



Department of Health

Request for Proposals

RFP # 20177

Media-buying and Planning Services

Issued: June 22, 2022

DESIGNATED CONTACT:

Pursuant to State Finance Law §§ 139-j and 139-k, the Department of Health identifies the following designated contact to whom all communications attempting to influence the Department of Health's conduct or decision regarding this procurement must be made.

Sue Mantica
Bureau of Contracts
New York State Department of Health
Corning Tower, Room 2827
Albany, New York 12237
Telephone: 518-474-7896
Email Address: sue.mantica@health.ny.gov

PERMISSIBLE SUBJECT MATTER CONTACT:

Pursuant to State Finance Law § 139-j(3)(a), the Department of Health identifies the following allowable contact for communications related to the submission of written proposals, written questions, pre-bid questions, and debriefings.

Steven Spaccarelli
New York State Department of Health
Bureau of Marketing and Creative Communications
Corning Tower, Room 2812
Albany, New York 12237
Telephone: 518-474-8431
Email Address: bmcc@health.ny.gov

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1. CALENDAR OF EVENTS

MEDIA-BUYING AND PLANNING SERVICES FOR THE NEW YORK STATE DEPARTMENT OF HEALTH	
<u>EVENT</u>	<u>DATE</u>
Issuance of Request for Proposals	June 22, 2022
Deadline for Submission of Written Questions	Questions Due By July 7, 2022 at 4:00 p.m. ET
Responses to Written Questions Posted by DOH	Responses Posted On or About July 22, 2022
Deadline for Submission of Proposals	Proposals Due On OR Before August 5, 2022 at 4:00 p.m. ET
<u>Anticipated</u> Oral Presentation Date	Week of September 12 -16, 2022
<u>Anticipated</u> Contract Start Date	February 1, 2023

2. OVERVIEW

Through this Request for Proposals (“RFP”), the New York State (“NYS”) Department of Health (“DOH”) is seeking competitive proposals from qualified bidders to provide media buying services for all types of media in support of the DOH’s many public health campaigns and programs as further detailed in [Section 4.0](#) (Scope of Work). It is the DOH’s intent to award one (1) contract from this procurement.

2.1. Introductory Background

New York State Department of Health (NYS DOH) is charged with protecting the health, safety, productivity, and well-being of all New Yorkers. Working with both internal and external partners and agencies, the Department has prioritized the following key goals:

- Promote the health, safety and well-being of all New Yorkers
- Assure access to essential health care services
- Respond to emergencies and disasters
- Improve quality in all care settings
- Conduct world-class research to promote and ensure health

The NYS DOH’s Bureau of Marketing and Creative Communications (BMCC) provides creative and marketing services for the Department’s marketing and health education campaigns. These campaigns are financially supported by the Department’s many public health programs and their partner agencies, can cover almost any topic that could affect the health, safety or well-being of the citizens of New York State, and can range from large, statewide promotions to small campaigns for pilot programs involving one or two counties. Some programs cover upstate areas only. Some may need to reach people through print and broadcast outlets that use languages other than English. Generally, although not always, the

Department seeks to reach consumers of a lower socio-economic status than those traditionally sought by advertisers of goods and services.

Although some media services will be purchased each year of the contract, the actual number and type of media services purchased will vary from year to year based upon current health initiatives and/or unexpected situations (such as a disease outbreak or a disaster). The contracted media buyer, therefore, will need a high degree of flexibility and responsiveness to successfully execute the Department's media buys in these various circumstances as there is no guarantee of what actual services will be bought each year. The Department has historically purchased over \$25 million a year in media services, however, that number may fluctuate.

The contracted media buyer will need a high degree of flexibility to respond to unforeseen circumstances requiring a public health response, such as disease outbreaks like measles, or the COVID-19 pandemic, as well as vaccine shortages or public health legislation for this reason, budget projections are highly variable.

2.2. Important Information

The bidder is required to review, and is requested to have legal counsel review, [Attachment 8](#), the DOH Agreement as the Bidder must be willing to enter into an Agreement substantially in accordance with the terms of [Attachment 8](#) should the bidder be selected for contract award. Please note that this RFP and the awarded bidder's proposal will become part of the contract as Appendix B and C, respectively.

It should be noted that Appendix A of [Attachment 8](#), "Standard Clauses for New York State Contracts", contains important information related to the contract to be entered into as a result of this RFP and will be incorporated, without change or amendment, into the contract entered into between DOH and the successful Bidder. By submitting a response to the RFP, the Bidder agrees to comply with all the provisions of Appendix A.

Note, [Attachment 7](#), the Bidder's Certifications/Acknowledgements, should be submitted and includes a statement that the bidder accepts, without any added conditions, qualifications or exceptions, the contract terms and conditions contained in this RFP including any exhibits and attachments. It also includes a statement that the bidder acknowledges that, should any alternative proposals or extraneous terms be submitted with the proposal, such alternate proposals or extraneous terms will not be evaluated by the DOH.

Any qualifications or exceptions proposed by a bidder to this RFP should be submitted in writing using the process set forth in [Section 5.2](#) (Questions) prior to the deadline for submission of written questions indicated in [Section 1.0](#) (Calendar of Events). Any amendments DOH makes to the RFP as a result of questions and answers will be publicized on the DOH web site.

2.3. Term of the Agreement

This term of this agreement will be for a period of five (5) years commencing on the date shown on the Calendar of Events in [Section 1.0.](#), subject to the availability of sufficient funding, successful contractor performance, and approvals from the New York State Attorney General (AG) and the Office of the State Comptroller (OSC).

3. BIDDERS QUALIFICATIONS TO PROPOSE

3.1. Minimum Qualifications

The NYS DOH will only accept bid proposals from Bidders who meet all minimum requirements listed below:

- A minimum of two (2) clients/ accounts with annual media billing of \$10 million or more, of which \$5 Million are in digital media; and
- Experience purchasing media in New York State for a minimum of three (3) clients within the past thirty-six (36) months prior to the bid due date.

Experience acquired concurrently is considered acceptable.

For the purposes of this RFP, a prime contractor is defined as one who has the contract with the owner of a project or job and has full responsibility for its completion. A prime contractor undertakes to perform a complete contract and may employ (and manage) one or more subcontractors to carry out specific parts of the contract.

Failure to meet these Minimum Qualifications will result in a proposal being found non-responsive and eliminated from consideration.

4. SCOPE OF WORK

4.1. Performance Expectations

The contractor must provide media planning and buying services as set forth in this RFP and this section. The overall goals of the contract resulting from this RFP are to:

- Provide strategic media planning, buying and placement for New York State. Must have the ability to present proposed schedules for media buys, based on current rating or circulations information, within five working days.
- Provide planning and guidance for budgeting and planning purposes including strategy and demographic research.
- Deliver expert solutions in utilizing the most effective and efficient media for the individual campaign goals and objectives as determined by BMCC.
- Monitor and maintain the effectiveness of each and every media buy, providing specific and detailed purchase information and post-buy analysis.

4.2. Deliverables

The contractor must provide the following specific services and activities to NYS DOH through its own resources:

4.2.1. Account Management Team

The contractor shall provide a seasoned, dedicated media account team that will work collaboratively with the BMCC to manage the daily activities of the account. The team will be responsible for establishing regular communications between the selected vendor and BMCC to ensure seamless integration of the advertising programs.

The Account team will also be responsible for preparation of the following:

4.2.1.1 Current Flowcharts – The team is responsible for maintaining current flowcharts for all media activity. Detailed flowcharts for buys must specify media type, market tiers, length of time, creative rotation, and costs for each campaign. Budgets are to be broken out by medium. Any time there is a change in media plans or activity, flowcharts must be updated and provided to the DOH within five (5) business days.

4.2.1.2 Campaign Status Report – Bi-weekly to monthly campaign reports (as agreed upon per campaign between BMCC and contractor). The reports will include the recommended and executed optimizations for media resulting from the review of digital status reports.

4.2.1.3 Media Buy Schedule - proposed schedules for media buys, based on current rating or circulation information must be provided to the DOH within five (5) business days and before the launch of a campaign.

4.2.1.4 Meeting Schedule – staff will be responsible for coming to Albany to meet and report on buy status, present media campaign buy plans and media campaign results.

