

**Request for Proposals (RFP)  
Legal Services 2021 – 2025**

**Issued: August 30, 2021**

**PROPOSAL SUBMISSION DEADLINE: September 30, 2021 by 5:00 pm**

**IMPORTANT NOTICE:** A restricted period under the Procurement Lobbying Law (State Finance Law §§ 139-j and 139-k, as amended) is currently in effect for this Procurement and will remain in effect until final contract award and approval of selected Firms by the DASNY Board of Directors and final contract award (“Restricted Period”). **Proposing Firms are prohibited from all contact related to this procurement with any DASNY employee other than the designated contact listed below.**

The Designated Representative for this Procurement is:

David Fenichel, Contract Administrator  
[DownStateRFPCoordinator@dasny.org](mailto:DownStateRFPCoordinator@dasny.org)

**All questions must be submitted in writing, in electronic email format and on firm letterhead addressed to the Designated Representative (ONLY). Verbal and telephonic inquiries are prohibited.** Failure to comply with these requirements may be grounds for Firm disqualification, termination, debarment and/or a determination of non-responsibility under applicable law (including without limitation State Finance Law §§ 139-j and 139-k, DASNY Procurement Policy and Guidelines, and DASNY Procurement Lobbying Policy and Guidelines). Answers to all questions of a substantive nature will be posted on our website by the date indicated in **Section 5 [A]** of this RFP.

This RFP is posted on the DASNY website: [www.dasny.org](http://www.dasny.org). **Proposing Firms are responsible for periodically checking the DASNY website for updates, clarifications and other important information concerning this RFP.**

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## **Section 1 - Overview of DASNY**

The Dormitory Authority of the State of New York (“DASNY”) is a public benefit corporation authorized to finance, design, construct and rehabilitate facilities for use by various public and private not-for-profit entities. DASNY’s two primary lines of business are *debt issuance* and *construction services*. DASNY also devotes significant staff resources to *corporate governance and operations* and to the *administration of grants* authorized by the State of New York (the “State”).

DASNY’s basic enabling statute is referred to herein as the “DASNY Act”, and is set forth in Titles 4 and 4-A of Article 8 of the Public Authorities Law of the State of New York. In addition, pursuant to Title 4-B of Article 8 of the Public Authorities Law, DASNY succeeded to all the powers, duties, and functions of the Medical Care Facilities Finance Agency (“MCFFA”) and the Facilities Development Corporation (“FDC”). The enabling statutes for these governmental entities are set forth in McKinney’s Unconsolidated Laws, Chapter 6 of Title 18 (the “MCFFA Act”) and Chapter 1 of Title 13-A (the “FDC Act”). The operations of DASNY are also subject to numerous other statutory provisions contained in the Public Authorities Law, State Finance Law and elsewhere.

### **A. Debt Issuance**

DASNY issues bonds, notes, and other obligations to finance capital facilities for, among others, the following:

- various purposes under the State’s Personal Income Tax Revenue Bond program and State Sales Tax Revenue Bond program;
- State University of New York (“SUNY”) dormitories;
- Independent colleges and universities;
- Not-for-profit hospitals and nursing homes;
- School districts;
- Facilities for the aged;
- Boards of Cooperative Educational Services; and
- various other not-for-profit organizations as specifically enumerated in the DASNY Act and MCFFA Act.

DASNY also issues bonds, notes, and other obligations to finance public purposes for which there are specific statutory authorization (all of the foregoing, the “Financing Programs”).

DASNY is a conduit debt issuer and, accordingly, it issues bonds and notes that are limited obligations of DASNY payable solely from payments from specific revenues or assessments or required to be made by, or for the account of, the State or the public or private entity for which the particular special obligations were issued. Such payments are pledged or assigned to the trustees for the holders of the respective special obligations. In addition, certain bond and note issues are also secured by other forms of credit enhancement, including municipal bond insurance, FHA- insured notes and mortgages and bank letters of credit. Interest on most bonds and notes issued by DASNY is excludable from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended. The issuance of conduit debt for DASNY’s not-for-profit clients is governed by DASNY’s Financing Guidelines for Independent Institutions, which are available on DASNY’s website ([www.dasny.org](http://www.dasny.org)).

DASNY, as issuer, exercises certain post-issuance compliance responsibilities with respect to the bonds, notes, and other obligations it issues. Examples of these post-issuance compliance responsibilities include, but are not limited to complying with arbitrage rebate requirements, directing the investment of funds held by the various bond trustees under the applicable bond resolutions, monitoring payments and covenant compliance and taking various other actions under the relevant financing documents.

## **B. Construction Services**

DASNY's other primary line of business is providing direct and ancillary construction services on projects for a variety of public and private entities. Among the public entities for which DASNY provides construction services are SUNY, CUNY, OMH, OPWDD, OASAS, New York City, New York City Health and Hospitals Corporation, Department of Health and State Education Department.

The services provided by DASNY include contracting for design preparation and review of designs, bidding, negotiating, awarding, and administering contracts for construction, acquisition of furniture, fixtures, and equipment and on-site project oversight. DASNY often uses private construction managers to assist in providing construction services on larger projects.

For many projects, DASNY is required by law to award contracts to the lowest responsible bidder after advertising for sealed bids and to comply with the "Wicks" law (see General Municipal Law §101 and State Finance Law §135). DASNY also awards job order contracts to complete emergency repairs, critical maintenance, and other small projects for its clients.

DASNY public construction projects are subject to the prevailing wage provisions of the Labor Law, Project Labor Agreements, the Minority and Women Owned Business Enterprise participation provisions of Article 15-A of the Executive Law, the procurement contract requirements referenced in Public Authorities Law §2879 and other applicable law, as well as the DASNY Procurement Policy and Guidelines.

DASNY is committed to the construction of green public buildings, the sustainable use of resources, and in collaboration with DASNY's customer agencies and other government agencies, the pursuit of energy efficient policies, projects and technologies that benefit New York State and all New Yorkers.

## **C. Governance and Operations**

DASNY is governed by an eleven-member Board, which is comprised of the Director of the Budget of the State, the Commissioner of Education of the State, the Commissioner of Health of the State, the State Comptroller or one member appointed by the State Comptroller, five members appointed by the Governor with the advice and consent of the State Senate, one member appointed by the Temporary President of the State Senate and one member appointed by the Speaker of the State Assembly. All bonds and notes issued by DASNY must be authorized by DASNY's Board and approved by the New York State Public Authorities Control Board.

To perform the financing and construction services described above, DASNY has three main offices (Albany, New York City and Buffalo) and numerous field sites located across the State.

DASNY actively seeks to create opportunities for certified minority and women-owned business enterprises (MWBE), Service-Disabled Veteran-Owned ("SDVO") Business Enterprises, and Small

Business Concerns to obtain goods or services required by DASNY or its clients. In recent years, DASNY has significantly increased its MWBE utilization in construction, finance, and commodities procurement, has launched new initiatives designed to increase participation by Small Business Concerns and New York State business enterprises (see, e.g., Public Authorities Law §2879), and implemented required measures to ensure that certified SDVOBs are afforded the opportunity to provide professional services to DASNY in approved areas (see, Executive Law § 369-h et seq.).

## **Section 2 – Mandatory Minimum Qualifications**

To be considered for any panel, the Proposer must be a law firm that meets all the following mandatory minimum qualifications:

1. Possesses the Panel-Specific Minimum Qualifications specified in **Section 3** of this RFP for the specific panel on which they seek to serve;
2. has at least one office in the State of New York;
3. one or more attorneys who will be providing counsel to DASNY on matters under New York State law are licensed to practice in the State of New York;
4. is either a certified SDVO Business Enterprise, NYS MWBE firm, and/or is a firm that is prepared to track and report the steps taken internally to promote diversity among the project teams assigned to render legal services to DASNY (a sample Tracking Form is included as **Appendix “1”** to the Engagement Letter (**Attachment 1**) to this RFP); and
5. agrees to submit invoices at no additional charge, including electronic submission in accordance with any new software and/or electronic invoice submission process or platform implemented by DASNY. All invoices (electronic or otherwise) must be submitted within 30 days of the end of the applicable billing cycle, which shall be monthly (unless otherwise agreed to in writing).

Failure to meet or to provide information evidencing satisfaction of the above-referenced Mandatory Minimum Qualifications will result in a proposal being rejected and a Firm disqualified from further consideration.

## **Section 3 – Panel-Specific Minimum Qualifications**

To be considered for any of the following panels, the Proposer must be a law firm that also meets the specific qualifications set forth below for their panel of choice:

### **A. Bond Counsel**

1. Within the past three (3) years has either (a) served as bond or disclosure counsel on one or more tax-exempt bond or note issuances, each in a par amount of \$100 million or more, or (b) served as bond counsel on three (3) or more tax-exempt conduit bond or note issuances, each in a par amount of \$50 million or more, for any state or municipal local government unit, or any agency, authority, or instrumentality thereof, or any local development corporation or similar entity.
2. Has one or more partners admitted to practice in the State of New York with a minimum of fifteen (15) years of relevant experience in public finance law.
3. Has one or more partners with a minimum of fifteen (15) years of relevant experience in the delivery of unqualified opinions as to the exclusion from gross income under Section 103 of the Internal Revenue Code of interest on bond or notes.

