

THE CITY UNIVERSITY CONSTRUCTION FUND
REQUEST FOR PROPOSALS
FOR LEGAL SERVICES REQUIREMENTS CONTRACTS

Project No. CITYW-CUCF-06-10

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Release Date: September 27, 2010

Submission Due Date: October 29, 2010 by 12:00 Noon

www.cuny.edu/constructionsolicitations

PREFACE

The City University Construction Fund (“CUCF”) provides facilities for the City University of New York (“CUNY”) and supports the educational purposes of CUNY. CUNY is the largest municipal college system and the third largest university in the nation. The CUCF and CUNY are committed to a continuing program of quality capital construction projects and to support this program the CUCF is issuing this Request for Proposals (“RFP”) to engage a group of law firms to provide legal services as the need arises, in accordance with requirements contracts to be entered into by CUCF with each such law firm. The legal services will include, but not limited to construction litigation, public-private joint development issues, land use zoning review and appeals, and real estate acquisition, disposition, development and financing, including bond financing. It is anticipated that contracts will be awarded to four (4) firms.

SECTION I. TIMETABLE, ADDENDA, FORM OF CONTRACT & AVAILABILITY

A. Timetable

- **Pre-Proposal Conference/Questions and Answers:** A Pre-Proposal Conference will be held on Thursday, October 7, 2010, at the CUNY Graduate Center, 365 Fifth Avenue (between 34th & 35th Streets in Manhattan), Concourse Level Room C203. The Pre-Proposal Conference will start at 10 A.M. No more than two representatives per Proposer should plan to attend. Attendance is not mandatory to propose on the contract described in this RFP; however, it is strongly encouraged.
- **Inquiries:** In the event a Proposer has any question or desires any explanation regarding the meaning or interpretation of this RFP, such question or explanation must be requested by 5:00 P.M. on Friday, October 8, 2010 by email to DDCM.ContractsDept@mail.cuny.edu or postal mail to the address in Section 1.D, below. Reference the RFP Title and Project Number in the subject heading of the email/mail. In any event, if CUCF determines that it is necessary or advisable to respond in writing, it will issue such response as one or more Addenda to this RFP, which will be available for downloading at www.cuny.edu/constructionsolicitations or pick-up during regular business hours, at the location in Section 1.D, below.
- **Submission Due Date & Time:** Submissions must be delivered on or before 12:00 Noon, Friday, October 29, 2010. The Submission must be clearly marked with the RFP Title and Project Number on the exterior of the outer sealed envelope or other packaging. See Section IV (Format and Content of the Proposal) for complete submission requirements.
- **Anticipated Date for Presentations and Interviews:** Monday & Tuesday, November 29 & 30, 2010
- **Anticipated Identification of Selected Firms:** Monday, December 6, 2010.
- **Anticipated Fee Negotiations:** Monday, December 13, 2010.
- **Anticipated Issuance of Notices to Proceed:** 4-6 weeks later.

Note: The anticipated dates above are only estimates and are provided to assist Proposers in planning.

- B. Addenda:** CUCF may issue one or more Addenda to this RFP from time to time, as it deems necessary or advisable. Receipt of an Addendum to this RFP by a Proposer must be acknowledged by submitting an original signed copy of the Addendum with the Proposal submission, as applicable. All Addenda shall become a part of the requirements for this RFP. All Addenda that will be issued to this RFP will be available for downloading at: www.cuny.edu/constructionsolicitations or pick-up during regular business hours at the location in Section 1.D below. **Please periodically check this website for any Addenda to this RFP before submitting a Proposal.**
- C. Form of Contract:** A draft form of the contract that the City University Construction Fund on behalf of CUNY will execute with the selected Proposers is anticipated to be made available after the proposals are evaluated and ranked.
- D. Availability:** This RFP, and any Addenda to this RFP that may be issued by CUCF, are available for downloading at www.cuny.edu/constructionsolicitations. Please periodically check this website for any Addenda to the RFP that may be issued by CUCF before submitting a Proposal. This RFP, and any Addenda, are also available for in-person pick-up during regular business hours (9 a.m. to 5 p.m.) at the CUNY Office of Facilities Planning, Construction & Management, Procurement Services, 555 West 57th Street, 11th Floor – Room 1140, New York, NY 10019.

Proposers are advised that the ONLY Authorized Agency Contact Person for ALL matters concerning this RFP and the individual who also serves as the Procurement Lobbying Act Designated contact for this RFP is Michael Feeny, Chief of Consultant Contracts. No other officer, agent, or employee of CUCF or CUNY is authorized to give information concerning or to explain or interpret this RFP. All contacts shall be sent in writing to DDCM.ContractsDept@mail.cuny.edu or postal mail to the address in Section I.D, above. Place the RFP Title and Project Number in the subject heading.

SECTION II. SUMMARY OF THE REQUEST FOR PROPOSALS**A. Background and Objectives of the Project**

The CUCF is issuing this RFP to identify qualified law firms (“selected law firms”) to enter into requirements contracts with CUCF to provide quality and cost effective services necessary and required for construction litigation, land use zoning review and appeals, and real estate transactions.

