



**Homes and
Community Renewal**

Request for Proposals for Legal Counsel Services

Issuance Date: March 16, 2023

Submission Deadline: ~~April 25, 2023,~~

April 28, 2023 12:00pm, EST

Number: HCR-RFP-230316

**NEW YORK STATE HOUSING FINANCE AGENCY
STATE OF NEW YORK MORTGAGE AGENCY
STATE OF NEW YORK MUNICIPAL BOND BANK AGENCY
TOBACCO SETTLEMENT FINANCING CORPORATION
HOUSING TRUST FUND CORPORATION
NEW YORK STATE AFFORDABLE HOUSING CORPORATION
641 LEXINGTON AVENUE • NEW YORK, NEW YORK 10022**

Application Coversheet

Attach this form to the top of your proposal.

APPLYING FOR: (Check all Practice Areas that may apply)

REAL ESTATE

- Real estate finance and lending.
- Tax issues affecting real estate transactions.
- General real estate law.

HOUSING

- Fair housing laws.
- Federal and New York State housing subsidies.
- Low-income housing tax credits (State and Federal).

SECTION 8/FEDERAL HOUSING PROGRAMS

- Federal rules and regulations for Section 8 Project Based Assistance, public housing, and Housing Choice Vouchers, as well as for other forms of Federal and New York State rental assistance.

LAND USE AND ZONING

- Land-use and zoning laws, building codes and regulations, and legal principles in New York State and elsewhere, including New York State constitutional and statutory restrictions (e.g., Municipal Home Rule Law), and legal precedents relating to exclusionary zoning, smart growth.

FORECLOSURE AND BANKRUPTCY

- Foreclosure and/or loan workout including loan restructuring and renegotiation of the Agencies' mortgage loans, in cases where loans are in default or in danger of default.
- Knowledge of bankruptcy law.

COOP/CONDOMINIUM

- Cooperative and condominium law.

LABOR

- Labor matters arising in the public sector, with particular emphasis on experience in labor negotiations involving New York State Public entities.
- Discrimination matters.
- Collective bargaining experience.
- Litigation involving labor and employment matters.

MWBE and SDVOB Law

- Federal and New York State MWBE and SDVOB law, rules and regulations.

CONTRACTS

- Negotiations of contracts, leases, and similar instruments.
- Federal acquisition regulations (“FAR”), including procurement rules, bid protests, and other Federal contracting requirements and procedures.
- New York State Procurement Law, including New York State Finance Law and New York State Public Authority Law.

LITIGATION

- Experience representing clients in litigation or legal proceedings (e.g., bond litigation, securities litigation, investigations or other civil or criminal proceedings, class action proceedings).

ENVIRONMENTAL/SUSTAINABILITY

- Environmental law issues, compliance and liability.
- Sustainability issues and Low-Income Home Energy Assistance Program experience.

INSURANCE

- Experience in insurance and related liability issues, with particular emphasis on insurance for real estate and projects and insurance for corporate and governmental entities.

GOVERNANCE

- Corporate governance as relates to New York State government entities.

ADVERTISING

- Advertising, copyright and trademarking.

IMMIGRATION

- Immigration law and regulations.

INFORMATION TECHNOLOGY/IT

- Information technology law for general IT contract and security contracts.

DATE OF APPLICATION: _____

GENERAL INFORMATION ON FIRM:

Legal Name of Firm:

Firm's Mailing Address:

Firm's Website:

Firm's Main Telephone Number (including area code):

Firm's Federal Tax ID Number:

Firm's MWBE Registration Number (if applicable):

Indicate name(s) of MWBE subcontractor(s) (if applicable):

Firm's Service-Disabled Veteran-Owned Business (SDVOB) Registration Number (if applicable):

Indicate name(s) of SDVOB subcontractor(s) (if applicable):

MAIN CONTACT INFORMATION FOR THIS PROPOSAL:

Please list the individual that will be the main contact *regarding this proposal*:

Contact Name:

Contact Telephone Number (including area code):

Contact E-mail Address:

Contact Facsimile Number (including area code):

PRINCIPAL IN CHARGE:

Please list the primary staff person(s) who will provide services to the Agencies. Attach additional sheets if necessary.

Contact Name:

Contact Telephone Number (including area code):

Contact E-mail Address:

Contact Facsimile Number (including area code):

ADDITIONAL CONTACTS (if applicable):

Contact Name:

Contact Telephone Number (including area code):

Contact E-mail Address:

Contact Facsimile Number (including area code):

Contact Name:

Contact Telephone Number (including area code):

Contact E-mail Address:

Contact Facsimile Number (including area code):

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NEW YORK STATE AFFORDABLE HOUSING CORPORATION**

**REQUEST FOR PROPOSALS
FOR
LEGAL COUNSEL SERVICES**

IMPORTANT NOTICE: A Restricted Period under the Lobbying Procurement Law is currently in effect for this procurement process and will remain in effect until approval of the Contract(s). Proposers are prohibited from Contacts (*i.e., communications that are an “attempt to influence” the procurement process as further specified in Exhibit A*) related to this procurement process with any employee of the New York State Housing Finance Agency (“HFA”), State of New York Mortgage Agency (“SONYMA”), State of New York Municipal Bond Bank Agency (“MBBA”), Tobacco Settlement Financing Corporation (“TSFC”), Housing Trust Fund Corporation (“HTFC”) and New York State Affordable Housing Corporation (individually or collectively “Agency” or “Agencies”), other than the Designated Contact Officer listed below.

