
Deadline for Questions:	Wednesday, October 9, 2024 by 3pm ET
Answers to Questions Released:	Tuesday, October 15, 2024
Deadline for Receipt of Proposals:	Tuesday, October 29, 2024 by 3pm ET

Please note that the New York State Department of Financial Services (“Department”) reserves the right to change any of the dates stated in this RFP. If such change occurs, the Department will post a notice on its website and in the NYS Contract Reporter to notify potential Bidders.

Section 2: Overview

The Department is soliciting proposals from a responsive and responsible Contractor to provide a New York State Livery Rate Study and Rate Recommendations.

This procurement is being undertaken in accordance with New York State Finance Law, Article XI. The Contractor selected will provide all necessary services as outlined in this RFP.

2.1 Restricted Period and Designated Contacts

Restricted Period:

The procurement is in a restricted period from the date this RFP is issued until the contract has been approved. In compliance with State Finance Law §§139-j and 139-k, the following are the Designated Contacts for this solicitation. All contacts/inquiries shall be made by email to the following address: RFP@dfs.ny.gov. Contacting any other Department employees other than Designated Contacts may result in rejection of bid.

Designated Contacts:

Alisa Fortune, Assistant Director
Ron Wachenheim, Contract Management Specialist 2
Daniel Dwyer, Contract Management Specialist 1

2.2 Definitions

Unless further defined within the RFP, the following definitions will be used:

Bid/Proposal shall mean a response to the RFP submitted by a Bidder to provide commodities/services.

Bidder shall mean any individual, business, vendor, or other legal entity, or any employee, agent, consultant, or person acting on behalf thereof, who or that submits a bid in response to a bid solicitation.

Contract shall mean the agreement that may result from this request for proposals.

Contractor shall mean the Bidder awarded the Contract from this request for proposals.

Deliverables shall mean as defined in Section 4.3 of this RFP.

Department shall mean the New York State Department of Financial Services.

Services/Commodities shall mean items or deliverables under any solicitation or contract and may include commodities, services and/or technology.

Solicitation shall mean this request for proposals.

Solution shall mean the entirety of the commodities/services that a Bidder proposes.

Subcontractor shall mean any individual or legal entity (including but not limited to a sole proprietor, partnership, limited liability company, firm or corporation) who or that has entered into a contract, express or implied, for the performance of a portion of a Contract with a Contractor.

Superintendent shall mean the Superintendent of Financial Services of the State of New York.

2.3 The Department of Financial Services

The Department regulates insurance, banking, and other financial services with the goal of promoting robust financial services in New York, while safeguarding against financial crises and protecting both consumers and the industry from fraud. The Department was established on October 3, 2011, with the consolidation of the former Insurance and Banking Departments. The consolidation helped centralize and modernize regulation, enabling New York to keep pace with rapidly innovating financial markets.

2.4 Purpose of RFP

The Department is seeking proposals from a qualified actuarial consultant to conduct an industry rate analysis on behalf of the Department for the New York State livery industry, including recommending rates for various business segments, types of coverage, territories, and policy limits. The Department

is seeking these Services because state regulations require actuarially sound rates that are not excessive, inadequate, or unfairly discriminatory. Historically, this industry is dominated by a few insurers that have not implemented actuarially sound rates.

2.5 Contract Period

The Department anticipates that an award from this RFP will result in a three (3) year Contract.

Section 3: Minimum Qualifications

Bidder must have a Fellow of the Casualty Actuarial Society on staff and must have a minimum of three (3) years of experience performing similar functions as described in Section 4, including:

1. Bidders must have performed, at a minimum, three (3) rate studies in the auto insurance industry in the past three (3) years with an Actuary.
2. Bidder must have performed at least three (3) rate studies in the past three (3) years with a Fellow of the Casualty Actuary Society.

Subcontractor experience may fulfill the Bidder's experience for purposes of these Minimum Qualifications.

Section 4: Required Services

4.1 Livery Insurance Study Including Rate Recommendations

The Contractor must produce a livery insurance study with various rate recommendations including, but not limited to, base rates, rate relativities, increased limit factors, a range of actuarially reasonable base rates, and a central base rate estimate. Proposed rates must be provided on an overall basis and by various breakdowns, such as by business segment, coverage, territory, and policy limit where appropriate. In addition, the Contractor must produce rate classification recommendations that possess the qualities of reliability, separation, causality, controllability, and incentive value and that are not unfairly discriminatory.

