

REQUEST FOR PROPOSALS

*Pay for Success Pilot Project
Employing High Risk Formerly Incarcerated Persons*

**New York State Department of Labor
Division of Employment and Workforce Solutions
W. Averell Harriman State Office Campus, Bldg. 12
Albany, NY 12240**

Submission Deadline:

Friday, August 03, 2012; 11:00 AM ET

The New York State Department of Labor is an Equal Opportunity Employer. Auxiliary aids and services are available upon request to individuals with disabilities.

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I. Introduction:

A. Purpose of the Request for Proposals

The purpose of this Request for Proposals (RFP) is to secure the services of a highly qualified Intermediary Entity to enter into a partnership agreement with the NYS Department of Labor (NYSDOL) to be submitted in response to the attached U.S. Department of Labor (“USDOL”) Employment and Training Administration’s Notice of Availability of Funds and Solicitation for Grant Application, Pay for Success pilot (NOA).

The Intermediary Entity shall, in accordance with the NOA, 1) enter into a partnership agreement with the State; 2) be responsible for achieving the negotiated outcome(s) for the target population by contracting with service delivery providers; 3) raise funds from investors to cover the operating costs of achieving the outcomes; 4) have the flexibility to change or modify its service delivery methods and providers; and 5) collect and share data with the State government grantee and the independent outcome validator as required.

In a “Pay for Success” model, the Intermediary Entity is required to provide financial/investment capital to cover the operating costs of achieving the target outcome, either from its own funds or other private investors. Payment of the committed funds by the government agency is contingent on the achievement and independent validation of negotiated outcomes. A full description of funding is described in [Appendix NOA](#).

Please note that the partnership agreement entered into between the NYSDOL and the successful applicant shall be contingent upon NYS being awarded a grant under the NOA. Moreover, the partnership agreement shall be contingent upon the availability of Federal and/or State appropriations that may be necessary to implement the agreement.

Should New York State’s application to USDOL be successful, the resulting contract should allow for a service delivery period of 36 months; an evaluation period of 6 months; and a payment period of 6 months.

Initially, the successful offerer will be expected to assist New York State in preparing its grant application relating to SGA/DFA PY 11-13 (see [Appendix NOA](#)). However, please note that the successful offerer will not be reimbursed for its assistance in preparing the grant application and the further implementation of

the partnership agreement is contingent upon NYS being awarded a grant under the NOA.

Assuming a successful grant application process and grant award, the period of service delivery relating to the grant award will be up to 36 months from the date of grant award (see **Appendix NOA** for additional information). Six more months are available for measurement, documentation and validation of outcome results, and submission of payment requests to the Federal government, and a final six months are available to the USDOL to approve and disburse payment.

Please note that the successful offerer will not be reimbursed for any assistance that it may provide NYSDOL in the preparation of the related grant application.

Also, please note that payment for services is contingent upon the achievement and independent validation of negotiated outcomes. The contractor will not be paid if it does not achieve validated negotiated outcomes.

B. Description of the Department of Labor

NYSDOL is New York State's primary advocate for job creation and economic growth through workforce development and the State Workforce Agency eligible for assistance under Title I of the Workforce Investment Act (WIA) of 1998. The Department administers New York's unemployment insurance system and labor exchange system to connect job seekers with employers and build a workforce that helps New York's businesses compete in today's global economy. The Department also oversees state worker protection programs, including enforcement of safety and health regulations in the public sector, state labor laws and federal statutes related to working conditions, wages and hours, and laws related to Public Work. The Department of Labor serves as the State's principal source for labor market information and offers a variety of services designed to help businesses find workers and people find jobs. Additional information regarding the Department can be found at www.labor.ny.gov.

This RFP is being conducted in conjunction and cooperation with the NYS Department of Corrections and Community Supervision (DOCCS); the NYS Division of Criminal Justice Services (DCJS); and the NYS Office of Children and Family Services (OCFS).

