

REQUEST FOR QUALIFICATIONS

For

TECHNICAL ASSISTANCE

**State of New York
Andrew M. Cuomo
Governor**



**NEW YORK STATE
HOMELESS HOUSING AND ASSISTANCE CORPORATION**

**HOMELESS HOUSING AND ASSISTANCE CORPORATION (HHAC)
REQUEST FOR QUALIFICATIONS (RFQ)
TECHNICAL ASSISTANCE**

TABLE OF CONTENTS

I	INTRODUCTION	Page 2
II	PROPOSAL REQUIREMENTS AND DUE DATE	Page 3
III	QUESTIONS REGARDING THIS RFQ	Page 3
IV	PROPOSAL GUIDELINES	Page 3
V	TERMS OF ASSIGNMENTS	Page 4
VI	EVALUATION CRITERIA	Page 5
VII	TECHNICAL ASSISTANCE AREAS	Page 6
VIII	SCOPE OF SERVICES	Page 7
IX	EQUAL OPPORTUNITY/ MINORITY and WOMEN BUSINESS ENTERPRISES PARTICIPATION REQUIREMENTS	Page 16
X	OMNIBUS PROCUREMENT ACT	Page 17
XI	ADDITIONAL TERMS AND CONDITIONS OF THIS RFQ	Page 18
XII	PROCUREMENT LOBBYING ACT	Page 20
REQUIRED PROPOSAL SUBMISSION PAGES		
	TA PROVIDER INFORMATION	Page 21
	SERVICES TO BE PROVIDED	Page 23
	GEOGRAPHICAL REGIONS	Page 24
	RATE SCHEDULE	Page 25
	NARRATIVE	Page 26
	MACBRIDE FAIR EMPLOYMENT PRINCIPLES	Page 27
	SUBCONTRACTING UTILIZATION FORM	Page 28
	CONTRACTOR/SUBCONTRACTOR BACKGROUND QUESTIONNAIRE	Page 29
	OFFERER CERTIFICATION	Page 32
	AGREEMENT	Page 33
	APPENDIX Z	Page 34

**HOMELESS HOUSING AND ASSISTANCE CORPORATION (HHAC)
REQUEST FOR QUALIFICATIONS (RFQ)
TECHNICAL ASSISTANCE**

I. INTRODUCTION

The New York State Homeless Housing and Assistance Corporation (HHAC) and the Office of Temporary and Disability Assistance (OTDA) are requesting the submission of qualifications from individuals, partnerships, not-for-profit corporations, for-profit corporations and other legal entities to provide various forms of professional technical assistance on a consultant basis in support of developing, operating, and/or managing supportive housing programs funded under the Homeless Housing and Assistance Program (HHAP).

HHAP was established by Chapter 61 of the Laws of 1983. In June of 1990, the Homeless Housing and Assistance Corporation (HHAC), a public benefit corporation, was established to administer the program. HHAC is a subsidiary of the New York State Housing Finance Agency (HFA), and is administered by OTDA. HFA issues bonds to finance the costs of developing projects under HHAP.

HHAP provides capital grants and loans to not-for-profit corporations, charitable and religious organizations and municipalities to acquire, construct, or rehabilitate housing for persons who are homeless or at risk of homelessness, and are unable to secure adequate housing without special assistance.

Created in 1983 to increase the supply of supportive housing for the homeless in New York State, the program funds a broad range of housing options for the diverse homeless populations in the State's urban, suburban and rural areas. Program funds are awarded through a competitive Request for Proposals process. Applicants and awardees generally have experience in housing development, management and/or in the provision of social services. HHAP funds emergency, transitional and permanent supported housing projects serving for both homeless families and singles, which include a variety of special needs populations. Special needs populations that have benefited from HHAP funding include, but are not limited to:

- Victims of domestic violence;
- Elderly;
- Persons with physical disabilities;
- Persons with HIV/AIDS;
- Runaway homeless youth,
- Youth aging out of foster care;
- Persons with mentally illness;
- Ex-offenders; and
- Those with a history of substance abuse and/or chemical dependency.

Currently, the HHAP-funded portfolio of homeless projects under contract consists of 356 operating projects and 571 sites across New York State.

Eligible costs under HHAP include, but are not limited to: construction/rehabilitation; architectural/engineering fees; environmental assessments; insurance; taxes; title reports and insurance; appraisals; acquisition; equipment and furniture; professional fees, and reserves. While HHAP provides the funding necessary to establish a project, it does not provide ongoing operational funding. HHAP grantees must demonstrate the financial feasibility of a project and operate the project as supported housing for the homeless for the contractually mandated period of time, generally 25 years.

II. PROPOSAL REQUIREMENTS AND DUE DATE

HHAC is requesting qualifications from eligible entities to provide technical assistance to (and/or management of) supported housing programs to non-profit sponsors that have received HHAP funding and/or directly to HHAC itself, depending upon the services provided. This RFQ is available electronically at <http://otda.ny.gov/main/contracts/procurement-bid.asp>

The original application and two hard copies, and one electronic copy (on a CD) in Word format must be received by:

3:00 p.m. April 22, 2011. Faxed Materials will not be accepted.

Applications should be sent to:
John W. Printup
NYS OTDA
Bureau of Contract Management
40 No. Pearl Street, 13 B
Albany, New York 12243
(518) 476-6352

III. QUESTIONS REGARDING THIS RFQ

Questions regarding this RFQ should be submitted by **April 11, 2011**. All questions must be typed. Along with your question(s), provide your name, organization name, mailing address, email address and fax number. Questions and answers (Q&A's) regarding this RFQ will be posted online at the above referenced internet address. HHAC will not entertain questions via telephone or after the specified deadline. Please submit your questions to **Greg Lemp** at above address, by E-Mail Gregory.Lemp@otda.state.ny.us or by fax at (518) 486-7068.

IV. PROPOSAL GUIDELINES

Every proposal must provide a detailed, narrative description of the services to be provided. Marketing material such as informational brochures may be included in your submission, but should not be considered responsive to this RFQ. The narrative should include relevant experience with non-profit organizations, housing (development and/or management) and/or supportive services for homeless and special needs households. Actual experience in the area of expertise that the applicant is proposing to provide services is required.

Both an “up to” hourly and daily rate is to be submitted. A section is also available for narrative describing services that are charged on a flat rate basis (i.e. title searches). This rate must cover all overhead and administrative expenses including but not limited to copying, mailing costs, etc. Finally, indicate the geographical region(s) in which you can provide services and if your rates vary by region. Proposed rates that do not increase or increase minimally during the term of the contract will be considered competitive. Daily rates that provide a discount when compared to hourly rates will be considered competitive (Please see “Rate Schedule” on page 25).

To be considered complete, each proposal must include the following:

- 1) TA Provider Information Forms (Pages 21-26)
- 2) Macbride Fair Employment Principles Form (Page 27)
- 3) Subcontracting Utilization Form (Page 28)
- 4) Contractor/Subcontractor Background Questionnaire (Page 29)
- 5) Offerer Certification (Page 32)
- 6) Agreement (Page 33)
- 7) Appendix Z (Page 34)

Proposals that do not contain all of these components, to the extent they are applicable, may be rejected. Please refer to Appendix Z for additional information relating to HHAC’s Equal Employment Opportunity and Minority and Women-Owned Business Enterprise (M/WBE) goals. Be sure that each of the required certifications and forms are signed by an authorized representative of your organization. All of the below certifications and forms can be downloaded from OTDA’s website (<http://otda.ny.gov/main/contracts/mwbe/>).

- M/WBE-EEO Policy Statement
- Equal Employment Opportunity Staffing Plan
- Proposed M/WBE Subcontractor Utilization Plan
- M/WBE Subcontractor Utilization Plan*
- M/WBE Subcontractors and/or Suppliers Letter of Intent to Participate*
- M/WBE Subcontractor Request for Waiver Form
- M/WBE Certification Of Good Faith Efforts

*Applicants that have not identified certified businesses to achieve the desired goals should indicate “TBD” on the M/WBE Utilization Plan and M/WBE Subcontractors and/or Suppliers Letter of Intent to Participate.

V. TERMS OF ASSIGNMENTS

Technical Assistance Providers (TAPs) selected under this RFQ will enter into a five-year contract with HHAC, with an HHAC option to terminate at any time and for any reason. Having a contract does not necessarily guarantee that a work assignment will be made. Technical assistance services are assigned on an as-needed basis.

Each project funded by HHAC is under the stewardship of a Project Manager. TAPs will be solicited, assigned and supervised by HHAP Project Management staff. Depending upon the nature of the assignment, a TAP may be asked to assess the scope of need, develop an action plan to meet that need, and prepare a performance-based work plan which includes costs, time frames and concrete deliverables. You may be reimbursed for up to three days time for the completion of a needs assessment and preparation of a work plan. The HHAP Project Manager may request proposals from several TAPs for any one work assignment. HHAC will then select the TAP that best fits the need and has the most cost effective approach to remediating the immediate and/or long term need.

VI. EVALUATION CRITERIA

All applications received will be reviewed for completeness. Deficient or incomplete applications or applications not meeting stated requirements will not be reviewed or considered for a contract.

All applications will be reviewed by OTDA staff. References may be contacted and, if necessary, additional information may be requested from an applicant. In addition to the criteria described below, HHAC reserves the right to interview applicants applying to provide Legal Services or Architectural/Engineering Services to HHAC. During this interview, additional background information may be requested. Any contracts resulting from this RFQ will be based upon all available information, including the results of the application review and an interview, if conducted.