Lobbying Law Designated Contact Officer:

Alejandro J. Valella, Vice President and Deputy Counsel
New York State Homes & Community Renewal
641 Lexington Avenue, 5th Floor
New York, New York 10022
Alex.Valella@hcr.ny.gov

If you have inquiries regarding this request for proposal or would like to contact the Agencies regarding issues not relating to Lobbying Procurement Law Contacts, please forward inquiries via electronic email to Lisa G. Pagnozzi or Vanessa Lepe-Mora at ContractUnitInfo@hcr.ny.gov .

Further information regarding the Agencies’ Lobbying Procurement Law policies is available in the [Agencies’ Standard Clauses and Requirements for Solicitations](#), hyperlinked herein as Exhibit A.

1. Introduction

[New York State Homes and Community Renewal](#) (“**HCR**”) consists of all the major housing and community renewal agencies of the State of New York (“**State**” or “**NYS**”), including HFA, SONYMA, MBBA, TSFC, HTFC and AHC. HCR includes other agencies not involved in this request for proposals (“**RFP**”) process.

2. Purpose

The Agencies request proposals and statements of qualifications (“**RFP**”) from law firms providing legal services in New York State. The purpose of this solicitation is to pre-qualify law firms (“**Firms**”) as eligible to represent the Agencies, from time to time, in a variety of legal matters. THIS SOLICITATION IS NOT FOR BOND COUNSEL SERVICES. Firms will be eligible for retainer that may arise during the next 3- 5 years beginning on or about July 17, 2023. This solicitation seeks to replace, not supplement, the Agencies’ prequalified list of Firm(s) (excluding bond counsel lists). Accordingly, Firms on any existing Agency counsel list (other than the Agencies’ bond counsel list) must, if they wish to continue to be pre-qualified, respond to this RFP.

3. Overview of the Agencies

The Agencies are public benefit corporations of the State of New York, co-located and co-administered from their New York City (“**NYC**”) office.

HFA, SONYMA, MBBA and TSFC actively participate in the issuance of their respective bonds and financings and Agency staff supervises each step of the financing process. AHC conducts a State-wide grant program also supervised by Agency staff. HTFC provides for community development through the construction, development, revitalization and preservation of low-income housing, the development and preservation of businesses, the creation of job opportunities, and the development of public infrastructure and facilities.

More detailed information relating to the Agencies and their respective programs may be found at the [Agencies’ website](#), hyperlinked herein.

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3.1 New York State Housing Finance Agency

The [New York State Housing Finance Agency](#) is a public benefit corporation created in 1960 to finance low- and moderate-income rental housing. HFA issues taxable and tax-exempt bonds to provide mortgage loans to developers of affordable multifamily rental housing. HFA's mission is to create and preserve high quality affordable multifamily rental housing that serves communities across the State of New York.

3.2 State of New York Mortgage Agency

The [State of New York Mortgage Agency](#) is a public benefit corporation, created in 1970, to provide single-family homeownership opportunities for low- to moderate-income New Yorkers. The Agency funds its mortgage lending activities through the issuance of taxable and tax-exempt bonds.

3.3 State of New York Municipal Bond Bank Agency

The [State of New York Municipal Bond Bank Agency](#) was created in 1972 as a public benefit corporation to help municipalities gain access to the capital markets. MBBA has the authority to issue bonds and use the proceeds to purchase bonds and notes issued by local governments to finance public improvements.

3.4 Tobacco Settlement Financing Corporation

The [Tobacco Settlement Financing Corporation](#), created in 2003 as a subsidiary of MBBA, monetizes the State's Tobacco Settlement Revenues. Pursuant to the Tobacco Settlement Financing Corporation Act, TSFC was authorized to issue bonds in an aggregate principal amount not to exceed \$4,200,000,000 (excluding costs of issuance and refunding bonds). TSFC's authority to issue bonds, other than refunding bonds, expired on June 30, 2004. TSFC used its total new money bond authority through bond issuances in 2003. Since then, it has issued refunding bonds in 2008, 2011, and 2013. TSFC has no bonds outstanding.

3.5 Housing Trust Fund Corporation

The Housing Trust Fund Corporation was established as a subsidiary public benefit corporation of the New York State Housing Finance Agency. HTFC's mission is to further community development through the construction, development, revitalization and preservation of low-income housing, the development and preservation of businesses, the creation of job opportunities, and the development of public infrastructure and facilities.

3.6 New York State Affordable Housing Corporation

The New York State Affordable Housing Corporation, a subsidiary of HFA, creates homeownership opportunities for low- and moderate-income families by providing grants to governmental, not-for-profit and charitable organizations to help subsidize the cost of newly constructed houses and the renovation of existing housing.