B. Construction Litigation

1. Has one or more partners admitted to practice in the State of New York with a minimum of at least fifteen (15) years' experience with actions or administrative proceedings commenced by or against governmental entities arising from public construction projects.
2. Has one or more partners admitted to practice in the State of New York with a minimum of at least fifteen (15) years' experience acting as counsel to a public entity in negotiations or litigation involving construction projects or ancillary matters.
3. One or more partners of the Firm in the field of New York State construction litigation has at least fifteen (15) years' experience representing public entities in breach of construction contract actions, lien foreclosure actions, contractor terminations, or claims involving performance and payment bonds.

C. Personal Injury Litigation

1. One or more partners of the Firm has a minimum of fifteen (15) years' experience in the field of New York State personal injury litigation involving a public owner of real property or a construction site.
2. One or more partners of the Firm has a minimum of fifteen (15) years' experience with respect to actions and administrative proceedings related to personal injuries occurring on real property owned by the government entity or on construction projects of such entity.

D. Real Estate and Environmental Counsel

With respect to real estate matters, all the following qualifications must be met:

1. Has one or more partners admitted to practice in the State of New York with a minimum of fifteen (15) years' experience.
2. One or more partners of the Firm has acted as counsel to a governmental, quasi-governmental, or otherwise public, agency or entity in negotiations and transactions involving real estate including, without limitation, sales, acquisitions, and leasing within the last ten (10) years.
3. One or more partners of the Firm has at least fifteen (15) years of recent experience in preparing and reviewing contracts of sale, deeds, and other related instruments such as easements, mortgages, building loan agreements and restrictive declarations.
4. One or more partners of the Firm has at least fifteen (15) years of recent experience in reviewing title reports and surveys and resolving issues related thereto.
5. One or more partners of the Firm has experience in real estate related court and administrative matters including, without limitation, proceedings pursuant to the RPAPL, New York City ULURP proceedings, and eminent domain.

With respect to environmental matters, all the following qualifications must be met:

1. Has one or more partners admitted to practice in the State of New York with a minimum of fifteen (15) years.
2. One or more partners of the Firm has experience representing clients with respect to State Environmental Quality Reviews (SEQRA) and environmental impact statements.

E. Labor and Employment Law Counsel

1. One or more partners in its employment law practice area has a minimum of ten (10) years' experience in defending employers in state and federal employment matters in court, before governmental agencies and in administrative proceedings in claims involving discrimination, unlawful workplace harassment, retaliation, invasion of privacy, and wage relations;
2. One or more of its partners in its labor law practice area has a minimum of ten (10) years' experience in representing and counseling public employers in matters involving negotiations of collective bargaining agreements, union grievances, unfair labor practices actions or proceedings, arbitrations, and disciplinary proceedings;
3. One or more of its partners in its labor law practice area has a minimum of ten (10) years' experience in representing and counseling public employers in matters and proceedings before the Public Employment Relations Board, National Relations Board and other state and federal courts.

F. Bankruptcy, Restructuring and Workout Counsel

1. One or more of its partners in its Bankruptcy and Restructuring practice area has a minimum of fifteen (15) years' experience representing creditors in bankruptcies and/or workouts involving educational institutions, health care providers and/or not-for-profit human service providers.
2. One or more of its partners who will be primarily responsible for providing counsel to DASNY on bankruptcy, restructuring and workout matters is admitted to practice in state and federal courts in the State of New York.

G. Emerging Firms

1. A law firm that has been certified by either (a) the New York Empire State Development ("ESD") Division of Minority & Women-Owned Business; as small business concerns and/or minority or woman owned-business enterprises pursuant to Article 15-A of the Executive Law or (b) the Director of the Division of Service-Disabled Veterans' Business Development in the Office of General Services (the "Division"), as SDVOB Business Enterprises pursuant to Article 17-B of the Executive Law.
2. If interested in providing legal services in any of the following areas of practice, must meet the requirements outlined below:
  - a. Bond Counsel - One or more of its partners has a minimum of five (5) years of relevant experience in public finance law.
  - b. Construction Litigation - One or more of the Firm's partners has a minimum of five (5) years in the field of New York State construction litigation.
  - c. Personal Injury Litigation - One or more of its partners has a minimum of five (5) years' experience in the field of New York State personal injury litigation
  - d. Real Estate and Environmental Counsel – One or more of its partners has a minimum of five (5) years' experience in the field of New York State real estate law.
  - e. Labor and Employment Law Counsel – One or more of its partners has a minimum of five (5) years' experience in defending employers in state and federal employment matters in court, before governmental agencies and in administrative proceedings in claims involving discrimination, unlawful workplace harassment, retaliation, invasion of privacy, and wage relations.
  - f. Bankruptcy, Restructuring and Workout Counsel – One or more of its partners has a minimum of three (3) years' experience representing creditors in bankruptcies and/or

workouts involving educational institutions, health care providers and/or not-for-profit human service providers.

#### H. Special Legal Services

All requirements for this panel are outlined in **Appendix “H”** of this RFP.

### **Section 4 - Legal Services to be Procured**

In order to ensure that DASNY has access to quality and cost-effective legal services on a timely basis to assist it in the performance of various governmental, quasi-governmental and other functions, DASNY intends to establish several panels of law firms to serve as outside counsel to DASNY as described in **Subsections A, B, C, D, E, F, G, and H below**, and to advise DASNY on matters within the purview of each of the panels.

DASNY reserves the right to select a firm from any relevant panel as it deems necessary to best promote DASNY’s interests and/or the interests of the State or DASNY’s private clients.

Additionally, DASNY reserves the right to: (a) retain for a particular matter Firms not empaneled pursuant to this RFP who previously provided, or who currently provide, services to DASNY on that particular matter; and (b) assign counsel from a particular panel to a legal matter that may cross over to subject matter areas typically covered by other panels.

For example (and without limitation), a mortgage foreclosure matter may be assigned to a Firm on the Bond Counsel Panel, Real Estate and Environmental Counsel Panel, or the Bankruptcy, Restructuring and Workout Counsel Panel, depending on the facts and circumstances of the particular case, Firm qualifications, and other factors. Similarly, an Article 78 Proceeding against DASNY might be assigned to a Firm on the Construction Litigation/General Litigation Counsel Panel, the Real Estate and Environmental Counsel Panel, or perhaps the Special Legal Services Panel. Firms are encouraged to provide information relevant to the panel or panels applied for, to distinguish the Firm and better assist DASNY’s decision-making. The legal services panels which DASNY is procuring in this RFP are further described as follows:

#### A. **Bond Counsel** (See, **Appendix “A”**)

Firms selected to serve on this panel may be requested to act as bond and/or disclosure counsel to DASNY for specific transactions (“Bond Counsel”). Selected firms may be requested to provide legal advice to DASNY relative to bond issuances under the Financing Programs described in Section 1(A) of this RFP.

As Bond Counsel, a Firm’s duties will include the Mandatory Services specified in **Appendix “A”** to this RFP. In addition to these services, Firms serving on the Bond Counsel panel may be asked to represent DASNY in a variety of pre- and post-issuance matters including but not limited to: reviewing borrower requests under the applicable financing documents and the Internal Revenue Code and/or applicable State law (including requests relating to the permissible uses of bond proceeds and bond financed property); addressing questions that may arise as part of DASNY’s grant administration function; serving as DASNY’s counsel in the redemption or defeasance of DASNY’s bonds; advising DASNY in bankruptcy and other insolvency proceedings relating to bonds for which the Firm acted as bond counsel; rendering advice to DASNY concerning compliance with SEC and MSRB rules and regulations; advising DASNY

with regard to disclosure and disclosure compliance matters and other post-issuance compliance matters. Bond Counsel may also be required to assist DASNY in responding to inquiries from the Internal Revenue Service, the SEC and other regulating entities and to review draft legislation relating to financing programs.

**B. Construction Litigation (See Appendix “B”)**

Firms selected to serve on this panel may be requested to represent or advise DASNY in construction litigation and other construction-related matters.

DASNY is currently involved in the design and construction and/or financing of many projects throughout the State and sometimes requires outside counsel to represent it in the defense or prosecution of litigation and other matters arising out of these projects. The areas of law in which representation and advice may be sought include: competitive bidding and procurement issues; contractor terminations; claims by and against contractors and design professionals; claims by and against sureties; prevailing wage requirements; project labor agreements; construction labor disputes; contract review; forensic project record and document review; affirmative action requirements; liens; alternative dispute resolution (including but not limited to mediation or mediation alternatives.); insurance; creditors’ rights and bankruptcy.