HHAC reserves the right to contract with an applicant other than the applicant with the lowest cost offer, the right to reject all applications and/or the right to reject an application on the basis of the applicant not having presented sufficient capability (in the judgment of HHAC) to perform proposed services..

An application review committee will make final recommendations to the Commissioner of the Office of Temporary and Disability Assistance. The Commissioner shall make recommendations to the HHAC Board of Directors. HHAC will make final selections in its sole discretion and will advise successful and unsuccessful applicants of its decisions.

Applications will be evaluated on the following criteria:

1. Responsiveness to the RFQ;
2. Demonstrated experience with nonprofit organizations and homeless, special needs, and low-income populations;
3. Competitiveness of the proposed costs;
4. Evidence that the consultant understands the organizational and other needs of HHAP project sponsors;
5. Documentation of previous, successful consultant experience in the service areas proposed; and
6. Evidence of necessary credentials, licensure, certification, etc., to perform the services proposed, if applicable.

Applicants applying to provide Architectural/Engineering Services to HHAC will also be evaluated on the following criteria:

1. Demonstrated experience of the respondent;
2. Organizational capacity;
3. The availability of qualified personnel with relevant experience;
4. The range of services being offered; and
5. Results of reference checks.

Applicants applying to provide Legal Services to HHAC will also be evaluated on the following criteria:

1. Demonstrated experience of the respondent;
2. Demonstrated experience of principal assigned to the contract;
3. Organizational capacity;
4. Results of reference checks; and
5. The nature of any pending malpractice suits.

A narrative of qualifications that specifically illustrates experience working with nonprofit organizations and/or in the development of housing and/or service programs for homeless, special needs and low-income populations should be no more than six single spaced pages. Applicants should clearly and fully describe the services proposed and communicate the potential positive impact of those services on HHAP projects and/or grantees (sponsor organizations). Merely listing past projects will be considered unresponsive. A description of the services to be provided and the outcome resulting from your involvement with other previous consultant assignments will be considered an appropriate response.

VII. TECHNICAL ASSISTANCE AREAS

The purpose of this RFQ is to identify individuals and organizations with the expertise to assist HHAC and/or HHAP sponsors in the following areas, as further described below:

- 1) Monitoring Contract Compliance;
- 2) Direct Property Management;
- 3) Organizational Capacity
 - a. Housing Operations/ Asset Management
 - b. Agency Operations
 - c. Supportive Services;
- 4) Accounting/Audit Services;
- 5) Legal Services;
- 6) Title Company Insurance/Searches;
- 7) Architectural And Engineering Services;
- 8) Construction Management/ Emergency Repairs;
- 9) Expediting Services;
- 10) Site Testing/Abatement Services;
- 11) Appraisals;
- 12) Surveys;
- 13) Low-Income Housing Tax Credits; and
- 14) Computer Technology.

TAPs will provide services directly to HHAC and/or to HHAP sponsors on behalf of HHAC.

It is the intent of HHAC that the involvement of a TAP will increase the knowledge base and capacity of a sponsor. In some cases, the TAP will act as an instructor so the sponsor will gain the skills necessary to develop and/or better manage the project in accordance with the terms of the HHAC contract.

Technical assistance is available only to those organizations that have received a grant or loan from HHAC. An assignment may commence during the predevelopment, construction or operational phases of a project. While some projects may require the services of a TAP for an extended period, others may only require one-time or short-term assistance (for example, appraisals and title searches). Because TAPs may be joining an existing project team, exceptional negotiation skills and the ability to provide directed assistance is required.

TAPs selected under this RFQ will enter into a contract with HHAC. Having a contract does not necessarily guarantee that a work assignment to provide TA will be made. Assignments will generally be made and paid for through a pre-approved, performance-based work plan developed in conjunction with HHAC, which will include costs, time frames and concrete deliverables unless otherwise noted in the RFQ.

VIII. SCOPE OF SERVICES

Following is a description of the type of assistance that HHAC solicits through the TA Program. If you have expertise in a service area related to housing development, management, and/or support services that is not specifically identified, please include that information in your response. Appropriate credentials and/or licenses, where applicable, must be provided before an applicant may be considered by HHAC to be a TAP.

1. Monitoring

A TAP granted a work assignment under this service will be required to visit operating HHAP projects for the purpose of monitoring compliance with the HHAC contract. Specifically, TAPs will verify that the facility is being properly managed and maintained, the correct homeless population is being housed, and appropriate support services are being provided. Contract documents, compliance guidelines and reporting forms will be provided. A TAP should have strong programmatic, financial and property management experience. TAPs should demonstrate familiarity with grant programs administered by OTDA which frequently support HHAP projects (e.g., SRO Support Services, Operational Support for AIDS Housing, etc.). Projects range in size from scattered site, single-family homes to large-scale apartment buildings. Applications may be made on a regional or statewide basis. A TAP will be required to inspect HHAP units and properties and to assess the financial, program and property management practices and capabilities of the sponsor organization. TAPs should be able to provide recommendations for improvement in these areas. Monitoring visits are typically assigned to TAPs through a bidding process. The cost estimates should take into consideration the time needed to review contract documents, monitor the physical plant, examine support service files and submit a written report to HHAC plus the cost of travel and lodging. Travel and per diem rates are established by New York State and the Federal Government.

2. Direct Property Management

TAPs may be called on to assume management of an HHAC property under duress, or that may be in default of their HHAC contract. TAPs will act as HHAC's property manager on an interim basis until the project can be transferred to an alternate non-profit sponsor organization. For an HHAP project under property management, the TAP will provide services including, but not limited to:

- 1) Acting as HHAC's management agent with respect to relations with tenants, the public, municipal authorities, and other non-profits;
- 2) Collecting rents and other revenues;
- 3) Ensuring all building expenses are current by utilizing project revenues (taxes, utilities, insurance, etc.);
- 4) Submitting monthly reports to HHAC showing income and expenses as well as documentation that project expenses have been paid;
- 5) Maintaining the units, building and grounds in good condition (including routine inspections, maintenance and repairs, grounds keeping, etc.);
- 6) Providing security, responding to emergencies;
- 7) Filling vacancies to maximize occupancy and housing the homeless population indicated in the HHAC contract;
- 8) Providing, arranging, or otherwise making available by referral to tenants, support services as indicated in the HHAC contract; and
- 9) Sealing, securing and protecting against seasonal damage in unoccupied buildings (e.g., winterize pipes, maintain safe temperature, etc.).

3. Organizational Capacity

A) Housing Operations\Asset Management

TAPs in this area will be required to provide training to sponsors in effective management of HHAP projects over the long term. Therefore, the TAP must possess experience and expertise in all aspects of homeless, low-income, and/or special needs rental housing. TAPs may be requested to assist sponsors in developing and implementing a comprehensive asset management plan. This may include considerations such as, but not limited to: financial viability of the project; property management and maintenance plans; referral, intake, and screening processes; long-range capital planning; support services provision; rent collection and eviction procedures; tenant education and involvement; and fundraising/development. TAPs should be familiar with applicable fair housing laws, funding opportunities, board and staff training resources and similar laws, regulations and concepts. Knowledge of computer systems that would enhance a sponsor's ability to manage the project is also desired. Finally, TAPs able to provide assistance to sponsors relative to tax abatements and exemptions are preferred. TAPs are encouraged to develop partnerships and/or include subcontractors in their proposals, if appropriate, in order to provide the broad range of expertise desired in this category.

B) Agency Operations

TAPs are sometimes needed to help develop the capacity of sponsor organizations in implementing specific phases of an HHAP project and/or strengthen overall operations in the areas of development, program, finance and/or management. A TAP may be called upon to assess, mediate and/or implement program and financial management systems, identify and access capital and program funding, guide board development, and/or train board members and/or staff within the sponsor's organization. TAPs should have a working knowledge of effective not-for-profit organizational structure, budgeting, human resources management, non-profit management, risk management, legal considerations for non-profit boards and fundraising, including grants and foundation funding opportunities. Familiarity with available supportive services and capital funding programs and the resources within the region of the state in which services are to be provided is a requisite. TAPs conversant with financial reporting and programmatic requirements, as well as those who possess strong grantsmanship skills are preferred.

C) Supportive Services

HHAC is interested in securing the services of TAPs with experience in the design, development and implementation of support services programs for special needs populations. A TAP may be called upon to work with sponsors to identify ancillary funding streams, construct a staffing plan appropriate for the needs of the population to be housed, and develop linkages with other community-based organizations and local government agencies. TAPs should be intimately familiar with the existing service infrastructure within the applicable specific geographic area, as well as the programs available at the state and federal level. TAPs should have an understanding of the service needs and effective service models for the various special needs populations served by HHAP projects (e.g., domestic violence victims, veterans, persons with chemical dependency, etc.). HHAP supportive housing programs may require assistance in such areas as tenant engagement; referrals/linkages; interface between case managers and property managers; and permanent housing placement. Applicable aspects of any given support services plan may include, but are not limited to, case management, health services, alcohol and substance abuse treatment, mental health services, employment and training services, benefits advocacy, basic skills training and counseling.

