



# **Construction Management Technical Advisor**

## **Request for Proposal RFP# 7591**

**Date: January 18, 2023**

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Attachments:

- a. Sample Contract
- b. Omnibus Certification
- c. W-9 Form
- d. Classification and Rate Form
- e. DASNY Multiplier Form
- f. Sample Insurance Certificate & Requirements
- g. MWBE and SDVOB Utilization Plan
- h. Diversity Questionnaire
- i. Base and Total Cost Form

## **Section 1 - General Information:**

### **1.1 Introduction to DASNY**

The Dormitory Authority State of New York (DASNY) is a public benefit corporation of the State of New York empowered by Titles 4 and 4-B of the Public Authorities Law (the “Act”), to provide design and project management services to, and to issue its bonds, notes and other obligations, for a wide variety of public purposes. Under the Act, DASNY provides a multitude of services in various forms in connection with the design, construction and financing of capital facilities for State University of New York, including dormitories and educational facilities; City University of New York Senior Colleges; Community Colleges; Boards of Cooperative Educational Services; Cities and Counties with respect to Court Facilities and combined occupancy structures, as defined by law; the Department of Education of the State of New York with respect to certain facilities under its jurisdiction; other State and local governmental entities; independent colleges and universities; facilities for the aged; certain not-for-profit hospitals and nursing homes, as well as a wide variety of other not-for-profit organizations specifically described in the Act.

### **1.2 Introduction to the NYSDOH**

The New York State Department of Health (NYSDOH) has been overseeing the health, safety, and well-being of New Yorkers since 1901 – from sanitation and vaccinations to utilizing new developments in science as critical tools in the prevention and treatment of infectious diseases.

The Mission, Vision, and Values are listed below:

- **Mission:** protect, improve and promote the health, productivity and wellbeing of all New Yorkers.
- **Vision:** New Yorkers will be the healthiest people in the world - living in communities that promote health, protected from health threats, and having access to quality, evidence-based, cost-effective health services.
- **Values:** Dedication to the Public Good, Innovation, Excellence, Integrity, Teamwork, Efficiency.

### **1.3 Purpose**

DASNY seeks proposals from qualified consultants to provide Technical Advisor/Subject Matter Expert (SME) services to support DASNY during the design, pre-construction, construction and commissioning phases for a new \$750 million state-of-the-art public health laboratory on the Harriman State Office Campus in Albany, N.Y. to serve New York State’s public health needs. The objective of this procurement is to establish a contract with a consultant to provide the required services to ensure that the needs of our client are met. In addition, it is DASNY’s intent to provide opportunities to Minority-Owned, Women-Owned, and Service-Disabled Veteran-Owned Businesses as practicable.

### **1.4 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 discretion. In the event of a change, such modifications will be posted on the DASNY website at [www.dasny.org](http://www.dasny.org) by issue of an addendum. **Proposers responding to this RFP shall be solely responsible for periodically checking the website throughout the RFP process for such changes or updates. No individualized notices shall be provided.**

<u>Event</u>	<u>Date</u>
Issuance of RFP	01/18/2023
Deadline for RFP Questions	01/26/2023 (3:00 PM)
Post Responses to RFP Questions	01/27/2023
Proposal Due Date	02/15/2023 (3:00 PM)
Interviews/Presentations (week of)	03/20/2023
Notice of Award (no earlier than)	03/24/2023

## 1.5 Inquiries

All inquiries concerning this RFP or any other aspects of this procurement must be emailed to: [UpstateRFPCoordinator@dasny.org](mailto:UpstateRFPCoordinator@dasny.org) during the Q&A period identified. Verbal and telephonic inquiries are prohibited. In order to provide DASNY with sufficient time to reply, questions must be received no later than **3:00 pm on January 26, 2023**. Responses to questions will be periodically posted to DASNY's website during the Q&A period. A final record of the questions and associated responses will be posted to DASNY's website, [www.dasny.org](http://www.dasny.org) on **January 27, 2023**. Proposers responding to this RFP shall be solely responsible for checking the website throughout the RFP process for responses to questions, and no individualized notices shall be provided.

## **Section 2 – Project Information:**

### 2.1 Project Background

The New York State Life Sciences Public Health Laboratory will be occupied by the Wadsworth Center, the laboratory division of the NYSDOH. The Wadsworth Center is one of the nation's preeminent State public health laboratories, providing a broad range of highly technical and specialized clinical and environmental diagnostic, surveillance, and research activities as well as laboratory certification and educational programs, all directed towards protecting the health and well-being of the citizens of New York State. The Wadsworth Center is a leader in the development and application of new public health technologies. Pioneering applied and basic public health research and development completed at the Wadsworth Center has broad public health impact well beyond the State of New York, frequently impacting the establishment of national and international standards for public health policy and practice.

