

PAYMENT METHOD: Task Assignments via mini-bid requests with lump-sum budgets with milestone payment schedules to deliver the services offered in the selected mini-bid response. All consultant labor shall be governed by fully loaded, not-to-exceed, hourly rates per each selected consultant's master contract. Rates shall be proposed only for the first year. Rates for years four through five of the contract may be adjusted per the rule contained in Article 5, Item III of the RFP's draft contract (**Attachment 2**): "The agreed-upon rates for the first contract year of this AGREEMENT may be adjusted for the second, third, fourth and fifth contract years. Rates for the second, third, fourth and fifth contract years may be adjusted annually by the lower of either the percent change for the Producer Price Index – Architectural, Engineering and Related Services (Series ID: PCU5413-5413--) for the most recent 12 month period as calculated by the U.S. Department of Labor – Bureau of Labor Statistics, or 1.5 percent, subject to current market conditions.").

If NYMTC requests a Tier II task assignment of duration longer than 12 months, then firms shall assume no rate adjustments for proposed consultant personnel for the second year (and third, and fourth, etc.) of the contract.

COMPLEXITY: The level of complexity for this project is moderately complex.

OTHER CONTRACT OBJECTIVES:

- Selection of three to five responsive and responsible teams of consultants.
- 10 percent or more DBE subconsultant participation over the life of the contract by each firm being awarded a contract via this RFP.
- Fair and equitable treatment of all firms participating in the competitive consultant selection process.

C. Background

This project has been established to assist and support NYMTC's professional staff on an as-needed basis with the initiation and/or completion of a variety of Planning, Technical, and Administrative task assignments for NYMTC's Central Staff as well for the Staffs of NYMTC's three Transportation Coordination Committees (Mid-Hudson South TCC, Nassau-Suffolk TCC and New York City TCC), as outlined in NYMTC's Council-approved annual Unified Planning Work Program (UPWP). NYMTC's UPWP is downloadable from NYMTC's website: www.nymtc.org - the specific link is: http://www.nymtc.org/files/UPWP2011-2012/UPWP2011-12_RevisedForAction_%2042111.pdf. Task assignments may also come from NYSDOT.

NYMTC is an association of governments and transportation agencies which serves as the officially designated Metropolitan Planning Organization (MPO) for New York City, Long Island, and the lower Hudson Valley in the downstate New York metropolitan area. This is a solicitation to augment NYMTC staff via three teams of consultant to provide professional consultant planning services to NYMTC, the Downstate New York Metropolitan Planning Organization (MPO) in its 10 county area and beyond (Nassau, Putnam, Rockland, Suffolk and Westchester Counties, and the Five Boroughs of the City of New York).

Federal requirements mandate that NYMTC have and maintain a coordinated planning process that produces several planning products, which serve to frame the region's transportation planning decision making; NYMTC's planning process is also required to ensure the region's continued eligibility to Federal planning and capital funds. NYMTC's major planning products are: 1) a long range Regional Transportation Plan (RTP) that maintains a 20-year planning horizon, 2) a short range (three to five year) Transportation Improvement Program (TIP), 3) requisite air quality conformity analysis and determinations for the RTP and TIP, and 4) an annual Unified Planning Work Program (UPWP). The genesis of all other NYMTC products, including regional forums, public involvement,

tasks, adequate analysis and summary of findings will be expected so information can be readily incorporated into current and future NYMTC activities, studies, processes and plans. For all tasks and assigned consultant personnel, Consultants must provide requisite professional, expert services and task assignment management with not-to-exceed rates from the master agreement.

If NYMTC requests a Tier II task assignment of duration longer than 12 months, then firms shall assume no rate adjustments for proposed consultant personnel for the second year (and third, and fourth, etc.) of the contract.

Consultants are being sought to provide full, capable teams of personnel to complete an entire task; it is also anticipated that Consultants will be required to provide individual personnel to assist NYMTC staff to complete a variety of UPWP-defined work. Selected Tier II Consultants must attend a scope meeting within five business days from NYSDOT's consultant designation of task assignment award (unless otherwise specified), with work on the task to commence within ten business days from the scope meeting held regarding the assigned individual task.