Business segments (product type) would include, but not be limited to:

- a. Black Cars
- b. Taxis
- c. Community Car Services
- d. Limousines
- e. Assigned Risk

Policy coverages would include, but not be limited to:

- a. BI (Bodily Injury)
- b. PD (Property Damage)

- c. PIP (Personal Injury Protection)
- d. APIP (Additional Personal Injury Protection)
- e. UM (Uninsured Motorists)
- f. SUM (Supplementary Uninsured Motorists)
- g. Comprehensive and Collision

Territory would include, but not be limited to:

- a. Five Boroughs of New York City
- b. Remainder of New York State

Policy limits would include, but not be limited to:

- a. 25K/50K and 100K/300K for BI and SUM
- b. 10K and 50K for PD
- c. 50K for PIP
- d. 150K for APIP
- e. 25K/50K for UM

Participation in various meetings at the request of the Department would be required to discuss all facets of the study, including, but not limited to: explanations of rate recommendations to any stakeholders and their impact on the livery industry; monthly progress meetings to discuss findings; and meetings that encompass any proceedings/hearings/other litigation related to these rate recommendations and impact on the livery market.

4.2 Mandatory Staffing Experience and Qualification Requirements

Staff members must have the following experience and qualifications:

- 1.) **Engagement Partner:** Fellow of the Casualty Actuary Society with at least five (5) years of experience in rate making.
- 2.) **Principal:** Fellow of the Casualty Actuary Society with at least three (3) years of experience in rate making.
- 3.) **Associate Actuary:** Associate of the Casualty Actuary Society with at least three (3) years of experience in rate making.
- 4.) **Actuary:** Passed at least three (3) examinations of the Casualty Actuary Society with at least one (1) year of experience in rate making.

4.3 Mandatory Deliverables

The Contractor must provide the following Deliverables:

Initial Livery Rate Study and Rate Recommendations Deliverables:

1. Finalized project plan and timeline approved by the Department.
2. Draft the Data Call(s) that requests data from the carriers, rating organizations and/or assigned

risk organizations. The Department will review, approve, and issue the data call(s), as well as provide submitted data to Contractor. In addition, the Contractor shall request data from the Department, as needed.

3. Draft report including, but not limited to:
 - Actuarial rate recommendations
 - Recommendations for the process to determine future livery rates
 - Assumptions and methods
 - Reliability of underlying data sources
 - Impact of rate changes on livery industry
 - Caveats related to the study

4. Final report including, but not limited to:
 - Actuarial rate recommendations
 - Recommendations for the process to determine future livery rates
 - Assumptions and methods
 - Reliability of underlying data sources
 - Impact of rate changes on livery industry
 - Caveats related to the study

The draft and final reports must include all written and electronic report(s), along with all supporting documentation for the recommended rates.

Updated Livery Rate Study and Rate Recommendations Deliverable:

Upon request by the Department, the Contractor must provide a comprehensive update to the initial final report. The updated report must include a project plan, timeline, draft, and final report as outlined for the initial report Deliverables. This updated Livery Rate Study and Rate Recommendations Deliverable may be requested as often as needed over the term of the Contract.

All Deliverables must be accepted by the Department in compliance with Appendix E, Section 1.4 Billing.

4.4 Hearing-Related Services (Hourly)

If there is an administrative or judicial hearing related to the Deliverables outlined in this RFP, the Contractor will be expected to provide subsequent hearing-related services. Upon the request of the Department, the Contractor must provide the following services:

- Preparing for hearing(s);
- Testimony at hearing(s); and
- All support incidental to hearing(s).

All staffing provided for Hearing-Related Services must meet the Mandatory Staffing Experience and Qualifications Requirements as outlined in Section 4.2.

All hourly rate services must be accepted by the Department in compliance with Appendix E, Section 1.4 Billing.

Section 5: Proposal Requirements

5.1 Overview of Proposal Format

Interested Bidders must submit a complete proposal that is comprised of three (3) separate proposals: Technical Proposal, Cost Proposal, and Administrative Proposal:

- **Technical Proposal** – The purpose of the Technical Proposal is for the Bidder to demonstrate its qualifications, competence, and capacity to provide the Solution.
- **Cost Proposal** – The Cost Proposal is a list of the Contractor fees associated with the services to be provided as described in this RFP.
- **Administrative Proposal** – The Administrative Proposal contains standard requirements the Contractor must agree to, information requested by the Department in connection with these requirements, and additional forms to be completed by the Contractor.