The New York State Life Sciences Public Health Laboratory will be a large 500,000 GSF highly complex laboratory building that will serve the public health needs of the NYSDOH for the next 50 years. The laboratory will include many space types. Laboratory spaces will include BSL-2 biology labs with a major focus on diagnostic and surveillance testing of clinical and environmental samples for viral, bacterial, fungal, and parasitic pathogens. Specialized infectious disease labs include high-containment standard BSL-3, enhanced BSL-3+, and BSL-3 necropsy labs as well as insectary ACL-2 and ACL-3 labs. Laboratory spaces will also include extensive chemistry labs with a major focus on diagnostic and surveillance testing of clinical and environmental samples for hazardous organic compounds and inorganic trace metals. Specialized chemistry labs include particulate clean rooms and nuclear chemistry labs. Laboratory support spaces will include instrumentation labs, environmental rooms, light and electron microscopy imaging labs, training labs, production and decontamination autoclaves, glassware cleaning and media production services, a warehousing facility, a large freezer storage area, and facilities management maintenance and repair shops. Amenities space will include offices, conference rooms, classrooms, collaboration spaces, a large auditorium, kitchenettes, and a cafeteria. A central utility plant will be located within the building and will provide heating, cooling and electrical power needs. The plant will be fully electrified except for backup emergency generation and process loads.

The project delivery method is Design-Build. Design is planned to begin in the first quarter of 2023 and construction is planned to begin in the second quarter of 2024 with a planned substantial completion in the third quarter of 2027 (approximately 40 months).

## **2.2 Project Scope of Services**

A detailed scope of services is included in Appendix A of the attached Sample Contract

## **2.3 Qualifications and Certification Requirements**

- experience providing similar advisory services with capital projects for new construction of similar size, dollar value, scope, and complexity;
- an established and well documented QA/QC program;
- employ experienced staff with thorough knowledge of their area(s) of expertise;
- ability to meet deadlines;
- at least one New York State licensed architect or engineer employed by the firm or subconsultant team;
- experience with respect to meeting goals for Minority and Women Owned Business (“M/WBE”) participation through design and construction phases of the project and provided an anticipated approach for maximizing MWBE participation;
- strong commitment to diversity as confirmed by firm’s Diversity Questionnaire;
- successfully completed projects performed under a Project Labor Agreement (PLA);
- prior experience involving LEED certified projects or other sustainable programs; and
- project cost estimating capabilities and experience with analysis of Guaranteed Maximum Price (GMP) submissions for cost accuracy and reasonableness.

## **2.4 Project Construction Budget**

The estimated construction budget for this project is \$750 million.

## **2.5 Project Management Software**

Primavera P6™ (current version) or other similar software, approved by DASNY, may be utilized as the scheduling tool. Other software approved by DASNY may be utilized as the management tools to plan, track, and record all project-related schedules, correspondence, submittals, transmittals, meeting minutes, requests for information, daily logs, project costs, change management, and reporting. In addition, DASNY at their option will deploy these systems from available web-based and/or Application Service Provider (ASP) system(s). The selected firm responding to this RFP shall engage these systems, hereinafter referred to as “The Project Management System”, for all project deliverables. Should any of the above-mentioned software systems be replaced during the term of this engagement, the selected firm shall utilize the replacement Project Management Software system for all project deliverables at no additional cost to the Owner.

## **Section 3 - Content of Technical Proposal:**

### **3.1 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 with cover pages that correspond with each of the numbered tabs below. Your technical proposal must contain sufficient information to assure DASNY of its accuracy.

**Failure to meet or to provide the required information in this Section 3 may result in a proposal being rejected and a consultant disqualified from further consideration.**

**Tab 1. Cover Letter**

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 contact name, title, telephone number, and email address for each sub-consultant who will perform work under this contract.
- c. The names and titles of the primary staff proposed to provide services relating to this RFP.
- d. A statement to the effect that your firm and subconsultant team is willing to perform all services identified in Section 2.2 above as outlined in Appendix A of the attached Sample Contract and will abide by the terms of the RFP, including all attachments.
- e. Signature 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. If the proposer is a joint venture, the proposal shall be signed by the joint venture. Anyone signing the proposal as an agent shall file with it, legal evidence of his or her authority to execute such proposal.

