

**REQUEST FOR PROPOSAL  
for  
Security Coordinator  
for the  
2018 Philadelphia Marathon**

Issued: June 13, 2018  
Deadline for Proposals: June 29, 2018 at 2:00 PM E.S.T

The Mayor's Fund for Philadelphia  
On behalf of the 2018 Philadelphia Marathon  
Municipal Services Building Suite 1430  
1401 John F. Kennedy Boulevard  
Philadelphia, PA 19102

**Proposals must be received no later than 2:00 PM E.S.T. on June 29, 2018.**

**Respondents must submit Five (5) copies and one (1) original to the Philadelphia Marathon Office, Boy Scout Building, 232 N. 22<sup>nd</sup> Street, Philadelphia, PA 19102 as well as adhere to the Mandatory On-line Submission Requirements outlined under Request for Proposal/Section C.**

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**Background**

Now in its 25<sup>th</sup> year, the Philadelphia Marathon is composed of three days of events (November 16-18, 2018) featuring the Health & Fitness Expo, Dunkin' Donuts Munchkin Run, the Rothman Institute 8K, the 13.1 mile Dietz & Watson Philadelphia Half Marathon and the 26.2 mile AACR Philadelphia Marathon. The event will bring more than 25,000 participants and their families to Philadelphia to participate in one of the top 10 marathons in the United States. Participants come from all 50 States, the District of Columbia and over 40 countries around the world. On race day thousands of enthusiastic onlookers will line the 26.2 mile course to cheer on friends and family members.

This Request for Proposal is to identify qualified entities to develop a comprehensive security plan that will integrate with the Marathon's current relationship with the Philadelphia Police and Fire Department for the 2018 Philadelphia Marathon. Consultant/vendor evaluation criteria will include relevant experience, quality of products and services and competitive cost.

**Organizational Overview**

The race is administered by the Mayor's Fund for Philadelphia (Fund), a non-fiscal administrator that provides financial and contract management services to projects that promote Philadelphia, with support from the City of Philadelphia's Managing Director's Office and the staff of the Philadelphia Marathon. The race is produced by a team of administrative, operational, marketing, public relations and community outreach professionals.

If a contract is awarded pursuant to this Request for Proposal, the Fund will award that contract and the contract will be between the Fund and the selected vendor.

## **I. Scope of Services**

Services will include creating a comprehensive security strategy for the 2018 Marathon Weekend of events. The list of services below is not intended to be limiting or exhaustive but only a representative sample of requested items. Registration opening date was April 16, 2018.

### **Security Coordinator**

Submit a comprehensive security strategy for the Marathon Weekend of Events including the Philadelphia Marathon, Philadelphia Half Marathon, 8k and Kids Run that will provide services such as (but not limited to):

- Crowd control and limited public access to start and finish line areas and related premises from 25<sup>th</sup> and Kelly to 21<sup>st</sup> and Benjamin Franklin Parkway.
- Conduct a site assessment with the Philadelphia Police Department for vulnerabilities, and implement best practices for security of the event
- Coordinate all security services hired by the Philadelphia Marathon
- Ensure adequate communications with all key security personnel, using equipment owned/leased by the Philadelphia Marathon
- Liaison with the Philadelphia Police Department – Homeland Security Units
- Liaison with the Philadelphia Police Department – Traffic District
- Liaison with the Philadelphia Fire Department – Emergency Medical Services
- Planning & consultation, including attendance at all required meetings, beginning in July 2018 through the conclusion of the event
- Prepare and submit written reports as needed

### **Report Writing**

The successful respondent shall report to the Marathon Management on a regular basis regarding status of project and progress in providing the contracted services. At a minimum the successful respondent shall submit a monthly invoice detailing the services provided, the goals/tasks accomplished and associated costs.