Collectively, NYMTC and NYSDOT will hold the procurement record for all Tier II mini-bid solicitations.

ATTENDING MEETINGS. Each Consultant shall send appropriate representative(s) to attend and participate in meetings at the request of the Task Manager or with his/her prior approval. The Task Manager shall notify the Consultant of any special meeting requirements, such as preparing for presentations, doing presentations, etc. These may be informative planning meetings with any public agency, member agencies of NYMTC, members of the public, private individual or group, or other parties interested in participating in NYMTC's metropolitan transportation planning process. The Consultant will be responsible for producing clear and comprehensive minutes of attended meetings; the Consultant shall submit such minutes to the Task Manager within ten calendar days from the date of the meeting.

MONTHLY PROGRESS REPORTS. Each Consultant shall prepare and submit to the appropriate Task Manager a monthly progress report on the specific task or tasks for the preceding calendar month within 21 calendar days of the end of such month. The Consultant shall prepare and submit to the Consultant Manager a monthly progress report on all the tasks underway during the preceding calendar month within 21 calendar days of the end of such month.

CONSULTANT FILES. Each Consultant shall establish and maintain a set of Contract files, one set for this Contract overall, and others organized by assigned task. The Consultant must make these files available to NYMTC and NYSDOT upon written request from NYMTC. The files shall contain handwritten notes, calculation sheets, records of outside contracts, collected data, and any other pertinent information relative to the implementation of this Contract. This is in addition to accounting books and records, including time sheets, payroll registers, ledgers and other records documenting costs associated with this Contract. NYMTC/NYSDOT has the right to ask for and inspect the Contract files anytime during the term of this Contract and three years after termination of this Contract.

NON-DISCLOSURE FORMS. Proposers should be aware that all staff assigned to these tasks shall be required to sign appropriate confidentiality non-disclosure forms. Consultants shall be barred from bidding on projects if their staff becomes privy to confidential information regarding a new solicitation.

B. Project Roles

1. NYMTC Consultant Manager

NYSDOT Contract Management will issue any NYSDOT-funded task assignment requests. Only those firms preselected through this RFP's Tier I selection process are eligible to receive task assignment mini-bid requests. Mini-bid task assignments shall not be publically advertised (i.e., advertised in the NYS Contract Reporter).

Firms are required to acknowledge receipt of task assignment mini-bid requests in writing. Not all Consultants are required to offer task mini-bids. Those firms who choose not to respond are required to offer written reason(s) for declining to bid.

One part of the task assignment mini-bid, the Task Assignment Part A Technical Mini-Bid, shall be solely related to the proposed technical approach, staffing resources and task schedule. It shall present the technical quality and credentials of proposed personnel, and shall not include any cost or rate information. Proposed rates and task assignment budget information shall be provided in a separate submission, in a Task Assignment Part B Cost Mini-Bid. The budgets for all task assignments shall be on a lump sum milestone payment basis (with labor details as per RFP **Attachment 5**). Milestones may be divided into partial payments but only if proposed in a firm's mini-bid. Separate organization charts showing the names of the task project manager and key personnel and resumes shall be provided in Part A (Task Technical Mini-Bid) of the submittal, excluding salary rate information.

Proposed rates cannot exceed the rates contained in the master agreements. Proposing rates which are higher than the master contract is immediate grounds for dismissal. Firms may propose lower rates in their mini-bid responses (the Master contract rates are not to exceed rates). If NYMTC requests a Tier II task assignment of duration longer than 12 months, then firms shall assume no rate adjustments for proposed consultant personnel for the second year (and third, and fourth, etc.) of the contract.

