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**Request for Proposals**

**22-100**

**Economic Impact of**

**New York State Tax Incentive Programs**

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**Schedule of Events**

|  |  |
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| Publication of RFP | 8/11/2022 |
| Deadline for Filing Offerer Understanding of, and Compliance with, Procurement Lobbying Guidelines | 8/25/2022 |
| Deadline for Submission of Bidder Questions | 8/25/2022 |
| Response to Bidder Questions | 8/31/2022 |
| Proposals Due | 9/14/2022By 2:00 PM ET |
| Notification of Intent to Award | 10/13/2022 |
| Deadline for Contract Signature | 10/28/2022 |
| Anticipated Contract Approval | 11/30/2022 |
| Milestone 1, Progress Report 1  | (delivery by 12/30/2022) |
| Milestone 2, Progress Report 2  | (delivery by 3/31/2023) |
| Milestone 3, Progress Report 3 | (delivery by 6/30/2023) |
| Milestone 4, Progress Report 4 | (delivery by 9/29/2023) |
| Milestone 5, Progress Report 5 and Final Report, including All Data, Files, Documents, etc. in Association with the Study | (delivery by 1/1/2024) |

**Preface**

## Procurement Lobbying – Offerer Understanding of, and Compliance with, Procurement Lobbying Guidelines

New York State (“NYS”) Finance Law § 139-j(6)(b) requires that the Department of Taxation and Finance (“Department” or “DTF” ) seek written affirmation from all Offerers as to the Offerer’s understanding of, and agreement to comply with, the DTF procedures relating to permissible contacts during a Government Procurement. Information related to the Procurement Lobbying Law and DTF guidelines can be found on the Department’s website at: <http://www.tax.ny.gov/about/procure>.

All inquiries concerning this solicitation must be addressed to one of the following designated contacts:

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| DESIGNATED CONTACTS FOR INQUIRIES AND SUBMISSIONS |
| NYS Department of Taxation and Finance Bureau of Fiscal Services, Procurement Unit Designated Contacts:Kevin BrownellYafei CaoAmber AlexanderRFP-related questions and inquiries must be submitted via electronic mail at BFS.Contracts@tax.ny.gov or via Fax to (518) 435 - 8413. **No other method of inquiries will be accepted.** **Administrative issues pertaining to sending/receiving email through the designated mailbox may be reported to one of the designated contacts listed above at (518) 530 - 4484.****Procurement Website:** <https://www.tax.ny.gov/about/procure/current-bid-opportunities.htm> |

Contacting individuals other than the designated contacts listed above may result in the disqualification of the Bidder’s Proposal – please refer to the Procurement Lobbying Law and the guidelines posted on the Department’s procurement website at: <http://www.tax.ny.gov/about/procure>, and additional requirements in **Section 7. Administrative Requirements**.

Offerers are requested to sign and submit **Attachment 2 - Offerer Understanding of, and Compliance with, Procurement Lobbying Guidelines** by the date and time specified in the Schedule of Events. This may be submitted in conjunction with Bidder questions.

## Proposal Questions/Inquiries

Prospective Bidders have one opportunity to submit written questions and requests for clarification regarding this Request for Proposals (RFP). All questions regarding this RFP must be submitted via e-mail (preferred) or fax and be received by the date and time specified in the Schedule of Events. Questions should reference the relevant page and Section of the RFP and must be directed to the designated contacts identified herein.

E-mail: bfs.contracts@tax.ny.gov

Fax: (518) 435-8413

Questions submitted by Bidders should be in a word document in the following format:

| **#** | **RFP Section** | **RFP Page #** | **Vendor Name** | **Question** |
| --- | --- | --- | --- | --- |
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All clarifications and exceptions, including those relating to the terms and conditions of the RFP, are to be resolved prior to the submission of a Proposal by utilizing the Question and Answer period. Also, during the Question and Answer period, Bidders should bring forward terms and conditions in the RFP and **Exhibit A – Preliminary Base Contract** that would prohibit a Bidder from bidding. All objections, proposed changes, and/or additions to the terms and conditions (Bidder-Proposed Change(s)) relating to Preliminary Base Contract language in **Exhibit A** must be submitted with the Proposal. The Bidder entering into an Agreement with the State are expected to comply with all the terms and conditions contained herein.

## RFP Amendments/Announcements

All amendments, clarifications and any announcements related to this RFP will be posted on the Department’s Procurement website at: <http://www.tax.ny.gov/about/procure>.

It is the responsibility of the Bidder to check the website for any amendments, clarifications or updates. All applicable amendment information must be incorporated into the Bidder’s Proposal. Failure to include this information in your Proposal may result in the Bidder’s Proposal being deemed non-responsive.

## Response to Bidder Questions and Requests for Clarification

The Department will provide a written response to all substantive questions and requests for clarification. Responses to Bidder questions and requests for clarifications will be posted on the Department’s Procurement website at: <http://www.tax.ny.gov/about/procure>.

## Submission of Proposals

The Bidder must submit their Proposal as instructed in **Section 8. Proposal Content and Submission Requirements**. Proposals will be evaluated in accordance with the scoring criteria set forth in **Section 9.3**. **Proposal Ranking, Contract Award, and Point Distribution**.

## Contract Signing

**The Bidder must agree to sign a contract within fifteen (15) days of Notification of Intent to Award. If the Bidder fails to do so, the State reserves the right to begin negotiations with the next highest ranked Bidder.**

The **Preliminary Base Contract** is attached hereto as **Exhibit A**. Bidders should review **Exhibit A** and must be willing to enter into an Agreement **substantially in accordance** with the terms of **Exhibit A.**

Bidders may propose language amending **Exhibit A** that does not materially change the requirements of the RFP. All objections, proposed changes, and/or additions to the terms and conditions (“Bidder-Proposed Changes”) of **Exhibit A** must be identified in the Bidder’s Proposal. Therefore, if there are specific terms a Bidder wishes to be considered for inclusion in the final Base Contract, they **must** be submitted in response to **Section 7.2.18 Bidder-Proposed Changes to Preliminary Base Contract Terms**.

**Note: The State is under no obligation to include in the final Agreement any Bidder-Proposed Changes, or to negotiate from, any Bidder-supplied documents. The State reserves the right to require a Bidder to withdraw any and all such proposed terms or documents or parts thereof, as necessary.**

## Contract Term

The State will award one (1) Contract to the successful Bidder. The Contract will only be valid and effective to bind the parties upon its approval by both the Attorney General (AG) and the Office of the State Comptroller (OSC). The term of the Contract will start from contract approval by OSC and continue until 3/31/2024. The State reserves the right to extend the term of the Contract, subject to the approval of the NYS Attorney General and Office of the State Comptroller.

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**RFP Key Points**

1. **Read the RFP in its entirety.** Note key items such as critical dates, Services required, and proposal submission requirements.
2. **RFP Glossary of Terms.** Definitions for certain terms in this document can be found in **Appendix C – RFP Glossary**.
3. **Note the name, address, phone numbers and e-mail address of the designated contacts.** These are the only individuals that you are permitted to contact regarding this RFP.
4. **Review the DTF website prior to submission of a proposal.** Only the DTF website will contain all amendments and/or addenda to the RFP, including responses to written questions. It is the Bidder’s responsibility to check the Department’s website periodically for any updates. Note that all applicable amendments and/or addenda information must be incorporated into the Bidder’s proposal. Failure to include such information may result in disqualification or a reduced technical score.
5. **Take advantage of the question and answer period.** Submit your questions by one of the methods identified by the date listed in the Schedule of Events. Responses and copies of the questions will be posted on the Department’s Procurement website at: <http://www.tax.ny.gov/about/procure>.
6. **Provide complete answers/descriptions.** To ensure you are not disqualified from proposal evaluation, thoroughly read all RFP requirements and provide complete responses. Use **all** forms provided to submit your response. Vague or incomplete responses to requirements may result in a disqualification or a reduced technical score.
7. **Review the RFP document and your proposal.** Make sure all requirements are addressed and all copies, including electronic copies, are identical and complete.
8. **Package your proposal as required in the RFP.** Make sure your proposal conforms to the packaging requirements. Proposals not packaged accordingly may be deemed non-responsive.
9. **Submit your proposal on time.** Except as specified in **Section 7.1.16**, proposals received after the date and time in the Schedule of Events will not be considered for award and may be returned, unopened, to the sender.

# Introduction

## Purpose

The State of New York is soliciting proposals from qualified economic impact firms to contract for the provision of an independent, comprehensive analysis (the “Study”) of each tax credit, tax deduction, and tax incentive established under New York Tax Law that relates to increasing economic development.