## **II. Request for Proposal**

### **A. Proposal Requirements**

All Proposals should include the following:

1. Introduction / Executive Summary / Company or Agency Profile
2. Related Experience
3. References
4. Summary of current Clients and Partners
5. Proposed Scope of Work – How will you meet the stated objectives?
6. Additional Services offered by your entity that are not listed in the Scope of Services, that may be of interest
7. Proposed Schedule and Important Milestones
8. Cost Proposal

#### **Participation of Minority, Women, or Disabled Business Enterprises**

See Appendix A for requirements related to the fulfillment of the Mayor's Executive Order 03-12 regarding the participation of minority, women, and disabled business enterprises (M/W/DSDE).

#### **Disclosure of Litigation**

The respondent shall describe any pending, contemplated or ongoing administrative or judicial proceedings

material to the Respondent's business or finances. This includes, but is not limited to, any litigation, consent orders or agreements with any state or federal regulatory agency issued to the Respondent or to any subcontractor the Respondent plans to use for the services described in this RFP.

## **B. Mandatory Online Application Requirements**

The respondent must send their proposals electronically in order to be eligible for award of the posted opportunity. Proposals or any other response to a Notice of Contracting Opportunity will not be considered unless you have electronically submitted your proposals to Leo Dignam at **leo.dignam@phila.gov** with **"PM RFP: Security Services"** in the subject line. All submissions must cc: **mayorsfund@phila.gov**. All required documents including the proposal and any additional response documents should be included as part of the entire proposal and submitted electronically to the above email addresses.

## **C. Evaluation of Proposals**

Proposals will be evaluated by a small team of operations and event professionals organized by the Philadelphia Marathon. Proposals will be analyzed based on the following:

- Cost
  - Cost-effectiveness, cost-efficiency, proposed savings, expense reduction
  - Price, fee caps and other cost control measures
- Experience
  - Specialized experience
  - Documented prior years of experience in handling project(s) of similar size and scope
  - Creativity
  - Demonstrated ability to meet deadlines.
- Proposed plan of action/strategy/solution for the Philadelphia Marathon.
  - Utilization of most efficient methodology
  - Innovativeness of solution
  - Utilization of best practices
  - Ability to meet project deadlines under proposed solution/project plan
  - Staffing model
- Consultant/Vendor Capacity
- Staffing qualifications (e.g., staff prior experience, education, licenses, professional achievements)
  - Technical, administrative, financial capacity
  - Specific licensure requirements for organizations/businesses
- Expressed willingness to comply with City and/or department standards for contracting (e.g., indemnification, nondiscrimination) Consultant/vendor profile
  - For-profit versus non-profit status if relevant
  - Business integrity and reputation in the industry relevant to the consultant/vendor or area of work
  - Shared commitment, with Philadelphia Marathon, to achieving the objectives of Executive Order 0312 which strives for the inclusion of Minority, Women and Disabled Businesses in all phases of City contracting;

- Superior prior experience, as confirmed by references
- Superior skill and reputation, including timeliness and demonstrable results, as confirmed by references;
- Superior qualifications of Project Team members, as confirmed by degrees, licenses, publications, training, and/or accreditations;
- Benefit of promoting long-term competitive development and allocation of experience to new or small businesses, including those owned by minority, women or disabled persons;
- Administrative and operational efficiency, requiring less City oversight and administration, as confirmed by references; and
- Meets qualification requirements as set forth in the RFP.

#### **D. Employee Conflict Provision**

No Proposal shall be from, or contract awarded to, any Fund or Philadelphia Marathon employee or official who submits a Proposal or solicits any contract in which he or she may have any direct or indirect interest.

#### **E. Proposal Binding**

By signing and submitting its bid, each respondent agrees that the contents of its bid are available for establishment of final contractual obligations for a minimum of 180 calendar days from the application deadline for this bid. Order specifications may be changed after bids are awarded. A respondent's refusal to enter into a contract which reflects the terms and conditions of this notice of contract opportunity, the Marathon contract or respondent's Proposal may, in the Fund's sole discretion, result in rejection of respondent's Proposal or termination of any negotiations with the respondent.