**Tab 2. Firm and Subconsultant Team (10-Page Limit – Single Sided)**

Provide the following information related to your firm and subconsultant team:

- a. An organizational chart describing the organizational structure of the proposed firm and subconsultant team members and their intended roles and responsibilities.
- b. A description of your firm and subconsultant team's previous experience working together.
- c. A detailed description of your firm and subconsultant's approach to collaborating with the project team to ensure a streamlined and well-coordinated project.

**Tab 3. Project Experience (20-Page Limit – Single Sided)**

Describe your firm and subconsultant team's experience providing the required services by providing the following:

- a. Provide a description of your firm and subconsultant team's experience providing similar advisory services including recent relevant project experience, to the public and private sector.

- b. Three (3) project examples, from within the past 12 years, illustrating the firm and/or subconsultant team's experience providing services for projects of similar size and scope, particularly including Design-Build delivery, and for a variety of project phases.

Project examples must include the following information:

- Official project name and address; Summary of the scope of services provided;
  - Explanation of challenging, complex, or unique aspects of the projects in relation to the services provided;
  - All team members both corporate and individual involved and their role in the project;
  - The timeframe in which your firm and/or subconsultant's work was performed;
  - Overall project monetary value;
  - Value of services provided by your firm, subconsultant(s), and subcontractor(s);
  - Name and contract information of owner; and
  - Identification of a project contact with knowledge of the services provided by your team (if different than owner) excluding DASNY employees with their name, title, and phone number.
- c. Provide five (5) examples of project cost estimating capabilities particularly including analysis of Guaranteed Maximum Price (GMP) submissions for cost accuracy and reasonableness.
- d. 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. Firm and Subconsultant Team Approach (6-page limit - Single Sided)**

Describe your firm and subconsultant team's approach to providing the required services by providing the following:

- a. Provide a detailed description of your firm and subconsultant team's approach to providing the requested scope of services.
- b. Provide a detailed description of your firm and subconsultant team's approach to evaluating the design services with regard to alternative technical concepts (ATC) and constructability.
- c. Provide a description of how your firm and subconsultant team will monitor the allotment and performance of work in order to achieve an efficient administration of the project.

**Tab 5. M/WBE and SDVOB Utilization**

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.

DASNY is committed to diversity and equal employment opportunities among its contractors, consultants and vendors. It is the policy of DASNY to maximize opportunities for the participation of Minority-Owned, Women-Owned (M/WBE), and Service-Disabled Veteran-Owned Businesses (SDVOB) firms as bidders, subcontractors and suppliers on projects. The selected Respondent shall use good faith effort to provide for meaningful participation by M/WBE and SDVOB firms in the work where feasible.

Illustrate your firm's commitment to utilizing M/WBE and SDVOB's by providing the following:

- a. A description of how your firm approaches M/WBE and SDVOB utilization by providing a detailed narrative on how your firm utilizes M/WBE and SDVOB firm's and any programs your firm has implemented to promote the use of M/WBE and SDVOB firms.
- b. A completed Utilization Plan, included in this RFP as an attachment, listing all proposed ESD Certified M/WBE sub-consultants, sub-contractors, and suppliers, OGS Certified Service-Disabled Veteran-Owned Businesses (SDVOB) sub-consultants, sub-contractors, and suppliers, and Non-M/WBE sub-consultants, sub-contractors, and suppliers you "may" use if selected for this contract. **No dollar amounts should be entered at this time.** Upon selection, a new plan with dollar amounts will be required. The aspirational goals for this contract are *18% MBE, 12% WBE, and 6% SDVOB*. The goals refer to the percentage of utilization of your M/WBE and SDVOB sub-consultants, sub-contractors, and suppliers.

**Tab 6. Firm Diversity**

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.

Please disclose information regarding the diversity within your firm by providing the following:

- a. A narrative explaining the Respondent's approach and commitment to diversity within the work environment and an overview of the Respondent's current programs in diversity/inclusion.
- b. A completed Diversity Questionnaire included in this RFP as an attachment, which elicits information about the firm total work force, broken down by specific ethnic background and gender, and also a staffing plan of the anticipated work force to be utilized on this engagement with DASNY. The firm should also include information on its current programs in diversity/inclusion. This questionnaire elicits information about each responding firm to verify that its work environment and team makeup specific to this opportunity demonstrates a strong commitment to diversity.
- c. By responding to this RFP, each Proposer acknowledges that:
  - i. The Proposer will not discriminate against any employee or applicant for employment because of race, creed, color, gender, religion, national origin, military status, 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.

- ii. The Proposer 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, gender, religion, national origin, military status, age, disability, genetic disposition or carrier status, domestic violence victim status, or marital status.

#### **Tab 7. Additional Information**

The proposer must also provide written 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 Exhibit A, “Code of Business Ethics - Certification” included in the attached DASNY Omnibus Certification).

