Request for Applications
(RFA) # 16101 – Community Coalitions

Minority and Women Owned Enterprises (M/WBE), Equal Employment Opportunity (EEO) and Service-Disabled Veteran-Owned Business Enterprises (SDVOB) Language

11/15/2016

NEW YORK STATE | Office of Alcoholism and Substance Abuse Services

Minority and Women Owned Business Enterprises

Pursuant to New York State Executive Law Article 15-A and 5 NYCRR 140-145 All State Agencies recognize their 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 State 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 State agencies establish 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, State Agencies hereby establish an overall goal of 30% for MWBE participation. Goals for New York State certified minority-owned business enterprises ("MBE") and New York State certified women-owned business enterprises ("WBE") participation on each Contract shall be established based upon vendor availability. An applicant ("Applicant") on the subject contract ("Contract") must document its good faith efforts to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract and the Applicant agrees that State Agencies may withhold payment pending receipt of the required MWBE documentation. The directory of MWBEs can be viewed at: https://ny.newnycontracts.com. For guidance on how State Agencies will determine an Applicant's "good faith efforts," refer to 5 NYCRR §142.8.

In accordance with 5 NYCRR §142.13, the Applicant 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 the State Agency may withhold payment from the Applicant as liquidated damages. Such liquidated damages shall be calculated as an amount equaling the difference between: (1) all sums identified for payment to MWBEs had the Applicant achieved the contractual MWBE goals; and (2) all sums actually paid to MWBEs for work performed or materials supplied under the Contract.

By submitting an application, an applicant on the Contract ("Applicant") agrees to demonstrate its good faith efforts to achieve its goals for the utilization of MWBEs by submitting evidence thereof through the New York State Contract System ("NYSCS"), which can be viewed at https://ny.newnycontracts.com, provided, however, that an Applicant may arrange to provide such evidence via a non-electronic method by contacting the OMH Issuing Officer identified in this RFP. Please note that the NYSCS is a one stop solution for all of your MWBE and Article 15-A contract requirements. For additional information on the use of the NYSCS to meet Bidder's MWBE requirements please see the attached MWBE guidance, "Your MWBE Utilization and Reporting Responsibilities Under Article 15-A."

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

A. An MWBE Utilization Plan with completed contract documents. Any modifications or changes to the MWBE Utilization Plan after the Contract award and during the term of the Contract must be reported on a revised MWBE Utilization Plan and submitted to the Contracting State Agency. The Contracted Stated Agency will review the submitted MWBE Utilization Plan and advise the Applicant of acceptance or issue a notice of deficiency within 30 days of receipt.

B. If a notice of deficiency is issued, the Applicant will be required to respond to the notice of deficiency within seven (7) business days of receipt by submitting to the Contracted State Agency, a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by the Contracted State Agency to be inadequate, the Contracted State Agency shall notify the Applicant and direct the Applicant submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals. Failure to file the waiver form in a timely manner may be grounds for disqualification of an executed contract.

The Contracting State Agency may disqualify an Applicant as being non-responsive under the following circumstances:

a) If an Applicant fails to submit a MWBE Utilization Plan;
b) If an Applicant fails to submit a written remedy to a notice of deficiency;
c) If an Applicant fails to submit a request for waiver; or
d) If the State Agency determines that the Applicant has failed to document good faith efforts.

The Applicant will be required to attempt to utilize, in good faith, any MBE or WBE identified within its MWBE Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract Execution may be made at any time during the term of the Contract to the Contracting State Agency, but must be made no later than prior to the submission of a request for final payment on the Contract. The Applicant will be required to submit a Contractor's Quarterly M/WBE Applicant Compliance & Payment Report to the Contracting State Agency, 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 an application in response to this solicitation, the Bidder/Applicant agrees with all of the terms and conditions of Appendix A – Standard Clauses for All New York State Contracts including Clause 12 - Equal Employment Opportunities for Minorities and Women. The Applicant 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, 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.

The Applicant will be required to submit a Minority and Women-Owned Business Enterprises and Equal Employment Opportunity Policy Statement, Form # 6, to the State Contracting Agency with their application.

To ensure compliance with this Section, the Applicant will be required to submit with the contract an Equal Employment Opportunity Staffing Plan (Form #_supplied during contracting process) identifying the anticipated work force to be utilized on the Contract. If awarded a Contract, Applicant shall submit a Workforce Utilization Report and shall require each of its Subcontractors to submit a Workforce Utilization Report, in such format as shall be required by the Contracting State Agency on a [MONTHLY/QUARTERLY] basis during the term of the contract. 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 Applicant and sub-applicants 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.