4.2.2. Media Strategy

Contractor will provide strategic media campaign planning and execution on a seven-day-a-week, 52-week-a-year basis, including, but not limited to:

- Brand Placement
- Digital
- Digital Radio
- Print
- New Media
- Out of Home
- Promotions and Events
- Public Service
- Social
- Sponsorships
- Sports
- Television:
 - Spot
 - Local
 - Regional
 - Cable
- Terrestrial Radio

4.2.3. Strategic Media Planning

The contractor will research, using analytical tools and other data at its disposal, to develop the most creative and effective media plans to achieve stated objectives. Contractor must provide DOH with:

4.2.3.1. Analyses, evaluations and recommendations based on professional experience, market research and a strategic framework, including but not limited to:

- Audience size
- Audience demographics
- Audience behavior

4.2.3.2. Geographical concentration of targeted audience market research for all media buys.

4.2.3.3. Strategies and tactical details that support the marketing solution being proposed.

4.2.3.4. Media flowcharts, plans and other data to illustrate the planned placement and costs associated with media buy.

4.2.3.5. Time requirements and/or projections.

4.2.3.6. Industry trends and/or new developments in media strategy, media planning and buying in order to employ new methods as they become available.

4.2.4. Media Negotiation and Placement

The Contractor will be responsible for the placement and purchase of all media. In negotiating media purchases, the Contractor will notify the DOH of any savings that could be achieved through long-term commitments or other specialized programs. Contractor must:

4.2.4.1. Provide media buying strategies that reach minority, multi-lingual and special needs populations, as requested by DOH.

4.2.4.2. Provide detailed schedules for DOH approval. Provide detailed buys for each medium for approval. These schedules should include an analysis showing why the specified media was chosen, and the metric used, such as projected reach, frequency, and estimated cost and buying model (specifically for digital i.e. cost per click (CPC), Cost per engagement (CPE) Cost per thousand (CPM)).

4.2.5. Media Ordering Process and Procedures

In collaboration with NYS DOH, the Contractor must develop and maintain a media buy ordering process in order to effectively and efficiently manage the DOH account. The process must track a media buy from initial request to completion and identify an agreed upon schedule of deliverables such as flowcharts, detailed buys, advertisement sizing, and out of home (OOH) availabilities for each campaign. SEE SECTION 4.2.9

The contractor will be responsible for account and financial management practices that allow each project to be successfully executed on time and at or below the estimated budget. In order to comply, the Contractor will be responsible for:

- 4.2.5.1.** Obtain the size and format information for all ads based on placement.
- 4.2.5.2.** Negotiate best rates, added-value and make-goods and provide reports or summaries of the value additions and make-goods.
- 4.2.5.3.** Recommend potential cost reduction ideas for media buying plans.
- 4.2.5.4.** Electronic distribution of media (broadcast trafficking must be at fair market prices).
- 4.2.5.5.** Electronic distribution of print ads to the selected publications.
- 4.2.5.6.** Arrangement of the printing of media, including out-of-home posting material (must be at fair market prices).
- 4.2.5.7.** Arrangement of the production of internet and mobile applications (must be at fair market prices).
- 4.2.5.8.** Provision of internet statistics and adjustment of such internet buys, if needed, based upon the approved media campaign buy plan.
- 4.2.5.9.** Arrange for production of creative media, as requested and with approval of BMCC (must be at fair market prices).

4.2.6. Placement Verification

The Contractor will be responsible for ensuring all media were broadcast or published according to placement instructions. The Contractor will provide:

- 4.2.6.1.** Affidavits of performance, tear sheets; either hard copy or electronic, of print ads; completion photos of out-of-home ads and screenshots of internet ads.
- 4.2.6.2.** Verification documents that indicate the run dates and/or times and the circulation or ratings achieved.

4.2.7. Post-Buy Analysis, Billing and Reconciliation Services

Contractor must track and evaluate all media buys. Contractor activities include:

4.2.7.1. Monitoring and maintaining the effectiveness of a media buy.

4.2.7.2. Providing a post-buy analysis within forty-five (45) business days of the conclusion of each campaign.

4.2.7.3. Tracking the DOH individual buy plans to ensure buys stay within budget limitations.

4.2.7.4. Providing costs of media on a per unit basis.

4.2.7.5. Providing a billing reconciliation within forty-five (45) business day of the conclusion of each media buy campaign unless otherwise agreed upon between BMCC and Contractor.

4.2.7.6. Submitting invoices. Original media invoices from media outlets must be included.

4.2.8. Trends:

The NYS DOH expects the selected contractor to remain abreast of media buying trends and apply credible new practices that may benefit New York State and their Authorized Users and drive improvements and efficiencies when spending public dollars.

4.2.9. Media Buy Request (MBR) Process

Throughout the life of the contract the NYS DOH will direct the contractor to implement new media buys/ campaigns, revise previously utilized campaigns and discontinue on-going campaigns. These requests will be initiated by DOH utilizing a Media Buy Request (MBR) process.

DOH will submit the request via email to the contractor. The contractor must draft a response to the MBR within five (5) business days that includes a timeline, flowchart, and media plan for the request. The proposed media plan will include the requirements listed in 4.2.3 Strategic Media Planning.

Once DOH has reviewed and approved the MBR from the contractor (timeline, flowchart and media plan) the contractor will be responsible for **executing steps in 4.2.5 – Media Ordering Process and Procedures**. Only upon receipt of DOH's written approval can the contractor begin providing the services.

4.2.10. Brand Safety

Contractor will develop, implement, manage and monitor digital brand safety. This includes all technology or partners utilized for all campaigns.

4.3. Information Technology

The application and all systems and components supporting it, including but not limited to any forms and databases that include Personal Health, Personal Identification or other New York State information, must comply with all NYS security policies and standards listed at <http://its.ny.gov/tables/technologypolicyindex.htm>.

4.4. Security

The Contractor shall comply with all privacy and security policies and procedures of the Department (<https://its.ny.gov/eiso/policies/security>) and applicable state and federal law and administrative guidance with respect to the performance of this contract. The Contractor is required, if applicable, to execute a number of security and privacy agreements with the Department including a Data Use Agreement (DUA) at contract signing.

The Contractor is expected to provide secure and confidential backup, storage and transmission for hard copy and electronically stored information. Under no circumstances will any records be released to any person, agency, or organization without specific written permission of the DOH. The Contractor is obligated to ensure any Subcontractor hired by Contractor who stores, processes, analyzes or transmits MCD on behalf of Contractor has the appropriate Security requirements in place. Contractor is required to include in all contracts and Business Associate Agreements with their Subcontractors language surrounding the security and privacy requirements as well as the language contained in the Confidentiality Language for Third Parties section of the DUA. If any breach or suspected breach of the data or confidentiality occurs, whether the breach occurred with the Contractor or Subcontractor, DOH must be notified immediately.

The Contractor is required to maintain and provide to the Department upon request their data confidentiality plans and procedures for meeting security requirements as they relate to the deliverables and services within this RFP, including all plans as they relate to subcontractor work where applicable.

The Contractor will develop and maintain adequate fully trained staff to respond to all stakeholder inquiries while protecting confidentiality and maintaining the security and integrity of all systems. Staff must be trained to understand and observe requirements related to confidentiality and operating guidelines for functions included in this RFP.

The Contractor will comply fully with all current and future updates of the security procedures of the DOH/HRI, as well as with all applicable State and federal requirements, in performance of this contract.

4.5. Transition

The transition represents a period when the current contract activities performed by the Contractor must be turned over to the Department, another Department agent or successor Contractor during or at the end of the contract.

The Contractor shall ensure that any transition to the Department, Departmental agency or successor Contractor be done in a way that provides the Department with uninterrupted (fill in the services) services. This includes a complete and total transfer of all data, files, reports, and records generated from the inception of the contract through the end of the contract to the Department or another Department agent should that be required during or upon expiration of its contract.

The Contractor shall provide technical and business process support as necessary and required by the Department to transition and assume contract requirements to the Department or another Department agent should that be required during or at the end of the contract.

The Contractor shall manage and maintain the appropriate number of staff to meet all requirements listed in the RFP during the transition. All reporting and record requirements, security standards, and performance standards are still in effect during the transition period.

