

HUGH L. CAREY BATTERY PARK CITY AUTHORITY

**THIRD PARTY ADMINISTRATOR
REQUEST FOR PROPOSALS**

May 27, 2011

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I. INTRODUCTION

By issuing this request for proposals (the "RFP"), the Hugh L. Carey Battery Park City ("BPCA") is seeking a qualified Third Party Administrator ("TPA") to provide tort claim management services. Qualified TPAs (each, a "Proposer," and collectively, the "Proposers") are hereby invited to submit proposals in accordance with the terms and conditions of this RFP. A site inspection is recommended prior to submission of a proposal.

This RFP, the attachments and any additional information submitted herewith, constitute merely an offer to negotiate with BPCA and is NOT A BID. Submission of a proposal, attachments and additional information does not obligate or entitle the Proposer to enter into a contract with BPCA for the required services. BPCA is not obligated to respond to a proposal nor is it legally bound in any manner whatsoever by the submission of a proposal. Furthermore, BPCA will not pay any costs related to or incurred by the Proposer in preparing a response to this RFP.

Proposals submitted and negotiations, will not be binding against BPCA or its members, officers, employees or agents unless an agreement is signed by a duly authorized officer of BPCA. BPCA reserves the right, in its sole discretion, to reject consideration of any and all proposals including, but not limited to, proposals which are conditional or incomplete. It is further understood and agreed that BPCA reserves all rights specified in the RFP.

BPCA reserves the right to withdraw this RFP without notice and to negotiate with one or more Proposers submitting proposals on terms other than those set forth herein. BPCA reserves the right to reject consideration of any and all Proposals including, but not limited to, Proposals which are conditional or incomplete. BPCA reserves the right to waive compliance with and/or change any of the terms and conditions of this RFP. Under no circumstances will BPCA pay any costs incurred by a Proposer in responding to this RFP. All questions regarding the RFP should be directed to Ms. Michelle Burgos, Paralegal, at (212) 417-4235 or e-mailed to michelle.burgos@batteryparkcity.org.

II. BATTERY PARK CITY AUTHORITY

A. BACKGROUND

BPCA is a public benefit corporation created by the legislature of the State of New York (the "State"). BPCA's enabling legislation is set forth in Section 1970, et seq., of the Public Authorities Law ("The Battery Park City Authority Act"). BPCA is a legally separate entity from the State and has its own affiliate corporation, the Battery Park City Parks Conservancy Corporation ("BPCPC").

Battery Park City consists of approximately 92 acres of landfill created, owned, and operated by BPCA, and is a mix of commercial and residential buildings, and parkland spaces. The parkland consists of a mile long esplanade along the Hudson River and several smaller parks totaling about 36 acres. BPCA's affiliate corporation, Battery Park City Parks Conservancy Corporation ("BPCPC") maintains these green spaces. BPCPC also develops programs and manages public events for the Battery Park City community. There are approximately 30 residential buildings

and several commercial ones including the World Financial Center, New York Mercantile Exchange, and Goldman Sachs. Also, there are several cultural points of interest, museums, and schools. Developers are currently completing the last two buildings in BPC and BPCA is leasing Pier A from the City of New York, and developing it on its behalf. BPCA is funded by collecting civic facilities charges, payments in lieu of real estate taxes (PILOT), rent and other lease payments from Ground Lease Tenants ("Tenants") under ground leases, expiring in 2069.

BPCA's recently completed audited Financial Statement, is available at www.batterparkcity.org, and provides an overview of the operations for which BPCA is responsible and the areas of expertise with which the selected Proposer must be familiar.

B. LOSS HISTORY AND PROGRAM STRUCTURE

1. Typical Claims

BPCA has \$2 million of General Liability Coverage from Liberty Insurance Underwriters, Inc. with a \$50,000 self-insured retention and another \$100 million dollars in excess coverage with various other insurers. BPCA typically experiences two types of claims: construction-related injuries and slips & falls. BPCA almost always successfully tenders the former either to Tenants or BPCA's hired contractors. BPCA often tenders the latter to Tenants as well, though sometimes BPCA defends these slips & falls cases, particularly if they occur in BPCA's parks. BPCA rarely has more than a dozen active personal injury cases at any given time, the rest having been settled or tendered. Historically, these cases do not proceed to trial. The successful Proposer will take over administration of all open pre-existing claims (about ten), managed by BPCA's current TPA.

2. 9/11 Clean-Up Claims

BPCA also has approximately 800 cases stemming from clean-up efforts after the September 11, attacks ("9/11 cases"). These cases involve workers hired by contractors of Tenants, who cleaned up the debris left in the wake of the 9/11 attacks. These workers have sued in a class action claiming that they were not given proper protective gear during the year long clean-up efforts and thereby developed a number of respiratory and other ailments potentially related to alleged carcinogens in the air and the wreckage. BPCA did not hire any of these workers but is being sued on the grounds of negligent hiring and supervision, ownership of land, and other reasons. BPCA previously successfully moved to have all of these cases dismissed for late notice, but the State legislature passed a law permitting claimants to re-file their claims. BPCA anticipates tendering all of these cases and/or having them settled by the City and the federal government. BPCA has been managing these claims directly with its insurance companies but may ask Proposers to take over management of these cases.