4. Accounting/Auditing Services

HHAC is seeking Certified Public Accountants with a minimum of five (5) years experience working with not-for-profit organizations. The TAP should be current with federal audit guidelines and Circulars A-122 and A-133, as well as state and federal laws as they apply to not-for-profit organizations. Accountants must be familiar with non-profit accounting guidelines and practices; grant funding streams; transactions between parent and subsidiary corporations; real property financial transactions; financial management systems and Low Income Housing Tax Credit implications (e.g., cost allocation plans, limited partnerships, etc.). A prospective TAP should specify whether accounting or auditing services are proposed as described below, or both:

A) Accounting

TAPs must be able to review audited financial statements submitted by non-for-profit organizations and their subsidiaries to assess: the organization's current and ongoing financial stability; the organization's ability to generate cash from operations; any detectable

poor procedures or financial practices; A-133 compliance and similar accounting functions. The TAP will provide: 1) HHAC with a summary report on each financial statement reviewed; 2) HHAC and the non-profit with a summary report for each audit reviewed, including any negative findings and recommended corrective actions; and 3) ongoing technical assistance, as assigned, to the sponsor to address concerns, ensuring implementation of recommendations. Fieldwork may be necessary to assess the financial issues and accounting procedures of the sponsor and to assist the sponsor in implementing improved practices and the TAP may be requested to provide training to HHAC staff in the areas of interpreting financial statements, basic accounting principles and terminology, financial compliance requirements applicable to not-for-profits and similar concepts; and

B) Auditing

The TAP will audit the records of sponsor organizations to assess the effectiveness of the financial management policies of the sponsor and ensure the proper use of HHAC funds and/or project revenues. The audit would include the review of the project account records, internal controls, record keeping, fraud observances and adherence to generally accepted accounting principles (GAAP). The TAP will provide a report to HHAC and the sponsor that includes findings, and when appropriate, submit a corrective action plan containing specific recommendations and outcomes. Fieldwork will be necessary to conduct the audit and ensure implementation of recommendations.

5. Legal Services

HHAC is seeking qualified attorneys and/or firms throughout New York State who are duly licensed to practice law in the State of New York and who have a minimum of five (5) years experience in one or more of the following areas:

- 1) Contract law;
- 2) Not-for-profit corporation law and general corporate law;
- 3) Lease and occupancy agreements;
- 4) Construction financing and contracts, particularly with regard to projects funded by multiple entities;
- 5) Construction disputes and litigation;
- 6) Real property law, including, but not limited to title issues, foreclosures, liens and judgments, and real property tax issues;
- 7) Tax abatements;
- 8) Partnership law, particularly with regard to limited partnerships and syndications;
- 9) Bankruptcy;
- 10) Bonding and state finance law;
- 11) The Federal Tax Code, as it relates to not-for profits and the Low-Income Housing Tax Credit Program;
- 12) Planning and zoning issues; and
- 13) Landlord-tenant law including fair housing, ADA compliance, and eviction procedures and similar concepts.

An attorney or law firm responding to this section must specifically state his or her (or his or her firm's) area or areas of expertise. However, all must be familiar and have experience with not-for-profit corporation law and/or real property law.

6. Abstract/Title Company

Title companies will be called upon to execute abstracts, tax and title searches and title insurance commitments for specific properties, and to record mortgages and related documents as needed by HHAC. HHAC may also wish to purchase title insurance and consult with TAPs regarding title insurance coverage and considerations relative to real property law and practice, and similar matters. Title searches should be billed on a per search basis. (Please see “Rate Schedule” on page 25).

7. Architectural/Engineering Services

While HHAP grantees are required to present a development team, including a project architect, at the application stage, it may be necessary to engage an alternate architect at any stage of the project (e.g., design development, construction administration, assessments and repairs while a project is operational, etc.). HHAC is seeking a provider of professional architects and engineers who are licensed to provide some or all of the following services:

- 1) Feasibility studies (including structural inspections);
- 2) Design/ Construction documents;
- 3) Zoning/code analysis;
- 4) Value engineering;
- 5) Rehabilitation/repair assessments;
- 6) Cost estimating;
- 7) Pre-Qualification of contractors;
- 8) Bidding;
- 9) Construction administration/site inspection; and
- 10) Energy/water audits.

Respondents should clearly indicate that they are able to perform each of these duties under the heading of architectural/engineering services, or specify which individual services they propose to provide.

A TAP providing architectural services must possess the skills necessary to become involved in an ongoing project under development and move the project forward to completion. Therefore, excellent negotiating skills are necessary, as TAPs may be assigned to an existing development team. HHAC requires a minimum of a Bachelor of Architecture, and that the individual be registered and licensed to practice in New York State, in such instances where conducting the above referenced services requires these qualifications. If proposing services where the above mentioned qualifications are not required, please be sure to indicate clearly in the proposal. TAPs must have design experience in new construction, adaptive re-use, and rehabilitation of single and multi-family housing. Experience in the administration of construction projects and supervision of staff is also required. TAPs must be knowledgeable of all phases of design and understand programmatic and code aspects required of various licensing agencies (e.g., domestic violence shelters, homeless and runaway youth facilities, adult homes and adult residences). TAPs must be available for in-house and field assignment. Services needed may include project re-design and/or rebidding to ameliorate cost over-runs or to comply with programmatic requirements.

A) Program-Wide Architectural/Engineering Consulting Services

HHAC is seeking both architectural services to be assigned on a project by project basis, and a single, statewide vendor or regional vendors for services in the fields of architecture, engineering, cost estimating, construction inspection and monitoring. The selected TAP(s) would be required to assist HHAC staff in the technical review of proposals submitted for funding consideration and to subsequently become part of the development team of funded projects. They would work very closely with HHAP project managers to ensure that projects progress in a timely, effective manner. Duties include, but are not limited to: evaluating the appropriateness of proposed project sites; evaluating architectural designs and cost estimates of proposal submissions; providing technical expertise to funded projects in the review and approval of architectural, mechanical and construction documents, including the appropriateness of cost estimates; overseeing the contractor selection process; reviewing architectural, general contractor and construction management agreements; monitoring, inspecting, and reporting on all HHAP projects under construction; and approving contractor requisitions. The RFQ submission may be based on the provision of statewide services, or be limited to one or more of the regions as defined in the proposal submission package below.

Applicants may apply specifically to provide one or more of the technical services below, which are a subset of architectural/engineering services. Responses to the RFQ need to be clear as to which services are being proposed.

B) Site Inspections

Once projects go to construction, site inspectors (construction engineers or CEs) oversee the construction process and provide a technical on-site presence for HHAP project managers. They work closely with the sponsor's design architect and HHAP project managers. Under this RFQ, both architects and independent CEs may propose to perform the site inspection function. During construction, the CE will inspect the progress of the work and confirm that the project is proceeding according to the specifications. Additionally, the CE will confirm that the installations are correct and that the workmanship is of professional quality. Although HHAP project management staff maintains final authority, it is the CE that must sign off on all change orders and requisitions. Consultation with the design architect may be required if a change order involves a substantial design issue. HHAC relies on CEs to monitor production schedules and keep project staff informed of any problems or potential problems. Periodic written reports will need to be submitted to HHAP project managers. Generally, requisition meetings are held on a monthly basis. A minimum of five years experience in the construction industry as an inspector, engineer, site superintendent or architect is required. The respondent must have experience as a field inspector and be familiar with construction administration, be able to interpret construction documents and be familiar with best practices. TAPs must be capable of coordinating and reviewing submittals of shop drawings, change orders and payment requisitions. They should have a working knowledge of OSHA regulations and applicable building codes and municipal building department approval processes for the region(s) in which services are being proposed. They must have the ability to visit sites within a specific region as frequently as the job requires. HHAC has found that the most effective manner in which to develop a project is to maintain consistency in the composition of the development team. Therefore, HHAC requires that the architect and CE maintain consistent involvement for project duration.

C) Cost Estimating

Under this RFQ, both architects and independent cost estimators may propose to perform cost estimating services. A TAP should be familiar with building methods, materials of construction and related costs. Expertise in the construction of single and multi-family housing is required. Familiarity with code analysis, environmental analysis, and asbestos and lead paint abatement issues is a requisite. A TAP must have the ability to work with an existing development team. Knowledge of the fluctuations of material and labor costs within a given region is necessary.

D) Energy and Water Audits

Under this RFQ, both architects and independent energy/water usage consultants may propose to perform energy and water audits. HHAC is interested in assisting projects (both operational projects and those in development) in improving energy efficiency and reduce the use of public water as a means of strengthening the financial viability of the projects. HHAC will retain TAPs that are able to perform energy efficiency and/or water usage assessments or “audits” and develop detailed recommendations or a scope of work to decrease the usage of energy and water. TAPs should demonstrate experience and expertise in energy efficient equipment, appliances, systems, materials, and practices. In addition, TAPs should: be familiar with various sources of funding (e.g., NYSEERDA, HUD, etc.); available to assist in redesigning or upgrading existing systems; be able to provide guidance as to how such funding may be used in concert or independent of HHAP funding, and be able to assist HHAP sponsors with requesting such funding.

8. Construction Manager (CM) / Emergency Repairs

A) Construction Manager

CMs must have experience in the development of single family and multi-unit projects. Experience in the construction of rental housing for low income and special needs populations will be favorably reviewed. CMs should have prior experience as a construction superintendent, project engineer, CM as constructor, or inspector, and be familiar with the construction administration process. HHAC is looking for a TAP who is familiar with all applicable building codes, possesses knowledge of OSHA standards, and has a strong command of construction documents and cost estimating skills. A TAP should have a working knowledge of the availability of subcontractors within a given region. Finally, a TAP should have excellent negotiating skills as this individual may join an existing development team. Experience in terms of completed projects should be described in the proposal narrative, as well as the anticipated ratio of the CM’s own forces that would be typically utilized as opposed to subcontractors. CMs may be called upon to complete or facilitate completion of an HHAP project in development, or to effect emergency repairs to a project in operation. Depending on the assignment, a CM’s fee may be based on a percentage of the construction cost, rather than the hourly or daily rate. Please specify both hourly and daily rates as well as a proposed CM fee expressed as a percentage of estimated construction cost.