5.2 Technical Proposal

The purpose of the Technical Proposal is to demonstrate the qualifications, competency, and capacity of the Bidder to perform the services contained in Section 4 of this RFP. The Technical Proposal should demonstrate the qualifications of the Bidder and of the Bidder's staff to be assigned to provide services included in this RFP. The Technical Proposal cannot be any longer than 30 pages, not including cover page, table of contents, resumes, and references. Please include sufficient evidence to document how the Bidder meets the Minimum Qualifications found in Section 3 of this RFP and how the Bidder will perform the scope of services found in Section 4.

The Technical and Cost sections of each Bidder's Proposal will be evaluated separately. **There should be no dollar units or costs included in the Technical Proposal.**

Format of the Technical Proposal:

- **Table of Contents**
- **Attachment 8: Minimum Bidder Qualifications Form**
- **Executive Summary**
- **Proposed Project Plan and Timeline**
- **Staffing, Relevant Experience, and References of the Bidder**
- **Sample/Template Actuarial Report**

1. **Table of Contents**: The Table of Contents should clearly identify the location of all material within the Proposal by section and page number.
2. **Attachment 8: Minimum Bidder Qualifications**: Bidder should complete and submit this Attachment with their Technical Proposal.
3. **Executive Summary**: Provide the Department with a brief overview of the Bidder and how the Bidder meets the minimum qualifications found in Section 3 of the RFP.
4. **Proposed Project Plan and Timeline**: The Bidder should include a plan and timeline which details on how Bidder will fulfill the requirements outlined in Section 4 of this RFP.
5. **Staffing, Relevant Experience and References**:
 - a. **Organizational Chart**: The Bidder should include a one-page Organization Chart.
 - b. **Resumés for Key Staff** involved in the day-to-day operations.
 - c. **Staffing Plan**: Bidder should describe its staffing plan and relevant experience and how this will allow the Bidder to meet the needs of the Department, as outlined in Section 4 of this RFP. The Bidder should describe the number of individuals at each level and the estimated staff days that would be spent on the required work. Include full details of the senior staff that would be available for this engagement and how they will fulfill the Scope of Work. The Bidder should describe the number of staff for each function to be performed under the contract. The Contractor shall have a duty to inform the Department of any changes in staffing from the staffing plan submitted with the bid. Material changes in the staffing plan must be approved by the Department.
 - d. **References**: Submit at least three (3) distinctly different references, preferably from government agencies or other customers with similar objectives. Submitted references cannot include employees of the Department.
6. **Sample/Template Actuarial Report**: Please provide a sample of a similar report, or report template, recommending actuarially sound insurance company rates.

5.3 Cost Proposal

The Cost Proposal sets forth the costs for the requested services. The Cost Proposal should be complete, accurate, well-documented, and prepared using the Cost Proposal Response Form only. Cost information is **not** to be included in the Technical Proposal or Administrative Proposal. All prices must be inclusive of all costs necessary for proper performance under the Contract.

Cost Proposal-Fee Schedule: Bidders must complete and submit **Attachment 9**, Cost Proposal Response Form. The rates proposed by the Bidder must be for the duration of the Contract, and inclusive of all

costs including travel. The Proposal Response Form is to be submitted at the same time as the remainder of the proposal but in a document detached from the Administrative and Technical Proposals. **No changes, edits or additional information is permitted on Attachment 9, as it may make the Proposal non-responsive.**

5.4 Administrative Proposal

The following must be completed and submitted with the bid in the Administrative Proposal. **Failure to submit any of the requirements below may result in the rejection of the Bidder's Proposal.**

- **Attachment 1: Bidder Submission Checklist**

- **Attachment 2: Bidder Information and Attestation:** The Bidder Information and Attestation is an integral part of the Proposal and should be signed and submitted with the Administrative Proposal. The Bidder Information and Attestation should be signed by an individual authorized to contractually bind the Bidder. A proposal with an unsigned Bidder Information and Attestation page may be rejected. Modified forms will not be accepted.