C. Program Description/ Eligibility Requirements

In response to the USDOL Employment and Training Administration's Notice of Availability of Funds and Solicitation for Grant Application, Pay for Success pilot, New York will focus on promoting employment among high risk individuals who have recently been released from prison, jail, or youth facilities.

People recently released from prison have an immediate need for income and help finding a job. Transitional jobs are designed to serve two purposes: (1) the jobs provide stability and income, which may reduce the incentive to turn back to crime in the critical period just after release; (2) the experience of working in a transitional job may teach participants how to work. Specifically, the skills learned on the work sites may make participants more appealing to employers by demonstrating that the individuals were able to show up to work on time and could perform satisfactorily in the program jobs. Research indicates such programs increase unsubsidized employment for those who came to the program shortly after release.

In this context, New York State seeks to utilize the funding opportunity presented by the NOA to support programs dedicated to reentry employment. These programs support the Governor's broader commitment to not only reduce re-offending and decrease prison costs, but to reinvigorate the economic health of the Empire State by creating jobs and increasing employment. The State's own research clearly shows employment and vocational training for reentrants is critical, and is the single most effective service to reduce future crime. If effective, the Pay for Success program would benefit re-entrants and will achieve several measures of success---reduced recidivism, enhanced job readiness, increased employment and earnings, and cost savings for the public sector. Potential program activities would include both pre- and/or post-release services. Please note that the character and dimensions of the programming to support may change as the economic analysis is completed.

Important Note: The eligibility requirements have been presented in detail in Section IV. A. (Technical Response) of this RFP.

D. New York State's Responsibilities

The State of New York will oversee the implementation of the contract resulting from this RFP. Program Unit staff will also maintain contact with the selected contractor and monitor performance of the contract.

The sources of funding for the activities outlined in this RFP are indicated in **Attachment NOA**. These monies are subject to state legislative appropriation.

Please note that any resulting agreement shall be deemed executory to the extent of the monies available to the State and no liability on account thereof shall be incurred by the State beyond monies available for the purpose thereof.

II. Reserved

III. Process for Response Submission

A. Questions Concerning this RFP

Questions: Bidders may submit typed questions via electronic mail only to edward.snyder@labor.ny.gov. Questions regarding the RFP will be accepted until the date and time shown on the Timetable.

Answers: Answers to all questions (received by the due date) will be distributed on the date indicated in the Timetable.

B. Bidders' Conference:

A Bidders' Conference will not be held for this solicitation.

C. Mandatory Notice of Intent to Bid (ITB)

Those organizations intending to submit a response to this RFP should submit an email indicating that fact. ITB emails should be sent to the following address: edward.snyder@labor.ny.gov. ITB emails should be received by the next business day after the distribution of Answers to questions.

D. Response Due Date

Responses must be received no later than the date and time indicated in the Timetable. Any responses or unsolicited amendments to responses received after the due date and time will not be considered in the review process. No "faxed" or "e-mailed" documents will be accepted. The State of New York takes no responsibility for any third party error in the delivery of responses (e.g. U.S. Post Office, Federal Express, UPS, courier, etc.).

E. Response Forwarding Instructions and Format

1. Address

**Ed Snyder
Purchasing & Contracts
NYS Department of Labor
W. Averell Harriman State Office Campus
Bldg. 12, Room 454
Albany, NY 12240**

2. Copies:

a. Technical Response

- i. **Paper:** Five copies.
- ii. **Compact Disc:** Two copies. The format should be in searchable MS Word, MS Excel, and/or Adobe Acrobat

3. Reserved.

- 4. The technical proposal should be packed in a sealed envelope with the title of the RFP, and the respondent's name and address clearly displayed on the exterior of the envelope.