The prime objective of this procurement is to provide on-demand legal services in support of CUCF’s/CUNY’s capital construction program.

The selected law firms will provide legal services and support to, and at the direction of, the General Counsel of CUCF/CUNY, regarding construction litigation, public-private joint development issues, land use zoning review and appeals, and real estate acquisition, disposition, development and financing, including bond financing.

The contract will require that:

- Attorneys assigned by the selected law firms to perform services under the contract be members in good standing of the New York State Bar;
- The activities to be performed be in compliance with all applicable laws, rules and regulations and pursuant to the to the highest standard of legal ethics; and
- The selected law firms will be prohibited from engaging in the litigation of cases against CUCF/CUNY, or any other legal representation that is adverse to CUCF/CUNY or can be reasonably considered a conflict of interest during the term of the contract, except in exceptional circumstances and only with prior and specific written approval by the General Counsel.

B. Selection for Specific Assignments

Subsequent to contract execution, as the need arises, CUNY will identify those law firms eligible to compete for project specific assignments and send each such firm a written description of the assignment and the criteria that will be used for selection, such as, approach, staffing requirements and schedule. The firms will have an opportunity to submit a written response to the request, including a fee. The responses will be reviewed and evaluated according to the criteria, after which the firm that best meets the criteria will be selected for the assignment at a negotiated fee determined to be fair and reasonable. CUNY reserves the right to utilize other selection methods appropriate to specific assignments.

C. General Information:

CUNY is the largest municipal college system and the third largest University in the Nation. CUNY was founded in 1847 as the Free Academy. Within the five Boroughs of New York, CUNY is comprised of eleven (11) senior colleges, six (6) community colleges in addition to the School of Journalism, Honors College, CUNY Law School, CUNY School of Public Health and the Graduate Center. There are more than 28,000 instructional and non-instructional full-time and part-time employees at CUNY. CUNY has approximately 231,000 degree-credit students and 230,000 adult, continuing and professional students.

CUNY is comprised of more than 280 buildings on almost 23 million square feet of space, including state of the art computer centers, science laboratories, gymnasiums, greenhouses, astronomy observatories and more. The University's total operating budget is funded primarily through New York State and New York City appropriations as well as student tuition and fees and a five year capital budget of \$2.8 billion, funded by proceeds from the sale of bonds. The University's fiscal year begins July 1.

D. Contract Term

The term of each contract shall commence on the date set forth in the written Notice to Proceed and shall continue until final acceptance of all required work for all assigned projects. The estimated term of each contract is three (3) years. The General Counsel will be responsible for implementing these contracts.

E. Insurance

The selected law firms must provide the types and amounts of insurance that will be specified in the contract and as may be required by law, including professional liability and workers compensation insurance. The cost of all insurance necessary for the selected law firms is deemed included in the all inclusive hourly rates(s).

F. Payment Provisions

Payments for all required legal services for each assignment shall be in accordance with the all inclusive hourly rate(s) or other compensation agreed upon as a result of the fee negotiation conducted as a part of the selection process for that assignment.

SECTION III. SCOPE OF WORK AND CONTRACT CONDITIONS**A. Scope of Services**

The selected law firms will represent CUCF/CUNY in construction litigation and will advise CUCF/CUNY on construction related matters. CUCF/CUNY is currently involved in the design, construction and development of many projects and sometimes requires outside counsel to represent it in potential litigation and all phases of litigation arising out of these projects. The services for which representation and advice may be sought include but are not limited to the following: competitive bidding and other procurement issues; contract terminations; claims by and against contractors and design professionals; claims by and against sureties; prevailing wage requirements; project labor agreements; construction labor disputes; contract review; liens; dispute resolution; environmental issues; negligence; insurance; creditor's rights; bankruptcy; and personal injury. While it is expected that most of CUCF's/CUNY's litigation involves the defense of claims or lawsuits, CUCF/CUNY may also require counsel to institute actions on its behalf against either contractors or design professionals and may also use such outside counsel to undertake a comprehensive review of CUCF's/CUNY's standard construction, design and development documents.

The selected law firms will act as counsel to and advise CUCF/CUNY in a variety of real estate and environmental matters. Areas where representation and advice may be sought include real property transactions through purchasing, leasing or other means of acquisition, mortgages and other liens, sale-leasebacks, condominium and time share arrangements, public-private partnership projects with attendant financing, joint venture and multi-party transactional structures, all types of contractual arrangements (including construction and architectural contracts), eminent domain proceedings, zoning, Historic Preservation, State Environmental Quality Review Act, Uniform Land Use Review Procedures of the City of New York, and other land use requirements. As needed, firms may be required to represent CUCF/CUNY before the appropriate review boards, councils, municipal departments and other governmental bodies. In the event that any of CUCF's/CUNY's determinations or actions is subject to litigation, the selected law firms may be requested to represent CUCF/CUNY.

B. Contract Provisions

The services to be provided by the selected law firms and the general standards of performance applicable to the required work will be described in the final form of the contract.

C. Legal Services Work

Following a selection process for specific assignments, the selected law firm will be required to provide all services necessary and required for the duration of each specific assignment. The legal services to be provided may differ for each assignment, as more fully described above. As appropriate, the selected law firms shall be responsible for completing each assignment in a specified time frame.