The Contractor is required to develop a work plan and timeline to securely and smoothly transfer any data and records generated from the inception of the Contract through the end of the contract to the Department or another Department agent should that be required during or upon expiration of its contract. The plan and documentation must be submitted to the Department no later than twelve (12) months before the last day of its contract with the Department of Health or upon request of the Department.

5. ADMINISTRATIVE INFORMATION

The following administrative information will apply to this RFP. Failure to comply fully with this information may result in disqualification of your proposal.

5.1. Restricted Period

“Restricted period” means the period of time commencing with the earliest written notice, advertisement, or solicitation of a Request for Proposals (“RFP”), Invitation for Bids (“IFB”), or solicitation of proposals, or any other method for soliciting a response from Bidders intending to result in a procurement contract with DOH and ending with the final contract award and approval by DOH and, where applicable, final contract approval by the Office of the State Comptroller.

This prohibition applies to any oral, written, or electronic communication under circumstances where a reasonable person would infer that the communication was intended to influence this procurement. Violation of any of the requirements described in this Section may be grounds for a determination that the Bidder is non-responsible and therefore ineligible for this contract award. Two (2) violations within four (4) years of the rules against impermissible contacts during the “restricted period” may result in the violator being debarred from participating in DOH procurements for a period of four (4) years.

Pursuant to State Finance Law §§ 139-j and 139-k, the Department of Health identifies a designated contact on face page of this RFP to whom all communications attempting to influence this procurement must be made.

5.2. Questions

There will be an opportunity available for submission of written questions and requests for clarification with regard to this RFP. All questions and requests for clarification of this RFP should cite the particular RFP Section and paragraph number where applicable and must be submitted via email to bmcc@health.ny.gov. It is the Bidder’s responsibility to ensure that email containing written questions and/or requests for clarification is received at the above address no later than the Deadline for Submission of Written Questions as specified in [Section 1.0](#) (Calendar of Events). Questions received after the deadline may **not** be answered.

5.3. Right to Modify RFP

DOH reserves the right to modify any part of this RFP, including but not limited to, the date and time by which proposals must be submitted and received by DOH, at any time prior to the Deadline for Submission of Proposals listed in [Section 1.0](#) (Calendar of Events). Modifications to this RFP shall be made by issuance of amendments and/or addenda.

Prior to the Deadline for Submission of Proposals, any such clarifications or modifications as deemed necessary by DOH will be posted to the DOH website.

If the Bidder discovers any ambiguity, conflict, discrepancy, omission, or other error in this RFP, the Bidder shall immediately notify DOH of such error in writing at bmcc@health.ny.gov and request clarification or modification of the document.

If, prior to the Deadline for Submission of Proposals, a Bidder fails to notify DOH of a known error or an error that reasonably should have been known, the Bidder shall assume the risk of proposing. If awarded the contract, the Bidder shall not be entitled to additional compensation by reason of the error or its correction.

5.4. Payment

The Contractor shall submit invoices and/or vouchers to the NYS' designated payment office. The Preferred Method is to Email a .pdf copy of your signed voucher to the BSC at:

AccountsPayable@ogs.ny.gov with a subject field:

Subject: Unit ID: 3450202 Contract # TBD

The Alternate Method is to Mail vouchers to BSC at the following U.S. postal address:

**NYS Department of Health
Unit ID 3450202
c/o NYS OGS BSC Accounts Payable
Building 5, 5th Floor
1220 Washington Ave.
Albany, NY 12226-1900**

Payment for invoices and/or vouchers submitted by the Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the Commissioner, in the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary NYS procedures and practices. The Contractor shall comply with the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the State Comptroller's website at www.osc.state.ny.us/epay/index.htm, by email at epayments@osc.state.ny.us or by telephone at 518-474-6019. Contractor acknowledges that it will not receive payment on any invoices and/or vouchers submitted under this Contract if it does not comply with the State Comptroller's electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

In addition to the Electronic Payment Authorization Form, a Substitute Form W-9 must be on file with the Office of the State Comptroller, Bureau of Accounting Operations. Additional information and procedures for enrollment can be found at <http://www.osc.state.ny.us/epay>.

Completed W-9 forms should be submitted to the following address:

NYS Office of the State Comptroller
Bureau of Accounting Operations
Warrant & Payment Control Unit
110 State Street, 9th Floor
Albany, NY 12236

Payment of such invoices and/or vouchers by the NYS Department of Health shall be made in accordance with Article XI-A of the New York State Finance Law. Payment terms will be:

The Department of Health will make payment for media purchased (net billing) plus a commission based upon net billing. All invoices must include required supporting documentation and be able to be verified through means detailed in Section 4.2.6 Placement Verification, such means as station logs, completion photos, affidavits of performance, tear sheets, etc.

5.5. Minority & Woman-Owned Business Enterprise Requirements

Pursuant to New York State Executive Law Article 15-A, the New York State Department of Health (“DOH”) recognizes its obligation to promote opportunities for maximum feasible participation of certified minority-and women-owned business enterprises and the employment of minority group members and women in the performance of DOH contracts.

In 2006, the State of New York commissioned a disparity study to evaluate whether minority and women-owned business enterprises had a full and fair opportunity to participate in state contracting. The findings of the study were published on April 29, 2010, under the title "The State of Minority and Women-Owned Business Enterprises: Evidence from New York" (“Disparity Study”). The report found evidence of statistically significant disparities between the level of participation of minority-and women-owned business enterprises in state procurement contracting versus the number of minority-and women-owned business enterprises that were ready, willing and able to participate in state procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the statewide certified minority- and women-owned business enterprises program. The recommendations from the Disparity Study culminated in the enactment and the implementation of New York State Executive Law Article 15-A, which requires, among other things, that DOH establish goals for maximum feasible participation of New York State Certified minority- and women – owned business enterprises (“MWBE”) and the employment of minority groups members and women in the performance of New York State contracts.

Business Participation Opportunities for MWBEs

For purposes of this solicitation, DOH hereby establishes an overall goal of **30%** for MWBE participation, **15%** for Minority-Owned Business Enterprises (“MBE”) participation and **15%** for Women-Owned Business Enterprises (“WBE”) participation (based on the current availability of qualified MBEs and WBEs and outreach efforts to certified MWBE firms). A Contractor (“Contractor”) on the subject contract (“Contract”) must document good faith efforts to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract and Contractor agrees that DOH may withhold payment pending receipt of the required MWBE documentation. For guidance on how DOH will determine “good faith efforts,” refer to 5 NYCRR §142.8.

The directory of New York State Certified MWBEs can be viewed at: <https://ny.newnycontracts.com>. The directory is found in the upper right-hand side of the webpage under “Search for Certified Firms”

and accessed by clicking on the link entitled “MWBE Directory”. Engaging with firms found in the directory with like product(s) and/or service(s) is strongly encouraged, and all communication efforts and responses should be well documented.

By submitting a bid, a Bidder agrees to complete an MWBE Utilization Plan ([Attachment 5](#), Form #1) of this RFP. DOH will review the submitted MWBE Utilization Plan. If the plan is not accepted, DOH may issue a notice of deficiency. If a notice of deficiency is issued, Bidder agrees that it shall respond to the notice of deficiency within seven (7) business days of receipt. DOH may disqualify a Bidder as being non-responsive under the following circumstances:

- a) If a Bidder fails to submit a MWBE Utilization Plan;
- b) If a Bidder fails to submit a written remedy to a notice of deficiency;
- c) If a Bidder fails to submit a request for waiver (if applicable); or
- d) If DOH determines that the Bidder has failed to document good-faith efforts;

The Contractor will be required to attempt to utilize, in good faith, any MBE or WBE identified within its MWBE Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract Award may be made at any time during the term of the Contract to DOH, but must be made no later than prior to the submission of a request for final payment on the Contract.

The Contractor will be required to submit a Contractor’s Quarterly M/WBE Contractor Compliance & Payment Report to the DOH, by the 10th day following each end of quarter over the term of the Contract documenting the progress made toward achievement of the MWBE goals of the Contract.

If the Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such finding will constitute a breach of Contract and DOH may withhold payment from the Contractor as liquidated damages.

Such liquidated damages shall be calculated as an amount equaling the difference between: (1) all sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and (2) all sums actually paid to MWBEs for work performed or materials supplied under the Contract.

