



Justice Center for the  
Protection of People  
with Special Needs

**NEW YORK STATE JUSTICE CENTER FOR THE PROTECTION OF PEOPLE WITH  
SPECIAL NEEDS**

**REQUEST FOR PROPOSALS  
Cost Allocation Consulting Services**

**Issued: September 15, 2016**

**Submission Deadline: October 17, 2016 by 12:00 PM ET**

**IMPORTANT NOTICE:** A restricted period under the Procurement Lobbying Law is currently in effect for this Procurement and it will remain in effect until State Comptroller approval of the Contract. **Bidders are prohibited from contact related to this procurement with any New York State employee other than the designated contacts listed below** (refer to RFP A-7 Procurement Lobbying Form and <http://ogs.ny.gov/aboutogs/regulations/advisoryCouncil/StatutoryReferences.html>).

Designated Contacts for this Procurement:

Contract Administrators:  
Robert Miller  
Lucia Patnaude  
Michele Zeccolo  
Lisa McLea

All contacts/inquiries shall be made by email to the following address:

[jc.sm.contracts@justicecenter.ny.gov](mailto:jc.sm.contracts@justicecenter.ny.gov)

This RFP is posted on the Justice Center's website:

<http://www.justicecenter.ny.gov>

Firms that electronically access this RFP or receive it from a source other than the Justice Center should email [jc.sm.contracts@justicecenter.ny.gov](mailto:jc.sm.contracts@justicecenter.ny.gov) to provide contact information.

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# 1 Introduction

## 1.1 Purpose

The New York State Justice Center for the Protection of People with Special Needs (Justice Center) is requesting proposals from qualified consulting firms to prepare a fully compliant Medicaid Administration Cost Allocation Plan (CAP) to identify and track eligible activities related to administering the Medicaid program and establish a process for claiming eligible costs to receive appropriate federal reimbursement. The selected Firm would also be responsible for securing all levels of approval of the cost allocation plan, including negotiation with relevant state and federal agencies, and assisting the Justice Center in preparing any eligible retroactive claims. This engagement is contemplated for a five year term that includes development and approval of the CAP in the first contract year, along with identifying, preparing and submitting any retroactive claims for allowable activities. In subsequent years, contractor will be expected to advise and support the Justice Center on any CAP-related issues and provide the Justice Center with a mechanism, preferably software or web-based program, to accurately capture and calculate eligible administrative activities and costs for claiming purposes.

At a high level, the contractor chosen for this engagement will be expected to perform the following tasks and activities:

- Perform a brief review of the professional staff's activities related to administering the Medicaid program and the Justice Center's existing cost allocation efforts and time study processes to ensure compliance with federal requirements.
- Review and assess Justice Center operations and direct administrative costs and advise Justice Center staff as how to distinguish between eligible and ineligible administrative activities.
- Develop a federally compliant CAP for Justice Center.
- Negotiate with state and federal agencies responsible for approving the CAP and, if necessary, draft and negotiate MOUs with other state entities.

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

## 1.2 Key Dates

It is anticipated that contracts will be awarded in response to this RFP based on the following schedule:

**Table 1 – Key Dates**

<b>Date</b>	<b>Event</b>
September 15, 2016	Issuance of Request for Proposals
<b>September 26, 2016 – 12:00 PM ET</b>	<b>Firm Inquiries Due</b>
On or about October 3, 2016	Center’s Response to Firm Inquiries
<b>October 17, 2016 – 12:00 PM ET</b>	<b>Proposal Submission Deadline</b>
On or about November 7, 2016	Finalist Interviews
October - November	Proposal Evaluation and Selection
January 1, 2017	Anticipated Contract Start Date

**Please note, the Justice Center reserves the right to change any of the dates stated in this RFP. If such change occurs, the Justice Center will notify all Firms who received the RFP from the Justice Center.**

## 1.3 Definitions

The term “Offerer” shall be defined as an individual, organization, or company that is external to the State of New York and submits a bid for this procurement opportunity. For the purposes of this RFP, the following terms will be used interchangeably: Offerer, Bidder, Consultant, Contractor, Firm, Proposer, and Vendor.

## 2 Background

### 2.1 Justice Center for Protection of People with Special Needs

The Justice Center was created to protect New York’s most vulnerable populations from abuse and neglect. The Justice Center’s primary function is to investigate allegations of abuse and neglect reported through the Justice Center’s Vulnerable Person’s Central Registry (VPCR). The VPCR, an electronic case management system that contains incident and case-related information, was developed to support Justice Center core functions including intake, investigations, prosecution, adjudication, case closure, oversight & monitoring and disciplinary support. Moreover, the Justice Center provides education/outreach, advocacy, and family/victim support services, in addition to administering the Technology Related Assistance for Individuals with Disabilities (TRAID) and Surrogate Decision Making Committee programs.

The Justice Center assumed all functions and duties of the former Commission on Quality Care and Advocacy for Persons with Disabilities (CQC), which includes quality assurance for Medicaid-funded programs licensed and/or operated by the Offices of Mental Health (OMH) and People with Developmental Disabilities (OPWDD). Most recently, time distribution surveys have been utilized by the Justice Center to document percentages of time worked on OMH and OPWDD related issues.

Subpart E of 45 CFR Part 95 promulgates the requirements for the development, documentation, submission, negotiation, and approval of a PACAP. Further, Appendix D to 2 CFR Part 225 (“OMB Circular A-87”) extends these requirements to all federal agencies whose programs are administered by a state public assistance agency.

A federally compliant cost allocation methodology is required for the Justice Center to receive federal reimbursement for administrative costs associated with the Medicaid program. The Justice Center is interested in assessing viable options for tracking and claiming reimbursement for eligible administrative activities.

Further background on the structure and operation of the Justice Centers is available on the Justice Center’s website:

<http://www.justicecenter.ny.gov>.

### **3 Request for Proposal (RFP) Overview**

#### **3.1 Services Required**

The Justice Center is seeking a qualified contractor to complete the following tasks and deliverables:

- **Review and Analyze Justice Center Organization, Operations, and Cost Allocation Efforts Including, but not limited to, the Following:**
  - a) Current Justice Center cost allocation processes (Time Distribution Surveys) for development of administrative claims.
  - b) Organizational structure, units, programs, activities within the Justice Center that benefit the Medicaid program.
  - c) Cost structure, expenditure data, accounting system, and funding sources for cost recovery and processes used for recovering allowable costs.
- **Identify Allocation Methodologies to Properly Allocate Allowable Costs**
- **Review and Assess Direct and Indirect Cost Allocations**
  - a) Identify and advise Justice Center management as to any potential opportunities to include other allowable costs within the Center cost allocation process.

- **Develop Justice Center CAP**

- a) Identify cost drivers, cost pools and describe the activities to be allocated to each of the cost pools.
- b) Draft CAP, present draft CAP to Justice Center and the New York State Department of Health (DOH), the single State Medicaid agency, for review and potential revision.
- c) Finalize CAP, including any necessary supporting documentation, for submission to by DOH to the Centers for Medicare and Medicaid Services (CMS). Negotiate, as necessary, with applicable oversight agencies.
- d) If MOUs with any agency under the jurisdiction of the Justice Center need to be completed, contractor will be expected to draft these documents.

The Justice Center requires that the qualified contractor provide a mechanism, either software or web-based application, to efficiently and accurately capture and calculate administrative costs for claiming purposes throughout the term of the engagement.

In addition to the above, in years two through five of the contract, the Justice Center requires the contractor provide technical support for any claiming, including formulation and submission of retroactive claims, issues that may arise and advise on any potential improvements or changes to ensure accuracy and maintain compliance for federal reimbursement claims.

### **3.2 Contract Term**

The contract period will commence upon approval of the State Comptroller (anticipated by January 1, 2017) and shall remain in effect for the next succeeding five years. The selected Firm must remain available for negotiation until final approval of the initial CAP.

### **3.3 Bidder Inquiries**

Questions or requests for clarification regarding the RFP should be submitted via email, citing the RFP page and section, by 12:00 P.M. ET on September 26, 2016 to [jc.sm.contracts@justicecenter.ny.gov](mailto:jc.sm.contracts@justicecenter.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 Justice Center's website and notice of such posting will be sent to all Firms who have been furnished the RFP by the Justice Center.

**Note to bidders:** Interested bidders must submit, if any, questions related to any terms and conditions listed in this RFP during the inquiry period. Generally, changes to terms and conditions listed will not be entertained. **Specifically, changes to terms and conditions regarding termination and indemnification will not be considered.**

### **3.4 Addenda: Revisions to this RFP**

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 Bidder discovers any ambiguity, conflict, discrepancy, omission or other error in this RFP, immediately notify the contact person, Robert Miller, of such error and request clarification or modification to the document. The Justice Center shall make RFP modifications by addenda, provided that any such modifications would not materially benefit or disadvantage any particular Firm. Such clarification will be given by written notice to all parties who have been furnished an RFP by the Justice Center.

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

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

All RFP addenda will be issued on the Justice Center's web site at the following address: <http://www.justicecenter.ny.gov/>.

### **3.5 M/WBE Subcontractor Interest**

New York State certified Minority- and Women-Owned Businesses (M/WBE) may request that their firm's contact information be included on a list of M/WBE firms interested in serving as a subcontractor for this procurement. The listing will be publicly posted on the Justice Center's website for reference by the bidding community. A firm requesting inclusion on this list should send contact information and a copy of its NYS M/WBE certification to [jc.sm.contracts@justicecenter.ny.gov](mailto:jc.sm.contracts@justicecenter.ny.gov). Nothing prohibits an M/WBE Vendor from proposing as a prime contractor.

### **3.6 Restriction of Communications**

Interested Bidders are prohibited from contact related to this procurement with any New York State employee other than designated personnel from the date this RFP is issued until the contract has been approved. Violation of this provision may be grounds for immediate disqualification.

All inquiries concerning this procurement must be addressed to the following designated contacts for this Procurement:

Robert Miller, Lucia Patnaude, Michele Zeccolo, or Lisa McLea  
New York State Justice Center for Protection of People with Special Needs  
161 Delaware Ave  
Delmar, NY 12054  
[jc.sm.contracts@justicecenter.ny.gov](mailto:jc.sm.contracts@justicecenter.ny.gov)

Further information about this restriction may be found at:

<http://ogs.ny.gov/Aboutogs/regulations/defaultAdvisoryCouncil.html>

#### 4 Proposal Requirements

The Bidder should submit a proposal which clearly and concisely provides all of the information requested. Emphasis should be concentrated on conformance to the RFP instructions and requirements, as well as completeness and clarity in its proposal response. The Bidder is advised to thoroughly read and follow all instructions contained in this RFP. Proposals that do not comply with these instructions or do not meet the full intent of all the requirements of this RFP may be subject to scoring reductions during the evaluation process or may be deemed non-responsive.

To assist Bidders, we have provided a **Proposal Checklist** located in Appendix H of this RFP. A proposal that does not provide all the information requested below may be subject to rejection. The State does not require, nor desire, any promotional material which does not specifically address the response requirements of this RFP.

A complete proposal for this RFP is comprised of three (3) separate sealed proposals: *Technical*, *Cost*, and *Administrative*. Please see below for content and submission details.