- **Attachment 3: New York State Required Certifications Packet:** All documents in this packet should be completed, signed, and submitted with the Bidder's Administrative proposal. This packet includes:

- Non-Collusive Bidding Certification Required by Section 139-D of the State Finance Law;
- Offerer's Certification of Adherence to Executive Order 177 Regarding Anti-Discriminatory Policies and Practices;
- Offerer's Certification of Adherence to State Finance Laws §§139-j and 139-k;
- Sexual Harassment Prevention Certification Form State Finance Law §139L;
- Freedom of Information Law (FOIL) Redaction Request Form;
- Offerer's Certification of Adherence to Executive Order No. 16 Prohibiting State Agencies and Authorities from Contracting with Businesses Conducting Business in Russia; and
- Offerer Assurance of No Conflict of Interest or Detrimental Effect.

- **Attachment 4: MWBE and Equal Employment Opportunities Requirements:** Article 15-A Requirements. Complete and submit the following with the Administrative Proposal:

- **Attachment 4.1** – Workforce Utilization Report EEO
- **Attachment 4.2** – Minority and Women-Owned Business Enterprises – Equal Employment Opportunity Policy Statement – If Contractor or any of its subcontractors does not have an existing EEO policy statement, the Department may require the Contractor or subcontractor to adopt the attached model statement.

- **Attachment 5: Diversity Practices Questionnaire:** Complete and submit Responses to Diversity Practices Questionnaire, including any supporting documentation.

- **Attachment 5.1** – Diversity Practices Questionnaire
- **Attachment 5.2** – Diversity Practices Scoring Matrix

• **Attachment 6: Vendor Responsibility Questionnaire:** If online certification process is not used, please visit <https://www.osc.ny.gov/state-vendors/vendrep/vendor-responsibility-forms> to print out and submit a vendor responsibility questionnaire with your bid. Either online certification or scanned copy of completed questionnaire must accompany your bid.

5.5 Proposal Submission

Submit all proposals electronically to RFP@dfs.ny.gov. Each of the three proposals should be separate documents, complete in themselves, and clearly labeled.

All Proposals must be delivered in their entirety by October 29, 2024. Proposals received in whole or in part after October 29, 2024 will 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 evaluation process, and no details of any Proposal will be discussed outside the evaluation process. The successful Bidder's Proposal will be made part of the Contract. Therefore, an official authorized to commit the company to a Contract must sign the Proposal.

The rules established for Proposal content and format will be enforced. Variations from the rules prescribed herein may subject the Bidder 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.

Bidders must submit via email a searchable, electronic version of their proposal. Scanned signatures are acceptable. However, Bidders must be prepared to submit an original signature to the Department, if requested. All Proposals must conform to the terms set forth in the RFP, as well as the submittal requirements; extraneous terms or material deviations (including additional, inconsistent, conflicting, or alternative terms) may render the Proposal non-responsive and may result in rejection of the Proposal.

This RFP is not an offer and does not commit the Department to a Contract. Furthermore, the Department is not liable for any costs, in whole or in part, incurred by a Bidder in the preparation of a response to this RFP, or for any work performed prior to Contract execution.

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 or 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 that does not have a clearly indicated purpose.

Hyperlinks are not acceptable and will be redacted during the administrative review of Proposals. Evaluators will be instructed to ignore all hyperlinks in any Proposals.

The State does not indemnify Contractors.

Each Bidder's Proposal shall be valid for a minimum period of at least six (6) months.

5.6 Questions and Answers

Questions regarding the RFP should be submitted on **Attachment 7 – Bidder Questions and Extraneous Terms Form** via electronic mail, no later than October 9, 2024 at 3:00 PM Eastern Time to: RFP@dfs.ny.gov

Questions will not be accepted orally, and any question received after the deadline may not be answered.

Bidders are cautioned that any question or inquiry regarding the RFP must be written in generic terms and must **not** contain pricing information. The inclusion of specific information about a Bidder's pricing Proposal in an inquiry may result in the Bidder's disqualification.

Responses to all questions, and any changes to the RFP resulting from such questions, will be communicated via published addenda that will be posted on the Department's website on or about October 15, 2024 at: <https://www.dfs.ny.gov/procurement>.