Applicants should clearly specify whether proposed CM services include Emergency Repairs as described below.

B) Emergency Repairs

HHAP projects represent a significant investment of State funds. HHAP sponsor organizations enter into long-term contracts to operate the projects as homeless supportive housing. Therefore, HHAC has a strong interest in preserving the State's investment and protecting the tenants that reside in HHAP projects. On occasion, emergency repair needs arise in HHAP projects that are beyond the ability of the sponsor to address or beyond any restorative coverage by insurance or warranty, and HHAC may seek to intervene by employing a CM TAP to conduct emergency repairs. Repairs would be minor in scope, and designed to mitigate the immediate threat to the safety of tenants and/or avert additional or long-term damage to the project. Examples include, but are not limited to flood damage; smoke restoration; emergency plumbing or heating repairs; extermination; roof repair; mold remediation; and foundation repairs. Upon a TA assignment under this category, TAPs could be required to submit to HHAC a scope of work, cost estimate, and bids of any subcontractors, as necessary. TAPs may be called upon to work with HHAC property managers when necessary.

9. Expeditor

A TAP should be familiar with all municipal building department rules and regulations within a given geographic area. A TAP will work closely with the project architect and sponsor to efficiently shepherd documents through the planning and/or building department approval process. Successful experience should be described in navigating and coordinating the review and sign-off by various agencies (e.g. fire department, department of buildings) required to secure a building permit and achieve a Certificate of Occupancy.

10. Site Testing / Abatement Services

A) Site Testing

HHAC is seeking TAPs with appropriate and necessary credentials able to provide testing/assessments and abatement/treatment recommendations for HHAP sites concerning such contaminants and matters as lead, asbestos, mold, radon, soil borings and environmental pollutants. In addition, organizations able to conduct Phase 1 environmental assessments (records research) will be favorably considered. Documentation of applicable licensure or certification is required. Respondents should specify what testing services they propose to provide.

Applicants should also clearly specify whether or not abatement services as described below are being proposed in addition to, or separately from, site testing services.

B) Abatement Services

In addition to the above site testing services, HHAC is seeking TAPs with the proper credentials and training that are able to provide for the abatement, treatment or remediation of hazardous substances that may impact or impede the development of an HHAP project. Examples include, but are not limited to: lead paint abatement; mold remediation; and asbestos removal. The type(s) of abatement services proposed should be specified and documentation of applicable licensure or certification must be submitted.

11. Appraiser

A TAP may be called upon to either conduct an appraisal or to review and comment upon appraisals prepared by others. The subject property may consist of existing residential structures, vacant land, or occasionally large scale, multi-use properties in both rural and urban areas. TAPs interested in providing services must be state-certified appraisers with credentials based on the minimum certification criteria issued by the Appraiser Qualifications Board (AQB) of the Appraisal Foundation. Appraisers must utilize the criteria, definitions and methodology proscribed by Standards 1 through 5 of the Uniform Standards of Professional Appraisal Practice (USPAP). Appraisal services should be billed on a per-appraisal basis, rather than an hourly or daily rate (please see “Rate Schedule” on page 25).

12. Surveyor

HHAC is seeking to retain the services of surveyors to conduct or update and certify to HHAC surveys of HHAP-funded sites. Experience with residential properties in both rural and urban areas is desired. Documentation of NYS licensure is required. Surveyor services should be billed on a per-survey basis, rather than an hourly or daily rate. (Please see “Rate Schedule” on page 25).

13. Low-Income Housing Tax Credit

HHAC is interested in contracting with TAPs that have experience and expertise in all phases of Low-Income Housing Tax Credit (LIHTC) projects. TAPs may be needed to assist a sponsor with packaging a proposal, working with syndicators, advising on ownership structure and contract documents, filing of IRS tax credit forms and similar activities. TAPs may also be assigned to assist sponsors with LIHTC regulatory agreement compliance both during and at the close of the regulatory period, including developing and implementing a “Year 15 exit strategy”. A TAP will facilitate linkages among accountants, attorneys, investors, funders and credit issuers. HHAC is looking for TAPs familiar with the requirements for programs administered by NYS Homes and Community Renewal (HCR), the NYC Department of Housing Preservation and Development, (HPD), and other capital funding sources. The TAP should have a strong financial background and be familiar with all Federal rules and regulations governing the LIHTC program. Please note that the HHAC is NOT looking for syndicators, the role of the TAP would be to assist a sponsor to research several syndication proposals in an attempt to secure an agreement which best meets the individual needs of the project and to facilitate the consummation of the agreement. TAPs in this category of services may consist of a primary consultant and a team of subcontractors needed to provide various forms of technical expertise.

14. Information Technology

HHAC is seeking TAPs with information technology knowledge and experience to assist HHAP sponsors in the management of their housing projects through the use of computer systems and software. TAPs must have expertise in computer hardware (e.g., PCs, servers, routers, etc.), networking, operating systems, software applications (e.g., financial, housing management, support service programs), communication technology, and web page design.

A TAP may be assigned to assess the sponsor's needs, recommend and set up systems and software applications, and provide training to the sponsor's staff in the use of the systems and/or software applications. Specific software functions may include, but are not limited to, rent collection, maintenance work order tracking, financial reporting and budgeting.

IX. Equal Employment Opportunity (EEO) and Minority and Women-Owned Business Enterprise (M/WBE) Participation

New York State Executive Law §§ 310–318, (Article 15-A: Participation by Minority Group Members and Women with Respect To State Contracts -- hereinafter “the Statute”), was enacted to promote equality of employment and economic opportunities for minority group members and women in State contracting activities. The Corporation and the New York State Office of Temporary and Disability Assistance (OTDA) fully support the efforts of the State of New York to promote Equal Employment Opportunity (EEO) for all persons, and to promote equality of economic opportunity for minority group members and women who own business enterprises.

In accordance with section 312 of the Statute, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby the Corporation is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the Corporation; or (ii) a written agreement in excess of \$100,000.00 whereby the Corporation is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then:

- (a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;
- (b) At the request of the Corporation, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Corporation obligations herein; and
- (c) The Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the HHAC/State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of “a”, “b”, and “c” above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the “Work”) except where the Work is for the beneficial use of the Contractor. Section 312 of the Statute does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State; or (iii) banking services, insurance policies or the sale of securities. The Corporation shall consider compliance by a Contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The Corporation shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the Corporation/OTDA shall waive the applicability of Section 312 of the State to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Governor’s Office of Minority and Women’s Business Development pertaining hereto.

OTDA has developed compliance requirements, forms and procedures to ensure that (i) Sponsors with whom the Corporation/OTDA enters into State Contracts, as well as proposed or actual “Subcontractors”, comply with requirements to ensure Equal Employment Opportunities for Minority Group Members and Women, and (ii) there are meaningful participation opportunities for certified minority or women-owned business enterprises (M/WBEs) in the Corporation/OTDA procurement process. Contractors participating in and/or selected for procurement opportunities with the Corporation/OTDA shall fulfill their obligations to comply with applicable Federal, State and Local requirements concerning Equal Employment Opportunity and opportunities for M/WBEs, including but not limited to the Statute and its implementing regulations as promulgated by the New York Division of Minority and Women's Business Development (DMWBD) and set forth at 5 NYCRR Parts 140-144), as well as Appendix Z, which is attached hereto and incorporated herein by reference. All certifications and forms can be downloaded from OTDA’s website (<http://otda.ny.gov/main/contracts/mwbe/>).

X. OMNIBUS PROCUREMENT ACT

- It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises, as bidders, subcontractors, and suppliers with respect to its procurement contracts.
- Information on the availability of New York State subcontractors and suppliers is available from:

**NYS Department of Economic Development
Division for Small Business
30 South Pearl Street 7th Floor
Albany, New York 12245
Phone: 518-292-5220 Fax: 518-292-5884**

A directory of certified minority and women-owned business enterprises is available from:

**NYS Department of Economic Development
Division of Minority and Women's Business Development Division
30 South Pearl Street 2nd Floor
Albany, New York 12245
Phone: 518-292-5250 Fax: 518-292-5803**

Bidders located in foreign countries are hereby notified that New York State may seek to obtain and assign or otherwise transfer offset credits created by a procurement contract to third parties located in New York State. A successful bidder agrees to cooperate with the State in efforts to get foreign countries to recognize offset credits created by procurement contracts.

The Omnibus Procurement Act requires that by signing a bid proposal, TAPs certify that whenever the total bid amount is greater than \$1 million, TAPs shall document efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors on their specified project, and will retain the documentation of these efforts to be provided to the State, upon request.

Documented efforts by a successful contractor shall consist of and be limited to showing that such contractor has engaged in one or more of the following activities:

- Solicited bids, in a timely and adequate manner, from New York State business enterprises including certified minority and women-owned businesses, or
- Contacted the New York State Department of Economic Development to obtain listings of New York State business enterprises, or
- Placed notices for subcontractors and suppliers in newspapers, journals and other trade publications distributed in New York State, or
- Participated in bidder outreach conferences.