**C. Personal Injury Litigation Counsel (See Appendix “C”)**

Firms selected to serve on this panel may be requested to defend DASNY in personal injury claims and litigation and advise DASNY on personal injury-related matters (“Personal Injury Litigation Counsel”). The areas of law in which representation and advice may be sought include but are not limited to negligence; insurance; personal injury; premises liability and construction site personal injury liability. Representation may be required in State and Federal courts in every jurisdiction throughout New York State.

DASNY is currently involved in the design and construction and/or financing of many projects throughout the State and requires outside counsel to represent it in personal injury litigation arising out of these projects. DASNY requires contractors on its projects to make DASNY an additional insured on their liability insurance policy. In applicable cases, Firms on this panel may be requested to represent DASNY in actions to compel such insurance carriers to provide a defense and coverage to DASNY.

DASNY also obtains and administers general liability insurance coverage for dormitories and parking garages of SUNY, buildings of CUNY under construction and buildings of certain other clients. As such, DASNY’s litigation needs can encompass the defense of claims or lawsuits arising out of incidents on completed, occupied buildings of SUNY and other clients.

In addition, Firms on this panel may also be utilized to defend DASNY in personal injury cases generally, where insufficient insurance coverage exists, or coverage has lapsed, is not applicable or never existed.

DASNY may use one or more of its Personal Injury Litigation Counsel to undertake a comprehensive review of the insurance and indemnification provisions in DASNY’s standard documents. DASNY may also ask Firms on this panel to review its systems for reporting and investigating incidents and verifying insurance coverage.

DASNY may use one or more of the Firms on this panel to engage a third-party service to conduct scene inspections and investigations relating to personal injury or property damage claims or litigation. Such inspections or investigations may include, but are not limited to, site visits, document/electronic searches, securing documentation, written and record statements, identifying additional witnesses and other sources of information pertaining to a potential or actual injury or damage event, identifying additional avenues of risk transfer, and other activities of a similar or related nature, as requested by DASNY.

DASNY may use one or more of the Firms on this panel to engage a third-party service to conduct due diligence and fulfill reporting requirements for all settlements paid by DASNY or its clients as required by the Centers for Medicare and Medicaid Services Medicare Secondary Payer Mandatory Reporting Provisions in Section 111 of the Medicare, Medicaid and SCHIP Extension Act of 2007 and subsequent amendments/revisions to those provisions, as applicable. This may include completing ISO claim searches, filing reports, notices and other documents with federal and state entities as required, and otherwise assisting with Medicare/Medicaid compliance, and filing other documentation and reporting on DASNY's behalf.

**D. Real Estate and Environmental Counsel** (See Appendix "D")

Firms selected to serve on this panel may be requested to act as counsel to and advise DASNY in a variety of real estate and environmental matters ("Real Estate and Environmental Counsel"). DASNY is currently involved in the financing and construction of many projects throughout the State and sometimes requires outside counsel to render advice and represent it in real estate and environmental matters related to these projects.

Areas where representation and advice may be sought include mortgages and other liens, foreclosures, acquisitions, leasing, Landlord/Tenant dispute resolution, Surplus Sale of NYS land, sale-leasebacks, condominium and time share arrangements, all types of contractual arrangements, including construction and architectural contracts, eminent domain proceedings, evictions, hold-over proceedings, zoning, Historic Preservation, State Environmental Quality Review Act, Uniform Land Use Review Procedures of the City of New York, the City Quality Environmental Review Act, and other legal, regulatory and/or land use requirements including but not limited to the National Environmental Policy Act and the Smart Growth Public Structure Policy Act. As needed, Firms may be requested to represent DASNY before the appropriate review boards, councils, municipal departments, and other governmental bodies. In the event that any DASNY determination or action is subject to litigation, Firms on the panel may be requested to represent DASNY.

**E. Labor and Employment Law Counsel** (see Appendix "E")

Firms selected to serve on this panel may be requested to act as counsel to DASNY in connection with labor and employment matters ("Labor and Employment Law Counsel"). As a public employer with approximately 500 full-time employees, most of whom are represented by one of two collective bargaining units, DASNY may require outside counsel to render advice and represent it in labor and employment matters. While DASNY will maintain one Labor and Employment Law Panel, legal services to be provided will be subdivided into two subcategories:

Subcategory A - Labor/Management - Services to be provided under Subcategory A include collective bargaining agreement negotiations, grievances, arbitrations, and other employer/employee matters, including representation before the Public Employment Relations Board (PERB), National Labor Relations Board (NLRB) and various other state and federal courts. DASNY may also require Firms to review and advise DASNY regarding its Employee Handbook and DASNY's policies on sexual harassment, discrimination, internal investigations, and other matters. In addition, DASNY may require advice in areas such as, Workers' Compensation claims, the Health Insurance Portability Act and Accountability Act and the Fair Credit Reporting Act.

Subcategory B - Title VII/EEO/Other Claims Management - Services to be provided under Subcategory B may include representation before the New York State Division of Human Rights, the Equal Employment Opportunities Commission and various state and federal courts. This subcategory is intended to encompass a wide variety of compliance and claims management issues. For example (and without limitation), representation may be sought regarding Title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act, the Americans with Disabilities Act, the Family Medical Leave Act of 1993, the Fair Labor Standards Act and corresponding New York State statutes.

Firms may request to be considered for one or both subcategories.

**F. Bankruptcy, Restructuring and Workout Counsel (See Appendix "F")**

Firms selected to serve on this panel may be requested to act as counsel to and advise DASNY in bankruptcy and insolvency proceedings, restructuring and workout matters (including surety and contractor bankruptcy and restructuring) , mortgage foreclosures and related activities ("Bankruptcy, Restructuring and Workout Counsel"). DASNY will use Firms on this panel in connection with bankruptcy and insolvency proceedings commenced by not-for-profit institutions of which DASNY is a creditor. DASNY also administers a Health Facility Restructuring Pool loan program for the Department of Health and may seek representation from Firms on this panel to assist in collecting amounts due on these loans. DASNY, may request the services of Bankruptcy, Restructuring and Workout Counsel in the context of other credit related matters.

**G. Emerging Firms (See Appendix "G")**

Firms selected for this panel may be requested to act as counsel or co-counsel to DASNY on matters or transactions requiring the assistance of Bond Counsel, Construction and Litigation Counsel, Real Estate and Environmental Counsel, Labor and Employment Law Counsel, Bankruptcy, Restructuring and Workout Counsel and Special Legal Services. Firms selected to serve on the panel of Emerging Firms will be designated, based on their relevant experience, for work related to one or more specific panels. Firms serving on this panel may be given opportunities to acquire the experience necessary to enable the Firm to assume full responsibility in the future for the types of matters and transactions on which it works while serving as an Emerging Firm. Qualified Firms may apply for listing on the Emerging Firms Panel in addition to the panels for specific practice areas listed in this RFP. *Applications are due by the corresponding due dates listed on page 1 and Section 5 [A] of this RFP.*

## **H. Special Legal Services (See Appendix “H”)**

The practice areas discussed in **Section 4, [A] through [G]** above relate to DASNY’s day-to-day operations, with emphasis on DASNY’s primary lines of business in debt issuance and construction services. In addition to these practice areas, DASNY may on an occasional but infrequent basis require legal advice in discrete, specialized and/or atypical practice areas (“Special Legal Services”). Firms selected to serve on this panel may be engaged to act as counsel to and advise DASNY (including without limitation the State or DASNY’s other clients) in the following matters:

- Strategic Corporate/Transactional Services
- Federal Practice (Grants/Contracting/Agency/Regulatory Law)
- Public Utility/Energy/Telecommunications
- Grants Administration
- IT/Intellectual Property
- Audits, Investigations, and Internal Affairs
- Antitrust/Unfair Trade Practices

Utilization of the Special Legal Services Panel is not anticipated to be high.

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## **Section 5 – RFP Process Overview**

A broad overview of the RFP process and timetable, and the requirements for inquiries and the submission of proposals, can be found in this section.

### **A. Key Events and Dates**

Provided below is a schedule of milestones for this RFP. DASNY reserves the right to change any or all of these dates as it deems necessary or convenient in its sole discretion. In the event of a change, such modifications will be posted on DASNY’s website at [www.dasny.org](http://www.dasny.org). **Firms shall be solely responsible for periodically checking the website throughout the RFP process for such changes or updates, and no individualized notices shall be provided.**

Issuance of RFP (week of)	08/30/2021
Deadline for RFP Questions	09/08/2021 (5:00 pm, EST)
Post Responses to RFP Questions	09/16/2021
Proposals Due	09/30/2021 (5:00 pm, EST)
Notice of Award (No Earlier Than)	11/11/2021

DASNY may issue the Notice of Award for one or more panels before issuing the Notice of Award for other panels.

