

NIAGARA FRONTIER TRANSPORTATION AUTHORITY



Niagara Frontier Transportation Authority
Serving the Niagara Region

**REQUEST FOR PROPOSAL
FOR
CRIMINAL BACKGROUND CHECKS
NFTA RFP 4403**

The following items are to be included with the proposal and made part of any agreement entered into pursuant to this RFP.

SUBMIT 4 HARD COPIES OF PROPOSAL and 1 ELECTRONIC COPY (IN THE FORM OF A CD OR FLASH DRIVE).

Cover Letter
Description of products/services
Firm, Management and Staff Qualifications
References
Itemized Cost Proposal
Non-Collusive Proposal Certificate
Disclosure of Prior Non-Responsibility Determinations
Bidder's/Proposer's Affirmation and Certification
Company and Contact Information Form
Contractor Certification Form ST-220-TD (if over \$100,000)
Sample Reports and a Pre-Authorization Form

PROPOSERS MUST REGISTER AND DOWNLOAD THIS RFP FROM THE NFTA WEB SITE, WWW.NFTA.COM, IN ORDER TO BE NOTIFIED OF SUBSEQUENT AMENDMENTS. ONLY REGISTERED SUPPLIERS WILL RECEIVE NOTIFICATION OF NEW RFP'S AS THEY BECOME AVAILABLE.

THE RFP NUMBER MUST BE REFERENCED ON ALL SUBMITTALS AND CORRESPONDENCE.

NIAGARA FRONTIER TRANSPORTATION AUTHORITY

REQUEST FOR PROPOSAL NO. 4403

Proposals will be received by the undersigned until 11:00 a.m., on APRIL 9, 2014:

CRIMINAL BACKGROUND CHECKS

in accordance with the attached proposal documents. The Authority reserves the right to reject any or all proposals, or to waive any informality in the proposal. Proposals shall be submitted in a sealed envelope showing Proponent's name and addressed to:

NIAGARA FRONTIER TRANSPORTATION AUTHORITY

Department of Procurement - Fifth Floor

Attention: Cindy Judd

181 Ellicott Street

Buffalo, New York 14203

716-855-7206 phone, 716-855-6676 fax

email Cindy_Judd@nfta.com

www.nfta.com

MARK ON LOWER LEFT HAND CORNER OF ENVELOPE:

RFP: 4403

DUE DATE: APRIL 9, 2014

FOR: CRIMINAL BACKGROUND CHECKS

NAME OF PROPONENT:

PROPOSALS MUST BE RECEIVED AT 181 ELLICOTT STREET, 5TH FLOOR, PROCUREMENT DEPARTMENT, BEFORE THE TIME DESIGNATED FOR OPENING IN ORDER TO BE CONSIDERED.

All correspondence, communications and/or contact with the NFTA in regard to any aspect of this proposal shall be with the Procurement Official designated above or her designated representative. Prospective proponents, or their representatives, shall not make contact with or communicate with **any** representatives of the NFTA, including employees and consultants, other than the designated Procurement Official, in regard to any aspect of this proposal.

Andrea Herald
Procurement Manager

RFP NO. 4403
SCOPE of WORK

INTRODUCTION

The Niagara Frontier Transportation Authority (NFTA) is seeking proposals from firms that are licensed to perform statewide and nationwide criminal background checks as part of its pre-employment screening process. The approximate number of potential employees screened per year is four hundred (400).

Other background checks may be requested as needed. These include employment reference checks, educational background and professional license verification and motor vehicle driving record search and verification. The approximate number of potential employees screened for these services is one hundred (100) per year.

The Niagara Frontier Transportation Authority (NFTA) is a regional multi-modal transportation authority responsible for air and surface transportation in Erie and Niagara Counties in New York State. NFTA businesses include Metro bus and rail, Metro-link, an ADA paratransit system, two international airports, a boat harbor and transportation centers in Buffalo and Niagara Falls. The NFTA employs approximately 1500 associates.

All data and information presented is for reference only and is not intended to guarantee any particular level of activity.

TERMS OF CONTRACT

The initial term of the contract is three (3) years, with the option to extend for two (2) additional 1- year periods at the discretion of the NFTA.

SCOPE OF SERVICES

These specifications outline the minimum acceptable criteria for the procurement of criminal background check services.