If the TAP determines that New York State business enterprises are not available to participate on the contract as subcontractors or suppliers, the TAP shall provide a statement indicating the method by which such determination was made.

If the TAP does not intend to use subcontractors on the contract, the contractor shall provide a statement verifying such intent.

The TAP shall also certify that it has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended.

The TAP agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities with its projects with the State through listing any such positions with the Community Services Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The TAP agrees to document these efforts and to provide said documentation to the State upon request.

XI. ADDITIONAL TERMS AND CONDITIONS OF THIS RFQ

1. HHAC reserves the right to reject any and all submittals for cause.
2. This RFQ does not commit HHAC to award any contracts or to procure or contract for services.
3. HHAC reserves the right to award contracts to as many or as few respondents as it selects, to award contracts to additional entities other than respondents to this RFQ during the five year contract term and to cancel this RFQ in part or in whole, if HHAC and OTDA, in their sole discretion, deem it to be in their best interests.
4. HHAC reserves the right to request and consider additional information from any applicant beyond that requested or presented in the initial response to this RFQ.
5. Submission of any formal response to this RFQ will be deemed to be the consent of the respondent to any inquiry made by HHAC of third parties with regard to the respondent's character, competence, experience or other matters relevant to this RFQ.
6. All responses to this RFQ which are submitted become the property of HHAC and will not be returned to the respondent.
7. Responses to this RFQ are prepared at the sole cost and expense of the respondent.
8. HHAC reserves the right to amend, modify or withdraw this RFQ and may exercise such right at any time without notice and without liability to any respondent or other parties for their expenses incurred in the preparation of the response to this RFQ or otherwise.
9. Successful respondents will be required to demonstrate their intent to adhere to applicable affirmative action policies, as well as meet the applicable requirements for minority/women owned business enterprises participating in any purchasing or subcontracting activities in performance of any contract or work assignment.
10. Successful respondents may be required to demonstrate compliance with HHAC's policy of encouraging the employment of qualified applicants/recipients of public assistance by organizations contracting with HHAC.
11. Successful respondents will work under the supervision of HHAC staff.
12. Any contracts awarded pursuant to this RFQ are subject to the applicable standard processing procedures for contracts of this type, which may include OTDA's internal review process, HHAC Board approval, NYS Division of Budget, NYS Office of the State Comptroller and/or the NYS Office of the Attorney General approval.
13. The proposal of the successful respondent will serve as the basis for any agreement between the respondent and HHAC.
14. Successful respondents will be awarded five year contracts. HHAC must approve all procurement contracts. All contracts are subject to the availability of appropriations.

XII. PROCUREMENT LOBBYING ACT

State Finance Law §139-j(6) requires that a Governmental Entity incorporate a summary of its policy and prohibitions regarding permissible Contacts during a covered procurement.

Pursuant to State Finance Law §139-j and 139-k, this Request for Qualifications (RFQ) includes and imposes certain restrictions on communications between a Governmental Entity and an Offerer/Bidder during the procurement process. An Offerer/Bidder is restricted from making contacts, from the issuance of the RFQ through final award and approval of the Procurement Contract by the NYS Homeless Housing and Assistance Corporation (HHAC), with other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law §139-j(3)(a). Designated staff, as of the date hereof, is identified on page 3 of this RFQ. HHAC employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the Offerer/Bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four year period; the Offerer/Bidder is debarred from obtaining governmental Procurement Contracts. Further information about these requirements can be found at <http://www.ogs.state.ny.us/aboutOgs/regulations/defaultAdvisoryCouncil.html>

State Finance Law §139-k(5) also requires that every Procurement Contract award subject to the provisions of State Finance Law §139-k or 139-j contain a certification by the Offerer/Bidder that all information provided to the procuring Governmental Entity with respect to State Finance Law §139-k is complete, true and accurate. The attached “Offerer Certification” must be completed and submitted with any response submitted in response to this RFQ in order to be considered.

**HOMELESS HOUSING and ASSISTANCE CORPORATION
TECHNICAL ASSISTANCE PROGRAM**

TA PROVIDER INFORMATION

Name of Applicant: _____

Street Address: _____

City: _____ **State:** _____ **Zip Code:** _____

Contact Person: _____ **Title:** _____

Email Address: _____

Telephone Number: _____ **Federal I.D.:** _____

NYS Charities Registration Number (if not for profit): _____

Status:

Corporation Partnership

Not for Profit Other, Specify _____

Classification:

MBE WBE MBE & WBE

Certified:

Yes No

If yes, state by whom _____

LITIGATION AND REFERENCES

Please provide a list of all pending malpractice suits against you, your firm or any present or former employees. Include your firm's employee's or former employee's involvement and the current status of such suits. Additionally, list all malpractice suits filed against you, your firm or employees within the past five years and their outcome.

Please list all pending litigation commenced by you or your firm (or to which you or your firm are a party) against the State of New York or any municipalities located within the State of New York. Include your firm's involvement and the current status of such suits.

Please provide the name, address and telephone number of six references for your organization that are persons or organizations familiar with the services you provide. The contact person should be able to describe their understanding of the type and quality of your organization's work. List any New York State contract work within the previous five years. For state clients, indicate the nature and duration of the work.

**HOMELESS HOUSING AND ASSISTANCE CORPORATION
TECHNICAL ASSISTANCE PROGRAM**

SERVICES TO BE PROVIDED

Please select the services to be provided

<input type="checkbox"/>	1) Monitoring
<input type="checkbox"/>	2) Direct Property Management
<input type="checkbox"/>	3) Organizational Capacity
<input type="checkbox"/>	4) Accounting/Audit Services
<input type="checkbox"/>	5) Legal Services
<input type="checkbox"/>	6) Title Company
<input type="checkbox"/>	7) Architectural And Engineering Services
<input type="checkbox"/>	8) Construction Management/ Emergency Repairs
<input type="checkbox"/>	9) Expediter
<input type="checkbox"/>	10) Site Testing / Abatement Services
<input type="checkbox"/>	11) Appraiser
<input type="checkbox"/>	12) Surveyor
<input type="checkbox"/>	13) Low-Income Housing Tax Credits
<input type="checkbox"/>	14) Computer Technology

**HOMELESS HOUSING AND ASSISTANCE CORPORATION
TECHNICAL ASSISTANCE PROGRAM**

GEOGRAPHICAL REGIONS

Please indicate the geographical areas in which services may be provided.

<input type="checkbox"/>	REGION 1	(New York City, Suburbs, Long-Island) Bronx, Kings, New York, Queens, Richmond, Putnam, Westchester, Rockland, Orange, Nassau and Suffolk Counties
<input type="checkbox"/>	REGION 2	(Capital District/ Hudson Valley) Albany, Columbia, Delaware, Dutchess, Greene, Montgomery, Otsego, Rensselaer, Saratoga, Schenectady, Schoharie, Sullivan, and Ulster Counties.
<input type="checkbox"/>	REGION 3	(North Country) Clinton, Essex, Franklin, Fulton, Jefferson, Hamilton, Herkimer, Lewis, St. Lawrence, Warren, and Washington Counties.
<input type="checkbox"/>	REGION 4	(Central NY and Southern Tier) Broome, Cayuga, Chemung, Chenango, Cortland, Madison, Oneida, Onondaga, Ontario, Oswego, Schuyler, Seneca, Steuben, Tioga, Tompkins, Wayne, and Yates Counties.
<input type="checkbox"/>	REGION 5	(Western NY) Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Livingston, Monroe, Niagara, Orleans, and Wyoming Counties

**HOMELESS HOUSING AND ASSISTANCE CORPORATION
TECHNICAL ASSISTANCE PROGRAM**

NARRATIVE

Please describe in detail each type and the scope of services you or your firm propose to provide to HHAC with respect to the requirements of this RFQ. Be sure to describe your relevant experience and, if required, demonstrate that you meet minimum qualifications. For additional guidance, please refer to Sections VII and VIII of the RFQ. You may use additional pages as necessary. Please attach copies of any licenses or certifications here.

**HOMELESS HOUSING AND ASSISTANCE CORPORATION
TECHNICAL ASSISTANCE PROGRAM**

MACBRIDE FAIR EMPLOYMENT PRINCIPLES

**Nondiscrimination in Employment in Northern Ireland:
MacBride Fair Employment Principles**

In accordance with Chapter 807 of the Laws of 1982 the bidder, by submission of this bid, certifies that it or any individual or legal entity in which the bidder holds 10% or greater ownership interest, or any individual or legal entity that holds 10% or greater ownership interest in the bidder:

(Answer yes or no to one or both of the following, as applicable.)

1. Has business operations in Northern Ireland. yes no

2. Shall take lawful steps in good faith to conduct any business operations they have in Northern Ireland in accordance with the MacBride Fair Employment Principles relating to nondiscrimination in employment and freedom of workplace opportunity regarding such operations in Northern Ireland, and shall permit independent monitoring of their compliance with such Principles. yes no

**HOMELESS HOUSING AND ASSISTANCE CORPORATION
TECHNICAL ASSISTANCE PROGRAM**

SUBCONTRACTING UTILIZATION FORM

Agency Contact: _____ Telephone: _____
 Contract Number: _____ Dollar Value: _____
 Date Bid: _____ Date Let: _____ Completion Date: _____

Contract Awardee/Recipient

Name: _____
 Address: _____ Telephone: _____
 Description of Contract/Project Location: _____

Subcontractors Purchase with Majority Vendors

Participation Goals Anticipated _____ % MBE _____ % WBE
 Participation Goals Anticipated _____ % MBE _____ % WBE

Subcontractors/Suppliers

Firm Name and City	Description of Work	Dollar Value	Date of Subcontract	MBE or WBE or NYS Certified

(you may attach additional list if necessary)

Contractor's Agreement: My firm proposes to use the M/WBE's listed on this form.

