



**LUCY LANG**

Inspector General

Empire State Plaza • Agency Building 2, 16th Floor • Albany, New York 12223 • (518) 474-1010 • [ig.ny.gov](http://ig.ny.gov)

**Request for Proposals (RFP)**  
**Independent Monitor Services For**  
**Orange County Industrial Development Agency**

The purpose of this Request for Proposals (RFP) is to solicit proposals and award a contract to a qualified proposer to provide Independent Monitor Services of the Orange County Industrial Development Agency (OCIDA).

This RFP also outlines the terms and conditions, and all applicable information required for submission of a proposal. To prevent possible disqualification and to ensure compliance with the requirements of the RFP, Proposers should pay strict attention to the proposal submission deadline and follow the format and instructions contained in this document.

<b>Date</b>	<b>Event</b>
November 13, 2023	Issuance of Request for Proposals
<b>November 20, 2023 by 12:00 PM ET</b>	<b>Proposer Inquiries Due</b>
On or about November 22, 2023	OIG’s Response to Proposer Inquiries
<b>December 5, 2023 by 12:00 PM ET</b>	<b>Proposal Submission Deadline</b>
December 2023 – January 2024	Proposal Evaluation, Selection and Finalist Interviews
March 1, 2024	Anticipated Contract Start Date

The Offices of the Inspector General reserves the right to change any of the dates stated in this RFP.

**MWBE Goal:** 30% participation (15% MBE, 15% WBE)

**SDVOB Goal:** 0% participation

**Anticipated Contract Term:** The contract shall commence on March 1, 2024 and shall be in effect until July 2026.

The procurement is in a restricted period in accordance with New York State Finance Law §139-j and 139-k from the date this RFP is issued until the contract has been approved by the New York State Comptroller. All contacts/inquiries shall be made by email to the following address: [Procurement@ig.ny.gov](mailto:Procurement@ig.ny.gov).

Designated Contacts for this Procurement:

- Director of Procurement: Peter Amorosa
- Contract Administrator: Justin Spencer

## **TABLE OF CONTENTS**

General Information .....	4
Offices of the New York State Inspector General .....	4
Orange County Industrial Development Agency .....	4
Statement of Work.....	4
Expected Deliverables .....	6
Submission Requirements .....	6
Proposal Requirements .....	6
Technical Proposal.....	7
Cost Proposal .....	8
Compensation.....	9
Manner of Payment .....	9
Administrative Proposal .....	9
Proposer Inquiries/Revisions to this RFP .....	11
Submission of a Complete Three-Part Proposal.....	11
Proposal Ownership.....	12
Debriefings.....	12
Evaluation and Award Criteria .....	12
General Information .....	12
Submission Review.....	12
Evaluation and Scoring.....	13
Technical Evaluation (70 Points).....	13
MWBE Diversity Practices (5 Points) .....	13
Cost Evaluation (25 Points).....	13
Finalists and Interviews .....	13
Final Composite Score.....	14
Award of Contract and Debriefing Process .....	14
Contract Award.....	14
Debriefings.....	14
Contractual Requirements.....	15
Entire Agreement / Order of Precedence .....	15
Reservation of Rights.....	15
Freedom of Information Law.....	16
Ethics / Ethics Requirements .....	17
Vendor Responsibility Determination .....	17
New York State Public Officers Law .....	18
Minority- and Women-Owned Business Enterprise (MWBE).....	19
NYS Executive Law Article 15-A.....	19
Business Participation Opportunities for MWBEs .....	19
Equal Employment Opportunity Requirements.....	21
Service-Disabled Veteran-Owned Business Enterprises (SDVOB).....	22
NYS Veterans' Services Law Article 3.....	22
APPENDIX A.....	23
APPENDIX B: SAMPLE CONTRACT / POST AWARD FORMS .....	34
CORPORATE ACKNOWLEDGMENT FORM.....	55
POST AWARD FORMS .....	57
APPENDIX C: PROPOSAL CHECKLIST RFP.....	61
FORM 1: COST PROPOSAL.....	64

<b>FORM 2: FIRM INFORMATION AND ATTESTATION.....</b>	<b>65</b>
<b>FORM 3: NON-COLLUSIVE BIDDING CERTIFICATION.....</b>	<b>67</b>
<b>FORM 4: FIRM ASSURANCES OF NO CONFLICT OF INTEREST OR DETRIMENTAL EFFECT.....</b>	<b>68</b>
<b>FORM 5: MWBE AND EQUAL EMPLOYMENT OPPORTUNITIES REQUIREMENTS.....</b>	<b>70</b>
<b>FORM 5.1: WORKFORCE COMPOSITION FORM.....</b>	<b>1</b>
<b>FORM 5.2: MWBE UTILIZATION PLAN.....</b>	<b>3</b>
<b>FORM 5.3: MWBE SUBCONTRACTORS AND SUPPLIERS NOTICE OF INTENT TO PARTICIPATE NEW YORK STATE DIVISION OF THE BUDGET.....</b>	<b>4</b>
<b>FORM 5.4: MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES – EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT.....</b>	<b>70</b>
<b>M/WBE AND EEO POLICY STATEMENT.....</b>	<b>70</b>
<b>M/WBE Contract Goals.....</b>	<b>71</b>
<b>ATTACHMENT A-5.5: REQUEST FOR WAIVER FORM.....</b>	<b>72</b>
<b>MWBE REQUIREMENTS AND WAIVER SUBMISSION.....</b>	<b>73</b>
<b>FORM 6: MWBE DIVERSITY PRACTICES.....</b>	<b>74</b>
<b>FORM 6.1: DIVERSITY PRACTICES QUESTIONNAIRE.....</b>	<b>75</b>
<b>FORM 6.2: DIVERSITY PRACTICES SCORING MATRIX.....</b>	<b>77</b>
<b>FORM 7: VENDOR RESPONSIBILITY QUESTIONNAIRE INSTRUCTIONS.....</b>	<b>78</b>
<b>FORM 8: PROCUREMENT LOBBYING RESTRICTIONS.....</b>	<b>79</b>
<b>PROCUREMENT LOBBYING FORM.....</b>	<b>80</b>
<b>FORM 9: DISCLOSURE OF PENDING OR PRIOR LAWSUITS, CONFLICTS OF INTEREST, OR INVESTIGATIONS OR DISCIPLINARY ACTIONS.....</b>	<b>82</b>
<b>FORM 10: FREEDOM OF INFORMATION LAW REDACTION REQUEST.....</b>	<b>84</b>
<b>FORM 11: EXECUTIVE ORDER NO. 177 CERTIFICATION.....</b>	<b>85</b>
<b>FORM 12: SEXUAL HARASSMENT PREVENTION CERTIFICATION.....</b>	<b>86</b>
<b>FORM 13: CERTIFICATION UNDER EXECUTIVE ORDER NO. 16.....</b>	<b>87</b>

## **General Information**

### **Offices of the New York State Inspector General**

Under New York State Executive Law Article 4-A, the Offices of the New York State Inspector General (the OIG or Inspector General) has jurisdiction over all executive branch agencies, departments, divisions, officers, boards and commissions, public authorities, and public benefit corporations (the heads of which are appointed by the governor). The Inspector General's functions and responsibilities include receiving and investigating complaints concerning allegations of corruption, fraud, criminal activity, conflicts of interest or abuse in any entity under the OIG's jurisdiction.

On May 12th, 2023, in accordance with New York State General Municipal Law (GMU) Chapter 24, Article 18-A, Title 2, §912\*2 (§912\*2) [Appended hereto as Appendix B], the Inspector General was charged with the appointment of an Independent Monitor (Monitor) for the Orange County Industrial Development Agency to ensure transparency, accountability, and lawful conduct in all its actions.

### **Orange County Industrial Development Agency**

The Orange County Industrial Development Agency, a public benefit corporation organized under Article 18-A of the GMU, provides assistance to qualified companies through a program of incentives. While OCIDA does not lend money, it offers a wide range of incentives to qualifying businesses to encourage job creation and job retention. These incentives include, but are not limited to, sales and mortgage tax exemptions, real property tax abatements and, in some cases, the issuance of tax exempt bonds. For more information about the OCIDA, including its board, committees and operating staff, find their website [here](#) and recorded meetings [here](#).

### **Statement of Work**

The OIG is seeking an Independent Monitor for the OCIDA to ensure transparency, accountability to taxpayers, and lawful conduct in all its actions. Specifically, the Monitor shall have the responsibility of carrying out the provisions of §912\*2 by observing, reporting on, and providing guidance and technical assistance related to policies, practices, programs, and decisions of OCIDA – including but not limited to those related to contracts and financial assistance agreements. “Financial Assistance” in this context means any financial assistance offered by the OCIDA for any project, including but not limited to, a Payment in Lieu of Taxes (PILOT) agreement, an agreement to waive sales taxes, or an agreement to waive mortgage recording taxes.

The Monitor – who shall be selected by the OIG but function independently – shall attend all public meetings of the OCIDA, including executive sessions and any other meetings the Monitor deems necessary, and review all agendas, resolutions, and motions in advance of any board action to ensure adherence to GMU Article 18-A, the Public Authorities Accountability Act of 2005 (Chapter 766 of the Laws of 2005), the Public Authorities Reform Act (Chapter 506 of the Laws of 2009) and other relevant statutes and regulations. Where the Monitor determines that a proposed action of the OCIDA would present an actual or potential conflict of interest or constitute a violation of

law or the OCIDA Uniform Tax Exemption Policy (UTEP), the Monitor shall raise an objection to the OCIDA in writing, which the OCIDA then must address to the Monitor's satisfaction before any action can be taken by the board.

Additionally, within thirty (30) days of appointment, the Monitor shall review all changes taken pursuant to OCIDA's UTEP since May 12th, 2023, for such compliance and lawfulness.

The Monitor's oversight responsibility also includes the implementation of model governance policies for the OCIDA board including those related to conflicts of interest, directing the implementation of trainings deemed necessary for OCIDA staff, reviewing the OCIDA annual budget, and making recommendations for potential cost savings.

***In providing these services, the Monitor shall:***

Within thirty (30) days of appointment, review any modifications to the OCIDA's UTEP (as governed by GMU Chapter 24, Article 18-A, Title 1, §874), and contracts or financial assistance proposed for consideration by the OCIDA made by the board on or after May 12, 2023, and advise the board or employees of the OCIDA, in writing, of the Monitor's disapproval of any such changes.

- Attend all public meetings of the OCIDA, including executive sessions, though the Monitor may be excused from executive sessions when proposed, pending, or current litigation involving the Monitor is being discussed.
- Attend all OCIDA committee meetings, as well as any other public or private meetings, events, receptions, or engagements that include discussion or conducting of OCIDA business by board members or staff of the OCIDA, as deemed necessary by the Monitor.
- Review documents and records of the OCIDA, including but not limited to databases, planning documents, financial assistance agreements, and contracts consistent with all applicable state and federal statutes.
- Receive and review for compliance:
- From the OCIDA Board: Copies of any meeting agendas and all resolutions and motions on such agenda for each board meeting (no less than 72 hours prior to such board meeting).
  - From Board Clerk: Proposed resolutions or motions for the purpose of approving a contract or any financial assistance for a project (no less than seven (7) days prior to such meeting).
  - If not provided with copies of proposed resolutions or motions in a timely manner as described in §912\*2, at the discretion of the Monitor and upon notice to the board, the item shall be removed, including board resolutions or motions, from consideration by the board at such meeting.
- Upon review, advise the board or employees of the OCIDA, in writing, in accordance with §912\*2, of the existence of violations of the OCIDA's UTEP (as governed by GMU §874), actual or potential conflicts of interest, or violations of law arising from a proposed contract or financial assistance agreement under

consideration.

- Upon review, advise the board or employees of the OCIDA, in writing, in accordance with §912\*2, of the Monitor's disapproval of any changes to the OCIDA's UTEP.
- Provide the board consultation on the adoption of an appropriate conflict of interest policy, or the revision of an existing policy, in accordance with §912\*2.
- Advise the board and any OCIDA officers, employees, or agents on any trainings deemed necessary.
- Undertake an enhanced review of the OCIDA annual budget and, where appropriate, make recommendation to the OCIDA for potential cost savings, including but not limited to shared services agreements.
- Receive and review quarterly and annual reports from the OCIDA detailing its operational status.
- Provide semi-annual reports to the OIG, governor, temporary president of the Senate, and the speaker of the Assembly on the fiscal and operational status of the OCIDA.
- Advise the OCIDA Board on the development and revision of its goals, implementation of priorities, and budgetary decision-making.

### **Expected Deliverables**

The Monitor shall provide semi-annual reports to the OIG, governor, temporary president of the Senate, and speaker of the Assembly on the fiscal and operational status of the OCIDA. The first report is to be submitted within the first six months from appointment, then every six months thereafter. The Monitor shall also provide the OIG, governor, temporary president of the Senate, and speaker of the Assembly a final report of the Monitor's tenure prior to the conclusion of the Monitor's term of service.

### **Submission Requirements**

#### **Proposal Requirements**

Interested entities should submit a proposal, which clearly and concisely provides all the information requested. A complete proposal for this RFP comprises three (3) separate proposals: Technical, Cost, and Administrative.

- **Technical Proposal** – The purpose of the Technical Proposal is for the Proposer to demonstrate its qualifications, competence and capacity to undertake the engagement described herein.
- **Cost Proposal** – The Cost Proposal is the blended rate the Proposer will charge the OIG for the services described in this RFP.
- **Administrative Proposal** – The Administrative Proposal contains standard requirements by which the Proposer must agree to and any associated documentation.

## **Technical Proposal**

The Technical Proposal should specifically detail the Proposer's experience and qualifications in providing the services sought by OIG.

**Please note, in the Technical Proposal, Proposers should not include any information related to their cost or the amount proposed for this RFP.**

Proposers must keep the Technical Proposal to a maximum of 30 pages (not including table of contents and resumes).

Below is a listing of the technical information to be provided by the Proposer:

### **A. Table of Contents**

The table of contents should clearly identify the location of all material within the proposal by section and page number.

### **B. Executive Summary**

An Executive Summary highlighting significant aspects of the Technical Proposal.

### **C. Project Plan and Approach**

In this section of the proposal, the Proposer should include a narrative describing the project approach and provide information regarding how the Proposer will conduct the work. This is an opportunity for the Proposer to indicate its understanding of the scope of work included in this RFP and describe how it plans to: interact with the OCIDA, analyze documents and observations, and produce required reports. Information provided in this narrative should demonstrate that the Proposer understands the skills and processes necessary to successfully complete the services detailed in this RFP.