A. *Background Checks shall include the following:*

- Authorization form for obtaining written consent of the applicant before any background checks are conducted as per Federal Credit Reporting Act (FCRA) requirements
- New York State, Erie and Niagara County criminal checks using the NYS Office of Court Administration (NYSOCA) and comparable searches of states where the person lived, worked or attended school during the past five years. As an the alternative, a contractor may elect to obtain the record of convictions from NYSOCA directly and from their equivalents from other states.
- Nationwide and federal criminal search
- Social security number trace
- Verification of U.S. citizenship or legal resident status

- Optional: employment reference checks, educational background and professional license verification, and motor vehicle driving record search and verification may be requested as needed

B. Customer Service Shall Include:

- Website access for obtaining results and customer service
- Support services to assist in understanding and verifying the final results
- Support staff to train and assist appropriate NFTA staff in proper procedures for accessing the website either onsite or via teleconference

C. Other Requirements

Upon award of contract the successful proponent warrants that it shall comply with all Federal, State, and local statutes, regulations and ordinances governing the acquisitions and distribution of information furnished by the courts, including but not limited to, all provisions of the Fair Credit Reporting Act (FCRA) and all regulations thereunder.

A quick turn-around time for results of the background check is required.

CONTENTS OF THE PROPOSAL

The proposal shall include the information outlined in this section.

A. Description of Operations and Explanation of Services

- A plan of your operations to achieve the objectives set forth in the Scope of Services including the method and approach of your operations
- Hours of operation
- Description of each service provided and the method and source searched to obtain that information
- Detailed description of the results and turnaround time for each service
- Description of the types of reports available
- Sample reports
- Sample pre-authorization form
- Number of educational degrees verified
- Number of previous employers verified
- Description of how additional names or aliases are handled
- Number of years the background check covers
- If international screening is offered, a description of what the service includes

B. Itemized Cost Proposal

- Provide a list of fees for each type of background check. The fees shall include the cost for the first three (3) years of the agreement and each of the two (2) optional renewal years.
- If there are any other fees associated with the service, such as start up costs, include them in the proposal.
- List and describe all other criteria that may affect fees.

C. Proponent Information, Personnel, References

- Provide the name(s) of the person(s) who are authorized to represent the proponent: include their titles, physical and e-mail addresses, and telephone and fax numbers.
- Provide a brief history of your organization. Include types of clients, location and address of the office that will administer the services, existing customer satisfaction level, retention rate and experience in providing similar services.
- Provide contact information regarding individuals who would be assigned to work with NFTA, including their relevant experience.
- Provide a list of at least three (3) clients that are comparable to NFTA, including the length of service for each account. The client reference(s) should include the name of a contact person, title, physical and e-mail addresses and telephone numbers. The NFTA specifically reserves the right to contact other persons or entities that can provide a reference to related current or past performance.

RFP 4403
NIAGARA FRONTIER TRANSPORTATION AUTHORITY
INSURANCE SPECIFICATIONS

The Consultant agrees to procure and maintain, for the term of the Agreement, insurance of the kinds and in the amounts hereafter required, with insurance companies authorized to do business in New York State, covering all operations under this Agreement whether performed by it or its sub-contractors. The insurance companies affording coverage must be deemed acceptable to the Authority throughout the term of this contract. If any insurance company is deemed unacceptable to the Authority the Contractor agrees to procure and maintain at its expense coverage with an acceptable insurer as soon as notified by the Authority. The policies shall provide for a 30-day notice to the Authority prior to termination, cancellation or change.

Prior to the execution of the Agreement, the Consultant shall supply the Authority by delivering to the Director of Risk Management, 181 Ellicott St., Buffalo, NY 14203, a certificate(s) of insurance providing evidence of insurance coverage for the Consultant for the following coverage:

- General Liability Insurance in a comprehensive form including coverage for property damage, bodily injury, personal injury, products liability, and completed operations with a single limit of at least \$1,000,000 per occurrence with a \$2,000,000 aggregate. The certificate shall name the Authority, and its subsidiaries, as additional insureds.
- If any motor vehicle is used in the work, Auto Liability Insurance covering bodily injury and property damage with minimum combined single limit of \$1,000,000.
- Workers' Compensation and Employer's Liability in accordance with the applicable laws of the State of New York.
- Professional Liability Insurance, in the amount of \$1,000,000 per occurrence and aggregate.

Each insurance policy shall be kept in force until the receipt of final payment to the Consultant except for professional liability insurance, which shall be kept in force until at least one year after final payment to Consultant.

