



Niagara Frontier Transportation Authority
Serving the Niagara Region

REQUEST FOR PROPOSAL

FOR

BOILER REMOVAL AND REPLACEMENT

NFTA RFP 4357

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(one) ELECTRONIC COPY.

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)
Manufacturer's Specifications and literature
Warranty

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. 4357

Proposals will be received by the undersigned until 11:00 a.m., on NOVEMBER 27, 2013:

BOILER REMOVAL AND REPLACEMENT

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: 4357

DUE DATE: NOVEMBER 27, 2013

FOR: BOILER REMOVAL AND REPLACEMENT

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 4357
SCOPE of WORK

1. SCOPE

It is the intent of this specification to describe the labor and materials necessary to remove and replace (1) existing Bryan Boiler (www.bryanboilers.com) and configure the remaining existing boiler as back up to the new replacement boiler at the NFTA's Babcock Garage located at 721 New Babcock Street, Buffalo, NY 14206.

2. BRAND NAME OR EQUAL

A Brand Name is used to identify the characteristics and level of quality that will satisfy NFTA's requirements. Proposed 'or equal' units must be of the same quality and comply with the manufacturer's requirements and specifications; physical, functional and /or performance characteristics. The Proposer shall state the proposed manufacturers name and part number and provide documentation sufficient, in the NFTA's judgment, to permit a determination as to whether the unit bid constitutes an 'or equal'.

3. SYSTEM REQUIREMENTS

The replacement boiler and existing hot water system must be configured with the necessary controls to monitor various air and system water temperatures in order to vary the firing rate of the replacement boiler. The firing rate of the boiler and the speed of the existing circulating pumps must be variable to meet the heating load of the building. The use of a valve to vary water flow in the system is not permitted.

The remaining existing boiler and the replacement boiler must be fitted with a shutoff valve and a powered actuator, to prevent water flow through a boiler when a boiler is not in use. These valves must be connected to the replacement boiler control system.

The resulting system must be installed and function per the NYS Fire Prevention and Uniform Building Code. All materials, components and equipment must be installed and function per the respective materials, components and equipment manufacturer's requirements.

4. REQUIRED WORK

The tasks that must be performed in order to replace the failed boiler include, but is not limited to, the following:

- Disconnect and lock out of the natural gas and electrical connections
- Drain the system as necessary
- Disconnect of hot water piping, drains and stack connections

- Removal of all connections that will not be required by the resulting system
- Remove and proper disposal of the failed boiler
- Position the replacement boiler over the footprint of the failed boiler
- Installation of and connection of new shut off valves
- Reconnect of hot water piping, drains and stack connections
- Insulate new hot water piping
- Reconnect natural gas and electrical connections
- Installation of stack condensate drains
- Installation of a new bag filter
- Replace existing pump motors (if necessary)
- Installation and interconnection of the necessary sensors and controls
- Install piping from the equipment drain and stack connection drains to the condensate neutralization kit and to nearest floor drain. Piping shall be at least one full size larger than a connection.
- Fill system as necessary
- Start system and confirm system functionality
- Balancing of hot water flow as required by the National Environmental Balancing Bureau (NEBB)
- Calibrate and/or program the system to meet the required functionality
- Test all safety devices
- Install a new filter/feeder system
- Initiate and maintain, for 12 months, a water treatment program approved by the boiler manufacturer for use in aluminum boilers and that is compatible with new and existing components

5. COMPONENTS AND EQUIPMENT

This section lists suggested components and equipment. A proponent may propose other components and equipment. Such alternatives must meet or exceed the characteristics listed in this section.

The replacement boiler shall be a Patterson Kelley Mach Condensing Boiler system (www.harscopkahr.com), Model C-1500, 43 BHP, gas fired, cast aluminum, full modulation hot water boiler or approved equal.