##### 4.1 Technical Proposal

Below is a listing of the technical information to be provided by the Bidder. The proposal should contain sufficient information to assure the Division of its completeness. Firms are requested to keep the submission to a **maximum of 30 pages** (not including appendices). No information is required beyond what is specifically requested. The Division requests that all technical proposals be **bound and organized with dividers identified to match the specific information requested below**:

- A. Table of Contents
- B. Executive Summary
- C. Proposed Project Plan
- D. Firm Experience and Qualifications
- E. Staff Experience and Qualifications

The purpose of the Technical Proposal is to provide Firms with an opportunity to demonstrate their qualifications, competence, and capacity to undertake the engagement described herein, in a manner which complies with applicable laws and regulations, and the requirements of the RFP. The Technical Proposal should specifically detail the Firm's experience and qualifications in providing the services sought by the Division. **There should be no dollar unit or costs included in the Technical Proposal document.**

#### **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 Firm's Technical Proposal should be provided. **Firms are reminded that cost should not be included in this section.**

#### **C. Proposed Project Plan**

The Bidder's proposal should include a narrative describing the project plan and provide information regarding how the Bidder will complete the tasks and produce the deliverables set forth in Section 3.1. Information provided in this narrative should demonstrate that the Bidder understands the skills and processes necessary to successfully complete the services detailed in this RFP. The project plan should include:

- A staffing plan that describes how the Firm's personnel will be organized to perform the assignments, including the responsibilities of each individual proposed for the consulting team
- A description of the recommended technical approach, including tasks and projected timetables, to be used in preparing the reports
- The estimated number of hours by level of staff needed to prepare the required CAP, complete other required tasks, and secure Federal government approval. This information should be consistent with the Firm's cost proposal. **However, Firms should not include hourly billing rates or any other cost information in the technical proposal.**

#### **D. Firm Experience and Qualifications**

In this section of the Technical Proposal, Firms should demonstrate relevant experience by providing the following:

1. A summary of the Firm's technical expertise that describes the unique capabilities of the Firm. This narrative should highlight the Firm's ability to provide cost allocation consulting services to the Justice Center.

The narrative should also include other entities comparable to New York State for whom the Firm provides, or has provided, cost allocation consulting services.

2. A description of the direct prior experience of the Firm comparable to those services detailed in Section 3.1, in the last five (5) years. Specifically, Firms should detail at least three similar engagements, but no more than five. Each example should include:
  - Name of client organization
  - Type of client (e.g. government entity (local, State, Federal), private company etc.)
  - Project description
  - Project duration including start/end dates
  - Number of Firm staff (FTEs) involved in the review
  - Any other information regarding the project that would assist the Division in determining the success experienced by the client
3. A description of the Firm's institutional expertise in Federal cost allocation principles under Title 2, Subtitle A, Chapter II, Part 225 of the Code of Federal Regulations and knowledge of current issues regarding the recovery of Federal reimbursement of Medicaid related costs.
4. A narrative that discusses innovations proposed for clients that led to enhanced recovery of Federal funding for Medicaid related costs.
5. A description of the Firm's experience in defending government cost allocation plans against Federal audit disallowances.
6. Knowledge of the State of New York's Statewide Financial System and experience with the Medicaid program and human service agency functions or other experience that demonstrates knowledge of other large states' public accounting systems and the Medicaid program and human service agency functions.
7. A list of other consulting contracts with the State of New York. Briefly describe each contract and identify potential conflicts of interest that could arise or be perceived under U.S. Government Accountability Office Independence Standards if the Firm were to be awarded a contract for this engagement. If applicable, describe how the Firm would avoid such conflicts of interest.
8. Firm References

Using Appendix B: Firm References Contact Information Form, the Bidder is asked to supply the Justice Center with the names and contact information for two people (one Primary and one Alternate Contact Person) that the Justice Center may contact as a reference for each engagement described above.

The Justice Center may seek information from references regarding subjects that include, but are not limited to, the quality of services provided, anticipated ability to perform the services required in this RFP, and the responsiveness of the Bidder to the client during the engagement.

Information provided by references may be used by the Justice Center for proposal evaluation purposes. The Justice Center is not responsible for the lack of responsiveness of the references listed by Bidders, and the State is not required to alert Bidders of a reference's unresponsiveness during the proposal evaluation period. Inability to contact a reference will not be looked upon favorably.

The State reserves the right to deploy, at its sole discretion, a variety of methods and communication approaches to contact references, depending on what the State deems to be the most effective and efficient manner.

## **E. Staff Experience and Qualifications**

In this section of the Technical Proposal, Bidders should demonstrate that the staff proposed have the knowledge and ability to perform the services described in the RFP.

1. Bidders should identify the Project Manager, and other staff to be assigned to the engagement consistent with the title definitions in Appendix G: Cost Proposal of the RFP. Bidders must submit resumes for all members of the proposed consulting team, including any subcontract personnel who may work on the engagement.
2. State all relevant information regarding the number, qualifications and experience of the staff to be specifically assigned to this engagement. Indicate how the staff competency level over the term of the contract will be assured.
3. For each individual proposed provide specific examples of consulting experience comparable to the size and scope of this engagement including:
  - a. A description of the individual's institutional expertise in Federal cost allocation principles under Title 2, Subtitle A, Chapter II, Part 225 of the Code of Federal Regulations and knowledge of current issues regarding the recovery of Medicaid related and human service costs.
  - b. Experience in developing innovations for clients that led to enhanced recovery of Federal funding for Medicaid related costs.
  - c. Experience in defending government CAPs against Federal audit disallowances.

- d. Experience with the State of New York's Statewide Financial System and human service agency functions, or other experience that demonstrates knowledge of other large states' public accounting systems and Medicaid related human service agency functions.
4. Supply a project organization chart, with names, showing the individuals to be assigned to the project with a specific indication of what role the individual will have on this project. The chart should include the title of each individual.
5. Bidders should submit Appendix C: Staff References Contact Information for at least three (3) references from recent engagements, preferably with governmental entities, who can comment on the experience of the Project Manager. Names, titles, addresses and telephone numbers of organizations and individuals who may be contacted for reference must be included.

**Note: Resumes and reference forms do not count toward the 30 page limit for the Technical Proposal.**

6. Commitment Certifying Staff Availability

Firms are to include a statement certifying their acknowledgement that, if selected, the staff proposed in the Technical Proposal will be available for the duration of the engagement. If a staff replacement is necessary, the replacement staff must meet the qualifications of the position, and the Division reserves the right to approve any changes in project staff. The Division reserves the right to reject any proposed staff member's participation in the engagement.

## **4.2 Cost Proposal**

Among the selection criteria is the fee the Bidder will charge the Division for the services described in this RFP. **Proposals with a fee format different from the format indicated in Appendix G – Cost Proposal Form will be deemed non-responsive and will not be considered for evaluation. All fees must be presented as a fixed dollar amount. An official authorized to contractually bind the prospective Bidder must sign the Cost Proposal.**

The Cost Proposal is an integral component of a Bidder's three-part submission. Bidders should take particular care to ensure the Cost Proposal is completed fully and in complete accordance with the instructions. Bidders are advised to submit questions about or requests for clarification of the Cost Proposal by **September 26, 2016**, the due date for submission of Bidder Inquiries.

**The Cost Proposal Form must be completed in its entirety according to the following instructions:**

- The Cost Proposal Form must include only one hourly rate for each of the following titles in each contract year: Engagement Partner; Project Manager; Senior Analyst; and Analyst. Please specify each person by name next to the corresponding title provided on the Form. Firms are required to use the titles provided, even if these titles are not consistent with the Firm's existing titles.
- The Cost Proposal must include a not-to-exceed price cost for development, completion, external negotiation & approval of the Cost Allocation Plan (CAP), as described in Section 3.1 of the RFP, including preparing any retroactive claims that may be allowable, in the first contract year. For subsequent contract years, the Cost Proposal must include a not-to-exceed cost consisting of hourly rates and estimated number of hours to provide technical support on issues related to the CAP. Additionally, contract years two through five must include a fixed price for software or web-based application to accurately track, collect, and/or calculate costs for the Justice Center's Medicaid related operations. The Cost Proposal must include the hourly rate (U.S. dollars) for each title described below. Do not leave blanks or enter a zero dollar amount for any rate. Do not fail to provide a rate for each title in each Plan Year.
- The cost proposal must include only one rate for each title in each Contract Year.
- Hourly fees shall be inclusive of personnel, travel, computer charges, postage and all other expenses related to each Contract Year.
- The Cost Proposal must include the total estimated number of hours to complete all requested services. For each title, Bidders must indicate the estimated number of hours to be performed for the Contract Year.
- To calculate the not-to-exceed total for each Contract Year: Multiply the Hourly Rate proposed by the Estimated Number of Hours for each Title. Add the Total of each Title to calculate the Cost Allocation Consulting Service Not-to-Exceed Total for each Plan Year. In years two through five, the fixed-price cost of the calculation tool should be added to the total.
- The Cost Proposal Form should be signed by the individual who signs the proposal Cover Page (an individual authorized to bind the bidding Firm contractually).
- Compensation shall not exceed the total bid for the corresponding Contract Year. Payments to the selected Bidder will only be made for actual hours worked, and will not exceed the proposed total cost for each Contract Year.
- The Justice Center will compensate the successful Contractor following submission of an approvable invoice, as further described in RFP Section 7.3.4: Compensation/Manner of Payment. Invoices should be submitted on a monthly basis, in the month following when services were performed.

- Payment of professional fees and expenses will be limited to the not-to-exceed price in each Contract Year as presented in the Firm's Cost Proposal. The Justice Center will withhold twenty percent (20%) of billings for the first Contract Year until approval of the Cost Allocation Plan is secured.

### 4.3 Administrative Proposal

Appendix A-1 of this RFP states standard requirements that must be included in every contract entered into with the Division. The successful Bidder must agree to abide by these requirements and provide any information requested by the Division in connection with these requirements. Bidders should also complete and submit the administrative components listed below. **Failure to submit any of the requirements below may result in the rejection of a Firm's proposal.**

- Appendix A-2: Cover Page.
- Appendix A-3: Non-Collusive Bidding Certification.
- Appendix A-4: Assurances of No Conflict of Interest or Detrimental Effect.
- Appendix A-5: M/WBE subcontractor participation and Equal Employment Opportunities Requirements, including the Firm's Diversity/Equal Opportunity Employment Policy.
- Appendix A-6: Vendor Responsibility Questionnaire (or indication that the Questionnaire has been electronically submitted in the State's VendRep system).
- Appendix A-7: Procurement Lobbying Form.
- Appendix A-8: Iran Divestment Act Certification.
- Disclosure of Pending or Prior Lawsuits:

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

- Freedom of Information Law Redaction Request:

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).

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

***Failure to submit each item above in the Administrative Proposal may result in disqualification of a Firm's proposal.***

Neither the Division nor the State of New York will be liable for any costs incurred by a proposer in the preparation and production of a proposal, or for the costs of any services performed prior to the selection of the Contractor and the Contract start date.

#### **4.4 Reservation of Rights**

The Justice Center reserves the right to:

- Reject any or all proposals received in response to the RFP;
- Withdraw the RFP at any time, at the Justice Center's sole discretion;
- Accept a proposal and any subsequent proposal for the contract from someone other than the lowest cost Bidder consistent with the criteria for the evaluation of proposals;
- Make an award under the RFP in whole or in part;
- Disqualify any Bidder 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 Bidder's qualifications, experience, ability or financial standing, and any material or information submitted by the Bidder 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 bidders 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 Bidders;
- Waive any requirements that are not material;
- Negotiate with the successful Bidder within the scope of the RFP in the best interests of the State;
- Conduct contract negotiations with the next responsible Bidder, should the agency be unsuccessful in negotiating with the selected Bidder;
- Utilize any and all ideas submitted in the proposals received;
- Unless otherwise specified in the solicitation, every offer is firm and not revocable for a period of 180 days from the bid opening;
- Request best and final offers; and
- Require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of an Offerer's proposal and/or to determine an Offerer's compliance with the requirements of the solicitation.