E. RFP Timetable

Event	Day / Date	Time	
Solicitation Release Date	Friday, July 13, 2012		
Deadline for Submission of Mandatory Intent to Bid	Friday, July 20, 2012	11:00 AM	ET
Deadline for Vendor Questions	Friday, July 20, 2012	11:00 AM	ET
Deadline for Answers to Vendor Questions	Friday, July 27, 2012		
Deadline for Submission of Offer	Friday, August 03, 2012	11:00 AM	ET
Estimated End of Evaluation & Selection Process	Friday, August 10, 2012		

Please Note: Any agreement resulting from this RFP will require the final approval of the NYS Office of the Attorney General and the NYS Office of the State Comptroller.

IV. Response Requirements - Format and Content

Responses will consist of only a technical section. To ensure that all responses are evaluated on the same basis, all of the following must be included. Responses should also be organized in the sequence described below.

A. Technical Response (including the Description of Services Sought)

Mandatory Eligibility Requirements

1. The Intermediary for such a pay for success initiative will present the following minimum qualifications:
 - 1.1. Demonstrated ability to secure up to **\$12 million** of funding to cover the costs of administering this intervention pursuant to the requirements of the NOA.
 - 1.2. Proven experience in managing components of a “Pay for Success”-type arrangement including project development, project management and tracking, investor relations, etc.
 - 1.3. Expertise with criminal justice services and experience working collaboratively with innovative service providers.
 - 1.4. Ability to dedicate full-time staff to the development of the grant application and sufficient operating funds to act as the State’s partner in the Federal application process.**
 - 1.5. Ability to contract with the New York State Department of Labor.

Intermediary Entity Qualifications

2. Clearly demonstrate that your organization has experience and qualifications for performing its three primary roles:
 - 2.1. raising working capital funds;
 - 2.2. administering complex outcome-based social service projects, including collecting outcome data, managing projects for continuous improvement, and adapting the intervention to achieve the outcome target(s); and
 - 2.3. managing partnerships. Experience and qualifications may be demonstrated through examples of past work performed by the organization or its staff, or through other examples of documented competency.

3. Identify the professional qualifications you will maintain and demonstrate how these qualifications are sufficient to ensure proper management of this Pay for Success project. You must include documentation of:
 - 3.1. Evidence of existing investment capital and/or demonstrated ability to raise investment capital in the form of grants, MOUs, or commitment letters.
 - 3.2. Expertise with criminal justice services and experience working collaboratively with innovative service providers;
 - 3.3. Demonstrated willingness and capability to collaborate effectively with state government organizations, service providers and other entities
 - 3.4. Proven experience in managing components of a “Pay for Success”-type arrangement including:
 - 3.4.1. Ability to monitor success and measure outcomes, including counterfactuals;
 - 3.4.2. Ability to assemble, manage and/or oversee service provider organizations in order to achieve targeted outcomes;
 - 3.4.3. Ability to raise funding for service delivery operations as required;
 - 3.4.4. Ability to provide project management and tracking; and
 - 3.4.5. Ability to maintain investor relations.
 - 3.5. Ability to dedicate full-time staff to the development of the grant application and operating funds to underwrite intermediary efforts as the State’s partner in the Federal application process.
4. Provide a brief description of your past experience and/or management capacity to work with Technical Assistance and Evaluation coordinators.

5. Recommend a governance structure for the pay for success contract that:
 - 5.1. ensures that service providers with expertise with the target population have a significant role in decision-making;
 - 5.2. ensures that the State will have sufficient oversight and participation in decision-making to allow it to protect the population being served from harm and to verify that the program delivery models are consistent with the intentions of the project; and
 - 5.3. allows sufficient flexibility for the intermediary to produce the desired amount of learning, innovation and performance based management.

6. Ability & Experience to Support Development of Grant Application in Partnership with New York State
 - 6.1. Demonstrate a comprehensive understanding of the “Pay for Success” model and the role and responsibilities of the intermediary as outlined in the NOA.
 - 6.2. Demonstrate willingness and ability to dedicate full-time staff to the application and operating funds to underwrite intermediary efforts as State partner in Federal application process. Present evidence of readiness to begin working on grant application development immediately upon selection by New York State.
 - 6.3. Provide qualifications of staff to be assigned to engagement.