3. TPA Responsibilities

When a Notice of Claim or Summons & Complaint (hereinafter, the "Claim") arrives at BPCA, BPCA immediately notifies its TPA, Insurance Broker of Record and legal counsel by email.

BPCA attaches the Claim as an Adobe Acrobat PDF, the original NOC or S&C. The TPA must:

- i. Acknowledge receipt of the Claim to BPCA by email within two business days and provide a formal letter of acknowledgment, postmarked within five business days.
- ii. Within that five day period, the TPA must create a new claim file, notify BPCA's primary insurance company (and other insurance companies as necessary), set aside any appropriate reserves and take all necessary actions within the industry standard of professionalism to ensure that BPCA's rights are protected.
- iii. BPCA may perform its own tenders and usually works closely with its own legal defense, but may rely on the expertise of the TPA where appropriate to coordinate all these functions and perform investigative work (all such investigative work requires pre-approval by BPCA).
- iv. The TPA is expected to update BPCA on a monthly basis on all outstanding claims.
- v. The TPA is expected to serve as advocate for BPCA with respect to its insurance companies and other insurers and ensure maximum coverage is facilitated as efficiently as possible.

III. CONTRACT EFFECTIVE DATES AND TERMS

BPCA anticipates this contract will begin on or around July 31, 2011 for a term of three years, but BPCA reserves the right to alter the date of commencement and/or length of term.

IV. CONTRACT PRICING

Proposers should submit prices in the following manner: (1) cost, if any, for recording the claim (for the life of the claim), (2) cost per hour of staff time per employee (3) the cost to undertake the 9/11 cases; currently, BPCA manages such cases in-house, but may ask the Proposer to take over their management - please note: BPCA will not pay the "standard recording fee per claim" for these 9/11 cases, but expects competitive pricing reflecting the nature of this class action (4) miscellaneous charges, if any, for copies, etc. **Proposers must use Attachment A for their cost proposal; failure to do so may result in BPCA not considering those prices.**

V. CRITERIA FOR SELECTION OF A TPA

BPCA will base its selection upon the written response to the RFP as well as any oral presentation by the Proposer. BPCA will hold interviews with selected Proposers as part of this selection process. The Criteria will be weighted as follows:

- A. (30%) BPCA staff's comfort level with proposed team
- B. (30%) Proposer's Industry experience, especially with respect to managing claims for governmental entities
- C. (25%) Price
- D. (15%) M/WBE opportunities, either within the firm or through a utilization plan (subcontracting and partnering may be considered).

VI. SUBMISSION PROCESS

Proposers must submit six (6) hard copies of their proposal to the Designated Contact, Michelle Burgos, at the following address:

Michelle Burgos
Paralegal
Battery Park City Authority
One World Financial Center, 24th Floor
New York, NY 10281
Michelle.burgos@batteryparkcity.org

Other Submission requirements are:

Designated Contact: Proposers may contact only the Designated Contact, Michelle Burgos with written questions. Other communications with BPCA personnel, including Board members, may be grounds for elimination from the selection process and, in the event of communication(s) with a person who is not the "Designated Contact" could be grounds for a finding of non-responsibility. Specifically, Proposers are restricted from making contact with anyone other than the Designated Contact during the Restricted Period, which, for purposes of this RFP shall mean the period between the time of publication of the advertisement through approval of the procurement contract by BPCA (the "Restricted Period"). "Contacts" shall mean any oral, written, or electronic communication with BPCA under circumstances where a reasonable person would infer that the communication was intended to influence BPCA's conduct or decision regarding the procurement. Employees of BPCA are required to obtain and record certain information about contacts made during the Restricted Period, and to make a determination of responsibility based, in part, upon any such contact. Failure to abide by this process may result in a finding of non-responsibility.

Due Date (Late proposals will not be accepted): Proposals are due no later than **3:00 P.M. on June 21, 2011**, time and date stamped by the clock at BPCA Reception Desk, of One World Financial Center, 200 Liberty Street, 24th Floor. BPCA is not responsible for any internal or external delivery delays which may cause any Proposal to arrive after the stated deadline. To be considered, Proposals must arrive at the 24th floor offices of BPCA and be time-stamped prior to the deadline.

Length: Proposals cannot be more than 10 pages long, although the following does not count against that limit: cover page, mandatory documents and other attachments provided as part of this RFP, and staff biographies.

Packaging: No Electronic or faxed proposals, will be accepted. Proposals must be mailed or hand-delivered in a sealed envelope, clearly marked "Third Party Administrator Services Proposal."

Questions: Questions pertaining to this RFP must be submitted by email to the Designated Contact, Michelle Burgos at michelle.burgos@batteryparkcity.org no later than **3:00 p.m., on June 6, 2011**. Responses to questions will be posted on the BPCA Website by close of business, on June 13, 2011.

Signature: Proposers must sign their proposals. Unsigned Proposals will be rejected.