In addition, if it is subsequently determined by the Justice Center that the successful Firm is non-responsible, the Justice Center may then invite the next highest rated, qualified Firm to enter into negotiations for purposes of executing a contract.

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

Firms submitting a proposal are indicating their acceptance of the conditions in this RFP. Submission of proposals in a manner other than as described in these instructions (e.g., facsimile, electronic transmission) will not be accepted. When submitting each proposal (Technical, Cost, and Administrative), Firms will comply with the following:

1. Technical Proposals, Cost Proposals, and Administrative Proposals must be submitted in separately sealed packages;
2. "Original" documents must have an original signature; copied or electronic signatures will not be accepted;
3. "Original" proposals (Technical, Cost, and Administrative) must clearly be marked "Original" on the cover page;
4. Clearly mark the outside packaging for each set of sealed proposals (Technical, Cost, and Administrative);
5. Clearly mark the original and each copy as "**RFP – Cost Allocation Consulting Services submitted by [Bidder's name];**" and
6. Each Bidder must submit:
  - Two (2) originals, six (6) hardcopies and one (1) text-searchable electronic copy in CD format of the *Technical Proposal*.
  - Two (2) originals and one (1) text-searchable electronic copy in CD format of the *Cost Proposal*.
  - Two (2) originals and one (1) text-searchable electronic copy in CD format of the *Administrative Proposal*.

A Proposal Checklist is located in Appendix H to assist Bidders in compilation of proposals.

Note: The sealed, separate proposal packages may be submitted within one complete package for mailing.

A complete package (Technical, Cost, and Administrative Proposals) must be received before **12:00 p.m. ET on October 17, 2016**. Proposals should be sent to the following address:

Robert Miller  
New York State Justice Center for the Protection of People with Special Needs  
161 Delaware Ave.  
Delmar, NY 12054

***Late proposals will not be considered for award.***

## **5 Evaluation Process**

### **5.1 General Information**

The Justice Center will evaluate each proposal based on the “Best Value” concept. This means that the proposal that “optimizes quality, cost, and efficiency among responsive and responsible Offerers” shall be selected for award (State Finance Law, Article 11, § 163).

The Justice Center, at its sole discretion, will determine which proposal best satisfies its requirements. The Justice Center reserves all rights with respect to the award. All proposals deemed to be responsive to the requirements of this procurement will be evaluated and scored for technical qualities and cost. Proposals failing to meet the requirements of this document may be eliminated from consideration. Qualified staff/individuals will evaluate all submitted proposals. The Justice Center may request clarification of a proposal. The evaluation process will include separate technical and cost evaluations and will be conducted as set forth herein.

Upon review of proposals submitted by Offerers, the Justice Center may, at its discretion, submit to Proposers written questions and requests for clarification relating to their Technical, Administrative, and/or Cost Proposals. Offerers will be provided a reasonable period of time in which to submit written responses to the Justice Center’s requests for clarification.

Other than to provide clarifying information as may be requested by the Justice Center, no Proposer will be allowed to alter its proposal or add information.

### **5.2 Submission Review**

The Justice Center’s Administration Office will examine all proposals that are received in a proper and timely manner to determine if they meet the proposal submission requirements, as described in Section 4 of this RFP. Proposals that are materially deficient in meeting the submission requirements or have omitted material documents, in the sole opinion of the Justice Center, may be rejected. All proposals passing the Submission Review will be evaluated.

### **5.3 Technical Evaluation (80 Points)**

An Evaluation Panel will independently score each Technical Proposal that meets the submission requirements of this RFP. Evaluation Panel members will score Technical Proposals to identify Bidders with the highest probability of satisfactorily providing the services described in Section 3 of this RFP.

Individual Panel member scores will be averaged to calculate a technical score for each responsive Offerer. The technical evaluation is 80 points of the final score with the following evaluation criteria categories:

- Approach to Project
- Firm Experience and Qualifications
- Staff Experience and Qualifications

Evaluations will be based on the Offerer's demonstration of its ability to provide the services required through its Technical Proposal. Considering the above criteria, the Justice Center may review and check Firm and/or staff references. Evaluation panel members may re-evaluate any technical scores as a result of these reference checks. The inability to contact a Firm or staff reference provided by a Bidder will not be looked upon favorably.

During the evaluation process, the Justice Center may require clarifying information from a Firm. If specific sections of the written proposal require clarification, the Justice Center will identify the section(s) and information requested in writing. The Bidder should respond by the deadline stated in the correspondence. In addition, the Justice Center may use the proposal, information obtained through any interviews, and the Justice Center's own investigation of a Firm's qualifications, experience, ability or financial standing, and any other material or information submitted by the Firm 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.

#### **5.4 Cost Evaluation (20 Points)**

The Justice Center's Administration Office will examine the Cost Proposal documents and review them for responsiveness to cost requirements. If a Cost Proposal is found to be non-responsive, that proposal will be eliminated from consideration.

All complete, responsive proposals will receive a cost score.

Cost proposals will be evaluated on a pre-determined formula using the Firms' proposed not-to-exceed transaction costs for each Contract Year. The maximum score (20 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 = (20 potential points) X (Low Bid / Proposer's Bid)

#### **5.5 Finalists**

An Initial Composite Score for each responsive Offerer will be calculated by adding the Technical Proposal points to the Cost Proposal points to determine the Finalists. The Finalist Offerers will be the Firms with the three highest Initial Composite Scores.

#### **5.6 Interviews**

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 proposed primary contact, as well as other key personnel, including the Engagement Partner and Project Manager 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 Firm prior to the interview. The interview should substantiate the characteristics and attributes claimed by the proposer in the written response to the RFP. Technical scores may be revised based on the information gained from Finalist Interviews; however, the interviews will not be an opportunity to cure material omissions in Firms' proposals and are not a substitute for a well-written proposal.

In the event that there is only one Finalist Offerer, the Justice Center may choose to forego the interview at its discretion.

### **5.7 Final Composite Score**

The Final Composite Score will be the sum of the final Technical and Cost scores for each Offerer. The Offerer with the highest final composite score will be selected as the Contractor.

## **6 Award of Contract/Debriefing**

### **6.1 Contract Award**

The Justice Center expects to award one contract as a result of this RFP; however, the Justice Center reserves the right to not award any contracts, at its sole discretion.

1. Notification of selection/non-selection will be sent to Bidders by e-mail.
2. The Request for Proposals and all amendments/clarifications thereto, and the proposals submitted by the successful Firm and any clarifications thereto, will serve as the basis for, and will be included as appendices to, the contract with the Justice Center.
3. As stated in Section 4.4 in this RFP, in the event an agreement cannot be made with the highest rated qualified Bidders, the Justice Center has the right to negotiate with the next highest rated qualified Bidders.
4. Contract award is subject to approval of the Office of the Attorney General and the Office of the State Comptroller.
5. Upon contract award, public announcements or news releases pertaining to the contract shall not be made without the prior written consent of the Justice Center.

### **6.2 Debriefings**

Unsuccessful Bidders shall be notified upon the Justice Center's selection of a Contractor. Consistent with the New York State Procurement Guidelines, Proposers may, within five (5) business days of notification of selection/non-selection, request a debriefing to discuss the evaluation of their proposal.

## 7 Contractual Requirements

### 7.1 Written Contract

The written contract with the awarded Firm shall be a State contract including “Standard Clauses for New York State Contracts” (Appendix A-1). The entire Agreement shall consist of the documents and appendices listed below. Conflicts between these documents shall be resolved in the following order of precedence:

1. Appendix A-1: Standard Clauses for NYS Contracts;
2. The Contract, including all exhibits, attachments, and appendices;
3. The RFP and any and all modifications and clarifications thereto; and
4. The Contractor’s Proposal and any clarifications thereto.

### 7.2 Appendices

Important information affecting Bidders is contained in the Appendices and should be carefully examined. In particular, please note the following:

**Appendix A-1:** The “Standard Clauses for New York State Contracts” must be included in the contract with the awarded Firm.

**Appendix A-2:** The proposal Cover Page, which will be considered an integral part of the Proposal, should be signed and submitted with the Administrative Proposal. The Cover Page should be signed by an individual authorized to bind the Bidder contractually. A proposal with an unsigned cover page may be rejected. **Modified forms will not be accepted.**

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

**Appendix A-4:** 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.**

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

- Equal Employment Opportunity (EEO) Policy Statement.
- Appendix A-5.1 Workforce Composition Form.
- Appendix A-5.2 Firm’s intended Utilization Plan for M/WBE subcontractor participation. The successful Bidder will be required to formally submit the Utilization Plan within three days of notification of selection.
- If applicable, other forms in Appendix A-5 should also be included in the Administrative proposal, in accordance with section 7.3.7: Provisions for New York Certified Minority- and Woman-Owned Business Enterprises and Equal Employment Opportunity.

**Appendix A-6:** A Vendor Responsibility Questionnaire should be certified and filed by the proposal submission deadline. The determination is required for review and approval

of the contract by the State Comptroller's Office. Firms are invited to file online with the New York State VendRep System, or submit a paper questionnaire.

**Appendix A-7:** Procurement Lobbying Form should be completed and submitted with the proposal confirming and certifying compliance with the Procurement Lobbying Law, including disclosure of any findings of non-responsibility.

**Appendix A-8:** Clauses stating compliance with Iran Divestment Act of 2012. This form should be signed and submitted with the Administrative Proposal.

**Appendix B:** Firm References Contact Information. For each client experience example described in the Firm Experience section of the Technical Proposal, Bidders should submit complete contact information in Appendix B.

**Appendix C:** Staff References Contract Information. Bidders should submit Appendix C identifying three (3) references for the proposed Project Manager.

**Appendix D:** 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 Firms agree to complete and submit an initial planned employment data report (Form A) upon notification of selection by the Division. The Firm also agrees to submit an annual employment report (Form B) by May 15 of each year of the contract. Both Form A and B are obtained as indicated in Appendix D.

**Appendix E:** A Sales Tax Certification should be submitted upon notification of selection by the Division, as it is required for review and approval of the contract by the Comptroller's Office.

**Appendix F:** Proof of Workers' Compensation and Disability Insurance as required by Sections 57 and 220 of the New York State Workers' Compensation Law (WCL) should be submitted by the Insurer upon notification of selection.

**Appendix G:** The Cost Proposal Form must be signed and submitted separately from the Technical and Administrative Proposals.

**Appendix H:** The Proposal Checklist should be completed and submitted.

### **7.3 Additional Provisions**

In addition to the established provisions in Standard Clauses for NYS Contracts (Appendix A-1), the contract that results from this RFP is expected to substantially contain the terms and conditions set forth in this section:

#### Relationship between the Justice Center and Contractor

The relationship of the selected Firm to the Justice Center 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

Justice Center 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 Justice Center or the State, including but not limited to workers' compensation coverage, unemployment insurance benefits, social security coverage, or retirement membership credit.

## 2. Use by Other State Agencies

Any contract entered into pursuant to an award of this RFP may contain a provision that grants the option to extend the terms and conditions of such contract to any other State agency in New York. However, any response to this RFP shall be based solely on the purpose of this RFP and shall not factor in the possibility that this contract may, in the future, be applicable to other State agencies. Please be advised that any award made pursuant to this RFP shall be based on the specific requirements of this RFP only.