New York State certified Minority- and Women-Owned Businesses (M/WBE) may request that their firm’s contact information be included on a list of M/WBE firms interested in serving as a subcontractor for this procurement. The listing will be publicly posted on the Department’s website for reference by the bidding community. A firm requesting inclusion on this list should send contact information and a copy of its NYS M/WBE certification to bmcc@health.ny.gov before the Deadline for Questions as specified in [Section 1.0](#) (Calendar of Events). Nothing prohibits an M/WBE Vendor from proposing as a prime contractor.

Please Note: Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions or enforcement proceedings as allowed by the Contract.

5.6. Equal Employment Opportunity (EEO) Reporting

By submission of a bid in response to this solicitation, the Bidder agrees with all of the terms and conditions of [Attachment 8](#) Appendix A including Clause 12 - Equal Employment Opportunities for Minorities and Women. Additionally, the successful bidder will be required to certify they have an

acceptable EEO (Equal Employment Opportunity) policy statement in accordance with Section III of Appendix M in [Attachment 8](#).

Further, pursuant to Article 15 of the Executive Law (the "Human Rights Law"), all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

The Contractor is required to ensure that it and any subcontractors awarded a subcontract over \$25,000 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, undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.

To ensure compliance with this Section, the Bidder should submit with the bid or proposal an Equal Employment Opportunity Staffing Plan ([Attachment 5](#), Form #4) identifying the anticipated work force to be utilized on the Contract. Additionally, the Bidder should submit a Minority and Women-Owned Business Enterprises and Equal Employment Opportunity Policy Statement ([Attachment 5](#), Form # 5), to DOH with their bid or proposal.

5.7. Sales and Compensating Use Tax Certification (Tax Law, § 5-a)

Section 5-a of the Tax Law, as amended, effective April 26, 2006, requires certain contractors awarded state contracts for commodities, services and technology valued at more than \$100,000 to certify to the Department of Tax and Finance (DTF) that they are registered to collect New York State and local sales and compensating use taxes. The law applies to contracts where the total amount of such contractors' sales delivered into New York State are in excess of \$300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made, and with respect to any affiliates and subcontractors whose sales delivered into New York State exceeded \$300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made.

This law imposes upon certain contractors the obligation to certify whether or not the Contractor, its affiliates, and its subcontractors are required to register to collect state sales and compensating use tax and contractors must certify to DTF that each affiliate and subcontractor exceeding such sales threshold is registered with DTF to collect New York State and local sales and compensating use taxes. The law prohibits the State Comptroller, or other approving agencies, from approving a contract awarded to an offeror meeting the registration requirements but who is not so registered in accordance with the law.

The successful Bidder must file a properly completed Form ST-220-CA with the Department of Health and Form ST-220-TD with the DTF. These requirements must be met before a contract may take effect. Further information can be found at the New York State Department of Taxation and Finance's website, available through this link: <http://www.tax.ny.gov/pdf/publications/sales/pub223.pdf>.

Forms are available through these links:

- ST-220 CA: http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf
- ST-220 TD: http://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf

5.8. Contract Insurance Requirements

Prior to the start of work under this Contract, the Contractor shall procure, at its sole cost and expense, and shall maintain in force at all times during the term of this Contract, insurance of the types and in the amounts set forth in [Attachment 8](#), the New York State Department of Health Contract, Section IV. Contract Insurance Requirements as well as below.

5.8.1. Professional Liability Insurance / Errors and Omissions Liability Insurance

The Contractor and any subcontractor retained by the Contractor to work on the contract shall procure and maintain during and for a period of three (3) years after completion of the contract, Professional Liability Insurance/Errors and Omissions Liability Insurance in the amount of \$2,000,000 issued to and covering damage for liability imposed on the Contractor by the contract or law arising out of any negligent act, error, or omission in the rendering of or failure to render professional services required by the contract. The Professional Liability Insurance/Errors and Omissions Liability Insurance may be issued on a Claims-Made Policy form, in which case the Contractor shall purchase, at its sole expense, Tail Coverage of up to three (3) years after work is completed if coverage is cancelled or not renewed.

5.8.2. Data Breach and Privacy/Cyber Liability

The Contractor shall maintain, during the term of the contract, Data Breach and Privacy Liability Insurance (Cyber Insurance) including coverage for failure to protect confidential information and failure of the security of the Contractor's computer systems or the NYS DOH's systems due to the actions of the Contractor which results in unauthorized access to the Agency or its data. The Contractor shall carry and maintain coverage in the amount of \$2,000,000 issued to and covering damages arising from, but not limited to the following:

- Breach of duty to protect the security and confidentiality of nonpublic proprietary corporate information.
- Personally identifiable nonpublic information (e.g., medical, financial, or personal in nature in electronic or non-electronic form);
- Privacy notification costs.
- Regulatory defense and penalties;
- Website media liability; and
- Cyber theft of customer's property, including but not limited to data, PII, money and securities.

If the policy is written on a Claims-Made basis, the Contractor must provide to the NYS DOH proof that the policy provides the option to purchase Tail Coverage providing coverage for no less than one (1) year after work is completed in the event that coverage is canceled or not renewed. This requirement applies to both primary and Excess Liability Policies, as applicable.

5.9. Subcontracting

Bidder's may propose the use of a subcontractor. The Contractor shall obtain prior written approval from the NYS DOH before entering into an agreement for services to be provided by a subcontractor.

The Contractor is solely responsible for assuring that the requirements of this RFP are met. All subcontracts shall contain provisions specifying that the work performed by the subcontractor must be in accordance with the terms of the prime contract, and that the subcontractor specifically agrees to be bound by the confidentiality provisions set forth in the agreement between the DOH and the Contractor. DOH reserves the right to request removal of any Bidder's staff or subcontractor's staff if, in DOH's discretion, such staff is not performing in accordance with the Agreement. Subcontractors whose contracts are valued at or above \$100,000 will be required to submit the Vendor Responsibility Questionnaire upon selection of the prime contractor.

5.10. DOH's Reserved Rights

The Department of Health reserves the right to:

1. Reject any or all proposals received in response to the RFP;
2. Withdraw the RFP at any time, at the agency's sole discretion;
3. Make an award under the RFP in whole or in part;
4. Disqualify any Bidder whose conduct and/or proposal fails to conform to the requirements of the RFP;
5. Seek clarifications and revisions of proposals;
6. Use proposal information obtained through site visits, management interviews and the state's investigation of a Bidder's qualifications, experience, ability or financial standing, and any material or information submitted by the Bidder in response to the agency's request for clarifying information in the course of evaluation and/or selection under the RFP;
7. Prior to the bid opening, amend the RFP specifications to correct errors or oversights, or to supply additional information, as it becomes available;
8. Prior to the bid opening, direct bidders to submit proposal modifications addressing subsequent RFP amendments;
9. Change any of the scheduled dates;
10. Eliminate any mandatory, non-material specifications that cannot be complied with by all of the prospective bidders;
11. Waive any requirements that are not material;
12. Negotiate with the successful bidder within the scope of the RFP in the best interests of the state;
13. Conduct contract negotiations with the next responsible bidder, should the Department be unsuccessful in negotiating with the selected bidder;
14. Utilize any and all ideas submitted in the proposals received;
15. Every offer shall be firm and not revocable for a period of three hundred and sixty-five days from the bid opening to the extent not inconsistent with section 2-205 of the uniform commercial code. Subsequent to such three hundred and sixty-five days, any offer is subject to withdrawal communicated in a writing signed by the offeror; and,
16. Require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of an offeror's proposal and/or to determine an offeror's compliance with the requirements of the solicitation.

5.11. Freedom of Information Law ("FOIL")

All proposals may be disclosed or used by DOH to the extent permitted by law. DOH may disclose a proposal to any person for the purpose of assisting in evaluating the proposal or for any other lawful purpose. All proposals will become State agency records, which will be available to the public in accordance with the Freedom of Information Law. **Any portion of the proposal that a Bidder believes constitutes proprietary information entitled to confidential handling, as an exception to**

the Freedom of Information Law, must be clearly and specifically designated in the proposal as directed in [Section 6.1 \(B\)](#) of the RFP. If DOH agrees with the proprietary claim, the designated portion of the proposal will be withheld from public disclosure. Blanket assertions of proprietary material will not be accepted, and failure to specifically designate proprietary material may be deemed a waiver of any right to confidential handling of such material.