It is the responsibility of the Bidder to check the website for any amendments, announcements, and clarifications. **All acknowledgements of applicable amendment information must be included in the Administrative Proposal. Failure to include this information in the Administrative Proposal may result in the Proposal being deemed non-responsive. (See Section 5.4 - Administrative Proposal for more details).**

5.7 Extraneous Terms

Proposals must conform to the terms set forth in the RFP. Extraneous terms or material deviations (including additional, inconsistent, conflicting or alternative terms) may render the Proposal non-responsive and may result in rejection of the Proposal. Any proposed extraneous terms submitted on standard, pre-printed forms (including but not limited to product literature, order forms, license agreements, contracts or other documents) that are attached or referenced with submissions shall not be considered part of the Proposal or resulting Contract but shall be deemed included for informational or promotional purposes only. Each proposed extraneous term must be specifically enumerated in writing in **Attachment 7 – Bidder Questions and Extraneous Terms Form** and specify the RFP section that Bidder proposes to modify and the reasons why. Any extraneous terms must be submitted during

the Question-and-Answer period, as identified in this RFP’s Calendar of Events. Extraneous terms submitted after this time will not be considered. No extraneous term shall be incorporated into the Contract unless expressly accepted by the Department in writing. Acceptance and/or processing of a Proposal shall not constitute acceptance of extraneous terms. The Department will not entertain any exceptions to Appendix A – Standard Clauses for New York State Contracts.

Section 6: Proposal Evaluation

6.1 Overview Proposal Evaluation

The Department will evaluate the Proposals received and select the Bidder that has the requisite experience and staffing to support the work required by the Department and that does not have any conflicts. It is the Department’s intention to use the Proposals received for guidance purposes and it may request further clarification if deemed necessary, but only from those Bidders determined to meet the technical specifications of the RFP.

The Department wants to select the Bidder who will provide the “best value” taking into consideration the most beneficial combination of qualifications, services, and cost and who has met the minimum qualifications of this RFP. Under NYS Procurement Guidelines, “best value” is the basis for awarding all service contracts “... [it] optimizes quality, cost, and efficiency, among responsive and responsible Bidders.”

Upon determination of the “best value” Proposal, the Department reserves the right to negotiate with the selected Bidder to develop a binding Contract to provide the required services. In the case of failure to execute a Contract with the selected Bidder, the Department may pursue a Contract for the services proposed by the next best-rated Bidder.

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

6.2 Technical Proposal Evaluation (66 Points)

After completion of the Technical Evaluation, a composite score will be assigned to each Technical Proposal. The criteria for the evaluation of each Technical Proposal are described below.

(a) Technical Evaluation – (66%)
1) Executive Summary
2) Proposed Project Plan and Timeline
3) Staffing, Relevant Experience & References
4) Sample/Template Actuarial Report

6.3 Cost Proposal Evaluation (30 points)

After completion of the cost evaluation, a composite score will be assigned to each Proposal. The criteria for the evaluation of each Cost Proposal are described below.

(b) Cost Evaluation – (30%)
1) The Cost quote (i.e. price) for the term of the contract.

The Cost Proposal with the lowest total cost will be awarded the maximum cost score weighted at **30** points. The remaining cost proposals will receive a proportional number of points based upon the ratio of the proposal's total cost to the lowest total cost proposal as follows: (Lowest Total Proposal / Proposal being Evaluated) x **30** = Cost score.

6.4 Diversity Practices (4 points)

MWBE Diversity Practices will be evaluated based upon the Bidders' responses to the Questionnaire developed by the New York State Division of Minority and Women's Business Development and found in **Attachment 5.1**. This Questionnaire consists of seven (7) questions for Bidders to answer. Some questions request supporting documentation to support certain answers. Additional scoring information for diversity practices can be found in **Attachment 5.2**.

6.5 Award

The Department expects to award one contract as a result of this RFP. However, the Department reserves the right to not award a contract at its sole discretion.

1. Notification of selection/non-selection will be sent to Bidders by email.
2. Contract award is subject to the approval of the Office of the Attorney General and the Office of the State Comptroller ("OSC").
3. Upon contract award, public announcements or news releases pertaining to the contract shall not be made without the prior written consent of the Department.

6.6 Bidder Debriefing

An unsuccessful Bidder may request a debriefing within fifteen (15) calendar days from the date of the Department's letter advising that the Bidder was not selected. The debriefing will be limited to the reasons the Bidder's Proposal was not selected. Debriefings will be held remotely at the discretion of the Department, or at the Department's office located at One Commerce Plaza, Suite #1850, 99 Washington Avenue, Albany, NY.