## Background

New York State enacted legislation (Article 8 of the NYS Tax Law§ 180) (the “Act”) requiring the Department of Taxation and Finance (the “Department”, “DTF”) to contract with an economic impact firm for the purposes of conducting an independent, comprehensive analysis of each tax credit, tax deduction, and tax incentive.

For the purposes of the Study:

(1) “economic development” includes, but is not necessarily limited to, increasing employment, developing the state's workforce, and increasing business activity.

(2) "return on investment" means:

(a) total job creation, including temporary project hires resulting from each project supported by each relevant program, and retained jobs;

(b) whether the expenditures by the state on each tax credit, tax deduction or tax incentive result in an increase or decrease in tax revenues for New York state municipalities, and New York state;

(c) other estimated quantifiable economic benefits, including but not necessarily limited to personal income; indirect, induced, long term, and temporary job creation; and private investment for each tax credit, tax deduction and tax incentive;

(d) whether similar job creation or private investment would have occurred without the existence of a state tax incentive; and

(e) other qualitative economic benefits that improve the economy, and provide opportunities for advancement for New York residents, including:

(i) global media exposure;

(ii) increased tourism attraction and positioning of New York as a destination, providing quality of life amenities to assist with community development, placemaking, positioning communities for add-on private sector investment, making New York competitive on the basis of cost and other attraction amenities; and

(iii) contributing to the positive perception of the state and its regions to assist with business attraction and creating economic opportunity for New Yorkers.

* 1. **Vendor Limitations**

Bidders are advised of the limitations set forth in Subdivision 4 of Tax Law § 180, a copy of which is attached to this RFP as **Exhibit 1.**

1. **Scope of Services**

The Study shall adhere to the requirements set forth in Tax Law § 180.  The Study  must include, but need not be limited to, a complete and thorough evaluation of the return on investment for each tax credit, tax deduction, and tax incentive, and the economic impact of each relevant program, including direct and indirect benefits, the creation of temporary project hires, the fiscal impact of each relevant program, including revenues received and forgone by municipalities and New York state, as applicable.  The Study must also include the relevant programs run at the state agency level, including relevant programs administered by executive agencies, authorities, commissions, and other government run entities.  The Study must not include analysis of individual private entities or individual taxpayers.

The proposal must include a comprehensive list of the tax credits, tax deductions and tax incentives authorized by any New York Law that will be included in the Study. The selected Contractor may solicit input from leaders in the business community, organized labor and economic development stakeholders, including, but not necessarily limited to, representatives from nonprofits, academic institutions, and leading New York state community development experts.

1.
2. 1. **Milestones and Deliverables**

The Study must be completed and submitted to the Department no later than January 1, 2024. The Study will be made available to the public within thirty days of submission to the Department. The Study will be submitted directly to the governor, the temporary president of the senate, the speaker of the assembly, and the chair of the senate finance committee and the chair of the assembly ways and means committee.

The following Progress Reports are to be met by the Contractor and shall be delivered to the Department on the dates indicated. Such progress reports are for the purpose of allowing the Department to insure that the independent examination remains on the timeline prescribed in the authorizing statute; however, given the independent nature of this project, the Department will not “accept” or provide feedback on the contents or quality of the work other than with respect to progress against the plan submitted by the winning Bidder.

Each Progress Report shall include the following:

* Executive summary.
* A detailed update on data collection efforts with respect to each credit, deduction, incentive, etc. that is in-scope. This update shall detail any impediments to data collection, as well as the proposed solution and/or mitigation approach(es).
* Progress on any modeling runs, along with summary tables of any preliminary results. This section should also include proposed solutions to any issues encountered with the methodological approach submitted in the initial plan with this Bid.
* Any draft report findings that have been generated.

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| Milestone 1, Progress Report 1 | Delivery by 12/30/2022 |
| Milestone 2, Progress Report 2 | Delivery by 3/31/2023 |
| Milestone 3, Progress Report 3 | Delivery by 6/30/2023 |
| Milestone 4, Progress Report 4 | Delivery by 9/29/2023 |
| Milestone 5, Progress Report 5 and Final Report, including All Data, Files, Documents, etc. in Association with the Study | Delivery by 1/1/2024 |

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# Qualifying Requirements

Only qualified entities may submit a proposal in response to this RFP. A qualified entity is defined as one that meets all of the following **Qualifying Requirements**:

1. 1. The Bidder must have all professional licenses and approvals necessary to conduct its business and must be in good standing in all states in which it conducts business.
	2. The Bidder must have specific knowledge and understanding of general economic development issues, particularly with respect to tax credits and other tax incentives under New York law.
	3. The Bidder must have specific experience assessing both the quantitative and qualitative economic impacts of tax incentives on a state’s economy and evaluating tax incentive programs on a state’s economy. They must have successfully completed at least one (1) study at the state or federal level which is similar in scope and detail to that requested by this RFP.

**Response Requirements:**

1. The Bidder must affirm that it meets and will continue to meet all Qualifying Requirements.

[ ]  Yes, the Bidder affirms that it meets and will continue to meet all Qualifying Requirements.

1. The Bidder must submit one (1) reference contract demonstrating it meets the **Qualifying Requirement 3.3**. The Bidder must complete and submit **Attachment B – Qualifying Requirement Response Form**, providing all information requested therein for demonstrating the required qualifications. The information provided will be verified by the State.

The Bidder may submit a second reference contract that meets the **Qualifying Requirement 3.3** as an alternate reference in the event that the primary reference fails to respond to DTF outreach.

NOTE: The Bidder is solely responsible for providing contact information of clients that are readily available to be contacted by DTF and will respond to questions.

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1. **Technical Requirements**

The purpose of the technical proposal is to provide Bidders with an opportunity to demonstrate their experience, knowledge, and ability to successfully deliver the required Services. The Department reminds Bidders that responses must be complete, factual, and as detailed as necessary to allow the Department to perform a comprehensive review and evaluation of Bidder’s proposed services, capabilities, and experience.

There are mandatory requirements stated throughout this section stipulated by the words “must,” “shall,” “will,” and “required.” Failure to meet a mandatory requirement will result in the Proposal being deemed non-responsive and removed from further consideration. While not mandatory, not providing information in response to requirements labelled with the words “should,” “desired,” or “preferred” in this section may negatively impact the technical Proposal score.

* 1. **Methodological Approach**

Bidders will be evaluated and scored on information provided in response to their detailed methodological approach. Such approach should minimize interaction with the Department in order to ensure the independence prescribed in the authorizing statute.

* + 1. In responding to methodological approach, the Bidder should robustly articulate their plan with respect to:
* Research and understanding of the credits, exemptions, modifications and other tax policy items they propose to evaluate;
* Data collection and data preparation, particularly as it relates to data sources planned to be used, understanding of the data generating process, data anomalies and any other identified or perceived issues with the collection or application of data in the analysis and how the Bidder intends to address such issues;
* Economic or other modelling approach, with specificity on all applications to be used, specific methodological approaches that will be used, and a description of how the Bidder will address issues such as data limitations and the effect on the specific methodology proposed;
* A report outline or shell, with specific presentation templates that will be used to convey the final reports; and
* A summary of the quality control and review process that the Bidder will use throughout the project.

**Response Requirement (10 Points):**

Describe methodological approach, use attachments if needed.

* + 1. The Bidder **MUST** provide a list of tax credits, deductions, and incentives to be evaluated.

**Response Requirement (10 Points):**

(Provide a list as an attachment.)

* 1. **Project Management Methodology**

The Bidder will describe its project management methodology.

**Response Requirement (2 Points):**

* + 1. Describe project management methodology, use attachments if needed.

* + 1. The Bidder **MUST** provide a detailed project plan indicating what work will be completed by each milestone as outlined in **Section 2.1. Milestones and Deliverables**.

**Response Requirement (5 Points):**

(Provide a detailed project plan as an attachment.)

* 1. **Firm Experience and References**

Bidders will be evaluated and scored on their experience and references.

The Proposal should demonstrate the Bidder’s experience and expertise in conducting and developing economic impact studies.

* + 1. The Bidder should provide a list of all studies it has completed that are similar in scope to this RFP. Such list should contain the title of the study, topic of study, date of completion, and client for whom the study was conducted.

**Response Requirement (5 Points):**

Provide a list, use attachment as needed.

* + 1. The Bidder should submit a complete report of one study contained in the above list.

**Response Requirement (10 Points):**

Submit a report.