Consultants shall propose a schedule with deadlines for deliverable/service completion, which will first be reviewed by the Technical Evaluation Committee for adherence to task assignment mini-bid requirements and reasonableness, then be subject to the negotiation process after task assignment award. It is recommended that Consultants propose a milestone payment schedule which includes partial payments for draft and final products and interim milestone payments for subtasks of significant duration. For each task, the Consultant shall select resources from the list of titles and proposed personnel in the approved Agreement. All non-named personnel must have qualifications consistent with RFP requirements as well as consistent with proposed, named personnel. Qualifications of non-named personnel shall be included in Part A Technical Mini-bid responses.

To assist in distribution, copies of proposals may be requested to be sent electronically to the NYMTC Consultant Manager in PDF, MS Word, Excel or other mutually acceptable formats, with a copy to the designated NYSDOT personnel after the bid due date.

Consultant shall propose personnel listed in their respective master contracts. Consultants require prior NYMTC/NYSDOT approval to propose personnel not listed in their master contracts. Consultants selected during Tier I selection shall offer an array of subconsultants to be able to respond to the variety of potential NYMTC/NYSDOT planning tasks. However, should a mini-bid request require the additional of a subconsultant not originally designated, then the prime consultant must obtain permission from NYSDOT/NYMTC to add the non-designated, new subconsultant to the master contract, wherein the new non-designated subconsultant titles must be consistent with the master contract and the rates cannot exceed the rates for those titles contained in the master contract.

omissions malpractice or breach of professional obligations. Such policy or policies may be written on a claims-made form so long as coverage is maintained to be in effect to cover claims arising from the performance of services under this contract. Said coverage may be subject to a deductible or self-insured retention level of no more than \$250,000 subject to approval by Department, such approval not to be unreasonably withheld, except that it is also agreed that Department may withhold payment for services rendered under this contract in the event, and to the extent of any deductible in the event that a claim is asserted. Such coverage shall be written on an ISO claims made basis (or a policy form providing equivalent coverage) in an amount of no less than \$1,000,000.00 per claim and not less than \$1,000,000.00 in the aggregate.

ARTICLE 12. INTERCHANGE OF DATA.

All technical data in regard to the PROJECT existing in the office of the STATE or existing in the offices of the CONSULTANT shall be made available to the other party to this Agreement without expense to such other party.

ARTICLE 13. DISPOSITION OF DATA.

At the time of completion of the work, the CONSULTANT shall make available to the STATE all documents and data pertaining to the work or to the PROJECT which materials at all times shall be the property of the STATE. It is agreed that the CONSULTANT may maintain copies of all documents and data. Or in the event that this Agreement is terminated for any reason, then, within ten (10) days after such termination, the CONSULTANT shall make available to the STATE the aforementioned data and material.

ARTICLE 14. DAMAGES AND DELAYS.

The CONSULTANT agrees that no charges or claim for damages shall be made by them for any delays or hindrances from any cause whatsoever during the progress of any portion of the services specified in this AGREEMENT. Such delays or hindrances, if any, shall be compensated for by an extension of time for such reasonable period as the STATE may decide, it being understood however, that the permitting of the CONSULTANT to proceed to complete any services or any part of them after the date of completion or after the date to which the time of completion may have been extended, shall in no way operate as a waiver on the part of the STATE of any of its rights herein. Nothing in this ARTICLE will prevent the CONSULTANT from exercising its rights under ARTICLE 8 of this AGREEMENT.

ARTICLE 15. NOTICE OF BANKRUPTCY, VENUE, AUDITS.

If, prior to final audit, CONSULTANT files for relief pursuant to Title 11 of the United States Code under the Bankruptcy Laws or a successor statute, this AGREEMENT shall be treated as an executory contract under 11 USC S365 of the Bankruptcy Laws or successor statute, and be subject to assumption or rejection by the debtor within the time permitted by law.

The CONSULTANT must immediately send written notice to Contract Management of the New York State Department of Transportation at its main office in Albany and send all relevant pleading of the voluntary or involuntary filing of a Bankruptcy proceeding by the CONSULTANT, its subsidiary, its principals and officers or a related entity whether or not the CONSULTANT believes that any debt is owed to the State by final audit or otherwise.

The determination of any rights under this AGREEMENT shall be adjudicated in a State or