### **B. Inquiries**

All inquiries regarding this RFP must be submitted in writing to the designated representative by email, utilizing the attached Questions and Answers Tracker (**Attachment 6**). Verbal and telephonic inquiries are prohibited. Answers to all questions of a substantive nature will be posted on the DASNY website [www.dasny.org](http://www.dasny.org).

David Fenichel, Contract Administrator  
Email: [DownstateRFPCoordinator@dasny.org](mailto:DownstateRFPCoordinator@dasny.org)

**No Firm which is considering submitting a proposal or which has submitted a proposal shall contact, whether directly or indirectly, any DASNY employee other than the contact person listed above during the period of the RFP about any matters related to the RFP or any proposals submitted in response to this RFP. Such contact may result in disqualification, termination, debarment and/or a determination of non-responsibility under applicable law.**

## **Section 6 – Diversity and Inclusion**

### **A. Workforce**

DASNY is committed to diversity and equal employment opportunities among its contractors and consultants. This procurement is conducted in accordance with Article 15-A and 17-B of the Executive Laws. It is the policy of DASNY to maximize opportunities for the participation of MWBE/SDVOBs as bidders, subcontractors, subconsultants, and suppliers on projects.

Although no goals for participation in the services by certified MWBE/SDVOBs have been set for this proposal at this time, it is the goal of DASNY to utilize qualified vendors that have a demonstrated history of hiring, training, developing, promoting, and retaining minority and women staff.

By responding to this RFP, each firm acknowledges that:

1. The Firm will submit their equal employment opportunity policy statement to DASNY.
2. The Firm will not discriminate against any employee or applicant for employment because of race, creed, color, sex, religion, national origin, military status, sexual orientation, age, disability, genetic disposition or carrier status, domestic violence victim status, or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and will make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on contracts with DASNY.
3. The Firm will state in all solicitations or advertisements for employees that, in the performance of this Contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, sex, religion, national origin, military status, sexual orientation, age, disability, genetic disposition or carrier status, domestic violence victim status, or marital status.
4. The Firm will submit to DASNY, a completed Diversity Questionnaire provided by DASNY, and a staffing plan of the anticipated work force to be utilized on the engagement with DASNY, information on the Firm's total work force, broken down by specific ethnic background and gender. The Firm should also include information on its current programs in diversity/inclusion.

## **Section 7 - Content and Format of Technical Proposal**

### **A. Information to be Provided by Proposers**

The following is a list of required information that must be provided by the Proposer. Provide your response in the same order in which it is requested using numbered side tabs that correspond with each of the numbered tabs below. Your technical proposal must contain sufficient information to assure DASNY of its accuracy.

- Tab 1. Include a cover letter with the following items:
- a. The name, title, telephone number, and email address of the individual within your firm who will be DASNY's primary contact concerning this RFP.
  - b. The primary contacts name, title, telephone number, and email address for each sub-consultant who will perform work under this contract.
  - c. The identities of the primary staff proposed to provide services relating to this RFP.
  - d. A statement describing which panel(s) identified in Section 4 above your firm is requesting to be considered for empanelment.

- e. A statement that your Firm understands empanelment of your Firm is not a guarantee, or should form any expectation, that DASNY will retain your Firm for any service during the period of empanelment.
- f. The cover letter must be signed by the individual(s) authorized to bind your Firm contractually. Indicate the title or position that the signer holds within your Firm. DASNY reserves the right to reject a technical proposal that contains an unsigned cover letter.
- g. Evidence that your Firm meets each of the Mandatory Minimum Requirements outlined in Section 2 of this RFP. In your cover letter, kindly copy each of the questions set forth in Section 2, respond “yes” or “no” to each question. Failure to provide this information will result in disqualification from consideration for empanelment.
- h. Evidence that your firm meets each of the Panel-Specific Requirements in Section 3 of this RFP for all panels your firm wishes to be considered for empanelment on. In your cover letter, kindly copy each of the questions in Section 3 for each panel that your firm is seeking to apply for, respond “yes” or “no” to each question, and include any attach supporting documentation or information to demonstrate that your Firm has met these requirements. Failure to provide this information will result in disqualification from consideration for empanelment.

Tab 2. Provide a description of your firm’s organization, team makeup including the resumes of partners, principals, associates, and other key staff proposed to provide services to DASNY.

Tab 3. Provide a detailed summary of the manner by which the Firm meets the specific qualifications set forth in Section 4 and the applicable Appendix or Appendices for the panel(s) it seeks empanelment on. Provide a list of specific projects and transactions your firm participated in and the project value. Include the names, titles, and phone numbers of at least three (3) references excluding DASNY employees and a summary of the services provided.

Tab 4. Provide a detailed description of your firm’s approach to providing the requested scope of services. Indicate any areas in which you believe your firm has special expertise.

Tab 5. Provide a completed Diversity Questionnaire, included in this RFP as an attachment, as well as any additional documents you believe necessary to satisfy section 6 of this RFP (**Attachment 2**).

Tab 6. Provide a completed W-9 Form, included in this RFP as an attachment. If the proposer is a joint venture, provide a W-9 in the name of the joint venture and provide a copy of the executed joint venture agreement (**Attachment 3**).

Tab 7. Provide a statement indicating your firm is able to obtain the required insurances as listed in the attached Sample Insurance Certificates & Requirements (**Attachment 4**).

Tab 8. Provide a completed DASNY Omnibus Procurement Certification included in this solicitation as an attachment (**Attachment 5**).

Tab 9. Complete the NYS Vendor Responsibility Questionnaire online at <http://www.osc.state.ny.us/vendrep> and submit a copy of the certification page, per Section 12 of this RFP.

Tab 10. Additional Information – The proposer must also provide statements regarding the following:

- a. The proposer must agree to provide DASNY with pre- and post-audit access to documents, personnel, and other information necessary to conduct audits on request during the term of the Contract and for six years thereafter.
- b. The proposal submitted must contain a representation that the proposer is willing and ready to provide any services requested or required in a timely manner.
- c. Disclose any potential conflicts of interest (refer to the “Code of Business Ethics - Certification” attached).

## **B. Page Limit**

**Technical proposals shall not exceed a length of fifty (50) pages, and shall include those requirements listed in Tabs 1-10 above. Only the first fifty (50) pages of the technical proposal will be read and evaluated.**

## **Section 8 - Content of Cost Proposal**

### **A. Information to be Provided by Proposers**

Each Firm is required to provide a Cost Proposal indicating the information requested in sections 1-6 below. Although the information submitted as part of the Cost Proposal will not be evaluated as part of the Criteria for Selection, it will nonetheless constitute a required document to be submitted.

1. The regular billing rates for those partners, associates and paralegals proposed to be assigned to each panel for which the Firm is applying for.
2. The discounted rates (if any) to be charged to DASNY for those partners, associates and paralegals proposed to be assigned to each panel for which your Firm is applying for.
3. The disbursements or other services for which your Firm would expect reimbursement.
4. The Firm's policy regarding charges for travel; provided, however, that no costs will be reimbursed by DASNY for: (a) overnight accommodations or travel to cities where a Firm has an office, and/or (b) required appearance(s) by the Firm before the DASNY Board at any regularly scheduled meeting.
5. Whether the rates proposed exceed the rates currently being charged by your Firm to other public entities in New York.
6. Any alternative fee arrangement you believe would be beneficial to DASNY and the agencies, institutions, public authorities and other third parties for which you provide services. DASNY encourages alternative fee proposals that might include flat fees, blended rate, or other fee proposals other than the traditional hourly rate structure for any legal panel or segment of proposed service.

Regardless of the method of compensation, each Firm assigned to a transaction shall be required to

provide DASNY with a written statement showing the name of each individual who worked on the transaction, the title of such individual, the date and hours devoted by such individual to the transaction, together with a brief description of the services provided by the individual on such date.

By submitting a response to this RFP, each successful Proposer agrees to submit invoices in the form and content required by DASNY, at no additional charge, including without limitation electronic submission in accordance with any new software and/or electronic invoice submission process or platform now or hereafter implemented by DASNY. All invoices (electronic or otherwise) must be submitted within 30 days of the end of the applicable billing cycle, which shall be monthly (unless otherwise agreed to in writing).

By submitting a response to this RFP, each Proposer acknowledges and agrees (i) although DASNY will consider the information provided in subsections 1-6 above in proposing rates and terms under which it will be prepared to engage the Firm's services if so empaneled, the rates and terms proposed by DASNY may be different from those the Firm has proposed and, accordingly, will be subject to negotiation; (ii) during the period of empanelment, if so empaneled, it shall provide services pursuant to the terms set out in its engagement, unless separately agreed under a Supplemental Engagement; and (iii) DASNY will set a maximum cap on rates and costs for all firms initially selected for empanelment, and acceptance of such cap will be a condition of empanelment.