### **D. Proposer Experience and Qualifications**

In this section of the Technical Proposal, the Proposer should demonstrate that it has the knowledge and ability to perform the services described in the RFP. Specifically:

- Provide a narrative that discusses the Proposer's direct experience providing monitoring services of a government client, particularly of an Industrial Development Agency/Authority (IDA). Cite the year(s) the monitoring engagement occurred. Proposers should include the client and describe the reporting framework, as well as any pertinent details.
- Provide a detailed description of the Proposer's direct comparable monitoring in the last five (5) years. Proposers should detail three (3) similar engagements of actual client projects that demonstrate the depth and breadth of the Proposer's expertise and experience. For each project, include:
  - Name of client organization and contact information for a person who can speak to the work performed by the Proposer (OIG reserves the

- right to contact identified clients as a reference)
  - Role of the Proposer
  - Type of client (e.g., government entity (local, state, federal), private company, etc.)
  - Engagement description
  - Contract term, including start/end dates
  - Number of Proposer staff involved
  - Any other information regarding the project that would assist OIG in determining the success experienced by the client
- Demonstrate the Proposers knowledge of the laws governing IDAs in New York State.
- Provide a list of any other consulting or advisory contracts with New York State entities and New York State IDAs and identify potential conflicts of interest that could arise. If applicable, describe how the Proposer would avoid such conflicts of interest.
- Supply a project organization chart, with names and titles of the individual/individuals to be assigned to the project. Proposers should identify the key personnel assigned to the engagement (typically a Project Executive/Partner, Project Manager, and other staff including any and all subcontractors to be assigned to the engagement). For each subcontractor(s) staff member, identify the name of the subcontractor(s) and NYS MWBE or SDVOB certification, if any.
- Discuss how the team will function and how the work will be completed. Include a description of the subcontractor's past work for the Proposer, if any, and how the Proposer will monitor the work performed by the subcontractor.
- State all relevant information regarding the qualifications and experience of proposed personnel, including specific examples of experience in comparable work.
- In an appendix of the Proposer's Technical Proposal, the Proposer should include resumes for all members of the team, including subcontractor personnel. Proposer should be aware that replacement staff are subject to the approval of the OIG during the contract term.

### **Cost Proposal**

The Cost Proposal is an integral component of a Proposer's three-part submission. The Cost Proposal shall address all costs associated with the services described herein. The Proposer must provide a single blended rate that the Proposer would bill per hour of work by any personnel, with no retainer or mark up.

The "blended hourly rate" is the billable rate for all services and must include all labor costs, profit, and overhead including travel. There are no reimbursable expenses under the contract resulting from this solicitation.

Proposers must complete the Cost Proposal Form (Form 1) according to the



instructions included in the Form. Proposals with a fee format different from the format indicated in Form 1 will be deemed non-responsive and the entire proposal will not be considered for evaluation or award.

### **Compensation**

Compensation for the scope of work described in this RFP shall be based upon the \$250,000 not-to-exceed cost for each contract year and hourly rate included in the selected Proposer's cost proposal.

The selected Proposer shall submit a monthly invoice identifying the services provided and supporting breakdown of cost, including staff member name, contract title, contract hourly rate, hours worked, and calculated total cost. The selected Proposer shall include only actual hours worked. Rates in excess of the contract hourly rates are not allowed.

### **Manner of Payment**

Payment of the successful Proposer will be based upon the fees stipulated in the Contract. The OIG will compensate the successful Proposer following submission of an approvable invoice according to the contract. Payments to the selected Proposer will be made only for actual hours worked, and will not exceed the \$250,000 per contract year cap.

The Inspector General is not liable for any costs incurred by a Proposer in the preparation and/or production of any proposal, or for any work performed prior to the execution of a formal contract.

### **Administrative Proposal**

Proposers should complete and submit the administrative forms listed below:

**Form 2:** The Proposer Information and Attestation, which will be considered an integral part of the Proposal, should be signed and submitted with the Administrative Proposal. The Proposer Information and Attestation should be signed by an individual authorized to contractually bind the Proposer. A proposal with an unsigned Proposer Information and Attestation form may be rejected. **Modified forms will not be accepted.**

**Form 3:** Non-Collusive Bidding Certification. This form should be signed and submitted with the Administrative Proposal.

**Form 4:** Proposer Assurances of No Conflict of Interest or Detrimental Effect. This form must be signed by an authorized executive or legal representative and should be submitted with the Administrative Proposal. **Modified forms will not be accepted.**

**Form 5:** Article 15-A Requirements. Complete and submit the following with the Administrative Proposal:

- Form 5.1 – Workforce Composition Form.
- Form 5.2 – Proposer's intended Utilization Plan for MWBE subcontractor

participation. The successful Proposer will be required to formally submit the Utilization Plan within three (3) days of notification of selection.

- Form 5.3 – Notice of Intent to Participate.
- Form 5.4 – Equal Employment Opportunity (EEO) Policy Statement – If Proposer, or any of its subcontractors, does not have an existing EEO policy statement, the OIG may require the Proposer or subcontractor to adopt the attached model statement.
- Form 5.5 – Request for Waiver Form.

**Form 6:** MWBE Diversity Practices. Complete and submit the following with the Administrative Proposal:

- Form 6.1 – Responses to Diversity Practices Questionnaire, including documentation.

**Form 7:** A Vendor Responsibility Questionnaire should be certified and filed by the proposal submission deadline. The Vendor Responsibility determination is required for review and approval of the contract by the State Comptroller's Office. Proposers should file online with the New York State VendRep System, or submit a paper Questionnaire.

For any subcontract in excess of \$100,000, a Vendor Responsibility Questionnaire should be completed by the subcontractor and certified and filed by the proposal submission deadline. Subcontractor Proposers should file online with the New York State VendRep System, or submit a paper Questionnaire with the Proposer's proposal.

**Form 8:** Procurement Lobbying Form should be completed and submitted with the Administrative Proposal confirming and certifying compliance with the Procurement Lobbying Law, including disclosure of any findings of non-responsibility. **Modified forms will not be accepted.**

**Form 9:** Disclosure of Pending or Prior Lawsuits, Conflicts of Interest, or Investigations or Disciplinary Actions Form should be completed and submitted with the Administrative Proposal.

**Form 10:** Freedom of Information Law Redaction Request form should be submitted with the Administrative Proposal. If there is specific information in a Proposer's proposal that a Proposer claims to be proprietary and/or trade secret information that meets the definition set forth in New York State Public Officers Law section 87(2)(d), the Proposer should provide a letter in its Administrative Proposal outlining any specific concerns regarding disclosure under the New York State Freedom of Information Law (Article 6 of the Public Officers Law).

**Form 11:** Executive Order No. 177 should be completed and submitted with the Administrative Proposal.

**Form 12:** Sexual Harassment Prevention Certification. This form should be signed and

submitted with the Administrative Proposal.

**Form 13:** Executive Order No. 16 Certification. This form should be completed, signed and submitted with the Administrative Proposal

### **Proposer Inquiries/Revisions to this RFP**

Questions or requests for clarification regarding this RFP should be submitted citing the RFP page and section, by 12:00 P.M. ET on November 20, 2023 to [Procurement@ig.ny.gov](mailto:Procurement@ig.ny.gov). Questions will not be accepted orally and any question received after the deadline may not be answered. The comprehensive list of questions/requests for clarifications and the official responses will be posted to the OIG's website at the following address: [www.ig.ny.gov/doing-business-oig](http://www.ig.ny.gov/doing-business-oig) and emailed to firms that submitted inquiries.

In the event that it becomes necessary to clarify or revise this RFP, such clarification or revision will be made by addendum. Any addendum to this RFP will become part of this RFP and part of any contract awarded as a result of this RFP.

Further, if a Proposer discovers any ambiguity, conflict, discrepancy, omission or other error in this RFP, immediately notify the contacts listed on the cover page of such error and request clarification or modification to the document. The OIG shall make RFP modifications by addendum, provided that any such modifications would not materially benefit or disadvantage any particular Proposer.

If a Proposer fails to notify the OIG of a known error, or an error that reasonably should have been known, prior to the proposal submission deadline, the Proposer shall assume the risk. If awarded the contract, the Proposer shall not be entitled to additional compensation or time by reason of the error or its late correction.

There are no designated dates for the release of addenda. Therefore, interested Proposers should check the OIG's website on a daily basis from time of RFP issuance through bid opening. It is the sole responsibility of the Proposer to be knowledgeable of all addenda related to this procurement.

All RFP addenda will be issued on the OIG website at the following address:

[www.ig.ny.gov/doing-business-oig](http://www.ig.ny.gov/doing-business-oig)

### **Submission of a Complete Three-Part Proposal**

Proposers must submit via email a searchable, PDF version of their proposal.

- A Proposal Checklist is located in Appendix C to assist Proposers in compilation of proposals.
- The email subject line should identify the RFP and be sent to [Procurement@ig.ny.gov](mailto:Procurement@ig.ny.gov) by the deadline outlined below.
- Each Proposal component (Technical, Cost, and Administrative) must be separate files. If due to file size, the components must be submitted in separate emails, that is acceptable only if all components are received by the Submission

Deadline.

**Proposals should be addressed to:**

Offices of the Inspector General  
Empire State Plaza  
Agency Building #2, 16<sup>th</sup> Floor  
Albany NY 12223

Submission of proposals, or proposals received in a manner other than as described in these instructions will not be accepted. ***Late proposals will not be considered for award.***

A complete package (Technical, Cost, and Administrative Proposals) must be received by **12:00 P.M. ET on December 5, 2023.**

**Proposal Ownership**

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

**Debriefings**

Unsuccessful Proposers shall be notified upon the OIG's selection of a Contractor. Consistent with New York State Finance Law §163, Proposers may, within fifteen (15) calendar days of notification of selection/non-selection, request a debriefing to discuss the evaluation of their proposal.

**Evaluation and Award Criteria**

**General Information**

The OIG will evaluate each proposal on the basis of "Best Value." This means that the proposal that "optimizes quality, cost, and efficiency among responsive and responsible" Proposers shall be selected for award (State Finance Law, Article 11, § 163).

During the evaluation process, the OIG may require clarifying information from a Proposer. If specific sections of the written proposal require clarification, the OIG will identify the section(s) and information requested in writing. The Proposer should respond by the deadline stated in the correspondence. In addition, the OIG may use the proposal, information obtained through any interviews, and the OIG's own investigation of a Proposer's qualifications, experience, ability or financial standing, and any other material or information in the course of evaluation and selection under this RFP. The State reserves the right to contact other sources not necessarily identified in the proposal to obtain information.

**Submission Review**

The OIG will examine all proposals that are received in a proper and timely manner. Proposals that are materially deficient in meeting the submission requirements or have

omitted material documents, in the sole opinion of the OIG, may be rejected.

## **Evaluation and Scoring**

### **Technical Evaluation (70 Points)**

An Evaluation Panel will independently score each Technical Proposal that meets the submission requirements of this RFP. The Evaluation Panel will score Technical Proposals individually to identify Proposers with the highest probability of satisfactorily providing the services required. Evaluations will be based on the Proposer's demonstration of its ability to provide the services required through its Technical Proposal. Individual Panel member scores will be averaged to calculate a technical score for each responsive Proposer.

### **MWBE Diversity Practices (5 Points)**

MWBE Diversity Practices will be evaluated based upon the Proposer's responses to the Questionnaire developed by the New York State Division of Minority and Women's Business Development, and found in Form 6.1. This Questionnaire consists of eight (8) questions for Proposers to answer. Some questions request documentation be provided to support certain answers. Additional scoring information for diversity practices can be found in Form 6.2.

### **Cost Evaluation (25 Points)**

Cost Proposals will be evaluated on a pre-determined formula using the information provided in Form 1. The maximum score (25 points) will be allocated to the proposal with the lowest cost according to this formula. All other proposals will receive a proportionate score to the proposal with the lowest cost, according to the following formula:

Cost points awarded = (25 potential points) X (Low Blended Rate / Proposer's Blended Rate)

### **Finalists and Interviews**

An initial composite score for each responsive Proposer will be calculated by adding the Technical Proposal points and MWBE Diversity Practices points. The Finalist Proposers will be the Proposers with the three highest initial composite scores and any Proposer within ten (10) percent of the average initial composite score of the top-three ranked Proposers.

Finalists will be notified of the date, location, and time of their interview. The interview will be designed to allow Finalists to demonstrate their ability to provide the required services. The key personnel who would be responsible for providing the required services should be present and participate in the interview.

Further information with regard to the format of this stage of the evaluation may be provided to the Finalists prior to the interview. The interview should substantiate the characteristics and attributes claimed by the Finalists in the written response to the

RFP. However, the interviews will not be an opportunity to cure material omissions in Finalists proposals and are not a substitute for a well-written proposal.

### **Final Composite Score**

The final composite score for the Finalist Proposers will be calculated by adding the final Technical Proposal points, MWBE Diversity Practices points, and Cost Proposal points for each. The Proposer with the highest final composite score will be identified and selected as the successful Proposer.

### **Award of Contract and Debriefing Process**

#### **Contract Award**

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

Notification of selection/non-selection will be sent to Proposer by email.

Contract award is subject to approval of the Office of the New York State Attorney General and the Office of the New York State Comptroller.

Upon contract award, public announcements or news releases pertaining to the contract shall not be made without the prior written consent of the OIG.

Upon notification of selection, the following administrative forms will be required:

- State Finance Law Section 163(4) (g) imposes certain reporting requirements on contractors doing business with New York State. Concerning these reporting requirements, the selected Firm agrees to complete and submit an initial planned employment data report. The selected Proposer also agrees to submit an annual employment report by May 15 of each year of the contract.
- A Sales Tax Certification is required for review and approval of the contract by the State Comptroller's Office.
- Proof of Workers' Compensation and Disability Insurance as required by Sections 57 and 220 of the New York State Workers' Compensation Law (WCL).

These forms can be reviewed in Appendix B (Sample Contract/Post Award Forms) of the RFP.

#### **Debriefings**

Unsuccessful Proposers shall be notified upon the OIG's selection of a Contractor. Consistent with New York State Finance Law §163, Proposers may, within fifteen (15) calendar days of notification of selection/non-selection, request a debriefing to discuss the evaluation of their proposal.

## **Contractual Requirements**

### **Entire Agreement / Order of Precedence**

The written contract with the awarded Proposer shall be a State contract that includes the “Standard Clauses for New York State Contracts,” attached to this RFP as Appendix A.

The entire Agreement shall consist of the documents, appendices and forms listed below. Conflicts between these documents shall be resolved in the following order of precedence:

- Appendix A: Standard Clauses for NYS Contracts;
- The Contract, including all exhibits, appendices, forms and attachments;
- The RFP and any and all modifications and clarifications thereto; and
- The Contractor’s Proposal and any clarifications thereto.

The written contract will be modeled from the attached sample contract presented in Appendix B. Proposers offer their proposals accepting the terms and conditions of the sample contract.