Prepared by _____ Print Contractor's _____ Telephone # _____
 (Signature of Contractor) Name

Grant Recipient Affirmative Action Officer Signature (If Applicable) _____ Date _____

FOR OFFICE USE ONLY	
Reviewed by: _____	Date: _____
M/WBE Firms: Certified _____	Not Certified _____
CBO _____	MCBO _____

**NEW YORK STATE
OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE**

**CONTRACTOR/SUBCONTRACTOR BACKGROUND
QUESTIONNAIRE**

General Information

Federal Identification Number: _____

Name of Firm: _____

Mailing Address: _____

Actual Location: _____

City: _____ **State:** _____ **Zip code:** _____

Fax Number: () _____

Telephone Number: () _____

Background Questionnaire

The following section must be fully completed by the Bidder or the bid will be deemed non-responsive. Where appropriate, provide additional details using space provided or by inserting additional sheets following this part. Any proposed subcontractor must also complete this form if the value of that subcontract will be in excess of \$10,000.

1a. If you, the bidder, are a natural person, are you a New York State resident?	<input type="checkbox"/> NO <input type="checkbox"/> YES
1b. If you are a corporation, are you a New York State corporation?	<input type="checkbox"/> NO <input type="checkbox"/> YES
1c. Are you registered with the New York State Department of State (DOS) to do business in New York State?	<input type="checkbox"/> NO <input type="checkbox"/> YES
If no, you will be required to comply with the New York State Department of State guidelines for doing business in New York State before you will be eligible for a Contract award. Do you agree to these conditions?	<input type="checkbox"/> NO <input type="checkbox"/> YES
2. How many years has the bidder been in business?	_____ Years
3a. Are you a certified minority owned business enterprise, certified by the NYS Department of Economic Development? (Your company is eligible to be certified if it is at least 51% owned and controlled by minority group members (i.e. Black, Hispanic, Asian, Pacific Islander, American Indian or Alaskan Native)?	<input type="checkbox"/> NO <input type="checkbox"/> YES
3b. Are you a woman owned business enterprise, certified by the NYS Department of Economic Development? (Your company is eligible to be certified if it is at least 51% owned and controlled by women)	<input type="checkbox"/> NO <input type="checkbox"/> YES
4. How many people are employed by the bidder?	_____ Employees
5. Total number of people employed by the bidder: * Within New York State? * Outside of New York State? * Outside of United States?	_____ _____ _____
6. Is the bidder independently owned and operated?	<input type="checkbox"/> NO <input type="checkbox"/> YES (If no, provide details)

<p>o) Has there been a revocation of MBE or WBE certification?</p> <p>p) Was there a rejection of a low bid on a state contract for failure to meet statutory affirmative action or MWBE requirements?</p> <p>q) Has there been a consent order with the NYS Department of Environmental Conservation, or a federal or state enforcement determination involving a construction-related violation of federal or state environmental laws?</p>	<p>_____ NO _____ YES</p> <p>_____ NO _____ YES</p> <p>_____ NO _____ YES</p>
<p>9. Does your company retain partnership or reciprocal agreements with hardware and/or software companies, or with associated manufacturers in this industry?</p>	<p>_____ NO _____ YES</p>
<p>10. Does the bidder hold any current contracts with the State of New York, its departments or political subdivisions, valued in excess of \$100,000?</p>	<p>_____ NO _____ YES (If yes, provide details)</p>
<p>11. Does the bidder hold any current contracts with governmental entities outside of New York State, valued in excess of \$100,000:</p>	<p>_____ NO _____ YES (If yes, provide details)</p>
<p>12. Your firm is responsible for providing worker's compensation insurance pursuant to state law. The State has the option to require proof of current worker's compensation insurance or proof of exemption if applicable. Do you comply with this requirement?</p>	<p>_____ NO _____ YES</p>
<p>13. Your firm is responsible for providing disability insurance pursuant to state law. The State has the option to require proof of current worker's compensation insurance or proof of exemption if applicable. Do you comply with this requirement?</p>	<p>_____ NO _____ YES</p>
<p>14. Does your firm employ any non-U.S. citizens or resident legal aliens?</p>	<p>_____ NO _____ YES</p>
<p>15. If yes, are the forms on file and available for inspection?</p>	<p>_____ NO _____ YES</p>

CERTIFICATION

The undersigned: 1) recognizes that this questionnaire is submitted for the express purpose of inducing the New York State Office of Temporary of Disability Assistance (the "Office") to award a contract or approve a subcontract; 2) acknowledges that the Office may in its discretion, by means which it may choose, determine the truth and accuracy of all statements made herein; 3) acknowledges that intentional submission of false or misleading information may constitute a felony under Penal Law 210.40 or a misdemeanor under Penal Law 210.35 or 210.45, and may also be punishable by a fine of up to \$10,000 or imprisonment of up to five years under 18 U.S.C. 1001; 4) states that the information submitted in this questionnaire and any attached pages is true, accurate and complete; and 5) acknowledges that submission of false or misleading information will constitute grounds for the Office to terminate its contract (or revoke its approval of a subcontract) with the undersigned or the organization of which s/he is an officer.

Authorized Signature:

Name:

Title:

Date:

**HOMELESS HOUSING AND ASSISTANCE CORPORATION
TECHNICAL ASSISTANCE PROGRAM**

Offerer Certification

In compliance with State Finance Law §139-j (3) and 139-j (6) (b), the Offerer hereby affirms that it understands and agrees to comply with the procedures of the NYS Homeless Housing and Assistance Corporation (HHAC) and the NYS Office of Temporary and Disability Assistance (OTDA), and their successors and/or assigns relating to permissible contacts during and with regard to this RFQ process.

Offerer further certifies that all information provided by Offerer to the HHAC and OTDA is complete, true and accurate and in compliance with State Finance Law §139-k.

[PLEASE NOTE: HHAC and OTDA, their successors and/or assigns reserve the right to terminate the technical assistance agreement that may result from this RFQ in the event that this certification is intentionally false or intentionally incomplete. Upon such finding, the HHAC and OTDA, their successors and/or assigns may exercise its termination right by providing written notification to the Offerer in accordance with the written notification terms of the technical assistance agreement.]

By: _____

Date: _____

Name: _____

Title: _____

Contractor Name: _____

Contractor Address: _____

AGREEMENT

It is hereby understood and agreed to by the respondent and co-respondent that: (1) respondent organization proposes to provide technical assistance services to Homeless Housing and Assistance Program grantees and/or the New York State Homeless Housing and Assistance Corporation (HHAC), its successors and/or assigns; (2) respondent will properly account for and maintain records on all funding provided; (3) respondent practices non-discrimination; (4) funds received from the New York State Homeless Housing and Assistance Corporation, its successors and/or assigns will be expended in accordance with New York State guidelines established for such purposes; (5) the responding organization agrees to comply with the requirements of the Civil Rights Act of 1964 as amended, and all applicable Federal Regulations contained in 44 CFR, Part 7, entitled "Nondiscrimination in Federally-Assisted Programs," and agrees that the expression of religious belief or religious activity shall not be a condition to receiving technical assistance services; (6) the HHAC funds may be terminated in whole, or in part, by the Commissioner of the New York State Office of Temporary & Disability Assistance, acting as Chairman of HHAC, its successors and/or assigns. Such termination shall not affect obligations incurred under the agreement prior to the effective date of such termination; (7) when HHAC funds are advanced, any unexpended balance at the end of the approval period will be returned to HHAC; (8) any significant revision of the approved assignment for technical assistance services will be requested in writing by the applicant prior to the enactment of the change; (9) progress reports will be submitted as required by HHAC. The final program and financial reports will be submitted by the respondent, as required, by HHAC. Final program and financial reports will be submitted within one month after the technical assistance assignment terminates. Necessary records and accounts, including financial and property controls, will be maintained and made available to HHAC and the New York State Office of Temporary & Disability Assistance, their successors and/or assigns for audit purposes; (10) all reports of investigations, studies, publications and similar documents, made as a result of this submittal will acknowledge the support provided by the New York State Office of Temporary & Disability Assistance and HHAC, their successors and/or assigns; (11) all personal information concerning individuals served or studied under the project is confidential and such information may not be disclosed to unauthorized persons; (12) HHAC, its successors and/or assigns reserve a royalty-free non-exclusive license to use and authorize others to use all copyrighted material resulting from the technical assistance services provided and (13) the respondent shall comply with all program requirements stated in this Request for Qualifications, and with all applicable laws and regulations, in providing technical assistance services.

The respondent and co-respondent, if any, certifies that to the best of its knowledge and belief the information and data in this application are true and correct, that it will comply with the above agreement if it receives funding, and that this constitutes a firm offer for 120 days.