### **III. Proposal Administration**

#### **A. Procurement Schedule**

RFP Posted	<i>June 13, 2018</i>
Applicant Questions Due	<i>June 25, 2018</i>
Answers Posted on <a href="http://www.mayorsfundphila.org/rfp-security">www.mayorsfundphila.org/rfp-security</a>	<i>June 27, 2018</i>
Proposals Due	<i>June 29, 2018 by 2:00 PM EST</i>

Interviews and Specification meetings may be required as part of the review and selection process. Only a portion of the respondents will be asked to participate in interviews.

#### **B. Questions Relating to the RFP**

All questions concerning this RFP must be submitted in writing via email with "PM Security Coordinator RFP – Questions" in the subject line to **Leo Dignam** at [leo.dignam@phila.gov](mailto:leo.dignam@phila.gov), with a cc: to [mayorsfund@phila.gov](mailto:mayorsfund@phila.gov) by **June 25, 2018 (5:00 PM EST)** and may not be considered if not received by then. The Marathon will provide written responses to the submitted questions no later than June 27, 2018. These responses will be posted at [www.mayorsfundphila.org/rfp-security](http://www.mayorsfundphila.org/rfp-security) with original questions noted. Oral responses by any employee or agent of the Fund or the Marathon are not binding and shall not in any way be considered a commitment by the marathon.

#### **C. Revisions to Bid Specifications**

The Fund and the staff of the Marathon reserve the right to change, modify or revise the RFP at any time. Any revisions prior to award will be posted on the City of Philadelphia website [www.mayorsfundphila.org/rfp-security](http://www.mayorsfundphila.org/rfp-security) with the original Opportunity Details. It is the respondent's responsibility to check the [www.mayorsfundphila.org/rfp-security](http://www.mayorsfundphila.org/rfp-security) website frequently to determine whether additional information has been released.

#### **D. Contract Term**

It is anticipated that the initial term of the Contract shall commence on or about July 1, 2018 (the "Initial Term") and, unless sooner terminated by the Fund pursuant to the terms of the Contract, shall expire up to twelve months thereafter, on June 30, 2019. The Fund may, at its sole option, amend the Contract to add up to three (3) additional successive one-year terms ("Additional Terms"). Except as may be stated otherwise in such amendment, the terms and conditions of this Contract shall apply throughout each Additional Term.

#### **E. Compensation**

The Philadelphia Marathon will pay the consultant/vendor based on experience and the arrangement agreed upon. The consultant/vendor will invoice the Philadelphia Marathon, terms to be agreed upon at time of contract execution.

#### **F. Contract Requirements**

These requirements are in addition to the terms and conditions set forth in the attached form of agreement. The successful respondent shall agree to the following:

1. **Non-Indebt Clause.** Respondent hereby certifies and represents that Respondent and Respondent's parent company(ies) and subsidiary(ies) are not currently in debt to the City and will not, if awarded the Agreement, at any time during the term of the Agreement (including any extensions or renewals thereof) be in debt to the City, for or on account of any delinquent taxes (including, but not limited to, taxes collected by the City on behalf of the School District of Philadelphia), liens, judgments, fees or other debts for which no written agreement or payment plan satisfactory to the City has been established. In addition to any other rights or remedies available to the City at law or in equity, the successful Respondent acknowledges that any breach or failure to conform to this certification may, at the option of the Fund and the staff of the Marathon, result in the withholding of payments otherwise due to the successful Respondent under the Agreement and, if such breach or failure is not resolved to the City's satisfaction within a reasonable time frame specified by the Fund or City in writing, may result in the offset of any such indebtedness against said payments and/or the termination of this Agreement for default (in which case the successful Respondent shall be liable for all excess costs and other damages resulting from the termination).

The successful Respondent shall require all sub-consultants performing work in connection with the Agreement to be bound by the preceding provision and the successful Respondent shall cooperate fully with the City in exercising the rights and remedies described below or otherwise available at law or in equity.

