Attachment 12 - General Information for Successful Bidders

A. Contracting Terms/State Payment

If you are awarded a contract, you will be required to submit certain forms and comply with the following information.

1. M/WBE Participation in the Contract

The Department of Labor recognizes the need to take affirmative action to ensure that Minority and Women business enterprises and minority and women employees are given the opportunity to participate in providing goods and services sought by the Department. This opportunity for full participation in our free enterprise system by traditionally, socially and economically disadvantaged persons is essential to obtain social and economic equality and improve the functioning of the State economy. Accordingly, it is the policy of the Department to foster and promote the full participation of such individuals and business firms in the Department's contracting program.

The proposer, by bidding on this contract, acknowledges his or her understanding and support for the social policy herein stated and pledges to fully cooperate with the State of New York in the implementation of this policy, and further to exert a good faith effort to solicit and obtain the participation of such individuals and firms as subcontractors, suppliers, and employees on this contract.

In accordance with Article 15-A of the Executive Law of the State of New York, the Department has established a goal of 11% participation by New York State Certified Minority and 9% participation by New York State Women-Owned Business Enterprises (M/WBEs) as subcontractors and/or suppliers in the proposed project to be awarded through this RFP/RFA. This requirement can be met through normal purchasing of supplies, travel services and/or equipment.

The Department will assist the bidder in identifying New York State certified M/WBE firms within the bidder’s geographic area. Periodic compliance reports to the Department will be required on a quarterly schedule. Payment may be contingent upon timely submission of these reports.

For more information on the administrative requirements see Appendix C, New York State Department of Labor's General Terms and Conditions (Attachment 11).

2. Cost of Proposal Preparation:

The Department will not be liable for any costs of work performed in the preparation and production of a proposal, or for any work performed prior to the formal execution of a contract. By submitting a proposal, the bidder agrees not to make any claims for, or have

any right to, damages because of any misunderstanding or misrepresentation of the specifications, or because of any misinformation or lack of information. The Proposals shall become the property of the State of New York.

3. Assurances:

The bidder warrants that it has carefully reviewed the needs of the State as described in the RFP/RFA, its attachments and other communications related to the RFP/RFA, and that it has familiarized itself with the specifications and requirements of the RFP/RFA and warrants that it can provide such services as represented in bidder's proposal. The bidder agrees that it will perform all of its obligations in the resultant contract in accordance with all applicable federal, State, and local laws, regulations and policies now or hereafter in effect.

The bidder affirms that the terms of the RFP/RFA and the attachments do not violate any contracts or agreements to which it is a party, and that its other contractual obligations will not adversely influence its capabilities to perform under the contract.

4. Electronic Files or Data:

If electronic files are to be exchanged as a part of this proposal, or as a product of the contract, they must conform to agency policy and guidelines.

5. Conflict of Interest:

Bidders may be requested to provide evidence that the award of the contract from this RFP/RFA will not result in a conflict of interest with regard either to other work performed by the contractor, or to potential conflict of interest among specific contractor staff or subcontractors.

6. Ownership of Materials:

All materials developed with funding provided by the State, and all proposals, work plans, and budgets become the property of New York State. All materials produced, either in whole or in part, through funding provided by New York State shall belong exclusively to the Department and to the State of New York. The Department may use any of the materials developed with project funds for any Department or other State purpose.

7. Equal Employment Opportunity:

By submission of its bid, the successful bidder warrants that it is an Equal Opportunity Employer and that it does not discriminate in its employment and business practices on any of the bases provided in the New York State Human Rights law or any applicable

federal laws. In addition, the successful bidder agrees to the assurances contained in the attached Appendix D, Federal Certifications (Attachment 6).

8. Prompt Payment Provisions:

The payment of interest on certain payments due and owed by the State may be made in accordance with the criteria established in Article XI-A of the State Finance Law.

9. Contract Award:

Upon receipt of necessary State approvals an award letter will be issued by the Department to the successful bidder advising them of a contract award. A contract defining all deliverables and the responsibilities of the contractor and the Department will then be developed for signature by both parties and for approval and processing in accordance with State policy and practice.