6.7 Protest Procedures

In the event unsuccessful Bidders wish to protest the award resulting from this RFP, Bidders should follow the protest procedures established by OSC. These procedures can be found in Chapter XI, Section 17, of the Guide to Financial Operations (GFO), available on-line at: <https://www.osc.ny.gov/state-agencies/gfo/chapter-xi/xi17-protest-procedures>.

Section 7: Department's Reservation of Rights

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 specifications, or because of any misinformation or lack of information. The Department has the following prerogatives regarding Proposals submitted:

- To change any of the scheduled dates upon appropriate notification to all prospective Bidders;
- To accept or reject any or all Proposals, or separable portions of Proposals;
- Prior to the Bid opening, amend the RFP specifications and to direct Bidders to submit proposal modifications addressing subsequent amendments;
- To disqualify a Bidder from receiving an award if the Bidder, or anyone in the Bidder's employ, has previously failed to perform satisfactorily in connection with public bidding or contracts;
- To disqualify any Bidder whose conduct and/or proposal fails to conform to the requirements of the RFP;
- To correct any arithmetic errors in any or all Proposals;
- To waive or modify minor technicalities, irregularities and omissions in Proposals, after notification to the Bidder;
- To waive any mandatory and/or non-material requirement(s) not met by all Bidders;
- To accept or reject illegible, incomplete or vague Proposals;
- To seek clarifications of Proposals;
- To adopt any part or all of a successful Bidder's Proposal;
- To use any and all ideas submitted in the Proposals unless those ideas are protected by legal patent or property right;
- To consider conditional or revocable Proposals that clearly communicates the terms or limitations of acceptance; and contract award may be made in compliance with the Bidder's conditional or revocable terms in the Proposal;
- To not award from this solicitation;
- To have any service completed via separate competitive Proposal or other means, as determined to be in the best interest of NYS;
- To have the flexibility to consider Proposals with minor deviations or technicalities and to waive minor deviations or technicalities that may be consistent with the intent and scope of the solicitation. This flexibility may permit a reasonable outcome in cases where the results of a fair, competitive process are clear, but the award of a Contract is threatened due to a minor technicality or a minor deviation;
- To break tie bids as follows: In the event two Proposals are found to be substantially equivalent, price shall be the basis for determining award recipient. If two or more Bidders submit substantially equivalent Proposals as to pricing or other factors, the decision of the Department to award a Contract to one or more of such Bidders shall be final;

- To request best and final offers;
- To negotiate with the selected Bidder(s) prior to Contract award; and
- To begin negotiations with another Bidder should the Department be unsuccessful in negotiating a Contract with the selected Bidder(s) within thirty (30) calendar days.

Section 8: Minority & Woman-Owned Business Enterprise, EEO, SDVOB Requirements & Diversity Practices

8.1 Minority and Woman-Owned Business Enterprise

- A. The Department is required to implement the provisions of New York State Executive Law Article 15-A and Parts 140-145 of Title 5 of the New York Codes, Rules and Regulations (“NYCRR”) for all State contracts, as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.
- B. For purposes of this solicitation, the Department hereby establishes an overall goal of **0%** for MWBE participation, **0%** for New York State-certified minority-owned business enterprise (“MBE”) participation and **0%** for New York State-certified women-owned business enterprise (“WBE”) participation (collectively, “MWBE Contract Goals”) based on the current availability of MBEs and WBEs.

8.2 Equal Employment Opportunity (EEO)

The provisions of Article 15-A of the Executive Law and the rules and regulations promulgated thereunder pertaining to equal employment opportunities for minority group members and women shall apply to the Contract resulting from this RFP.

In performing the Contract resulting from this RFP, the Contractor shall:

1. Ensure that each Contractor and Subcontractor performing work on the Contract resulting from this RFP, shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation. This requirement does not apply to (i) work, goods, or services unrelated to the Contract resulting from this RFP; or (ii) employment outside New York State.
2. The Contractor shall submit an EEO policy statement (see **Attachment 4.2** - “Minority and Woman-Owned Business Enterprises Equal Opportunity Policy Statement”) to the Department with its bid or proposal.