## 3. Additional Services Requested

The Justice Center may, at any time, by written notice, make changes or additions to work or services within the general scope of the contract resulting from this RFP (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 the contract, an equitable adjustment may be made in the price using the billing rates set forth in the contract, and the Contractor shall be notified in writing accordingly. Any claim by the Contractor for adjustment under this clause must be asserted within 30 days from the date of receipt by the Contractor of the notification of change; provided however, that the Justice Center, if it decides that the facts justify such action, may receive and act upon such claim as asserted at any time. Nothing in this clause shall excuse the Contractor from proceeding with this contract as modified.

## 4. Compensation/Manner of Payment

Reimbursement of the Contractor will be based upon the fees stipulated in the Contract. The Authorized Issuer will compensate the Contractor following submission of an approvable invoice.

The Contractor shall provide complete and accurate billing invoices in order to receive payment. Billing invoices submitted must contain all information and supporting documentation required by the Contract, the Justice Center and the State Comptroller. Payment for invoices submitted by the Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the Justice Center, in its sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures

and practices. The Contractor shall comply with the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the State Comptroller's website at: [www.osc.state.ny.us/epay/index.htm](http://www.osc.state.ny.us/epay/index.htm), by e-mail at [epunit@osc.state.ny.us](mailto:epunit@osc.state.ny.us), or by telephone 518-486-1255.

In order for the selected Consultant(s) to do business with NYS, they must obtain a Vendor ID within the Statewide Financial System (SFS). Transactions with Firms cannot be processed unless the Firm has secured a Vendor ID. For more information about this process or obtaining a Vendor ID, please contact OSC's Vendor Management Unit at [VMU@osc.state.ny.us](mailto:VMU@osc.state.ny.us) or call them at 855-233-8363.

Neither the Justice Center nor the State of New York nor the Authorized Issuers will be liable for any costs incurred by a Bidder in the preparation and/or production of any proposal, or for any work performed prior to the execution of a formal contract.

#### 5. Vendor Responsibility Determination

The Justice Center will conduct a review of each prospective Contractor's Vendor Responsibility Questionnaire (Appendix A-6) to provide reasonable assurances that the Contractor is responsible.

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

If the Justice Center identifies potentially negative information in its review, the Justice Center will notify the Contractor. If the Justice Center makes a preliminary finding that the Contractor is non-responsible, the Justice Center will detail in writing to the Contractor the reasons(s) for the preliminary determination, and will provide an opportunity for the Contractor to respond before the determination is finalized.

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

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

#### 6. Freedom to Undertake

With respect to any contract or employment as an independent contractor or employee of New York State, or any New York public corporation as defined in Section 66 of the New York General Construction Law or any agency or department of either, pursuant to the terms of any other present or future

agreement, expressed, implied, entered into with such entity, if any, the Firm by submitting a proposal thereby covenants and represents that there is no conflict as to hours required to be worked or duties required to be performed pursuant to the terms of this proposal and any aforesaid contract or employment.

7. Provisions for New York Certified Minority- and Women-Owned Business Enterprises and Equal Employment Opportunity

Pursuant to New York State Executive Law Article 15-A, the Justice Center recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority- and women-owned business enterprises and the employment of minority group members and women in the performance of Justice Center contracts.

In 2006, the State of New York commissioned a disparity study to evaluate whether minority- and women-owned business enterprises had a full and fair opportunity to participate in state contracting. The findings of the study were published on April 29, 2010, under the title "The State of Minority and Women-Owned Business Enterprises: Evidence from New York" ("Disparity Study"). The report found evidence of statistically significant disparities between the level of participation of minority- and women-owned business enterprises in state procurement contracting versus the number of minority-and women-owned business enterprises that were ready, willing and able to participate in state procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the statewide certified minority- and women-owned business enterprises program. The recommendations from the Disparity Study culminated in the enactment and the implementation of New York State Executive Law Article 15-A, which requires, among other things, that the Justice Center establishes goals for maximum feasible participation of New York State Certified minority- and women- owned business enterprises ("M/WBE") and the employment of minority groups members and women in the performance of New York State contracts.

The Firm selected for this undertaking will be asked to acknowledge its understanding and support for the social policy herein and will be expected to exert a good faith effort to solicit the participation to the extent feasible of such individuals and firms as partners, joint venturers, subcontractors, suppliers and employees, and to report on the results of such efforts.

For the purposes of this solicitation, the Justice Center hereby establishes an overall goal of 30% for M/WBE participation, 15% for Minority-Owned Business Enterprises ("MBE") participation and 15% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs). A Contractor on the subject Contract must document good faith efforts to provide meaningful participation by M/WBEs as subcontractors or suppliers in the performance of the Contract and Contractor agrees that the Justice Center may withhold payment pending receipt of the required M/WBE

documentation. The directory of New York State Certified M/WBEs can be viewed at: <http://www.esd.ny.gov/mwbe.html>. For guidance on how the Division will determine a Contractor's "good faith efforts," refer to 5 NYCRR§142.8.

In addition, a listing of certified M/WBE Firms that have expressed a specific interest in this RFP (see RFP section 3.6) may be posted to the Justice Center's web page for this procurement. The Justice Center's procurement website can be accessed at:

<http://www.justicecenter.ny.gov.html>

The Firm(s) selected for this undertaking shall comply with the requirements of Section 312 of Article 15-A of the New York Executive Law and shall undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Appendix A-5 contains the applicable Equal Employment Opportunity language and required reporting forms.

#### Penalties for Willful and Intentional Failure to Comply

In accordance with 5 NYCRR§142.13, the Contractor acknowledges that if it is found to have willfully and intentionally failed to comply with the M/WBE participation goals set forth in the Contract, such finding constitutes a breach of Contract and the Justice Center may withhold payment from the Contractor as liquidated damages.

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

#### Deficiency and Disqualification

Vendors will receive a notice of deficiency when the State's specified requirements have not been met. Failure to fully address the RFP's administrative requirements may result in disqualification of a Bidder from the procurement. Procedures for Disqualification of a vendor are described in Section 142.9 of the New York Code, Rules and Regulations.

#### Contractor Compliance Reports

Contractors are required to submit a Contractor's Quarterly M/WBE Contractor Compliance & Payment Report to the Justice Center by the 5<sup>th</sup> day following each end of quarter over the term of the Contract documenting the progress made toward achievement of the M/WBE goals of the Contract.

#### Noncompliance and Dispute Resolution

Where there is a dispute that cannot be resolved between an agency and a Vendor on noncompliance in M/WBE Utilization or Workforce Diversity, the issue will be elevated to the DMWBD for resolution. If a resolution of the dispute recommended by the Executive Director of DMWBD is satisfactory to the parties, the parties shall

so indicate by signing a dispute resolution memorandum indicating that the matter has been resolved and stating the terms of the resolution.

If a resolution cannot be agreed upon, the Executive Director of DMWBD will refer the complaint, within 30 calendar days of the receipt of the complaint, to DMWBD's hearing officer for a hearing. The decision of DMWBD's hearing officer shall be final and may only be vacated or modified as provided in Article 78 of the Civil Practice Law and Rules.

#### 8. Reports and Findings

Any and all reports and findings rendered to the Justice Center by the Contractor shall be the exclusive property of the Justice Center and subject to its use and control. The Contractor herewith waives any and all rights to such reports and findings and the control thereof.

The Contractor shall take all appropriate action to protect the confidentiality of all information supplied to it or developed by it during the course of its performance under the terms of the contract.

The Justice Center reserves the right to require the successful vendor to execute a Non-Disclosure Agreement, and to require that Contractor staff sign the Justice Center's Information Security Acceptance Form.

#### 9. Records Access

Justice Center staff, others authorized by the Justice Center 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 involved in transactions relating to the contract during the contract period and for a period of six (6) years after final payment for said services. The Contractor will make all records, including related documents of any and all subcontractors, available to New York State.

#### 10. Work Paper Retention and Availability

The work papers to be prepared by a Contractor during the engagement will be the Contractor's property although copies thereof and access to them will be made available, upon request, to the Justice Center, representatives of the Federal government and State agencies when authorized by the Justice Center, 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 Justice Center.

The Contractor selected 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 contract.

#### 11. Performance Monitoring

The Contractor's performance will be assessed by the State according to the achievement of Contractor's contractual obligations in a timely and professional manner, as set forth herein. The Justice Center 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.

#### 12. Disputes and Dissatisfaction/Conflict Resolution

In the event the Justice Center 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 Justice Center shall notify the Contractor of the dispute in writing. In the event the Contractor has any disputes with the Justice Center, the Contractor shall notify the Justice Center 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 Justice Center or the Contractor (each individually, a "Party" and collectively, the "Parties") 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.

#### 13. Termination

The Justice Center reserves the right to terminate the services of the Contractor, in whole or in part, upon thirty (30) days written notice for any reason, including convenience, 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 Justice Center. In the event of such termination other than for cause, the Contractor shall be entitled to compensation for (a) services performed through the date of termination that are accepted by the State, (b) any subsequent services rendered in connection with any successor consultants and contractors, including transfer of records or briefings, and (c) any other services deemed necessary or desirable by the Justice Center. 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 personal 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 Justice Center 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 Justice Center upon written request of the Contractor within such 30-day period or authorized extension thereof. Upon failure of the Contractor to submit its termination claim within the time allowed, the Justice Center 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 Justice Center.

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

Firms responding to this RFP should note that the Justice Center recognizes that conflicts may occur in the future because the selected Firm may have existing or establish new relationships. The Justice Center will review the nature of any relationships and reserves the right to terminate the contract for any reason or cause if, in the judgment of the Justice Center, a real or potential conflict of interest cannot be cured.

#### 14. Indemnification and Contractor Liability

The Contractor shall be fully liable for any act or omission of the Contractor, its employees, subcontractors and agents, and shall fully indemnify and hold harmless the Justice Center and the State from third-party 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 Contract, without limitation; provided, however, that the Contractor shall not be obligated to indemnify the Justice Center and the State for that portion of any claim, loss or damage arising hereunder due to the

negligent act or failure to act by the Justice Center and the State or the acts of third parties, other than those provided by the Contractor to perform under the resulting contract. In connection with the foregoing, the Justice Center and the State shall give 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 Contractor's sole expense, and (iii) assistance in the defense of any such action at the expense of Contractor.

Except as otherwise set forth as being without limitation in this indemnification paragraph above, the limit of liability shall be as follows: Contractor's liability for any damages arising out of, or related to the Contract, whether in contract, tort or otherwise, shall in no case exceed direct damages in an amount equal to the greater of (i) two times the amount disbursed by the State to the Contractor, or (ii) one million dollars (\$1,000,000).

Notwithstanding the above, the Contractor and the Justice Center/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 Justice Center and the State, the Contractor, or by others.

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

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 Justice Center 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.

## 15. Notices

All notices, demands, instructions, claims, approvals, and disapprovals are required to be given to either Party at the addresses set forth in the final contract document or to such other address as either Party shall have provided the other.

## 16. Waiver, Modification, Execution, or Severability

No waiver or modification of the contract 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 contract, 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.

The written contract for which the Contractor is selected shall contain the sole and entire agreement between the Parties and shall supersede any and all other agreements between the Parties.

The Parties hereto shall execute such other further documents as may be required to effectuate the terms of the contract.

In the event that any provision of the resulting 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.