10. Compliance with requirement for workers' compensation and disability benefits insurance coverage:

After receipt of contract award letter, each successful bidder must provide the Department with proof of compliance with workers' compensation and disability insurance coverage requirements set forth in Sections 57 and 220(8) of the Workers' Compensation Law.

To comply with the coverage provisions of Section 57 businesses must be legally exempt from obtaining workers' compensation insurance coverage; or obtain such coverage from insurance carriers; or be self-insured or participate in an authorized group self-insurance plan. All successful bidders must provide one of the following forms to the Department:

- WC/WB 100 -- Affidavit for New York entities and any out of state entities with no employees, that New York State workers' compensation and/or disability benefits insurance coverage is not required (affidavit must be notarized and stamped as received by the NYS Workers' Compensation Board (WCB)),
- WC/WB 101 -- Affidavit that an out-of-state or foreign employer working in New York State does not require specific New York State workers' compensation and/or disability benefits insurance coverage (affidavit must be notarized and stamped as received by WCB),
- C-105.2 -- Certificate of workers' compensation insurance (business' insurance carrier should be able to provide this form to the Department),

- SI-12 -- Certificate of workers' compensation self-insurance (business contacts the WCB's self-insurance office at 518-402-0247), or
- GSI-105.2 -- Certificate of participation in workers' compensation group self-insurance (business' group self-insurance administrator should be able to provide this form to the Department).

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To comply with the coverage provisions of Section 220(8) businesses may: be legally exempt from obtaining disability insurance coverage; obtain such coverage from insurance carriers; or be self-insured. All successful bidders must provide one of the following forms to the Department:

- WC/WB-100 (noted above),
- WC/WB-101 (noted above),
- DB-120.1 -- Certificate of disability benefits insurance
- DB-820/829 -- Certificate/Cancellation of insurance (business' insurance carrier should be able to provide these forms to the Department), or a
- DB-155 -- Certificate of disability benefits self-insurance (business contacts the WCB's self-insurance office at 518-402-0247).

Contracts will not be forwarded to the successful bidders until they have provided the Department with proof of compliance with workers' compensation and disability insurance coverage requirements set forth above.

11. Publicity:

Publicity includes, but is not limited to, news conferences, news releases, advertising, brochures, reports, discussions, and/or presentations at conferences or meetings. The inclusion of our materials, our agency name, or other such reference to New York State and/or The Department of Labor in any document or forum is considered publicity. News releases or any other public announcements regarding this project may not be released without prior approval from the Department.

12. Freedom of Information Law and Bidder's Proposals:

The purpose of New York State's Freedom of Information Law (FOIL), which is contained in Public Officers Law Sections 84-90, is to promote the public's right to know the process of governmental decision making and to grant maximum public access to governmental records. Thus, a member of the public may submit a FOIL request for contracts awarded by the State or for the proposals submitted to the State in response to Requests for Proposals. After formal contract award, the proposal of the successful bidder and the proposals of non-successful bidders are 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 bidder'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 information which you may claim as proprietary, copyrighted or rights reserved is not necessarily protected from disclosure under FOIL.

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If there is information in your proposal which you claim meets the definition set forth in Section 87(2)(d), you must so inform us in a letter accompanying your proposal.

13. Americans with Disabilities Act (ADA):

The successful bidder shall comply with all applicable requirements of the Americans with Disabilities Act (ADA), codified at Title 42 of the United States Code, section 12101 et seq. and associated regulations, including, but not limited to, those located in 28 C.F.R. Part 36. The successful bidder shall comply with all applicable requirements of the New York State Human Rights Law, codified in the Executive Law sections 290 301 and applicable regulations implemented pursuant to that law. The successful bidder shall warrant to the Department that the successful bidder is in compliance with both the ADA and its regulations and the New York State Human Rights Law and its regulations. Any products developed as a result of this RFP/RFA must be in a format that can be converted for use by individuals with disabilities to meet the reasonable accommodation standards established by the American with Disabilities Act

14. Compliance with New York State Policy and Law:

All work conducted under this contract must be in compliance with the Department's policies and procedures set forth in Appendix C, New York State Department of Labor's General Terms and Conditions. In addition, the successful bidder must agree to the terms specified in the document entitled Appendix A, Standard Clauses for all New York State Contracts (Attachment 10).