### **Reservation of Rights**

The OIG reserves the right to:

- Reject any or all proposals received in response to the RFP;
- Withdraw the RFP at any time, at the OIG’s sole discretion;
- Accept a proposal and any subsequent proposal for the contract from someone other than the lowest cost Proposer consistent with the criteria for the evaluation of proposals;
- Make an award under the RFP in whole or in part;
- Disqualify any Proposer whose conduct and/or proposal fails to conform to the requirements of the RFP;
- Seek clarifications and revisions of proposals;
- Use proposal information obtained through site visits, management interviews and the State’s investigation of a Proposer’s qualifications, experience, ability or financial standing, and any material or information submitted by the Proposer in response to the agency’s request for clarifying information in the course of evaluation and/or selection under the RFP;
- Prior to the bid opening, amend the RFP specifications to correct errors or oversights, or to supply additional information, as it becomes available;
- Prior to the bid opening, direct Proposers to submit proposal modifications addressing subsequent RFP amendments;
- Change any of the scheduled dates;
- Eliminate any mandatory, non-material specifications that cannot be complied with by all of the prospective Proposers;
- Waive any requirements that are not material;

- Negotiate with the successful Proposer within the scope of the RFP in the best interests of the State;
- Conduct contract negotiations with the next responsible Proposer, should the OIG be unsuccessful in negotiating with the selected Proposer;
- Utilize any and all ideas submitted in the proposals received;
- Request best and final offers;
- 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 a Proposer's proposal and/or to determine a Proposer's compliance with the requirements of the solicitation, and;
- Negotiate with the next highest-rated, qualified Proposer for purposes of executing a contract, if it is subsequently determined by the OIG that the successful Proposer is not responsible.

### **Freedom of Information Law**

New York State's Freedom of Information Law (FOIL) (Public Officers Law, Article 6, Sections 84-90), available at: <https://www.dos.ny.gov/coog/foil2.html>, promotes the public's right to know the process of governmental decision-making and grants maximum public access to governmental records. All proposals submitted in response to this RFP may be subject to disclosure under FOIL.

However, pursuant to Section 87(2)(d) of FOIL, a State agency may deny access to those portions of proposals or portions of a successful Proposer's contract which are "trade secrets" or submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise and which, if disclosed, would cause substantial injury to the competitive position of the subject enterprise.

Please note that all information that a Proposer may claim as proprietary, copyrighted or rights- reserved is not necessarily protected from disclosure under FOIL.

If there is information in a Proposer's proposal that a Proposer claims meets the definition set forth in Section 87(2)(d), the Proposer should indicate so on Form 10 and provide a letter in its Administrative Proposal outlining any specific concerns.

Failure to identify the information which a Proposer believes should be protected by Section 87(2)(d) may result in such information being disclosed if a request is received.

It is a Proposer's responsibility to consult an attorney with any questions the Proposer may have about New York State's Freedom of Information Law. All work products described herein may also be subject to FOIL disclosure.

The State will not honor any attempt by a Proposer either to designate its entire bid proposal as proprietary and/or to claim copyright protection for its entire proposal.

The selected Proposer must provide to the OIG all information, records, and other



written material it produces, possesses, or relies upon if such material is the object of a legitimate request to the OIG pursuant to FOIL.

### **Ethics / Ethics Requirements**

The Proposer and its subcontractors shall not engage any person who is, or has been at any time, in the employ of the State to perform services in violation of the provisions of the New York Public Officers Law, other laws applicable to the service of State employees, and the rules, regulations, opinions, guidelines or policies promulgated or issued by the New York State Commission on Ethics and Lobbying in Government (COELIG), or its predecessors and successors (collectively, the "Ethics Requirements").

The Proposer certifies that all of its employees and those of its subcontractors who are former employees of the State and who are assigned to perform services under any resulting contract shall be assigned in accordance with all Ethics Requirements. During the Term, no person who is employed by the Proposer or its subcontractors and who is disqualified from providing services under any resulting contract pursuant to any Ethics Requirements may share in any net revenues of the Proposer or its subcontractors derived from any resulting contract.

The Proposer shall identify and provide the State with notice of those employees of the Proposer and its subcontractors who are former employees of the State that are proposed to perform services under any resulting contract, and ensure that such employees comply with all applicable laws and prohibitions. The State may request that the Proposer provide it with whatever information the State deems appropriate about each such person's engagement, work cooperatively with the State to solicit advice from COELIG, or its predecessors and successors, and, if deemed appropriate by the State, instruct any such person to seek the opinion of COELIG or its predecessors and successors. The State shall have the right to withdraw or withhold approval of any subcontractor if utilizing such Subcontractor for any work performed hereunder would be in conflict with any of the Ethics Requirements.

The State shall have the right to terminate any resulting contract at any time if any work performed hereunder is in conflict with any of the Ethics Requirements.

### **Vendor Responsibility Determination**

The OIG will conduct a review of the selected Proposer's Vendor Responsibility Questionnaire (Form 7) to provide reasonable assurances that the Proposer is responsible.

The OIG will make a finding of responsibility or non-responsibility before making a contract award, considering any information that comes to its attention concerning the Proposer's responsibility.

If the OIG identifies potentially negative information in its review, the OIG will notify the Proposer. If the OIG makes a preliminary finding that the Proposer is non-responsible,

the OIG will detail in writing to the Proposer the reasons(s) for the preliminary determination, and will provide an opportunity for the Proposer to respond before the determination is finalized.

A Proposer awarded a contract is required to update its responsibility determination if a material event occurs requiring an amendment. The awarded Proposer is also required to update vendor responsibility questionnaires as new information becomes available.

The Proposer awarded a contract shall at all times during the contract term remain responsible. During the term of this contract, any changes in the provided Questionnaire shall be disclosed to the OIG, in writing, in a timely manner. Failure to make such disclosure may result in a determination of non-responsibility and termination of the contract. Furthermore, the awarded Proposer agrees, if requested by the OIG, to present evidence of its continuing legal authority to do business in New York State, its integrity, experience, ability, prior performance, and organizational and financial capacity.

The OIG, in its sole discretion, reserves the right to suspend any or all activities under the contract, at any time, when it discovers information that calls into question the responsibility of the awarded Proposer. In the event of such suspension, the awarded Proposer will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the awarded Proposer must comply with the terms of the suspension order. Contract activity may resume at such time as the OIG issues a written notice authorizing a resumption of performance under the contract.

Upon written notice to the awarded Proposer and a reasonable opportunity to be heard by the appropriate OIG staff, the contract may be terminated by the OIG at the Proposer's expense where the Proposer is determined by the OIG to be non-responsible. In such event, the OIG may complete contractual requirements in any manner it deems advisable and pursue available legal or equitable remedies for breach.

The OIG reserves the right to terminate a contract for non-responsibility, including failure to disclose information.

This provision shall also apply to any proposed subcontractor performing services under the resulting contract in excess of \$100,000.

### **New York State Public Officers Law**

Contractors, consultants, vendors, and subcontractors may hire former State agency or authority employees. However, as a general rule and in accordance with New York Public Officers Law, former employees of the State agency or authority may neither appear nor practice before the State agency or authority, nor receive compensation for services rendered on a matter before the State agency or authority, for a period of two years following their separation from State agency or authority service. In addition, former State agency or authority employees are subject to a "lifetime bar" from appearing before the

State agency or authority or receiving compensation for services regarding any transaction in which they personally participated or which was under their active consideration during their tenure with the State agency or authority.

### **Minority- and Women-Owned Business Enterprise (MWBE)**

New York State certified Minority- and Women-Owned Business Enterprise (MWBE) may request that their Proposer's contact information be included on a list of MWBE Proposers interested in serving as a subcontractor for this procurement. The listing will be publicly posted on the OIG's website for reference by the bidding community. A Proposer requesting inclusion on this list should send contact information and a copy of its certification to [Procurement@ig.ny.gov](mailto:Procurement@ig.ny.gov). Nothing prohibits an MWBE from submitting a proposal as a prime contractor.

### **NYS Executive Law Article 15-A**

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 OIG is required to promote opportunities for the maximum feasible participation of New York State-certified MWBE and the employment of minority group members and women in the performance of OIG contracts.

### **Business Participation Opportunities for MWBEs**

For purposes of this solicitation, the OIG hereby establishes an overall goal of 30% for MWBE participation, 15% for New York State-certified Minority-owned Business Enterprises (MBE) participation and 15% for New York State-certified Women-owned Business Enterprises (WBE) participation (based on the current availability of qualified MBEs and WBEs). A 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 Proposer agrees that the OIG 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 OIG will evaluate a Contractor's "good faith efforts," refer to 5 NYCRR 142.8.

The Proposer 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 30 percent of the total value of the contract.

In accordance with 5 NYCRR 142.13, the Proposer further acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract resulting from this RFP, such finding constitutes a breach of Contract and the OIG 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 Proposer 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 Proposer may arrange to provide such evidence via a non-electronic method by contacting the OIG's Contracts Office at [Procurement@ig.ny.gov](mailto:Procurement@ig.ny.gov).

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

- A. An 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 OIG for review and approval.

The OIG will review the submitted MWBE Utilization Plan and advise the Proposer of the OIG's acceptance or issue a notice of deficiency within 30 days of receipt.

- B. If a notice of deficiency is issued, the Proposer will be required to respond to the notice of deficiency within seven (7) business days of receipt by submitting to the Offices of the New York State Inspector General, Empire State Plaza Agency Building #2, 16th Floor, Albany NY 12223, a written remedy. If the written remedy that is submitted is not timely or is found by the OIG to be inadequate, the OIG shall notify the Proposer and direct the Proposer 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 OIG may disqualify a Proposer as being non-responsive under the following circumstances:

- If a Proposer fails to submit an MWBE Utilization Plan;
- If a Proposer fails to submit a written remedy to a notice of deficiency;
- If a Proposer fails to submit a request for waiver; or
- If the OIG determines that the Proposer has failed to document good faith efforts.

The successful Proposer 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 OIG, but must be made no later than prior to the submission of a request for final payment on the Contract.

The successful Proposer will be required to submit a quarterly MWBE Contractor Compliance & Payment Report to the OIG by the 10<sup>th</sup> 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 Proposer agrees with all of the terms and conditions of Appendix A Standard Clauses for All New York State Contracts including Clause 12 - Equal Employment Opportunities for Minorities and Women Or Authority equivalent to Appendix A. The Proposer 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 Proposer, shall 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, gender identity or expression, 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 Proposer will be required to submit a Minority and Women-owned Business Enterprise and Equal Employment Opportunity Policy Statement, Form 5.4, to the OIG with its bid or proposal.

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

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

Further, pursuant to Article 15 of the Executive Law (Human Rights Law), and 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, gender identity or expression, 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.

**Service-Disabled Veteran-Owned Business Enterprises (SDVOB)  
NYS Veterans' Services Law Article 3**

Article 3 of the New York State Veterans' Services Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Enterprises (SDVOBs), thereby further integrating such businesses into New York State's economy. OIG 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 OIG contracts.

In recognition of the service and sacrifices made by service-disabled veterans and their economic activity in doing business in New York State, CONTRACTORS are strongly encouraged and expected to consider SDVOBs in the fulfillment of the requirements of the AGREEMENT. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles. For purposes of this procurement, OIG conducted a comprehensive search and determined that the AGREEMENT 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 AGREEMENT for the provision of services and materials. The directory of New York State Certified SDVOBs can be viewed at: <https://online.ogs.ny.gov/SDVOB/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.

## APPENDIX A

### STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

#### TABLE OF CONTENTS

1.	Executory Clause	3
2.	Non-Assignment Clause	3
3.	Comptroller's Approval	3
4.	Workers' Compensation Benefits	3
5.	Non-Discrimination Requirements	3
6.	Wage and Hours Provisions	3-4
7.	Non-Collusive Bidding Certification	4
8.	International Boycott Prohibition	4
9.	Set-Off Rights	4
10.	Records	4
11.	Identifying Information and Privacy Notification	4
12.	Equal Employment Opportunities For Minorities and Women	5
13.	Conflicting Terms	5
14.	Governing Law	5
15.	Late Payment	5
16.	No Arbitration	5
17.	Service of Process	5
18.	Prohibition on Purchase of Tropical Hardwoods	5-6
19.	MacBride Fair Employment Principles	6
20.	Omnibus Procurement Act of 1992	6
21.	Reciprocity and Sanctions Provisions	6
22.	Compliance with Breach Notification and Data Security Laws	6
23.	Compliance with Consultant Disclosure Law	6
24.	Procurement Lobbying	7
25.	Certification of Registration to Collect Sales and Compensating Use Tax by Certain State Contractors, Affiliates and Subcontractors	7
26.	Iran Divestment Act	7
27.	Admissibility of Contract	7

## **STANDARD CLAUSES FOR NYS CONTRACTS**

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licensor, licensee, lessor, lessee or any other party):

**1. EXECUTORY CLAUSE.** In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

**2. NON-ASSIGNMENT CLAUSE.** In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

**3. COMPTROLLER'S APPROVAL.** In accordance with Section 112 of the State Finance Law, if this contract exceeds \$50,000 (or \$75,000 for State University of New York or City University of New York contracts for goods, services, construction and printing, and \$150,000 for State University Health Care Facilities) or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$25,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services, either for itself or its customer agencies by the Office of General Services Business Services Center, is required when such contracts exceed \$85,000. Comptroller's approval of contracts established as centralized contracts through the Office of General Services is required when such contracts exceed \$125,000, and when a purchase order or other procurement transaction issued under such centralized contract exceeds \$200,000.

**4. WORKERS' COMPENSATION BENEFITS.** In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the



Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

**5. NON-DISCRIMINATION REQUIREMENTS.** To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment, nor subject any individual to harassment, because of age, race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status or because the individual has opposed any practices forbidden under the Human Rights Law or has filed a complaint, testified, or assisted in any proceeding under the Human Rights Law. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

**6. WAGE AND HOURS PROVISIONS.** If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

**7. NON-COLLUSIVE BIDDING CERTIFICATION.** In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

**8. INTERNATIONAL BOYCOTT PROHIBITION.** In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2 NYCRR § 105.4).

**9. SET-OFF RIGHTS.** The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

**10. RECORDS.** The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, the "Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The

State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute) provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

**11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.** (a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

**12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.** In accordance with Section 312 of the Executive Law and 5 NYCRR Part 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real

property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and

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

Contractor will include the provisions of "(a), (b) and (c)" above, in every subcontract over \$25,000.00 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 Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this clause. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

**13. CONFLICTING TERMS.** In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

**14. GOVERNING LAW.** This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

**15. LATE PAYMENT.** Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

**16. NO ARBITRATION.** Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

**17. SERVICE OF PROCESS.** In addition to the methods of service allowed by the State Civil Practice Law & Rules (CPLR), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

**18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.** The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in § 165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

**19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES.** In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

**20. OMNIBUS PROCUREMENT ACT OF 1992.** It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority- and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development  
Division for Small Business and Technology Development  
625 Broadway  
Albany, New York 12245  
Telephone: 518-292-5100

A directory of certified minority- and women-owned business enterprises is available from:

NYS Department of Economic Development  
Division of Minority and Women's Business Development  
633 Third Avenue 33rd Floor  
New York, NY 10017  
646-846-7364  
email: <mailto:mwbebusinessdev@esd.ny.gov>  
<https://ny.newnycontracts.com/FrontEnd/searchcertifieddirectory.asp>

The Omnibus Procurement Act of 1992 (Chapter 844 of the Laws of 1992, codified in State Finance Law § 139-i and Public Authorities Law § 2879(3)(n)–(p)) requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority- and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

**21. RECIPROCITY AND SANCTIONS PROVISIONS.** Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively, codified in State Finance Law § 165(6) and Public Authorities Law § 2879(5)) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 2023, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii.