5.12. Lobbying

Chapter 1 of the Laws of 2005, as amended by Chapter 596 of the Laws of 2005, made significant changes as it pertains to development of procurement contracts with governmental entities. The changes included:

- a) made the lobbying law applicable to attempts to influence procurement contracts once the procurement process has been commenced by a state agency, unified court system, state legislature, public authority, certain industrial development agencies and local benefit corporations.
- b) required the above-mentioned governmental entities to record all contacts made by lobbyists and contractors about a governmental procurement so that the public knows who is contacting governmental entities about procurements.
- c) required governmental entities to designate persons who generally may be the only staff contacted relative to the governmental procurement by that entity in a restricted period.
- d) authorized the New York State Commission on Public Integrity, (now New York State Joint Commission on Public Ethics), to impose fines and penalties against persons/organizations engaging in impermissible contacts about a governmental procurement and provides for the debarment of repeat violators.
- e) directed the Office of General Services to disclose and maintain a list of non-responsible bidders pursuant to this new law and those who have been debarred and publish such list on its website.
- f) required the timely disclosure of accurate and complete information from offerors with respect to determinations of non-responsibility and debarment; (Bidders responding to this RFP should submit a completed and signed [Attachment 1](#), "Prior Non-Responsibility Determination".)
- g) increased the monetary threshold which triggers a lobbyist's obligation under the Lobbying Act from \$2,000 to \$5,000; and
- h) established the Advisory Council on Procurement Lobbying.

Subsequently, Chapter 14 of the Laws of 2007 amended the Lobbying Act of the Legislative Law, particularly as it related to specific aspects of procurements as follows: (i) prohibiting lobbyists from entering into retainer agreements on the outcome of government grant making or other agreement involving public funding; and (ii) reporting lobbying efforts for grants, loans and other disbursements of public funds over \$15,000.

The most notable, however, was the increased penalties provided under Section 20 of Chapter 14 of the Laws of 2007, which replaced old penalty provisions and the addition of a suspension option for lobbyists engaged in repeated violations. Further amendments to the Lobbying Act were made in Chapter 4 of the Laws of 2010.

Questions regarding the registration and operation of the Lobbying Act should be directed to the New York State Joint Commission on Public Ethics.

5.13. State Finance Law Consultant Disclosure Provisions

In accordance with New York State Finance Law Section 163(4)(g), State agencies must require all Contractors, including subcontractors, that provide consulting services for State purposes pursuant to a contract to submit an annual employment report for each such contract.

The successful bidder for procurements involving consultant services must complete a "State Consultant Services Form A, Contractor's Planned Employment from Contract Start Date through End of Contract Term" in order to be eligible for a contract.

The successful bidder must also agree to complete a "State Consultant Services Form B, Contractor's Annual Employment Report" for each state fiscal year included in the resulting contract. This report must be submitted annually to the Department of Health, the Office of the State Comptroller, and Department of Civil Service.

State Consultant Services Form A: Contractor's Planned Employment and Form B: Contractor's Annual Employment Report may be accessed electronically at:
<http://www.osc.state.ny.us/agencies/forms/ac3271s.doc> and
<http://www.osc.state.ny.us/agencies/forms/ac3272s.doc>.

5.14. Debriefing

Pursuant to Section 163(9)(c) of the State Finance Law, any unsuccessful bidder may request a debriefing regarding the reasons that the proposal or bid submitted by the Bidder was not selected for award. Requests for a debriefing must be made within fifteen (15) calendar days of release of the written or electronic notice by the Department that the Bid submitted by the Bidder was not selected for award. Requests should be submitted in writing to a designated contact identified in the award/non-award letter.

5.15. Protest Procedures

In the event unsuccessful bidders wish to protest the award resulting from this RFP, bidders should follow the protest procedures established by the Office of the State Comptroller (OSC). These procedures can be found in Chapter XI Section 17 of the Guide to Financial Operations (GFO). Available on-line at:
<http://www.osc.state.ny.us/agencies/guide/MyWebHelp/>

5.16. Iran Divestment Act

By submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, Bidder/Contractor (or any assignee) certifies that it is not on the "Entities Determined To Be Non-Responsive Bidders/Offerers Pursuant to The New York State Iran Divestment Act of 2012" list ("Prohibited Entities List") posted on the OGS website (currently found at this address: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf>) and further certifies that it will not utilize on such Contract any subcontractor that is identified on the Prohibited Entities List. Additionally, Bidder/Contractor is advised that should it seek to renew or extend a Contract awarded in response to the solicitation, it must provide the same certification at the time the Contract is renewed or extended.

During the term of the Contract, should DOH receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, DOH will review such

information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then DOH shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, seeking compliance, recovering damages, or declaring the Contractor in default. DOH reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

5.17. Piggybacking

New York State Finance Law section 163(10)(e) (see also <https://ogs.ny.gov/procurement/piggybacking-using-other-existing-contracts-0>) allows the Commissioner of the NYS Office of General Services to consent to the use of this contract by other New York State Agencies, and other authorized purchasers, subject to conditions and the Contractor's consent.

5.18. Encouraging Use of New York Businesses in Contract Performance

Public procurements can drive and improve the State's economic engine through promotion of the use of New York businesses by its contractors. New York State businesses have a substantial presence in State contracts and strongly contribute to the economies of the state and the nation. In recognition of their economic activity and leadership in doing business in New York State, Bidders/proposers for this contract for commodities, services or technology are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the contract. Such partnering may be as subcontractors, suppliers, protégés or other supporting roles. All Bidders should complete [Attachment 6](#), Encouraging Use of New York Businesses in Contract Performance, to indicate their intent to use/not use New York Businesses in the performance of this contract.

5.19. Diversity Practices Questionnaire

Diversity practices are the efforts of contractors to include New York State-certified Minority and Women-owned Business Enterprises ("MWBEs") in their business practices. Diversity practices may include past, present, or future actions and policies, and include activities of contractors on contracts with private entities and governmental units other than the State of New York. Assessing the diversity practices of contractors enables contractors to engage in meaningful, capacity-building collaborations with MWBEs.

5.20. Participation Opportunities for NYS Certified Service-Disabled Veteran-Owned Businesses

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses ("SDVOBs"), thereby further integrating such businesses into New York State's economy. DOH recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of DOH contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Bidders/Contractors are strongly encouraged and expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

For purposes of this procurement, DOH conducted a comprehensive search and determined that the Contract does not offer sufficient opportunities to set specific goals for participation by SDVOBs as subcontractors, service providers, and suppliers to Contractor. Nevertheless, Bidder/Contractor is encouraged to make good faith efforts to promote and assist in the participation of SDVOBs on the Contract for the provision of services and materials. The directory of New York State Certified SDVOBs can be viewed at: <https://ogs.ny.gov/veterans/>

Bidders are encouraged to contact the Office of General Services' Division of Service-Disabled Veteran's Business Development at 518-474-2015 or VeteransDevelopment@ogs.ny.gov to discuss methods of maximizing participation by SDVOBs on the Contract.

5.21. Intellectual Property

Any work product created pursuant to this agreement and any subcontract shall become the sole and exclusive property of the New York State Department of Health, which shall have all rights of ownership and authorship in such work product.

5.22. Vendor Assurance of No Conflict of Interest or Detrimental Effect

All bidders responding to this solicitation should submit [Attachment 4](#) to attest that their performance of the services outlined in this IFB does not create a conflict of interest and that the Bidder will not act in any manner that is detrimental to any other State project on which they are rendering services.

5.23. Executive Order 177 Prohibiting Contracts with Entities that Support Discrimination

The New York State Human Rights Law, Article 15 of the Executive Law, prohibits discrimination and harassment based on age, race, creed, color, national origin, sex, pregnancy or pregnancy-related conditions, sexual orientation, gender identity, disability, marital status, familial status, domestic violence victim status, prior arrest or conviction record, military status or predisposing genetic characteristics. In accordance with Executive Order No. 177, the Offeror certifies that they do not have institutional policies or practices that fail to address those protected status under the Human Rights Law.