8.3 Participation Opportunities for New York State Certified Service-Disabled Veteran-Owned Businesses (SDVOBs)

Article 3 of the New York State Veterans' Services Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses ("SDVOBs"), thereby further integrating such businesses into New York State's economy. The Department recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of Department contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, contractor are strongly encouraged and expected to consider SDVOBs in the fulfillment of the requirements of the contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles. For purposes of this procurement, the Department conducted a comprehensive search and determined that the CONTRACT does not offer sufficient opportunities to set specific goals for participation by SDVOBs as subcontractors, service providers, and suppliers to the CONTRACTOR. Nevertheless, CONTRACTOR is encouraged to make good faith efforts to promote and assist in the participation of SDVOBs on the CONTRACT for the provision of services and materials. The directory of New York State Certified SDVOBs can be viewed at: <https://sdves.ogs.ny.gov/business-search>.

CONTRACTOR is encouraged to contact the Office of General Services' Division of Service-Disabled Veteran's Business Development at 518-474-2015 or VeteransDevelopment@ogs.ny.gov to discuss methods of maximizing participation by SDVOBs on the CONTRACT.

Section 9: Ethics

Ethics Compliance: All Bidders/Contractors and their employees must comply with the requirements of §§73 and 74 of the Public Officers Law, other NYS codes, rules, and regulations and executive orders establishing ethical standards for the conduct of business with NYS. In signing the Bid, Bidder certifies full compliance with those provisions for any present or future dealings, transactions, sales, contracts, services, offers, and/or relationships, involving NYS and/or its employees. Failure to comply with those provisions may result in disqualification from the bidding process, termination of contract, and/or other civil or criminal proceedings as required by law.

Legal Compliance: The Bidder/Contractor represents and warrants that it shall secure all notices and comply with all applicable laws, ordinances, rules, and regulations of any governmental entity in conjunction with the performance of obligations under the Contract. Prior to award and during the Contract terms and any extensions thereof, Contractor must establish to the satisfaction of the Department that it meets or exceeds all requirements of the RFP and Contract and any applicable laws, including but not limited to, permits, and licensing, and shall provide such proof as required by the Department. Failure to comply or failure to provide proof may constitute grounds for the Department to terminate or suspend the Contract, in whole or in part, or to take any other action deemed necessary by the Department. Contractor also agrees to disclose information and provide affirmations and certifications to comply with §§139-j and 139-k of the State Finance Law.

Section 10: Subcontracting

The selected Contractor must assume full responsibility for the services offered in the Proposal for the duration of the Contract. The Contractor shall remain liable even when the Contractor subcontracts out a portion of the services. Subcontracting will be permitted only with the prior written approval of the Department.

Section 11: Post Contract Award Requirements

11.1 Insurance Requirements

The selected Contractor is required to procure, at its sole cost and expense, and provide upon notice of contract award proof of required insurance as detailed in **Appendix F, Contractor's Insurance Requirements**, and maintain in force at all times during the Contract Term, policies of insurance pursuant to the requirements outlined in Appendix F.

11.2 Contractor Disclosure Forms

Chapter 10 of the Laws of 2006 amended the Civil Service Law and the State Finance Law, relative to maintaining certain information concerning contract employees working under State agency service and consulting contracts. State agency consultant contracts are defined as "contracts entered into by a state agency for analysis, evaluation, research, training, data processing, computer programming, engineering, environmental health and mental health services, accounting, auditing, paralegal, legal, or similar services" ("covered consultant contract" or "covered consultant services"). The amendments also require that certain contract employee information be provided to the state agency awarding such contracts, OSC, the Department, and the Department of Civil Service (DCS).

To meet these requirements, the selected Contractor must complete:

Form A – Contractor's Planned Employment Form. The successful Contractor must complete this form upon notification of selection by the Department.

Form B – Contractor's Annual Employment Report. Throughout the term of the Contract, by May 15th of each year the Contractor agrees to report the following information to the Department by e-mail at RFP@dfs.ny.gov. For each covered consultant contract in effect at any time between the preceding April 1st through March 31st fiscal year, or for the period of time such contract was in effect during such prior State fiscal year, Contractor reports the:

1. Total number of employees employed to provide the consultant services, by employment category.
2. Total number of hours worked by such employees.
3. Total compensation paid to all employees that performed consultant services under such Contract.*

*NOTE: The information to be reported is applicable only to those employees who are directly providing services or directly performing covered consultant services. However, such information shall also be provided relative to employees of subcontractors who perform any part of the service contract

or any part of the covered consultant contract. This information does not have to be collected and reported in circumstances where there is ancillary involvement of an employee in a clerical, support, organizational or other administrative capacity.