VII. SUBMISSIONS REQUIREMENTS

Please submit the following:

- 1. Dedicated Claim Personnel:** Proposer should list the members of the proposed team for this project. BPCA requires a designated team made up of experienced adjusters who will be responsive to and responsible for managing and mitigating losses under the program. A dedicated claims professional at the Proposer must be assigned to BPCA. A Senior level claim person at the Proposer is expected to have overall responsibility for the technical and administrative functioning of the TPA services under the program and should interact with BPCA on a regular basis. Proposer may not re-assign personnel without the explicit approval of BPCA. Proposer will honor any BPCA request to replace an individual assigned to the program, to the extent permitted by law. Proposers must submit resumes of proposed team members.
- 2. Firm Information:** A brief history of your firm, general description of the firm's capabilities, and all office locations that would serve BPCA.
- 3. Licensing & Insurance:** Evidence of current appropriate licensing in New York State. Also, evidence of current insurances including statutory Workers Compensation and Errors and Omissions insurance, with limits indicated.
- 4. Mandatory Forms:** Please see Attachment B. Proposals will not be considered if they do not include a fully completed Mandatory Forms package.

5. References: A list of at least four current clients and two former clients, which BPCA may contact to discuss your services. BPCA reserves the right to contact any or all of the references furnished by the Proposer.

VIII. UNDERSTANDINGS

A. Generally

1. Confidentiality: The information contained in this RFP is given solely for the purpose of inviting parties to prepare proposals for the BPCA claims administration services. By submitting a proposal, the proposer agrees to keep any and all information contained herein confidential both during the period of proposal review and thereafter, to the extent permitted by law.

2. Contract: A formal written contract will be entered into between the parties. The Proposal or any part thereof submitted by the successful proposer may be attached to and become a part of the contract. After selection of the successful proposer, a formal written contract will be negotiated and executed by BPCA and will not be binding or in force and effect until approved by BPCA's Members and signed by both parties. NO RIGHTS SHALL ACCRUE TO ANY PROPOSER BY THE FACT THAT A PROPOSAL HAS BEEN SELECTED BY BPCA FOR SUBMISSION TO THE MEMBERS OF THE BOARD FOR CONTRACT APPROVAL. THE MEMBERS HAVE THE RIGHT TO REJECT ANY RECOMMENDATION AND THE APPROVAL OF BPCA'S MEMBERS IS NECESSARY BEFORE A VALID AND BINDING CONTRACT MAY BE EXECUTED BY BPCA.

3. MBE/WBE Policy: In accordance with Article 15-A of the New York State Executive Law and regulations adopted pursuant thereto, BPCA has established separate goals for participation of New York State certified minority and women-owned business enterprises for all State contracts. We are required to implement the provisions of Article 15-A and 5 NYCRR Part 143 for all state contracts (1) in excess of \$25,000 for labor, services, equipment, materials or any combination for the foregoing and (2) in excess of \$100,000 for real property renovations and construction. For purposes of this procurement, BPCA hereby establishes a goal of 15% for Minority-owned Business Enterprises (MBE) participation and 15% for Women-owned Business (WBE) participation. As a condition of this procurement, the Proposer and BPCA agree to be bound by the provisions of Section 316 of Article 15-A of the Executive Law regarding enforcement. Proposers must document "good faith efforts" to provide meaningful participation by certified M/WBE subcontractors in the performance of this contract. For guidance on how BPCA will determine a Proposer's "good faith efforts," refer to 5 NYCRR Section 143.8. Additionally, Proposers must refer to the list of Mandatory Forms to fully comply with Article 15-A of the New York State Executive Law and 5 NYCRR Part 143 (see Attachment B).

4. Non-Collusion: The Proposer, by signing the Proposal, does hereby warrant and represent that any ensuing agreement has not been solicited or secured directly or indirectly in a manner contrary to the laws of the State of New York, and that said laws have not been violated and shall not be violated as they relate to the procurement or the performance of the agreement by any conduct, including the paying or giving of any fee, commission, compensation, gift, or gratuity or consideration of any kind, directly or indirectly, to any member of the Board, employee,

officer or official of BPCA.

B. Miscellaneous Conditions

1. The issuance of this RFP and the submission of a proposal by the firm or the acceptance of such proposal by BPCA does not obligate BPCA, in any manner whatsoever. Legal obligations will only arise upon THE MUTUAL execution of formal underwriting agreements by BPCA and the firm or firms selected to render services described herein.

2. BPCA reserves the right to amend, modify or withdraw this RFP; to waive or revise any requirements of this RFP; to require supplemental statements or information from any responding party; to reject any and all proposals submitted; to select for its management group as many or as few responding firms as it may select; to accept or reject any or all proposals received in response hereto; to extend the deadline for submission of proposals; to negotiate or hold discussions with any responding party; and to cancel, in whole or in part, this RFP if BPCA deems it to be in its best interest to do so. BPCA may exercise the foregoing rights at any time without notice and without liability to any responding party or other parties for their expenses incurred in the preparation of proposals or otherwise. Proposals in response hereto will be prepared at the sole cost and expense of the responding party.

3. This RFP and any agreement which may result from it are subject to all applicable laws, rules and regulations promulgated by any federal, state or local BPCA having jurisdiction over the subject matter hereof, as the same may be amended from time to time.

4. This RFP does not commit BPCA to select a TPA or to pay any costs incurred in preparation or review of any response to this RFP, or to procure or contract for the services described herein. This RFP is not a contract or commitment of any kind on behalf of BPCA and does create any legal or equitable rights. Any contractual arrangement must be evidenced by a written agreement to be executed by both BPCA and the selected proposer and approved by BPCA's Board Members.