* + 1. The Bidder should submit one (1) reference contract to demonstrate the relevant experience within the last five (5) years. The Bidder should complete and submit **Attachment C – Firm Experience and Reference Response Form**, providing all information requested therein demonstrating the required experience and expertise.  **(5 Points)**

In describing their abilities, the Bidder should provide details for a reference contract that best demonstrate their abilities. The Bidder may not use the same primary reference contract as in Qualifying Requirement 3.3 to demonstrate its abilities, however the Bidder may use the alternate reference contract submitted in response to that section. The Department will contact the client reference submitted in response to this Response Requirement 4.3.3 and the client reference meeting the Qualifying Requirement 3.3 to evaluate the Bidder’s abilities and past performance related to the Services as requested by this RFP.

The Bidder may submit a second reference contract that meets this Requirement 4.3.3 as an alternate reference in the event that the primary reference fails to respond to DTF outreach.

The Bidder is solely responsible for providing references that are readily available to be contacted by the Department and will respond to reference questions.

* 1. **Staff Experience and Qualifications**

Bidders will be evaluated and scored on their staff’s experience and qualifications. The Bidder demonstrates proposed staff has the qualifications, knowledge, and ability to perform required Services as described in **Section 2. Scope of Services** and **Section 6. Financial Requirements** by providing information for evaluation.

At least one staff member assigned to the project full-time should have an advanced degree in economics, statistics, mathematics or a substantially comparable field of study, with a preference for a Doctoral level degree.

The Bidder should:

* + 1. Identify the primary point of contact (Project Manager) and other proposed staff.

Describe:

* + 1. Indicate the availability of the primary point of contact for on-site or telephone meetings.

Describe:

* + 1. Detail procedure(s) to replace the primary point of contact if he/she leaves the firm or is otherwise unavailable and describe the Bidder’s ability to bring in additional highly-capable Personnel, if required, including the typical speed at which such Personnel could be provided\*.

Describe:

* + 1. Provide an organizational chart, including all individuals to be assigned to the project; the chart should depict the Contract Title and the Bidder’s corresponding job title for each individual.

Provide (use attachment if needed):

(Requirements 4.4.1 through 4.4.4 are collectively worth **5 points**.)

* + 1. Provide resumes and describe experience, including number of years at current firm and all prior relevant employment, for staff that would be directly involved in providing Services, as outlined in the Contract Titles specified in **Section 6. Financial Requirements**.

**Response Requirement (6 Points):**

Describe and attach resumes:

* + 1. Provide two (2) client reference contacts which can validate the experience of the proposed Engagement Partner;

**Response Requirement (7 Points):**

The Bidder should complete and submit **Attachment D – Engagement Partner Response Form**, providing all information requested therein for this requirement.

**\*Note:**

The Department expects the Engagement Partner, Project Manager, and Senior Analyst(s) (“Personnel”) for the selected Bidder to be assigned to the Study for the entire Contract term to ensure continuity of knowledge and service levels.

The Contractor shall not transfer or replace Personnel unless such transfer or replacement is at the State’s request or due to a bona fide promotion, illness, family leave, disability, termination of employment, or other circumstance beyond the Contractor’s reasonable control.  Prior to any permitted transfer of Personnel to another position, the Contractor should provide the State with at least thirty (30) days notice of such transfer. In the event of an emergency where thirty (30) days notice is not possible, the Contractor will provide notice to the State as soon as the emergency circumstances become known. No staffing decisions regarding the addition or removal of Contractor staff from the project will be made without the State’s prior consent and approval. Replacement Personnel must be of equal or superior qualifications as the previously assigned Personnel.

The State reserves the right to screen and approve or deny all Personnel assigned to this Engagement. The Contractor must ensure that all Personnel engaged in this effort are sufficiently experienced and proven in providing the specific Services requested and that all work provided meets high quality standards as deemed appropriate.

* 1. **Subcontracting**

The Department anticipates the following tasks will be involved in the Study. Subcontracting will only be allowed for data gathering, cleansing, and review.

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| **Tasks** |
| 1. Identification of all NYS tax credits, tax deductions and tax incentives authorized by any New York Law required to be included in the Study |
| 2. Data gathering, cleansing and review |
| 3. Economic modeling and results analysis assessing both the quantitative and qualitative economic impacts of tax incentives on a state’s economy and evaluating tax incentive programs on a state’s economy |
| 4. Economic impact study writing and review |

* 1. **Bidder Attestation**

The Bidder is required to submit **Attachment A - Bidder Attestation** **Response Form**, attesting it has read, understands and agrees to comply with the requirements and provide the Services as specified in **Section 2. Scope of Services**, **Section 4. Technical Requirements** and **Section 6. Financial Requirements** of this RFP.

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# MWBE Plan and Diversity Practices

The State has determined, pursuant to New York State Executive Law Article 15-A, that the assessment of the diversity practices of Bidders to this procurement is practical, feasible, and appropriate. Thus, Bidders will be evaluated and scored on information provided concerning their diversity practices.

In addition to the requirements specified in **Section 7.2.5** of this RFP, each Bidder should provide their Diversity Practices on the form provided in response to this RFP as **Attachment 3 - Diversity Practices Questionnaire**. Additional sheets should be attached, as necessary, to fully describe your company’s Diversity Practices.

Pursuant to §310(22) of Article15-A of New York State Executive Law, “Diversity Practices” shall mean the Contractor’s practices and policies with respect to:

1. Utilizing certified minority and women-owned business enterprises (MWBE) in contracts awarded by a state agency or other public corporation, as Subcontractors and suppliers; and
2. Entering into partnerships, joint ventures or other similar arrangements with certified minority and women-owned business enterprises as defined in Article 15-A of the New York State Executive Law or other applicable statute or regulation governing an entity’s utilization of minority or women-owned business enterprises.

Bidders will be scored on this Section and points awarded based solely upon the proposed**Attachment 4 - MWBE Utilization Plan** and the answers provided on **Attachment 3 -** **Diversity Practices Questionnaire. Points will not be awarded based on a company’s status as a certified MWBE firm.**

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# Financial Requirements

Bidders are required to submit a financial proposal which sets forth proposed not-to-exceed total project cost. Bidders will be evaluated and scored on information provided in their financial proposal. Bidders are required to use the titles provided, even if these titles are not consistent with the Bidder’s existing titles. The proposed cost must be inclusive of labor costs, overhead, materials, profit, and all other expenses related to the Agreement, with the exception of travel expenses. Travel expenses will be reimbursed separately.

The not-to-exceed total project cost is to be provided by Bidders on **Attachment 19 – Financial Response Form**. A Bidder’s failure to provide a complete pricing response will result in the Bidder’s proposal being deemed non-responsive. Bidders must provide all pricing information requested on **Attachment 19** and should not leave any blanks, or otherwise modify or change the Attachment. Any pricing or add-on costs that do not conform to the presentation allowed on **Attachment 19** cannot be evaluated and will be disregarded as extraneous.

Travel expenses will be reimbursed in accordance with guidelines established by the OSC (See Office of the State Comptroller Travel Manual, available at <http://www.osc.state.ny.us/agencies/travel/manual.pdf> and only where the Department has authorized such travel in advance.

Payment will be made after delivery and DTF’s acceptance of the following milestones:

|  |  |
| --- | --- |
| Milestone 1, Progress Report 1  | (0%) |
| Milestone 2, Progress Report 2  | (10%) |
| Milestone 3, Progress Report 3 | (10%) |
| Milestone 4, Progress Report 4 | (10%) |
| Milestone 5, Progress Report 5 and Final Report, including All Data, Files, Documents, etc. in Association with the Study | (70%) |

All payments will be made upon submission of a proper invoice and in accordance with Article XI-A of the New York State Finance Law. Invoices for travel expenses must be accompanied by copies of receipts for actual expenses incurred.

**Attachment 19 - Financial Response Form must be completed in its entirety and must include:**

* The not-to-exceed total project cost.
* The Bidder’s corresponding titles of the personnel performing the Services described in the RFP. Bidders are required to use the titles provided, even if these titles are not consistent with the Bidder’s existing titles. The Bidder is allowed to provide more than one “Bidder Corresponding Title” per “Contract Title” on **Attachment 19.**

**Description of Contract Titles**

The following represents the general descriptions for the contract titles to be utilized in the Bidder’s proposal.