## 17. Freedom of Information Law

New York State's Freedom of Information Law (FOIL) (Public Officers Law, Article 6, Sections 84-90), available at: <http://www.dos.state.ny.us/coog/index.html>, promotes the public's right to know the process of governmental decision-making and grants maximum public access to governmental records. The proposal of the successful Bidder and the proposals of unsuccessful Bidders 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 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 all information that a Firm may claim as proprietary, copyrighted or rights-reserved is not necessarily protected from disclosure under FOIL.

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

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

It is a Firm's responsibility to consult an attorney with any questions the Firm 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 Bidder either to designate its entire bid proposal as proprietary and/or to claim copyright protection for its entire proposal.

The Contractor must provide to the Justice Center 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 Justice Center pursuant to the Freedom of Information Law.

#### 18. Force Majeure

Neither Party will be liable for losses, defaults, or damages under the resulting Agreement which result from delays in performing, or inability to perform, all or any of the obligations or responsibilities imposed upon it pursuant to the terms and conditions of the 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.

#### 19. Executory Clause

The resulting 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 Justice Center beyond the amount appropriated. It is understood that neither this Agreement nor any representation by any public employee or officer creates any legal or moral obligation to request appropriate, or make available moneys for the purpose of the Agreement.

#### 20. Proposal Ownership

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

#### 21. Contractor Staff

Contractor staff assigned to work on this project shall be subject to approval by the Justice Center. It is highly desirable that staff assigned to work on this project continue to work on this project until completion. The Justice Center 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, servants, consultants, shareholders, and subcontractors have and shall possess the experience, knowledge, and character necessary to qualify them individually for the particular duties performed hereunder.

The Agreement resulting from this RFP 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 should notify the Justice Center of any proposed changes in staff immediately. The Justice Center has an absolute right and discretion to approve or disapprove any proposed changes in staff. The Justice Center, 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 skills, experience and expertise which is comparable to or better than that of the persons they will replace, and will be provided at the same or lower hourly rate.

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

All employees of the Contractor, or of its Subcontractors, who shall perform Services under this contract, 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.

## 22. Reservations

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

## **APPENDICES**

## APPENDIX A-1: STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

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December, 2012

## **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 (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), 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 \$10,000, 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 is required when such contracts exceed \$85,000 (State Finance Law Section 163.6-a). However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.

**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 because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. 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 (2NYCRR 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 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 section. 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  
Albany, New York 12245  
Telephone: 518-292-5100  
Fax: 518-292-5884  
email: [opa@esd.ny.gov](mailto:opa@esd.ny.gov)

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  
New York, NY 10017  
212-803-2414  
email: [mwbecertification@esd.ny.gov](mailto:mwbecertification@esd.ny.gov)  
<http://esd.ny.gov/MWBE/directorySearch.html>

The Omnibus Procurement Act of 1992 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) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

**22. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT.**

Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 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 Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 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 Section 5-a, if the contractor

fails to make the certification required by Tax Law Section 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.

## APPENDIX A-2: COVER PAGE

### PLEASE SUBMIT WITH ADMINISTRATIVE PROPOSAL

Please Note: A “No” response may be grounds for disqualification from this procurement.

RFP Name: <u>Cost Allocation Consulting Services</u>				
Proposal Date: _____				
1	<b>Information Regarding the Proposer’s Firm:</b>	Name: _____ Address: _____ City, State, Zip Code: _____ Telephone Number: _____ Taxpayer ID: _____ NYS Vendor ID: _____		
2	<b>Primary Contact Concerning this Proposal:</b>	Name: _____ Title: _____ Address: _____ City, State, Zip Code: _____ Telephone Number: _____ Email address: _____		
3	<b>Irrevocable Offer:</b>	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	<b>Willingness to Perform All Services:</b>	The Proposer 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	<b>Proposer Guarantees:</b>	a. The Proposer certifies it can and will provide and make available, as a minimum, all services set forth in the RFP. b. The Proposer has read Section 7, Contractual Requirements, and agrees that the rights and prerogatives as detailed in that Section are retained by the Justice Center. c. The Proposer agrees to be bound by the Contractual Requirements found in Section 7 of the RFP.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
6	<b>Proposer Warranties:</b>	1. Proposer warrants that it is willing and able to comply with New York laws with respect to foreign (non-New York) corporations. 2. Proposer 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. 3. Proposer warrants that it will not delegate or subcontract its responsibilities under an agreement without the written permission of the Justice Center.	<input type="checkbox"/> Yes	<input type="checkbox"/> No

		<b>4. Proposer warrants that all information provided by it in connection with this proposal is true and accurate.</b>		
7	Appendix A-1:	The Proposer has read, understands, and accepts the provisions of Appendix A-1, Standard Clauses for NYS Contracts, which will be incorporated, without change or amendment, into the contract entered into between the Justice Center and the selected Proposer.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
8	Vendor Responsibility Questionnaire Requirement:	<p>The Proposer has (Please check the appropriate box.):</p> <p><input type="checkbox"/> Certified and filed the Vendor Responsibility Questionnaire on-line via the New York State VendRep System.</p> <p style="text-align: center;">OR</p> <p><input type="checkbox"/> Included a properly executed paper copy of the Vendor Responsibility Questionnaire with the Administrative Proposal.</p>		
9	<p>By my signature on this Cover Page, I certify that I am authorized to bind the Firm Contractually.</p> <hr/> <p>Typed or Printed Name of Authorized Representative of the Firm</p> <hr/> <p>Title/Position of Authorized Representative of the Firm</p> <hr/> <p>Signature</p> <hr/> <p>Date</p>			

**APPENDIX A-3: NON-COLLUSIVE BIDDING CERTIFICATION**

**In accordance with New York State Finance Law, § 139-d, by submitting its bid, each Bidder and each person signing on behalf of any other Bidder 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:**

- [1] 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 Bidder or with any competitor;
- [2] Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder prior to opening, directly or indirectly, to any other Bidder or to any competitor; and
- [3] No attempt has been made or will be made by the Bidder 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: \_\_\_\_\_

**APPENDIX A-4: 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, 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:

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

Firms responding to this Request for Proposals should note that the Justice Center recognizes that conflicts may occur in the future because a Firm may have existing or establish new relationships. The Justice Center 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.

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

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

This form must be signed by an authorized executive or legal representative.

**APPENDIX A-5: M/WBE AND EQUAL EMPLOYMENT OPPORTUNITIES REQUIREMENTS**

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

In an effort to promote equality of economic opportunities for minority group members and women, Article 15-A, of the New York State Executive Law §310–318, (the Article) was enacted July 19, 1988. In accordance with the requirements of the Article, the Contractor hereby agrees to make good faith efforts to promote and assist the participation of certified Minority- and Women-owned Business Enterprises (M/WBE) as subcontractors and/or suppliers on this project for the provision of services and materials in an amount at least equal to the M/WBE goal (included in the procurement document) as a percentage of the total dollar value of this project. In addition, the Contractor shall ensure the following:

1. All state contracts, and all documents soliciting bids or proposals for state contracts, contain or make reference to the following provisions:
  - a. By submission of a bid or proposal in response to this solicitation, the Bidder/Contractor agrees with all of the terms and conditions of Appendix A including Clause 12 – Equal Employment Opportunities for Minorities and Women. The Contractor is required to ensure that it and any subcontractors awarded a subcontract over \$25,000 for labor, services, supplies, equipment, materials, or any combination of the foregoing, to be performed for, or rendered or furnished to the Justice Center, 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, 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.
  - b. 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.
  - 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.
2. The Contractor will include the provisions of subdivision one of this section in every subcontract as defined under §310.14, except as provided under §312.6 of the Article, in such a manner that

the provisions will be binding upon each subcontractor as to work in connection with the State contract.

3. Contractors or subcontractors shall comply with the requirements of any federal law concerning equal employment opportunity, which effectuates the purpose of this section.
4. Contractors and subcontractors shall undertake programs of affirmative action and equal employment opportunity as required by this section.<sup>1</sup> In accordance with the provisions of the Article, the proposer should submit, with their proposal, a Workforce Composition Form (Attachment A-5.1) identifying the anticipated work force to be utilized on the Contract and if awarded a Contract, will upon request, submit to the Justice Center, a workforce utilization report identifying the workforce actually utilized on the Contract if known. For purposes of the Article, affirmative action shall mean recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff or termination, and rates of pay or other forms of compensation.
5. Pursuant to Article 15 of the Executive Law (the “Human Rights Law”), all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.
6. Certified businesses (as defined under Article 15-A, section 310.1 means a business verified as a minority- or women-owned business enterprise pursuant to section three hundred fourteen of the article) shall be given the opportunity for meaningful participation in the performance of this contract, to actively and affirmatively promote and assist their participation in the performance of this contract, so as to facilitate the award of a fair share of this contract to such businesses.<sup>2</sup>
7. Contractor is expected to make a good faith effort to solicit active participation by enterprises identified in the Empire State Development (“ESD”) directory of certified businesses, which can be viewed at: <https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>.

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The Justice Center may require a contractor to submit proof of an equal opportunity program after the proposal opening and prior to the award of any contract. In accordance with regulations set forth under Article 15-A, §312.5, contractors and/or subcontractors may also be required to submit compliance reports relating to the contractor’s and/or subcontractor’s program in effect as of the date the contract is executed.

<sup>2</sup>Should the contractor identify a Firm that is not currently certified as an M/WBE, it should request that the Firm submit a certification application to ESD by the deadline for submission of proposals for eligibility determination. The Justice Center will work with ESD to expedite the application.

8. Contractor shall agree, as a condition of entering into said contract, to be bound by the provisions of Article 15-A, §316.

9. Contractor shall include the provisions set forth in paragraphs (6) and (7) above, in every subcontract in a manner that the provisions will be binding upon each subcontractor as to work in connection with this Contract.
10. Contractor shall comply with the requirements of any federal law concerning opportunities for M/WBEs, which effectuates the purpose of this section.
11. Contractor is required to submit M/WBE Utilization Plan<sup>3</sup> (Attachment A-5.2) with their bid or proposal. Any modifications or changes to the Utilization Plan after the Contract award and during the term of the Contract must be reported on a revised M/WBE Utilization Plan and submitted to the Justice Center.

The Justice Center will review the submitted M/WBE Utilization Plan and advise the Bidder of the Justice Center's acceptance or issue a notice of deficiency within 30 days of receipt.

12. The percentage goals established for this solicitation are based on the overall availability of M/WBEs certified in the particular areas of expertise identified under this solicitation. These goals should not be construed as rigid and inflexible quotas which must be met, but must be targets reasonably attainable by means of applying good faith efforts to make all aspects of the entire Minority- and Women-owned Business Program work.
13. Contractor shall ensure that enterprises have been identified within the Utilization Plan (Attachment A-5.2), and the Contractor shall attempt, in good faith, to utilize such enterprise(s) at least to the extent indicated in the plan, as to what measures and procedures Contractor intends to take to comply with the provisions of the Article.
14. Contractor shall submit to the Justice Center Quarterly M/WBE Compliance Reports by the 5<sup>th</sup> day of each State fiscal quarter (January, April, July, and October).
15. Upon written notification from the Justice Center as to any deficiencies and required remedies, Contractor shall, within the period of time specified, submit compliance reports documenting remedial actions taken and other information relating to the operation and implementation of the Utilization Plan.

<sup>3</sup>A Utilization Plan, as defined under Article 15-A, shall mean a plan prepared by a contractor and submitted in connection with a proposed state contract. In developing the Utilization Plan proposers should consider the goals and established time frames needed to achieve results which could reasonably be expected by putting forth good faith efforts to achieve the overall prescribed M/WBE participation percentage (%) goals as set forth under the procurement.