SECTION IV. FORMAT AND CONTENT OF THE PROPOSAL**A. Proposal Formatting Instructions**

Proposers should provide all information required in the format below. The Proposal should be printed on both sides of 8½" X 11" paper. CUCF requests that all Proposals be submitted on paper with not less than 30% post-consumer material content. Pages should be paginated. The Proposal will be evaluated on the basis of its content, not its length. Failure to comply with any of these or other formatting instructions listed below will not make the Proposal non-responsive. Submit the Proposal in a sealed package that clearly states the RFP Title and Project Number.

B. Proposal Delivery Instructions

Submissions are to be delivered to the contact person at the location listed below. Proposals received after the applicable due date and time at the location prescribed in this RFP are late and will not be accepted except at CUNY's discretion.

Michael Feeney
Chief of Consultant Contracts
Office of Facilities Planning, Construction & Management
Procurement Services
The City University of New York
555 West 57th Street – 11th Floor, Room 1140
New York, NY 10019
E-mail: DDCM.ContractsDept@mail.cuny.edu

NOTE: Proposers are responsible for ensuring that the RFP Proposal package is received at the location listed above by the prescribed deadline. Emailed or faxed submissions are not acceptable.

C. Submission Requirements

Following is a listing of the information and completed documentation required to be provided by each Proposer. A Proposal that does not include all the required information and the forms and documents described below may be subject to rejection. Information should be provided in the same order and quantity in which it is requested. Your Proposal must contain sufficient information to assure its accuracy.

1. **Cover Letter** – Please indicate in a cover letter (**One original and four copies**), which shall be considered an integral part of the Proposal, the following items:

- a. The firm's name, address, telephone number, fax number, email address and web site address, if applicable;
 - b. A statement that the firm's response includes all information required by this RFP;
 - c. A statement that the firm is willing to perform all services required by this RFP;
 - d. Name, title, telephone number and email address of the individual within the firm who will be
-

CUNY's primary contact concerning the Proposal; and

e. A statement that the firm understands that selection for one of the contracts does not guarantee that any services will be requested from the firm.

The cover letter must be signed by an individual authorized to bind the firm contractually. Please indicate the title or position that the signer holds within the firm. CUCF reserves the right to reject a Proposal that contains an unsigned cover letter.

2. Technical Narrative – Provide a clear, concise narrative (**One original and four (4) copies**) that specifically addresses the following:

a. Describe the firm's experience in the representation of large public or comparable public or private, non-profit institutions in the areas of representation covered by this RFP.

b. Attach a list of three major clients for whom the firm currently provides some or all of the services as those described herein. For each identified client, include the following information:

- The length of time such services have been provided to the client.
- A brief description of the type or types of assignments referred to the firm by the client.
- The approximate gross annual dollar value of the assignments referred by the client.
- The name, title, mailing address, telephone number and e-mail address of a contact at the executive level of the client. The contact person provided for each client account should be in a position to comment on and assess the timeliness, efficiency and effectiveness of the firm in handling the assignments on behalf of the client.

c. A description of how the firm will monitor the assignment and performance of work within the firm in order to achieve an effective and efficient administration of the matters that may be assigned to a successful Proposer;

d. Disclosure of any potential conflicts of interest, including but not limited to responses and if necessary, further details with regard to the following:

(i) Whether the firm is currently representing any party in litigation in which your firm's client is seeking damages or other relief against CUCF or CUNY; and

(ii) Whether the firm represents any client, other than described in (i) above, past or current, whose interests are, or may be, adverse to the interests of CUCF or CUNY.

3. Staffing – Provide the resumes for not less than three staff members, but not more than ten, who would be assigned to the work that is the subject of this RFP. (**One original and four (4) copies**) Clearly identify the attorney who will have primary responsibility for the CUCF/CUNY account and such attorney's position in the firm.

4. Additional Information – The Proposer must also complete and include **one original and one copy** of each of the following in its Proposal:

a. Statement of Understanding (See Attachment 1)

- b. NYS Vendor Responsibility Questionnaire (See Attachment 2)
- c. NYS Procurement Lobbying Act Forms (See Attachment 3)
- d. Affirmative Statement Acknowledging and Agreeing to Comply with CUCF's Anti-Discrimination and M/WBE Policies and Forms (See Attachment 4)

5. Fee Proposal – In a separate, sealed interior envelope labeled Fee Proposal (One original and four copies), please indicate the all-inclusive Hourly Rates or other billing method that the firm proposes to charge CUCF for its services as follows:

- a. The regular corporate billing rates for those partners, associates and paralegals proposed;
- b. The discounted rates (if any) proposed to be charged to CUCF for those partners, associates and paralegals proposed;
- c. Whether the rates proposed under (b) above exceed the rates currently being charged by the Proposer to other public entities in New York State or elsewhere in the United States.
- d. The disbursements or other services for which the firm would expect reimbursement;
- e. A statement that the rates quoted is an irrevocable offer good for 120 days.

The Fee Proposal is to be signed by an individual authorized to bind the firm contractually. Please include the title or position that the signer holds within the firm.