RESPONDENT

SIGNATURE OF OFFICIAL AUTHORIZED TO SIGN FOR RESPONDENT

Date

Title

SUBCONTRACT AGENCY or CO-RESPONDENT

SIGNATURE OR OFFICIAL AUTHORIZED TO SIGN FOR SUBCONTRACTOR OR CO-RESPONDENT

Date

Title

APPENDIX Z

Minority and Women-Owned Business Enterprise (M/WBE) and Equal Employment Opportunity (EEO) Participation Requirements For All NYS Office of Temporary and Disability Assistance Contracts and Grants

(Authority: Federal and State statutes specifically Article 15-A of the Executive Law, 5 NYCRR parts 140-144, and Appendix A: Standard Clauses for All New York State Contracts)

A. Introduction

1. New York State Executive Law §§ 310–318, (Article 15-A: Participation by Minority Group Members and Women with Respect To State Contracts -- hereinafter “the Statute”), was enacted to promote equality of employment and economic opportunities for minority group members and women in State contracting activities. The New York State Office of Temporary and Disability Assistance (OTDA) fully supports the efforts of the State of New York to promote Equal Employment Opportunity (EEO) for all persons, and to promote equality of economic opportunity for minority group members and women who own business enterprises.
2. OTDA has developed compliance requirements, forms and procedures to ensure that (i) all contractors as defined under § 310 (3) (to include those who submit bids/proposals in an effort to be selected for contract award as well as those successful bidders/proposers with whom OTDA enters into State Contracts, as defined in § 310 (13) [hereinafter “Contractors”], as well as proposed or actual “Subcontractors”, as defined in § 310 (14) shall comply with requirements to ensure Equal Employment Opportunities for Minority Group Members and Women, and, (ii) there are meaningful participation opportunities for certified minority or women-owned business enterprises (M/WBEs) in the OTDA procurement process. Contractors participating in and/or selected for procurement opportunities with OTDA shall fulfill their obligations to comply with applicable Federal, State and Local requirements concerning Equal Employment Opportunity and opportunities for M/WBEs, including but not limited to the Statute and its implementing regulations as promulgated by the Division of Minority and Women's Business Development (DMWBD) and set forth at 5 NYCRR Parts 140-144).
3. Copies of the required OTDA Forms are identified in this Appendix and available on OTDA’s Internet site at <http://www.otda.state.ny.us/main/>. These forms are to be submitted without change to goals specified in the RFP or contract.
4. Further information regarding Article 15-A of the New York State Executive Law and the New York State Minority and Women’s Business Enterprises Program is available on the New York State Division of Minority and Women-Owned Business Development Internet site at <http://www.nylovesmwbe.ny.gov>.

B. M/WBE Utilization Goal Requirements For NYS OTDA Contracts

Pursuant to Article 15-A of the New York State Executive Law and Regulations adopted pursuant thereto, NYS OTDA has established separate goals for participation of New York State Certified minority and women-owned business enterprises for all State Contracts. NYS OTDA is required to implement the provisions of Article 15-A and 5 NYCRR Part 143 for all State contracts (1) in excess of \$25,000 for labor, services, supplies, equipment, materials, or any combination of the foregoing; (2) in excess of \$100,000 for the acquisition, construction, demolition, replacement, major repair of real property renovations and construction; and (3) in excess of \$100,000 whereby the owner of a state assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project. As a condition of the State contract, the Contractor and NYS OTDA agree to be bound by the provisions of §316 of Article 15-A of the New York State Executive Law regarding enforcement. Successful Contractors must document "good faith efforts" to provide meaningful participation by New York State Certified M/WBE subcontractors or suppliers in the performance of this contract. For guidance on how NYS OTDA will determine a Contractor's "good faith effort," refer to 5 NYCRR

§143.8.

ESTABLISHED OTDA GOALS FOR CONTRACTS ARE AS FOLLOWS:

MINORITY OWNED BUSINESS PARTICIPATION	5%
WOMEN OWNED BUSINESS PARTICIPATION	5.50%
EQUAL EMPLOYMENT OPPORTUNITY PARTICIPATION	7 to 10%

ESTABLISHED GOALS FOR THIS PROCUREMENT/CONTRACT ARE AS FOLLOWS:

MINORITY OWNED BUSINESS PARTICIPATION	5%
WOMEN OWNED BUSINESS PARTICIPATION	5.5%
EQUAL EMPLOYMENT OPPORTUNITY PARTICIPATION	7 to 10%

C. EEO Requirements

1. Prior to the Award of a State Contract

- a) In addition to the requirements stated in Appendix A, Clause 12 (Equal Employment Opportunities for Minorities and Women), as a precondition to being selected for contract award and entering into a State Contract, the Contractor shall provide the following with its procurement submission:
 - i. An EEO Policy Statement, as described in Appendix A, Clause 12. The OTDA EEO Policy Statement form (OTDA Form 4970) can be used to satisfy this requirement.
 - ii. Except for construction contracts, an EEO Staffing Plan of anticipated workforce, which should document:
 - The workforce proposed to be utilized on the State Contract; or
 - Where the work force to be utilized in the performance of this State Contract cannot be separated out from the Contractor's and/or proposed Subcontractor's total work force (for example, certain commodities contracts), the Contractor's and/or proposed Subcontractor's total workforce including apprentices, broken down by specified ethnic background, gender, and Federal occupational categories or other appropriate categories specified by OTDA.
- b) Failure to submit an EEO Policy Statement and EEO Staffing Plan of anticipated workforce may result in the rejection of the Contractor's procurement submission, unless the Contractor provides OTDA with a reasonable justification in writing for such failure (e.g., the failure to submit a staffing plan where a Contractor has a work force of 10 or fewer employees), or makes a commitment to submit an EEO Policy Statement and an EEO Staffing Plan of anticipated workforce within the time frame specified in writing by OTDA.
- c) If, after scoring, a Contractor is selected for award, before that award is completed (e.g., during contract negotiations), OTDA will conduct a review of the substance of the EEO Policy Statement and EEO Staffing Plan of anticipated workforce to determine whether the Contractor appears to be in compliance with Appendix A, Clause 12 and Executive Law Article 15-A, i.e., whether such documents demonstrate that the Contractor is committed to EEO. If, upon review, OTDA comes to the conclusion that such commitment to

EEO principles is lacking, OTDA shall contact the Contractor and make every effort to resolve the deficiencies identified in the policy statement and staffing plan and to bring the substance of the policy statement and staffing plan into compliance with such requirements. Failure to correct such deficiency within a timeframe specified by OTDA shall result in noncompliance.

2. After the Award of the State Contract

- a) The Contractor will designate a Minority/Women Business Enterprise Liaison/Contact person to coordinate implementation of the M/WBE-EEO program between the Contractor and the OTDA M/WBE Program Management Unit, pursuant to Article 15-A, and requirements in furtherance of the Statute that may be established by OTDA.
- b) After approval of the award of a State Contract, and during the performance of the State Contract, the Contractor shall periodically submit to OTDA EEO Workforce Employment Utilization/Compliance Reports (OTDA Form 4971) which must document: The workforce actually utilized, on the State Contract, broken down by specified ethnic background, gender, and Federal occupational categories or other appropriate categories specified by OTDA. All forms and reports will be submitted to the OTDA program manager for this contract award and forwarded for review to: Ms. Wilma BrownPhillips, M/WBE Director, NYS OTDA, M/WBE Program Management Unit, Harlem Center, 317 Lenox Avenue, NYC, NY 10027; (212) 961-8222; mail to: Wilma.BrownPhillips@OTDA.State.NY.US.
- c) In addition to general compliance monitoring of State Contracts, including a contractor's compliance with the requirements of 5 NYCRR Part 142, OTDA shall conduct in-depth compliance reviews on selected State Contracts during the course of the year, in accord with 5 NYCRR § 142.3.
- d) The EEO Workforce Employment Utilization/Compliance Reports shall be reviewed as part of OTDA's general compliance monitoring. If discrepancies exist between the EEO Staffing Plan of anticipated workforce submitted, where applicable, with procurement submission and the Contractor's EEO Workforce Employment Utilization/Compliance Reports, the Contractor/ Subcontractor may be subject to an in-depth EEO compliance review.
- e) If deficiencies are identified with the Contractor during OTDA's general contract compliance monitoring or during in-depth compliance reviews, the Contractor and OTDA M/WBE Program Management Unit, and other OTDA staff, as appropriate, shall make every effort to resolve the deficiencies identified to bring the Contractor/Subcontractor into compliance with such requirements.
- f) If the Contractor and the OTDA M/WBE Program Management Unit, and other OTDA staff, as may be appropriate, are unsuccessful in their efforts, and, upon review, the OTDA Commissioner or his/her designee agrees that the Contractor/Subcontractor is non-compliant, such Commissioner or his/her designee shall submit a written complaint to: New York State Empire State Development (ESD), Division of Minority and Women's Business Development ("DMWBD"), regarding the Contractor's or Subcontractor's noncompliance and shall recommend to DMWBD that it review and attempt to resolve the noncompliance matter. Such Commissioner or his/her designee shall serve a copy of the complaint upon the Contractor or Subcontractor by personal service or certified mail, return receipt requested.
- g) DMWBD shall attempt to resolve a noncompliance dispute. If a resolution of the noncompliance dispute is satisfactory to the parties, the parties shall so indicate by signing a document indicating that the matter has been resolved and stating the terms of the resolution. If a resolution is not possible, DMWBD shall refer the matter, within thirty days of the receipt of the complaint, to the American Arbitration Association for proceeding thereon, pursuant to statute (Executive Law § 316) and regulation (5 NYCRR § 142.5).

D. M/WBE Requirements

1. The Contractor acknowledges that it is the policy of the State of New York and of OTDA that M/WBEs shall be given the opportunity for meaningful participation in the performance of State Contracts. Therefore, Contractors agree to make good faith efforts to solicit active participation to meet established goals under this procurement by

M/WBEs identified in the New York State Empire State Development (“ESD”) directory of certified businesses¹, which can be viewed at: http://www.empire.state.ny.us/Small_and_Growing_Businesses/mwbe.asp.