16. Where it appears that a Contractor cannot, after a good faith effort, comply with the M/WBE participation requirements, Contractor may file a written application with the Justice Center requesting a partial or total waiver (Attachment A-5.4) of such requirements setting forth the reasons for such Contractor's inability to meet any or all of the participation requirements, together with an explanation of the efforts undertaken by the Contractor to obtain the required

M/WBE participation. 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 Justice Center, but must be made no later than prior to the submission of a request for final payment on the Contract.

For purposes of determining a Contractor's good faith efforts to comply with the requirements of this section or be entitled to a waiver, the Justice Center shall consider the following:

- a. Whether the Contractor has advertised in general circulation media, trade association publications, and minority-focused and women-focused media and, in such event;
  - i. Whether or not certified M/WBEs which have been solicited by the Contractor exhibited interest in submitting proposals for a particular project by attending a pre-bid conference; and
  - ii. Whether certified businesses which have been solicited by the Contractor have responded in a timely fashion to the Contractor's solicitations for timely competitive bid quotations prior to the contracting agency's deadline for submission of proposals.
- b. Whether there has been written notification to appropriate certified M/WBEs that appear in the ESD website, found at: <https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>; and
- c. Whether the Contractor can reasonably structure the amount of work to be performed under subcontracts in order to increase the likelihood of participation by certified M/WBEs.

All required Affirmative Action, EEO, and M/WBE forms to be submitted along with bids and/or proposals for Justice Center procurements are attached hereto. These forms are to be submitted without change to goals specified in the solicitation. All proposed M/WBE Firms are required to be certified by ESD, or must be in the process of obtaining certification from ESD.

**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.**

### **Notice of Deficiency**

If the Justice Center's Administration Office is not satisfied with the content of a Utilization Plan, the contractor will be notified of the deficiency, and shall have seven (7) days to address the deficiency. If the remedy is not timely, or is inadequate, the Firm will have an additional five (5) days to submit a Request for Waiver.

## **Disqualification of Bidders**

The Justice Center may disqualify a Bidder as being non-responsive under the following circumstances:

- a) If a Bidder fails to submit a M/WBE Utilization Plan;
- b) If a Bidder fails to submit a written remedy to a notice of deficiency;
- c) If a Bidder fails to submit a request for waiver; or
- d) If the Justice Center determines that the Bidder has failed to document good faith efforts.

In the event that an outstanding issue is not addressed, the Justice Center shall move on to the bidder with the next highest final composite score. For more detail see 5 NYSCRR § 142.9.

Firms that have received a written notice of disqualification may, within five days of receipt, file a complaint with the Director of Division of Minority and Women-Owned Business Development (DMWBD) pursuant to §316 of Executive Law. The Firm shall serve a copy of its complaint upon the Executive Director and the Justice Center by personal service or certified mail, return receipt requested.

Hearings will be held in accordance with the procedures described in 5 NYSCRR §§ 145.1.

## **Compliance Reporting**

Contractors will submit a Quarterly M/WBE Compliance Report every quarter, based on the State fiscal year. Verification of payment to all M/WBE subcontractors listed in the Utilization Plan, in the form of cancelled checks, must be provided upon the Justice Center's request to document ongoing compliance with the M/WBE subcontractor utilization commitment. Failure to provide requested verification may result in the withholding of future payments.

## **Non-Compliance**

If the contractor is found to be in non-compliance (with no good faith effort present), they will be susceptible to disbarment, damages or fines as detailed in 5 NYSCRR § 142.12.

In summary, this process entails:

- A. The contracting agency submitting a written complaint to the Executive Director of the DMWBD regarding the contractor's non-compliance, recommending that they review the matter.
- B. The Firm against whom the complaint has been filed will have the opportunity to respond to the complaint.
- C. If the matter cannot be resolved, it will go to DMWBD's hearing officer. Hearings will be held in accordance with 5 NYSCRR § 145.1.
- D. The decision of the hearing officer's decision is final, and recommendations will be made to the Executive Director for a remedy, including sanctions, fines or penalties where applicable.

The outcome of these hearings can be appealed pursuant to Article 78 of the New York State Civil Practice Law and Rules.

Attachments:

- Attachment A-5.1 – Workforce Composition
- Attachment A-5.2 – M/WBE Utilization Plan
- Attachment A-5.3 – Notice of Intent to Participate
- Attachment A-5.4 – Request for Waiver
- Attachment A-5.5 – Sample Quarterly M/WBE Contractor Compliance Report

**ATTACHMENT A-5.1: WORKFORCE COMPOSITION FORM**

<b>INSTRUCTIONS: All Proposers submitting responses to this procurement must complete and submit this Workforce Composition Form as part of their proposal. Proposers should include only the staff that will provide services under this procurement.</b>																				
<b>Proposer Name:</b>												<b>Federal Identification No.:</b>								
<b>Address:</b>												<b>Procurement No.:</b>								
<b>City, State, Zip Code:</b>																				
<b>Description of Work:</b>																				
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 AMERICA		DISABLED		VETERAN				
				M	F	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																				
_____												_____								
<b>PREPARED BY (Signature)</b>												<b>Date</b>								
_____												_____								
<b>PRINTED OR TYPED NAME AND TITLE OF PREPARER</b>												<b>TELEPHONE NO</b>			<b>EMAIL ADDRESS</b>					

**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.

**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.

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

**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.

**ATTACHMENT A-5.2: M/WBE UTILIZATION PLAN**

<b>INSTRUCTIONS: All Proposers submitting responses to this procurement must complete this M/WBE 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 (M/WBE) identified by the Proposer.</b>					
Proposer Name:			Federal Identification No.:		
Address:			Procurement No.:		
City, State, Zip Code:			M/WBE Goals: MBE: 10%    WBE: 10%		
<b>1. M/WBE Subcontractors/Suppliers Name, Address, Email Address, Telephone No.</b>	<b>2. Classification</b>	<b>3. Federal ID No.</b>	<b>4. Detailed Description of Work (Attach additional sheets, if necessary.)</b>	<b>5. Dollar Value of Subcontracts/Supplies</b>	
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: <input type="checkbox"/> YES <input type="checkbox"/> NO    If YES, submit Attachment A-5.4.    WBE: <input type="checkbox"/> YES <input type="checkbox"/> NO    If YES, submit Attachment A-5.4.					
PREPARED BY (Signature): _____			TELEPHONE NO.:	EMAIL ADDRESS:	
NAME AND TITLE OF PREPARER (Print or Type): _____					
DATE: _____ Proposer's Certification Status: <input type="checkbox"/> MBE <input type="checkbox"/> WBE					
<p><b>SUBMISSION OF THIS FORM CONSTITUTES THE PROPOSER'S ACKNOWLEDGEMENT AND AGREEMENT TO COMPLY WITH THE M/WBE 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 JUSTICE CENTER 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: _____
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**ATTACHMENT A-5.3: M/WBE SUBCONTRACTORS AND SUPPLIERS NOTICE OF INTENT TO PARTICIPATE  
NEW YORK STATE Justice Center for the Protection of People with Special Needs**

**INSTRUCTIONS: A separate Notice of Intent to Participate must be completed by each M/WBE identified on the M/WBE Utilization Plan (Attachment A-5.2). Parts A & C must be completed by the Proposer 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**

Proposer 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 M/WBE: \_\_\_\_\_ 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-5.4.**                      **WBE:**  YES  NO                      **If YES, submit Attachment A-5.4.**

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

- The undersigned is a certified M/WBE 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 M/WBE certification.

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

The estimated dollar amount of the agreement is: \$ _____	_____
_____	Signature of Authorized Representative of M/WBE Firm
Date: _____	_____
_____	Printed or Typed Name and Title of Authorized Representative of M/WBE Firm

**ATTACHMENT A-5.4: REQUEST FOR WAIVER FORM**

<b>INSTRUCTIONS: SEE PAGE 2 OF THIS ATTACHMENT FOR REQUIREMENTS AND DOCUMENT SUBMISSION INSTRUCTIONS.</b>	
Proposer Name:	Federal Identification No.:
Address:	Procurement No.:
City, State, Zip Code:	M/WBE Subcontract Goals: MBE: 10% WBE: 10%
By submitting this form and the required information, the company certifies that every Good Faith Effort has been taken to promote M/WBE participation pursuant to the M/WBE requirements set forth under this procurement.	
Proposer is requesting a: <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.)	
_____ Prepared By (Signature)	_____ Date
_____ Printed or Typed Name and Title of Preparer	_____ Telephone Number
	_____ Email Address
	***** FOR DIVISION USE ONLY *****
	REVIEWED BY: _____ DATE: _____
SUBMISSION OF THIS FORM CONSTITUTES THE PROPOSER'S ACKNOWLEDGEMENT AND AGREEMENT TO COMPLY WITH THE M/WBE 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.	M/WBE Certified: <input type="checkbox"/> M/WBE Not Certified: <input type="checkbox"/>
	Waiver Granted: <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
	*Comments:

## M/WBE 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 M/WBE-oriented publications in which you solicited M/WBEs for the purposes of complying with your participation goals.
3. A list identifying the date(s) that all solicitations for M/WBE participation were published in any of the above publications.
4. A list of all M/WBEs appearing in the NYS Directory of Certified Firms that were solicited for purposes of complying with your M/WBE 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 M/WBEs.
6. Provide copies of responses made by M/WBEs to your solicitations.
7. Provide a description of any contract documents, plans, or specifications made available to M/WBEs 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 M/WBEs undertaken for purposes of complying with your M/WBE 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, Proposers 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 Justice Center, to determine M/WBE compliance. In cases where the Division grants a full or partial waiver of M/WBE participation goals, the waiver request will be posted to the Justice Center's website.**

**APPENDIX A-5.5 QUARTERLY M/WBE CONTRACTOR COMPLIANCE REPORT  
NEW YORK STATE Justice Center for the Protection of People with Special Needs**

**INSTRUCTIONS: BEGINNING AFTER A CONTRACT IS AWARDED, QUARTERLY COMPLIANCE REPORTS ARE DUE BY THE TENTH DAY OF EVERY STATE FISCAL QUARTER FOR THE PRECEDING QUARTER'S ACTIVITY (ASSUMING THAT SERVICES HAVE BEEN PROVIDED).**