4. Assessment of Practices relating to Diversity and Service-Disabled Veteran Owned Business Enterprises (“SDVOBs”)

The Agencies have determined, pursuant to New York State Executive Laws Article 15-a (“**Article 15-A**”) and Article 17-b (“**Article 17-B**”), respectively, that the assessment of participation by minority-and/or women-owned business enterprises (“**MWBEs**”) (assessment of participation by MWBEs hereinafter referred to as “**Diversity**”) and SDVOB practices of Firms (“**Proposers**”) responding to this RFP is practical, feasible, and appropriate.

4.1 Minority and/or Women Owned Business Enterprise Participation

The Agencies are committed to awarding contracts to firms that are dedicated to Diversity and provide high-quality services. The Agencies strongly encourage Firms that are certified by the State as MWBEs to submit responses to this RFP. All MWBE Firms submitting proposals to this RFP should be registered as such with the State’s Empire State Development (“**ESD**”).

The Agencies are required to implement the provisions of Article 15-A and 5 NYCRR Parts 142-144 (“**MWBE Regulations**”) for all Agency contracts, as defined therein, with a value in excess of \$25,000. The Agencies strongly encourage joint ventures of MWBE Firms with majority Firms and MWBE Firms with other MWBE Firms. For assistance identifying MWBE partners, review the [list of certified State certified MWBEs](#), hyperlinked herein.

For purposes of this solicitation, the Agencies hereby establish an overall goal of 30% of total contract expenditures for MWBE participation, 15% for minority-owned business enterprises (“**MBEs**”) and 15% for women-owned business enterprises (“**WBEs**”).

4.2 Service-Disabled Veteran-Owned Business Enterprise Participation

The Agencies are committed to awarding contracts to service-disabled veteran-owned business enterprises that provide high-quality services. The Agencies strongly encourage Firms that are

certified as SDVOBs to submit responses to this RFP. All SDVOB Firms submitting proposals to this RFP should be certified with the State’s Office of General Services (“OGS”).

The Agencies are required to implement the provisions of Article 17-B for all Agency contracts, as defined therein, with a value in excess of \$25,000. For assistance identifying SDVOB partners, review the [list of certified State SDVOBs](#), hyperlinked herein.

For purposes of this solicitation, the Agencies hereby establish a goal of 6% of total contract expenditures for SDVOB participation.

4.3 MWBE and SDVOB Partner/Subcontractor Interest

State certified MWBEs and SDVOBs may request that their Firm’s contact information be included on a list of MWBE and SDVOB firms interested in serving as a partner. The listing will be publicly posted on the Agencies’ website for reference by the bidding community. A Firm requesting inclusion on this list should send contact information and a copy of its State MWBE certification and/or State SDVOB certification to ContractUnitInfo@hcr.ny.gov. Nothing prohibits an MWBE or a SDVOB Firm from proposing as a prime contractor.

5. Calendar of Events and Milestones

It is anticipated that authorization of contracts resulting from this RFP process will be awarded based on the following schedule:

Event	Date
Issuance of Request for Proposals	March 16, 2023
Deadline for RFP Questions	April 13, 2023 April 18, 2023 12:00pm EDT (“ Eastern Daylight Time ”)
Deadline for Responses to RFP Questions	April 18, 2023 April 20, 2023
Deadline for Submission of Proposals	April 25, 2023 April 28, 2023, 12:00pm EDT
Interviews (if necessary)	To Be Determined
Anticipated Selection Date*	July 2023

*Subject to the approval of each Agency’s Board of Directors (“**Board**”).

The Agencies reserve the right to modify this schedule at their discretion. Notification of changes in connection with this RFP will be made available to all interested parties via the Agencies' web page at: <https://hcr.ny.gov/procurement-opportunities> .

6. Scope of Services (“Scope of Work”)

The Agencies are seeking proposals from Firms, large and small, that have demonstrated expertise in one or more of the following general areas of law (including in each instance, litigation capabilities) with specific emphasis on the subcategories listed below.

1. Real Estate:

- Real estate finance and lending
- Tax issues affecting real estate transactions
- General real estate law

2. Housing:

- Fair housing laws.
- Federal and New York State housing subsidies
- Low-income housing tax credits (State and Federal)

3. Section 8/Federal Housing Programs:

- Federal rules and regulations for Section 8 Project Based Assistance, public housing, and Housing Choice Vouchers, as well as for other forms of Federal and New York State rental assistance

4. Land Use and Zoning:

- Land-use and zoning laws, building codes and regulations, and legal principles in New York State and elsewhere, including New York State constitutional and statutory restrictions (e.g., Municipal Home Rule Law), and legal precedents relating to exclusionary zoning, smart growth

5. Foreclosure and Bankruptcy:

- Foreclosure and/or loan workout including loan restructuring and renegotiation of the Agencies' mortgage loans, in cases where loans are in default or in danger of default
- Knowledge of bankruptcy law