15. Responsibility Determination.

Article 11 of the New York State Finance Law requires that competitive bids be awarded to responsive and responsible bidders. In order to fulfill this requirement, you must complete the "Responsibility Questionnaire" (Attachment 4). By signing the bid proposal, you hereby authorize the Department to review any records in its possession concerning your organization including, but not limited to, wage records, unemployment insurance records, public works records, labor standards and safety and health records. Based on the responses you provide, the Department will determine whether your organization is a responsible bidder. If you are disqualified based on a determination of non-responsibility, you will be notified in writing and may appeal the determination in writing within 10 days to the Commissioner. If you fail to identify a violation and the Department discovers the failure to disclose such violation, your contract may be terminated immediately upon written notice.

16. Contract Modification.

The contract budget can be modified, upon mutual agreement of the parties, during any term by written amendment.

17. Contract Cancellation.

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The Department reserves the right to cancel the contract or any part thereof, at any time, upon thirty (30) days written notice. If, in the judgment of the Department, that the Contractor fails to perform the work in accordance with the contract, the Department may terminate the contract immediately by written notice for cause. The Department may elect to suspend contract performance or provide a cure period prior to termination.
18. Rider for All Contracts Funded Under the American Recovery and Reinvestment Act of 2009.

All contracts that use American Recovery and Reinvestment Act funds must include the Vendor Obligations Rider. The rider mandates that every firm that the state hires with ARRA funds is responsible for posting all related jobs through the Department of Labor. The Department of Labor's Job Exchange is a free service that allows public access.

Agencies will need to complete part two of the rider to include additional reporting requirements. Reporting requirements are required by the ARRA bill, congressional committees, and there may be additional requirements that are needed by your agency. It is essential that your agency has the ability to track every dollar that is spent and to track the progress of each project that is funded with stimulus dollars.

Lastly, each vendor needs to identify in the signed contract the sources of their funds. The rider requires that the vendor specifies the dollar amounts that are from the State General Fund, Federal Fund Dollars, ARRA Stimulus Dollars and other fund sources.

B. Reservation Clauses

The Department, in order to serve the best interests of the State, reserves the right to:

- Postpone or cancel this RFP/RFA upon notification to all bidders,
- Amend the specifications after their release with appropriate notice to all bidders,
- Request bidders to present supplemental information clarifying their proposal, either in writing or in formal presentation,
- Waive or modify minor irregularities in proposals received after prior notification to the bidder,
- To correct any arithmetic errors in any proposal,
- Reject any and all proposals received in response to this RFP/RFA,
- Contact bidders' references as a check on qualifications,
- Award the contract to other than the lowest bidder,

- Award contracts to more than one bidder,
- Negotiate with selected bidder prior to contract award,
- Negotiate with the next highest rated bidder if negotiating a contract with the selected bidder(s) cannot be accomplished within an acceptable time frame (no bidder will have any rights against the Department arising from such negotiations),
- Make any payment contingent upon the submission of specific deliverables,

- Require that all offers are held open for a period of 120 days unless otherwise expressly provided for in writing,
- The Department of Labor, on behalf of the State Workforce Investment Board, reserves the right to make multiple awards or no award based on the quality of proposals received and the availability of funds,
- This RFP/RFA does not commit the New York State Department of Labor to award any contracts, pay the cost incurred in the preparation of a response to this RFP/RFA, or to procure or contract services,
- The Department of Labor reserves the right to accept or reject any or all proposals that do not completely conform to the instructions given in this RFP/RFA,
- Submission of an proposal will be deemed to be the consent of the applicant to any inquiry made by the Department of Labor or third parties with regard to the applicant's experiences or other matters relevant to the proposal, and
- The Department reserves the right to reject, based upon experience and outcomes under prior and current grant programs, certain training providers during contract negotiation