Contractor's Name:		Federal Identification No.:	
Address:		Contract No.:	
City, State, Zip Code:		Date & Quarter:	
Telephone No.:			
AS EVIDENCE OF THE PROGRESS MADE TOWARDS ACHIEVEMENT OF THE MINORITY/WOMEN-OWNED BUSINESS ENTERPRISE (M/WBE) GOAL(S), CONTRACTOR IS REQUIRED TO COMPLETE AND SUBMIT THE FOLLOWING FOR EACH MBE OR WBE. <b>(PLEASE USE A SEPARATE FORM FOR EACH MBE OR WBE.)</b>			
1. Copy(ies) of the written agreement with certified M/WBEs, or provide an attestation that the written agreement includes the provisions of Article 15-A, of the New York State Executive Law §310–318, as required by the primary Contractors Agreement with the Division (submit with first quarterly report, and upon any update to any subcontractor agreements).			
2. List below the name, address and telephone number(s) of the certified M/WBE(s) utilized during the preceding quarter:			
NAME		TELEPHONE NO.	
ADDRESS		LOCATION OF WORK PERFORMED	
CITY, STATE, ZIP			
3. Description of the work performed by the certified M/WBE (attach separate sheet if needed):			
4. Scheduled dates for performance of the work by the certified M/WBE:			
5. Actual total expenditures of the contract work performed by the certified M/WBE in Quarter __ (Quarter Covered by this Report): \$			
6. Actual total amount(s) of any payments made over the life of the contract by the Contractor to the certified M/WBE as of the date the compliance report is being submitted: \$			
<b>PREPARED BY (Signature):</b>		<b>DATE:</b>	
<b>SUBMISSION OF THIS FORM CONSTITUTES THE CONTRACTOR'S ACKNOWLEDGEMENT AND AGREEMENT TO COMPLY WITH THE M/WBE REQUIREMENTS SET FORTH UNDER NYS EXECUTIVE LAW, ARTICLE 15-A AND 5 NYCRR PART 143. FAILURE TO SUBMIT COMPLETE AND ACCURATE INFORMATION MAY RESULT IN A FINDING OF NONCOMPLIANCE AND/OR TERMINATION OF THE CONTRACT.</b>			
NAME AND TITLE OF PREPARER (Print or Type):		TELEPHONE NO.:	EMAIL ADDRESS:
Quarterly reports should be submitted to the following address:		FOR JUSTICE CENTER USE ONLY	

<b>New York State Justice Center for the Protection of People with Special Needs</b> <b>Administration Office</b> 161 Delaware Ave Delmar, NY 12054  <b>Telephone: (518) 549-0200</b>	<b>REVIEWED BY:</b>	<b>DATE:</b>

## APPENDIX A-6: VENDOR RESPONSIBILITY QUESTIONNAIRE INSTRUCTIONS

A contracting agency is required to conduct a review of a prospective contractor to provide reasonable assurances that the vendor is responsible. The Justice Center recommends that vendors file the required Vendor Responsibility Questionnaire online via the New York State VendRep System. To enroll in and use the New York State VendRep System, see the VendRep System Instructions available at [http://www.osc.state.ny.us/vendrep/vendor\\_index.htm](http://www.osc.state.ny.us/vendrep/vendor_index.htm) or go directly to the VendRep System online at <https://portal.osc.state.ny.us/wps/portal>.

Vendors must provide their New York State Vendor Identification Number when enrolling. To request assignment of a Vendor ID or for VendRep System assistance, contact the Office of the State Comptroller's Help Desk at 866-370-4672 or 518-408-4672 or by email at [ciohelpdesk@osc.state.ny.us](mailto:ciohelpdesk@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 Justice Center 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 bidder or Proposer's authorization to do business in New York, business integrity, financial and organizational capacity, and performance history.

To enroll in and use the New York State VendRep System, see the VendRep System Instructions available at [www.osc.state.ny.us/vendrep](http://www.osc.state.ny.us/vendrep) or go directly to the VendRep System online at <https://portal.osc.state.ny.us>. For direct VendRep System user assistance, the OSC Help Desk may be reached at 866-370-4672 or 518-408-4672 or by email at [helpdesk@osc.state.ny.us](mailto:helpdesk@osc.state.ny.us).

Contractors 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.

## APPENDIX A-7: 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:

<http://ogs.ny.gov/aboutOgs/regulations/defaultAdvisoryCouncil.asp>.

**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:

Rob Miller, Lucia Patnaude, Michele Zeccolo, and Lisa McLea  
New York State Justice Center for the Protection of People with Special Needs  
[jc.sm.contracts@justicecenter.ny.gov](mailto:jc.sm.contracts@justicecenter.ny.gov)

## PROCUREMENT LOBBYING FORM

1. Offerer/Bidder certifies that it understands and agrees to comply with the procedures of the NYS Justice Center 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/Bidder certifies that all information provided to the Justice Center, 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:** \_\_\_\_\_

## APPENDIX A-8: IRAN DIVESTMENT ACT CERTIFICATION

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a new provision has been added to the State Finance Law (SFL), § 165-a, effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) will be developing a list (prohibited entities list) of “persons” who are engaged in “investment activities in Iran” (both are defined terms in the law). Pursuant to SFL § 165-a(3)(b), the initial list is expected to be issued no later than 120 days after the Act’s effective date, at which time it will be posted on the OGS website.

In accordance with the Iran Divestment Act, the Contractor/Bidder certifies that if it engages in investment activities in Iran, it does not provide goods or services of twenty million dollars (\$20,000,000) or more in the energy sector of Iran or is not a financial institution that extends twenty million dollars (\$20,000,000) or more in credit for a minimum of 45 days to a person for purposes of providing goods or services in the energy sector of Iran.

By entering into a Contract resulting from this RFP, Contractor (or any assignee) certifies that once the prohibited entities list is posted on the OGS website, it will not utilize on such Contract any subcontractor that is identified on the prohibited entities list.

Additionally, Contractor agrees that after the list is posted on the OGS website, should it seek to renew or extend the Contract, it will be required to certify at the time the Contract is renewed or extended that it is not included on the prohibited entities list. Contractor also agrees that any proposed Assignee of the Contract will be required to certify that it is not on the prohibited entities list before the STATE may approve a request for Assignment of Contract

During the term of the Contract, should the STATE receive information that a person is in violation of the above-referenced certification the STATE will offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then the STATE shall take such action as may be appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The STATE reserves the right to reject any request for assignment for an entity that appears on the prohibited entities list prior to the award 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.

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

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

## APPENDIX B: FIRM REFERENCES CONTACT INFORMATION

Each Bidder should provide contact information for its client references for each of the projects described in “Firm Qualifications and Experience” of its Technical Proposal.

Note: References should have received similar services as described in this RFP.

Firm Reference # 1			
<b>Name of the Bidder:</b>			
<b>Name of the Client Firm:</b>			
<b>Briefly describe the type and scope of services of the engagement.</b>			
<b>Engagement term:</b>	<b>Start Date:</b> (Month/Year)		<b>End Date:</b> (Month/Year)
<b>Client Contact Name and Title:</b>			
<b>Phone Number:</b>		<b>Email:</b>	
<b>Alternate Client Contact Name and Title:</b>			
<b>Phone Number:</b>		<b>Email:</b>	

Firm Reference # 2			
<b>Name of the Bidder:</b>			
<b>Name of the Client Firm:</b>			
<b>Briefly describe the type and scope of services of the engagement.</b>			
<b>Engagement term:</b>	<b>Start Date:</b> (Month/Year)		<b>End Date:</b> (Month/Year)
<b>Client Contact Name and Title:</b>			
<b>Phone Number:</b>		<b>Email:</b>	
<b>Alternate Client Contact Name and Title:</b>			
<b>Phone Number:</b>		<b>Email:</b>	

Firm Reference # 3			
<b>Name of the Bidder:</b>			
<b>Name of the Client Firm:</b>			
<b>Briefly describe the type and scope of services of the engagement.</b>			
<b>Engagement term:</b>	<b>Start Date: (Month/Year)</b>		<b>End Date: (Month/Year)</b>
<b>Client Contact Name and Title:</b>			
<b>Phone Number:</b>		<b>Email:</b>	
<b>Alternate Client Contact Name and Title:</b>			
<b>Phone Number:</b>		<b>Email:</b>	

## APPENDIX C: STAFF REFERENCES CONTACT INFORMATION

Each Bidder should provide two (2) references for the staff members proposed in the Engagement Partner and Project Manager titles. References should have received similar services as described in this RFP.

Engagement Partner Reference # 1				
Name of the Bidder:				
Staff Member Name:		Proposed Title:		
Name of the Client:				
Client Contact Name:				
Client Contact Title:				
Phone Number:		Email:		
Briefly describe the type and scope of services of the engagement.				
Engagement term:	Start Date (Month/Year)		End Date (Month/Year)	

Engagement Partner Reference # 2				
Name of the Bidder:				
Staff Member Name:		Proposed Title:		
Name of the Client:				
Client Contact Name:				
Client Contact Title:				
Phone Number:		Email:		
Briefly describe the type and scope of services of the engagement.				
Engagement term:	Start Date (Month/Year)		End Date (Month/Year)	

Project Manager Reference # 1				
Name of the Bidder:				
Staff Member Name:		Proposed Title:		
Name of the Client:				
Client Contact Name:				
Client Contact Title:				
Phone Number:		Email:		
Briefly describe the type and scope of services of the engagement.				
Engagement term:	Start Date (Month/Year)		End Date (Month/Year)	

<b>Project Manager Reference # 2</b>				
<b>Name of the Bidder:</b>				
<b>Staff Member Name:</b>		<b>Proposed Title:</b>		
<b>Name of the Client:</b>				
<b>Client Contact Name:</b>				
<b>Client Contact Title:</b>				
<b>Phone Number:</b>		<b>Email:</b>		
<b>Briefly describe the type and scope of services of the engagement.</b>				
<b>Engagement term:</b>	<b>Start Date (Month/Year)</b>		<b>End Date (Month/Year)</b>	

## APPENDIX D: 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 Justice Center**.

**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 Justice Center. 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:

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

\*NOTE: The information to be reported is applicable only to those employees who are directly providing services or directly performing covered consultant services. However, such information shall also be provided relative to employees of Subcontractors who perform any part of the service contract or any part of the covered consultant contract. This information does not have to be collected and reported in circumstances where there is ancillary involvement of an employee in a clerical, support, organizational or other administrative capacity.

Contractor agrees to simultaneously report such information to the Department of Civil Service and the Office of the State Comptroller as designated below:

Department of Civil Service  
Alfred E. Smith State Office Building  
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>**

## APPENDIX E: 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 Justice Center. 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 G-Bulletin will provide background information and the forms (<http://www.osc.state.ny.us/agencies/gbull/g222a.htm>).

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.

## APPENDIX F: COMPLIANCE WITH NYS WORKERS' COMPENSATION LAW

Sections 57 and 220 of the New York State Workers' Compensation Law (WCL) provide that the Justice Center 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 Justice Center, successful Bidders 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 Justice Center. 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:

- A) Be legally exempt from obtaining workers' compensation insurance coverage; OR
- B) Obtain such coverage from insurance carriers; OR
- C) Be a Board-approved self-insured employee or participate in an authorized group self-insurance plan.

To verify compliance with the above, the Justice Center 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:

1. 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/wc\\_db\\_exemptions.jsp](http://www.wcb.ny.gov/content/ebiz/wc_db_exemptions/wc_db_exemptions.jsp); OR
2. C-105.2 – Certificate of Workers' Compensation Insurance. The Contractor's insurance carrier sends this form to the Justice Center. PLEASE NOTE: The State Insurance Fund provides its own version of this form, the U-26.3; OR
3. 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
4. GSI-105.2 – Certificate of Participation in Worker's Compensation Group Self-Insurance. Contractor's Group Self-Insurance Administrator sends this form to the Justice Center.

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

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

- A) Be legally exempt from obtaining disability benefits insurance coverage; OR
- B) Obtain such coverage from insurance carriers; OR
- C) Be a Board-approved self-insured employer.

To verify compliance with the above, the Justice Center 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:

1. 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/wc\\_db\\_exemptions.jsp](http://www.wcb.ny.gov/content/ebiz/wc_db_exemptions/wc_db_exemptions.jsp); OR
2. DB-120.1 – Certificate of Disability Benefits Insurance. The business's insurance carrier sends this form to the Justice Center; OR
3. 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 G: COST PROPOSAL

**Please submit two (2) originals and one (1) CD of the Cost Proposal, as part of your proposal, in a separately sealed package, to the addressee noted in Section 4.5 (Submission of a Complete Three-Part Proposal).**

The Cost Proposal is an integral component of a Bidder's three-part submission. Bidders should take particular care to ensure the Cost Proposal is completed fully and in complete accordance with the instructions. Bidders are advised to submit questions about or requests for clarification of the Cost Proposal by March 6, 2013, the due date for submission of Bidder Inquiries.