ATTACHMENT A
PRICING STRUCTURE

1. PRICE PER ENTRY OF CLAIM (IF ANY)
FOR LIFE OF THE CLAIM \$ _____

2. PRICE PER HOUR OF SERVICE

Name/Title: _____ \$ _____

Name/Title: _____ \$ _____

Name/Title: _____ \$ _____

Name/Title: _____ \$ _____

Name/Title: _____ \$ _____

3. ALTERNATE ADD ON -9/11 Claims Cost \$ _____

(if further explanation necessary) _____

4. MISCELLANEOUS FEES (IF ANY)

_____ \$ _____

_____ \$ _____

_____ \$ _____



HUGH L. CAREY
BATTERY PARK
CITY AUTHORITY

NOTICE TO PROPOSERS

Enclosed herewith please find the mandatory forms packet, which consists of the:

- Vendor Responsibility Questionnaire
- Statement of Non-Collusion forms
- MBE/WBE forms

NYS Finance Law §139

- Language for Inclusion in Solicitation
- Language to Obtain Offerer's Affirmation of Understanding of and Agreement pursuant to State Finance Law §139-j (3) and §139-j (6) (b)
- Language to Obtain an Offerer's Certification of Compliance with State Finance Law 139-k (5)
- Language to Obtain the Offerer's Disclosure of Prior Non-Responsibility Determinations
- Contract Termination Provision

These forms must accompany the firm's proposal. We will not consider proposals from firms that do not fully complete the forms and include them with their proposals.

Vendor Responsibility Questionnaire Instructions

In your packet you have 2 forms:

- The Standard Vendor Responsibility Questionnaire
(consisting of 4 pages and a Certification page)
- and
- The Certificate of No Change form (1 page)

The Standard Vendor Responsibility Form should be filled out by someone in your firm who knows about tax filings, prior findings of non-responsibility by a governmental authority, etc., and can certify the accuracy of all the information requested in the form (such as legal status, tax status, and debarment status).

You must answer every question on the questionnaire.

NOTE: You will fill out the "Certificate of No Change" form ONLY if your firm has submitted the Vendor Responsibility form to Battery Park City Authority already during this calendar year. If this is the first time your firm is proposing to do work for Battery Park City Authority this year, then you must fill out the entire Vendor Responsibility Questionnaire.

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STATE OF NEW YORK
Council of Contracting Agencies
Standard Vendor Responsibility Questionnaire

1. LEGAL BUSINESS NAME: _____

2. FEDERAL EMPLOYER ID NO. (FEIN): _____

3. D/B/A — Doing Business As (if applicable): _____
COUNTY FILED: _____

4. WEBSITE ADDRESS (if applicable): _____

5. PRINCIPAL PLACE OF BUSINESS ADDRESS: _____

6. TELEPHONE NUMBER: _____

7. FAX NUMBER: _____

8. AUTHORIZED CONTACT FOR THIS QUESTIONNAIRE:

Name: _____

Title: _____

Telephone Number: _____

Fax Number: _____

E-mail: _____

9. TYPE OF BUSINESS: (please check appropriate box and provide additional information):

- | | |
|---|---|
| a) <input type="checkbox"/> Corporation | State of Incorporation: _____ |
| b) <input type="checkbox"/> Sole Proprietor | State/County filed in: _____ |
| c) <input type="checkbox"/> General Partnership | State/County filed in: _____ |
| d) <input type="checkbox"/> Not-for-Profit Corporation | Charities Registration Number: _____ |
| e) <input type="checkbox"/> Limited Liability Company (LLC) | Jurisdiction filed: _____ |
| f) <input type="checkbox"/> Limited Partnership | State/County filed in: _____ |
| g) <input type="checkbox"/> Other — Specify: _____ | Jurisdiction Filed (if applicable): _____ |

10. IF NOT INCORPORATED OR FORMED IN NEW YORK STATE, PLEASE PROVIDE A COPY OF AUTHORIZATION TO DO BUSINESS IN NEW YORK STATE FILED WITH THE NEW YORK STATE DEPARTMENT OF STATE (DOS). Note: If your firm is currently applying for authorization to do business in New York State please provide a copy of a letter from DOS indicating your application is in process.

11. LIST NAME AND TITLE OF EACH PRINCIPAL, OWNER, OFFICER, MAJOR STOCKHOLDER (10% OR MORE OF THE VOTING SHARES FOR PUBLICLY TRADED COMPANIES, 25% OR MORE OF THE SHARES FOR ALL OTHER COMPANIES), DIRECTOR AND MEMBER, as applicable:

- a) _____
- b) _____
- c) _____
- d) _____
- e) _____
- f) _____
- g) _____
- h) _____

12. AUTHORIZED CONTACT FOR THE PROPOSED CONTRACT:

Name: _____

Title: _____

Telephone Number: _____ Fax Number: _____

E-mail: _____

1/21/05

STATE OF NEW YORK
Council of Contracting Agencies
Standard Vendor Responsibility Questionnaire

VENDOR FEIN: _____

13. DOES THE VENDOR USE, OR HAS IT USED IN THE PAST FIVE (5) YEARS, ANY OTHER BUSINESS NAME, FEIN, OR D/B/A OTHER THAN WHAT IS LISTED IN QUESTIONS 1-3 ABOVE?

☐ Yes ☐ No

If yes, provide the name(s), FEIN(s) and d/b/a(s) and the address for each such company and d/b/a on a separate piece of paper and attach to this response.