The components and equipment must include, but not be limited to, the following:

- Boiler Output Each (BTU's/hr) 1,440,000 (96% @ 140 Deg F)
- Weight (per boiler) 1,350 lbs Operating Weight
- Electrical characteristics 120/1 Phase/60Hz/ 15 Amps
- Maximum Flow Rate (Full Fire): . . . 144 GPM @ 23 Ft Hd. @ 20 Deg Delta T

The new boiler, existing boiler and the resulting system shall be configured and controlled with a Patterson Kelly ENVI Cascade Operating and Sequencing Control

system or approved equal. This system must provide these characteristics and functions:

- Text based display
- Boiler sequencing
- Temperature control
- Flame safeguard
- Firing rate control.
- Blocked flue protection
- Outdoor air reset control
- Freeze protection
- Cascade sequencing
- Cycle limitation
- Pump exercising

Other components that must be furnished:

- One (1) condensate neutralization kit and connecting hardware for connections to stack adapter
- Two (2) Victaulic style 2-1/2" adapters for boiler supply and return
- One (1) Probe style Auxiliary Low Water Cutoff for field mounting
- One (1) ASME relief valve rated at 2MM BTU's/Hr set at 30 PSIG
- One (1) Filter Feeder Tank with 5 US. gallon capacity designed for bag type 5 micron filters w/stand, isolation valve and drain
- Two (2) Belimo (www.belimo.com) Model B277-B280 NPT 3" valves with ARX 120 Actuators or approved equal to be field installed in each boiler return line to provide the isolation of off line boiler from system flow
- One (1) Patterson Kelly BP-446 control panel or approved equal to provide valve to boiler interlock
- Two (2) header sensors and thermo wells
- Two (2) ABB (www.abb.com/drives) Model ACH550-UH-03A3-4 rated at 1-1/2HP 480/3/60 Variable Frequency Drives for two (2) existing circulation pumps.
- Two (2) ABB Model ACH550-UH-08A8-4 rated at 5HP 460/3/60 Variable Frequency Drives for two (2) existing circulation pumps.
- Two (2) Delta T control panels (www.deltat.com) mounted next to house circulation pumps.
- Surface mount disconnect switch for the replacement boiler

6. DELIVERY OF GOODS AND SERVICES

The delivery of goods and services required must be completed within 60 days after receipt of a PO.

7. WARRANTY

The proponent must provide a warranty for labor costs for a period of 1 year after the required work has been completed. The proponent must administer the component or equipment manufacturer's warranty during the one year labor warranty period. The proponent must provide the NFTA with the component or manufacturer's warranty documents.

8. SAFETY

The contractor must comply with the applicable Federal, State and local safety requirements. The NFTA Contractor Safety Program is attached.

Prior to initiation of services the contractor shall provide a copy of their written safety program to the Department of Health, Safety, and Environmental Quality for review.

9. SITE VISITS

A site visits is scheduled on **November 13, 2013** at 8:30 am. Contact Cindy Judd via e-mail by **November 12, 2013** for instructions if you plan on attending.

INSURANCE REQUIREMENTS

The Contractor agrees to procure and maintain at its expense during 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 Contractor 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 Contractor for the following coverage:

- Commercial General Liability Insurance including coverage for property damage, bodily injury, personal injury and completed operations with a single limit of at least \$2,000,000 per occurrence with a \$1,000,000 aggregate. The certificate shall name the NFTA and 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. The certificate shall name the NFTA and subsidiaries as additional insureds.
- Workers' Compensation and Employer's Liability in accordance with the applicable laws of the State of New York
- Excess Liability/Umbrella Form \$1,000,000 per occurrence. The certificate shall name the NFTA and subsidiaries as additional insureds.

The Authority and the Contractor 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 Contractor shall require similar reciprocal waivers by all sub-contractors and sub sub-subcontractors. This policy shall recognize such waivers of recover 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)

Technical Criteria 40%

- Project approach
- Compliance with technical specifications

Cost 40%

Qualifications and Experience 20%

- Demonstrated ability in the industry
- References
- Past performance
- Depth of knowledge of key personnel
- Warranty/Delivery

PROPOSAL INSTRUCTIONS

1. INTRODUCTION

This Request for Proposal ("RFP") invites proposals for **BOILER REMOVAL AND REPLACEMENT** 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, NOVEMBER 27, 2013** 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 November 18, 2013. 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.