The Authority and the Consultant agree to waive all rights against each other for damages to the extent covered by the insurance, except for such rights they may have to the proceeds of such insurance held by the Authority as trustee. The Consultant shall require similar reciprocal waivers by all sub-consultants. This policy shall recognize such waivers of recovery by an appropriate Waiver of Subrogation Clause Endorsement, excluding any subrogation rights granted under New York Law to the contrary notwithstanding. Above needed insurance coverage should be provided on a primary and non-contributory basis. Copies of any required policies shall be provided to the Authority upon request.

PROPOSAL EVALUATION

An NFTA Selection Team will evaluate proposals. The team will select the proponent whose proposal is most advantageous to the NFTA, considering the evaluation criteria.

Selection Procedure

1. The selection team will evaluate and score all proposals received.
2. Proposals not meeting minimum requirements and those that are not responsive, will not be given further consideration.
3. Proposals in the competitive range will be determined. These proponents may be asked to present their proposal to the selection team.
4. When presentations, discussions and negotiations are concluded, NFTA may request revised proposals and /or best and final offers from responsible proponents in the competitive range.
5. Proposals will be re-evaluated and scored. The selection team will recommend that the proponent with the highest overall score be awarded the contract. The recommendation must be approved by the NFTA Board of Commissioners prior to the execution of a contract.

NOTE: NFTA reserves the right to make the award based upon the initial proposals submitted, without presentations or discussions.

Evaluation Criteria (Listed in order of importance)

Qualifications and Experience 40%

- Demonstrated ability in the industry
- References
- Past performance
- Depth of knowledge of key personnel in critical areas

Technical Criteria 30%

- Project approach
- Methods
- Compliance with technical specifications

Cost 30%

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PROPOSAL INSTRUCTIONS

1. INTRODUCTION

This Request for Proposal ("RFP") invites proposals for **CRIMINAL BACKGROUND CHECKS** as set forth herein. These services may be modified during contract negotiations between the Proponent and the NFTA.

The Proponent is encouraged to use its previous knowledge and experience to develop a proposal to meet the NFTA's needs and a time schedule for completion within the constraints set forth in the project description and technical requirements.

This RFP does not commit the NFTA to negotiate a contract, nor does it obligate the NFTA to pay for any costs incurred in preparation and submission of proposals or costs incurred prior to entering into a formal agreement.

Proposals will be accepted until **11:00 am, APRIL 9, 2014** at the Office of the Manager, Procurement, Fifth Floor, Metropolitan Transportation Center, 181 Ellicott Street, Buffalo, New York 14203. Proposals should be submitted in an opaque, sealed envelope. Proposals received after the date and time specified above shall be considered late proposals and, therefore, shall not be opened nor considered for award. *The RFP number must be referenced on all submittals and correspondence.*

2. PROPONENT QUALIFICATIONS

To be considered qualified, the Proponent must demonstrate in its proposal that it has the background, experience, and the technical and management resources required to organize and conduct the services outlined in this RFP. The Proponent shall furnish information documenting its ability to provide and perform all work related to its implementation and ongoing effectiveness of the project, in a timetable acceptable by the NFTA. The NFTA reserves the right to investigate the qualifications of firms under consideration to confirm any part of the information furnished by the Proponent. Anything less than satisfactory performance on a prior NFTA contract may lead to the NFTA concluding that the Proponent is not qualified.

2.1 Joint Venture: Proposals submitted by a joint venture shall not be considered unless the contractual responsibilities of the parties to the joint venture are clearly and specifically identified.

2.2 Validity Period: The proposal shall be considered valid for the period of time it takes to negotiate a contract with the successful Proponent. This may involve a period of up to 90 days following submittal. If a proposal is not valid for this time period, notification of the valid time period must be made in the letter of transmittal.

2.3 Disclosure of Proposal Data: Access to the NFTA's records is governed by Article 6 of the Public Officers Law of the State of New York ("Freedom of Information Law"). Except as otherwise required by the Freedom of Information Law, the NFTA will exempt from disclosure records submitted in the proposal which are trade secrets or are maintained for the regulation of commercial enterprise which if disclosed would cause substantial injury to the competitive position of the subject enterprise. Any such records that an Offeror believes should be exempted from disclosure shall be specifically identified and marked as such. Blanket-type identification by designating whole pages or sections as records exempt from disclosure will not assure confidentiality. The specific records must be clearly identified and an explanation submitted as to why they should be exempt. Proposal Forms shall not be designated to be proprietary. The NFTA will disregard any proprietary markings on any Proposal Form.