**NOTE:** The Bidder should ensure that the resumes for each staff person submitted in response to **Section 4.4. Staff Experience and Qualifications** are consistent with the qualifications listed below:

|  |
| --- |
| **Qualifications of Engagement Partner:** The Engagement Partner will be responsible for the engagement and its performance, including proper supervision of the work of engagement team members. The Engagement Partner should have a minimum of five (5) years experience overseeing and supervising the work of project team members and also have significant direct experience (a minimum of five (5) years) providing services of the type outlined in **Section 2. Scope of Services** of the RFP. |
| **Qualifications of Project Manager:** The Project Manager will coordinate and delegate the assignments to the staff, and serve as the point of contact for the Department regarding new issues, project status, meetings, and deliverables. The Project Manager should have a minimum of three (3) years of experience providing services of the type outlined in **Section 2. Scope of Services** of the RFP. |
| **Qualifications of Senior Analyst:** The Senior Analyst working under the Project Manager will be responsible for performing the more complex analytical work, depending on the project, as well as day-to-day activities. The Senior Analyst should have a minimum of two (2) years of experience providing services of the type outlined in **Section 2. Scope of Services** of the RFP. |
| **Qualifications of Analyst:** The Analyst will complete day-to-day project activities under the supervision of the Project Manager and will work with the Senior Analyst. The Analyst should have a minimum of one (1) year of experience providing services of the type outlined in **Section 2. Scope of Services** of the RFP. |

**In response to this Section, the Bidder must complete Attachment 19 - Financial Response Form affirming understanding of, and agreement to comply with, the mandatory financial provisions of this RFP. Bidders should not leave any blanks, nor modify or change the Attachment. Pricing information must be provided on Attachment 19 as presented and as specified herein. Except for travel expenses, all costs associated with the Requirements of the RFP must be incorporated into the Bidder’s financial response. No other add-on costs are permitted.**

# Administrative Requirements

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## Administrative Proposal Conditions

With the submission of a response to this Request for Proposals, the Bidder agrees to the proposal conditions outlined in this Section.

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### Issuing Entity

This RFP is issued by the New York State Department of Taxation and Finance, which is responsible for all criteria stated herein and for evaluation of all proposals submitted.

### Solicitation

This RFP is a solicitation to bid, not an offer of a contract.

### Liability

The State of New York is not liable for any costs incurred by a Bidder in the preparation and production of any proposal, or for any work performed prior to the approval by both the AG and OSC of a formal contract.

### Proposal Ownership

All proposals and accompanying documentation become the property of the State of New York and will not be returned. The State reserves the right to use any portions of the Bidder’s proposal not specifically noted as proprietary.

### Proposal Security

Each Bidder’s proposal will be held in strict confidence by Department staff and will not be disclosed except to the Office of the Attorney General and the Office of the State Comptroller as may be necessary to obtain approvals of those agencies for the final Agreement and except as required by law.

Public inspection of the bids is regulated by the Freedom of Information Law (Article 6 of the New York State Public Officers Law (“Public Officers Law”)). The bids are presumptively available for public inspection. If this would be unacceptable to a Bidder, the Bidder should apply to the Department for trade secret protection for those portions of the bid which the Bidder believes would qualify for such exemption.

Section 74 of the Public Officers Law contains the code of ethics which sets forth that no officer or employee of a State agency should disclose confidential information that he acquires during the course of his official duties. This code controls the confidentiality of a Bidder’s proposal unless the Department grants a petition for records access in accordance with the Freedom of Information Law.

Bidders should be advised that the confidentiality of their proposals is founded upon statute, as described above. A nondisclosure agreement, whether prescribed by the Department or the Bidder, would not alter the rights and responsibilities of either party under the Freedom of Information Law. A Bidder should not propose a nondisclosure agreement for Department employees, for that would be legally ineffective to alter any legal responsibility under the Freedom of Information Law or the code of ethics.

The provisions of the Freedom of Information Law will also govern the confidentiality of any and all products or services supplied by the successful Bidder.

### Timely Submission

The Bidders are solely responsible for timely delivery of their Proposal to the location set forth by the stated proposal due date/time and are solely responsible for delays in receipt, including but not limited to those due to third-party carriers.

### Proposal Effective Period

The Bidder’s Proposal must be firm and binding for a period of at least 180 days following the Proposal due date.

### Proposal Opening

Proposals will not be opened publicly. The State reserves the right at any time to postpone or cancel a scheduled proposal opening.

### Bidder Proposal Clarification

Prior to award, the State reserves the right to seek clarifications, request Proposal revisions, or to request any information deemed necessary for proper evaluation of proposals from all Bidders deemed to be eligible for Contract award. Failure of a Bidder to cooperate with the State’s effort to clarify a Proposal may result in the proposal being labeled as non-responsive and being given no further consideration.

Additionally, the State reserves the right to use information submitted by the Bidder in response to the State’s request for clarifying information in the course of evaluation and selection under this RFP.

### Proposal Evaluation and Selection

See **Section 9. Proposal Evaluation**,regarding proposal selection and evaluation methodology. Submitted proposals may be reviewed and evaluated by any personnel or agents of the State, other than one associated with a competing Bidder.

### Contract Negotiations and Authorized Negotiators

During contract negotiations, the State must have direct access to Bidder personnel who have full authority to make commitments on behalf of the Bidder. Bidders must include, as part of their proposal, any restrictions under which their primary negotiators will operate.

### Bidder Notification of Intent to Award

Upon completion of the evaluation process, the successful Bidder will be advised of selection by the State through the issuance of a “Notification of Intent to Award” letter. Bidders who have not been selected by the State in response to this RFP shall be notified of such non-selection.

### Proposal Review and Contract Approval

Any Agreement resulting from this RFP will not be effective until approved by the Office of the Attorney General and the Office of the State Comptroller.

### Debriefing Sessions

Bidders will be notified in writing and, within fifteen (15) calendar days of such notification, may request the opportunity for a debriefing session. Such sessions will be limited to discussions of evaluation results as they apply to the Bidder receiving the debriefing.

### Bid Protest Policy

The procedures for handling protests of bid awards are set forth in **Appendix B - Bid Protest Policy**.

### Reserved Rights

The State reserves the right to exercise the following:

1. Prior to the opening of proposals, amend the RFP specifications to correct errors or oversights, or to change any of the scheduled dates, or to supply additional information, as it becomes available. Modifications to this RFP shall be made by issuance of amendments and/or addenda.
2. Prior to the opening of proposals, direct Bidders to submit proposal modifications addressing subsequent RFP amendments.
3. Withdraw the RFP, in whole or in part.
4. Eliminate any mandatory, non-material specifications with which no Bidder can comply.
5. Waive any requirement(s) that is not material.
6. Waive any immaterial deviation or defect in a proposal. A waiver of immaterial deviation or defect shall in no way modify the RFP documents or excuse a Bidder from full compliance with the RFP requirements.
7. Evaluate, accept and/or reject any and all proposals, in whole or in part, and to waive technicalities, irregularities, and omissions if, in the State’s judgment, the best interests of the State will be served. In the event compliant Bids are not received, the State reserves the right to consider late or non-conforming Bids as offers.
8. Require the Bidder to demonstrate, to the satisfaction of the State, any information presented as a part of their Proposal.
9. Require clarification at any time during the procurement process, and/or require correction of arithmetic or other apparent errors, for the purpose of assuring a full and complete understanding of an Offerer’s Proposal and/or to determine an Offerer’s compliance with the requirements of the solicitation.
10. Seek revisions of proposals.
11. Correct any arithmetical errors or other apparent errors in any Proposal and, in the event that the fees or costs in two or more proposals are not comparable, to make appropriate adjustments to render the fees and costs comparable.
12. Request an oral presentation from any or all responsive Bidders.
13. Disqualify any Bidder whose conduct and/or Proposal fails to conform to the requirements of the solicitation.
14. Use information obtained through site visits, management interviews and the State’s investigation of a Bidder’s qualifications, experience, ability or financial standing, and any material or information submitted by the Bidder in response to a request for clarifying information in the course of evaluation and selection under this RFP.
15. Negotiate with the successful Bidder within the scope of the RFP to serve the best interests of the Board/State.
16. Conduct contract negotiations with the next ranked Responsible Bidder should the State be unsuccessful in negotiating an Agreement with the selected Bidder.
17. Proceed to the next highest ranked Bidder in the event that a Bidder who had achieved best value prior to contract award cannot satisfy the requirements as stated in this RFP.
18. If an Agreement is terminated within 12 months of making award, the State reserves the right, with the approval of the New York State Attorney General, and the Office of the State Comptroller, to award a contract to the next highest ranked Bidder.
19. Utilize any and all ideas submitted in the proposals received.
20. Make an award under the RFP, in whole or in part.
21. Rescind a contract award and begin negotiations with the next highest ranked Bidder if a signed contract substantially in accordance with **Exhibit A, Preliminary Base Contract** is not executed within 15 days of Notification of Intent to Award.

## Administrative Contract Conditions

With the submission of a response to this Request for Proposals, the Bidder agrees to all contract conditions outlined in this Section except that Bidders may propose changes to the terms of the **Preliminary Base Contract** (**Exhibit A** to the RFP) only as allowable in **7.2.18** and in accordance with the instructions set forth therein.