2. **Insurance.** Unless otherwise specified, the successful respondent shall, at its sole cost and expense, procure and maintain or cause to be procured and maintained, in full force and effect throughout the term of the Agreement, the types and minimum limits of insurance specified below:
  - Workers' compensation (or similar) insurance as required by the jurisdiction where the

Services are performed

- Commercial general liability insurance (including products liability, completed operations and contractual liability coverage) with minimum limits applicable to bodily injury and property damage of \$1,000,000 per occurrence, and \$2,000,000, and containing a waiver of subrogation against The Fund
- Excess or umbrella insurance with minimum limits of \$1,000,000 per each occurrence and in the aggregate and containing a waiver of subrogation against The Fund
- Errors and omissions insurance with minimum limits of \$1,000,000 combined single limit

Such policies must (a) be in Vendor's name unless agreed upon in writing by The Fund, (b) include The Fund and its employees as additional insureds, (c) not have a deductible exceeding \$25,000 per claim, and (d) be placed with insurers reasonably acceptable to The Fund, having a Best's rating of no less than "A-". These minimum insurance amounts are not to be construed as limiting a Contractor's right to obtain additional coverage and higher liability limits at Contractor's discretion. Vendor may be required to provide proof of insurance at the Fund's discretion.

3. **Indemnification.** The successful Respondent shall indemnify, defend and hold harmless the Fund, City of Philadelphia, Fairmount Park, and any and all of its officers, employees and agents, from and against any and all losses, costs (including, but not limited to, litigation and settlement costs and counsel fees and expenses), claims, suits, actions, damages, liability and expenses, occasioned wholly or in part by Respondent's act or omission or negligence or fault or the act or omission or negligence or fault of Respondent's agents, subcontractors, independent contractors, suppliers, employees or servants in connection with the Contract that may result from this Bid request. This includes, but is not limited to, those in connection with loss of life, bodily injury, personal injury, damage to property, contamination or adverse effects on the environment, intentional acts, failure to pay any Subcontractors and suppliers, any breach of the Contract, and any infringement or violation of any proprietary right (including, but not limited to, patent, copyright, trademark, service mark and trade secret).

**APPENDIX A  
CITY OF PHILADELPHIA  
OFFICE OF ECONOMIC OPPORTUNITY  
ANTIDISCRIMINATION POLICY- MINORITY, WOMAN AND DISABLED OWNED  
BUSINESS ENTERPRISES  
FORMS, INSTRUCTIONS AND SPECIAL CONTRACT PROVISIONS  
(NON-COMPETITIVELY BID CONTRACTS)**

*Last Revised: October 26, 2010*

Under the authority of Executive Orders No. 02-05 and 14-08, the City of Philadelphia has established an antidiscrimination policy (“Policy”) relating to the participation of Minority (MBE), Woman (WBE) and Disabled (DSBE) Owned Business Enterprises in City contracts. Executive Order 14-08 disestablished the Minority Business Enterprise Council and transferred its administrative functions under Executive Order 02-05 to the Office of Economic Opportunity (“OEO”).

The purpose of this Policy is to provide equal opportunity for all businesses and to assure that City funds are not used, directly or indirectly, to promote, reinforce or perpetuate discriminatory practices. The City is committed to fostering an environment in which all businesses are free to participate in business opportunities without the impediments of discrimination and participate in all City contracts on an equitable basis. In accordance with the contracting requirements of the City, the City’s antidiscrimination policy is applicable to this Notice of Contracting Opportunity (hereinafter, “NOCO”).<sup>1</sup>

<sup>1</sup> The term “Notice of Contracting Opportunity,” shortened to the acronym “NOCO,” refers to the City’s contract solicitation documents and information posted on eContract Philly. Generally, these documents take the form of a Request for Proposals (RFP), Request for Qualifications (RFQ) or Request for Expression of Interest (RFI) and include any other document or information (for example, exhibits, appendices) related to the posting of the new contract opportunity.

The Office of Economic Opportunity has approved the following projected ranges of participation for this NOCO which serve as a guide in determining each applicant’s responsibility:

MBE 10 % - 15 %

WBE 5 % - 10 %

**DSBE Best Efforts**

These ranges represent the percentage of MBE, WBE and/or DSBE (collectively, “M/W/DSBE”) participation that should be attained by M/W/DSBEs from business opportunities existing in the available market absent discrimination in the solicitation and selection of these businesses. These ranges are based upon an analysis of factors such as the size and scope of the contract and the availability of certified M/W/DSBEs to perform various elements of the contract. The submission of a Solicitation For Participation and Commitment Form and any supporting documentation (more fully discussed below) is an element of responsiveness to the NOCO and failure to submit the required information will result in rejection of your proposal.