B. Reserved

C. Required Documents

- a. See Section VIII.

D. General Requirements

All responses and accompanying documentation will become the property of the State of New York and will not be returned. The content of each bidder's response will be held in strict confidence during the bid evaluation process, and no details of the response will be discussed outside of the evaluation process. Please note, however, that in some circumstances contents of an offerer's response may be disclosed in conjunction with New York State's Freedom of Information Law.

The successful bidder's response and portions of the RFP deemed applicable by the State of New York will be made part of the contract. Therefore, an official authorized to commit the company to a contract must sign the response.

V. Selection Process and Criteria

A. Evaluation of Responses

All responses received shall be subject to an evaluation. The State of New York will establish a Technical Review Committee. Members of this committee will evaluate the Technical Proposals.

B. Evaluation Process

The evaluation process will be conducted as follows:

- Incomplete responses will be disqualified.
- All bidders that are determined not to be responsive or responsible will be disqualified after completing a review.
- Responses that fail to meet the requirements may be disqualified after completing a full review.
- Technical responses will be scored.
- Second Level Review: A management review will be conducted to either accept or reject the final selection of the apparent awardee after technical and cost proposals are scored.

C. Reserved

D. Method of Selection

The method of selection will be based on a point system with the technical portion of the rating criteria weighted at 100% of the total.

VI. CONTRACTOR REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN

NEW YORK STATE LAW

Pursuant to New York State Executive Law Article 15-A, the Department of Labor (DOL) 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 DOL 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 DOL establishes goals for maximum feasible participation of New York State Certified minority- and women – owned business enterprises ("MWBE") and the employment of minority groups members and women in the performance of New York State contracts.

Business Participation Opportunities for MWBEs

For purposes of this solicitation, DOL hereby establishes an overall goal of 20% for MWBE participation, 11% for Minority-Owned Business Enterprises ("MBE") participation and 9% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs). A contractor ("Contractor") on the subject contract ("Contract") must document good faith efforts to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract and Contractor agrees that DOL may withhold payment

pending receipt of the required MWBE documentation. The directory of New York State Certified MWBEs can be viewed at: <http://www.esd.ny.gov/mwbe.html>.

For guidance on how DOL will determine a Contractor's "good faith efforts," refer to 5 NYCRR §142.8.

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

[PLEASE NOTE THAT WHILE ARTICLE 15-A REQUIRES THE INCLUSION OF LIQUIDATED DAMAGES IN THE RFP, ARTICLE 15-A DOES NOT PROVIDE THE METHOD TO BE USED FOR CALCULATING LIQUIDATED DAMAGES. THEREFORE, THE CALCULATION SET FORTH IN THE NEXT PARAGRAPH IS JUST ONE OF A NUMBER OF ACCEPTABLE METHODS THAT MAY BE USED IN CALCULATING LIQUIDATED DAMAGES. PUNITIVE DAMAGES MAY NOT BE USED IN DETERMINING LIQUIDATED DAMAGES]¹

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

By submitting a bid or proposal, a bidder on the Contract ("Bidder") agrees to submit the following documents and information as evidence of compliance with the foregoing:

- A. Bidders are required to submit a MWBE Utilization Plan on Form #MWBE 100 with their bid or proposal. Any modifications or changes to the MWBE Utilization Plan after the Contract award and during the term of the Contract must be reported on a revised MWBE Utilization Plan and submitted to DOL.
- B. DOL will review the submitted MWBE Utilization Plan and advise the Bidder of DOL acceptance or issue a notice of deficiency within 30 days of receipt.
- C. If a notice of deficiency is issued, Bidder agrees that it shall respond to the notice of deficiency within seven (7) business days of receipt by submitting to the NYS

¹ This language is to be deleted from the final RFP.