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.

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:	

NFTA

SAFETY RULES & REGULATIONS

I. PERSONAL PROTECTIVE EQUIPMENT

A. Eye and Face Protection

- Safety glasses with affixed side shields must be worn in all maintenance areas and when performing tasks which may injure the eyes. Approved glasses will be stamped with a Z87.1 inscription.
- Face shields provide splash protection for the entire face. Face shields shall be worn when grinding and when chemical splash hazards to the face exist.

B. Head Protection

- Hard hats are required if the work may present risk of head injury.
- Approved hard hats with a Z89 inscription.
- Bump caps and metal caps are not allowed.
- Hard hats must be worn with the bill in front (except for welding helmets).
- Hard hats and suspension must be maintained in good condition.

C. Clothing

- Shirts with sleeves and full length pants are required. Shirts are to remain buttoned.

D. Shoes

- At a minimum, substantial work shoes must be worn.
- Safety shoes when required by OSHA 1910.136, shall comply with ANSI Z41.1-1991

E. Hearing Protection

- Required in posted areas.
- Required when performing work in which noise levels exceed 85 dB (examples: Pavement breakers, chipping/grinding, etc.)

F. Respiratory Protection

Anyone needing to wear a respirator requiring a face piece to face-seal must:

- Be clean shaven
- Have been fit tested
- Have been medically approved to wear a respirator

G. Hand Protection

- Wear gloves appropriate for exposure.

II. INCIDENT REPORTING

- A. All work related injuries, illnesses, environmental incidents, fires and Near Misses are to be reported as soon as possible after an incident occurs. Type A contractors are to report to the supervisor of the department to which they have been contracted. Type B contractors shall report to the authority engineer.
- B. It is very important that all injuries and illnesses get treated promptly to minimize their seriousness and to avoid future complications.
- C. The contractor will investigate all injuries and a written report made to the NFTA listing the causes and what corrective actions are necessary.
- D. All property damage incidents must be reported immediately.

III. HAZARD COMMUNICATION

- A. The NFTA has a written Haz-Com program and MSDS for all chemicals on site. Individuals have a right to see any of that information. Such information may be requested from HSEQ.
- B. Contractors must have MSDS for any chemicals they bring on site. We will want to review MSDS for any chemicals used in significant quantities, likely to result in exposure to our employees, used within confined spaces, etc.

IV. FALL PROTECTION

- A. Fall protection required whenever working more than six (6) feet off the ground and not protected by guardrails. Fall protection always required when working in a creeper/man basket.
- B. A full body harness is required to be worn for fall protection. Waist belts are not allowed.

V. LADDERS

- A. Contractors must furnish their own portable ladders. NFTA portable ladders are NOT to be used.
- B. The contractor must inspect all ladders. They must be secure and without significant cracking, missing rungs, etc. Extension ladders cannot be used if the sections are taken apart. Must meet load rating requirements.
- C. All straight and extension ladders must have safety feet.
- D. No metal ladders are allowed. Wooden or other non-conductive ladders are required. Fiberglass ladders with metal rungs are allowed.
- E. All ladders must be securely tied off or a second employee must hold them in place.

- F. Stepladders - No standing or working from the top and 2nd from top steps. Only one person may work from a stepladder at a time and they must work from the step side only. No step ladder shall be used for climbing in the folded position.

VI. SCAFFOLDING

- A. Scaffolds must be fully cross-braced with sections pinned together.
- B. Top rails, midrails and toe plates must be provided around the entire working level of the scaffold.
- C. The working level must be fully planked Full 2" scaffold grade lumber or equivalent (laminated or aluminum) is required.
- D. An access ladder must be provided for movement up and down the scaffold and extended 3 feet above the landing and secured at the top.
- E. The contractor competent person must inspect all scaffolding and confirm that scaffold erection complies with applicable OSHA regulations. Note: 29 CFR 1926.451 Scaffolding General Requirements defines Competent Person as "one who is capable of identifying existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt corrective measures to eliminate them." The company scaffold inspection form must be used to document this inspection.
- F. All non-standard scaffold designs must have P.E. stamp prior to construction.