### Appendix A

**Appendix A – Standard Clauses for New York State Contracts** (dated October 2019) will be incorporated, in its entirety, into any Agreement resulting from this RFP.

### Payments

All payments will be made in accordance with Article XI-A of the New York State Finance Law.

### Public Announcements

Public announcements or news releases relating to this RFP or the resulting Agreement shall not be made by any Bidder or its agent without the prior approval of the State. All requests for public announcements should be directed to one of the designated contacts specified herein. Such request for approval shall not be considered until an approved Agreement is in place.

### New York State Vendor File

Prior to being awarded a contract pursuant to this Solicitation, the Bidder(s) and any designated authorized resellers who accept payment directly from the State, must be registered in the New York State Vendor File (Vendor File) administered by the Office of the State Comptroller (OSC). This is a central registry for all vendors who do business with New York State Agencies and the registration must be initiated by a State Agency. Following the initial registration, unique New York State ten-digit vendor identification numbers will be assigned to your company and to each of your authorized resellers (if any) for usage on all future transactions with New York State. Additionally, the Vendor File enables vendors to use the Vendor Self-Service application to manage all vendor information in one central location for all transactions related to the State of New York.

If Bidder is already registered in the New York State Vendor File, list the ten-digit vendor ID number on the first page of the Proposal document. Authorized resellers already registered should list the ten-digit vendor ID number along with the authorized reseller information.

If the Bidder is not currently registered in the Vendor File, complete the enclosed **Exhibit B - New York State Office of the State Comptroller Substitute Form W-9**, and submit it with your Bid. In addition, if authorized resellers are to be used, an OSC Substitute W-9 form should be completed and filed by each of the designated authorized resellers. The DTF Procurement Services Unit will initiate the vendor registration process for all Bidders recommended for contract Award and their authorized resellers. Once the process is initiated, registrants will receive an email from OSC that includes the unique ten-digit vendor identification number assigned to the company and instructions on how to enroll in the online Vendor Self-Service application.

For more information on the vendor file please visit the following website:

<https://www.osc.state.ny.us/state-vendors/portal/enroll-vendor-self-service-portal>

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### Contractor Requirements and Procedures for Participation by New York State-Certified Minority and Women-Owned Business Enterprises and Equal Employment Opportunities for Minority Group Members and Women

**New York State Law**

Pursuant to New York State Executive Law Article 15-A and Parts 140-145 of Title 5 of the New York Codes, Rules and Regulations, the procuring entity is required to promote opportunities for the maximum feasible participation of New York State-certified Minority and Women-owned Business Enterprises (“MWBEs”) and the employment of minority group members and women in the performance of the procuring entity’s contracts.

**Business Participation Opportunities for MWBEs**

For purposes of this solicitation, the State hereby establishes an overall goal of 35% percent for MWBE participation, 17.5% percent for New York State-certified Minority-owned Business Enterprise (“MBE”) participation and 17.5% percent for New York State-certified Women-owned Business Enterprise (“WBE”) participation (based on the current availability of MBEs and WBEs). A contractor (“Contractor”) on any contract resulting from this procurement (“Contract”) must document its good faith efforts to provide meaningful participation by MWBEs as subcontractors and suppliers in the performance of the Contract. To that end, by submitting a response to this RFP, the respondent agrees that the State may withhold payment pursuant to any Contract awarded as a result of this RFP pending receipt of the required MWBE documentation. The directory of MWBEs can be viewed at: <https://ny.newnycontracts.com>. For guidance on how the State will evaluate a Contractor’s “good faith efforts,” refer to 5 NYCRR § 142.8.

The respondent understands that only sums paid to MWBEs for the performance of a commercially useful function, as that term is defined in 5 NYCRR § 140.1, may be applied towards the achievement of the applicable MWBE participation goal. The portion of a contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be 25 percent of the total value of the contract.

In accordance with 5 NYCRR § 142.13, the respondent further acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in a Contract resulting from this RFP, such finding constitutes a breach of contract and the State may withhold payment as liquidated damages.

Such liquidated damages shall be calculated as an amount equaling the difference between: (1) all sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and (2) all sums actually paid to MWBEs for work performed or materials supplied under the Contract.

By submitting a bid or proposal, a respondent agrees to demonstrate its good faith efforts to achieve the applicable MWBE participation goals by submitting evidence thereof through the New York State Contract System (“NYSCS”), which can be viewed at <https://ny.newnycontracts.com>, provided, however, that a respondent may arrange to provide such evidence via a non-electronic method by contacting the Department.

Additionally, a respondent will be required to submit the following documents and information as evidence of compliance with the foregoing:

1. **Attachment 4 - MWBE Utilization Plan** with their bid or proposal. Any modifications or changes to an accepted MWBE Utilization Plan after the Contract award and during the term of the Contract must be reported on a revised MWBE Utilization Plan and submitted to the State for review and approval.

The State will review the submitted MWBE Utilization Plan and advise the respondent of the State’s acceptance or issue a notice of deficiency within 30 days of receipt.

1. If a notice of deficiency (NOD) is issued, the respondent will be required to respond to the NOD within seven (7) business days of receipt by submitting to New York State Department of Taxation and Finance, Office of Budget and Management Analysis, State Office Campus, Albany, NY 12227, ATTN: Ms. Amber Alexander, Director, Procurement Services Unit, a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by the State to be inadequate, the State shall notify the respondent and direct the respondent to submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.

The State may disqualify a respondent as being non-responsive under the following circumstances:

a) If a respondent fails to submit an MWBE Utilization Plan;

b) If a respondent fails to submit a written remedy to a notice of deficiency;

c) If a respondent fails to submit a request for waiver; or

d) If the State determines that the respondent has failed to document good faith efforts.

The successful respondent will be required to attempt to utilize, in good faith, any MBE or WBE identified within its MWBE Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract Award may be made at any time during the term of the Contract to the State, but must be made no later than prior to the submission of a request for final payment on the Contract.

The successful respondent will be required to submit a quarterly **MWBE Contractor Compliance and Payment Quarterly Report, Exhibit C,** to the State by the 10th day following each end of quarter over the term of the Contract documenting the progress made toward achievement of the MWBE goals of the Contract.

### Equal Employment Opportunity Requirements

By submission of a bid or proposal in response to this solicitation, the respondent agrees with all of the terms and conditions of **Appendix A – Standard Clauses for New York State Contracts** including Clause 12 - Equal Employment Opportunities for Minorities and Women. The respondent is required to ensure that it and any subcontractors awarded a subcontract for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work"), except where the Work is for the beneficial use of the respondent, undertake or continue 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, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, 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; or (ii) employment outside New York State.

The respondent will be required to submit a **Minority and Women-Owned Business Enterprise** - **Equal Employment Opportunity Policy Statement,** **Exhibit D**, to the State with its Bid or Proposal.

If awarded a Contract, the respondent shall submit a Workforce Utilization Report, and shall require each of its subcontractors to submit a Workforce Utilization Report, in such form as shall be required by the State on a quarterly basis during the term of the Contract.

Pursuant to Executive Order #162, contractors and subcontractors are also required to report the gross wages paid to each of their employees for the work performed by such employees on the contract on a quarterly basis.

Further, pursuant to Article 15 of the Executive Law (the “Human Rights Law”), all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

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

### Participation Opportunities for New York State Certified Service-Disabled Veteran-Owned Business Enterprises

Article 17-B of the New York State Executive 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 State 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 State 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, Bidders/Contractors 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 Contractor.  Nevertheless, the Bidder/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://ogs.ny.gov/veterans/>.

The Bidder/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.

### Permission to Investigate

In the event that the State determines it necessary to investigate evidence relative to a possible or actual 1) crime or 2) breach of confidentiality or security, Contractor and its Subcontractors shall cooperate fully with the State to the extent permitted by law to investigate and identify the responsible individuals. Contractor and its Subcontractors shall, to the extent permitted by law, make their employees and all relevant records, including personnel records and employee photographs, available to State and/or other Investigators upon request by the State.

### Workers’ Compensation and Disability Benefits Certifications

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Sections 57 and 220 of the New York State Workers’ Compensation Law (WCL) provide that the State shall not enter into any contract unless proof of workers’ compensation and disability benefits insurance coverage is produced. Prior to entering into a contract with the State, successful Bidders will be required to verify for the State, on forms authorized by the New York State Workers’ Compensation Board, the fact that they are properly insured or are otherwise in compliance with the insurance provisions of the WCL. The forms to be used to show compliance with the WCL are listed below. Any questions relating to either workers’ compensation or disability benefits coverage should be directed to the State of New York Workers’ Compensation Board, Bureau of Compliance at (518) 462-8882 or (866) 298-7830. Failure to provide verification of either of these types of insurance coverage by the time an Agreement is ready to be executed will be grounds for disqualification of an otherwise successful Proposal.