6. Coop and Condominium:

- Cooperative and condominium law

7. Labor:
 - Labor matters arising in the public sector, with particular emphasis on experience in labor negotiations involving New York State public entities
 - Discrimination matters
 - Collective bargaining experience
 - Litigation involving labor and employment matters
8. MWBE and SDVOB law:
 - Federal and New York State MWBE and SDVOB laws, rules and regulations
9. Contracts:
 - Negotiations of contracts, leases, and similar instruments
 - Federal acquisition regulations (“FAR”), including procurement rules, bid protests, and other Federal contracting requirements and procedures
 - New York State Procurement Law, including New York State Finance Law and New York State Public Authority Law
10. Litigation:
 - Experience representing clients in litigation or legal proceeding (e.g., bond litigation, securities litigation, investigations or other civil or criminal proceedings, class action proceedings) that may arise
11. Environmental/Sustainability:
 - Environmental law issues, compliance and liability
 - Sustainability issues and Low-Income Home Energy Assistance Program experience
12. Insurance:
 - Experience in insurance and related liability issues, with particular emphasis on insurance for real estate and projects and insurance for corporate and governmental entities
13. Governance:
 - Corporate governance as relates to New York State government entities
14. Advertising:
 - Advertising, copyright and trademarking
15. Immigration:
 - Immigration law and regulations

16. Information Technology (“IT”):

- Information technology law for general IT contract and security contracts

All of the foregoing general areas of law, collectively, hereinafter referred to as “**Practice Areas.**”

The Agencies may also use members of the panel in the future for various specialized services not described herein (i.e., other than the 16 Practice Areas listed above) but provided by the selected Firms resulting from this RFP process.

The Agencies anticipate establishing a panel or panels consisting of Firms with expertise in various (not necessarily all for each firm) of the Practice Areas and with geographic locations across the State and, from time to time, to select Firms from the panel, on an as-needed basis, for general retainers or specific assignments or tasks based on suitability, including, among other factors, appropriateness of the Firm’s identified expertise and cost. While specific expertise in the above areas will have intrinsic value, the ability to apply that expertise with knowledge of, and in the context of, government and public finance will likely often be considered to have additional value. Similarly, overlapping expertise in one or more of the above areas will also often be considered to be of value.

The Agencies are committed to pre-qualifying a diverse group of New York-based firms that will provide high-quality services and that are dedicated to diversity and to containing legal costs.

Note that inclusion on the pre-qualified list does not mean or imply that any Firm will in fact be selected or engaged to provide legal services to the Agencies. Such selection and engagement will take place only when a need for outside counsel arises. The purpose of the pre-qualified list is to procure Firms available for engagement on short notice.

7. Proposal Requirements

A complete proposal for this RFP is comprised of five (5) separate tabs: (i) Tab One: Application Cover Sheet and Cover Letter; (ii) Tab Two: Technical Proposal; (iii) Tab Three: Cost Proposal; (iv) Tab Four: Administrative Proposal; and (v) Tab Five: Diversity and SDVOB Proposal.

The Proposal must be complete and prepared in the format consistent with the instructions provided in this RFP. In all instances, the Agencies’ determination regarding a proposal will be final. Proposals not organized in the manner prescribed in this RFP may be considered non-responsive at the Agencies’ sole discretion. Proposers should not refer to other parts of the

proposal, to information that may be publicly available elsewhere, or to the Proposer's or other websites in lieu of answering a specific question.

8. Contents of Proposals

The Proposer must submit a proposal that clearly provides all the information required in this RFP. Emphasis should be made on conformance to the RFP instructions, responsiveness to the RFP requirements, and clarity of content. The Proposer is advised to thoroughly read and follow all instructions contained in this RFP. Proposals that do not comply with these instructions, or do not meet the full intent of all the requirements of this RFP may be subject to scoring reductions during the evaluation process or may be deemed non-responsive.

The Agencies' do not require, nor desire, any promotional material that does not specifically address the proposal requirements in this RFP.

The proposal should demonstrate that the Proposer is qualified to perform the Scope of Work based upon prior relevant professional experience. The Agencies will perform a comprehensive review of each proposal submitted.

Each Proposer is required to submit the information and documentation listed below in the order in which it is requested. A proposal that does not include all required information and completed forms may be subject to rejection.

The completed proposal will include Tabs One through Five, as described in the Proposal Submission Requirements section of this RFP. Each Tab must be electronically bookmarked as "Tab 1," "Tab 2," "Tab 3," "Tab 4," and "Tab 5," and must be presented in the exact order requested in this RFP.

The Proposer's proposal must contain responses to the items listed below.

8.1 TAB 1: Cover Letter

The Proposer's cover letter must not exceed three (3) pages and must include:

1. The Proposer's name, address, telephone number, fax number, email address and web site address, if applicable;

2. The name, title, telephone number, fax number and email address of the individual within the Proposer's organization who will be Agencies' primary contact concerning the proposal;
3. A summary of the Proposer's organizational history and legal structure (e.g. corporation, evidence of MWBE and/or SDVOB certification status, etc.) including authority of the Firm to do business in the State of New York;
4. Indicate whether the Proposer will be partnering with a MWBE and/or SDVOB, and if so, provide the name of the MWBE and SDVOB entity(ies) and principal(s); if the Proposer will not be partnering with an MWBE and/or SDVOB, indicate the reason why there are no partnering opportunities for the legal services.
5. A statement affirming the number of years that the Proposer or its principals have provided similar services to those described in the Scope of Work;
6. The name(s) of the primary staff who will provide services to the Agencies;
7. A statement that any attorney assigned to an Agency engagement is licensed to practice law in the State of New York and is good standing; and
8. A written certification confirming that the information contained in the proposal is true and accurate and that the person signing the cover letter is authorized to submit the proposal on behalf of the Proposer.