Contractor agrees to simultaneously report such information to the DCS and the OSC as designated below (e-mail is the preferred method, and subject line should say "Consultant Form B"):

E-mail: SubmitformB@cs.ny.gov
Department of Civil Service
Alfred E. Smith State Office Building
Albany, NY 12239
Attn: Executive Office

E-mail: CDMOST@osc.ny.gov
Office of the State Comptroller
Bureau of Contracts
110 State Street, 11th Floor
Albany, New York 12236
Attn: Consultant Reporting

Contractor is advised herein and understands that this information is available for public inspection and copying pursuant to §87 of the New York State Public Officers Law (Freedom of Information Law). In the event individual employee names or social security numbers are set forth on a document, the State agency making such disclosure is obligated to redact both the names and social security numbers prior to disclosure.

Further information regarding the Contractor Consultant Law requirements and report Forms A and B is available in the OSC's Guide to Finance Operations, Chapter XI, Section 18.C: <https://www.osc.ny.gov/state-agencies/gfo/chapter-xi/xi18c-consultant-disclosure>.

11.3 Sales Tax Certification Instructions

The Tax Law was amended to require contractors with State agencies to certify to the Department of Taxation and Finance ("DTF") that they, their affiliates, their subcontractors, and the affiliates of their subcontractors have a valid certificate of authority to collect New York State and local sales and compensating use taxes. Tax Law Section 5-a applies to all contracts in excess of \$100,000 for the purchase by a covered agency of commodities or services, awarded pursuant to Article XI of the State Finance Law.

The successful Contractor must complete Contractor Certification Form ST-220-CA upon notification of selection by the Department. This certification to the procuring agency, also made under penalty of perjury, states that the requisite (ST-220-TD) certification has been made to DTF and, to the best of the Contractor's knowledge, that the requisite (ST-220-TD) certification is correct and complete.

If Contractor has any questions regarding either forms, ST-220-CA or ST-220-TD, the OSC's Guide to Financial Operations provides background information and the forms: <https://www.osc.ny.gov/state-agencies/gfo/chapter-xi/xi18d-sales-and-compensating-use-tax-documentation>.

Contractors can refer to the DTF website, or the NYS Tax Law, Section 5-a, *Contractor Affiliate, Subcontractor, and Subcontractor Affiliate Sales and Compensating Use Tax Registration* for additional information and guidance.

Section 12: Additional Security/Confidentiality Requirements

The Contractor warrants, covenants and represents that, in the performance of the Contract, Contractor, its agents, subcontractors, officers, distributors, resellers and employees will comply fully with all security procedures of the Department set forth in the RFP, **Appendix C – Information Security & Cyber Security Requirements and Appendix D – Primary Security and Privacy Mandates**, and the Contract, or otherwise communicated in advance to the Contractor, including but not limited to physical, facility, documentary and cyber security rules, procedures and protocols.

Section 13: Appendices/Attachments

- **Appendix A: Standard Clauses for All New York State Contracts**
- **Appendix C: Information Security & Cyber Security Requirements**
- **Appendix D: Primary Security and Privacy Mandates**
- **Appendix E: The Department of Financial Services Standard Contract Clauses**
- **Appendix F: The Department of Financial Services Insurance Requirements**
- **Attachment 1: Bidder Submission Checklist**
- **Attachment 2: Bidder Information and Attestation**
- **Attachment 3: New York State Required Certifications Packet**
- **Attachment 4: MWBE and Equal Opportunities Requirements**
- **Attachment 4.1: Workforce Utilization Report EEO**
- **Attachment 4.2: Minority and Woman-Owned Business Enterprises Equal Opportunity Statement**
- **Attachment 5: MWBE Diversity Practices**
- **Attachment 5.1: Diversity Practices Questionnaire**
- **Attachment 5.2: Diversity Practices Scoring Matrix**
- **Attachment 6: Vendor Responsibility Questionnaire**
- **Attachment 7: Bidder Questions and Extraneous Terms Form**
- **Attachment 8: Minimum Bidder Qualifications Form**
- **Attachment 9: Cost Proposal Response Form**