The successful Bidder must submit the following documentation within a reasonable period after notification of selection for award:

1. Proof of Workers’ Compensation Coverage:

Upon notification of award, the successful Bidder will be requested to submit ONE of the following forms as Workers’ Compensation documentation:

1. Form C-105.2 – Certificate of NYS Workers’ Compensation Insurance Coverage issued by private insurance carrier (or Form U-26.3 issued by the State Insurance Fund); or
2. Form SI-12 – Certificate of NYS Workers’ Compensation Self-Insurance Coverage (or Form SIG-105.2 Certificate of Participation in Workers’ Compensation Group Board-Approved Self-Insurance); or
3. Form CE-200 – Certificate of Attestation of Exemption from NYS Workers’ Compensation and/or Disability Benefits Coverage.
4. Proof of Disability Benefits Coverage:

Upon notification of award, the successful Bidder will be requested to submit ONE of the following forms as Disability documentation:

1. Form DB-120.1 – Certificate of Insurance Coverage under the NYS Disability and Paid Family Leave Benefits Law; or
2. Form DB-155 – Certificate of Self-Insurance Coverage under the NYS Disability and Paid Family Leave Benefits Law; or
3. Form CE-200 – Certificate of Attestation of Exemption from NYS Workers’ Compensation and/or Disability Benefits Coverage.

Further information is available at the Workers’ Compensation Board’s website, which can be accessed through this link: <http://www.wcb.ny.gov>.

Please note that although these forms are not required as part of the proposal submission, the State encourages Bidders to include them with their proposal submission to expedite contract execution if the Bidder is awarded the Contract.

**NOTE:** **An ACORD form is not acceptable proof of New York State Workers’ Compensation or Disability Benefits insurance coverage.**

### Cover Letter

A cover letter transmitting the Proposal must be signed by an official authorized to bind the Bidder to its provisions.

The cover letter must include the following:

* The complete name and address of the bidding entity;
* The Federal or Taxpayer Identification Number of the entity;
* The ten-digit Vendor File ID number (if available); and
* An affirmation that the Proposal is binding for the required period indicated in **Section 7.1.7**.

### Vendor Responsibility Questionnaire

Article XI §163(4)(d) of the State Finance Law states that “service contracts shall be awarded on the basis of best value to a responsive and responsible offerer.”

Upon identification of the Bidder with the highest score, the Bidders’ Vendor Responsibility will be analyzed to ensure that the Bidder is responsible.

In the event that a Bidder is found to be not responsible, the Bidder may be disqualified.

Bidders must complete a Vendor Responsibility Questionnaire. Bidders are invited to file the required Vendor Responsibility Questionnaire online via the OSC New York State VendRep system or may choose to complete and submit a paper questionnaire. To enroll and use the New York State VendRep system, see the VendRep system instructions available at: [www.osc.state.ny.us/vendrep](http://www.osc.state.ny.us/vendrep) or go directly to the VendRep system online at: <https://onlineservices.osc.state.ny.us/>. For direct VendRep System user assistance, the OSC Help Desk may be reached at (866) 370-4672 or (518) 408-4672 or by email at ITSERVICEDESK@OSC.NY.GOV. Bidders opting to file a paper questionnaire can obtain the appropriate questionnaire from the VendRep website at [www.osc.state.ny.us/vendrep](http://www.osc.state.ny.us/vendrep) or may contact one of the Department’s designated contacts.

Bidders that have filed a Vendor Responsibility Questionnaire online that has been certified/updated within the last six (6) months or Bidders opting to file online must complete **Attachment 6 - Vendor Responsibility Response Form**. If a Vendor Responsibility Questionnaire has been filed online and has not been certified within the last six months, the Bidder must either update/recertify the online questionnaire or submit a new paper Vendor Responsibility Questionnaire.

Bidders filing paper questionnaires must submit a copy of the completed questionnaire with their bid proposals.

Upon notification of award, the Contractor will be required to update/recertify the online questionnaire.

### Designation of Prime Contact

The Bidder is required to designate an individual as the prime contact for the Bidder’s proposal. The designated individual must be authorized to respond on behalf of the Bidder. This designation will last for the entire evaluation process and contract negotiations. Any request for change in the designated contact must be submitted in writing to the issuing officer designated in this RFP and must be accompanied by an updated form.

**The Bidder must complete and submit the** **Attachment 7 - Designation of Prime Contact Response Form.**

### Non-Collusive Bidding Practices Certification

A bid shall not be considered for award nor shall any award be made where the conditions of the Non-Collusive Bidding Certification have not been complied with; provided, however, that if in any case the Bidder cannot make the foregoing certification, the Bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefore. Where the above conditions have not been complied with, the bid shall not be considered for award nor shall any award be made unless the head of the purchasing unit of the State, public department or agency to which the bid is made, or his designee, determines that such disclosure was not made for the purpose of restricting competition (Section 139-d of the State Finance Law).

**The Bidder is responsible for reading, signing and submitting the** **Attachment 8 - Non-Collusive Bidding Certification.**

### Procurement Lobbying

Pursuant to State Finance Law §§139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between the State and an Offerer/Bidder during the procurement process. An Offerer/Bidder is restricted from making contacts from the earliest notice of intent to solicit offers/bids through final award and approval of the Procurement Contract by the State and, if applicable, the Office of the State Comptroller (“restricted period”) to other than designated staff unless it is a contract that is included among certain statutory exceptions set forth in State Finance Law §139-j (3) (a). Designated DTF staff, as of the date hereof, are identified in the Preface Section of the Request for Proposal. DTF employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the Offerer/Bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and, in the event of two findings within a four-year period, the Offerer/Bidder is debarred from obtaining governmental Procurement Contracts. Information related to the Procurement Lobbying Law and the guidelines can be found on the Department’s Procurement website at: <http://www.tax.ny.gov/about/procure>.

Contacting individuals other than the designated contacts listed in the Preface Section of this document during the restricted period may result in disqualification of the Bidder’s proposal – please refer to the Procurement Lobbying Law and the guidelines posted on the Department’s website at: <http://www.tax.ny.gov/about/procure>.

1. Offerer Disclosure of Prior Non-Responsibility Determinations

New York State Finance Law §139-k(2) obligates a Governmental Entity to obtain specific information regarding prior non-responsibility determinations with respect to State Finance Law §139-j. This information must be collected in addition to the information that is separately obtained pursuant to State Finance Law §163(9). In accordance with State Finance Law §139-k, an Offerer must be asked to disclose whether there has been a finding of non-responsibility made within the previous four (4) years by any Governmental Entity due to: (1) a violation of State Finance Law §139-j or (2) the intentional provision of false or incomplete information to a Governmental Entity. The terms “Offerer” and “Governmental Entity” are defined in State Finance Law §139-k(1). State Finance Law §139-j sets forth detailed requirements about the restrictions on Contacts during the procurement process. A violation of State Finance Law §139-j includes, but is not limited to, an impermissible Contact during the restricted period (for example, contacting a person or entity other than the designated contact person, when such contact does not fall within one of the exemptions).

As part of a Governmental Entity’s responsibility determination, State Finance Law §139-k(3) mandates consideration of whether an Offerer fails to timely disclose accurate or complete information regarding the above non-responsibility determination. In accordance with law, no Procurement Contract shall be awarded to any Offerer that fails to timely disclose accurate or complete information under this Section, unless a finding is made that the award of the Procurement Contract to the Offerer is necessary to protect public property or public health or safety, and that the Offerer is the only source capable of supplying the required Article of Procurement within the necessary timeframe. See State Finance Law §§139-j(10)(b) and 139-k(3).

A Governmental Entity must include a disclosure request regarding prior non-responsibility determinations in accordance with State Finance Law §139-k in its solicitation of proposals or bid documents or specifications or Contract documents, as applicable, for Procurement Contracts. The attached form is to be completed and submitted by the individual or entity seeking to enter into a Procurement Contract. It shall be submitted to the Governmental Entity conducting the Governmental Procurement.

**Bidder must complete and submit the** **Attachment 9 - Offerer Disclosure of Prior Non-Responsibility Determinations.**

1. Offerer’s Certification of Compliance with State Finance Law §139-k(5)

New York State Finance Law §139-k(5) requires that every Procurement Contract Award subject to the provisions of State Finance Law §§139-k or 139-j shall contain a certification by the Offerer that all information provided to the procuring Governmental Entity with respect to State Finance Law §139-k is complete, true and accurate.