8.2 TAB 2: Technical Proposal

Provide the information below in the same order in which it is requested. For Tab 2A, responses must be limited to fifteen (15) pages, at least 12-point type with standard margins printed on one-sided 8 X 11 inch pages. In the event that a firm is applying for qualification in multiple Practice Areas and may require more than the 15 page limitation to respond effectively, the Agencies will accept up to no more than 30 pages under Tab 2A. There is no page limit on Tab 2B, but brevity is strongly encouraged. The Technical Proposal must be marked as "Tab 2A" and "Tab 2B," respectively.

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Tab A: Basic Information.

1. Indicate which of the Practice Areas listed in Section 6 of this RFP titled “Scope of Services” that the Firm is interested in serving as counsel to the Agencies.
2. For each of the 23 Practice Areas (*other than labor matters*), provide a description of the Firm’s relevant experience in such area. Include a brief description of representative transactions and specify the Firm’s role with respect to each such transaction. (*It is not expected that any single Firm will have expertise in all 23 Practice Areas.*)

In the practice areas listed below, and wherever else the Firm deems appropriate, make specific mention of any work involving properties that contained affordable housing units or that received governmental subsidies of any kind.

- (a) representation of lenders in foreclosure actions or workouts involving multi-family properties;
 - (b) litigation involving lenders and developers, including bankruptcy cases;
 - (c) general real estate matters, including co-operative and condominium issues;
 - (d) real estate construction, and related lending; and
 - (e) tax issues affecting real estate transactions.
2. For labor counsel, provide a brief history and description of the Firm’s experience that includes the following Practice Areas:
 - (a) labor relations and negotiations;
 - (b) collective bargaining;
 - (c) handling of employee and/or employer grievances;
 - (d) defense of employment claims in various venues;
 - (e) defense of employment litigation in various venues including the administrative agencies, State court, and federal court;
 - (f) affirmative litigation in the employment and/or labor area;
 - (g) sexual harassment prevention (*including possible labor counsel conduct of staff training in the area or, alternatively, coordinate with outside entities engaged to provide such training*) and investigations;
 - (h) discrimination prevention (*including possible labor counsel conduct, staff of training in the area or, alternatively, coordinate with outside entities to provide such training*) and investigations;

- (i) establishment and/or amendment of workplace policies;
 - (j) time and attendance issues including, but not limited to, FMLA practices;
 - (k) establishment and/or amendment of benefit plans;
 - (l) management of both management confidential employees and officers and staff within several collective bargaining units;
 - (m) compensation and insurance issues including, but not limited to, medical, workers' compensation and disability and Officer and Director liability;
 - (n) internal and external investigations;
 - (o) Americans with Disabilities Act; and
 - (p) New York State laws in the following areas:
 - i. State Civil Service Laws
 - ii. NYS Retirement System
 - iii. Ethics laws
 - iv. Public authority reform measures
 - v. Privacy laws
3. Indicate whether legal services have been provided previously to the Agencies, and, if so, describe.
 4. Names of the principal partners and other attorneys who would be responsible for Agency matters, and a description of the relevant qualifications and experience of each attorney.
 5. Provide a brief description of any experience in the area of public finance. Such experience is preferred but not required.
 6. Provide a list of at least three representative clients including a description of the type of work performed for said client and the name of a contact person at the client who can evaluate the firm's work for each Practice Area that Firm is applying.
 7. A description of the instances, if any, in which the Firm has worked with MWBE law firms on previous transactions by engaging in joint ventures or other partnering or subcontracting arrangements. Responses should include the nature of the engagement, how such arrangement was structured and a description of how the services and fees were allocated.
 8. A statement of the Firm's willingness, if any, to engage MWBE partnering or mentoring arrangements with either a law firm of your choosing, and if so, a list of co-counsel MWBE law firms which the Firm is prepared to partner with or with another firm selected by the Agencies. Such statement should include

an explanation of how the Firm would suggest structuring such an arrangement and allocating services and fees among the law firms participating or mentoring arrangement.

Tab B: Background Information.

Background information such as: number of attorneys in the Firm, location of all offices, telephone number and e-mail address of the primary staff personnel who are anticipated to provide services to the Agencies, Firm descriptions/brochures, organizational charts and resumes of principal partners and other attorneys anticipated to be responsible for Agency matters should be included in a separate “Tab 2B.”

8.3 TAB 3: Cost Proposal

PLEASE NOTE THAT THE AGENCIES AS PUBLIC BENEFIT CORPORATIONS CREATED UNDER STATE LAW EXPECT THAT FIRMS SUBMITTING PROPOSALS HEREUNDER SHALL PROVIDE A MINIMUM OF 15% DISCOUNT ON THE FEES THEY CHARGE PRIVATE CLIENTS.