**22. COMPLIANCE WITH BREACH NOTIFICATION AND DATA SECURITY LAWS.** Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law §§ 899-aa and 899-bb and State Technology Law § 208).

**23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW.** If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4)(g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

**24. PROCUREMENT LOBBYING.** To the extent this agreement is a “procurement contract” as defined by State Finance Law §§ 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law §§ 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

**25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.**

To the extent this agreement is a contract as defined by Tax Law § 5-a, if the contractor fails to make the certification required by Tax Law § 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law § 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

**26. IRAN DIVESTMENT ACT.** By entering into this Agreement, Contractor certifies in accordance with State Finance Law § 165-a that it is not on the “Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012” (Prohibited Entities List) posted at: <https://ogs.ny.gov/iran-divestment-act-2012>

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law § 165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

**27. ADMISSIBILITY OF REPRODUCTION OF CONTRACT.** Notwithstanding the best evidence rule or any other legal principle or rule of evidence to the contrary, the Contractor acknowledges and agrees that it waives any and all objections to the



admissibility into evidence at any court proceeding or to the use at any examination before trial of an electronic reproduction of this contract, in the form approved by the State Comptroller, if such approval was required, regardless of whether the original of said contract is in existence.

**APPENDIX B: SAMPLE CONTRACT / POST AWARD FORMS**

**CONTRACT NO. \_\_\_\_\_**

**THE OFFICES OF THE NEW YORK STATE INSPECTOR GENERAL  
AND**

\_\_\_\_\_  
**FOR INDEPENDENT MONITOR SERVICES  
OF THE ORANGE COUNTY INDUSTRIAL DEVELOPMENT AGENCY  
FOR THE PERIOD  
MARCH 1, 2024 THROUGH JULY, 2026**

THIS IS AN AGREEMENT (the "AGREEMENT") by and between the OFFICES OF THE NEW YORK STATE INSPECTOR GENERAL (hereinafter referred to as the "OIG" or "INSPECTOR GENERAL"), and \_\_\_\_\_(hereinafter referred to as "\_\_\_\_\_" or "CONTRACTOR"), with offices located at \_\_\_\_\_.

**WITNESSETH**

**WHEREAS**, On May 12th, 2023, the State Inspector General, in accordance with New York State General Municipal Law (GMU) Chapter 24, Article 18-A, Title 2, §912\*2 (§912\*2) was charged with the appointment of an Independent Monitor (Monitor) for the Orange County Industrial Development Agency (OCIDA)

**WHEREAS**, The purpose of the Monitor is to ensure transparency, accountability, and lawful conduct in all OCIDA actions.

**WHEREAS**, to assist the Inspector General, a Request for Proposals (RFP) for Monitor services for the OCIDA was issued on November 13, 2023, a copy of which is incorporated hereto as, Appendix B; and

**WHEREAS**, after an evaluation of the proposals submitted for the performance of such work, the Inspector General has determined that \_\_\_\_\_ is a responsible and qualified entity to perform the Monitor services based upon its Proposal dated \_\_\_\_\_, a copy of which is incorporated hereto as Appendix C; and

**WHEREAS**, the CONTRACTOR is willing to serve as the appointed Monitor, as outlined in the RFP and herein;

**NOW, THEREFORE**, in consideration of the terms and conditions of this AGREEMENT, it is hereby mutually agreed upon by and between the OIG and the CONTRACTOR (each individually a "PARTY" and collectively "PARTIES"), as follows:

**SERVICES**

The OIG does hereby engage \_\_\_ to provide Independent Monitor services consistent with Section 1 of the RFP.

CONTRACTOR shall be responsible for the following:

Within thirty (30) days of appointment, review any modifications to the OCIDA's UTEP (as governed by GMU Chapter 24, Article 18-A, Title 1, §874), and contracts or financial assistance proposed for consideration by the OCIDA made by the board on or after May 12, 2023, and advise the board or employees of the OCIDA, in writing, of the Monitor's disapproval of any such changes.

- Attend all public meetings of the OCIDA, including executive sessions, though the Monitor may be excused from executive sessions when proposed, pending, or current litigation involving the Monitor is being discussed.
- Attend all OCIDA committee meetings, as well as any other public or private meetings, events, receptions, or engagements that include discussion or conducting of OCIDA business by board members or staff of the OCIDA, as deemed necessary by the Monitor.
- Review documents and records of the OCIDA, including but not limited to databases, planning documents, financial assistance agreements, and contracts consistent with all applicable state and federal statutes.
- Receive and review for compliance:
  - From the OCIDA Board: Copies of any meeting agendas and all resolutions and motions on such agenda for each board meeting (no less than 72 hours prior to such board meeting).
  - From Board Clerk: Proposed resolutions or motions for the purpose of approving a contract or any financial assistance for a project (no less than seven (7) days prior to such meeting).
  - If not provided with copies of proposed resolutions or motions in a timely manner as described in §912\*2, at the discretion of the Monitor and upon notice to the board, the item shall be removed, including board resolutions or motions, from consideration by the board at such meeting.
- Upon review, advise the board or employees of the OCIDA, in writing, in accordance with §912\*2, of the existence of violations of the OCIDA's UTEP (as governed by GMU §874), actual or potential conflicts of interest, or violations of law arising from a proposed contract or financial assistance agreement under consideration.
- Upon review, advise the board or employees of the OCIDA, in writing, in accordance with §912\*2, of the Monitor's disapproval of any changes to the OCIDA's UTEP.
- Provide the board consultation on the adoption of an appropriate conflict of interest policy, or the revision of an existing policy, in accordance with §912\*2.
- Advise the board and any OCIDA officers, employees, or agents on any trainings deemed necessary.
- Undertake an enhanced review of the OCIDA annual budget and, where

appropriate, make recommendation to the OCIDA for potential cost savings, including but not limited to shared services agreements.

- Receive and review quarterly and annual reports from the OCIDA detailing its operational status.
- Provide semi-annual reports to the OIG, governor, temporary president of the Senate, and the speaker of the Assembly on the fiscal and operational status of the OCIDA.
- Advise the OCIDA Board on the development and revision of its goals, implementation of priorities, and budgetary decision-making.

CONTRACTOR shall provide the following reporting:

CONTRACTOR shall submit semi-annual reports to the INSPECTOR GENERAL, governor, temporary president of the Senate, and speaker of the Assembly on the fiscal and operational status of the OCIDA. The first report to be submitted within the first six months from the execution of this agreement.

CONTRACTOR shall also provide the INSPECTOR GENERAL, governor, temporary president of the Senate, and speaker of the Assembly a final report of the CONTRACTORS tenure prior to the conclusion of the term of this AGREEMENT.

CONTRACTOR agrees to perform and furnish the services required in connection herewith in accordance with all conditions, covenants and representations contained in this AGREEMENT.

### TERM

\_\_\_\_\_ agrees to perform the aforesaid services of this AGREEMENT beginning March 1, 2024 and terminating upon the submission of a final report to the Inspector General and other entities described in the Services section of this agreement.

### COMPENSATION

The OIG shall compensate the CONTRACTOR a sum not-to-exceed (NTE) \$250,000 per each contract year.

The agreed to hourly rate for the duration of this AGREEMENT is: \_\_\_\_\_ per hour.

The above rates shall apply to all hourly compensation paid under this AGREEMENT. The hourly rates are inclusive of personnel expenses, travel, postage, reproduction and all other expenses.

CONTRACTOR will be compensated only for services that are performed in accordance with the services described in Section I of this AGREEMENT.

Payments will be made only for actual hours worked and shall not exceed the proposed total cost for each Plan Year.

The CONTRACTOR acknowledges that it will not receive payment on any invoices submitted under this AGREEMENT unless or until it complies with the State Comptroller's electronic payment procedures.

Fees shall become payable by the STATE upon receipt of an invoice in accordance with this section. Properly invoiced fees not paid within 30 days of receipt of the invoice and services will be paid with interest in accordance with Article 11-A of New York State Finance Law. Any and all such invoices shall contain a detailed itemization of requested compensation which shall, at the minimum include:

- The number assigned to this AGREEMENT (\_\_\_),
- the CONTRACTOR's New York State Vendor Identification Number,
- an invoice number,
- an invoice date;
- Name(s) and title(s) (as identified in this section) of the CONTRACTOR staff providing services;
- Name(s) of OIG employees, or their designee(s), requesting the services and directly involved;
- Specific identification of the services provided;
- Amounts for rates, hours and total compensation;
- and Dates upon which the services were requested and performed.

All invoices should be submitted electronically to the OIG at [Accounts.Payable@IG.NY.GOV](mailto:Accounts.Payable@IG.NY.GOV)

The CONTRACTOR shall not be reimbursed for the preparation of invoices or billing statements or for the time spent correcting any error in previously submitted invoices or billing statements.

#### RELATIONSHIP OF PARTIES

The relationship of the CONTRACTOR to the OIG shall be that of an independent contractor. In accordance with such status as an independent contractor, the CONTRACTOR covenants and agrees to act consistent with such status: to neither hold itself out as, nor claim to be, an officer or employee of the OIG or the State by reason hereof; and not to, by reason hereof, make any claim, demand, or application to or for any right or privilege applicable to an officer or employee of the OIG or the State, including but not limited to Workers' Compensation coverage, unemployment insurance benefits, Social Security coverage, or retirement membership credit.

#### STAFF

The CONTRACTOR shall assign \_\_\_\_\_ as the personnel participating in this AGREEMENT, but is not limited in its utilization of other personnel for its duties hereunder, subject to the approval of the OIG.

CONTRACTOR staff assigned to work on this project shall be subject to approval by the OIG. It is highly desirable that staff assigned to work on a project continue to work on the project until completion. The OIG reserves the right to require security clearance and criminal history checks of the CONTRACTOR and/or staff.

The CONTRACTOR specifically represents and agrees that its members, officers, employees, agents, consultants, shareholders, and subcontractors have and shall possess the experience, knowledge, and character necessary to qualify them individually for the particular duties performed hereunder. All employees of the CONTRACTOR, or of its subcontractors, who shall perform the services under this AGREEMENT, shall possess the necessary qualifications, training, licenses, and permits as may be required within the jurisdiction where the services specified are to be provided or performed, and shall be legally entitled to work in such jurisdiction. All persons, corporations, or other legal entities that perform services under this AGREEMENT on behalf of CONTRACTOR shall, in performing the services, comply with all applicable Federal and State laws concerning employment in the United States.

This AGREEMENT is intended to secure the professional services of the CONTRACTOR because of its ability and shall not be assigned, conveyed, transferred, or disposed of by the CONTRACTOR.

The CONTRACTOR shall be fully responsible for performance of work by and conduct of its staff and subcontractor's staff. The OIG reserves the right to request removal of any CONTRACTOR staff or subcontractor staff if, in the OIG's sole discretion, such staff is not performing in accordance with the AGREEMENT.

The CONTRACTOR shall notify the OIG immediately of any proposed changes in staff. The OIG has an absolute right and discretion to approve or disapprove any proposed changes in staff. The OIG, in each instance, will be provided with a summary of experience of the proposed substitute and an opportunity to interview that person, prior to giving its approval or disapproval; approval shall not be unreasonably withheld. The replacement staff must have the skills, experience and expertise that is comparable to or better than that of the person they will replace, and will be provided at the same or lower hourly rate.

The CONTRACTOR and its staff must comply with the requirements of Sections 73 and 74 of the Public Officers Law, other State codes, rules, regulations and executive orders establishing ethical standards for the conduct of business with the State. Failure to comply with these requirements may result in termination of the AGREEMENT and/or other civil or criminal proceedings as required by law.

#### SUBCONTRACTING

The CONTRACTOR agrees not to subcontract any of its services, unless as indicated in its proposal, without the prior written approval of the OIG. Approval shall not be unreasonably withheld upon receipt of written request to subcontract.

The CONTRACTOR may arrange for a portion/s of its responsibilities under this AGREEMENT to be subcontracted to qualified, responsible subcontractors, subject to approval of the OIG. If the CONTRACTOR determines to subcontract a portion of the services, the subcontractors must be clearly identified and the nature and extent of its involvement in and/or proposed performance under this AGREEMENT must be fully explained by the CONTRACTOR to the OIG. The CONTRACTOR retains ultimate responsibility for all services performed under the AGREEMENT.

All subcontracts shall be in writing and shall contain provisions, which are functionally identical to, and consistent with, the provisions of this AGREEMENT including, but not limited to, the body of this AGREEMENT, Appendix A – Standard Clauses for New York State Contracts dated June 2023, and Appendix B – Request for Proposals dated November 13, 2023. Unless waived in writing by the OIG, all subcontracts between the CONTRACTOR and subcontractors shall expressly name the State, through the OIG, as the sole intended third party beneficiary of such subcontract. The OIG reserves the right to review and approve or reject any subcontract, as well as any amendment to said subcontract(s), and this right shall not make the OIG or the State a party to any subcontract or create any right, claim, or interest in the subcontractor or proposed subcontractor against the OIG.

The OIG reserves the right, at any time during the term of the AGREEMENT, to verify that the written subcontract between the CONTRACTOR and subcontractors is in compliance with all provisions of this Section and any subcontract provisions contained in this AGREEMENT.

The CONTRACTOR shall give the OIG immediate notice in writing of the initiation of any legal action or suit which relates in any way to a subcontract with a subcontractor or which may affect the performance of the CONTRACTOR's duties under the AGREEMENT. Any subcontract shall not relieve the CONTRACTOR in any way of any responsibility, duty and/or obligation of the AGREEMENT.

#### RESERVATIONS

The OIG reserves the right to employ other consultants and contractors in connection with its responsibilities and functions. In that event, the CONTRACTOR will, as directed by the OIG, cooperate and work in harmony with such consultants and contractors.

#### OIG REPRESENTATIVES

The OIG, with the commencement of this AGREEMENT, designates as its representatives, \_\_\_\_\_ and \_\_\_\_\_, or their designee(s).

Such representatives shall request, oversee, supervise and accept performance of services performed by the CONTRACTOR and shall receive any required submissions. Whenever an agreement action is to be taken or approval for services is to be given by the OIG such action or approval may be given only by such representative(s) designated

pursuant to this Section.

All Notices under this AGREEMENT shall be directed to the representatives identified in this Section, or their designee(s).

The OIG may, on written notice, designate other individuals as its representatives.

#### CONFLICTS OF INTEREST

The CONTRACTOR has provided a form (Firm Assurance of No Conflict of Interest or Detrimental Effect), signed by an authorized executive or legal representative attesting that the CONTRACTOR's performance of the services does not and will not create a conflict of interest with, nor position the CONTRACTOR to breach any other contract currently in force with the State, that the CONTRACTOR will not act in any manner that is detrimental to any State project on which the CONTRACTOR is rendering services.

The CONTRACTOR hereby reaffirms the attestations made in its proposal and covenants and represents that there is and shall be no actual or potential conflict of interest that could prevent the CONTRACTOR's satisfactory or ethical performance of duties required to be performed pursuant to the terms of this AGREEMENT. The CONTRACTOR shall have a duty to notify the OIG immediately of any such actual or potential conflicts of interest.