2. For the purposes of this Appendix Z, the question of whether a Contractor has engaged in and documented “Good Faith Efforts” to solicit active participation to meet established goals under this procurement by M/WBEs in the performance of State Contracts shall be determined by the OTDA Commissioner or his/her designee, after a thorough consideration of the factors listed in 5 NYCRR § 143.8.
3. The separate MBE and WBE participation goals established by OTDA for this procurement are based on the overall availability of M/WBEs that have been certified to perform the specific scope of work identified under this procurement. For compliance purposes, these goals should not be construed as rigid and inflexible quotas which must be met, but must be targets reasonably attainable by means of applying every good faith effort to make all aspects of the entire Minority- and Women-owned Business Program work.

a) Prior to the Award of a State Contract

- i. Contractors shall document and/or demonstrate in their procurement submissions every good faith effort to solicit active M/WBE participation, at least equal to the goals established by OTDA. The M/WBE utilization should be measured by comparing (in detail) the dollar value of the component services/deliverable/materials provided/supplied by M/WBEs to the total dollar value of the services/deliverables/materials available under the State Contract.
- ii. The Contractor shall provide with its procurement submission:
 - A Certification of Good Faith Efforts, to achieve the overall prescribed M/WBE participation percentage (%) goals set forth in the procurement.
 - A M/WBE Subcontractor Utilization Plan, which should document actions taken and/or to be taken to meet established goals and the time frames needed to achieve results which could reasonably be expected by putting forth every good faith effort to achieve the overall prescribed M/WBE participation percentage (%) goals set forth in the procurement.
 - A M/WBE Subcontractor’s and/or Suppliers’ Letter of Intent to Participate, which should document the names and signatures of certified MBEs and/or WBEs which have agreed to participate as Subcontractors if the Contractor is awarded the State Contract.
- iii. When M/WBE goals higher than 0% (zero percent) are included in OTDA’s procurement document, a Contractor’s failure to submit a M/WBE Subcontractor Utilization Plan and a M/WBE Subcontractor’s and/or Suppliers’ Letter of Intent to Participate, where applicable, may result in noncompliance with submission requirements, unless the Contractor provides OTDA with a completed M/WBE Subcontractor Request for Waiver, within the timeframe specified in writing by OTDA.
- iv. If, after scoring, a Contractor is selected for award, before that award is completed (e.g., during contract negotiations), OTDA will review the substance of the Subcontractor Utilization Plan submitted by a Contractor and within twenty (20) days from the receipt thereof by the OTDA MWBE Unit, issue a written notice of acceptance or deficiency.
- v. If a notice of deficiency is warranted, the notice shall include:

¹ All M/WBE firms are required to be certified by Empire State Development (ESD) or must be in the process of obtaining certification from ESD. Should the Contractor identify a minority-owned or woman-owned firm that is not currently certified as an M/WBE, the Contractor should request that the firm submit a certification application to ESD for an eligibility determination, with a copy to the OTDA M/WBE Program Management Unit. OTDA’s M/WBE Program Management Unit will work with ESD to expedite the application; however, it is the responsibility of the Contractor to ensure that a sufficient number of certified M/WBE firms have been identified in response to this procurement, in order to facilitate full M/WBE participation.

- The name of any M/WBE which is not acceptable for the purpose of complying with the M/WBE participation goals and the reasons why it is not acceptable;
 - Elements of the contract scope of work which OTDA has determined can be reasonably structured by the Contractor to increase the likelihood of participation in the contract by M/WBEs; and
 - Other information which OTDA determines to be relevant to the M/WBE Subcontractor Utilization Plan.
- vi. A Contractor must provide OTDA with a written remedy in response to a written notice of deficiency within seven (7) business days of receipt or within a time frame as specified by OTDA to correct the specific deficiency. Failure to correct a deficiency and/or demonstrate compliance shall result in the necessity of the Contractor to submit to OTDA a M/WBE Subcontractor Request for a partial or total waiver of M/WBE participation goals on forms provided by the OTDA. Failure to submit the waiver form in a timely manner may be grounds for noncompliance.

b) After the Award of the State Contract

- i. In accordance with regulations under 5 NYCRR Part 140, after the awarding of the Contract, and during the performance of the State Contract, except where OTDA has granted the Contractor a total waiver², the Contractor shall, as required by OTDA, periodically submit to OTDA: M/WBE Subcontractor Quarterly Compliance Reports.
- ii. Failure to timely submit a Contractor's M/WBE Subcontractor Quarterly Compliance Report and/or other reports or information as requested by OTDA may result in payments under the contract being delayed until such reports or other information have been received by OTDA.³ OTDA may also deem other noncompliance with requirements under the Statute as a breach of contract and commence any other means of enforcement permitted under the contract and/or by law.
- iii. OTDA shall review the substance of the Contractor's M/WBE Subcontractor Quarterly Compliance Report and shall be responsible for evaluating and determining whether the Contractor has demonstrated compliance with its previously approved Contractor's M/WBE Subcontractor Utilization Plan. In making such determination, OTDA may review and investigate whether the goals are being achieved with certified minority- and women-owned business enterprises and whether information made available to OTDA through monitoring, on-site inspections, progress meetings regarding work required by the State Contract, review of payrolls or other OTDA action provides acceptable evidence of compliance.
- iv. Where it appears that a Contractor cannot, after a good faith effort, comply with the goals established in the contract, such Contractor may submit a completed M/WBE Subcontractor Request for Waiver, setting forth the reasons for such Contractor's inability to meet any or all of the participation goal requirements, together with an explanation and supporting documentation demonstrating the good faith efforts undertaken by such Contractor to obtain the required M/WBE subcontractor participation goal requirements.⁴
- v. If OTDA determines that the Contractor has not demonstrated compliance with the goals established in the contract and has made no good faith effort to do so, OTDA and the Contractor shall make every effort to resolve the deficiencies identified and to bring the Contractor into compliance with such requirements.

² If OTDA has granted a partial waiver to the Successful Contractor, prior to award OTDA must have approved a Contractor's M/WBE Utilization Plan and a completed Contractor's M/WBE Subcontractor's Notice of Intent to Participate. Please note that after award the Contractor must still submit Contractor's M/WBE Compliance Reports.

³ Contractors may be requested to provide additional Compliance Reports and information (i) to verify payments made to M/WBEs, (ii) to verify M/WBE utilization and/or, (iii) as needed to evaluate any other aspect of Contractor compliance with the requirements set forth herein.

⁴ Requests for a partial or total waiver made subsequent to award of a State Contract may be made at any time during the term of the State Contract but prior to the submission of a request for final payment on that State Contract.

- vi. OTDA will determine whether the Contractor is in non-compliance. The Contractor will be found to be not in compliance when it is non-responsive, in whole or in part, to the EEO and/or M/WBE program requirements or requests.
- vii. OTDA reserves the right to impose sanctions following a determination of non-compliance by a Contractor. Sanctions may be imposed upon the Contractor whenever EEO and/or M/WBE program requirements have not been met in a timely and effective manner. Any/all of the following sanctions may be imposed:
 - Disallowance of costs associated with such non-compliance;
 - Initiation of procedures to suspend or terminate the grant or contract;
 - Withholding of progress payments until such time as corrective actions have been undertaken by the Contractor to the satisfaction of OTDA;
 - Deleting Contractor's name from bid lists for a specified period of time to be determined in the sole discretion of OTDA;
 - Report Contractor as non-responsible to NYS OSC Vendor Responsibility System; and
 - Other sanctions of which a Contractor has notice in writing prior to or during the performance of a contract.
- viii. If OTDA is unsuccessful in its efforts, and, upon review, the OTDA Commissioner or his/her designee agrees that the Contractor is non-compliant, the Commissioner or his/her designee shall submit a written complaint to: The New York State Department of Economic Development, Division of Minority and Women's Business Development ("DMWBD"), regarding the Contractor's noncompliance and shall recommend to DMWBD that it review and attempt to resolve the noncompliance matter. The Commissioner or his/her designee shall serve a copy of the complaint upon the Contractor by personal service or certified mail, return receipt requested.
- ix. DMWBD shall attempt to resolve a noncompliance dispute. If a resolution of the noncompliance dispute is satisfactory to the parties, the parties shall so indicate by signing a document indicating that the matter has been resolved and stating the terms of the resolution. If a resolution is not possible, DMWBD shall refer the matter, within thirty days of the receipt of the complaint, to the American Arbitration Association for proceeding thereon, pursuant to statute (Executive Law § 316) and regulation (5 NYCRR § 142.5).
- x. Nothing herein shall diminish or supersede OTDA's authority and responsibility to enforce the requirements of its contracts.
- xi. The Contractor agrees (i) to provide OTDA access to all documentation, records, reports, facilities, etc, which OTDA may deem necessary to determine Contractor compliance, and (ii) to be bound by the provisions of the Statute (Section 316) regarding possible fines, sanctions and penalties for violations of the Statute.

NOTE: Pursuant to Chapter 429 of the Laws of 2009, which amends Section 313 of the Statute, OTDA is required to post contractor utilization plans, and any applicable waivers on the agency website.

SUBCONTRACT AGENCY or CO-RESPONDENT

SIGNATURE OF OFFICIAL AUTHORIZED TO SIGN FOR SUBCONTRACTOR OR CO-RESPONDENT

 Date

 Title