Upon a request for records from a third party regarding any records submitted with this proposal for which an exemption was sought the NFTA will notify in writing the party involved. The party involved must respond within 10 (ten) business days with a written statement of the necessity for the continuation of such exemption.

2.4 Agreement: The Proponent awarded the contract will be required to execute an Agreement in a form acceptable to the Authority.

3. RFP AMENDMENTS/QUESTIONS

This RFP represents a written statement on the part of the NFTA explaining the requirements, terms, and conditions for submissions of proposals. The RFP covers this material as comprehensively and completely as it can at this time and thus contains all representations of the NFTA with respect to this matter. Any information or understandings, verbal or written, which are not contained within this RFP, or in later written addenda to this RFP, if issued, will be excluded from consideration in evaluating proposals.

Any questions, objections or requests for revisions which Proponents may have should be submitted in writing to Cindy Judd via e-mail and received no later than March 28, 2014. If questions submitted to the NFTA make issuance of addenda to this RFP necessary, such addenda will be distributed to all prospective Proponents. However, it is the responsibility of the Proponent to determine whether addenda have been issued and to acknowledge their receipt in its proposal.

4. PROPOSAL PROTEST PROCEDURES

4.1 Pre-Submittal Opening Protests: If a Proponent can demonstrate that the Contract Documents issued by the NFTA are unduly exclusionary and restrictive or that federal, state or local laws or regulations have been violated during the course of the procurement, then the Proponent may seek a review by the Executive Director or his appointed representative, at 181 Ellicott Street, Buffalo, New York 14203. Protests shall be clearly identified as Protests and submitted in writing as early as possible but no later

than five (5) business days before the date specified for proposal submittal. Within four (4) business days after receipt of a pre-submittal protest, the Executive Director shall make one of the determinations listed in paragraph 4.4

4.2 Post-Submittal Protests: A protest to the acceptance or rejection of any or of all proposals for a contract, or to the award thereof, or to any such action proposed or intended by the NFTA, must be received in writing by the Executive Director no later than five (5) business days after the protesting party first learned, or reasonably ought to have learned, of the action or the proposed or intended action to which he/she protests.

4.3 Decision-Makers: In the event the protester alleges that the Executive Director or the representative appointed by the Executive Director to serve as Decision-Maker for the particular protest, engaged in improper conduct during the subject procurement, the General Counsel shall serve as the Decision-Maker. In the event it has been alleged that the General Counsel has engaged in improper conduct during the subject procurement, either the Executive Director or the Chief Financial Officer shall serve as the Decision-Maker.

4.4 Rulings on Protests: Within four (4) business days, the Executive Director shall render one of the following determinations:

- (a) Protest is overruled.
- (b) Protest is substantiated. Executive Director shall issue instructions to remedy issues relating to the protest.
- (c) Procurement activity is suspended until written notification by the Executive Director.

The determination shall be in writing and shall provide at a minimum a general response to each material issue raised in the protest. All documents submitted by the Protester and/or Authority Staff and reviewed by the Decision-Maker in the reaching of a determination shall form and be retained by the Authority as the formal record of the dispute resolution process. The issuance of the foregoing determination is the NFTA's final decision of the dispute.

All interested parties shall be notified of any protests that are filed. The NFTA shall refrain from awarding a contract within five (5) business days of the date of a decision rendered by the Executive Director regarding a protest, unless the NFTA determines that:

- (a) The items to be procured are urgently required.
- (b) Delivery or performance will be unduly delayed by failure to make a prompt award.
- (c) Failure to make a prompt award will otherwise cause undue harm to the NFTA, state government or the federal government.

4.5 Protester's Appeal to Federal or State Agencies: In the event that the NFTA fails to have written protest procedures or fails to abide by the protest procedures set forth

above, and federal or state funds are participating in the procurement, then the protester may seek a review by the appropriate funding agency. Protesters shall file such a protest in accordance with the requirements set forth below, not later than five (5) business days after a final decision is rendered under the NFTA's protest procedure. In instances where the protester alleges that the NFTA failed to make a final determination on the protest, protesters shall file a protest with the appropriate agency not later than five (5) business days after the protester knew or should have known of the NFTA's failure to render a final determination on the protest.

5. PROPOSAL

The Proponent shall submit 4 hard copies of their proposal and 1 electronic copy.