## **Section 9 – Selection and Evaluation of Proposals**

The selection process will begin with the review and evaluation of each of the written proposals. The purpose of this evaluation process is twofold:

- (1) to examine the responses for compliance with this RFP;
- (2) to identify the complying firms that have the highest probability of satisfactorily performing the scope of services.

The evaluation process will be conducted in a comprehensive and impartial manner. The evaluation will be conducted as set forth herein.

### **A. Preliminary Review**

The selection process will begin with a preliminary review and evaluation of each written proposal's cover letter to determine if the requested information required in Section 7. A(d), 7.A(g) and 7.A(h) has been provided in order to meet the Minimum Mandatory Requirements outlined in Section 2 of this RFP and the applicable Panel-Specific Minimum Requirements outlined in Section 3 of this RFP have been met. Failure to meet the Minimum Mandatory Requirements outlined in both sections and to provide sufficient documentation evidencing your firm's ability to meet the above-referenced requirements will result in your firm's proposal being rejected and your firm being disqualified from consideration for empanelment.

### **B. Evaluation**

Proposals will undergo an evaluation process conducted by a Committee selected by DASNY. The Committee will evaluate the proposals based upon the criteria for selection set forth below.

Proposals passing the preliminary review stage will undergo an evaluation process conducted by an Evaluation Committee selected by DASNY. A separate Evaluation Committee will be established for each panel of law firms and each such Committee shall be responsible for evaluating the proposals from Firms seeking inclusion on that panel. Proposers may be requested by DASNY to clarify the contents of their proposals. Other than to provide such information as may be requested by DASNY, no Proposer will be allowed to alter its proposal or add information after the Deadline for Submission of Proposals, except as provided in **Section 11** of this RFP.

**C. Criteria for Selection**

The criteria for selection are as follows:

POINTS	CRITERIA
40	<b>For each applicable panel on which the Firm requests to serve, firm demonstrates experience providing the scope of services requested in Section 4 and the applicable Appendix of this RFP.</b>
40	<b>For each applicable panel on which the Firm requests to serve, experience of the staff that will provide the scope of services requested in Section 4 and the applicable Appendix of this RFP.</b>
10	<b>Overall quality of the response and the firm’s demonstration of a clear understanding of DASNY’s mission.</b>
10	<b>Diversity Questionnaire demonstrates a strong commitment to diversity.</b>

**D. Interviews**

DASNY reserves the right to determine whether interviews will be necessary and for which firms. The purpose of the interview is to further document the proposer’s ability to provide the required services and to impart to the Committee an understanding of how specific services will be furnished. The proposed lead principal, as well all other key personnel proposed to provide the services must be present and participate in the interview. The interview will be evaluated on the basis of whether it substantiates the characteristics and attributes claimed by the proposer in its written response to this RFP and any other information requested by the Committee prior to the interview.

**Section 10 - Submission of Proposals**

**A. Submission of Technical and Cost Proposals**

Please submit the technical and cost proposals electronically, following the directions below, on or before 5:00pm on (September 30, 2021). Proposals received after the due date will be rejected and returned. **The technical and cost proposals must be submitted as separate files.**

To Submit Electronically:

Follow the directions below to upload your proposals electronically. Any technical issues or questions should be directed to the Designated Representative for the Project via email prior to the due date of the

RFP. It is strongly encouraged to request access to the site before the due date. DASNY may not be able to assist proposers with troubleshooting errors if submissions are not made in a timely manner.

1. Email [DownstateRFPcoordinator@dasny.org](mailto:DownstateRFPcoordinator@dasny.org) with the subject line: “Legal Services Empanelment-RFP (RFP7575)-Request-Access-Firm Name”
  - a. Please provide the name and email address of any additional contact from your firm that may require access to submit the RFP responses through the SharePoint site.
  - b. An expression of interest does not qualify as a request for access. Please ensure that your firm explicitly requests access using the described procedure.
  - c. Please request access at a minimum of 24 hours in advance and ensure access to the site works correctly.
2. You will receive an email from the [DownstateRFPCoordinator@dasny.org](mailto:DownstateRFPCoordinator@dasny.org) with a link to a Microsoft SharePoint site: “Legal Services Empanelment-RFP”
3. Click on the link. If you have an existing Microsoft account, you will be asked to login and then you will be routed directly to the Legal Services Empanelment-RFP “Documents” page.
  - a. If you do not have a Microsoft account, you will need to register for a Microsoft account before you can access the link.
4. You will be required to upload the Technical Proposal.
  - a. Please save this document in PDF format and labeled as “Legal Services empanelment-RFP (RFP7575)-Tech-firm name.
  - b. Click “Upload” or drag and drop
  - c. Please ensure that you upload your technical proposal to the subfolder(s) that correspond to the panels that your firm is applying to be considered for.
  - d. Please ensure that your firm’s VendRep Certification is included with the technical proposal.
5. You will be required to upload the Cost Proposal.
  - a. Please save this document in PDF format and labeled as “Legal Services Empanelment-RFP (RFP7575)-Cost-firm name.
  - b. The submitted document will remain private and will not be visible to the other proposers throughout the procurement process.
  - c. Please ensure that you upload your cost proposal to the subfolder(s) that correspond to the panels that your firm is applying to be considered for.
6. Once your documents are uploaded, DO NOT OPEN. The document submitted must be your final submission and cannot be modified.
  - a. If you open your documents after they are submitted, the system will show it as “modified”.
7. The Legal Services Empanelment-RFP site will close at 5:01PM on September 30, 2021. Any questions or issues on submitting must be addressed to the Designated Representative for the Project before that time using the email provided in Bullet 1. Please ensure that you give yourself enough time for uploading all files.

## **Section 11 - Important Information Affecting Proposers**

### **A. Proposal Requirements**

1. DASNY's Designated Representative for the Project, including the procurement is:

David Fenichel  
Contract Administrator  
**Attention: DASNY Legal Services Empanelment**  
**E-mail: DownstateRFPCoordinator@dasny.org**

All questions must be submitted in writing to the Designated Representative by email, citing the particular proposal section and paragraph number. Proposers should note that all clarifications and exceptions, including those related to the terms and conditions of the contract are to be resolved prior to the submission of a proposal. A list of all substantive inquiries received with relevant responses will be posted on DASNY's website, [www.dasny.org](http://www.dasny.org).

2. A proposer may withdraw a proposal any time prior to the final due date and time by written notification, signed by an authorized agent, to the contact person identified in Section 11. A. 1. above. The proposal may thereafter be resubmitted, but not after the final due date and time. Modifications offered in any other manner, oral or written, will not be considered.
3. If a proposer discovers an ambiguity, conflict, discrepancy, omission or other error in this RFP, the proposer should immediately notify the contact person identified in Section 11. A. 1. above. Notice of such error or omission should be submitted prior to the final due date and time for submission of proposals. Modifications shall be made by addenda to this RFP. Such clarifications will be given by written notice to all parties who have received this RFP.
4. If a proposer fails, prior to the final due date and time for submission of proposals, to notify DASNY of a known error or an error that reasonably should have been known, the proposer shall assume the risk of proposing.
5. A proposer indicates its acceptance of the provisions and conditions enumerated in this RFP by submitting a proposal.

### **B. Board Approval**

Any Firm selected by the Evaluation Committees to serve on a panel must be approved by the Board of DASNY.

### **C. DASNY Requirements**

1. By submitting a proposal, the proposer covenants that the proposer will not make any claims for or have any right to damages because of any misinterpretation or misunderstanding of the specifications or because of lack of information.

2. DASNY shall not be liable for any cost incurred by the proposer in proposal preparation or in activities related to the review of this RFP or any interview costs.
3. Other than the contact person identified in Section 11. A. 1. above, or their designee(s), prospective proposers shall not approach DASNY employees during the period of this RFP process about any matters related to this RFP or any proposals submitted pursuant thereto.

#### **D. DASNY Rights and Prerogatives**

DASNY reserves the right to exercise the following prerogatives:

1. To accept or reject any or all proposals and amend, modify, or withdraw this RFP.
2. To correct any arithmetic errors in the proposals.
3. To change the final due date and time for proposals.
4. To accept or reject any of the firm's employees assigned to provide services on this project and to require their replacement at any time.
5. To waive or modify any irregularities in proposals received after prior notification to the proposer. This will in no way modify the RFP documents or excuse the proposer from full compliance with its requirements.
6. To consider modifications to proposals at any time before the award is made, if such action is in the best interest of DASNY.
7. To request a revised cost proposal from firms selected as finalists, if applicable.
8. To accept a proposal for the engagement containing other than the lowest cost proposal, if applicable.
9. To interview any or all of the proposers prior to selection.
10. To reject any proposal containing false or misleading statements or that provides references that do not support an attribute or condition claimed by the proposer.
11. To begin negotiations with the next most responsive proposer to this RFP should DASNY be unsuccessful in negotiating a contract with the selected proposer within a reasonable time frame.
12. To empanel and subsequently contract with more than one firm.