Applicant hereby verifies that all forms, information and documentation submitted to the OEO are true and correct and is notified that the submission of false information by Applicant is subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn falsification to authorities.

#### **A. M/W/DSBE PARTICIPATION**

1. Only firms that are certified by an approved certifying agency<sup>2</sup> or identified in the OEO Certification Registry at the time of contract award will be credited toward the participation ranges on City contracts. An OEO Certification Registry is maintained by the OEO and is available online at [www.phila.gov/OEO/directory](http://www.phila.gov/OEO/directory). Firms owned and controlled by minority persons, women or disabled persons, which are certified as MBE, WBE, DSBE or DBE by an approved certifying agency may apply to the OEO for listing in its OEO Certification Registry. If applicant or applicant's subcontractor(s) is certified by an approved certifying agency, a copy of that certification should be included with the proposal.

2 Approved certifying agencies are identified on the OEO webpage found at [www.phila.gov/OEO](http://www.phila.gov/OEO).

2. No applicant that seeks to meet the participation range(s) for participation by entering into subcontracts with any M/W/DSBE subcontractor shall be considered to meet the range(s) if the M/W/DSBE subcontractor does not perform a commercially acceptable function ("CAF"). A M/W/DSBE is considered to perform a CAF when it engages in meaningful work or supply effort that provides for a distinct element of the subcontract (as required by the work to be performed in accordance with the NOCO), where the distinct element is worthy of the dollar amount of the subcontract and where the M/W/DSBE carries out its responsibilities by actually performing, managing and supervising the work involved. The OEO may evaluate the amount of work subcontracted, industry practices and any other relevant factors in determining whether the M/W/DSBE is performing a CAF. If it is determined during the review of your Solicitation and Commitment Form that the work described on the Form does not constitute a CAF, your proposal may be rejected.

3. In order to maximize opportunities for as many businesses as possible, a firm that is certified in two or more categories (e.g. MBE and WBE and DSBE or WBE and DSBE) will only be credited toward one participation range as either an MBE or WBE or DSBE. The firm will not be credited toward more than one category. Applicants will note with their submission which category, MBE or WBE or DSBE, is submitted for credit.

4. An MBE/WBE/DSBE submitting as the prime applicant is required, like all other applicants, to submit a proposal that is responsive to the Policy and will only receive credit toward the relevant participation ranges (e.g., MBE range or WBE range or DSBE range) for the amount of its own work or supply effort on this NOCO. In addition, the participation of an M/W/DSBE partner, as part of a joint venture created for this contract, may be credited towards the participation ranges only to the extent of the M/W/DSBE partner's ownership interest in the joint venture in accordance with the following criteria:

- The MBE, WBE or DSBE partner(s) must be identified in the OEO Registry prior to contract award;
- The M/W/DSBE partner(s) must derive substantial benefit from the arrangement;
- The M/W/DSBE partner(s) must be substantially involved in all phases of the contract including planning, staffing and daily management;

- The business arrangement must be customary (i.e., each partner shares in the risk and profits of the joint venture commensurate with their ownership interest, contributes working capital and other resources, etc).

5. M/W/DSBE subcontractors must perform at least twenty percent (20%) of the cost of the subcontract (not including the cost of materials, equipment or supplies incident to the performance of the subcontract) with their own employees.

6. In listing participation commitments on the Solicitation for Participation and Commitment Form, applicants are required to list a detailed description of the work or supply effort, the dollar amount of the quotation, and percentage of the contract the participation represents. In calculating the percentage amount, applicants may apply the standard mathematical rules in rounding off numbers. The OEO reserves the right to request clarifying information from applicants in the event of an inconsistency or ambiguity in the Solicitation For Participation and Commitment Form.