5.1 Format: The proposal must be in compliance with the format described herein. The proposal shall be prepared on 8-1/2" x 11" paper bound on the long side. All pages are to be sequentially numbered. Unnecessarily elaborate proposals are not desired. Proposals should be concise, particularly with respect to past experience on other projects and the resumes of key personnel. Related experience is essential. Be specific on past and current assignments. Define the firm's involvement and responsibilities in each project.

Electronic Copy: The electronic copy of the proposal must be included with the hard copies of the proposal. The electronic copy may be submitted in the form of a CD or flash drive. *An emailed copy of the electronic version will not be accepted.*

The Proponent's technical proposal shall be prepared using the following format to facilitate evaluation. If a Proponent fails to provide the information requested in one or more sections, the proposal may be considered non-responsive.

5.2 Content: The proposal shall contain the following items:

- Cover Letter
- Project Implementation
- Project Organization
- Key Personnel
- Related Projects
- Background Experience
- Cost Proposal
- Proposal forms completed as appropriate with supplemental data.

5.2.1 Cover Letter: The proposal shall be submitted with a cover letter summarizing key points in the proposal. Any introductory remarks may also be placed in the cover letter. Provide a contact name, address, phone number and email address. The cover letter should not exceed three pages in length.

5.2.2 Project Implementation: The Proponent shall describe its plans to provide the requested services. This section should include a narrative description of the proposed

methodology to accomplish the required tasks, as well as any innovations used on similar projects which may be applicable to the project.

5.2.3 Project Organization: This section of the proposal should be used to provide information on the Proponent's organization and staffing of the project. It should briefly describe the Proponent's personnel and pertinent qualifications.

5.2.4 Key Personnel: A list of key personnel for this project must be submitted with the proposal.

5.2.5 Related Projects: A list of other contracts entered into by your firm that are similar to this project should be provided. Each should include the degree of involvement by your firm.

5.2.6 Background Experience: This section should contain a brief history of your firm, names of principals, concise description of the types of work accomplished, indication of current staff size and location and other relevant background information.

This section should also contain information demonstrating that your firm has a good working relationship with its clients, including a list of references (include contact names, addresses, phone numbers) copies of letters of commendation and a discussion of how problems arising during the course of project are addressed. Indicate if your firm has ever defaulted on a contract; describe the circumstances and outcome.

5.2.7 Project Cost Proposal: Submit an itemized cost proposed.

5.2.8 Proposal Forms: All forms requiring Proponent responses must be completed and submitted with the proposal.

6. EXECUTORY CLAUSE

The Contractor specifically agrees that this contract shall be deemed executory only to the extent of monies available and no liability shall be incurred by the NFTA beyond the monies available for this contract.

7. PERMITS AND COMPLIANCE WITH LAWS

The NFTA, in the construction, installation and operation of transportation facilities, is not required to obtain licenses or permits from any municipal or political subdivision of the State of New York. The Contractor, therefore, will not be required to obtain licenses or permits from any county, city, town or village agency or department. The Contractor shall, however, secure and pay for all permits, fees and licenses necessary to comply with applicable federal or state laws. Except as provided above, the Contractor shall comply with all federal, state, county and municipal laws, codes and regulations in connection with the prosecution of the work.

The Contractor shall protect, indemnify and hold harmless the NFTA and all of their officers, agents and employees against any and all claims and liabilities arising from or based on the violation of any such requirement or law whether by the Contractor, its employees, agents or subcontractors.

8. DISADVANTAGED BUSINESS ENTERPRISE POLICY STATEMENT

In accordance with the requirements of 49 CFR, Part 26, dated March 4, 1999 entitled, "Participation by Disadvantaged Business Enterprises in Department of Transportation Programs," the Niagara Frontier Transportation Authority (NFTA), is committed to the development and implementation of an effective Disadvantaged Business Enterprise (DBE) Program.

The NFTA has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the NFTA has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of the NFTA to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also the policy of the NFTA:

1. To ensure nondiscrimination in the award and administration of DOT-assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for DOT assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR, Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in DOT-assisted contracts; and
6. To assist the development of firms that can compete successfully in the market place outside the DBE program.

The Director of Equal Opportunity/Diversity Development has been delegated as the DBE Liaison Officer. In that capacity, the Director of Equal Opportunity/Diversity Development is responsible for implementing all aspects of the DBE Program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the NFTA in its financial assistance agreements with the Department of Transportation.