14. WITHIN THE PAST FIVE (5) YEARS, HAS THE VENDOR, ANY PRINCIPAL, OWNER, OFFICER, MAJOR STOCKHOLDER (10% OR MORE OF THE VOTING SHARES FOR PUBLICLY TRADED COMPANIES, 25% OR MORE OF THE SHARES FOR ALL OTHER COMPANIES), AFFILIATE OR ANY PERSON INVOLVED IN THE BIDDING, CONTRACTING OR LEASING PROCESS BEEN THE SUBJECT OF ANY OF THE FOLLOWING:

(a) a judgment or conviction for any business related conduct constituting a crime under federal, state or local government law including, but not limited to, fraud, extortion, bribery, racketeering, price-fixing or bid collusion or any crime related to truthfulness and/or business conduct? ☐ Yes ☐ No

(b) a criminal investigation or indictment for any business related conduct constituting a crime under federal, state or local government law including, but not limited to, fraud, extortion, bribery, racketeering, price-fixing or bid collusion or any crime related to truthfulness and/or business conduct? ☐ Yes ☐ No

(c) an unsatisfied judgment, injunction or lien for any business related conduct obtained by any federal, state or local government agency including, but not limited to, judgments based on taxes owed and fines and penalties assessed by any federal, state or local government agency? ☐ Yes ☐ No

(d) an investigation for a civil violation for any business related conduct by any federal, state or local agency? ☐ Yes ☐ No

(e) a grant of immunity for any business-related conduct constituting a crime under federal, state or local governmental law including, but not limited to, fraud, extortion, bribery, racketeering, price-fixing, bid collusion or any crime related to truthfulness and/or business conduct? ☐ Yes ☐ No

(f) a federal, state or local government suspension or debarment from the contracting process? ☐ Yes ☐ No

(g) a federal, state or local government contract suspension or termination for cause prior to the completion of the term of a contract? ☐ Yes ☐ No

"Affiliate" meaning: (a) any entity in which the vendor owns more than 50% of the voting stock; (b) any individual, entity or group of principal owners or officers who own more than 50% of the voting stock of the vendor; or (c) any entity whose voting stock is more than 50% owned by the same individual, entity or group described in clause (b). In addition, if a vendor owns less than 50% of the voting stock of another entity, but directs or has the right to direct such entity's daily operations, that entity will be an "affiliate" for purposes of this questionnaire.

1/21/05

STATE OF NEW YORK
Council of Contracting Agencies
Standard Vendor Responsibility Questionnaire

VENDOR FEIN:

- (b) a federal, state or local government denial of a lease or contract award for non-responsibility? ☐ Yes ☐ No
- (i) an administrative proceeding or civil action seeking specific performance or restitution in connection with any federal, state or local contract or lease? ☐ Yes ☐ No
- (j) a federal, state or local determination of a willful violation of any public works or labor law or regulation? ☐ Yes ☐ No
- (k) a sanction imposed as a result of judicial or administrative proceedings relative to any business or professional license? ☐ Yes ☐ No
- (l) a consent order with the New York State Department of Environmental Conservation, or a federal, state or local government enforcement determination involving a violation of federal, state or local laws? ☐ Yes ☐ No
- (m) an Occupational Safety and Health Act citation and Notification of Penalty containing a violation classified as serious or willful? ☐ Yes ☐ No
- (n) a rejection of a bid on a New York State contract or a lease with the State for failure to comply with the MacBride Fair Employment Principles? ☐ Yes ☐ No
- (o) a citation, notice, violation order, pending administrative hearing or proceeding or determination for violations of:
- federal, state or local health laws, rules or regulations ☐ Yes ☐ No
 - unemployment insurance or workers' compensation coverage or claim requirements ☐ Yes ☐ No
 - ERISA (Employee Retirement Income Security Act) ☐ Yes ☐ No
 - federal, state or local human rights laws ☐ Yes ☐ No
 - federal INS (Immigration and Naturalization Service) and Alienage laws ☐ Yes ☐ No
 - Sherman Act or other federal anti-trust laws ☐ Yes ☐ No
- (p) entered into an agreement to a voluntary exclusion from contracting with a federal, state or local governmental entity? ☐ Yes ☐ No
- (q) a denial, decertification, revocation or forfeiture of Women's Business Enterprise, Minority Business Enterprise or Disadvantaged Business Enterprise status? ☐ Yes ☐ No
- (r) a rejection of a low bid on a federal, state or local contract for failure to meet statutory affirmative action or Minority or Women's Business Enterprise or Disadvantaged Business Enterprise status requirements on a previously held contract? ☐ Yes ☐ No
- (s) a finding of non-responsibility by an agency or authority due to the intentional provision of false or incomplete information as required by Executive Order 12777 ☐ Yes ☐ No

FOR EACH YES ANSWER TO QUESTIONS 14 - s, PROVIDE DETAILS ON ADDITIONAL SHEETS REGARDING THE FINDING, INCLUDING BUT NOT LIMITED TO CAUSE, CURRENT STATUS, RESOLUTION, ETC.