Department of Labor, Division of Equal Opportunity Development, State Campus, Building 12, Room 540, Albany, NY 12240; telephone #518-457-1984; fax #518-485-2575, a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by DOL to be inadequate, DOL shall notify the Bidder and direct the Bidder to submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals on Form #MWBE 101. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.

- D. DOL may disqualify a Bidder as being non-responsive under the following circumstances:
- a) If a Bidder fails to submit a MWBE 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 DOL determines that the Bidder has failed to document good faith efforts.

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

Contractors are required to submit a Contractor's Quarterly M/WBE Contractor Compliance & Payment Report on Form #EEO 101 to the NYS Department of Labor, Division of Equal Opportunity Development, State Campus, Building 12, Room 540, Albany, NY 12240; telephone #518-457-1984; fax #518-485-2575, by the 10th day following each end of quarter over the term of the Contract documenting the progress made toward achievement of the MWBE goals of the Contract.

Equal Employment Opportunity Requirements

By submission of a bid or proposal in response to this solicitation, the 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 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, 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.

Bidder further agrees, where applicable, to submit with the bid a staffing plan (Form #EEO 100) identifying the anticipated work force to be utilized on the Contract and if awarded a Contract, will, upon request, submit to the DOL, a workforce utilization report identifying the workforce actually utilized on the Contract if known.

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

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

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

VII. General Information for Successful Bidders

- A. Contracting Terms/State Payment** -- If you are awarded a contract, you will be required to submit certain forms and comply with the following information:
1. **Cost of Proposal Preparation:** The Department will not be liable for any costs of work performed in the preparation and production of a proposal, or for any work performed prior to the formal execution of a contract. By submitting a proposal, the bidder agrees not to make any claims for, or have any right to, damages because of any misunderstanding or misrepresentation of the specifications, or because of any misinformation or lack of information. The Proposals shall become the property of the State of New York.

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

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

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

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

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

6. Equal Employment Opportunity: By submission of its bid, the successful bidder warrants that it is an Equal Opportunity Employer and that it does not discriminate in its employment and business practices on any of the bases provided in the New York State Human Rights law or any applicable federal laws. In addition, the successful bidder agrees to the assurances contained in the attached Federal Certifications (Attachment *).

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

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

NOTE: The contract does not become legally binding upon the State of New York until it is executed by the Office of the New York State Comptroller.

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

To comply with the coverage provisions of Section 57 businesses must be legally exempt from obtaining workers' compensation insurance coverage; or obtain such coverage from insurance carriers; or be self-insured or

participate in an authorized group self-insurance plan. All successful bidders must provide one of the following forms to the Department:

- WC/WB 100 Affidavit for New York entities and any out of state entities with no employees, that New York State workers' compensation and/or disability benefits insurance coverage is not required (affidavit must be notarized and stamped as received by the NYS Workers' Compensation Board (WCB))
- WC/WB 101 Affidavit that an out-of-state or foreign employer working in New York State does not require specific New York State workers' compensation and/or disability benefits insurance coverage (affidavit must be notarized and stamped as received by WCB)
- C-105.2 Certificate of workers' compensation insurance (business' insurance carrier should be able to provide this form to the Department)
- SI-12 Certificate of workers' compensation self-insurance (business contacts the WCB's self-insurance office at 518-402-0247)
- GSI-105.2 Certificate of participation in workers' compensation group self-insurance (business' group self-insurance administrator should be able to provide this form to the Department).

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

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

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

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

11. **Freedom of Information Law and Bidder's Proposals:** The purpose of New York State's Freedom of Information Law (FOIL), which is contained in Public Officers Law Sections 84-90, is to promote the public's right to know the process of governmental decision making and to grant maximum public access to governmental records. Thus, a member of the public may submit a FOIL request for contracts awarded by the State or for the proposals submitted to the State in response to Requests for Proposals. After formal contract award, the proposal of the successful bidder and the proposals of non-successful bidders are subject to disclosure under FOIL. However, pursuant to Section 87(2)(d) of FOIL, a State agency may deny access to those portions of proposals or portions of a successful bidder's contract which "are trade secrets or submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise." Please note that information which you may claim as proprietary, copyrighted or rights reserved is not necessarily protected from disclosure under FOIL.