SECTION V. PROPOSAL EVALUATION AND CONTRACT AWARD PROCEDURES

This is a quality based selection project. CUCF will rank proposals by technical merit, and negotiate a fair and reasonable price with the highest ranked Proposers. It is anticipated that contracts will be awarded to four (4) firms.

A. Selection Process

1. **Selection Process:** An evaluation committee will review, evaluate, score and rank all responsive Proposals in accordance with the evaluation criteria described below. Based on this evaluation, it is anticipated that the eight (8) highest ranked firms will be invited for presentations and interviews at which time each will be given a limited amount of time to further describe their experience and qualifications, and to answer questions. At the conclusion of such presentations and interviews the evaluation committee will finalize its evaluations. The evaluation committee will then authorize fee and contract negotiations to commence with the highest ranked firms, anticipated to number four (4). Should fee and contract negotiations fail to be finalized within a reasonable period of time, CUCF will terminate those negotiations and initiate fee and contract negotiations with the next highest ranked firm, and so on.
2. **Evaluation Criteria:** The Evaluation Criteria are as follows:
 - a. Relevant Experience of the Firm (Weight 40%)
 - b. Relevant Experience of the Proposed Staff (Weight 40%)
 - c. How the Firm will Monitor the Assignment and Performance of Work (Weight 20%)

B. Contract Award Procedures

1. **Basis of Award:** CUCF will award the contracts to the responsive and responsible Proposers whose Proposals are determined to be the highest quality and most advantageous to CUCF/CUNY, taking into consideration the overall quality of the Proposal as measured against the Evaluation Criteria set forth in this RFP and successful negotiation of a fair and reasonable fee. The Fee Proposals will be the basis of negotiating compensation which CUCF determines to be fair and reasonable. Such fee negotiations will commence upon written notification and should conclude within thirty days.
2. **Contract Finalization:** Upon the successful conclusion of fee negotiations, the successful Proposers will be asked to timely finalize a contract with the CUCF subject to the conditions specified in this RFP and CUCF's standard contract provisions. The contents of the Proposal, together with this RFP and any Addenda issued during the RFP process, may be incorporated into the final contract.

SECTION VI. GENERAL INFORMATION FOR PROPOSERS

- A. **Non-Binding Acceptance of Proposals:** This RFP does not commit CUCF to award a contract for any services.
- B. **Incurring Proposal Costs:** CUCF is not liable for any costs incurred in the preparation of a response to this RFP. If Proposers choose to participate, they may be asked to submit such price, technical data, or other revisions to their Proposals as may be required by CUCF.
- C. **Confidentiality:** The contents of a Proposer's RFP response are not deemed confidential unless the Proposer identifies those portions of its response which it deems confidential, or containing proprietary information, or trade secrets. The Proposer must provide justification as to why such materials, upon request, should not be disclosed by CUCF. Such information must be easily separable from the non-confidential sections of the Proposal. CUNY/CUCF shall not be responsible for the use or public disclosure of any confidential or proprietary materials not so designated and clearly marked as required in Section VI.C.
- D. **Debriefings:** Any unsuccessful Proposer, upon request, will be given a debriefing as to why it was not selected for award. The request for a debriefing shall be made in writing within ten (10) business days of the date of notification of non-selection. The debriefing will be given as soon as practicable thereafter.
- E. **Reserved Rights:**

CUCF reserves the right to:

- Use normalization procedures in evaluating Fee Proposals;
 - Reject any and all Proposals received in response to this RFP;
 - Waive or modify minor irregularities in Proposals received;
 - Delete one or more requirements if no Proposer meets such requirement(s) upon written notice to the Proposers;
 - Use any and all ideas submitted in the Proposals received without liability unless otherwise designated as proprietary or confidential as required by Section VI.C;
 - Amend this RFP, upon written notice to the Proposers;
 - Issue Addenda to this RFP, upon written notice to the Proposers;
 - Issue requests for additional information to any or all Proposers;
 - Require Proposers to make presentations on their proposals and attend interviews;
 - Issue "Clarification Questions" before conducting presentations and interviews;
 - Include in the final score the evaluation of a Proposer's presentation and interview, answers to "Clarification Questions" and such additional materials as the Proposer provides during its presentation and interview;
 - Ask some or all Proposers for Best and Final Offers ("BAFOs");
 - Terminate negotiations with a selected Proposer and select the next most qualified Proposer, or take such other action as deemed appropriate if negotiations fail to result in a fair & reasonable fee &/or signed contract within a reasonable time of the commencement of negotiations as determined by CUCF;
 - "Short list" Proposers;
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- Reject any Proposals containing conflicting, ambiguous or materially misrepresented information;
- Determine that a Proposer has substantially met the requirements of this RFP and/or request additional information;
- Waive instances in a Proposal for immaterial non-compliance with this RFP and reject a Proposal as non-responsive for material non-compliance with these requirements;
- Invite the Proposer(s) with the highest ranked Proposal(s) to enter into negotiations for the award of a contract for this Project without presentation or interview or request for a BAFO. Proposers are advised to prepare their Proposals accordingly.
- At any time and in its sole and absolute discretion, to withdraw or cancel this RFP without notice;
- Waive compliance with and/or change the terms of this RFP, upon written notice to Proposers.
- Limit the number of project specific assignments made to a selected law firm.