1/21/05

**STATE OF NEW YORK
Council of Contracting Agencies
Standard Vendor Responsibility Questionnaire**

VENDOR FEIN: _____

15. DURING THE PAST THREE YEARS, HAS THE VENDOR FAILED TO:

**(a) FILE RETURNS OR PAY ANY APPLICABLE FEDERAL, STATE OR
LOCAL GOVERNMENT TAXES?**

☐ Yes ☐ No

If yes, identify the taxing jurisdiction, type of tax, liability year(s) and tax liability amount the company failed to file/pay and the current status of the liability:

(b) FILE RETURNS OR PAY NEW YORK STATE UNEMPLOYMENT INSURANCE? ☐ Yes ☐ No

If yes, indicate the years the company failed to file/pay the insurance and the current status of the liability:

**16. HAVE ANY BANKRUPTCY PROCEEDINGS BEEN INITIATED BY OR AGAINST THE
VENDOR OR ITS AFFILIATES WITHIN THE PAST SEVEN YEARS (WHETHER OR NOT CLOSED)
OR IS ANY BANKRUPTCY PROCEEDING PENDING BY OR AGAINST THE VENDOR
OR ITS AFFILIATES, REGARDLESS OF THE DATE OF FILING?**

☐ Yes ☐ No

If yes, indicate if this is applicable to the submitting vendor or one of its affiliates:

If it is an affiliate, include the affiliate's name and FEIN: _____

Provide the court name, address and docket number: _____

Indicate if the proceedings have been initiated, remain pending or have been closed:

If closed, provide the date closed: _____

**17. DOES VENDOR HAVE THE FINANCIAL RESOURCES NECESSARY TO
FULFILL THE REQUIREMENTS OF THE PROPOSED CONTRACT?**

☐ Yes ☐ No

STATE OF NEW YORK
Council of Contracting Agencies
Standard Vendor Responsibility Questionnaire

VENDOR FEIN: _____

State of)
) ss:
County of)

CERTIFICATION:

The undersigned, personally and on behalf of the vendor identified in questions 1-3 above, does hereby state and certify to the Hugh L. Carey Battery Park City Authority that the information given above is true, accurate and complete. It is further acknowledged that the Hugh L. Carey Battery Park City Authority will rely upon the information contained herein and in any attached pages for purposes of evaluating our company for vendor's responsibility for contract award and the Hugh L. Carey Battery Park City Authority may, in its discretion, by means which it may choose, verify the truth and accuracy of all statements made herein. It is further acknowledged that the intentional submission of false or misleading information may constitute a felony under Penal Law Section 210.35 or Section 210.45, and may also be punishable by a fine and/or imprisonment of up to five years under 18 USC Section 1001 and may result in contract termination.

Name of Business

Signature of Officer

Address

Typed Copy of Signature

City, State, Zip

Title

Sworn before me this _____
day of _____, 20__.

Notary Public

Registration No. _____

State of: _____

CERTIFICATE OF NO CHANGE

STATE OF _____

COUNTY OF _____ ss.:

The undersigned, being duly sworn, deposes and says:

1. I am _____, the _____ (title) of _____
(hereinafter the "Contractor"), which is currently submitting an amendment to a State Contract.

2. Contractor previously submitted the completed Battery Park City Authority Standard Vendor Responsibility Questionnaire, dated _____ to _____ in connection with another State Contract.

3. Attached is an accurate and true copy of such previously submitted Standard Vendor Responsibility Questionnaire.

4. I hereby certify that with the exception of the information specified in Question 12, and as changed herein, there has been no material change in the information pertaining to the Contractor specified on such attached Questionnaire.

AUTHORIZED CONTACT FOR THE PROPOSED CONTRACT:

Name: _____
Title: _____
Telephone Number: _____ Fax Number: _____
E-mail: _____

Signature

Print Name

Title

Sworn before me this _____ day
of _____, 20____.

Notary Public
Registration No. _____
State of: _____

STATEMENT OF NON-COLLUSION:

- I. By submission of this Proposal, Proposer and each person signing on behalf of Proposer certifies, (and in the case of a joint Proposal each party thereto certifies) as to its own organization, under penalty of perjury, that to the best of his knowledge and belief:
- A) The prices in this Proposal have been arrived at independently without collusion, consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other Proposer or with any competitor.
 - B) Unless otherwise required by law, the prices which have been quoted in this Proposal have not been knowingly disclosed by the Proposer and will not knowingly be disclosed by the Proposer prior to opening, directly or indirectly to any other Proposer or to any competitor.
 - C) No attempt has been made or will be made by Proposer to induce any other person, partnership, firm or corporation to submit or not to submit a Proposal for the purpose of restricting competition.
- II. A Proposal shall not be considered for award nor shall any award be made where sub-paragraphs IA, IB, and IC above have not been compiled with provided however, that if in any case Proposer cannot make the foregoing certification and the Proposer shall so state and shall furnish with its Proposal a signed statement which sets forth in detail the reasons therefore. Where sub-paragraphs IA, IB, and IC above have not been compiled with, Proposal shall not be considered for award nor shall any award be made unless the Authority determines that such disclosure was not made for the purpose of restricting competition.
- The fact that a Proposer (a) has published price lists, rates, or tariffs covering items Being procured, (b) has informed prospective customers of proposed or pending Publication of a new or revised price lists for such item, or (c) has sold the same items To other customers at the same prices being proposed, does not constitute, without more, a disclosure within the meaning of paragraph A above.
- III. This Proposal, if made by a corporate Proposer, shall be deemed to have been authorized by the board of directors of the Proposer and such authorization shall be deemed to include the signing and submission of the Proposal and the inclusion thereof of the statement of non-collusion as the act and deed of the corporation.