The State reserves the right to terminate any Contract award as a result of this RFP in the event it is found that the certification filed by the Offerer/Bidder in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete.

Each Bidder must complete and submit **Attachment 10 - Offerer’s Certification of Compliance with State Finance Law** §**139-k(5).**

### Ethics Compliance

All Bidders/contractors and their employees must comply with Public Officers Law §§73 and 74 to the extent applicable, Chapter 1 of the Laws of 2005, the Procurement Lobbying Reform Act, and other State statutes, rules, regulations and executive orders establishing ethical standards for the conduct of business with New York State. In signing the bid, the Bidder certifies full compliance with those provisions for any present or future dealings, transactions, sales, Contracts, services, offers, relationships, etc., involving New York State and/or its employees. Failure to comply with those provisions may result in disqualification from the bidding process, termination of Contracts, and/or other civil or criminal proceedings as required by law.

Each Bidder must complete and submit **Attachment 11 - Public Officers Law Form and Attachment 12 - Public Officers Law – Post Employment Restrictions** which addresses business or professional activities by current or past state officers and employees and party officers. These forms shall be made part of the resultant Agreement.

### Sales and Compensating Use Tax Documentation

Pursuant to Tax Law Section 5-a, Bidders will be required to complete and sign, under penalty of perjury, **Exhibit E - Contractor Sales Tax Certification Forms.** Bidders must also submit a copy of the Certificate of Authority, if available, for itself, any affiliates, and any Subcontractors required to register to collect state sales and compensating use tax. If Certificates of Authority are unavailable for a particular entity, each such Contractor, affiliate, Subcontractor or affiliate of Subcontractor must represent that it is appropriately registered with the Department.

**Exhibit E** provides the Contractor Certification Forms and Instructions for completing the forms. ST-220-TD must be filed with and returned directly to the Department address provided on the form. Unless the information upon which the ST-220-TD is based changes, this form only needs to be filed once with the Department. If the information changes for the Contractor, its affiliate(s), or its Subcontractor(s), a new form ST-220-TD must be filed with the Department. Completion of the form at the time of bid submission is not required; however, Form ST-220-TD must be filed and returned to the Department upon notification of Contract award.

Form ST-220-CA must also be provided to the Department’s Office of Budget and Management Analysis upon notification of Contract award certifying that the Contractor filed ST-220-TD. Proposed Contractors should complete and return the certification form(s) within two business days of request.

Failure to make either of these filings may render a Bidder non-responsive and non-responsible. Bidders shall take the necessary steps to provide properly certified forms within a timely manner to ensure compliance with the law.

Vendors may call the Department at 1-518-485-2889 for any and all questions relating to Section 5-a of the Tax Law and relating to a company’s registration status with the Department. For additional information and frequently asked questions, please refer to DTF Publication 223 (Questions and Answers Concerning Tax Law Section 5-a) available at the Department’s website: <http://www.tax.ny.gov> under the heading “Forms and Guidance”.

### Prime Contractors/Subcontractors

The successful Bidder shall act as Prime Contractor under the Agreement, and shall be held solely responsible for contract performance by the Bidder, its partners, officers, employees, Subcontractors and agents. The Bidder shall be responsible for payment of all Subcontractors and suppliers, including all third-party service providers contracted by or through the Bidder in performance of the Agreement.

Where services are supplied by or through the Contractor under the Agreement, it is mandatory for the Contractor to assume full integration responsibility for delivery, installation, maintenance, performance and support services for such items, as applicable. The Contractor shall also be responsible for payment of any license fees, rents or other monies due third parties for services or materials provided under this Agreement.

Proposed Subcontractors must be identified at the time of proposal submission and are subject to the approval of the State.

The State requires a list of Subcontractors who will be utilized for the performance of services under any resultant contract as well as a description of the services to be subcontracted. This information must be provided on the **Attachment 13 - Listing of Proposed Subcontractors Form**.

### Bidder-Proposed Changes to Preliminary Base Contract Terms

Proposals must conform to the terms and conditions set forth in this RFP and the **Exhibit A - Preliminary Base Contract**. Any Bidder-Proposed Changes(s) to terms and conditions set forth in **Exhibit A -** **Preliminary Base Contract,** must be provided in the Bidder’s Administrative Proposal, and presented as described below. Material deviations to required terms and conditions set forth (including additional, inconsistent, conflicting or alternative terms) may render the bid non-responsive and may result in rejection.

The Bidder must attach any Bidder-Proposed Change(s) to the terms and conditions of **Exhibit A - Preliminary Base Contract** with Volume Two, Tab 1 of its Proposal submission. See **Section 8.1** for **Proposal Content and Organization**.

Only those Bidder-Proposed Change(s) that meet all the following requirements will be considered as having been submitted as part of the proposal:

* Each Bidder-Proposed Change (addition, counter-offer, deviation or modification) must be specifically enumerated in writing; and
* The writing enumerating the Bidder-Proposed Change must identify the particular term the Bidder objects to or proposes to modify, and the reasons therefore.

Bidder-Proposed Change(s) submitted on standard, pre-printed forms (product literature, order forms, contracts), whether or not deemed “material,” which are attached or referenced with submissions which do not meet the above requirements will not be considered part of the proposal or resulting Contract, but rather will be deemed to have been included for informational or promotional purposed only.

Acceptance and/or processing of the proposal shall not constitute written acceptance of Bidder-Proposed Change(s) or a waiver of the State’s right set forth in **Section** **7**. Failure to object to any terms identified in **Exhibit A - Preliminary Base Contract**, shall be deemed to constitute acceptance thereof by the Bidder.

### Request for Exemption from Disclosure

The bids are presumptively available for public inspection. If this would be unacceptable to Bidders, they must apply to the State for trade secret protection of their bid.

In applying for trade secret protection, it would be unacceptable to indiscriminately categorize the entire proposal as such. The Bidder should point out those Sections of the proposal that are trade secrets and explain the reasons therefore. The Bidder may wish to review with its legal counsel Restatement of Torts, Section 757, comment b, and the cases under the Federal Freedom of Information Act, 5 USC Section 522, as well as the Freedom of Information Law. The State will review applications and agree to requests for trade secret protection, if appropriate.

To obtain trade secret protections, the Bidder must submit with its response in Volume Two, Tab 1 of its Proposal submission (see **Section 8.1** for **Proposal Content and Organization)**, a letter specifically identifying the page number, line or other appropriate designation of the information that is trade secret and explain in detail why such information is a trade secret and should be exempt from disclosure.

### Requirements Imposed Pursuant to Laws of 2006, Chapter 10

1. The procurement record for each new consulting services contract received by the Office of the State Comptroller for approval on or after July 17, 2006, must include a properly completed copy of **State Consultant Services – Contractor’s Planned Employment – Form A** from Contract Start Date Through the End of the Contract Term, attached hereto as **Exhibit F**. This form, which is a one-time report of planned employment data for the entire term of a consulting services contract on a prospective basis, must include the following information, by “employment category,” for all employees who will be providing services under the Agreement, whether employed by the Contractor or a Subcontractor:
2. The number of employees employed to provide consulting services under the Agreement;
3. The number of hours worked by such employees under the Agreement; and
4. The total compensation paid by the State to the Contractor for work by the employees under the Agreement.

The Contractor may be requested to assist the State in the completion of Form A.

1. In addition, for each year a consulting services contract is in effect, contracting agencies must require contractors to report annually regarding the above described employment information including work performed by subcontractors. The Contractor must properly complete a copy of **State Consultant Services – Contractor’s Annual Employment Report – Form B**, attached hereto as **Exhibit G**, and provide it to the contracting entity, i.e., New York State Department of Taxation and Finance; the Office of the State Comptroller (OSC) and the Department of Civil Service (CS). **Form B** captures historical information, detailing actual employment information for the most recently concluded State fiscal year (April 1 – March 31). **Form B** will be due no later than May 15 of each year.

**Form B** shall be provided to OSC and CS as set forth in OSC Bulletin G-226; the Bulletin may be found on-line at:

<http://www.osc.state.ny.us/agencies/guide/MyWebHelp/Content/XI/18/C.htm>. **Form B** shall be provided to DTF as follows:

By mail: New York State Department of Taxation and Finance

 Office of Budget and Management Analysis

 Procurement Services Unit

 W. A. Harriman State Office Building Campus

 Albany, NY 12227

By e-mail: bfs.contracts@tax.ny.gov

Fax: (518) 435-8413

For purposes of this Section, the following terms have the specified meanings:

* “employment category” means the specific occupation(s), as listed in the O\*NET occupational classification system, which best describes the employees providing services under this Agreement; and

(Note: The O\*NET database is available through the US Department of Labor’s Employment and Training Administration, at <http://online.onetcenter.org> to find a list of occupations.)