Submission of a Proposal is deemed assent to the terms of this RFP.

Submission of a Proposal to this RFP, absent a clear statement of any limitation on its use, shall be deemed to grant CUCF the right to utilize submissions in any way, with or without prior notice. All materials submitted by Proposers become the property of CUCF and will be returned at CUCF's option. CUCF makes no representations, nor incurs any obligations or commitments in announcing this RFP.

Proposers shall not be entitled to modify their Proposals once submitted. Proposers may be permitted to modify or correct information submitted such as a typographical or arithmetic error in their Proposals only with the prior written consent of CUCF for compelling reasons, which CUCF will determine on a case-by-case basis.

This RFP shall not, in any way, commit CUCF to enter into any agreement, to pay any expenses incurred in preparation of any Proposal to this RFP, or to procure or contract for any supplies, goods or services.

This RFP is in compliance with the requirements of Education Law Section 6218, New York State Finance Law Article XI, and the New York State Lobbying Law, as set forth in the State Finance Law, Sections 139-j and 139-k.

Any contract award shall be subject to all required internal and external oversight approvals (e.g., CUCF/CUNY/State/City Law Departments, Boards of Trustees of the City University Construction Fund/City University of New York, and the New York State/City Comptroller's Office), and shall be contingent on the availability of funds.

All information, descriptions, data, tables, calculations, examples, opinions or assumptions made in connection with this solicitation are made in good faith for information purposes only. The Proposer shall not rely on any such information without conducting its own independent research and verification. CUCF, CUNY and its officers, agents and employees make no representations or warranties, including without limitation representations or warranties as to the accuracy of any information, opinions or assumptions contained in this solicitation or otherwise furnished to Proposers by CUCF, CUNY, and will assume no responsibility or liability for any errors and omissions contained herein.

F. Contractual Requirements

1. Any firm awarded a contract as a result of this RFP will be required to sign CUCF's standard form of contract. The requirements for performance of this project, as well as insurance, payment terms and all other provisions will be contained in the contract.
2. Any information which may have been released either orally or in writing prior to the issuance of the RFP shall be deemed preliminary in nature and bind neither CUCF nor the Proposer.
3. CUCF will deal only with the contractor and CUCF has no financial obligation to sub-consultants and sub-contractors of the contractor. However, all sub-consultants and sub-contractors are subject to the CUCF's contracting requirements including Equal Employment Opportunity (EEO) and Minority Business and Women Enterprises (M/WBE) regulations required by law (See Attachment 4).
4. The selected law firm must submit a proper invoice to receive payment.
5. Prices proposed by the proposer shall be irrevocable for 120 days. This shall not limit the discretion of CUCF to request Proposers to revise proposed prices through the submission of best and final offers and/or the conduct of negotiations.
6. Proposals may only be withdrawn by submitting a written request to CUCF prior to contract award but after the expiration of 120 days after the submission of Proposals.

ATTACHMENT 1

STATEMENT OF UNDERSTANDING

Submission: Proposers are required to submit Attachment 1 with their Proposals.

By signing in the space provided below, the undersigned certifies that the respondent (i) has read and understands the scope and requirements of this project, as described in this RFP and any Addenda to this RFP that were issued; (ii) has the capacity to execute this project; (iii) agrees to accept payment in accordance with the requirements of this form of RFP; and (iv) will, if its proposal is accepted, enter into the standard contract with CUCF.

The undersigned further stipulates that the information in this Proposal is, to the best of its knowledge, true and accurate.

Signature of Partner or Corporate Officer

Date

Printed Name

Title

Firm Address

EIN #

Telephone Number

E-Mail Address

ATTACHMENT 2

NYS VENDOR RESPONSIBILITY QUESTIONNAIRE

The NYS Vendor Responsibility Questionnaires and accompanying instructions for completing the Questionnaires are posted on the New York State Office of the State Comptroller website at: <http://www.osc.state.ny.us/vendrep/templates.htm>. They are listed under the heading "Vendor Responsibility Questionnaires".

Submission: Proposers are required to submit the appropriate Questionnaires and Attachments with their Proposals.

Proposers who have previously submitted the appropriate Vendor Responsibility Questionnaires and Attachments may submit either a Proposer-signed update to previously-submitted Questionnaires & Attachments or a Statement of No Change, along with a copy of the original Questionnaires & Attachments.

ATTACHMENT 3

NYS PROCUREMENT LOBBYING ACT FORMS

CUCF is governed by the NYS Procurement Lobbying Act (PLA) set forth in State Finance Law Sections 139-j and 139-k; for guidelines and additional information see: <https://www3.ogs.state.ny.us/legal/lobbyinglawfaq/default.asp>

Forms are available from the New York State Office of General Services:

<http://www.ogs.state.ny.us/aboutogs/regulations/advisoryCouncil/ModelLang.html>

Submission: Proposers are required to submit Forms 3, 4 and 5 with their Proposals.