In conjunction with any subcontract under this AGREEMENT, the CONTRACTOR shall obtain and deliver to the OIG, prior to entering into a subcontract, a Firm Assurance of No Conflict of Interest or Detrimental Effect form, signed by an authorized executive or legal representative of the subcontractor. The CONTRACTOR shall also require in any subcontracting agreement that the subcontractor, in conjunction with any further subcontracting agreement, obtain and deliver to the OIG a signed and completed Firm Assurance of No Conflict of Interest or Detrimental Effect form for each of its subcontractors prior to entering into a subcontract.

The OIG and the CONTRACTOR recognize that conflicts may occur in the future because the CONTRACTOR may have existing, or establish new, relationships. The OIG will review the nature of any relationships and reserves the right to terminate this AGREEMENT for any reason, or for cause, if, in the judgment of the OIG, a real or potential conflict of interest cannot be cured.

#### PUBLIC OFFICERS LAW

Contractors, consultants, vendors, and subcontractors may hire former State Agency or Authority employees. However, as a general rule and in accordance with New York Public Officers Law, former employees of the State Agency or Authority may neither appear nor practice before the State Agency or Authority, nor receive compensation for services rendered on a matter before the State Agency or Authority, for a period of two years following their separation from State Agency or Authority service. In addition, former State Agency or Authority employees are subject to a "lifetime bar" from appearing before the



State Agency or Authority or receiving compensation for services regarding any transaction in which they personally participated or which was under their active consideration during their tenure with the State Agency or Authority.

### ETHICS REQUIREMENTS

The CONTRACTOR and its subcontractors shall not engage any person who is, or has been at any time, in the employ of the State to perform services in violation of the provisions of the New York Public Officers Law, other laws applicable to the service of State employees, and the rules, regulations, opinions, guidelines or policies promulgated or issued by the New York State Commission on Ethics and Lobbying in Government (COELIG), or its predecessors and successors (collectively, the "Ethics Requirements"). The CONTRACTOR certifies that all of its employees and those of its subcontractors who are former employees of the State and who are assigned to perform services under this AGREEMENT shall be assigned in accordance with all Ethics Requirements. During the term, no person who is employed by the CONTRACTOR or its subcontractors and who is disqualified from providing services under this AGREEMENT pursuant to any Ethics Requirements may share in any net revenues of the CONTRACTOR or its subcontractors derived from this AGREEMENT. The CONTRACTOR shall identify and provide the State with notice of those employees of the CONTRACTOR and its subcontractors who are former employees of the State that will be assigned to perform services under this AGREEMENT, and ensure that such employees comply with all applicable laws and prohibitions. The State may request that the CONTRACTOR provide it with whatever information the State deems appropriate about each such person's engagement, work cooperatively with the State to solicit advice from COELIG, or its predecessors and successors, and, if deemed appropriate by the State, instruct any such person to seek the opinion of the COELIG, or its predecessors and successors. The State shall have the right to withdraw or withhold approval of any subcontractor if utilizing such subcontractor for any work performed hereunder would be in conflict with any of the Ethics Requirements. The State shall have the right to terminate this AGREEMENT at any time if any work performed hereunder is in conflict with any of the Ethics Requirements.

### WARRANTIES

The CONTRACTOR warrants that it will perform services in good faith and in a professional manner and that the services will conform in all material respects to the description of such services set forth herein. The warranties expressly set forth in this AGREEMENT are in lieu of all other warranties, expressed or implied including, but not limited to, the implied warranties of merchantability and fitness for a particular purpose.

The CONTRACTOR warrants that its services shall be performed in accordance with applicable professional standards and that the CONTRACTOR shall correct, at no charge to the OIG or the State, services which fail to meet applicable professional standards and which result in obvious or patent errors in the progression of its work.

### PERFORMANCE MONITORING

The CONTRACTOR's performance will be assessed by the OIG according to the achievement of CONTRACTOR's contractual obligations in a timely and professional manner, as set forth herein. The OIG will utilize progress reports and periodic meetings to ensure that the project is carried out on a timely basis and results in effective recommendations and work products.

### INDEMNIFICATION AND LIABILITY

The CONTRACTOR shall be fully liable without monetary limitation for any act or omission of the CONTRACTOR, its employees, subcontractors and agents, and shall fully indemnify and hold harmless the State from suits, actions, damages and costs of every name and description relating to personal injury and damage to real or tangible personal property or intellectual property caused by fault or negligence of CONTRACTOR, its employees, subcontractors or agents arising from the CONTRACTOR's performance of the AGREEMENT, provided, however, that the CONTRACTOR shall not be obligated to indemnify the State for that portion of any claim, loss or damage arising hereunder due to the negligent act or failure to act by the State or the acts of third parties, other than those provided by the CONTRACTOR to perform under the AGREEMENT. In connection with the foregoing, the State shall give the CONTRACTOR: (i) prompt written notice of any action, claim or threat of suit, (ii) the opportunity to take over, settle or defend such action, claim or suit at the CONTRACTOR's sole expense, and (iii) assistance in the defense of any such action at the expense of the CONTRACTOR.

Notwithstanding the above, the CONTRACTOR and the OIG/State shall not be liable for any consequential, indirect or special damages of any kind which may result from such performance, including, without limitation, damages resulting from loss of use or loss of profit by the OIG/State, the CONTRACTOR, or by others. CONTRACTOR shall not be liable for any missed or lost revenue associated with, or related to, the services provided pursuant to this contract.

### REPORTS AND FINDINGS

Any and all reports and findings rendered to the OIG by the CONTRACTOR shall be the exclusive property of the OIG and subject to its exclusive use and control. The CONTRACTOR hereby waives any and all rights to such reports and findings and the control thereof.

### OWNERSHIP

CONTRACTOR will retain all rights, title and interest in and to all materials developed by it prior to the effective date of this AGREEMENT and/or developed outside of CONTRACTOR's obligations hereunder.

### CONFIDENTIALITY

CONTRACTOR agrees that it will not use confidential or proprietary information disclosed to CONTRACTOR in connection with the services (Confidential Information) for any purpose other than in connection with the services. The CONTRACTOR is fully responsible for its staff, its subcontractor(s) and any subcontractor's staff with regard to Confidential Information.

Information which falls into any of the following categories shall not be considered Confidential Information:

- information that is previously rightfully known to the CONTRACTOR without restriction on disclosure;
- information that becomes, from no breach of this AGREEMENT on the part of the CONTRACTOR, generally known in the relevant industry, or is otherwise publicly available; and
- information that is independently developed by CONTRACTOR without use of the Confidential Information.

Except as specifically permitted in this AGREEMENT, CONTRACTOR shall not, at any time, in any fashion, form or manner, divulge, disclose, communicate or use, any Confidential Information other than in connection with the services or as otherwise provided herein.

CONTRACTOR may disclose Confidential Information if such information is required to be disclosed by CONTRACTOR by any law, rule, regulation, judicial or administrative process or applicable professional standards, provided that, to the extent permitted by applicable law or regulation, the CONTRACTOR notifies the OIG prior to any such required disclosure.

CONTRACTOR agrees not to issue any press releases, give or make any presentations, or give to any print, electronic or other news media information regarding the services without the express advance written approval of OIG.

CONTRACTOR agrees that, as between the PARTIES, all Confidential Information in its possession is at all times the sole property of the State.

Notwithstanding anything herein to the contrary, CONTRACTOR shall have the right to retain one copy of the Confidential Information and any summaries, analyses, notes or extracts prepared by CONTRACTOR which are based on or contain portions of the Confidential Information evidencing its services for the State as required by law, regulation, professional standards or reasonable business practice.

CONTRACTOR shall retain all Confidential Information in confidence, exercising the same standard of care used by CONTRACTOR to protect its own confidential and proprietary information, to prevent the disclosure of Confidential Information to any third party. CONTRACTOR shall not use Confidential Information for any purpose other than in furtherance of its professional services for the OIG.

CONTRACTOR understands that if it breaches, or threatens to breach this AGREEMENT, the OIG shall have the right to seek all equitable and legal rights (including the right to seek injunctive relief) to prevent such breach and/or to be fully compensated (including reasonable legal fees) for losses or damages resulting from such breach. CONTRACTOR acknowledges that compensation for damages may not be sufficient and that injunctive relief to prevent or limit any breach of confidentiality may be the only viable remedy to fully protect the confidential or proprietary information identified in this AGREEMENT.

#### RECORDS ACCESS

OIG staff, others authorized by the OIG such as representatives of the federal government, or other State agencies authorized by State law, shall have access to and the right to examine the books, documents, work papers, documentation of charges, or other records of the CONTRACTOR, including any and all subcontractors, involved in transactions relating to this AGREEMENT during the contract period and for a period of six (6) years after final payment for said services.

#### WORK PAPER RETENTION AND AVAILABILITY

The work papers to be prepared by the CONTRACTOR during the AGREEMENT will be retained by the CONTRACTOR although copies thereof and access to them will be made available, upon request, to the OIG, representatives of the Federal government and State agencies when authorized by the OIG, and other State agencies authorized by existing law, for a period of six (6) years following the date of the final payment under the contract. All such requests, and their disposition, shall be authorized by the OIG.

The CONTRACTOR agrees to make personnel available to explain fully all data, materials, and work papers developed during the engagement for a period of six (6) years following the date of the final payment under the AGREEMENT.

#### DISPUTES AND DISSATISFACTION/CONFLICT RESOLUTION

In the event the OIG is dissatisfied with the CONTRACTOR's performance of the services provided under the AGREEMENT, including but not limited to a breach of the AGREEMENT on the part of the CONTRACTOR, the OIG shall notify the CONTRACTOR of the dispute in writing. In the event the CONTRACTOR has any disputes with the OIG, the CONTRACTOR shall notify the OIG in writing. Such notification in both cases shall hereinafter be referred to as "Notice of Conflict", or in the case of contract breach, "Notice of Default."

If either the OIG or the CONTRACTOR notifies the other of such dispute or dissatisfaction, the PARTY receiving the notification shall then make good faith efforts to amicably resolve the problem or settle the dispute, including meeting with the notifying PARTY's representatives to diligently attempt to reach a mutually satisfactory result. In the event of

a dispute, both PARTIES will continue to fulfill their performance obligations under the AGREEMENT.

Nothing shall limit either PARTY's ability to pursue all legal remedies. If the PARTIES are unable to amicably resolve the dispute after the steps described above, then either PARTY may seek legal or equitable relief in a court of competent jurisdiction in the State of New York.

#### TERMINATION

The OIG reserves the right to terminate the services of the CONTRACTOR, in whole or in part, upon thirty (30) days written notice for any reason, or immediately for cause. Upon notice of termination, the CONTRACTOR shall stop work immediately and complete only those specific assignments, if any, subsequently approved by the OIG. In the event of termination other than for cause, the CONTRACTOR shall be entitled to compensation for services performed through the date of termination that are accepted by the OIG, and for any subsequent services that are accepted by the OIG, rendered in connection with any successor consultants and contractors, including transfer of records, briefing and any other services deemed necessary or desirable by the OIG. The CONTRACTOR agrees to cooperate to the fullest respect with any successor consultants and contractors.

After receipt of the notice of termination, the CONTRACTOR shall exercise all reasonable diligence to accomplish the cancellation or diversion of its outstanding commitments covering personnel services and extending beyond the date of such termination to the extent that they relate to the performance of any work terminated by the notice.

The CONTRACTOR shall submit its termination claim to the OIG promptly after receipt of a notice of termination, but in no event later than 30 days from the effective date thereof, unless one or more extensions in writing are granted by the OIG upon written request of the CONTRACTOR within such 30-day period or authorized extension thereof. Upon failure of the CONTRACTOR to submit a termination claim within the time allowed, the OIG may determine, on the basis of available information, the amount, if any, due to the CONTRACTOR by reason of termination, and shall thereupon pay to the CONTRACTOR the amount so determined.

If the termination for cause results from unsatisfactory performance by the CONTRACTOR, the value of the work performed by the CONTRACTOR prior to termination shall be established by the OIG.

The CONTRACTOR agrees to transfer title to the OIG, and to deliver in the manner, at the time, and to the extent, if any, directed by the OIG, such information and work products for which the CONTRACTOR produced and received compensation by the OIG.

In addition, non-compliance with the procurement laws as noted in Section XXIV of this AGREEMENT will lead to contract termination.

### FORCE MAJEURE

Neither PARTY will be liable for losses, defaults, or damages under this AGREEMENT which result from delays in performing, or an inability to perform, all or any of the obligations or responsibilities imposed upon it pursuant to the terms and conditions of this AGREEMENT, due to or because of acts of God, the public enemy, acts of government, earthquakes, floods, civil strife, fire or any other cause beyond the reasonable control of the PARTY that was so delayed or so unable to perform, provided that such PARTY was not negligent and shall have used reasonable efforts to avoid and overcome such cause. Such PARTY will resume full performance of such obligations and responsibilities promptly upon removal of any such cause.

### COMPLIANCE WITH PROCUREMENT LAWS

By execution of this AGREEMENT, the CONTRACTOR certifies that information provided to the State with respect to the Vendor Responsibility Questionnaire, Procurement Lobbying Certifications, Contractor Disclosure Form A and Section 5-a of the Tax Law (Forms ST-220-TD and ST-220-CA) is complete, true and accurate.

The CONTRACTOR hereby acknowledges that the Vendor Responsibility Questionnaire and certification are made part of its proposal and thereby this AGREEMENT and that any misrepresentation of fact in the Questionnaire and attachments, or in any CONTRACTOR responsibility information that may be requested by the OIG, may result in termination of this AGREEMENT.

The CONTRACTOR shall at all times during the contract term remain responsible. During the term of this AGREEMENT, any changes in the provided Questionnaire shall be disclosed to the OIG, in writing, in a timely manner. Failure to make such disclosure may result in a determination of non-responsibility and termination of this AGREEMENT. Furthermore, the CONTRACTOR agrees, if requested by the OIG, to present evidence of its continuing legal authority to do business in New York State, its integrity, experience, ability, prior performance, and organizational and financial capacity.

The OIG, in its sole discretion, reserves the right to suspend any or all activities under this AGREEMENT, at any time, when it discovers information that calls into question the responsibility of the CONTRACTOR. In the event of such suspension, the CONTRACTOR will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the CONTRACTOR must comply with the terms of the suspension order. Contract activity may resume at such time as the OIG issues a written notice authorizing a resumption of performance under this AGREEMENT.

Upon written notice to the CONTRACTOR, and a reasonable opportunity to be heard by the appropriate OIG officials or staff, this AGREEMENT may be terminated by the OIG at the CONTRACTOR's expense where the CONTRACTOR is determined by the OIG to be non-responsible. In such event, the OIG may complete contractual requirements in any manner it deems advisable and pursue available legal or equitable remedies for breach.