The NFTA has disseminated this policy statement to the Board of Commissioners and all the components of our organization. We have distributed this statement to DBE and non-DBE business communities that perform work for the NFTA on DOT-assisted contracts by inclusion in bid specifications, Requests for Qualifications and Requests for Proposals.

9. NEW YORK STATE SUBCONTRACTORS AND SUPPLIERS

It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from Empire State Development, Procurement Assistance Unit, Phone: (518) 292-5220, or email to esd_smallbus@empire.state.ny.us.

A directory of certified minority and women-owned business enterprises is available from Empire State Development, Minority and Women's Business Development, 30 South Pearl St., Albany, NY 12245, Phone: (518) 292-5250, Fax: (518) 292-5803.

Bidders located in foreign countries are hereby notified that New York State may seek to obtain and assign or otherwise transfer offset credits created by this procurement contract to third parties located in New York State. The successful contractor shall agree to cooperate with the State in efforts to get foreign countries to recognize offset credits created by the procurement contract.

The Omnibus Procurement Act requires that by signing this bid proposal, contractors certify that whenever the total bid amount is greater than \$1 million:

1. The successful contractor shall document efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors on this project, and has retained the documentation of these efforts to be provided upon request to the State.
2. Documented efforts by a successful contractor shall consist of and be limited to showing that such contractor has:
 - a. Solicited bids, in a timely and adequate manner, from New York State business enterprises including certified minority and women-owned businesses, or
 - b. Contracted the Empire State Development to obtain listings of New York State business enterprises, or
 - c. Placed notices for subcontractors and suppliers in newspapers, journals and other trade publications distributed in New York State, or
 - d. Participated in bidder outreach conferences.
 - e. If the Contractor determines that New York State business enterprises are not available to participate on the contract as subcontractors or suppliers, the Contractor shall provide a statement indicating the method by which such determination was made.
 - f. If the Contractor does not intend to use subcontractors on the contract, the Contractor shall provide a statement verifying such intent.
3. The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261) as amended;

4. The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Community Services Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request.

10. SUSPENSION AND DEBARMENT

This Article applies to contracts for amounts in excess of \$25,000.00.

The Contractor certifies by execution of this Agreement that neither the Contractor nor its principals or affiliates are excluded or disqualified as defined at 49 CFR Part 29.

The Contractor also agrees to include these requirements in each subcontract exceeding \$25,000.00.

11. NEW YORK STATE BUY AMERICA PROVISIONS

All purchase contracts for supplies, material or equipment involving an estimated expenditure in excess of fifty thousand dollars shall require with respect to materials, supplies and equipment made of, fabricated from, or containing steel components, that such steel components be produced or made in whole or substantial part in the United States, its territories or possessions. The provisions of this paragraph shall not apply to motor vehicles and automobile equipment assembled in Canada in conformity with the United States - Canadian trade agreements known as the "Automotive Products Trade Act of 1965," or any amendments thereto.

12. IRANIAN ENERGY SECTOR DIVESTMENT

By signing this Agreement, each person and each person signing on behalf of any other party certifies, and in the case of a joint bid or partnership each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each person is not on the list created pursuant to paragraph (b) of subdivision 3 of section 165-a of the State Finance Law.

NON-COLLUSIVE PROPOSAL CERTIFICATION

By submission of this proposal, each Proponent and each person signing on behalf of any Proponent certifies, and in the case of a joint proposal each party thereto certifies as to his or her own organization, under penalty of perjury, that to the best of his or her 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 Proponent 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 Proponent and will not knowingly be disclosed by the Proponent prior to opening, directly or indirectly, to any other Proponent or to any competitor, and
- c) No attempt has been made or will be made by the Proponent to induce any other person, partnership or corporation to submit or not to submit a proposal for the purpose of restricting competition.

The undersigned submits the following proposal, which is in complete conformity with the intent of the proposal documents. The proponent agrees that should it be awarded a contract on the basis of this proposal through the issuance of a contract or purchase order from the Niagara Frontier Transportation Authority, it will provide the materials, supplies, equipment or services in strict compliance with the contract documents for the compensation stipulated herein. The proponent agrees that its proposal shall remain effective for a period of 90 days from the formal bid opening date.

Proponents with the submission of this proposal certify that they are not on the Comptroller General's List of Ineligible Contractors.