VII. OVERHEAD WORK

- A. No overhead work may occur while others are below and exposed to any hazards from falling objects.
- B. Assume that loads will fall, take precautions.
- C. Areas under overhead work must be barricaded.
- D. All girders, beams, overhead surfaces must be kept free of tools, nuts, bolts, etc

VIII. ELECTRICAL WORK

- A. Only authorized and qualified personnel can perform any electrical installation, repair, and troubleshooting.

- B. Work which may expose one to potentially energized parts can only occur after the circuit has been de-energized, locked out, and tested to verify that the circuit is dead. Company personnel will be the first to de-energize and lock out all equipment or circuits.
- C. Any exceptions because of a need to trouble shoot a live system must be approved by the authority engineer.

IX. EXCAVATIONS

- A. No excavations can begin until a permit has been received from the authority engineer. This assures that we have checked for underground piping and/or utilities.
- B. In spite of these checks, caution must be exercised whenever excavations occur to avoid potentially striking underground cables, piping, etc. Hand digging may be required.
- C. The contractor shall identify to the authority engineer, the individual who qualifies as the competent person to inspect the excavation.
- D. All excavations must be adequately sloped, braced or shored.
- E. All excavated material must be placed at least 2 feet away from the edge of the excavation or hauled away so as not to put a heavy load on the excavation wall.
- F. Consideration must also be given to heavy equipment operation, nearby tracks, etc. which may result in heavy loads or vibration and require additional shoring or bracing.
- G. Entering an excavation 4 feet and deeper is considered a Confined Space and a permit and atmospheric tests are required before entry. A ladder must be used for entry, and if trench or excavation is longer than 25 feet, 2 ladders must be used.

X. CRANES

- A. All personnel who operate cranes must have a valid NYS crane operator's license.
- B. A rigging plan may be needed if traveling with a load is possible.
- C. Cranes with long extending booms must be guided by a person walking in front of the crane as it travels.
- D. Areas within the swing radius of the rear of the rotating superstructure of the crane must be barricaded to prevent personnel from being struck or crushed.
- E. Crane booms must not be operated within 10 feet of live electrical lines.

- F. Crane lifted man baskets may only be used when other conventional means are not feasible. Approval must be obtained from HSEQ before using any crane elevated man basket.

XI. VEHICLES

- A. Contractors may not use NFTA mobile equipment.
- B. Vehicles may be parked only in areas approved by the NFTA
- C. Do not block roadways, fire hydrants, or exits.
- D. Do not park over manhole covers. This will prevent leaking fluids from reaching the sewer system.
- E. Maximum speed limit is five mph.
- F. Seat belts must be worn at all times.
- G. Material in vehicles must be secured.
- H. Personnel are not to ride in the beds of pickup trucks or in vans unless they have permanent seating.

XII. LOCKOUT

- A. Any work which exposes people to potentially moving parts of machinery or equipment or to the release of energy from an open system cannot begin until the equipment/system is locked out. (Power sources, valves).
- B. The first field lock installed must be by NFTA. Secondly, the lock protecting the contractors is applied. Every contractor working under the lockout job must have an individual lock installed. Everyone must understand how he/she is protected.

XIII. HOT WORK

- A. Any work that will produce a potential ignition source (open flames, welding, cutting, grinding) cannot begin until a Hot Work Permit is received from an authorized NFTA Permit Issuer.
- B. The permit assures that the work area is free of flammable vapors and combustible materials (pits, sewers, etc.).
- C. A copy of the permit must remain at the job site.