CONTRACTOR hereby acknowledges that State Finance Law Section 163(4)(g) imposes certain reporting requirements on the contractor doing business with the State. In furtherance of these reporting requirements, the CONTRACTOR agrees to complete and submit an initial planned employment data report and an annual employment report (Forms A and B respectively). Complete instructions and forms may also be accessed at: [www.osc.state.ny.us/agencies/guide/MyWebHelp/Content/XI/18/C.htm](http://www.osc.state.ny.us/agencies/guide/MyWebHelp/Content/XI/18/C.htm).

## REQUIREMENTS AND PROCEDURES FOR M/WBE PARTICIPATION

### GENERAL PROVISIONS

The OIG is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 140-145 (MWBE Regulations) 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.

The CONTRACTOR agrees, in addition to any other nondiscrimination provision of the AGREEMENT and at no additional cost to the OIG, to fully comply and cooperate with the OIG in the implementation of New York State Executive Law Article 15-A and the regulations promulgated thereunder. These requirements include equal employment opportunities for minority group members and women (EEO) and contracting opportunities for certified minority- and women-owned business enterprises (MWBE). The CONTRACTOR's demonstration of "good faith efforts" pursuant to 5 NYCRR 142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (Human Rights Law) or other applicable federal, state or local laws.

Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the assessment of liquidated damages pursuant to this AGREEMENT and such other remedies are available to the OIG pursuant to this AGREEMENT and applicable law.

### CONTRACT GOALS

For purposes of this AGREEMENT, the OIG hereby establishes an overall goal of 30% for MWBE participation, 15% for New York State-certified Minority-owned Business Enterprise (MBE) participation and 15% for New York State-certified Women-owned Business Enterprise (WBE) participation (collectively, "MWBE Contract Goals") based on the current availability of MBEs and WBEs.

For purposes of providing meaningful participation by MWBEs in this AGREEMENT and achieving the MWBE Contract Goals, the CONTRACTOR should reference the directory of New York State certified MWBEs found at the following internet address: <https://ny.newnycontracts.com>.

Additionally, the CONTRACTOR is encouraged to contact the Division of Minority and Women Business Development at (212) 803-2414 to discuss additional methods of maximizing participation by MWBEs on this AGREEMENT.

The CONTRACTOR 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.

The CONTRACTOR must document “good faith efforts”, to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the AGREEMENT. Such documentation shall include, but not necessarily be limited to:

- Evidence of outreach to MWBEs;
- Any responses by MWBEs to the CONTRACTOR’s outreach;
- Copies of advertisements for participation by MWBEs in appropriate general circulation, trade, and minority or women-oriented publications;
- The dates of attendance at any pre-bid, pre-award, or other meetings, if any, scheduled by the OIG with MWBEs; and,
- Information describing specific steps undertaken by the CONTRACTOR to reasonably structure the contract scope of work to maximize opportunities for MWBE participation.

#### EQUAL EMPLOYMENT OPPORTUNITY (EEO)

The CONTRACTOR agrees to be bound by 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 AGREEMENT.

In performing the AGREEMENT, the CONTRACTOR shall:

Ensure that each CONTRACTOR and each subcontractor performing work on this AGREEMENT 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.

The CONTRACTOR shall submit an EEO policy statement to the OIG within seventy-two (72) hours after the date of the notice by the OIG to award the AGREEMENT to the CONTRACTOR.



If the CONTRACTOR, or any of its subcontractors, does not have an existing EEO policy statement, the OIG may require the CONTRACTOR or subcontractor to adopt a model statement (see Form 5.4 Equal Employment Opportunity Policy Statement).

The CONTRACTOR's EEO policy statement shall include the following language:

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

The CONTRACTOR shall state in all solicitations or advertisements for employees that, in the performance of the AGREEMENT, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

The CONTRACTOR shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the CONTRACTOR's obligations herein.

The CONTRACTOR will include the provisions of Subdivisions (1) through (3) of this Subsection D and Paragraph "5" of this Section C, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the AGREEMENT.

#### STAFFING PLAN

To ensure compliance with this section, the CONTRACTOR shall submit a staffing plan to document the composition of the proposed workforce to be utilized in the performance of the AGREEMENT by the specified categories listed, including ethnic background, gender, and Federal occupational categories. The CONTRACTOR shall complete the staffing plan form and submit it within a reasonable time, as directed by the OIG.

#### WORKFORCE EMPLOYMENT UTILIZATION REPORT (WORKFORCE REPORT)

The CONTRACTOR shall submit a Workforce Report, and shall require each of its subcontractors to submit a Workforce Report, in such form as shall be required by The OIG on a QUARTERLY basis during the term of the AGREEMENT.

Separate forms shall be completed by the CONTRACTOR and any subcontractors.

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.

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

#### MWBE UTILIZATION PLAN

The CONTRACTOR represents and warrants that the CONTRACTOR has submitted an MWBE Utilization Plan, through the New York State Contract System (NYSCS), which can be viewed at <https://ny.newnycontracts.com>, provided, however, that the CONTRACTOR may arrange to provide such evidence via a non- electronic method to the OIG, either prior to, or at the time of, the execution of the AGREEMENT.

The CONTRACTOR agrees to use such MWBE Utilization Plan for the performance of MWBEs on this AGREEMENT pursuant to the prescribed MWBE goals set forth in Section XXV.B.1.

The CONTRACTOR further agrees that failure to submit and/or adhere to such MWBE Utilization Plan shall constitute a material breach of the terms of this AGREEMENT. Upon the occurrence of such a material breach, the OIG shall be entitled to any remedy provided herein, including but not limited to, a finding that the CONTRACTOR is non-responsive.

#### WAIVERS

For waiver requests, the CONTRACTOR should use the NYSCS, provided, however, that CONTRACTOR may arrange to provide such evidence via a non- electronic method to the OIG.

If the CONTRACTOR, after making good faith efforts, is unable to comply with MWBE goals, the CONTRACTOR may submit a Request for Waiver documenting good faith efforts by the CONTRACTOR to meet such goals. If the documentation included with the waiver request is complete, the OIG shall evaluate the request and issue a written notice of approval or denial within twenty (20) business days of receipt.

If the OIG, upon review of the MWBE Utilization Plan and updated QUARTERLY MWBE Contractor Compliance Reports determines that the CONTRACTOR is failing or refusing

to comply with the MWBE Contract Goals and no waiver has been issued in regards to such non-compliance, the OIG may issue a notice of deficiency to the CONTRACTOR. The CONTRACTOR must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

#### QUARTERLY MWBE CONTRACTOR COMPLIANCE REPORT

The CONTRACTOR is required to submit a quarterly MWBE Contractor Compliance Report through the NYSCS, provided, however, that the CONTRACTOR may arrange to provide such report via a non-electronic method to the OIG by the 10<sup>th</sup> day following the end of each quarter during the term of this AGREEMENT documenting the progress made towards achievement of the MWBE goals of this AGREEMENT.

#### LIQUIDATED DAMAGES – MWBE PARTICIPATION

Where the OIG determines that the CONTRACTOR is not in compliance with the requirements of this AGREEMENT and the CONTRACTOR refuses to comply with such requirements, or if the CONTRACTOR is found to have willfully and intentionally failed to comply with the MWBE participation goals, the CONTRACTOR shall be obligated to pay to the OIG liquidated damages.

Such liquidated damages shall be calculated as an amount equaling the difference between:

All sums identified for payment to MWBEs had the CONTRACTOR achieved the contractual MWBE goals; and

All sums actually paid to MWBEs for work performed or materials supplied under the AGREEMENT.

In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by the OIG, the CONTRACTOR shall pay such liquidated damages to the OIG within sixty (60) days after they are assessed. Provided, however, that if the CONTRACTOR has filed a complaint with the Director of the Division of Minority and Women's Business Development pursuant to 5 NYCRR § 142.12, liquidated damages shall be payable only in the event of a determination adverse to the CONTRACTOR following the complaint process.

#### PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED SERVICE-DISABLED VETERAN OWNED BUSINESSES

##### General Provisions

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 OIG 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 OIG 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, CONTRACTORS are strongly encouraged and expected to consider SDVOBs in the fulfillment of the requirements of the AGREEMENT. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

For purposes of this AGREEMENT, the OIG conducted a comprehensive search and determined that the AGREEMENT 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 AGREEMENT for the provision of services and materials. The directory of New York State Certified SDVOBs can be viewed at: <https://ogs.ny.gov/Veterans/>.

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](mailto:VeteransDevelopment@ogs.ny.gov) to discuss methods of maximizing participation by SDVOBs on the AGREEMENT.

#### WAIVER, MODIFICATION, EXECUTION, OR SEVERABILITY

No waiver or modification of the AGREEMENT or any covenant, condition, or limitation herein contained shall be valid unless in writing and executed by the PARTIES hereto, and no evidence of any waiver or modification shall be offered or received in evidence in any action between the PARTIES hereto arising out of or affecting the AGREEMENT, or the rights or obligations of any PARTY hereunder, unless such waiver or modification is in writing, duly executed as aforesaid, and the PARTIES further agree that the provisions of the paragraph may not be waived except as herein set forth.

In the event that any provision of the AGREEMENT shall be declared void, voidable, illegal or invalid for any reason, such provision shall be of no force and effect only to the extent that it is so declared void, voidable, illegal or invalid. All of the provisions of the AGREEMENT not specifically found to be so deficient shall remain in full force and effect.

#### CONDITIONS PRECEDENT

This AGREEMENT and any subsequent amendments to this AGREEMENT shall not be deemed executed, valid or binding unless and until approved in writing by the Offices of the Attorney General and State Comptroller.

#### USE BY OTHER STATE AGENCIES, PUBLIC AUTHORITIES OR ENTITIES

The OIG shall have the option to extend the terms and conditions related to the scope of services covered by this AGREEMENT to any other State agency, public authority or entities in New York.

#### ADDITIONAL SERVICES

The OIG may, at any time, by written notice, request changes or additions to work or services within the general scope of this AGREEMENT (not to include professional services requiring licenses or specialized expertise such as engineering, architectural, and environmental consulting, abatement, treatment, and testing work) for unanticipated needs. If any such change or addition causes an increase or decrease in the cost of, or in the time required for, performance of this AGREEMENT, an equitable adjustment shall be agreed upon by the PARTIES and made in the price using the billing rates set forth in the AGREEMENT, and the CONTRACTOR shall be notified in writing accordingly. A change to the scope of the AGREEMENT would be subject to the approval of the Office of the State Comptroller and Office of the Attorney General.

#### ENTIRE AGREEMENT

This AGREEMENT and the Appendices identified in this section (Appendices) constitute the entire AGREEMENT between the PARTIES hereto and no statement, promise, condition, understanding, inducement or representation, oral or written, expressed or implied, which is not contained herein shall be binding or valid. This AGREEMENT shall not be changed, modified or altered in any manner except by an instrument in writing executed by the PARTIES hereto. The Appendices are hereby made a part of this AGREEMENT as if fully set forth at length herein. In the event of any discrepancy, disagreement or ambiguity among the following documents, they shall be given preference in the following order to interpret and to resolve such discrepancy, disagreement or ambiguity:

Appendix A – Standard Clauses for New York State Contracts dated June 2023, This AGREEMENT as it appears prior to the signature page incorporated herein;  
Appendix B – Request for Proposals dated November 13, 2023 including any amendments thereto; and  
Appendix C – CONTRACTOR’s Proposal in response to the RFP and any clarifications thereto.

#### EXECUTORY CLAUSE

This AGREEMENT shall be deemed executory only to the extent of moneys annually appropriated and available for this purpose, and no liability on account thereof shall be incurred by the OIG beyond the amount appropriated. It is understood that neither this assignment nor any representation by any public employee or officer creates any legal or moral obligation to request to appropriate, or make available, moneys for the purpose of the AGREEMENT.

IN WITNESS WHEREOF, each of the PARTIES hereto has caused this AGREEMENT to

be executed by its duly authorized officers on the day and year stated below.

Agency Certification

In addition to the acceptance of this AGREEMENT, I also certify that original copies of this signature page will be attached to all other exact copies of this contract.

Approved by:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**OFFICES OF THE NEW YORK  
STATE INSPECTOR GENERAL**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**Attorney General: LETITIA  
JAMES**

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

**State Comptroller: THOMAS P.  
DINAPOLI**

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

**CORPORATE ACKNOWLEDGMENT FORM**

The acknowledgment must be fully and properly executed by an authorized person. By signing you certify your express authority to sign on behalf of yourself, your company, or other entity and that all information provided is complete, true and accurate.

**INDIVIDUAL, CORPORATION, PARTNERSHIP, OR LLC ACKNOWLEDGMENT**

STATE OF

: SS.:

COUNTY OF

On the \_\_\_\_ day of \_\_\_\_ in the year 20 \_\_ , before me personally appeared \_\_\_\_\_, known to me to be the person who executed the foregoing instrument, who, being duly sworn by \_\_\_\_\_ me did depose and say that \_he resides at \_\_\_\_\_, Town of \_\_\_\_\_, County of \_\_, State of \_\_\_\_\_; and further that:

**[Check One]**

( **If an individual**): \_he executed the foregoing instrument in his/her name and on his/her own behalf.

( **If a \_\_\_\_\_ he is the \_\_\_\_\_ of corporation**):

\_\_\_\_\_, the OIG described in said instrument; that, by authority of the Board of Directors of said corporation, \_he is authorized to execute the foregoing instrument on behalf of the OIG for purposes set forth therein; and that, pursuant to that authority, \_he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.

( **If a partnership**): \_he is the \_\_\_\_\_ of \_\_\_\_\_, the partnership described in said instrument; that, by the terms of said partnership, \_he is authorized to execute the foregoing instrument on behalf of the partnership for purposes set forth therein; and that, pursuant to that authority, \_he executed the foregoing instrument in the name of and on behalf of said partnership as the act and deed of said partnership.

( **If a limited liability company**): \_he is a duly authorized member of \_\_\_\_\_, LLC, the limited liability company described in said instrument; that \_he is authorized to execute the foregoing instrument on behalf of the limited liability company for purposes set forth therein; and that, pursuant to that authority, \_he executed the foregoing instrument in the name of and on behalf of said limited liability company as the act and deed of said limited liability company.

---

**Notary Public**  
**Registration No.\_\_\_\_**

**State of:\_\_\_\_\_**



## POST AWARD FORMS

### **CONTRACTOR DISCLOSURE FORMS SALES TAX CERTIFICATION INSTRUCTIONS COMPLIANCE WITH NYS WORKERS' COMPENSATION LAW 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, the Office of the State Comptroller (OSC), Division of the Budget and the Department of Civil Service (CS).

**To meet these new requirements, the selected Firm agrees to complete:**

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

**Form B** – Contractor's Annual Employment Report. Throughout the term of the Contract by May 15<sup>th</sup> of each year the Contractor agrees to report the following information to the OIG. For each covered consultant contract in effect at any time between the preceding April 1<sup>st</sup> through March 31<sup>st</sup> fiscal year or for the period of time such contract was in effect during such prior State fiscal year Contractor reports the:

Total number of employees employed to provide the consultant services, by employment category.

Total number of hours worked by such employees.