### **B. RESPONSIVENESS**

1. A proposal responsive to the Policy is one which contains documentary evidence of the M/W/DSBEs that have been solicited and that will be used by the applicant on the contract, if awarded; where the proposal satisfies the M/W/DSBE participation ranges for that contract, the applicant is rebuttably presumed not to have discriminated in its selection of contract participants.

2. Applicants must submit documentary evidence of MBE, WBE and DSBEs who have been solicited and with whom commitments have been made in response to the participation ranges included in this NOCO. Failure to submit the Solicitation For Participation and Commitment Form will result in the rejection of the proposal as nonresponsive, although the City, at its sole discretion, may allow applicants to submit or amend the Solicitation For Participation and Commitment Form at any time prior to award. The Solicitation For Participation and Commitment Form must contain the following information:

- Documentation of all solicitations (regardless of whether commitments resulted therefrom) as well as all commitments made on the enclosed document entitled "Solicitation For Participation and Commitment Form". Applicants should only make actual solicitations of M/W/DSBEs whose work or materials are within the scope of this NOCO. Mass mailing of a general nature to M/W/DSBEs or similar methods will not be deemed solicitation, but rather will be treated as informational notification only. A reasonable period of time should be given to all solicited firms to ensure that they have sufficient time to adequately prepare their quotes/subproposals. The applicant's listing of a commitment with an M/W/DSBE constitutes a representation that the applicant has made a legally binding commitment to contract with such firm, upon receipt of a contract award from the City.

- If the applicant has entered into a joint venture with an MBE, WBE and/or DSBE partner, the applicant is also required to submit along with the Solicitation For Participation and Commitment Form, a document entitled "Joint Venture Eligibility Information Form," available at OEO, for the City's review and approval of the joint venture arrangement.

3. If Applicant does not fully meet each of the range(s) for participation established for this NOCO, applicant must explain what efforts the applicant made to achieve the M/W/DSBE participation ranges.

Applicant must demonstrate, through the submission of documentary evidence, that it took all necessary steps and made reasonable efforts to achieve the M/W/DSBE participation ranges, even if these efforts were not fully successful. OEO will evaluate the scope, intensity and appropriateness of these efforts to ascertain whether they could reasonably be expected to achieve M/W/DSBE participation commensurate with the ranges. Failure to submit the documentary evidence will result in rejection of the proposal as nonresponsive, although the City, at its sole discretion, may allow applicants to submit or amend their evidentiary submission at any time prior to award. The submission shall contain and discuss, at a minimum, the following:

- Provide reasons for not committing with any MBE/WBE/DSBEs that submitted a quote/subproposal, regardless of whether the quote/subproposal was solicited by applicant.
- Provide any additional evidence pertinent to applicant's conduct relating to this NOCO including sufficient evidence which demonstrates to the OEO that applicant has not engaged in discriminatory practices in the solicitation of and commitment with contract participants. In describing applicant's efforts to achieve participation within the ranges, applicant may submit any corroborating documentation (e.g., copies of advertisements for participation).

The applicant's documentary evidence will be reviewed by the OEO to ascertain whether discrimination has occurred in the solicitation or selection of contract participants. The review will include consideration of the following:

- Whether the applicant's actions were motivated by considerations of race or gender or disability. The OEO may investigate the applicant's contracting activities and business practices on similar public and private sector contracts. For example, if applicant rejects any M/W/DSBE based on price, applicant must fully document its reasons for the rejection and also demonstrate that applicant subjects non-M/W/DSBEs to the same pricing standards. OEO will investigate whether there was any attempt at good faith negotiation of price.
- Whether M/W/DSBEs were treated as equally as other businesses in the solicitation and commitment process. For example, the OEO will investigate whether M/W/DSBEs are given the same information, access to the plans and requirements of the contract and given adequate amount of time to prepare a quote/subproposal as others who were solicited by applicant. The OEO will also investigate whether M/W/DSBEs were accorded the same level of outreach as non-M/W/DSBEs, for example whether applicant short listed M/W/DSBEs for participation or solicited M/W/DSBEs at any pre-proposal meetings.
- Whether the applicant's contracting decisions were based upon policies which disparately affect M/W/DSBEs. OEO will ascertain whether applicant selected portions of work or material needs consistent with the capacity of available M/W/DSBE subcontractors and suppliers. OEO will consider whether applicant employed policies which facilitate the participation of M/W/DSBEs on City contracts such as segmentation of the contract or prompt payment practices.