In a separate “Tab 3,” provide information concerning fees, including:

1. The customary hourly rate of each person whose resume is provided in Tab 2 of the proposal, and the proposed hourly rate to be charged to the Agencies in connection with those persons;
2. A schedule of all disbursements that your Firm anticipates will result in a charge to the Agencies and the rate for each;
4. Any reduced fees or governmental discounts; and
5. Any measures proposed by you to reduce the cost to the Agencies of retaining your Firm.

Although proposed fees will be taken into account, the Agencies reserve the right to negotiate a lower or different fee structure with any Firm selected.

8.4 TAB 4: Administrative Proposal

Proposers are subject to the requirements indicated in the Agencies' [Standard Clauses and Requirements for Solicitations](#), hyperlinked herein as Exhibit A. Such requirements include, but are not limited to, submission of the following information and forms: (a) [Vendor Information FORM](#); (b) [Lobbying Procurement Law FORM 1](#) and [Lobbying Procurement Law FORM 2](#); (c) [Non-Collusive Bidding Certification FORM](#); (d) [Vendor Responsibility Questionnaire for For-Profit Business Entity](#); (e) [Vendor Assurance of No Conflict of Interest and Detrimental Effect](#); and [Executive Order #16 – Prohibiting Contracting with Businesses Conducting Business in Russia](#).

In addition to completion of the forms hyperlinked in the paragraph above, Proposers must provide all other information indicated in this Section 8.4 for Tab 4.

8.4.1 Insurance Requirements

The successful Proposer (“**Contractor**”) and its subcontractors, if any, are required to provide and maintain, at its (their) sole cost and expense, the insurance requirements at the minimum limits specified herein during the term of the contract and for two (2) years after completion of work. All required insurance policies shall be maintained with insurance companies licensed within the State of New York and holding an AM Best rating of no less than A- VIII. Said policies shall contain a provision that coverage will not be canceled, non-renewed or materially changed, until at least thirty (30) days’ prior written notice has been provided to the Agencies. The Agencies and any and all other parties-in-interest as the Agencies may designate in writing from time to time (collectively, the “**Additional Insureds**”), all as their interests may appear, shall be named as additional insureds. Contractor (and its subcontractors, if any) agrees to have included in each of the above policies for Contractor’s Parties¹, a waiver of the insurer’s right of subrogation against the Additional Insureds.

The Contractor (and its subcontractors, if any) shall furnish to the Agencies evidence of the following insurance requirements prior to execution of any contract with the Agencies:

1. Workers’ Compensation Documentation. The successful Proposer will be required to provide the Agencies with written evidence of their workers’ compensation insurance coverage utilizing ONE of the following forms:

- ✓ **Form C-105.2** – Certificate of Workers’ Compensation Insurance issued by private insurance carriers; **OR**

¹ Contractor’s Parties shall mean Contractor and those working on its behalf including, but not limited to, subcontractors and vendors.

- ✓ **Form U-26.3** issued by the State Insurance Fund; **OR**
- ✓ **Form SI-124** – Certificate of Workers’ Compensation Self-Insurance; **OR**
- ✓ **Form GSI-105.2** - Certificate of Participation in Workers’ Compensation Group Self- Insurance; **OR**
- ✓ **CE-2006** – Certificate of Attestation of Exemption from NYS Workers’ Compensation and/or Disability Benefits Coverage.

2. Disability Benefits Documentation. The successful Proposer will be required to provide the Agencies with written evidence of disability benefits insurance coverage utilizing ONE of the following forms:

- ✓ **Form DB-120.1** - Certificate of Disability Benefits Insurance; **OR**
- ✓ **Form DB-155** - Certificate of Disability Benefits Self-Insurance; **OR**
- ✓ **CE-200** – Certificate of Attestation of Exemption from New York State Workers’ Compensation and/or Disability Benefits Coverage.

3. Professional Errors and Omissions Liability – Errors and Omissions (or Professional Liability) insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the general aggregate.

Certificates of Insurance, presented on Acord form 25, accompanied with additional insured endorsement CG2010 (1001) and CG2037 (0704), if determined it is necessary, or, if acceptable to the Agencies, their equivalent, shall be delivered to the Agencies, prior to beginning the Scope of Work, evidencing the coverage required hereunder and showing all such coverages as noted above being in force. All insurance policies provided by the contractor’s parties shall be maintained under terms and conditions reasonably satisfactory to the Agencies, and contractor’s parties shall provide such other insurance coverage as the Agencies may reasonably request from time to time. The Agencies will not accept any exculpatory language such as “endeavor to” and “but failure to do so shall impose no obligation or liability of any kind upon the insurer, its agents or representatives” on the Certificate of Insurance, i.e., the certificates shall meet the insurance requirements above.

For additional information regarding workers’ compensation and disability benefits requirements, please refer to www.wcb.ny.gov .

In the event, any insurance coverage is cancelled, the Agencies must be notified immediately.