#### **E. Contractual Requirements**

1. Contract
  - a. By submitting a proposal, the successful proposer agrees to reference the RFP as part of any resulting contract.
  - b. DASNY may award a contract for any or all parts of a proposal and may negotiate contract terms and conditions to meet agency program requirements consistent with the RFP.
  - c. Award of a contract is subject to contract negotiation and approval of such contract by the appropriate DASNY authorities.
2. Modification of Contract
  - a. Any modification to the original contract signed between the successful proposer(s) and DASNY will require the mutual consent of the successful proposer(s) and DASNY.
  - b. Any contract or amendments thereto will be considered effective only after approval by the appropriate DASNY authorities.

### 3. Interpretation

The contract shall be construed and interpreted in accordance with the laws of New York State. New York State shall be the forum for disputes.

### 4. Public Announcements

Upon selection of the successful proposer and contract execution, public announcements or news releases pertaining to the contract shall not be made without prior written consent of DASNY.

## **Section 12 – Vendor Integrity**

As a public entity, DASNY may only contract with entities that are determined to be responsive and responsible and said entities are required to maintain responsibility throughout the term of the services being provided. Proposers shall submit a Vendor Responsibility Questionnaire (“VRQ”) which is designed to provide information to assess a proposed vendor’s responsibility to conduct business in New York State. All VRQs shall be reviewed in accordance with applicable law, policy, rules, regulations, and guidelines, including without limitation Executive Order Nos. 125, 170.1 and 192.

DASNY requires vendors to file the VRQ online via the New York State VendRep System (the “System”). To enroll in and use the System, see the System Instructions at [https://www.osc.state.ny.us/vendrep/vendor\\_index.htm](https://www.osc.state.ny.us/vendrep/vendor_index.htm) or go directly to the VendRep System online at <https://portal.osc.state.ny.us>. Proposers must provide their New York State Vendor Identification Number when enrolling. To request assignment of a Vendor ID or for System assistance, contact the Office of the State Comptroller’s (“OSC”) Help Desk at 866-370-4672 or 518-408-4672 or by email at [ciohelpdesk@osc.state.ny.us](mailto:ciohelpdesk@osc.state.ny.us).

## **Section 13 – Negotiation**

After completion of the empanelment process and upon selection for a specific project assignment, DASNY will commence finalization of the scope of services required and fee negotiations with the selected firm(s) for such assignment.

## **Section 14 - Notification**

Upon completion of the selection process, DASNY will notify all firms of its decision. Notification will be sent to the primary contact only. Shortly after notification the selected firm(s) will be posted on DASNY’s website.

## **Section 15 - Freedom of Information Law and Public Disclosure**

This RFP and all information submitted in response to this RFP constitute “records” subject to disclosure pursuant to the New York State's Freedom of Information Law (Public Officers Law, Article 6, § 84-90, the “FOIL Law” or “FOIL”). FOIL reaffirms the public’s right to know how government operates and requires that DASNY make its records available for public inspection or copying, except to the extent that

records or portions thereof fall within one or more grounds for denial set forth in Public Officers Law §87(2).

Should you feel your firm's proposal contains any such trade secrets, other confidential or proprietary information or is otherwise exempt from disclosure pursuant to FOIL, you must submit a request to exclude such information from disclosure. Such request must be in writing, must detail the information that should be exempt from disclosure, and must state the reasons why such information should be excepted from disclosure. DASNY will not honor any attempt, by a firm, to omit its entire proposal from disclosure.

## **Section 16 – Insurance**

DASNY engages the services of Ebix, Inc. to assist in managing and tracking insurance compliance. The successful proposer will be required to submit Certificate(s) of Insurance showing compliance with the insurance requirements. Ebix, Inc. is an insurance data management company whose role is to help assure those with whom DASNY is doing business with are fulfilling their obligation to DASNY by maintaining insurance coverage to protect DASNY from financial loss.

Ebix, Inc. is a full-service Application Service Provider (ASP) company focused on tracking and verifying insurance coverage. Ebix, Inc. performs tasks for DASNY that would otherwise need to be performed internally. Ebix, Inc. will keep track of companies who have agreed to provide DASNY evidence of insurance.

Ebix, Inc. performs the following tasks for DASNY:

- Establish a Database with information (e.g., name, address, coverage requirements, etc.) for each organization for which DASNY desires to track insurance.
- Keep track of all insurance renewal dates.
- If necessary, send a series of letters to a vendor notifying them of their insurance compliance obligation, and also informs DASNY of actions necessary for them to resolve a non-compliance status.
- Report to DASNY any vendor failing to meet their agreed obligation to provide proper evidence of insurance coverage.

As stated above, the successful proposer(s) will be required to submit Certificate(s) of Insurance showing compliance with the insurance requirements (General Liability, Automobile, Excess Liability (if needed), Professional Liability, Worker's Compensation, New York Disability, and any other coverage as required) directly to Ebix, Inc. Corporate information for Ebix, Inc. is as follows:

Ebix, Inc.

One Ebix Way

Johns Creek, GA 30097

<https://www.ebix.com/>

The consultant shall provide the insurance documents in accordance with our requirements as outlined in the RFP attachments, advise that they shall review the requirements and comply with them via Ebix.

## **Appendix “A”**

### **Mandatory Services and Evaluation Criteria for Bond Counsel**

Mandatory Services for this panel include:

1. The examination of applicable laws.
2. The preparation and/or review of bond resolutions, loan or financing agreements, and other related documents (including mortgage documents and other documents required under the TELP and other financing programs).
3. Participation with DASNY, the underwriters, the borrower, and any provider of credit enhancement in structuring the transaction.
4. Participation with DASNY, the underwriters, the borrower, and any provider of credit enhancement in reviewing the Official Statement to be utilized in the offering and final review thereof, including drafting the summaries of the applicable resolutions, loan agreement and other significant agreements relevant to the transaction.
5. The preparation of closing documents, an arbitrage certificate and bonds and coordination of, and attendance at, the closing.
6. The review of certified proceedings relating to the authorization of the bonds.
7. The delivery of an approving opinion and other supplemental opinions, addressed to DASNY, including, if applicable, an unqualified opinion as to the tax-exempt status of the bonds.
8. The preparation and filing of informational tax returns.
9. The preparation of a letter addressed to the Board of DASNY describing the transaction and making any required appearances before the Board of DASNY.
10. Representation of DASNY in a variety of pre- and post-financing matters including defeasances, reviewing borrower requests under the applicable financing documents and the Internal Revenue Code, advising DASNY in bankruptcy and other insolvency proceeding relating to bonds for which the Firm acted as bond counsel, assisting DASNY in post-issuance compliance matters, assisting DASNY in responding to inquiries from the Internal Revenue Service and the Securities and Exchange Commission and reviewing draft legislation relating to proposed financing programs.
11. Representing and/or assisting DASNY in actions or administrative proceedings commenced by or against DASNY, its members, officers and employees arising out of the performance of their respective duties and responsibilities, including without limitation matters arising under federal or state securities laws or the Internal Revenue Code.

Each Proposal for this panel will be evaluated based on the following criteria:

- a. A brief review of the experience of the Firm in the field of public finance in general, and as Bond Counsel, in particular.
- b. A brief description of the services provided by the Firm, with particular emphasis on public finance, applicable federal securities law, and tax expertise as it relates to the issuance of tax-exempt obligations by governmental issuers. Please state whether the Firm has represented any issuers similar to DASNY and if so, the types of services your Firm has provided to such issuers.
- c. A brief description of the types of financing structures in which the Firm has been involved as Bond Counsel, including fixed rate financings, variable rate financings, commercial paper

financings, letter of credit-backed financings, and financings insured by private insurers or secured by FHA mortgage insurance. Please indicate any areas in which you believe the Firm has special expertise as well as any unique, complex, or challenging issues addressed by your Firm that may be of benefit to DASNY.

- d. A brief description of the types of programs in which the Firm has acted as Bond Counsel, such as governmental purpose authority financings, higher education financings, health care and other not-for-profit organization financings and student loan financings. Please indicate any program areas in which you feel the Firm has special expertise.
- e. A brief review of the experience of the Firm in litigation or other actions or proceedings arising under federal or state securities laws or the Internal Revenue Code, together with a statement indicating whether your Firm has represented any municipal issuers before the Securities Exchange Commission or the Internal Revenue Service and if so, a general description of the nature of such representation.
- f. A description of the public finance and tax department of the Firm, the members, and years of experience of partners, associates, and paralegals in each area, and resumes of the partners and associates who would be assigned to Bond Counsel services for DASNY.
- g. Identification of governmental issuers represented by the Firm as Bond Counsel in the past five years.
- h. A statement confirming the capability of your Firm to deliver transcripts in both hard copy and electronic formats.
- i. Any other information that you feel would make your Firm's representation of DASNY superior to that of other recognized Bond Counsel. Please include a description of any new initiatives that you believe DASNY should consider to improve the services it currently provides to its clients and other eligible borrowers.