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

12. **Americans with Disabilities Act (ADA):**The successful bidder shall comply with all applicable requirements of the Americans with Disabilities Act (ADA), codified at Title 42 of the United States Code, section 12101 et seq. and associated regulations, including, but not limited to, those located in 28 C.F.R. Part 36. The successful bidder shall comply with all applicable requirements of the New York State Human Rights Law, codified in the Executive Law sections 290 - 301 and applicable regulations implemented pursuant to that law. The successful bidder shall warrant to the Department

that the successful bidder is in compliance with both the ADA and its regulations and the New York State Human Rights Law and its regulations.

Any products developed as a result of this RFP must be in a format that can be converted for use by individuals with disabilities to meet the reasonable accommodation standards established by the American with Disabilities Act

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

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

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

16. Contract Cancellation. The Department reserves the right to cancel the contract or any part thereof, at any time, upon thirty (30) days written notice. If, in the judgment of the Department, that the Contractor fails to perform the work in accordance with the contract, the Department may terminate the contract immediately by written notice for cause. The

Department may elect to suspend contract performance or provide a cure period prior to termination.

B. Reservation Clauses

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

1. Postpone or cancel this RFP upon notification to all bidders.
2. Amend the specifications after their release with appropriate notice to all bidders.
3. Request bidders to present supplemental information clarifying their proposal, either in writing or in formal presentation.
4. Waive or modify minor errors or irregularities in proposals received after prior notification to the bidder.
5. To correct any arithmetic errors in any proposal.
6. Reject any and all proposals received in response to this RFP.

7. Contact bidders' references as a check on qualifications.
8. Award the contract to other than the lowest bidder.
9. Award contracts to more than one bidder.
10. Negotiate with selected bidder prior to contract award.
11. Negotiate with the next highest rated bidder if negotiating a contract with the selected bidder(s) cannot be accomplished within an acceptable time frame (no bidder will have any rights against the Department arising from such negotiations).
12. Make any payment contingent upon the submission of specific deliverables.
13. Require that all offers are held open for a period of 120 days unless otherwise expressly provided for in writing.
14. Strike any requirement not met by all of the respondents.

VIII. RFP Attachments and Required Documents

The table below lists each attachment to this RFP and indicates documents which need to be submitted with the proposal.

Attachment Number	Document Title	Original Signature Required	Required Submission with Proposal (✓)
1	Copy of Email Indicating Intent to Bid		✓
2	This Proposal Checklist		✓
3	Response Cover Letter	✓	✓
4	Reserved	N/A	N/A
5.	Vendor Responsibility Questionnaire	✓	✓
6	Technical Proposal		✓
7	Reserved	N/A	N/A
8.	Appendix D – State and Federal Certifications	✓	✓
9	Appendix A – Standard Clauses for all NYS Contracts		No, available at: http://www.ogs.state.ny.us/procurecounc/pdfdoc/appendixa.pdf
10.	Reserved		
	Minority and Women-Owned Business Enterprises (see above).		No, Explanation of Requirements
12.	12 A EEO 100 - Equal Employment Opportunity Staffing Plan	✓	Yes, with original signatures
-.	12 B EEO 101 - Minority/Women-Owned Business Enterprise (M/WBE) Work Force Employment Utilization/ Compliance Report		Not until after an award is made.
13.	12 C MWBE 100 - MWBE Utilization Plan	✓	Yes, with original signatures
14.	12 D MWBE 101 – MWBE Application for Waiver of MWBE Participation Goal	✓	Yes, if waiver will be requested