SUBMITTAL OF PROPOSAL

Proponent

Name

Signature

Title

Date

New York State Finance Law Sections 139-j and 139-k (“Lobbying Law”) – Disclosure Statement

General Information

All procurements by the Niagara Frontier Transportation Authority or Niagara Frontier Transit Metro System, Inc. (collectively, “NFTA/Metro”) in excess of \$15,000 annually, are subject to New York State’s State Finance Law Sections 139-j and 139-k, (“Lobbying Law”).

Pursuant to the Lobbying Law, all “contacts” (defined as oral, written or electronic communications with NFTA/Metro intended to influence NFTA/Metro’s conduct or decision regarding a procurement) during a procurement must be made with one or more designated Point(s) of Contact only. Exceptions to this rule include written questions during the bid/proposal process, communications with regard to protests, contract negotiations and RFP conference participation. Nothing in the lobbying Law inhibits any rights to make an appeal, protest or complaint under existing administrative or judicial procedures.

Violations of the policy regarding permissible contacts must be reported to the NFTA/Metro Ethics Officer and investigated accordingly. The first violation may result in a determination of non-responsibility and ineligibility for award to the violator and its subsidiaries, affiliates and related entities. The penalty for a second violation within four (4) years is ineligibility for bidding/proposing on a procurement and/or ineligibility from being awarded any contract for a period of four (4) years. The NFTA/Metro will notify the New York State Office of General Services (“OGS”) of any determinations of non-responsibility or debarments due to violations of the Lobbying Law. Violations found to be “knowing and willful” must be reported to the NFTA/Metro Executive Director and OGS.

Moreover, the statutes require the NFTA/Metro to obtain certain affirmations and certifications from bidders and proposers. This Disclosure Statement contains the forms with which to comply, together with additional information and instructions.

Instructions

New York State Finance Law §139-k(2) obligates the NFTA/Metro to obtain specific information regarding prior non-responsibility determinations. In accordance with New York 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 New York State Finance Law §139-j or (b) the intentional provision of false or incomplete information to a governmental entity.

As part of its responsibility determination, New York 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 the factual elements of the limited waiver provision can be satisfied on the written record.

Disclosure of Prior Non-responsibility Determinations

Name of Bidder/
Proposer: _____
Address: _____

Name/Title of Person
Submitting Form: _____

Has any governmental entity¹ made a finding of non-responsibility regarding the Bidder/Proposer in the previous four years?
_____ Yes _____ No

If yes: Was the basis for the finding of the Bidders/Proposer's non-responsibility due to a violation of State Finance Law §139-j?
_____ Yes _____ No

Was the basis for the finding of Bidder's Proposer's non-responsibility due to the intentional provision of false or incomplete information to a governmental entity?
_____ Yes _____ No

If yes, please provide details regarding the finding or non-responsibility below:

Governmental Entity: _____

Year of Finding of Non-responsibility: _____

Basis of Finding of Non-responsibility:

(Add additional pages as necessary)

Has any governmental entity terminated a procurement contract with the Bidder/Proposer due to the intentional provision of false or incomplete information?
_____ Yes _____ No

¹ A "governmental entity" is (1) any department, board, bureau, commission, division, office, council, committee or officer of New York State, whether permanent or temporary; (2) each house of the New York State Legislature; (3) the unified court system (4) any public authority, public benefit corporation or commission created by or existing pursuant to the public authorities law; (5) any public authority or public benefit corporation, at least one of whose members is appointed by the governor or who serves as member by virtue of holding a civil office of the state; (6) a municipal agency, as that term is defined in paragraph (ii) of subdivision(s) of section one-c of the Legislative Law; or (7) a subsidiary or affiliate of such a public authority. (SFL §139-j, paragraph 1.a.)

Bidder's/Proposer's Affirmation and Certification

By signing below, the Bidder/Proposer:

- a) Affirms that the Bidder/Proposer understands and agrees to comply with the policy regarding permissible contacts in accordance with New York State Finance Law Sections 139-j and 139-k.
- b) Certifies that all information provided to the NFTA/Metro with respect to New York State Finance Law §139-j and §139-k is complete, true and accurate.

By: _____ Date: _____
(Signature of Person Certifying)

Print Name and
Title: _____ Title: _____

Bidder/Proposer or Contractor/Consultant (Full Legal Name): _____

Address of Bidder/Proposer or Contractor/Consultant: _____

Business Telephone Number: _____

**NFTA/Metro's Right
To Terminate**

The NFTA/Metro reserves the right to terminate a Contract in the event it is found that the certification filed by the Bidder/Proposer, in accordance with New York State Finance Law §139-k, was intentionally false or intentionally incomplete. Upon such finding, the NFTA/Metro may exercise its termination right by providing written notification to the Bidder/Proposer in accordance with the written notification terms of the Contract.