#### **Section 4 - Content of Cost Proposal:**

##### **4.1 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 with cover pages that correspond with each of the numbered tabs below. Your cost proposal must contain sufficient information to assure DASNY of its accuracy.

#### **Tab 1. Cover Letter**

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. A statement to the effect that the price quoted is an irrevocable offer good for 120 days.
- c. 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 cost proposal that contains an unsigned cover letter.

**Tab 2. Overhead and Profit Multiplier**

Provide documentation indicating your firm's Overhead and Profit Multiplier and that of your sub-consultants (if any) by using **one** of the following methods:

- a. Submit an approved Standard Cost Proposal Form or a previously approved multiplier from another State Agency.
- b. Submit a request for a multiplier 2.5 or less on your firm's letterhead.
- c. Submit the attached DASNY Multiplier Form with a current financial statement for a multiplier greater than 2.5.
- d. Submit an approved FARs audited financial statement from your firm's most recent year-end.

**Tab 3. Classifications and Rates**

Complete the attached Classification & Rate Form to support the unloaded salaries and rates of your employees under this contract. If submitting an approved Standard Cost Proposal Form, a Classification & Rate Form is not required.

**Tab 4. Base & Total Cost**

Provide estimated manpower requirements and costs associated with performing the identified Scope of Services, as per the Base & Total Cost Spreadsheet included as an attachment to this RFP. A final total should be included.

**Section 5 – Content of Administrative Proposal:**

The following is a list of required information that must be provided by the proposer **as separate, individual electronic files**. The forms must contain sufficient information to assure DASNY of its accuracy.

- a. Proposers shall submit a Vendor Responsibility Questionnaire (“VRQ”) in accordance with Section 12 of this RFP. DASNY requires vendors to file the VRQ online via the New York State VendRep System (the “System”). Proposers must provide a copy of the certification page to DASNY. To enroll in and use the System, see the System Instructions at [http://www.osc.state.ny.us/vendrep/vendor\\_index.htm](http://www.osc.state.ny.us/vendrep/vendor_index.htm) or go directly to the VendRep System online at <https://portal.osc.state.ny.us>.
- b. A completed Omnibus Certification form included in this RFP as an attachment.
- c. 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.
- d. Identify any questions, comments, and objections to the Scope of Services, outlined in Appendix A, and contract language of the attached Sample Contract for DASNY's review and consideration.

- e. Provide a statement indicating your firm is able to obtain the required insurances as listed in the attached Sample Insurance Certificate & Requirements and Article X of the Sample Contract.

## **Section 6 - 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 firm's 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.

### **6.1 Preliminary Review**

DASNY reserves the right to reject and return to the proposer all proposals received after the RFP due date and time. All proposals will be reviewed to determine if they contain all required submittals specified in Sections 3 and 4. Incomplete proposals may be rejected.

### **6.2 Evaluation**

Proposals will undergo an evaluation process conducted by an Evaluation Committee selected by DASNY. The Evaluation Committee will evaluate the proposals based upon the criteria for selection set forth below. The firm and their subconsultant team will be selected to meet the anticipated business needs of DASNY, to further DASNY's mission to increase MWBE and SDVOB utilization and participation, and also provide opportunities to new firm's that have not previously contracted with DASNY.

### **6.3 Criteria for Selection**

This will be a qualification-based selection taking into consideration only the information provided in the Technical Proposal. Each Proposal will be evaluated for competency, completeness and responsiveness based on the Proposer's expertise, technical qualifications, and RFP response in relation to the evaluation criteria established by this RFP.

The Evaluation Committee shall consider the following evaluation criteria:

- a. Firm and Subconsultant Team
- b. Project Experience
- c. Firm and Subconsultant Team Approach
- d. M/WBE and SDVOB Participation
- e. Firm Diversity

## 6.4 Interviews

DASNY reserves the right to determine whether interviews will be necessary. The purpose of the interview is to further document the proposer's ability to provide the required services and to impart to the Evaluation 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 Evaluation Committee prior to the interview.

## 6.5 Final Evaluation

Upon conclusion of the evaluation process, the highest scoring Proposers able to provide the required services and meet the business needs of DASNY will be selected by the Evaluation Committee.

## 6.6 Recommendation and Approval

The Evaluation Committee will make a recommendation for tentative Contract award. Upon approval by DASNY, a formal notification of tentative Contract award will be issued.