## **Appendix “B”**

### **Mandatory Services and Evaluation Criteria for Construction Litigation Counsel**

Mandatory Services for this panel include:

1. The examination of applicable laws.
2. Representing and/or assisting DASNY in State and Federal court in any construction law or other general litigation as directed. Such areas may include, but are not limited to, all forms of construction claims; competitive bidding and procurement issues; liens, surety, and construction labor union matters; personal injury, affirmative action, environmental and insurance matters.
3. Representing and/or assisting DASNY in actions or administrative proceedings commenced by or against DASNY, its members, officers and employees arising out of the performance of their respective duties and responsibilities, including Article 78 proceedings and similar actions related to the powers and duties of DASNY or other state governmental entities and matters arising under federal or state securities laws or the Internal Revenue Code.
4. Representing and/or assisting DASNY on extremely short notice, including appearances on behalf of DASNY in court.
5. Prepare pleadings, including responsive pleadings, memoranda of law and other papers necessary in any action that DASNY is a party.
6. Provide all pleadings, memoranda of law and other paper to DASNY attorneys and other staff as directed in a timely manner to permit review and comment.
7. Provide legal advice (in writing if so requested) to DASNY regarding construction law or other related areas of law.
8. Provide legal representation and/or assistance to the DASNY in negotiating settlements.
9. Provide legal representation and/or assistance in alternative dispute resolution forums.
10. Assist DASNY in undertaking a comprehensive review of its standard construction documents, and, to the extent necessary, assisting in the revision thereof.
11. Budget estimation, reporting as required, and participation in monthly status calls.
12. Perform any other legal services requested by DASNY in connection with matters concerning construction law or other related areas of law.
13. Perform forensic project record analysis and/or forensic accounting audit as needed.

Each Proposal for this panel will be evaluated based on the following criteria:

- a. A brief review of the experience of the Firm in the field of New York State construction litigation, and/or commercial and general litigation.
- b. A brief review of the experience of the Firm in the field of litigation in general and actions or administrative proceedings commenced by or against governmental entities, their members, officers, and employees arising out of the performance of their respective duties and responsibilities, including administrative proceedings and similar actions related to the powers and duties of the governmental entity and matters arising under federal or state securities laws or the Internal Revenue Code.
- c. A brief description of various types of projects where the Firm has acted as counsel to a public entity in negotiations or litigation involving construction projects or ancillary matters. Please

indicate any areas in which you believe your Firm has special expertise that especially qualifies it to serve as Construction Litigation/Commercial and General Litigation Counsel to DASNY.

- d. A brief description of the types of services (other than representation in litigation) that your Firm typically provides to its public and private construction clients. Please indicate any areas in which you believe the Firm has special expertise.
- e. A brief description of the construction and commercial/general litigation department within the Firm, the members, and years of experience of partners, associates and paralegals in the department and the resumes of the partners and associates proposed to be assigned to this engagement.
- f. Please provide any other information that you feel would make your Firm's representation of DASNY in construction, commercial and general litigation matters superior to that of other law firms. Please include a description of any new initiatives that you believe DASNY should consider to improve the services it currently provides to its construction clients.

## Appendix “C”

### Mandatory Services and Evaluation Criteria for Personal Injury Litigation Counsel

Mandatory Services for this panel include:

1. The examination of applicable laws.
2. Representing and/or assisting DASNY in State and Federal court in any personal injury or other related litigation as directed. Such areas may include, but are not limited to, all forms of personal injury litigation that might be brought against an owner of real property or the owner of a construction site; other personal injury litigation and litigation involving the insurance policies obtained by owners to mitigate the risk of personal injury actions against the owner.
3. Representing and/or assisting DASNY in administrative proceedings commenced by or against DASNY, its members, officers and employees arising out of the performance of their respective duties and responsibilities, related to all forms of personal injury litigation that might be brought against an owner of real property or the owner of a construction site; other personal injury litigation and litigation involving the insurance policies obtained by owners to mitigate the risk of personal injury actions against the owner.
4. Representing and/or assisting DASNY on extremely short notice, including appearances on behalf of DASNY in court or administrative proceedings.
5. Prepare pleadings, including responsive pleadings, memoranda of law and other papers necessary in any action or administrative proceeding in which DASNY is a party.
6. Provide all pleadings, memoranda of law and other papers to DASNY attorneys and other staff as directed in a timely manner to permit review and comment.
7. Provide legal advice (in writing if so requested) to DASNY regarding liability for personal injuries and other related areas of law.
8. Provide legal representation and/or assistance to the DASNY in negotiating settlements.
9. Provide legal representation and/or assistance in alternative dispute resolution forums.
10. Assist DASNY in undertaking a comprehensive review of its standard contract documents, and, to the extent necessary, assisting in the revision thereof.
11. Budget estimation, reporting as required, and participation in monthly status calls.
12. Perform any other services requested by DASNY in connection with matters concerning personal injury, property damage, or other related areas of law.
13. Representing the interests of DASNY’s customer agencies in certain circumstances at the specific request of DASNY.

Each Proposal for this panel will be evaluated based on the following criteria:

- a. A brief review of the experience of the Firm in the field of New York State personal injury litigation involving an owner of real property or an owner of a construction site.
- b. A brief review of the experience of the Firm in the field of personal injury litigation in general, and actions or administrative proceedings commenced by or against governmental entities, their members, officers, and employees arising out of the performance of their respective duties and responsibilities, including administrative proceedings and similar actions related to personal injuries occurring on real property owned by the government entity or on construction projects of such entity.

- c. A brief description of various types of projects where the Firm has acted as counsel to a public entity in negotiations or litigation involving personal injuries or ancillary matters. Please indicate any areas in which you believe your Firm has special expertise that especially qualifies it to serve as Personal Litigation Counsel to DASNY.
- d. A brief description of the types of services (other than representation in litigation) that your Firm typically provides to its public and private clients in this area. Please indicate any areas in which you believe the Firm has special expertise.
- e. A brief description of the personal injury litigation department within the Firm, the members, and years of experience of partners, associates and paralegals in the department and the resumes of the partners and associates proposed to be assigned to this engagement.
- f. Please provide any other information that you feel would make your Firm's representation of DASNY in personal injury litigation matters superior to that of other law firms. Please include a description of any new initiatives that you believe DASNY should consider to improve the services it currently provides to its clients.

## Appendix “D”

### Mandatory Services and Evaluation Criteria for Real Estate and Environmental Counsel

Mandatory Services for this panel include:

1. The examination of applicable laws.
2. The preparation and/or review of DASNY board resolutions, contracts of sale, deeds and other conveyances, and other related documents (including mortgage and building loan documents and other documents required under real estate financing programs) for real estate transactions.
3. Participation with DASNY, the seller or purchaser, title insurer, and any credit provider in structuring real estate transactions.
4. Coordination of, and attendance at, the closing.
5. Delivery of an appropriate opinion, if necessary, but this does not include an opinion regarding the title to parcel of land.
6. The preparation and filing of any real property transaction tax returns.
7. The preparation of a letter addressed to the Board of DASNY describing the transaction and making any required appearances before the Board of DASNY.
8. Reviewing draft legislation relating to real estate and environmental matters.
9. Representing and/or assisting DASNY in State and Federal court or before any administrative body in any real estate, environmental or related litigation or matter, including eminent domain proceedings, as directed.
10. Representing and/or assisting DASNY on extremely short notice, including appearances on behalf of DASNY in court.
11. Preparation of pleadings, including responsive pleadings, memoranda of law and other papers necessary in any action or proceeding where DASNY is a party.
12. Providing all pleadings, memoranda of law and other papers to DASNY attorneys and other staff as directed in a timely manner to permit review and comment.
13. Providing legal advice (in writing if so requested) to DASNY regarding lease procurement matters, provisions, other real estate matters, State Environmental Quality Reviews and environmental impact statements, and other environmental matters.
14. Representing or assisting DASNY in preparing documents required in connection with CEQR, SEQRA, New York City ULURP and the federal or State Historic Preservation Laws and regulations.
15. Providing legal representation and/or assistance to the DASNY in any other real estate or environmental matter.
16. Performing any other legal services requested by DASNY in connection with matters concerning real estate or environmental or other related areas of law which include historic preservation and zoning law.

Each Proposal for this panel will be evaluated based on the following criteria:

- a. A brief description of the services provided by the Firm, with particular emphasis on real estate, land use, eminent domain, and environmental law.