- D. A fire watch may be required (if deemed necessary by the Permit Issuer) to stand by with fire extinguishing equipment to quickly respond to an incipient stage fire.
- E. When work occurs in elevated areas, fire watches may be necessary at each level below the work or precautions may be taken to prevent sparks from reaching lower levels.
- F. Fire extinguishing equipment is to be provided by the contractor.
- G. Fire hoses and hydrants are not to be used without permission of Aircraft Rescue Firefighting.
- H. Fire watches must remain on site after the work has stopped at least 30 minutes or until such time as they are sure that no fire will develop due to smoldering material.
- I. Tarpaulins used must be flame resistant. Their use and placement must be under strict control of the authority engineer.
- J. All oxygen and acetylene cylinders must be stored upright and secured.
- K. All oxygen and acetylene-welding units must have approved safety check valves.
- L. Cylinders and hoses must be located so as not to be exposed to flying sparks, hot slag, etc.

XIV. CONFINED SPACE ENTRY

- A. No person may enter a confined space unless a Confined Space Entry has been issued.
- B. A Safety Monitor must be continuously in place outside of the Confined Space but capable of continuously observing the activity within the space.

XV. FLAMMABLE LIQUIDS

- A. Any storage of paint, thinner, gasoline or other flammable material in excess of 25 gallons must receive special approval from HSEQ.
- B. Approved containers must be used. (Portable containers for gasoline must have flame arrestors and self-closing lids.)

XVI. COMPRESSED GAS CYLINDERS

- A. Must be moved, stored, and handled upright. Never laid on their side or rolled.

- B. Cylinders must be capped unless connected for use.
- C. No cylinders are to be stored inside of buildings without approval of a NFTA supervisor or the authority engineer.
- D. Oxygen cylinders in storage shall be separated from fuel-gas cylinders or combustible materials (especially oil or grease), a minimum distance of 20 feet (6.1 m) or by a noncombustible barrier at least 5 feet (1.5 m) high having a fire-resistance rating of at least one-half hour.

XVII. GENERAL PRACTICES

- A. Smoking is only allowed in designated areas.
- B. Stay only in areas required for your work.
- C. Drink only from drinking fountains. Do not drink from hoses, etc.
- D. Possession of and/or drinking of alcoholic beverages is prohibited on NFTA property.
- E. Possession of or use of drugs for other than medical reasons is forbidden.
- F. Eating is allowed only in designated areas.

XVIII. HOUSEKEEPING

- A. Continuously maintain order and eliminate safety, environmental and fire hazards in all setup and work areas.
- B. Keep access to emergency equipment (fire extinguishers, eyewash stations, safety showers) as well as exit routes and doorways clear.

XIX. TOOLS/MACHINERY

- A. All tools and machinery must be in safe and proper operating condition.
- B. Guarding devices are not to be removed or bypassed.
- C. Electrical cords must be totally intact. Cords wrapped with tape are not acceptable.
- D. All electrical equipment must be GFI protected.

ENVIRONMENTAL RULES & REGULATIONS

XX. INCIDENT REPORTING/RESPONSE

- A. In the event of a spill or release, immediately notify the authority engineer.
- B. The contractor and the authority engineer will investigate all environmental incidents. A written report will be generated.
- C. Every effort must be made to minimize the impact of a spill or release.

XXI. EQUIPMENT

- A. Preventative maintenance must be performed on all heavy equipment (i.e. hydraulic hoses) to prevent releases.
- B. All such equipment should have a small spill kit to respond to spills (a bag of absorbent material is recommended).

XXII. AIR/WATER

- A. Every effort must be made to prevent releases to the air or water.
- B. Prior to pumping any water to the sewer, permission must be obtained from the authority engineer.
- C. Water from spill containment areas or excavations will not be discharged to an outfall or sewer without approval.

XXIII. DRAINING OF LINES

- A. When draining lines, material must be collected in proper containers. Direction will be provided by HSEQ. All containers must be labeled and stored in assigned areas.
- B. Absorbents must be available at the work-site if the potential for spills exists.

XXIV. ASBESTOS REMOVAL

- A. Only persons trained and certified under Federal and NY State Department of Labor asbestos regulations are permitted to remove asbestos or asbestos containing material.
- B. Unless asbestos removal is a specific part of your responsibilities, notify the authority engineer of any suspected asbestos containing materials.