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 Department of Civil Service and the Office of the State Comptroller as designated below:

Department of Civil Service Empire State Plaza Albany, NY 12239	Office of the State Comptroller Bureau of Contracts 110 State St., 11 <sup>th</sup> Floor Albany, New York 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 name and social security number prior to disclosure.

**Further information regarding the Contractor Consultant Law requirements and report Forms A and B is available in the Office of the State Comptroller's Guide to Finance Operations, Chapter XI, Section 18.C:**  
**<http://www.osc.state.ny.us/agencies/guide/MyWebHelp>.**

#### 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 OIG. 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 New York State Comptroller's Guide to Financial Operations will provide background information and the forms (<http://www.osc.state.ny.us/agencies/guide/MyWebHelp/#XI/18/D.htm?Highlight=st-220>).

Contractors can refer to the Department of Taxation and Finance 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.

#### COMPLIANCE WITH NYS WORKERS' COMPENSATION LAW

Sections 57 and 220 of the New York State Workers' Compensation Law (WCL) provide

that the Inspector General 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 OIG, successful Firms will be required to verify, on forms authorized by the New York State Workers' Compensation Board, that they are properly insured or are otherwise in compliance with the insurance provisions of the WCL. The forms used to demonstrate compliance with the WCL are indicated below.

***Please Note:*** *The insurance provider of the successful contractor must submit this insurance verification information upon notification of selection by the OIG. 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) 486-6307. Failure to comply with the requirements of this appendix will be grounds for disqualification of an otherwise successful bid.*

**Workers' Compensation Requirements under WCL § 57:**

To comply with coverage provisions of the WCL, Contractor must:

Be legally exempt from obtaining workers' compensation insurance coverage; OR

Obtain such coverage from insurance carriers; OR

Be a Board-approved self-insured employee or participate in an authorized group self-insurance plan.

To verify compliance with the above, the OIG must receive one of the following properly executed Workers' Compensation Board forms from the Contractor, the Contractor's insurance carrier or the Workers' Compensation Board, depending on which form is appropriate:

CE-200, Certificate of Attestation of Exemption from NYS Workers' Compensation and/or Disability Benefits Coverage. This form is completed electronically on the Board's website and printed out,

[http://www.wcb.ny.gov/content/ebiz/wc\\_db\\_exemptions/requestExemptionOverview.jsp](http://www.wcb.ny.gov/content/ebiz/wc_db_exemptions/requestExemptionOverview.jsp);

OR

C-105.2 – Certificate of Workers' Compensation Insurance. The Contractor's insurance carrier sends this form to the OIG. PLEASE NOTE: The State Insurance Fund provides its own version of this form, the U-26.3; OR

SI-12 – Certificate of Workers' Compensation Self-Insurance. The Contractor contacts the Board's Self- Insurance Office at 518-402-0247 to obtain this form; OR

GSI-105.2 – Certificate of Participation in Worker's Compensation Group Self-Insurance. Contractor's Group Self-Insurance Administrator sends this form to the OIG.

**Disability Benefits Requirements under WCL § 220(8):**

To comply with the coverage provisions of the WCL regarding disability benefits, Contractor may:

Be legally exempt from obtaining disability benefits insurance coverage; OR

Obtain such coverage from insurance carriers; OR

Be a Board-approved self-insured employer.

To verify compliance with the above, the OIG must receive one of the following properly executed Workers' Compensation Board forms from the Contractor, the Contractor's insurance carrier or the Workers' Compensation Board, depending on which form is appropriate:

CE-200, Certificate of Attestation of Exemption from NYS Workers' Compensation and/or Disability Benefits Coverage. This form is completed electronically on the Board's website and printed out,

[http://www.wcb.ny.gov/content/ebiz/wc\\_db\\_exemptions/requestExemptionOverview.jsp](http://www.wcb.ny.gov/content/ebiz/wc_db_exemptions/requestExemptionOverview.jsp);

**OR**

DB-120.1 – Certificate of Disability Benefits Insurance. The business's insurance carrier sends this form to the OIG; **OR**

DB-155 – Certificate of Disability Benefits Self-Insurance. The Contractor contacts the Board's Self- Insurance Office at 518-402-0247 to obtain this form.

**APPENDIX C: PROPOSAL CHECKLIST RFP**

\_\_\_\_\_  
Firm Name

\_\_\_\_\_  
Date

**Technical Proposal**

- |    |  |     |    |
|----|--|-----|----|
| 1. | Did the Firm provide an electronic version of the Technical Proposal?                        | Yes | No |
| 2. | Does the proposal contain all components of the Technical Proposal, as stated below?         | Yes | No |
|    | <b>A. Table of Contents</b>  | Yes | No |
|    | <b>B. Executive Summary</b>  | Yes | No |
|    | <b>C. Project Plan and Approach</b>  | Yes | No |
|    | <b>D. Staff Experience and Qualifications</b>  | Yes | No |
|    | • Identify staff consistent with definitions in Form 1                                       | Yes | No |
|    | • Project organizational chart   | Yes | No |
|    | • Qualifications and experience of staff assigned  | Yes | No |
|    | • Staff resumes  | Yes | No |
|    | • Staff availability statement   | Yes | No |
|    | <b>E. Firm Experience and Qualifications</b>   |     |    |
|    | • Summary of technical expertise and capabilities  | Yes | No |
|    | • Direct prior experience  | Yes | No |
| 3. | Excluding table of contents, and staff resumes, is the Technical Proposal 30 pages or fewer? | Yes | No |

**APPENDIX C: PROPOSAL CHECKLIST RFP**

**Cost Proposal**

- |   |     |    |
|---|-----|----|
| 1. Did the Firm provide an electronic version of the Cost Proposal? | Yes | No |
| 2. Did the Firm complete and sign Form 1: Cost Proposal Form?       | Yes | No |

**APPENDIX C: PROPOSAL CHECKLIST RFP**

**Administrative Proposal**

- |  |     |    |
|--|-----|----|
| 1. Did the Firm provide an electronic of the Administrative Proposal?  | Yes | No |
| 2. Did the Firm submit signed copies of:   |     |    |
| • Form 2: Firm Information and Attestation   | Yes | No |
| • Form 3: Non-Collusive Bidding Certification  | Yes | No |
| • Form 4: Firm Assurances of No Conflict of Interest or<br>Detrimental Effect  | Yes | No |
| • Form 5: MWBE and Equal Employment Opportunities<br>Requirements, Forms 5.1, 5.2, 5.3, 5.4, and 5.5.  | Yes | No |
| • Form 6: Response to the Diversity Practices Questionnaire,<br>with supporting documentation, Forms 6.1, and 6.2  | Yes | No |
| • Form 7: Vendor Responsibility Questionnaire<br>(hardcopy or submitted electronically in the<br>State’s VendRep system) for the Firm and any subcontractor<br>anticipated to receive a subcontract in excess of \$100,000 | Yes | No |
| • Form 8: Procurement Lobbying Form  | Yes | No |
| • Form 9: Disclosure of Pending or Prior Lawsuits,<br>Conflicts of Interest, or Investigations or Disciplinary Actions   | Yes | No |
| • Form 10: Freedom of Information Law Redaction Request  | Yes | No |
| • Form 11: Executive Order No. 177 Certification   | Yes | No |
| • Form 12: Sexual Harassment Prevention Certificate  | Yes | No |
| • Form 13: Certification Under Executive Order No. 16  | Yes | No |

**FORM 1: COST PROPOSAL**

The Cost Proposal is an integral component of a Proposer’s three-part submission. Proposers should take particular care to ensure the Cost Proposal is completed fully and in complete accordance with the instructions. Cost Proposals must be submitted electronically and in accordance with submission directions.

**The Cost Proposal Form must include a single blended rate, in U.S. dollars, that the Proposer, if selected, will bill for each hour of service provided. The total compensation for services in any contract year will not exceed \$250,000.**

The Cost Proposal should include only one rate that will be billed for any and all staff proposed.

**The single blended hourly rate must include reproduction, travel, postage and any other expenses related to these services.**

Please note, if the information requested on Form 1 is not complete, The OIG may not be able to calculate a cost score, and the proposal may be rejected as non-responsive.

The Cost Proposal Form must be signed by an individual authorized to bind Proposer contractually.

<b>Proposer Name:</b>	
<b>Blended Hourly Rate:</b>	

\_\_\_\_\_  
**Authorized Signatory for the Proposer**

\_\_\_\_\_  
**Name (print or type)**

\_\_\_\_\_  
**Title**

\_\_\_\_\_  
**Date**



**FORM 2: FIRM INFORMATION AND ATTESTATION**  
**PLEASE SUBMIT WITH ADMINISTRATIVE PROPOSAL**

RFP Name: Independent Monitor Proposal Date: November 13, 2023  
 @ 12:00 PM ET

1	Information Regarding the Firm:	Name: _____ Address: _____ City, State, Zip Code: _____ Telephone Number: _____ Taxpayer ID: _____ NYS Vendor ID: _____		
2	Primary Contact Concerning this Proposal:	Name: _____ Title: _____ Address: _____ City, State, Zip Code: _____ Telephone Number: _____ Email address: _____		
3	Irrevocable Offer:	The rates quoted are an irrevocable offer that is good through the execution of a contract.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
4	Willingness to Perform All Services:	The Firm is willing to, and capable of performing all of the deliverables and services described in this RFP.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
5	Firm Guarantees:	The Firm certifies it can and will provide and make available, at a minimum, all services set forth in the RFP.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
6	Firm Warranties:	Firm warrants that it is willing and able to comply with New York laws with respect to foreign (non-New York) corporations. Firm warrants that it is willing and able to obtain an errors and omissions insurance policy providing a prudent amount of coverage for the willful or negligent acts, or omissions of any officers, employees or agents thereof. Firm warrants that it will not delegate or subcontract its responsibilities under an agreement without the written permission of the OIG. Firm warrants that all information provided by it in connection with this proposal is true and accurate.	<input type="checkbox"/> Yes	<input type="checkbox"/> No

7	RFP and Contractual Requirements:	The Firm agrees to be bound by the Contractual Requirements found in Section 5 of the RFP. The Firm has read Section 6, Reservation of Rights, and agrees that the rights and prerogatives as detailed in that Section are retained by the OIG. The Firm has read, understands, and accepts the provisions of Appendix A, Standard Clauses for NYS Contracts, and Appendix B, Sample Contract, without change or amendment.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
---	-----------------------------------	---	---------------------------------	--------------------------------

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

By my signature on this Firm Information and Attestation, I certify that I am authorized to bind the Firm Contractually and that the above information is true and accurate.

---

Typed or Printed Name of Authorized Representative

---

Title/Position of Authorized Representative

---

Signature

---

Date

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

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

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

Name: \_\_\_\_\_

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

Signature: \_\_\_\_\_

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

\_\_\_\_\_  
Legal name of Person, Firm, or Corporation

Name: \_\_\_\_\_

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

\_\_\_\_\_  
Legal name of Person, Firm, or Corporation

Name: \_\_\_\_\_

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

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

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

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

The fulfillment of obligations by the Firm, as proposed in the response, does not violate any existing contracts or agreements between the Firm and the State;

The fulfillment of obligations by the Firm, as proposed in the response, does not and will not create any conflict of interest, or perception thereof, with any current role or responsibility that the Firm has with regard to any existing contracts or agreements between the Firm and the State;

The fulfillment of obligations by the Firm, as proposed in the response, does not and will not compromise the Firm's ability to carry out its obligations under any existing contracts between the Firm and the State;

The fulfillment of any other contractual obligations that the Firm has with the State will not affect or influence its ability to perform under any contract with the State resulting from this RFP;

During the negotiation and execution of any contract resulting from this RFP, the Firm will not knowingly take any action or make any decision which creates a potential for conflict of interest or might cause a detrimental impact to the State as a whole including, but not limited to, any action or decision to divert resources from one State project to another;

In fulfilling obligations under each of its State contracts, including any contract which results from this RFP, the Firm will act in accordance with the terms of each of its State contracts and will not knowingly take any action or make any decision which might cause a detrimental impact to the State as a whole including, but not limited to, any action or decision to divert resources from one State project to another;

No former officer or employee of the State who is now employed by the Firm, nor any former officer or employee of the Firm who is now employed by the State, has played a role with regard to the administration of this contract procurement in a manner that may violate section 73(8)(a) of the State Ethics Law; and

The Firm has not and shall not offer to any employee, member or director of the State any gift, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it could reasonably

be inferred that the gift was intended to influence said employee, member or director, or could reasonably be expected to influence said employee, member or director, in the performance of the official duty of said employee, member or director or was intended as a reward for any official action on the part of said employee, member or director.

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

Firm Name: \_\_\_\_\_

Name, Title: \_\_\_\_\_

Signature: \_\_\_\_\_

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

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

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

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

Firm agrees to submit with the bid a Workforce Composition Plan (Form 5.1) identifying the anticipated work force to be utilized on the Contract and if awarded a Contract, will, upon request, submit to the OIG, a workforce utilization report identifying the workforce actually utilized on the Contract if known.

Firms are required to submit an MWBE Utilization Plan (Form 5.2) and Notice of Intent to Participate (Form 5.3) with their bid or proposal. Any modifications or changes to the MWBE Utilization Plan after the Contract award and during the term of the Contract must be reported on a revised MWBE Utilization Plan and submitted to the OIG.

The OIG will review the submitted MWBE Utilization Plan and advise the Firm of the OIG's acceptance or issue a notice of deficiency within 30 days of receipt.

If a notice of deficiency is issued, Firm agrees that it shall respond to the notice of deficiency within seven (7) business days of receipt by submitting to the OIG, 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 OIG to be inadequate, the OIG shall notify the Firm and direct the Firm to submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals on the Request for Waiver form. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.

The OIG may disqualify a Firm as being non-responsive under the following circumstances:

If a Firm fails to submit a MWBE Utilization Plan;  
If a Firm fails to submit a written remedy to a notice of deficiency;  
If a Firm fails to submit a request for waiver; or  
If Division determines that the Firm has failed to document good faith efforts.

Firms are required to submit a Minority- and Women-owned Business Enterprise and Equal Employment Opportunity Policy Statement, Form 5.4, to the OIG with its bid or proposal. If Firm, or any of its subcontractors, does not have an EEO Policy, the OIG may require the Contractor or subcontractor to adopt the attached model statement.

Please Note: Failure to comply with the requirements may result in a finding of non-

responsiveness, non-responsibility and/or a breach of the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions of enforcement proceedings as allowed by the Contract.