Service-Disabled Veteran-Owned Business Enterprises (SDVOB)

Article 17-B of the Executive Law enacted in 2014 acknowledges that Service-Disabled Veteran-Owned Businesses (SDVOBs) strongly contribute to the economies of the State and the nation. SDVOBs that are capable of meeting the requirements of this solicitation are strongly encouraged to submit a bid proposal. As defenders of our nation and in recognition of their economic activity in doing business in New York State, all Applicants for this contract are strongly encouraged and expected to consider SDVOBs in the fulfillment of the requirements of the contract. Such partnering may be as subcontractors, suppliers, protégés or other supporting roles. SDVOBs can be readily identified on the directory of certified businesses at:

http://ogs.ny.gov/Core/docs/CertifiedNYS_SDVOB.pdf

For purposes of this solicitation, the OASAS hereby establishes a goal of **6**% on any subcontracted labor or services, equipment, materials, or any combined purchase of the foregoing greater than $25,000 under a contract awarded from this solicitation.

General inquiries or questions relating to SDVOB participation and the goals specified herein may be addressed to Designated Contact for this RFA at Procurements@oasas.ny.gov.

Additional information about becoming a certified SDVOB can be found at the following URL: http://www.ogs.ny.gov/Core/SDVOBA.asp

Inquiries Related to This Addendum Only

The OASAS will accept questions related to this addendum ONLY for one (1) week from the date this addendum is posted to the OASAS website. All questions should be submitted with the subject line "16101 – Community Coalitions – Addendum #2" to procurements@oasas.ny.gov. Written responses to these inquiries will be posted to the OASAS website on or about November 28, 2016.

FORM #6 - EQUAL EMPLOYMENT OPPORTUNITY (EEO) POLICY STATEMENT

INSTRUCTIONS

This form is provided to Contractors/Subcontractors as a model Policy Statement and may be used if the Contractor/Subcontractor lacks an appropriate EEO Policy Statement as required pursuant to Article 15-A of the NYS Executive Law . The Contractor/ Subcontractor has the option to use this form or create an appropriate M/WBE – EEO Policy Statement to be submitted for approval.

By signing and submitting this Policy Statement, the below noted awardee/contractor (authorized representative) agrees to adopt the following policies with respect to the project/program being developed or services rendered, at the location noted on this form. See page 3 for required signatures.

M/WBE

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

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

EEO

i. This organization 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; will undertake or continue existing programs of affirmative action to ensure that minority group members are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on state contracts.
ii. This organization shall state in all solicitation or advertisements for employees that in the performance of the State contract all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed (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.

FORM #6 - EQUAL EMPLOYMENT OPPORTUNITY (EEO) POLICY STATEMENT

iii. At the request of the contracting agency, this organization 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 (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; and that such union or representative will affirmatively cooperate in the implementation of this organization's obligations herein.

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

v. Contractor will include the provisions listed above in EEO sections i. through iv. in every subcontract in such a manner that the requirements will be binding upon each subcontractor as to work in connection with the State contract.

SDVOB

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

i. Actively and affirmatively solicit bids for contracts and subcontracts from qualified State certified SDVOBs, including solicitations to SDVOB contractors and/or associations.

ii. Request a list of State-certified SDVOBs from AGENCY and solicit bids from them directly.

iii. Ensure that plans, specifications, request for proposals and other documents used to secure bids will be made available in sufficient time for review by prospective SDVOBs.

iv. Where feasible, divide the work into smaller portions to enhanced participations by SDVOBs and encourage the formation of joint venture and other partnerships among SDVOB contractors to enhance their participation.

v. Document and maintain records of bid solicitation, including those to SDVOBs and the results thereof. Contractor will also maintain records of actions that its subcontractors have taken toward meeting SDVOB contract participation goals.

vi. Ensure that progress payments to SDVOBs are made on a timely basis so that undue financial hardship is avoided, and that bonding and other credit requirements are waived or appropriate alternatives developed to encourage SDVOB participation.

M/WBE Contract Goals

30% Minority and Women's Business Enterprise Participation

SDVOB Contract Goals

06% Service Disabled Veteran-Owned Business Participation

FORM #6 - EQUAL EMPLOYMENT OPPORTUNITY (EEO) POLICY STATEMENT

Required Signatures

Minority Business Enterprise Liaison - (Person responsible for administering the Minority and Women-Owned Business Enterprises – Equal Employment Opportunity Program (M/WBE-EEO)		**Service Disabled Veteran-Owned Business Liaison -** (Person responsible for administering the Service Disabled Veteran-Owned Business Program (SDVOB)	
Printed Name:_____ Title:_____ Signature:_____		Printed Name: _____ Title: _____ Signature:_____	
Phone:	Email:	Phone:	Email:

Authorized Signatory - (Officer or representative vested (explicitly, implicitly, or through conduct) with the powers to commit the authorizing organization to a binding agreement)

Organization Name: _____

Location of Service _____
(Address, City, State, Zip)

Printed Name: _____
(Authorized Representative)

Title: _____

Signature: _____