**The Cost Proposal Form must be completed in its entirety according to the following instructions:**

- The Cost Proposal Form must include only one hourly rate for each of the following titles in each contract year: Engagement Partner; Project Manager; Senior Analyst; and Analyst. Please specify each person by name next to the corresponding title provided on the Form. Firms are required to use the titles provided, even if these titles are not consistent with the Firm's existing titles.
- The Cost Proposal must include a not-to-exceed price cost for development, completion, external negotiation & approval of the Cost Allocation Plan (CAP), as described in Section 3.1 of the RFP, including preparing any retroactive claims that may be allowable, in the first contract year. For subsequent contract years, the Cost Proposal must include a not-to-exceed cost consisting of hourly rates and estimated number of hours to provide technical support on issues related to the CAP. Additionally, contract years two through five must include a fixed price for software or web-based application to accurately track, collect, and/or calculate costs for the Justice Center's Medicaid related operations. The Cost Proposal must include the hourly rate (U.S. dollars) for each title described below. Do not leave blanks or enter a zero dollar amount for any rate. Do not fail to provide a rate for each title in each Plan Year.
- The cost proposal must include only one rate for each title in each Contract Year.
- Hourly fees shall be inclusive of personnel, travel, computer charges, postage and all other expenses related to each Contract Year.
- The Cost Proposal must include the total estimated number of hours to complete all requested services. For each title, Bidders must indicate the estimated number of hours to be performed for the Contract Year.
- To calculate the not-to-exceed total for each Contract Year: Multiply the Hourly Rate proposed by the Estimated Number of Hours for each Title. Add the Total of each Title to calculate the Cost Allocation Consulting Service Not-to-Exceed

Total for each Contract Year. In years two through five, the fixed-price cost of the calculation tool should be added to the total.

- The Cost Proposal Form should be signed by the individual who signs the proposal Cover Page (an individual authorized to bind the bidding Firm contractually).
- Compensation shall not exceed the total bid for the corresponding Contract Year. Payments to the selected Bidder will only be made for actual hours worked, and will not exceed the proposed total cost for each Contract Year.
- The Justice Center will compensate the successful Contractor following submission of an approvable invoice, as further described in RFP Section 7.3.4: Compensation/Manner of Payment. Invoices should be submitted on a monthly basis, in the month following when services were performed.
- Payment of professional fees and expenses will be limited to the not-to-exceed price in each Contract Year as presented in the Firm's Cost Proposal. The Justice Center will withhold twenty percent (20%) of billings for the first Contract Year until approval of the Cost Allocation Plan is secured.

### **Description of Titles**

The following represents the general descriptions for the staffing categories to be utilized in the Bidder's proposal.

#### **Engagement Partner**

Individuals named to this title must have significant experience directing cost allocation consulting engagements with a government entity, including but not limited to those services specifically outlined in this RFP. This individual must also be available to meet with Division staff in Albany, NY.

#### **Project Manager**

The Project Manager will be responsible for developing a project work plan and a schedule for deliverables, coordinating and delegating the assignments to the staff, and serving as the point of contact for the Justice Center regarding new issues, project status, meetings, and deliverables. The Project Manager will also be responsible for updating the State's Project Manager on the status of the project and any issues that may arise. The Project Manager must have at least ten years of accounting experience, with a minimum of five years experience in cost allocation plans.

### **Senior Analyst**

The Senior Analyst will also be responsible for coordinating and delegating the assignments to the staff, as well as performing some of the more complex analytical procedures in addition to day-to-day activities, and will be required to meet and provide advice and guidance to Division staff. Candidates must have at least five years experience in accounting, with a minimum of two years in cost allocation.

### **Analyst**

The Analyst will serve in a capacity completing day-to-day activities under the supervision of a Senior Analyst. The Analyst must have at least one year experience in accounting (public sector experience preferred).

**APPENDIX G:  
NYS Justice Center for Protection of People with Special Needs  
Request for Proposals: Cost Allocation Consulting Services**

**Cost Proposal Form**

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

<b>Contract Year 2017 – Cost Allocation Plan Not-to-Exceed Price</b>				
Job Title	Name	Hourly Rate	Estimated Number of Hours	Total
Engagement Partner				
Project Manager				
Senior Analyst				
Analyst				
<b>Contract Year 2017 Fixed Price Total</b>				

<b>Contract Year 2018 – Technical Support/Collection Tool Not-to-Exceed Price</b>				
Job Title	Name	Hourly Rate	Estimated Number of Hours	Total
Engagement Partner				
Project Manager				
Senior Analyst				
Analyst				
<b>Cost Capturing/Calculation Tool</b>				
<b>Contract Year 2018 Not-to-Exceed Total</b>				

\_\_\_\_\_  
**Authorized Signatory for the Firm**

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

**APPENDIX G:  
NYS Division of the Budget  
Request for Proposals: Cost Allocation Consulting Services**

**Cost Proposal Form**

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

<b>Contract Year 2019 – Technical Support &amp; Collection Tool</b>				
Job Title	Name	Hourly Rate	Estimated Number of Hours	Total
Engagement Partner				
Project Manager				
Senior Analyst				
Analyst				
<b>Cost Capturing/Calculation Tool</b>				
<b>Contract Year 2019 Not-to-Exceed Total</b>				

<b>Contract Year 2020 – Technical Support &amp; Collection Tool</b>				
Job Title	Name	Hourly Rate	Estimated Number of Hours	Total
Engagement Partner				
Project Manager				
Senior Analyst				
Analyst				
<b>Cost Capturing/Calculation Tool</b>				
<b>Contract Year 2020 Not-to-Exceed Total</b>				

\_\_\_\_\_  
**Authorized Signatory for the Firm**

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

**APPENDIX G:  
NYS Division of the Budget  
Request for Proposals: Cost Allocation Consulting Services  
Cost Proposal Form**

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

<b>Contract Year 2021 – Technical Support &amp; Collection Tool</b>				
Job Title	Name	Hourly Rate	Estimated Number of Hours	Total
Engagement Partner				
Project Manager				
Senior Analyst				
Analyst				
<b>Cost Capturing/Calculation Tool</b>				
<b>Contract Year 2021 Not-to-Exceed Total</b>				

**Total Five Year Not-to-Exceed Cost:**

\_\_\_\_\_  
**Authorized Signatory for the Firm**

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

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

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

**APPENDIX H: PROPOSAL CHECKLIST  
COST ALLOCATION CONSULTING SERVICES RFP**

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

\_\_\_\_\_  
Date

**Technical Proposal (2 originals, 6 hardcopies and 1 CD)**

- |    |                                                                                                                                      |     |       |    |       |
|----|--------------------------------------------------------------------------------------------------------------------------------------|-----|-------|----|-------|
| 1. | Does the proposal contain 2 originals, 6 hardcopies and 1 CD of the Technical Proposal?                                              | Yes | _____ | No | _____ |
| 2. | Does the proposal contain all components of the Technical Proposal, as stated below?                                                 | Yes | _____ | No | _____ |
| A. | <b>Table of Contents</b>                                                                                                             | Yes | _____ | No | _____ |
| B. | <b>Executive Summary</b>                                                                                                             | Yes | _____ | No | _____ |
| C. | <b>Project Plan</b>                                                                                                                  | Yes | _____ | No | _____ |
|    | • Staffing Plan                                                                                                                      | Yes | _____ | No | _____ |
|    | • Narrative Approach                                                                                                                 | Yes | _____ | No | _____ |
|    | • Estimated Number of Hours by Level of Staff                                                                                        | Yes | _____ | No | _____ |
| D. | <b>Firm Experience and Qualifications</b>                                                                                            | Yes | _____ | No | _____ |
|    | • Description of technical expertise and capabilities                                                                                | Yes | _____ | No | _____ |
|    | • Direct prior experience (3-5 examples)                                                                                             | Yes | _____ | No | _____ |
|    | • Description of expertise in Federal cost allocation principles and knowledge of current issues in recovery                         | Yes | _____ | No | _____ |
|    | • Narrative discussing innovations proposed for recovery                                                                             | Yes | _____ | No | _____ |
|    | • Experience in defending plans against audit disallowances                                                                          | Yes | _____ | No | _____ |
|    | • Knowledge of financial system and experience with central service functions                                                        | Yes | _____ | No | _____ |
|    | • List of other NYS contracts                                                                                                        | Yes | _____ | No | _____ |
|    | • <i>Appendix B</i> : Firm References Contact Information                                                                            | Yes | _____ | No | _____ |
| E. | <b>Staff Experience and Qualifications</b>                                                                                           | Yes | _____ | No | _____ |
|    | • Identify staff consistent with definitions in Appendix G                                                                           | Yes | _____ | No | _____ |
|    | • Staff resumes                                                                                                                      |     |       |    |       |
|    | • Number, qualifications and experience of staff assigned                                                                            | Yes | _____ | No | _____ |
|    | • Description of individual staff expertise in Federal cost allocation principles and knowledge of current issues regarding recovery | Yes | _____ | No | _____ |
|    | • Project specific Organizational Chart                                                                                              | Yes | _____ | No | _____ |
|    | • <i>Appendix C</i> : Staff References Contact Information for Project Manager (3)                                                   | Yes | _____ | No | _____ |
|    | • Commitment Certifying Staff Availability                                                                                           | Yes | _____ | No | _____ |
| 3. | Excluding staff resumes, Appendix B and Appendix C, is the Technical Proposal 30 pages or less?                                      | Yes | _____ | No | _____ |

**Cost Proposal (2 originals and 1 CD)**

- 1. Does the proposal contain 2 originals and 1 CD of the Cost Proposal? Yes \_\_\_\_\_ No \_\_\_\_\_
- 2. Did the Firm complete and sign Appendix G: Cost Proposal Form? Yes \_\_\_\_\_ No \_\_\_\_\_

**Administrative Proposal (2 originals and 1 CD)**

- 1. Does the proposal contain 2 originals and 1 CD of the Administrative Proposal? Yes \_\_\_\_\_ No \_\_\_\_\_
- 2. Did the Firm submit executed copies of:
  - Appendix A-2: Cover Page Yes \_\_\_\_\_ No \_\_\_\_\_
  - Appendix A-3: Non-Collusive Bidding Certification Yes \_\_\_\_\_ No \_\_\_\_\_
  - Appendix A-4: Assurances of No Conflict of Interest or Detrimental Effect Yes \_\_\_\_\_ No \_\_\_\_\_
  - Appendix A-5: Equal Opportunity Employment Requirements Yes \_\_\_\_\_ No \_\_\_\_\_
  - Appendix A-6: Vendor Responsibility Questionnaire (hardcopy or submitted electronically in the State’s VendRep system) Yes \_\_\_\_\_ No \_\_\_\_\_
  - Appendix A-7: Procurement Lobbying Form Yes \_\_\_\_\_ No \_\_\_\_\_
  - Appendix A-8: Iran Divestment Act Certification Yes \_\_\_\_\_ No \_\_\_\_\_
  - Disclosure of pending or prior lawsuits Yes \_\_\_\_\_ No \_\_\_\_\_
  - Freedom of Information Law Redaction Request Yes \_\_\_\_\_ No \_\_\_\_\_