5.24. Executive Order 16 Prohibiting Contracting with Entities Conducting Business in Russia

All Bidders responding to this solicitation should submit Attachment 12 certifying the status of their business operations in Russia, if any, pursuant to Executive Order 16.

5.25. Prohibiting use of Funds for Political Activities

Funds provided pursuant to this Agreement shall not be used for any partisan political activity, or for activities that may influence legislation or the election or defeat of any candidate for political office.

6. PROPOSAL CONTENT

The following includes the format and information to be provided by each Bidder. Bidders responding to this RFP must satisfy all requirements stated in this RFP. All Bidders are requested to submit complete Administrative and Technical Proposals and are required to submit a complete Cost Proposal. A proposal that is incomplete in any material respect may be rejected.

To expedite review of the proposals, Bidders are requested to submit proposals in separate Administrative, Technical, and Cost packages inclusive of all materials as summarized in Attachment A, Proposal Documents. This separation of information will facilitate the review of the material requested. No information beyond that specifically requested is required, and Bidders are requested to keep their submissions to the shortest length consistent with making a complete presentation of qualifications. Evaluations of the Administrative, Technical, and Cost Proposals received in response to this RFP will be conducted separately. Bidders are therefore cautioned not to include any Cost Proposal information in the Technical Proposal documents.

DOH will not be responsible for expenses incurred in preparing and submitting the Administrative, Technical, or Cost Proposals.

6.1. Administrative Proposal

The Administrative Proposal should contain all items listed below. A proposal that is incomplete in any material respect may be eliminated from consideration. The information requested should be provided in the prescribed format. Responses that do not follow the prescribed format may be eliminated from consideration. All responses to the RFP may be subject to verification for accuracy. Please provide the forms in the same order in which they are requested.

6.1.1. Bidder's Disclosure of Prior Non-Responsibility Determinations

Submit a completed and signed [Attachment 1](#), "Prior Non-Responsibility Determination."

6.1.2. Freedom of Information Law – Proposal Redactions

Bidders must clearly and specifically identify any portion of the proposal that a Bidder believes constitutes proprietary information entitled to confidential handling as an exception to the Freedom of Information Law. See [Section 5.11](#), (Freedom of Information Law)

6.1.3. Vendor Responsibility Questionnaire

Complete, certify, and file a New York State Vendor Responsibility Questionnaire. DOH recommends that vendors file the required Vendor Responsibility Questionnaire online via the New York State VendRep System. To enroll in and use the New York State VendRep System, see the VendRep System Instructions at <http://www.osc.state.ny.us/vendrep/index.htm> or go directly to the VendRep System online at <https://portal.osc.state.ny.us>.

Vendors must provide their New York State Vendor Identification Number when enrolling. To request assignment of a Vendor ID or for VendRep System assistance, contact the OSC Help Desk at 866-370-4672 or 518-408-4672 or by email at ciohelpdesk@osc.state.ny.us.

Vendors opting to complete and submit a paper questionnaire can obtain the appropriate questionnaire from the VendRep website, www.osc.state.ny.us/vendrep, or may contact the Office of

the State Comptroller's Help Desk for a copy of the paper form. Bidder's should complete and submit the Vendor Responsibility Attestation, [Attachment 3](#).

6.1.4. Vendors Assurance of No Conflict of Interest or Detrimental Effect

Submit [Attachment 4](#), Vendor's Assurance of No Conflict of Interest or Detrimental Effect, which includes information regarding the Bidder, members, shareholders, parents, affiliates or subcontractors. [Attachment 4](#) must be signed by an individual authorized to bind the Bidder contractually.

6.1.5. M/WBE Forms

Submit completed Form #1 and/or Form #2, Form #4 and Form #5 as directed in [Attachment 5](#), "Guide to New York State DOH M/WBE RFP Required Forms."

6.1.6. Encouraging Use of New York Businesses in Contract Performance

Submit [Attachment 6](#), "Encouraging Use of New York State Businesses" in Contract Performance to indicate which New York Businesses you will use in the performance of the contract.

6.1.7. Bidder's Certified Statements

Submit [Attachment 7](#), "Bidder's Certified Statements", which includes information regarding the Bidder. Attachment A must be signed by an individual authorized to bind the Bidder contractually. Please indicate the title or position that the signer holds with the Bidder. DOH reserves the right to reject a proposal that contains an incomplete or unsigned [Attachment 7](#) or no [Attachment 7](#).

6.1.8. References

Provide references using [Attachment 9](#), (References) for three clients you have provided media services, two must be current clients. Provide firm names, addresses, contact names, telephone numbers, and email addresses.

6.1.9. Diversity Practices Questionnaire

The Department has determined, pursuant to New York State Executive Law Article 15-A, that the assessment of the diversity practices of respondents of this procurement is practical, feasible, and appropriate. Accordingly, respondents to this procurement should include as part of their response to this procurement, [Attachment 10](#) "Diversity Practices Questionnaire". Responses will be formally evaluated and scored.

6.1.10. Executive Order 177 Prohibiting Contracts with Entities that Support Discrimination

Submit [Attachment 11](#) certifying that it does not have institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sex, sexual orientation, gender identity, disability, marital status, military status, or other protected status under the Human Rights Law.

6.1.11. EO 16 Prohibiting Contracting with Entities Conducting Business Operations in Russia

Submit Attachment 12 certifying the status of your business operations in Russia.

6.2. Technical Proposal

The purpose of the Technical Proposal is to demonstrate the qualifications, competence, and capacity of the Bidder to perform the services contained in this RFP. The Technical Proposal should demonstrate the qualifications of the Bidder and the staff to be assigned to provide services related to the services included in this RFP.

A Technical Proposal that is incomplete in any material respect may be eliminated from consideration. The following outlines the information requested to be provided by Bidders. The information requested should be provided in the prescribed format. Responses that do not follow the prescribed format may be eliminated from consideration. All responses to the RFP may be subject to verification for accuracy.

While additional data may be presented, the following should be included. Please provide the information in the same order in which it is requested. Your proposal should contain sufficient information to assure DOH of its accuracy. Failure to follow these instructions may result in disqualification.

Pricing information contained in the Cost Proposal cannot be included in the Technical Proposal documents.

6.2.1. Title Page

Submit a Title Page providing the RFP subject and number; the Bidder's name and address, the name, address, telephone number, and email address of the Bidder's contact person; and the date of the Proposal.

6.2.2. Table of Contents

The Table of Contents should clearly identify all material (by section and page number) included in the proposal.

6.2.3. Documentation of Bidder's Eligibility Responsive to Section 3.0 of RFP

Bidders must be able to meet all the requirements stated in Section 3.0 of the RFP. The Bidder must submit documentation that provides sufficient evidence of meeting the criterion. This documentation may be in any format needed to demonstrate how they meet the minimum qualifications to propose.

- A minimum of two (2) clients/ accounts with annual media billing of \$10 million or more, of which \$5 Million are in digital media; and
- Experience purchasing media in New York State for a minimum of three (3) clients within the past thirty-six (36) months prior to the bid due date.

6.2.4. Technical Proposal Narrative

The technical proposal should provide satisfactory evidence of the Bidder's ability to meet, and expressly respond to, each element listed below.

Elements of the technical proposal are as follows:

6.2.4.1. Executive Summary

Bidder should prepare a narrative providing NYSDOH with collective understanding of the contents of the technical proposal. This summary should briefly summarize the strengths and key features and approaches the vendor has to offer the department.

6.2.4.2. Corporate Organization

Bidder should provide an organization chart of its company. If the company is a subsidiary of a parent company, the organization chart should be that of the subsidiary company. The chart should display the company's structure.

6.2.4.3. Operation and Experience

Bidder should describe their operations and technical qualifications and experience relevant to the performance of the Services described in this RFP in Section 4.0 Scope of Work.