4. In addition to the foregoing, Contractor and any subcontractors shall procure and maintain any and all insurance that is required by any applicable current or future law, rule, regulation, ordinance, permit, license, order or other legal requirement.

5. All insurance shall be primary and non-contributory and shall waive subrogation against the Agency and all of either of their former, current, or future officers, directors, and employees. No deductible of more than \$50,000 shall be permitted without advance written approval by the Agency, which the Agency may withhold, condition or deny in its sole and exclusive discretion.
6. The Contractor shall provide Certificates of Insurance to the Agency prior to the commencement of work and shall provide full and complete copies of the actual policies and all endorsements upon request. Subcontractors shall be required to maintain insurance meeting all of the requirements set forth above for items 1-3; however, Contractor shall require subcontractors to maintain greater limits and/or other or additional insurance coverages if greater limits and/or other or additional insurance coverages are (a) generally imposed by the Contractor given its normal course of business for subcontracts for similar work or services to those being provided by the subcontractor at issue; or (b) reasonable and customary in the industry for similar work or services to those anticipated hereunder.

8.4.2 Financial Capacity

The Proposer must provide the last two years of their firm's most recent tax returns or, if available, audited financial statements.

8.4.3 Licenses, Certifications and other Credentials

The Proposer must respond affirmatively that it, and its subcontractors (if any), will have, prior to commencement of work under the contract resulting from this RFP, all necessary licenses, certifications, approvals, and other needed credentials to perform the Scope of Work in the RFP, if applicable.

8.5 TAB 5: Diversity and SDVOB Proposal

Proposers are subject to the Article 15-A and Article 17-B State law MWBE and SDVOB requirements. Such requirements include, but are not limited to, submission of the following information and forms, hyperlinked herein: (a) [EEO Staffing Plan, PROC-1](#); (b) [Utilization Plan, PROC-2](#); (c) [MWBE & EEO Policy Statement, PROC-4](#); (d) [Company Demographic Profile PROC-7](#); (e) [EEOC Statement, PROC-8](#), applicable to Proposers with 15 or more employees; and (f) [Diversity Practices Questionnaire, PROC-9](#).

9. Questions and Answers

Any questions or requests for clarification regarding this RFP must be submitted via email to ContractUnitInfo@hcr.ny.gov, citing the RFP page and section, no later than the date identified in

the “*Calendar of Events and Milestones*” section of this RFP. The “Subject” line of the email should indicate “Legal Counsel Services RFP.”

Questions will not be accepted orally, and any question received after the deadline may not be answered. The list of questions/requests for clarifications and the official Agency responses will be posted in a timely manner on [HCR’s Procurement Opportunities” webpage](#).

Proposers should note that all clarifications and exceptions are to be resolved prior to submission of the proposal.

An electronic version of this RFP will be posted on [HCR’s website](#) in addition to any subsequent changes, additions or deletions to the RFP, including the timelines and target dates. **Proposers are encouraged to check HCR’s website frequently for notices of any clarifications, changes, additions or deletions to the RFP.**

10. Amendments and Addenda

The Agencies reserve the right to modify any part of this RFP including, but not limited to, the date and time by which proposals must be submitted and received by the Agencies, at any time prior to the Deadline for Submission of Proposals date listed in the “*Calendar of Events and Milestones*” section of this RFP. Modifications to this RFP will be made by issuance of amendments and/or addenda. Any amendment or addendum to this RFP will become part of this RFP.

Prior to the Deadline for Submission of proposals’ date, any such clarifications or modifications as deemed necessary will be posted to [HCR’s website](#).

If the Proposer discovers any ambiguity, conflict, discrepancy, omission, or other error in this RFP, the Proposer will immediately notify the Agencies of such error in writing and request clarification or modification of the document.

There are no designated dates for release of addenda; therefore, interested Proposers should check the Agencies’ website frequently through the Deadline for Submission of Proposals’ date. It is the sole responsibility of the Proposer to be knowledgeable of all addenda related to this RFP process.

11. Proposal Submission Requirements

Proposals must be delivered, by email, no later than the proposal due date and time indicated in the “*Calendar of Events and Milestones*” section of this RFP.

Proposals must be submitted by email to ContractUnitInfo@hcr.ny.gov in searchable portable document format (“**PDF**”) compatible with Adobe Reader XI. The Agencies will not accept discs, flash drives, or FTP file references that require the Agencies to download information from the Proposer’s or a third party’s site. If the file is large, it may be submitted in multiple email attachments, with the proper Part One or Part Two label (if applicable) and “1 of X”, “2 of X”, etc., and the last email as “X of X – Final” for each additional email.

The proposal must be bookmarked and divided into five parts: (i) Tab One: Application Cover Sheet and Cover Letter; (ii) Tab Two: Technical Proposal; (iii) Tab Three: Cost Proposal; (iv) Tab Four: Administrative Proposal; and (v) Tab Five: Diversity and SDVOB Proposal. Proposals must be sent in two emails and labeled as follows: (a) one email to include Tabs One, Two and Three and the subject line of the email must be labeled: “2023 Legal Counsel Services RFP: Tabs 1, 2 and 3”; and (b) the other email must include Tabs Four and Five and the subject line of the email must be labeled “2023 Legal Counsel Services RFP: Tabs 4 and 5”.