1. There are certain exceptions to the PLA. The following types of “contacts” are permitted during the “Restricted Period:”

- 1.1 Proposals: the submission of written Proposals to this RFP.
- 1.2 Complaints: complaints by a Proposer regarding the failure of the Designated Point of Contact to respond in a timely manner to authorized Proposer contacts provided such complaints are made in writing to the General Counsel. Such written complaints will become a part of the transaction record. Written complaints shall be mailed or emailed to:

Frederick Schaffer
Senior Vice Chancellor and General Counsel
City University of New York
535 East 80th Street
New York, NY 10075
frederick.schaffer@mail.cuny.edu

- 1.3 Oral Presentations and Discussions with Proposers: scheduled presentations by a Proposer to CUCF/CUNY describing its Proposals and/or scheduled discussion by CUCF/CUNY with Proposers.
- 1.4 Negotiations: After a Proposer has been preliminarily designated, communications between that Proposer and CUCF/CUNY for the purposes of negotiation.
- 1.5. Review of Award: Following award to another Proposer, a Proposer’s request to the Designated Point of Contact for a review of the award.
- 1.6 Protests and Complaints: (a) contacts by Proposers in protests, appeals or other review proceedings (including the apparent successful Proposer and his or her representatives), before CUCF seeking a final administrative determination, or in a subsequent judicial proceeding; or (b) complaints of alleged improper conduct in this transaction to the New York Attorney General, a district attorney, or a court of competent jurisdiction, and where such communications and any proposals thereto are made in writing and shall be entered in the transaction record pursuant to

section one hundred sixty-three of the state finance law; or (c) complaints of alleged improper conduct in this RFP process.

2. A finding that a Proposer has knowingly and willfully violated the limitation on the Contacts rule will result in a determination of non-responsibility for such Proposer, and such Proposer, its subsidiaries, and any related or successor entity with substantially similar function, management, board of directors, officers and shareholders, shall not be designated as a Designated Proposer, unless CUCF finds that such designation is necessary to protect public property or public health or safety, and that the Proposer is the only source capable of supplying the required article of procurement within the necessary timeframe, provided that CUCF is required to include in the procurement record a statement describing the basis for such a finding.

EXCEPT AS EXPRESSLY AUTHORIZED BY THE AUTHORIZED AGENCY CONTACT PERSON LISTED ON PAGE 3 OF THIS RFP OR AS OTHERWISE EXPRESSLY AUTHORIZED BY THE NEW YORK STATE FINANCE LAW §§ 139-J AND 139-K, PROPOSERS MAY NOT CONTACT BOARD MEMBERS, OFFICIALS, EMPLOYEES OR CONSULTANTS OF CUCF, CUNY, OR ANY OF ITS AFFILIATES OR SUBSIDIARIES, DASNY, THE STATE OF NEW YORK OR ANY OTHER GOVERNMENTAL ENTITY REGARDING THIS RFP AND THE RELATED DISPOSITION, OR SEND PROPOSALS TO ANY OF THEM. FAILURE TO OBSERVE THIS REQUIREMENT MAY RESULT IN THE PROPOSER'S DISQUALIFICATION FROM CONSIDERATION PURSUANT TO THIS RFP.

ATTACHMENT 4

Submission: Proposers are required to submit Attachment 4 with their Proposals.

**AFFIRMATIVE STATEMENT
ACKNOWLEDGING AND AGREEING TO COMPLY WITH
CUCF'S ANTI-DISCRIMINATION AND M/WBE POLICIES AND FORMS**

The undersigned Proposer to CUCF's Legal Services Requirements Contracts Request for Proposals (RFP), hereby acknowledges that it has reviewed, and if selected for a requirements contract resulting from this RFP, agrees to comply with the Anti-Discrimination and M/WBE Policies and Forms set forth in Attachment 5 of this RFP.

Name of Proposer

Name of Authorized Proposer
Representative

Title

Signature

Date

ATTACHMENT 5**ANTI-DISCRIMINATION AND M/WBE POLICIES AND FORMS**

Proposers are advised that the attached M/WBE Utilization Plan Form and the Equal Employment Opportunity Staffing Plan Form will be required to be submitted for each project specific assignment issued **subsequent to contract execution**.

Goals for this Contract

CUCF has established the following goals for this contract:

MBE Participation - 7.25%

WBE Participation - 4.75%

Note: In fulfilling these goals, under New York State MBE/WBE Law and Regulations, Proposers may **only** use New York State Certified MBEs and WBEs listed in the New York State Directory of Minority and Women-owned Business Enterprises certified pursuant to the Regulations. The Directory may be accessed at: <http://www.nylovesmwbe.ny.gov/>.

Anti-discrimination Policy

This policy applies to any contract resulting from this RFP.

A. The contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, sexual orientation, age, disability, or marital status, and will undertake or continue existing programs of affirmative action to ensure that minority group members including, without limitation, women, are afforded equal opportunity without discrimination. Such programs shall include, but not be limited to, recruitment, employment, job assignments, promotion, upgrading, demotion, transfer, layoff, termination, rates of pay or other forms of compensation, and selections for training or retraining, including apprenticeship and on-the-job training. The contractor will agree to post, in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this non-discrimination provision.