(Insert Name of Proposer and Sign Below)

By: _____

(PRINT Full legal name of person, firm, partnership or corporation)

(Signature and Title)

Address _____

City and State _____

Corporate ID. Number _____

Federal ID. Number _____

_____ Date

Statement of Non-Collusion Continued

If the Proposer is an individual, the Proposer's legal residence is as follows:

Street Address City State

If Proposer is a Firm or Partnership, complete the following:

NAME OF MEMBERS OR PARTNERS

LEGAL RESIDENCE

If Proposer is a Corporation complete the following:

NAMES OF ALL OFFICERS

LEGAL RESIDENCE

President

Vice President

Secretary

Treasurer

Title

Title

Exhibit
Part 3**BATTERY PARK CITY AUTHORITY
MBE/WBE REQUIRED PARTICIPATION PLAN**

Please fill out utilization plan for MBE/WBE(s) participation and use the same format for all additional MBE/WBE sub-contractors

CONTRACTOR:	DATE
NAME:	
ADDRESS:	
CONTACT PERSON:	PHONE #
FEDERAL I.D. NO:	FAX #

MBE/WBE INFORMATION

SUB-CONTRACTOR:	FEDERAL I.D. #
NAME:	WORK TO BEGIN:
ADDRESS:	
PHONE NUMBER:	TO FINISH ON:
CONTACT PERSON:	
ESTIMATED DOLLAR AMOUNT TO BE AWARDED TO MBE/WBE:	
SCOPE OF WORK TO BE DONE BY MBE/WBE	

MBE/WBE INFORMATION

SUB-CONTRACTOR:	FEDERAL I.D.#
NAME:	WORK TO BEGIN
ADDRESS:	
PHONE NUMBER:	
CONTACT PERSON:	TO FINISH ON:
ESTIMATED DOLLAR AMOUNT TO BE AWARDED TO MBE/WBE:	
SCOPE OF WORK TO BE DONE BY MBE/WBE:	

Exhibit
Part 4

**BATTERY PARK CITY AUTHORITY
UTILIZATION PLAN
WORKFORCE PERCENTAGE INFORMATION**

Please fill out utilization plan for minority and female employees of Consultant.

TRADE(S):

MINORITY WORKFORCE:

FEMALE WORKFORCE

%

%

NYS FINANCE LAW §139 MANDATORY FORMS PACKET INSTRUCTIONS

In your packet, you have 5 forms:

1. Language for Inclusion in Solicitation

***This document must be included in all RFP's, Bid documents or Mandatory Forms packet if there is no RFP. (1 page)**

2. Language to Obtain Offerer's Affirmation of Understanding of and Agreement pursuant to State Finance Law §139-j (3) and §139-i (6) (b)

***This form must be included in the Mandatory Forms Packet. (1 page)**

3. Language to Obtain an Offerer's Certification of Compliance with State Finance Law §139-k(5)

***This form must be included in the Mandatory Forms Packet. (1 page)**

4. Language to Obtain the Offerer's Disclosure of Prior Non-Responsibility Determinations

***This form must be included in the Mandatory Forms Packet. (3 pages)**

5. Contract Termination Provision

***This document must be included in the Mandatory Forms Packet.**

This document must be included in RFP's, bid documents, or Mandatory Forms Packet, if there is no RFP.

Language for Inclusion in Solicitation

Background:

State Finance Law §139-j (6) requires that a Governmental Entity incorporate a summary of its policy and prohibitions regarding permissible contacts during a covered procurement.

BPCA PERMISSIVE CONTACTS POLICY:

Pursuant to State Finance Law, §139-j and 139-k, this solicitation, RFP, or Invitation for Bids includes and imposes certain restrictions on communications between Battery Park City Authority and its subsidiaries and affiliates and an Offerer (Contractor/Consultant or their representative) during the procurement process. An Offerer/bidder (or its representative) is restricted from making contacts from the earliest notice of intent to solicit offers [i.e. from Contract Reporter ad publication] through final award and approval of the Procurement Contract by BPCA ("Restricted Period") to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law § 139-j (3) (a). The designated staff contact person is identified in this solicitation. BPCA employees are also required to obtain and record certain information when contacted during the restricted period, and make a determination of the responsibility of the Offerer/bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award, and in the event of two findings within a 4 year period, the Offerer/bidder will be debarred from obtaining governmental Procurement Contracts.

'CONTACTS'

Applicants are restricted from making contact with anyone other than the Contact Person specified above during the period (the "Restricted Period") from the time of publication of this advertisement through approval of the procurement contract by BPCA. "Contacts" shall mean any oral, written or electronic communication with a governmental entity under circumstances where a reasonable person would infer that the communication was intended to influence the governmental entity's conduct or decision regarding the governmental procurement. Employees of BPCA are required to obtain and record certain contracts during the Restricted Period, and to make a determination of responsibility based, in part, upon any such contact. Failure to abide by this process may result in a finding of non-responsibility.

This form must be included in Mandatory Forms Packet

Language to Obtain Offerer's Affirmation of Understanding of and Agreement pursuant to State Finance Law §139-j (3) and §139-j (6) (b)

Background:

State Finance Law §139-j (6) (b) provides that:

Every Governmental Entity shall seek written affirmations from all Offerers as to the Offerer's understanding of and agreement to comply with the Governmental Entity's procedures relating to permissible contacts during a Governmental Procurement pursuant subdivision three of this section.