Attachments:

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

### FORM 5.1: WORKFORCE COMPOSITION FORM

**INSTRUCTIONS: All Firms submitting responses to this procurement must complete and submit this Workforce Composition Form as part of their proposal. Firms should include only the staff that will provide services under this procurement.**

**Firm Name:** \_\_\_\_\_ **Federal Identification No.:** \_\_\_\_\_

**Address:** \_\_\_\_\_ **Procurement No.:** \_\_\_\_\_

**City, State, Zip Code:** \_\_\_\_\_

**Description of Work:** \_\_\_\_\_

**Enter the total number of incumbents by race, sex, and ethnic group status in each of the EEO – Job Categories identified. See below for information regarding race/ethnicity identification and protected class group members.**

EEO – JOB CATEGORY	TOTAL	MALE (M)	FEMALE (F)	WHITE		BLACK		HISPANIC		ASIAN		NATIVE AMERICAN		DISABLED		VETERAN	
				M	F	M	F	M	F	M	F	M	F	M	F		
Officials/Administrators																	
Professionals																	
Technicians																	
Sales Workers																	
Office/Clerical																	
Craft Workers																	
Laborers																	
Service Workers																	

\_\_\_\_\_  
**PREPARED BY (Signature)** \_\_\_\_\_ **Date** \_\_\_\_\_

\_\_\_\_\_  
**PRINTED OR TYPED NAME AND TITLE OF PREPARER** \_\_\_\_\_ **TELEPHONE NO.** \_\_\_\_\_ **EMAIL ADDRESS** \_\_\_\_\_



#### CLASS DEFINITIONS

**Hispanic** – All persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.

**American Indian or Alaskan Native** – All persons having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.

**Vietnam Era Veteran** – A veteran who served at any time between and including January 1, 1963 and May 7, 1975.

**Black (Not of Hispanic origin)** – All persons having origins in any of the Black racial groups of Africa.

**Asian or Pacific Islander** – All persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands. This area includes, for example, China, India, Japan, Korea, the Philippine Islands, and Samoa.

**Disabled Individual** – Any person having a physical or mental impairment that substantially limits one or more major life activity, has a record of such an impairment; or is regarded as having such an impairment.

### FORM 5.2: MWBE UTILIZATION PLAN

**INSTRUCTIONS: All Firms submitting responses to this procurement must complete this MWBE Utilization Plan and submit it as part of their proposal. The Plan must contain a detailed description of the services to be provided by each Minority and/or Woman-Owned Business Enterprise (MWBE) identified by the Firm.**

Firm Name:	Federal Identification No.:
Address:	Procurement No.:
City, State, Zip Code:	MWBE Goals: MBE: 15%    WBE: 15%

1. MWBE Subcontractors/Suppliers Name, Address, Email Address, Telephone No.	2. Classification	3. Federal ID No.	4. Detailed Description of Work (Attach additional sheets, if necessary.)	5. Dollar Value of Subcontracts/Supplies
A.	NYS                      ESD Certified <input type="checkbox"/> MBE <input type="checkbox"/> WBE			
B.	NYS                      ESD Certified <input type="checkbox"/> MBE <input type="checkbox"/> WBE			

**6. WAIVER REQUESTED: MBE:  YES  NO    If YES, submit Attachment A-5.5. WBE:  YES  NO    If YES, submit Attachment A-5.5.**

PREPARED BY (Signature): _____	TELEPHONE NO.:	EMAIL ADDRESS:
NAME AND TITLE OF PREPARER (Print or Type): _____		
DATE: _____                      Firm's Certification Status: <input type="checkbox"/> MBE <input type="checkbox"/> WBE		

<p><b>SUBMISSION OF THIS FORM CONSTITUTES THE FIRM'S ACKNOWLEDGEMENT AND AGREEMENT TO COMPLY WITH THE MWBE REQUIREMENTS SET FORTH UNDER NYS EXECUTIVE LAW, ARTICLE 15-A. FAILURE TO SUBMIT COMPLETE AND ACCURATE INFORMATION MAY RESULT IN NONCOMPLIANCE AND/OR PROPOSAL DISQUALIFICATION.</b></p>	*****FOR DOB USE ONLY*****	
	REVIEWED BY: _____	DATE: _____
	UTILIZATION PLAN APPROVED: <input type="checkbox"/> YES <input type="checkbox"/> NO    Date: _____	
	MBE CERTIFIED: <input type="checkbox"/> YES <input type="checkbox"/> NO    WBE CERTIFIED: <input type="checkbox"/> YES <input type="checkbox"/> NO	
	WAIVER GRANTED: <input type="checkbox"/> YES <input type="checkbox"/> NO Total Waiver <input type="checkbox"/> Partial Waiver <input type="checkbox"/>	
NOTICE OF DEFICIENCY ISSUED: <input type="checkbox"/> YES <input type="checkbox"/> NO Date: _____		

**FORM 5.3: MWBE SUBCONTRACTORS AND SUPPLIERS NOTICE OF INTENT TO PARTICIPATE NEW YORK STATE  
DIVISION OF THE BUDGET**

**INSTRUCTIONS:** A separate Notice of Intent to Participate must be completed by each MWBE identified on the MWBE Utilization Plan (Form 4.3). Parts A & C must be completed by the Firm and Part B must be completed by MBE and/or WBE subcontractors/suppliers. Signed and completed form(s) must be returned as part of your proposal.

**PART A**

Firm Name: \_\_\_\_\_ Federal Identification No.: \_\_\_\_\_  
Address: \_\_\_\_\_ Telephone No.: \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_ Email Address: \_\_\_\_\_

**PART B**

**THE UNDERSIGNED INTENDS TO PROVIDE SERVICES OR SUPPLIES IN CONNECTION WITH THE ABOVE PROCUREMENT:**

Name of MWBE: \_\_\_\_\_ Federal Identification No.: \_\_\_\_\_  
Address: \_\_\_\_\_ Telephone No.: \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_ Email Address: \_\_\_\_\_

**DESCRIPTION OF SERVICES OR SUPPLIES:**

DESIGNATION:  MBE Subcontractor  WBE Subcontractor  MBE Supplier  WBE Supplier

**PART C**

WAIVER Requested: MBE:  YES  NO If YES, submit Attachment A-5.5. WBE:  YES  NO If YES, submit Attachment A-5.5.

**THE QUALIFICATION OF THE UNDERSIGNED AS A MBE AND/OR WBE IS CONFIRMED (CHECK ONE):**

- The undersigned is a certified MWBE by the New York State Division of Minority and Woman-Owned Business Development (MWBD) (copy of certifying letter attached).
- The undersigned has applied to New York State's Division of Minority and Woman-Owned Business Development (MWBD) for MWBE certification.

**THE UNDERSIGNED IS PREPARED TO PROVIDE SERVICES OR SUPPLIES AS DESCRIBED ABOVE AND WILL ENTER INTO A FORMAL AGREEMENT WITH THE FIRM CONDITIONED UPON THE FIRM'S EXECUTION OF A CONTRACT WITH THE DIVISION OF THE BUDGET.**

The estimated dollar amount of the agreement is: \$ \_\_\_\_\_  
Signature of Authorized Representative of MWBE Firm \_\_\_\_\_

Date: \_\_\_\_\_  
Printed or Typed Name and Title of Authorized Representative of MWBE Firm \_\_\_\_\_

**FORM 5.4: MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES – EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT**

**M/WBE AND EEO POLICY STATEMENT**

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

**M/WBE**

**EEO**

This organization will and will cause its contractors and subcontractors to take good faith actions to achieve the M/WBE contract participations goals set by the State for that area in which the State-funded project is located, by taking the following steps:

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

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

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

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

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

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

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

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

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

\_\_\_\_\_ is designated as the Minority Business Enterprise Liaison  
(Name of Designated Liaison)

responsible for administering the Minority and Women-Owned Business Enterprises- Equal Employment Opportunity (M/WBE-EEO) program.

**M/WBE Contract Goals**

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

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

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

\_\_\_\_\_  
(Authorized Representative)

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

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

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

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

## **MWBE REQUIREMENTS AND WAIVER SUBMISSION**

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

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

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

## **FORM 6: MWBE DIVERSITY PRACTICES**

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

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

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

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

Attachments:

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



## **FORM 6.1: DIVERSITY PRACTICES QUESTIONNAIRE**

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

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

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

2. What percentage of your company's gross revenues (from your prior fiscal year) was paid to New York State certified minority and/or women-owned business enterprises as subcontractors, suppliers, joint-venturers, partners or other similar arrangement for the provision of goods or services to your company's clients or customers?

3. What percentage of your company's overhead (i.e., those expenditures that are not directly related to the provision of goods or services to your company's clients or customers) or non-contract-related expenses (from your prior fiscal year) was paid to New York State certified minority- and women-owned business enterprises as suppliers/contractors?<sup>1</sup>

4. Does your company provide technical training<sup>2</sup> to minority- and women-owned business enterprises? Yes or No

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

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

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

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

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

---

<sup>1</sup> Do not include onsite project overhead.

<sup>2</sup> Technical training is the process of teaching employees how to more accurately and thoroughly perform the technical components of their jobs. Training can include technology applications, products, sales and service tactics, and more. Technical skills are job-specific as opposed to soft skills, which are transferable.

7. Does your company have a formal minority- and women-owned business enterprise supplier diversity program? Yes or No  
If Yes, provide documentation of program activities and a copy of policy or program materials.
8. Does your company plan to enter into partnering or subcontracting agreements with New York State certified minority and women-owned business enterprises if selected as the successful respondent?  
Yes or No  
If Yes, complete the attached Utilization Plan

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

Signature of  
Owner/Official

\_\_\_\_\_

Printed Name of  
Signatory

\_\_\_\_\_

Title

\_\_\_\_\_

Name of Business

\_\_\_\_\_

Address

\_\_\_\_\_

City, State, Zip

\_\_\_\_\_

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_ ) ss:

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned, a Notary Public in and for the State of \_\_\_\_\_, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to this certification and said person executed this instrument.

\_\_\_\_\_

Notary Public

**FORM 6.2: DIVERSITY PRACTICES SCORING MATRIX**

<b>Question #1</b> CDO or other person tasked with function					Yes	No	Total
					5 pts	0 pts	
<b>Question #2</b> Percentage of prior yr. revenues that involved M/WBEs as subs or JVs/partners	20%+	15-19%	10-14%	5-9%	1-4%	0%	
	20 pts	14 pts	10 pts	6 pts	2 pts	0pts	
<b>Question #3</b> Percentage of overhead expenses paid to M/WBEs	20%+	15-19%	10-14%	5-9%	1-4%	0%	
	16 pts	10 pts	7 pts	4 pts	1 pts	0pts	
<b>Question 4</b> M/WBE Training			Robust	Moderate	Minimum	None	
			16 pts	8 pts	4 pts	0 pts	
<b>Question #5</b> M/WBE Mentoring			Robust	Moderate	Minimum	None	
			12 pts	8 pts	4 pts	0 pts	
<b>Question #6</b> Written M/WBE goals included in the Company's procurements			Robust	Moderate	Minimum	No	
			20 pts	12 pts	6 pts	0 pts	
<b>Question #7</b> Formal Supplier Diversity Program			Robust	Moderate	Minimum	No	
			6 pts	4 pts	2 pts	0 pts	
<b>Question #8</b> Utilization Plan			Robust	Moderate	Minimum	No	
			5 pts	3 pts	1 pts	0 pts	
				<b>Total Diversity Score (Max 100 pts)</b>			
				<b>Weighted Score (Max 3.75 pts.)</b>			

## **FORM 7: VENDOR RESPONSIBILITY QUESTIONNAIRE INSTRUCTIONS**

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

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

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

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

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

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

---

Vendor Responsibility Questionnaire Requirement:

The Firm has (Please check the appropriate box):

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

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

## **FORM 8: PROCUREMENT LOBBYING RESTRICTIONS**

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

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

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

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

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

Director of Procurement: Peter Amorosa  
Contract Administrator: Justin Spencer

**PROCUREMENT LOBBYING FORM**

1. Offerer/ Firm certifies that it understands and agrees to comply with the procedures of the Offices of the Inspector General relative to permissible contacts as required by State Finance Law Section 139-j (3) and Section 139-j (6) (b).

2. CONTRACTOR DISCLOSURE OF PRIOR NON-RESPONSIBILITY DETERMINATIONS Pursuant to Procurement Lobbying Law (SFL §139-j)

(a) Has any Governmental Entity made a finding of non-responsibility regarding the individual or entity seeking to enter into the Procurement Contract in the previous four years?  
 Yes       No

If yes, please answer the following question:

(b) Was the basis for the finding of non-responsibility due to a violation of State Finance Law §139-j?  
 Yes       No

If "Yes" was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a governmental entity?  
 Yes       No

If "Yes", please provide details regarding the finding of non-responsibility:

Governmental Entity: \_\_\_\_\_  
Date of Finding of Non-Responsibility: \_\_\_\_\_  
Basis of Finding of Non-Responsibility (attach additional sheets as necessary)  
\_\_\_\_\_  
\_\_\_\_\_

3. Has any governmental entity terminated or withheld a procurement contract with the above-named individual or entity due to the intentional provision of false or incomplete information?  
 Yes       No

If yes, provide details:  
Governmental Entity: \_\_\_\_\_  
Date of Termination or Withholding of Contract: \_\_\_\_\_  
Basis of Termination or Withholding: (add additional pages if necessary)  
\_\_\_\_\_  
\_\_\_\_\_

4. Offerer/ Firm certifies that all information provided to the Inspector General, with respect to State Finance Law Section 139-k is complete, true and accurate.

**Name of Offerer's Firm/Company:** \_\_\_\_\_

**Offerer's Business Address:**

\_\_\_\_\_

**Offerer's signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

*I understand that my signature represents that I am signing and responding to all certifications listed above.*

**Print Name:** \_\_\_\_\_

**Title of Person signing this form:** \_\_\_\_\_

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

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

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

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

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

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

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

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

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

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

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



Firm Name: \_\_\_\_\_

Name, Title: \_\_\_\_\_

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

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

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

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

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

Firm Name: \_\_\_\_\_

Name, Title: \_\_\_\_\_

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

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

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

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

Generally, the Human Rights Law applies to:

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

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

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

Firm Name: \_\_\_\_\_

Name, Title: \_\_\_\_\_

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

**FORM 12: SEXUAL HARASSMENT PREVENTION CERTIFICATION**

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

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

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

Firm Name: \_\_\_\_\_

Name, Title: \_\_\_\_\_

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

**FORM 13: CERTIFICATION UNDER EXECUTIVE ORDER NO. 16**

**PROHIBITING STATE AGENCIES AND AUTHORITIES FROM CONTRACTING WITH BUSINESSES CONDUCTING BUSINESS IN RUSSIA**

Executive Order No. 16 provides that “all Affected State Entities are directed to refrain from entering into any new contract or renewing any existing contract with an entity conducting business operations in Russia.” The complete text of Executive Order No. 16 can be found [here](#).

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

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

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

- No, Vendor does not conduct business operations in Russia within the meaning of Executive Order No. 16.
- 2.a. Yes, Vendor conducts business operations in Russia within the meaning of Executive Order No. 16 but has taken steps to wind down business operations in Russia or is in the process of winding down business operations in Russia. (Please provide a detailed description of the wind down process and a schedule for completion.)
- 2.b. Yes, Vendor conducts business operations in Russia within the meaning of Executive Order No. 16 but only to the extent necessary to provide vital health and safety services within Russia or to comply with federal law, regulations, executive orders, or directives. (Please provide a detailed description of the services being provided or the relevant laws, regulations, etc.)
- 3. Yes, Vendor conducts business operations in Russia within the meaning of Executive Order No. 16

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

Firm Name: \_\_\_\_\_

Name, Title: \_\_\_\_\_

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