B. At the request of the CUCF or CUNY, 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 and which is involved in the performance of the contract with the authority to furnish a written statement that such employment agency, labor union or representative shall not discriminate because of race, creed, color, national origin, sex, sexual orientation, age, disability or marital status and that such union or representative will cooperate in the implementation of the contractor's obligations hereunder.

C. The contractor will state, in all solicitations or advertisements for employees placed by or on behalf of the contractor in the performance of the contract with the CUCF, that all qualified applicants will be afforded equal employment opportunity without discrimination because of race, creed, color, national origin, sex, sexual orientation, age, disability or marital status.

D. The contractor will include the provisions of paragraphs A through C of this section in every sub-contract or purchase order in such a manner that such provisions will be binding upon each sub-contractor or vendor as to its work in connection with the contract with the CUCF.

CUCF and CUNY MWBE Policy

It is the policy of CUCF and CUNY that New York State Certified Minority and Women-Owned Business Enterprises (MBE/WBE's) shall have the maximum opportunity to participate in the performance of any contracts resulting from this solicitation. In those contracts, successful Proposers would agree to insure that New York State Certified MBE/WBE's have the maximum opportunity to participate in the performance of those contracts. In this regard, all Proposers shall take all necessary and reasonable steps as hereinafter defined to insure that New York State Certified MBE/WBE's have the maximum opportunity to compete for and perform on contracts or sub-contracts. CUCF and CUNY, and their contractors shall not discriminate on the basis of race, creed, color, national origin, sex, sexual orientation, age, disability, or marital status, in the awarding and performance of contracts and sub-contracts.

This language is included to insure that all Proposers who enter into any contract with CUCF or CUNY are aware of their responsibility and the commitment of CUCF and CUNY to see that their MBE/WBE Policy is carried out in all of their business dealings.

Article 15-A of the NYS Executive Law

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 Proposers, Sub-proposers, and Suppliers on its procurement contracts.

Information on the availability of New York State Sub-Proposers and Suppliers is available from:

New York State Department of Economic Development
Division of Small Businesses
One Commerce Plaza
Albany, NY 12245
(Telephone) 518-474-7756

Contract Provisions

Under the contract to be awarded through this RFP the successful Proposer would specifically agree that:

A. In the hiring of employees for the performance of services under the contract or any sub-contract hereunder, neither the Proposer nor any Sub-Proposer or other person acting on behalf of such Proposer or Sub-Proposer shall, by reason of race, creed, color, national origin, sex, sexual orientation, age, disability, or marital status, discriminate against any person who is qualified and available to perform the services to which the employment relates;

B. Neither the Proposer nor any Sub-Proposer or other person acting on behalf of such Proposer or Sub-Proposer shall in any manner discriminate against or intimidate any employee hired for the

performance of services under the contract on account of race, creed, color, national origin, sex, sexual orientation, age, disability, or marital status;

It shall include the provisions of paragraph A and B of this section in every sub- contract the Proposer enters into with respect to the services to be performed hereunder and shall take such action to enforce such provisions of such sub-contract as the CUCF or CUNY may direct.



M/WBE UTILIZATION PLAN

INSTRUCTIONS: This form must be submitted with any bid, proposal, or proposed negotiated contract or within a reasonable time thereafter, but prior to contract award. This Utilization Plan must contain a detailed description of the supplies and/or services to be provided by each certified Minority and Women-owned Business Enterprise (M/WBE) under the contract. Attach additional sheets if necessary.

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| Offeror's Name: Address: City, State, Zip Code: Telephone No.: Region/Location of Work: | Federal Identification No.: Solicitation No.: Project No.: M/WBE Goals in the Contract: MBE 7.25 % WBE 4.75 % |
|--|--|

| 1. Certified M/WBE Subcontractors/Suppliers Name, Address, Email Address, Telephone No. | 2. Classification | 3. Federal ID No. | 4. Detailed Description of Work (Attach additional sheets, if necessary) | 5. Dollar Value of Subcontracts/Supplies/Services and intended performance dates of each component of the contract. |
|---|---------------------------------|-------------------|--|---|
| A. | NYS ESD CERTIFIED MBE WBE | | | |
| B. | NYS ESD CERTIFIED MBE WBE | | | |

6. IF UNABLE TO FULLY MEET THE MBE AND WBE GOALS SET FORTH IN THE CONTRACT, OFFEROR MUST SUBMIT A REQUEST FOR WAIVER FORM (M/WBE 104).