Offerer affirms that it understands and agrees to comply with the procedures of the Government Entity relative to permissible contacts as required by State Finance Law §139-j (6)(b).

Offerer's Name:

(Company)

Date:

By:

(Signature)

Name:

(Printed)

Title:

Address:

This form must be included in the Mandatory Forms Packet

**Language to Obtain an Offerer's Certification of Compliance
with State Finance Law §139-k(5)**

Background:

New York State Finance Law §139-k(5) requires that every Procurement Contract awarded is subject to the provisions of State Finance Law §139-k or 139-j shall contain a certification by the Offerer that all information provided to the procuring Governmental Entity with respect to State Finance Law §139-k is complete, true and accurate.

Include the following language for certification by the Offerer:

Contractor/Consultant Certification:

I certify that all information provided to Battery Park City Authority, its subsidiaries and affiliates with respect to State Finance Law §139-k is complete, true and accurate.

Offerer's Name: _____
(Company)

Date: _____

By: _____
(Signature)

Name: _____
(Printed)

Title: _____

Address: _____

This form must be included in the Mandatory Forms Packet

Language to Obtain the Offerer's Disclosure of Prior Non-Responsibility Determinations

Background:

New York State Finance Law §139-k (2) obligates Battery Park City Authority to obtain specific information regarding prior non-responsibility determinations with respect to State Finance Law §139-j. This information must be collected in addition to the information that is separately obtained pursuant to State Finance Law §163(9). In accordance with State Finance Law §139-k, an Offerer must be asked to disclose whether there has been a finding of non-responsibility made within the previous four (4) years by any Governmental Entity due to: (a) a violation of State Finance Law §139-j or (b) the intentional provision of false or incomplete information to a Governmental Entity. The terms "Offerer" and "Governmental Entity" are defined in State Finance Law § 139-k (1). State Finance Law §139-j sets forth detailed requirements about the restrictions on Contacts during the procurement process. A violation of State Finance Law §139-j includes, but is not limited to, an impermissible Contact during the Restricted Period (for example, contacting a person or entity other than the Designated Contact Person, when such contact does not fall within one of the exemptions).

As part of its responsibility determination, State Finance Law §139-k (3) mandates consideration of whether an Offerer fails to timely disclose accurate or complete information regarding the above non-responsibility determination. In accordance with law, no Procurement Contract shall be awarded to any Offerer that fails to timely disclose accurate or complete information under this section, unless a finding is made that the award of the Procurement Contract to the Offerer is necessary to protect public property or public health, or public safety, and that the Offerer is the only source capable of supplying the required Article of Procurement within the necessary timeframe. See State Finance Law §139-j (10) (b) and 139-k (3).

Offerer's Disclosure of Prior Non-Responsibility Determinations

Name of Individual or Entity/Offerer Seeking to Enter into the Procurement Contract.

Address: _____

Name and Title of Person Submitting this Form: _____

Project Name: _____

Date: _____

1. Has any Governmental Entity made a finding of non-responsibility regarding the individual (you) or entity (your company/firm) seeking to enter into the Procurement Contract in the previous four (4) years?

(Please circle): No Yes

If yes, please answer the next questions:

2. Was the basis for the finding of non-responsibility due to a violation of State Finance Law §139-j?

(Please circle): No Yes

3. Was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a Governmental Entity?

(Please circle): No Yes

4. If you answered yes to any of the above questions, please provide details regarding the finding of non-responsibility below.

Governmental Entity: _____

Date of Finding of Non-Responsibility: _____

Basis of Finding of Non-Responsibility: _____

(Add additional pages as necessary)

5. Has any Governmental Entity or other governmental agency terminated or withheld a Procurement Contract with the above-named individual or entity due to the intentional provision of false or incomplete information? (Please circle): No Yes

6. If yes, please provide details below.

Governmental Entity: _____

Date of Termination or Withholding of Contract: _____

Basis of Termination or Withholding: _____

(Add additional pages as necessary)

Offerer certifies that all information provided to the Governmental Entity with respect to State Finance Law §139-k is complete, true and accurate.

By: _____
(Signature)

Name: _____
(Print Name)

Date: _____

Title: _____

This document must be included in the Mandatory Forms Packet

Contract Termination Provision

Background:

A Contract Termination Provision shall be included in each Procurement Contract governed by State Finance Law §139-k. New York State Finance Law §139-k(5) provides that every procurement contract award subject to the provisions of State Finance Law §139-k and 139-j shall contain a provision authorizing Battery Park City Authority, and its subsidiaries and affiliates, to terminate the contract in the event that the certification under §139-k is found to be intentionally false or intentionally incomplete. This statutory contract language authorizes termination. "Governmental Entity" and "procurement contract" are defined in State Finance Law §139-k (1) and includes BPCA, its subsidiaries and affiliates.

Contract Termination Provision

The Battery Park City Authority reserves the right to terminate this contract in the event it is found that the certification filed by Contractor/Consultant pursuant to New York State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, Battery Park City Authority may exercise its termination right by providing written notification to the Contractor/Consultant in accordance with the written notification terms of this contract. If a contract is terminated in accordance with State Finance Law §139-k (5), Battery Park City Authority, its subsidiaries and affiliates, will include a statement in Battery Park City Authority's procurement record describing the basis for any action taken under the termination provision.