Any proposal delivered after the date and time designated as the proposal submission deadline listed in the “*Calendar of Events and Milestones*” section of this RFP may be deemed ineligible. It is the Proposer’s sole responsibility to ensure that all emails and attachments are delivered on time in a legible format. Proposers assume all risk for proposal delivery.

A proposal may be deemed to be non-responsive because it is materially incomplete. The Agencies reserve the right to seek clarification or request additional information.

The determination of whether any proposal is complete or was received on time is at the sole discretion of the Agencies.

All submitted proposals shall become the property of the Agencies.

12. Evaluation of Proposals

12.1 Preliminary Review

The Agencies reserve the right to reject 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 this RFP. Incomplete proposals may be rejected.

12.2 The Evaluation and Criteria for Selection

The evaluation process will begin with the review and evaluation of each of the written proposals. The purpose of the evaluation is two-fold: (1) to examine the responses for compliance with the requirements of this RFP; and (2) to identify the complying firm(s) that have the highest probability of satisfactorily performing the Scope of Work, described herein. The evaluation will be conducted in a comprehensive and impartial manner as set forth herein.

Proposals will undergo an evaluation process conducted by an Agency committee (“**Committee**”). The Committee will evaluate proposals based on the qualifications of both the Firm and its current personnel utilizing the following criteria:

- Demonstrated experience and ability to provide the services in the Scope of Work;
- Demonstrated competence, knowledge and technical expertise and capacity to perform the services in the Scope of Work;
- Cost effectiveness;
- Presence of an office in the State of New York;
- Diversity and commitment to equal employment opportunity and MWBE and SDVOB participation/programs;
- Avoidance of any potential conflict of interest or appearance of impropriety and policies designed to ensure the avoidance of such conflicts in the future;
- Financial stability;
- Overall completeness of all information provided in the proposal; and
- Interviews to clarify or expand on the RFP response (to be conducted at the discretion of the Agencies).

12.3 Interviews

The Agencies reserve the right to determine whether interviews will be necessary and the number of firms to be interviewed. If the Agencies deem interviews necessary, selected Firms will be notified. The Proposer’s primary staff person who would be responsible for the Agencies’ relationship with the Proposer, as well as other key personnel proposed to provide services, including its subcontractor’s primary staff person, must be present and participate in the interview. No more than four (4) representatives of any firm may participate in interviews. 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 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.

The Agencies reserve the right to negotiate or hold discussions with any Proposer.

12.4 Selection and Notification Process

The selected Proposer(s) will be notified via U.S. mail or email. Proposers who are not selected will be notified of the Agencies' determination via U.S. mail or email.

13. Contract

The contract(s) resulting from this RFP process will be to provide legal counsel services for a five (5) year period, subject to approval by the Agencies' Boards. The Agencies at their discretion, may exercise their option to modify any provision in the contract including, but not limited to, the scope of services and compensation, on an as needed basis, with the mutual written consent of the contracting parties. Any contract that exceeds a five-year period will require the affirmative concurrence of the Agencies' Board to extend the term of the contract beyond a five-year period without undergoing a new solicitation process.

The successful Proposer(s) will be required to execute a contract with the Agencies that incorporate the Agencies' [Standard Clauses for Contracts](#) and [MWBE Participation Requirements and Procedures for Contracts](#), hyperlinked herein as Appendices I and II, respectively.

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Proposal Checklist

CHECKLIST FOR VARIOUS REQUIRED FORM RELATED ITEMS TO BE COMPLETED AND RETURNED:

- Tab 1 - Application Coversheet
- Tab 1 - Cover Letter

- Tab 2 – Technical Proposal

- Tab 3 – Cost Proposal

- Tab 4 - Administrative Proposal
 - [Vendor Information Form](#)
 - [Lobbying Reform Law Form 1](#)
 - [Lobbying Reform Law Form 2](#)
 - [Non-Collusive Bidding Certification Form](#)
 - [Vendor Responsibility Questionnaire – For Profit Business Entity;](#)
 - [Vendor Assurance of No Conflict of Interest and Detrimental Effect](#)
 - [Executive Order #16 – Prohibiting Contracting with Businesses Conducting Business in Russia](#)
 - Proposer’s most recent two years of financial statements or federal tax returns
 - Evidence of Insurance (required upon contract award)
 - [W-9 Form](#) (required upon contract award)

- Tab 5 - Administrative Proposal
 - [EEO Staffing Plan, PROC-1](#)
 - [Utilization Plan, PROC-2](#)
 - [MWBE & EEO Policy Statement, PROC-4](#)
 - [Company Demographic Profile, PROC-7](#)
 - [EEOC Statement, PROC-8](#)
 - [Diversity Practices Questionnaire, PROC-9](#)

Policies, Standard Clauses and Requirements

[Standard Clauses and Requirements for Solicitations, Exhibit A](#)

[Standard Clauses for Contracts, Appendix I](#)

[MWBE Participation Requirements and Procedures for Contracts, Appendix II](#)