- Bidder should describe their ability to effectively handle fast-paced, labor intensive accounts with needs for long-term and short-term planning/buying.
- Summarize their business approach to providing the media services described in Section 4.0 Scope of Work, highlighting the guiding philosophy and the cultural identity and foundation of the bidder's agency.
- Provide a detailed description of the media buys conducted for at least two (2) clients/accounts with billings over \$10 million.
 - Description should be segmented by media type;
 - Provide purchasing weights by net dollar and percentage of overall agency spend on individual mediums including but not limited to broadcast and cable television, OTT, radio, OOH, digital (including sub-groupings, such as social, search and display), print (dailies, weeklies, magazine, trade publications, periodicals, etc.), sports, event, guerilla, etc.;
 - Include the campaign goal, target audience, audience research used, the added value (if any) negotiated on the client's behalf, and the measurable outcome of each campaign; and
 - Describe the strategies and methods utilized in the media buying process for these campaigns. Including all relevant rate negotiation, value additions and how these approaches would benefit New York State.

6.2.4.4. Account Management Staffing

Bidder should provide a listing of proposed personnel who would be assigned to work on this Account. This should include on-site and off-site employees who will interface on this account. Location of buying offices and buyers should be provided.

For all management, supervisory and key account personnel, provide their names, title, and resume or professional vita summarizing education and relevant experience. Indicate the

responsibilities each individual will have on this account and their tenure with your company. Provide an organizational chart indicating lines of authority, with names and titles, of all individuals proposed to be utilized on this account, in any capacity.

6.2.4.5. Media Planning and Placement

Bidder should describe the process utilized for researching creative and effective media methods available to achieve client's desired objectives and outcomes. This should include their process for developing a media strategy and placement decisions. Bidders should include the type of information and data sources used for making these media buying decisions and any analytical tools being utilized. (E.g.: Scarborough, Arbitron/Tapscan, Nielson, Mediabank, Mediamark, Donovan, Marketron, Mediapost, Experian, MRI, SRDS, SQAD, Comscore, Strata, Rentrak, Jupiter, Datatrack, Media Day, etc.)

6.2.4.6. Media Ordering

Bidder should describe their proposed approach to developing and maintaining a media buy ordering process. The approach should describe:

- how orders for all mediums are placed and confirmed.
- how they plan to meet the responsibilities outlined in Section 4.2.4.1 Media Negotiation and Placement in the RFP.

6.2.4.7. Trends:

Bidder should describe how they are adapting or may adapt to new media buying trends, methodologies and technologies, current capabilities in utilizing these new buying techniques, for both premium and remnant inventory and future planning and hardware/software/partnerships/personnel acquisitions your company intends to make to support new and emerging optimization methodologies as they relate to traditional and new media.

6.2.4.8. Key Performance Indicators (KPI):

Bidder should describe how they utilize KPI for both traditional and new media. Bidder should also explain how they utilize KPI's to improve performance of media buying to achieve the goals and objectives of this RFP.

6.2.4.9. Media Buy Requests (MBR)

Bidder should describe in detail its proposed approach to fulfill the Department's requests for media buys/campaigns and/or modification to media buys. The response should include:

- Campaign strategy for reaching the target audience
- Budget
- Timeframe
- Measurement of reach and frequency of media placements, and
- Rationale for such decisions.

6.2.4.10. Brand Safety

Bidder should describe how they will develop, implement, manage and monitor digital brand safety. This should include a description of the technology or partners that will be used for all campaigns.

6.3. Cost Proposal

Submit a completed and signed [Attachment B – Cost Proposal](#). The Cost Proposal shall comply with the format and content requirements as detailed in this document and in Attachment B. Failure to comply with the format and content requirements may result in disqualification.

The Bidder must propose a commission rate based upon net billing using Attachment B., The bidder must include any other costs their firm would plan to bill as part of this contract, such as travel, materials, equipment, profit and labor in their commission rate.

6.4. Oral Presentation

Oral Presentations will take place in Albany, New York. Bidders should be prepared to travel to Albany to conduct their presentation within approximately three (3) to four (4) weeks after notification of the presentation scenario. Bidders will be responsible for all cost associated with their presentation including, but not limited to making and paying for their own travel arrangements.

The invited bidders will be provided with a hypothetical campaign topic and budget and up to two (2) hours to make their oral presentation.

7. PROPOSAL SUBMISSION

A proposal consists of three distinct parts: (1) the Administrative Proposal, (2) the Technical Proposal, and (3) the Cost Proposal. The table below outlines the requested format and volume for submission of each part. Proposals should be submitted in all formats as prescribed below.

	Electronic Submission	Paper Submission
Administrative Proposal	2 dedicated flash drives or CDs labeled “Administrative Proposal” containing a standard searchable PDF file with copy/read permissions only.	2 Originals 6 Copies
Technical Proposal	2 dedicated flash drives or CDs labeled “Technical Proposal” containing a standard searchable PDF file with copy/read permissions only.	2 Originals 6 Copies
Cost Proposal	2 dedicated flash drives or CDs labeled “Cost Proposal” containing standard searchable PDF file(s) with copy/read permissions only.	2 Originals 6 Copies

1. All hard copy proposal materials should be printed on 8.5” x 11” white paper (single-sided) and **be clearly page numbered on the bottom of each page with appropriate header and footer information.**
2. A font size of eleven (11) points or larger should be used.
3. The Technical Proposal materials should be presented separate from the sealed Cost Proposal.

4. Where signatures are required, the proposals designated as originals should have a handwritten signature and be signed in blue ink.
5. The NYSDOH discourages overly lengthy proposals. Therefore, marketing brochures, user manuals or other materials, beyond that sufficient to present a complete and effective proposal, are not desired. Elaborate artwork or expensive paper is not necessary or desired. In order for the NYSDOH to evaluate proposals fairly and completely, proposals should follow the format described in this RFP to provide all requested information. The Bidder should not repeat information in more than one section of the proposal. If information in one section of the proposal is relevant to a discussion in another section, the Bidder should make specific reference to the other section rather than repeating the information.
6. Audio and/or videotapes are not allowed. Any submitted audio or videotapes will be ignored by the evaluation team; and
7. In the event that a discrepancy is found between the electronic and hardcopy proposal, the original hardcopy will prevail.

Proposals should be submitted in three (3) separate, clearly labeled packages: (1) Administrative Proposal, (2) Technical Proposal and (3) Cost Proposal, prepared in accordance with the requirements stated in this RFP. Mark the outside envelope of each proposal as "RFP# 20177 Media-buying and Planning Services – (Administrative) (Technical) or (Cost) Proposal submitted by (Bidder's name)". The three (3) sealed proposals may be combined into one (1) mailing, if desired.

Proposals must be submitted, by U.S. Mail, by courier/delivery service (e.g., FedEx, UPS, etc.) or by hand as noted below, in a sealed package to:

Department of Health (RFP #20177)
Bureau of Marketing and Creative Communications
Attention: Steven Spaccarelli, Senior Purchasing Agent
2812 Corning Tower
Albany, NY 12237

NOTE: You should request a receipt containing the time and date received and the signature of the receiver for all hand-deliveries and ask that this information also be written on the package(s).

Submission of proposals in a manner other than as described in these instructions (e.g., fax, electronic transmission) will not be accepted.

The proposal must be received by the NYSDOH, no later than the Deadline for Submission of Proposals specified in [Section 1.0](#), (Calendar of Events). Late bids will not be considered.

7.1. No Bid Form

Bidders choosing not to bid are requested to complete the No-Bid form [Attachment 2](#).

8. METHOD OF AWARD

8.1. General Information

DOH will evaluate each proposal based on the “Best Value” concept. This means that the proposal that best “optimizes quality, cost, and efficiency among responsive and responsible offerors” shall be selected for award (State Finance Law, Article 11, §163(1)(j)).

DOH at its sole discretion, will determine which proposal(s) best satisfies its requirements. DOH reserves all rights with respect to the award. All proposals deemed to be responsive to the requirements of this procurement will be evaluated and scored for technical qualities and cost. Proposals failing to meet the requirements of this document may be eliminated from consideration. The evaluation process will include separate technical and cost evaluations, and the result of each evaluation shall remain confidential until evaluations have been completed and a selection of the winning proposal is made.

The evaluation process will be conducted in a comprehensive and impartial manner, as set forth herein, by an Evaluation Committee. The Technical Proposal and compliance with other RFP requirements (other than the Cost Proposal) will be weighted **75%** of a proposal’s total score and the information contained in the Cost Proposal will be weighted **25%** of a proposal’s total score.

