



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.

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) Corporation State of Incorporation: _____
- b) Sole Proprietor State/County filed in: _____
- c) General Partnership State/County filed in: _____
- d) Not-for-Profit Corporation Charities Registration Number: _____
- e) Limited Liability Company (LLC) Jurisdiction filed: _____
- f) Limited Partnership State/County filed in: _____
- g) 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: _____

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), AFFILIATE¹ 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

¹"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.

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

VENDOR FEIN: _____

- (h) 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 1277? Yes No

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

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 not 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 I.D. Number Federal I.D. 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
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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-j (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.

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: _____ Date: _____
(Company)

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>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.</i>	
Offerer's Name: _____ (Company)	Date: _____
By: _____ (Signature)	
Name: _____ (Printed)	
Title: _____	
Address: _____ _____	

**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.