* “consulting services contract” includes any contract 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.

### Encouraging use of New York State Business in Contract Performance

New York State businesses have a substantial presence in State contracts and strongly contribute to the economies of the state and nation. In recognition of their economic activity and leadership in doing business in New York State, bidders/proposers for this contract for commodities, services or technology are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the contract. Such partnering may be as subcontractors, suppliers, protégés or other supporting roles.

**The Bidder must complete and submit** **Attachment 14 - Encouraging Use of New York State Business in Contract Performance.**

### Assurance of No Conflict of Interest

The Bidder offering to provide Services pursuant to this RFP as a Contractor, Subcontractor, or consultant, attests that its performance of the Service outlined in this RFP does not and will not create a conflict of interest with, nor position the Bidder to breach, any other contract currently in force with the State of New York.

**The Bidder must complete and submit** **Attachment 15 - Vendor Assurance of No Conflict of Interest or Detrimental Effect.**

### Executive Order No. 177 Certification

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

**The Bidder is responsible for reading, signing and submitting the** **Attachment 16 – EO-177 Certification.**

### Sexual Harassment Prevention Certification

State Finance Law §139-l requires bidders on state procurements to certify that they have a written policy addressing sexual harassment prevention in the workplace and provide annual sexual harassment training to all their employees and that such policy, at a minimum, meets the requirements of Section two hundred one-g of the labor law.

**The Bidder must complete and submit** **Attachment 17 – Sexual Harassment Prevention Certification.**

### Executive Order No. 16 Certification

In accordance with Executive Order No. 16, the Bidder must certify that it does not conduct any commercial activity in Russia or transact business with the Russian Government or with commercial entities headquartered in Russia or with their principal place of business in Russia in the form of contracting, sales, purchasing, investment, or any business partnership.

**The Bidder is responsible for reading, signing and submitting the** **Attachment 18 – EO-16 Certification.**

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#  Proposal Content and Submission Requirements

The Bidder must provide a response that clearly and precisely provides all required information. Emphasis should be placed on conformance with the RFP instructions, responsiveness to the RFP requirements and clarity of the intent.

Proposals that do not comply with these instructions or do not meet the full intent of all of the requirements of this RFP may be subject to scoring reductions during the evaluation process or may be deemed non-responsive. To assist Bidders, we have provided a Bidder’s Checklist located as **Attachment 1** of this RFP. A Proposal that does not provide all of the information requested may be subject to rejection.

The State does not require, nor desire, any excessive promotional material which does not specifically address the response requirements of this RFP.

**Faxes or electronically transmitted Proposals will not be accepted.**

1.

## Proposal Content and Organization

To facilitate the evaluation process, the Bidder must organize the Proposal into three (3) distinct volumes as follows:

Volume One: Technical Proposal

Volume Two: MWBE Plan and Diversity Practices and Administrative Proposal

Volume Three: Financial Proposal

1. Volume One Format

Volume One should contain a table of contents with page numbers and each Section should be tabbed as follows:

1. Tab 1 – Executive Summary
2. Tab 2 – Qualifying Requirements
3. Tab 3 – Technical Requirements
4. Volume Two Format
	1. Tab 1 – Bidder’s Checklist, Cover Letter, Bidder-Proposed Changes, and Request for Exemption from Disclosure
5. Tab 2 – MWBE Plan and Diversity Practices (Attachments 3 and 4)
6. Tab 3 – Administrative Requirements Response Forms (Attachments 1 and 5-18; Exhibit D)
7. Volume Three Format

This volume must contain **Attachment 19 - Financial Response Form.**

## Proposal Submission

The Bidder must submit two (2) originals and one (1) hard paper copies of:

Volume One: Technical Proposal

Volume Two: MWBE Plan and Diversity Practices and Administrative Proposal

Volume Three: Financial Proposal

All volumes must be bound separately, be clearly identified and should contain page numbers.

The Bidder should also submit one (1) electronic copy (CD/DVD/Flash Drive) of Volumes One, Two, and Three.

The electronic copy should be encrypted and password protected. The password should be submitted via email to [bfs.contracts@tax.ny.gov](file:///%5C%5Cdtf-smb%5Cdtf_shared%5CShare%5CObma%5CBBUDACTG-BPROCURE%5CCMU%5CRFP%27s%5CPENDING%20RFP%27s%5Cdtf_home%5CP39442%5Cbfs.contracts%40tax.ny.gov).

Proposals must be received by the date and time specified in the Schedule of Events.

Bidder Proposals must be enclosed in sealed containers with the following visibly inscribed on the outside of all containers:

Attn: Director, Procurement Services

New York State Department of Taxation and Finance

Procurement Services Unit

Office of Budget and Management Analysis

W. A. Harriman State Office Building Campus

Albany, NY 12227

All Proposals must have a label on the outside of the package or shipping container outlining the following information:

“BID ENCLOSED”

RFP 22-100

Economic Impact of New York State

Tax Incentive Programs

<*Bid Submission Date and time*>

**Please note: Deliveries by delivery services (e.g. UPS, FedEx, etc.) and/or requiring a signature of receipt should be addressed to the Department’s W.A. Harriman Campus address, however, the delivery service must be instructed to deliver the Bid documents to the following address:**

90 Cohoes Avenue

Green Island, NY 12183

Only under circumstances identified in **Section 7.1.16, Reserved Rights** will the State consider any Proposals received after the time and date specified in the Schedule of Events. In the event a package is not labeled properly as described in this Section, the State reserves the right to inspect the contents of the package(s) to determine the contents. The Bidder shall have no claim against the State arising from such inspection and such inspection shall not affect the validity of the procurement. Notwithstanding the State’s right to inspect the contents of the package(s), the Bidder assumes all risk of late delivery associated with the Bid not being identified, packaged or labeled in accordance with the foregoing requirements.

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# Proposal Evaluation

Pursuant to Article XI of the State Finance Law, the basis for contract award under this RFP will be “best value,” optimizing quality, cost and efficiency among responsive and responsible Bidders.

1.

## Proposal Clarification

The State reserves the right to require a Bidder to provide clarification and validation of its Proposal through any means the State deems necessary. Failure of a Bidder to cooperate with State efforts to clarify or validate Proposal information may result in the Proposal being labeled as non-responsive and given no further consideration.

## Evaluation Process Overview

There will be two (2) phases to the evaluation process.

### Phase One Evaluation

**A. Proposal Screening**

All timely submitted Proposals will be evaluated in Phase One.

Each Proposal will be screened for completeness and conformance with the State’s requirements for Proposal submission as specified in this RFP. Proposals which do not meet the requirements may be labeled as non-responsive and may not be given further consideration.

**B. Qualifying Requirements (Pass/Fail)**

All proposals that pass the Proposal Screening will be evaluated to determine if the Bidder meets the qualifying requirements specified in **Section 3. Qualifying Requirements**. If all qualifying requirements are not met, the Bidder’s proposal will be labeled non-responsive and will not be given further consideration.

All Proposals that pass this stage of the evaluation process will be further evaluated in Phase Two.

### Phase Two Evaluation

**A. Technical Evaluation**

Bidders’ technical proposals will be evaluated and scored in accordance with the technical requirements and point distribution in RFP **Section 4**.

B. **MWBE Plan and Diversity Practices Evaluation (5 Points)**

Proposals will be scored based solely upon the proposed **Attachment 4 - MWBE Utilization Plan** and the answers provided on the **Attachment 3 -** **Diversity Practices Questionnaire**. **Points will not be awarded based on a company’s status as a certified MWBE firm.**

**C. Financial Evaluation**

Bidders’ financial proposals will be evaluated and scored concurrently and separately from the Technical proposal evaluation.

## Proposal Ranking, Contract Award, and Point Distribution

The contract will be awarded to the Bidder whose proposal obtains the highest aggregate score.

The table below summarizes the evaluation point distribution:

|  |  |
| --- | --- |
| **Evaluation Component** | **Points** |
| Technical Evaluation | 65 |
| MWBE Plan and Diversity Practices Evaluation | 5 |
| Financial Evaluation | 30 |
| TOTAL | 100 |

In the event that Bidders receive the same final score, the State will use the following tie-breaking mechanisms, in the order listed, to determine final ranking:

* The Bidder’s Financial Score
* The Bidder’s Methodological Approach Score (RFP **Section 4.1**)
* Determination by the Commissioner

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