COMPANY AND CONTACT INFORMATION FORM

Fill in Company and Point of Contact Information and include with the proposal.

Firm Name:	
Federal ID No.:	
Contact Person:	
Mailing Address:	
Authorized Signature:	
Title:	
Date:	
Telephone/Fax No.:	
Email address:	



Contractor Certification

(Pursuant to Section 5-a of the Tax Law, as amended, effective April 26, 2006)

ST-220-TD

(12/11)

For information, consult Publication 223, *Questions and Answers Concerning Tax Law Section 5-a* (see *Need help?* below).

Contractor name				
Contractor's principal place of business		City	State	ZIP code
Contractor's mailing address (if different than above)				
Contractor's federal employer identification number (EIN)		Contractor's sales tax ID number (if different from contractor's EIN)		Contractor's telephone number ()
Covered agency or state agency	Contract number or description		Estimated contract value over the full term of contract (but not including renewals) \$	
Covered agency address			Covered agency telephone number	

General information

Section 5-a of the Tax Law, as amended, effective April 26, 2006, requires certain contractors awarded certain state contracts valued at more than \$100,000 to certify to the Tax Department that they are registered to collect New York State and local sales and compensating use taxes, if they made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000, measured over a specified period. In addition, contractors must certify to the Tax Department that each affiliate and subcontractor exceeding such sales threshold during a specified period is registered to collect New York State and local sales and compensating use taxes. Contractors must also file a Form ST-220-CA, certifying to the procuring state entity that they filed Form ST-220-TD with the Tax Department and that the information contained on Form ST-220-TD is correct and complete as of the date they file Form ST-220-CA.

All sections must be completed including all fields on the top of this page, all sections on page 2, Schedule A on page 3, if applicable, and Individual, Corporation, Partnership, or LLC Acknowledgement on page 4. If you do not complete these areas, the form will be returned to you for completion.

For more detailed information regarding this form and section 5-a of the Tax Law, see Publication 223, *Questions and Answers Concerning Tax Law Section 5-a*, (as amended, effective April 26, 2006). See *Need help?* for more information on how to obtain this publication.

Note: Form ST-220-TD must be signed by a person authorized to make the certification on behalf of the contractor, and the acknowledgement on page 4 of this form must be completed before a notary public.

Mail completed form to:

**NYS TAX DEPARTMENT
DATA ENTRY SECTION
W A HARRIMAN CAMPUS
ALBANY NY 12227**

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Manager of Document Management, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone (518) 457-5181.

Need help?



Visit our Web site at www.tax.ny.gov

- get information and manage your taxes online
- check for new online services and features



Telephone assistance

Sales Tax Information Center: (518) 485-2889

To order forms and publications: (518) 457-5431

Text Telephone (TTY) Hotline (for persons with hearing and speech disabilities using a TTY): (518) 485-5082



Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, call the information center.

I, _____, hereby affirm, under penalty of perjury, that I am _____
(name) *(title)*
of the above-named contractor, and that I am authorized to make this certification on behalf of such contractor.

Complete Sections 1, 2, and 3 below. Make only one entry in each section.

Section 1 — Contractor registration status

- The contractor has made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made. The contractor is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law, and is listed on Schedule A of this certification.
- The contractor has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Section 2 — Affiliate registration status

- The contractor does not have any affiliates.
- To the best of the contractor's knowledge, the contractor has one or more affiliates having made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made, and each affiliate exceeding the \$300,000 cumulative sales threshold during such quarters is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law. The contractor has listed each affiliate exceeding the \$300,000 cumulative sales threshold during such quarters on Schedule A of this certification.
- To the best of the contractor's knowledge, the contractor has one or more affiliates, and each affiliate has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Section 3 — Subcontractor registration status

- The contractor does not have any subcontractors.
- To the best of the contractor's knowledge, the contractor has one or more subcontractors having made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made, and each subcontractor exceeding the \$300,000 cumulative sales threshold during such quarters is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law. The contractor has listed each subcontractor exceeding the \$300,000 cumulative sales threshold during such quarters on Schedule A of this certification.
- To the best of the contractor's knowledge, the contractor has one or more subcontractors, and each subcontractor has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Sworn to this ____ day of _____, 20 ____

(sign before a notary public)

(title)