- b. A brief review of the experience of the Firm in the field of real estate, land use, eminent domain, and environmental law in general and New York State activity, in particular.
- c. A brief description of various types of projects where the Firm has acted as counsel to a public agency in negotiations, transactions, administrative proceedings, litigation, or other matters involving real estate (including acquisition, leasing, eminent domain, and condominium practice), CEQR, SEQRA, New York City ULURP proceedings, environmental and other related matters. Please indicate any areas in which you believe the Firm has special expertise.
- d. A brief description of any unique, complex, or challenging real estate or environmental issues involving a public agency addressed by your Firm that may be of benefit to DASNY.
- e. A description of the real estate, environmental practice, and litigation departments of the Firm, the members or partners, associates and paralegals in each area and years of experience, and resumes of the members and partners and associates who would be assigned to Real Estate and Environmental Counsel services for DASNY.
- f. Identification of public agencies represented by the Firm as real estate or environmental counsel in the past five years.
- g. Any other information that you feel would make your Firm's representation of DASNY in real estate or environmental matters superior to that of other law firms.

## Appendix “E”

### Mandatory Services and Evaluation Criteria for Labor and Employment Law Counsel

Mandatory Services for this panel include:

#### **Subcategory A – Labor/Management**

1. Advising DASNY and participating in the negotiation of collective bargaining agreements between DASNY and the unions representing its employees.
2. Advising and representing DASNY in connection with disciplinary proceedings, labor grievances, arbitrations and other matters arising under DASNY’s collective bargaining agreements.
3. Advising DASNY with respect to its employee handbook, its human resource policies and procedures and their implementation and its employee disciplinary and internal investigation procedures and their implementation.
4. Representing DASNY before the Public Employees Relation Board in improper practice proceedings and managerial confidential designation proceedings.
5. Representing and advising DASNY in matters arising under the Worker’s Compensation Law.
6. Conducting management training programs to assist DASNY supervisors in effectively performing their responsibilities as managers in compliance with applicable federal and state law.
7. Other labor management issues.

#### **Subcategory B – Title VII/EEO/Other Claims Management**

1. Representing DASNY in matters pending before the New York State Human Rights Division or the Equal Employment Opportunities Commission.
2. Rendering advice on the implementation of and compliance with federal laws such as Title VII of the Civil Rights the Age Discrimination in Employment Act, the Americans with Disabilities Act of 1990, as amended, the Family Medical Leave Act, the Fair Labor Standards Act, the Health Insurance Portability and Accountability Act, the Fair Credit Reporting Act, other labor/employment-related federal laws, and corresponding and/or additional state statutes, inclusive of representing DASNY in any litigation or administrative proceedings arising under any of the foregoing statutes.
3. Other compliance/claims management issues.

Each Proposal to perform the Mandatory Services for either or both subcategories of this panel will be evaluated based on the following criteria:

- a. A description of the Firm’s experience representing public and private clients in the area of labor and employment law.
- b. Examples of the types of engagements which the Firm has represented public employers in labor and employment law matters including collective bargaining negotiations.
- c. The experience and background of each partner, associate and paralegal who would be assigned to work with DASNY on labor and employment law matters.
- d. Any other information that you feel would make your Firm’s representation of DASNY in matters pertaining to labor and employment law superior to that of other law firms.

## Appendix “F”

### **Mandatory Services and Evaluation Criteria for Bankruptcy, Restructuring and Workout Counsel**

Mandatory Services for this panel include:

1. Examination of applicable laws.
2. Participation with DASNY, the borrower, title insurer, and any credit enhancement provider in structuring a workout plan.
3. Preparation and filing of any bankruptcy court or mortgage foreclosure proceedings.
4. Representing and/or assisting DASNY in State and Federal court or before any administrative body in any bankruptcy or mortgage foreclosure matter.
5. Preparing pleadings, including responsive pleadings, memoranda of law and other papers necessary in any action and proceeding that DASNY is a party.
6. Providing all pleadings, memoranda of law and other papers to DASNY attorneys and other staff as directed in a timely manner to permit review and comment.
7. Providing legal advice (in writing if so requested) to DASNY regarding workouts, bankruptcy, contractor bankruptcies foreclosure and/or corporate reorganizations.
8. Providing legal representation and/or assistance to DASNY in any other matter involving a not-for-profit client in financial distress.

Each Proposal for this panel will be evaluated based on the following criteria:

- a. A brief description of the services provided by the Firm, with particular emphasis on health care expertise and public finance as it relates to the issuance of tax-exempt obligations in New York State. Indicate the Firm’s experience with not-for-profit borrowers in financial distress, hospital/other workouts, bankruptcy, mortgage foreclosures and/or corporate reorganizations.
- b. A brief review of the experience of the Firm in the fields of bankruptcy law and mortgage foreclosures in general and in New York State, in particular.
- c. A brief description of various types of projects where the Firm has acted as counsel to a public agency in negotiations, transactions, administrative proceedings, litigation, or other matters involving not-for-profit borrowers in financial distress and other related matters. Please indicate any areas in which you believe the Firm has special expertise.
- d. A brief description of any unique, complex, or challenging bankruptcy or restructuring issues involving not-for-profit borrowers in financial distress addressed by your Firm that may be of benefit to DASNY.
- e. A description of the bankruptcy department of the Firm, the members or partners, associates and paralegals and years of experience of each, and resumes of the members or partners and associates who would be assigned to Bankruptcy, Restructuring and Workout Counsel services for DASNY.
- f. Identification of public agencies represented by the Firm as bankruptcy or workout counsel in the past five years.
- g. Any other information that you feel would make your Firm’s representation of DASNY in bankruptcy, restructuring or workout matters superior to that of other law firms.

## **Appendix “G”**

### **Mandatory Services and Evaluation Criteria for Emerging Firms**

Mandatory Services for this panel include:

1. Performing any of the Mandatory Services that may be required of a law firm serving as Bond Counsel, Construction Litigation Counsel, Personal Injury Litigation Counsel, Real Estate and Environmental Counsel, Labor and Employment Law Counsel, Bankruptcy Restructuring and Workout Counsel, or Special Legal Services Counsel in conjunction with any of the Firms serving on those panels.
2. Providing legal services to DASNY on specific transactions or other matters for which DASNY requires legal services able to be provided by the Firm.

Each Proposal for this panel will be evaluated based on the following criteria:

- a. A brief review of the experience of the Firm in general in those areas of law which enable it to perform the Mandatory Services set forth above.
- b. A description of the relevant practice groups of the Firm, the members or partners, associates and paralegals in each area and years of experience and resumes of the members and partners and associates who would be assigned to provide services to DASNY.
- c. Evidence of DED certification as a small business concern and/or minority or woman owned business enterprise (“MWBE”) pursuant to applicable State law.  
As an alternative to (c) above, evidence of certification from the Division of Service-Disabled Veterans’ Business Development of the Firm’s status as a certified service-disabled veteran-owned business enterprise.
- d. Any other information that you feel would qualify your Firm to serve on the panel of Emerging Counsel.

## Appendix “H”

### **Mandatory Services and Minimum Qualifications Special Legal Services**

Mandatory Services for this panel include:

1. The examination of applicable laws.
2. Representing and/or assisting DASNY in State and Federal court (or any other forum) in any special proceeding, mediation or general litigation as directed.
3. Representing and/or assisting DASNY on extremely short notice, including appearances on behalf of DASNY in court/other forums.
4. Preparing memoranda, analyses, contracts, and other documents relative to the representation of DASNY.
5. Preparing pleadings, including responsive pleadings, memoranda of law and other papers necessary in any action that DASNY is a party.
6. Providing all pleadings, memoranda of law and other papers to DASNY attorneys and other staff as directed in a timely manner to permit review and comment.
7. Providing legal advice (in writing if so requested) to DASNY regarding relevant areas of law.
8. Providing legal representation and/or assistance to DASNY in negotiating settlements.
9. Providing legal representation and/or assistance in arbitration and alternative dispute resolution forums.
10. Assisting DASNY in preparing and/or undertaking a comprehensive review of its standard documents, and, to the extent necessary, assisting in the revision thereof.
11. Performing any other legal services requested by DASNY in connection with matters concerning relevant areas of law.

Each Proposal for this panel will be evaluated based on the following criteria:

- a. A brief review of the experience of the Firm in the pertinent Special Legal Services field of law or area of practice.
- b. A brief description of various types of projects where the Firm has acted as counsel to a public or private entity in negotiations or litigation involving the applicable Special Legal Services field or area of practice. Please indicate any areas in which you believe your Firm has special expertise that especially qualifies it to serve as Special Legal Services Counsel to DASNY.
- c. A brief description of the types of Special Legal Services that your Firm typically provides to its public and private clients. Please indicate any areas in which you believe the Firm has special expertise.
- d. A brief description of the department within the Firm, the members, and years of experience of partners, associates and paralegals in the department and the resumes of the partners and associates proposed to be assigned to this engagement

Please provide any other information that you feel would make your law firm’s representation of DASNY in Special Legal Services matters superior to that of other law firms. Please include a description of any new initiatives that you believe DASNY should consider to improve the services it currently provides to the agencies, institutions, public authorities, and other third parties it serves.