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| PREPARED BY (Signature): DATE: NAME AND TITLE OF PREPARER (Print or Type): SUBMISSION OF THIS FORM CONSTITUTES THE OFFEROR'S ACKNOWLEDGEMENT AND AGREEMENT TO COMPLY WITH THE M/WBE REQUIREMENTS SET FORTH UNDER NYS EXECUTIVE LAW, ARTICLE 15-A, 5 NYCRR PART 143, AND THE ABOVE-REFERENCED SOLICITATION. FAILURE TO SUBMIT COMPLETE AND ACCURATE INFORMATION MAY RESULT IN A FINDING OF NONCOMPLIANCE AND POSSIBLE TERMINATION OF YOUR CONTRACT. | TELEPHONE NO.: EMAIL ADDRESS: <div style="background-color: #cccccc; text-align: center; padding: 5px;">FOR MWBE USE ONLY</div> REVIEWED BY: _____ DATE: _____ UTILIZATION PLAN APPROVED: YES NO Date: _____ Contract No.: _____ Project No. (if applicable): _____ Contract Award Date: _____ Estimated Date of Completion: _____ Amount Obligated Under the Contract: _____ Description of Work: _____ NOTICE OF DEFICIENCY ISSUED: YES NO Date: _____ NOTICE OF ACCEPTANCE ISSUED: YES NO Date: _____ |
|--|--|

M/WBE 103



EQUAL EMPLOYMENT OPPORTUNITY STAFFING PLAN

Submit with Bid or Proposal – Instructions on following page

| | | |
|--------------------|--|---|
| Solicitation No.: | | Report includes: <input type="checkbox"/> Work force to be utilized on this contract <input type="checkbox"/> Contractor/Subcontractor's total work force |
| Offeror's Name: | Reporting Entity: <input type="checkbox"/> Contractor <input type="checkbox"/> Subcontractor Subcontractor's name _____ | |
| Offeror's Address: | | |

Enter the total number of employees for each classification in each of the EEO-Job Categories identified

| EEO-Job Category | Work force by Gender | | Work force by Race/Ethnic Identification | | | | | | | | | | Other Categories | | | | | |
|---------------------------|----------------------|----------------|--|---------------|--|---------------|--|------------------|--|---------------|--|-------------------------|------------------|------------------|--|-----------------|--|--|
| | Total Work force | Total Male (M) | Total Female (F) | White (M) (F) | | Black (M) (F) | | Hispanic (M) (F) | | Asian (M) (F) | | Native American (M) (F) | | Disabled (M) (F) | | Veteran (M) (F) | | |
| Officials/ Administrators | | | | | | | | | | | | | | | | | | |
| Professionals | | | | | | | | | | | | | | | | | | |
| Technicians | | | | | | | | | | | | | | | | | | |
| Sales Workers | | | | | | | | | | | | | | | | | | |
| Office/Clerical | | | | | | | | | | | | | | | | | | |
| Craft Workers | | | | | | | | | | | | | | | | | | |
| Laborers | | | | | | | | | | | | | | | | | | |
| Service Workers | | | | | | | | | | | | | | | | | | |
| Temporary /Apprentices | | | | | | | | | | | | | | | | | | |
| TOTALS | | | | | | | | | | | | | | | | | | |

| | | |
|---|--|-------|
| PREPARED BY (Signature): | TELEPHONE NO.: | DATE: |
| | EMAIL ADDRESS: | |
| NAME AND TITLE OF PREPARER (Print or Type): | Submit completed plan with bid or proposal EEO 100 | |

General instructions: All Offerors and each subcontractor identified in the bid or proposal must complete an EEO Staffing Plan (EEO 100) and submit it as part of the bid or proposal package. Where the work force to be utilized in the performance of the State contract can be separated out from the contractor's or subcontractor's total work force, the Offeror shall complete this form only for the anticipated work force to be utilized on the State contract. Where the work force to be utilized in the performance of the State contract cannot be separated out from the contractor's or subcontractor's total work force, the Offeror shall complete this form for the contractor's or subcontractor's total work force.

Instructions for completing:

1. Enter the Solicitation number that this report applies to along with the name and address of the Offeror.
2. Check off the appropriate box to indicate if the Offeror completing the report is the contractor or a subcontractor.
3. Check off the appropriate box to indicate if the work force being reported is just for the contract or the Offerors' total work force.
4. Enter the total work force by EEO job category.
5. Break down the total work force by gender and enter under the heading 'Work force by Gender'
6. Break down the total work force by race/ethnic background and enter under the heading 'Work force by Race/Ethnic Identification'. Contact the Designated Contact(s) for the solicitation if you have any questions.
7. Enter information on disabled or veterans included in the work force under the appropriate headings.
8. Enter the name, title, phone number and email address for the person completing the form. Sign and date the form in the designated boxes.

RACE/ETHNIC IDENTIFICATION

Race/ethnic designations as used by the Equal Employment Opportunity Commission do not denote scientific definitions of anthropological origins. For the purposes of this report, an employee may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. However, no person should be counted in more than one race/ethnic group. The race/ethnic categories for this survey are:

WHITE (Not of Hispanic origin) All persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.

BLACK a person, not of Hispanic origin, who has origins in any of the black racial groups of the original peoples of Africa.

HISPANIC a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.

ASIAN & PACIFIC a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands.

ISLANDER

NATIVE INDIAN (NATIVE AMERICAN/ ALASKAN NATIVE) a person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

OTHER CATEGORIES

DISABLED INDIVIDUAL any person who:
- has a physical or mental impairment that substantially limits one or more major life activity(ies)
- has a record of such an impairment; or
- is regarded as having such an impairment.

VIETNAM ERA VETERAN a veteran who served at any time between and including January 1, 1963 and May 7, 1975.

GENDER