Bidders may be requested by DOH to clarify the contents of their proposals. Other than to provide such information as may be requested by DOH, no Bidder will be allowed to alter its proposal or add information after the Deadline for Submission of Proposals listed in [Section 1.0](#) (Calendar of Events).

In the event of a tie, the determining factors for award, in descending order, will be:

- (1) lowest cost and
- (2) proposed percentage of MWBE participation.

8.2. Submission Review

DOH will examine all proposals that are received in a proper and timely manner to determine if they meet the proposal submission requirements, as described in [Section 6.0](#) (Proposal Content) and [Section 7.0](#) (Proposal Submission), including documentation requested for the Administrative Proposal, as stated in this RFP. Proposals that are materially deficient in meeting the submission requirements or have omitted material documents, in the sole opinion of DOH, may be rejected.

8.3. Technical Evaluation

The evaluation process will be conducted in a comprehensive and impartial manner. A Technical Evaluation Committee comprised of program staff of DOH will review and evaluate all proposals.

Proposals will undergo a preliminary evaluation to verify Minimum Qualifications to Propose.

The Technical Evaluation Committee members will independently score each Technical Proposal that meets the submission requirements of this RFP. The individual Committee Member scores will be averaged and weighted to calculate the Technical Proposal Score for each responsive Bidder.

The technical proposal evaluation is **55% (up to 55 points)** of the final composite score.

8.4. Cost Evaluation

The Cost Evaluation Committee will examine the Cost Proposal documents. The Cost Proposals will be opened and reviewed for responsiveness to cost requirements. If a cost proposal is found to be non-responsive, that proposal may not receive a cost score and may be eliminated from consideration.

The Cost Proposals will be scored based on a maximum cost score of 25 points. The maximum cost score will be allocated to the proposal with the lowest all-inclusive not-to-exceed Commission Rate. All other responsive proposals will receive a proportionate score based on the relation of their Cost Proposal to the proposals offered at the lowest final cost, using this formula:

$$C = (A/B) * 25\%$$

A is Commission Rate of lowest cost proposal;

B is Commission Rate of cost proposal being scored; and

C is the Cost score.

The cost evaluation is **25% (up to 25 points)** of the final score.

8.5. Preliminary Composite Score

The preliminary composite score will be calculated by the DOH by adding the Technical Proposal points and the Cost points awarded. Finalists will be determined based on preliminary composite scores.

8.6. Oral Presentation Evaluation

Finalist, those bidders susceptible to award, will be eligible to provide an oral presentation to the committee. The Oral Presentation will be completed based upon a scenario provided by Department. Presentations will be conducted in Albany, New York.

The Oral Presentation will be worth **20% (up to 20 points)** of the final composite score.

8.7. Final Composite Score

The final composite score will be calculated by the DOH by combining the Preliminary Composite Score with the Oral Presentation score. The proposals will then be ranked based upon each Bidder's Final Composite Score. The highest scoring proposal will be eligible for award.

8.8. Reference Checks

The Bidder should submit references using [Attachment 9](#) (References). At the discretion of the Evaluation Committee, references may be checked at any point during the process to verify bidder qualifications to propose (Section 3.0).

8.9. Best and Final Offers

The DOH reserves the right to request best and final offers. In the event DOH exercises this right, all bidders that submitted a proposal that are susceptible to award will be asked to provide a best and final offer. Bidders will be informed that should they choose not to submit a best and final offer, the offer submitted with their proposal will be construed as their best and final offer.

8.10. Award Recommendation

The Evaluation Committee will submit a recommendation for award to the Finalist(s) with the highest composite score(s) whose experience and qualifications have been verified.

The Department will notify the awarded Bidder(s) and Bidders not awarded. The awarded Bidder(s) will enter into a written Agreement substantially in accordance with the terms of [Attachment 8](#), DOH Agreement, to provide the required services as specified in this RFP. The resultant contract shall not be binding until fully executed and approved by the New York State Office of the Attorney General and the Office of the State Comptroller.

9. ATTACHMENTS

The following attachments are included in this RFP and are available via hyperlink or can be found at: <https://www.health.ny.gov/funding/forms/>.

1. [Bidder's Disclosure of Prior Non-Responsibility Determination](#)
2. [No-Bid Form](#)
3. [Vendor Responsibility Attestation](#)
4. [Vendor Assurance of No Conflict of Interest or Detrimental Effect](#)
5. [Guide to New York State DOH M/WBE Required Forms & Forms](#)
6. [Encouraging Use of New York Businesses in Contract Performance](#)
7. [Bidder's Certified Statements](#)
8. [DOH Agreement](#) (Standard Contract)
9. [References](#)
10. [Diversity Practices Questionnaire](#)
11. [Executive Order 177 Prohibiting Contracts with Entities that Support Discrimination](#)
12. [Executive Order 16 Prohibiting Contracting with Businesses Conducting Business in Russia](#)

The following attachments are attached and included in this RFP:

- A. Proposal Document Checklist
- B. Cost Proposal

**ATTACHMENT A
PROPOSAL DOCUMENT CHECKLIST**

Please reference Section 7.0 for the appropriate format and quantities for each proposal submission.

RFP 20177 – MEDIA-BUYING AND PLANNING SERVICES		
FOR THE ADMINISTRATIVE PROPOSAL		
RFP §	SUBMISSION	INCLUDED
§ 6.1.1	Attachment 1 – Bidder’s Disclosure of Prior Non-Responsibility Determinations	<input type="checkbox"/>
§ 6.1.2	Freedom of Information Law – Proposal Redactions (If Applicable)	<input type="checkbox"/>
§ 6.1.3	Attachment 3- Vendor Responsibility Attestation	<input type="checkbox"/>
§ 6.1.4	Attachment 4 - Vendor Assurance of No Conflict of Interest or Detrimental Effect	<input type="checkbox"/>
§ 6.1.5	M/WBE Participation Requirements:	<input type="checkbox"/>
	Attachment 5 Form 1	<input type="checkbox"/>
	Attachment 5 Form 2 (If Applicable)	<input type="checkbox"/>
	Attachment 5 Form 4	<input type="checkbox"/>
	Attachment 5 Form 5 (If Applicable)	<input type="checkbox"/>
§ 6.1.6	Attachment 6- Encouraging Use of New York Businesses	<input type="checkbox"/>
§ 6.1.7	Attachment 7 - Bidder’s Certified Statements	<input type="checkbox"/>
§ 6.1.8	Attachment 9 – References	<input type="checkbox"/>
§ 6.1.9	Attachment 10 - Diversity Practices Questionnaire	<input type="checkbox"/>
§ 6.1.10	Attachment 11 - Executive Order 177 Prohibiting Contracts with Entities that Support Discrimination	<input type="checkbox"/>
§ 6.1.11	Attachment 12 – Executive Order 16 Prohibiting Contracting with Businesses Conducting Business in Russia	<input type="checkbox"/>
FOR THE TECHNICAL PROPOSAL		
RFP §	SUBMISSION	INCLUDED
§ 6.2.1	Title Page	<input type="checkbox"/>
§ 6.2.2	Table of Contents	<input type="checkbox"/>
§ 6.2.3	Documentation of Bidder’s Eligibility (Requirement)	<input type="checkbox"/>
§ 6.2.4	Technical Proposal Narrative	<input type="checkbox"/>
FOR THE COST PROPOSAL REQUIREMENT		
RFP §	REQUIREMENT	INCLUDED
§ 6.3	Attachment B- Cost Proposal	<input type="checkbox"/>

**ATTACHMENT B
COST PROPOSAL**

RFP # 20177 MEDIA-BUYING AND PLANNING SERVICES

The Department of Health will make payment for actual media purchased (net billing) plus a commission based upon the net billing. The department estimates the first year's net billings will be approximately \$40M. The first year's billings are an estimated and are not guaranteed in the first year or any subsequent year of the contract.

Payments will be made based upon the buys completed plus the commission.

The bidder must propose only a commission rate that will be billed upon net billing. The bidder must also include in their commission rate any other costs their firm would plan to bill as part of this contract, such as travel, materials, equipment, profit and labor.

Commission Rate

_____ %

Proposed rate must be guaranteed for the term of the contract.

Signature of Contractor's Authorized Official _____

Name of Contractor's Authorized Official _____

Title of Official _____

Date: _____