## **Section 7 - Submission of Proposals:**

### 7.1 Submission of Technical and Cost Proposal

DASNY will be accepting electronic proposals only. **Proposals will be accepted electronically on or before 3:00 pm on the proposal due date.** Follow the directions below to upload your proposal electronically. Any technical issues or questions should be directed to the Designated Representative for the procurement via email prior to the due date of the RFP. **It is strongly encouraged to request access to the site 48 hours before the due date.** DASNY may not be able to assist proposers with troubleshooting errors if submissions are not made in a timely manner.

- a. Please navigate to the following link to request access to **SharePoint Site: RFP 7591 Construction Management Technical Advisor**
  - i. Provide the requested information through the form including firm name, contact name, contact email, and additional contacts (if any) from your firm that may require access to submit the RFP responses through the SharePoint site.
  - ii. Please request access at a minimum of 48 hours in advance and ensure access to the site works correctly.
  - iii. An expression of interest does not qualify as a request for access. Please ensure that your firm explicitly requests access using the described procedure.
1. You will receive an email from the Designated Representative with a link to a Microsoft SharePoint site: "RFP 7591 – Construction Management Technical Advisor."

2. 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 RFP 7591 – Construction Management Technical Advisor 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.

Upload all required documents in PDF Format. Please save each proposal as follows to the applicable subfolder:

- a. Technical Proposal:
    - i. Save file as: **RFP 7591 - Construction Management Technical Advisor -Tech-  
“enter your firm’s name here”**
    - ii. Click “Upload” or drag and drop
  - b. Cost proposal:
    - i. Save file as: **RFP 7591 - Construction Management Technical Advisor - Cost-  
“enter your firm’s name here.”**
    - ii. Click “Upload” or drag and drop
  - c. Administrative Proposal:
    - i. Save file as: **RFP 7591 - Construction Management Technical Advisor -VRQ-  
“enter your firm’s name here.”**
    - ii. Click “Upload” or drag and drop
3. 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”
    - b. The submitted document will remain private and will not be visible to the other proposers throughout the procurement process.

The SharePoint Site RFP 7591 – Construction Management Technical Advisor RFP site will close at **3:01 PM on the proposal due date**. Any questions or issues on submitting must be addressed to the Designated Representative for the Project before that time using the email in Bullet 1. Please ensure you give yourself enough time for uploading all files.

## **Section 8 - Important Information Affecting Proposers:**

### **8.1 Proposal Requirements**

1. All inquiries regarding this RFP should be addressed to the following individual:

Rachel Scaccia, Contract Administrator

Email: [UpstateRFPCoordinator@dasny.org](mailto:UpstateRFPCoordinator@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 8.1.1 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 8.1.1 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. If awarded the contract, the proposer shall not be entitled to additional compensation or time by reason of the error or its late correction.
5. A proposer indicates its acceptance of the provisions and conditions enumerated in this RFP by submitting a proposal.

## **8.2 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 8.1.1 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.

## **8.3 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 or proposed sub-consultants assigned to provide services on this project and to require their replacement at any time. The proposer shall obtain the written approval of DASNY of changes to the technical proposal after it is submitted, including any changes with respect to sub-consultants. DASNY shall have the right to reject any proposed change to the proposer's technical proposal.
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 teams selected as finalists.
8. To accept a proposal for the engagement containing other than the lowest cost proposal.
9. To interview 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 contract with more than one firm.

#### **8.4 Contractual Requirements**

##### **1. Contract**

- a. By submitting a proposal, the successful proposer agrees to reference the RFP as part of the 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 client 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 and DASNY will require the mutual consent of the successful proposer 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 9 – Negotiation:**

After completion of the selection process, DASNY will commence finalization of the project scope and fee negotiations with the selected firm (s).

#### **Section 10 – Notification:**

Upon completion of the selection process, DASNY will notify all firm 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 11 – Insurance**

The successful proposer will be required to comply with the Insurance requirements located in Article X of the attached Sample Contract.

#### **Section 12 – Vendor Integrity and Executive Order 16**

##### Vendor Responsibility

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 [http://www.osc.state.ny.us/vendrep/vendor\\_index.htm](http://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).

##### Executive Order 16

On March 17, 2022, Governor Kathy Hochul issued Executive Order No. 16 (EO 16), which states: “All Affected State Entities are directed to refrain from entering into any new contract or renewing any existing contract with an entity conducting business operations in Russia.” Pursuant to EO 16, the Proposer is required to certify that the Proposer is not an ‘entity conducting business operations in Russia.’ Please confirm by completing and signing the Omnibus Certification included in this RFP as Attachment b.



**Section 13 - 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 the §87(2) of the FOIL Law.

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 14 – Term of Engagement:**

The term of the contract shall be for a period of four (4) years.