4. After review of the applicant's submission and other information the OEO deems relevant to its evaluation, the OEO will make a written determination that will be forwarded to the awarding City Department.

- If the proposal is determined nonresponsive by the OEO, the applicant will be notified and may file a written appeal with the OEO within forty-eight (48) hours of the date of notification. The decision of the OEO may be appealed in writing within forty-eight (48) hours of the date of the OEO's decision to the Chief Operating Officer of the Commerce Department or his/her designee whose decision shall be final.

### **C. RESPONSIBILITY**

1. Upon award, the completed Solicitation For Participation and Commitment Form and accompanying documents regarding solicitation and commitments with MBEs, WBEs and DSBEs become part of the contract. M/W/DSBE percentage commitments are to be maintained throughout the term of the contract and shall apply to the total contract value (including amendments). Any change in commitment, including but not limited to substitutions for the listed firm(s), changes or reductions in the work and/or listed dollar/percentage amounts, must be pre-approved in writing by the OEO.
2. The successful applicant shall, within five (5) business days after receipt of a payment from the City for work performed under the contract, deliver to its M/W/DSBE subcontractors the proportionate share of such payment for work performed (including the supply of materials) by its M/W/DSBE subcontractors. In connection with payment of its M/W/DSBE subcontractors, the successful applicant agrees to fully comply with the City's payment reporting process which may include the use of electronic payment verification systems.
3. No privity of contract exists between the City and any M/W/DSBE subcontractor identified in any contract resulting from this NOCO. The City does not intend to give or confer upon any such M/W/DSBE subcontractor(s) any legal rights or remedies in connection with the subcontracted services under Executive Orders 2-05 and 14-08 or by reason of any contract resulting from the NOCO except such rights or remedies that the M/W/DSBE subcontractor may seek as a private cause of action under any legally binding contract to which it may be a party.
4. If the OEO determines that the applicant has discriminated against a M/W/DSBE at any time during the term of the contract, the OEO may recommend to the Director of Finance the imposition of sanctions on the applicant including debarment of the applicant from submitting and/or participating in future City contracts for a period of up to three (3) years.

### **D. ACCESS TO INFORMATION**

1. The OEO shall have the right to make site visits to the applicant's place of business and/or job site and obtain documents and information from any applicant, subcontractor, supplier, manufacturer or contract participant that may be required in order to ascertain applicant's responsiveness and responsibility.
2. Failure to cooperate with the OEO in its review may result in a recommendation to terminate the contract.

### **E. RECORDS AND REPORTS**

1. The successful applicant shall maintain all books and records relating to its M/W/DSBE commitments (e.g. copies of quotations, subcontracts, joint venture agreement, correspondence, cancelled checks,

invoices, telephone logs) for a period of at least three (3) years following acceptance of final payment. These records shall be made available for inspection by the OEO and/or other appropriate City officials. The successful applicant agrees to submit reports and other documentation to the OEO as deemed necessary by the OEO to ascertain the successful applicant's fulfillment of its M/W/DSBE commitments.

**F. REMEDIES**

1. The successful applicant's compliance with the requirements of Executive Orders 2-05 and 14-08, including the fulfillment of any M/W/DSBE commitments, is material to the contract. Any failure to comply with these requirements constitutes a substantial breach of the contract. It is further understood and agreed that in the event the City determines that the successful applicant hereunder has failed to comply with these requirements the City may, in addition to any other rights and remedies the City may have under the contract, any bond filed in connection therewith or at law or in equity, exercise one or more of the following remedies, as deemed applicable, which shall be deemed cumulative and concurrent:

a. Withhold payment(s) or any part thereof until corrective action is taken.

b. Terminate the contract, in whole or in part.

c. Suspend the successful applicant from proposing/bidding and/or participating in any future City contracts for a period of up to three (3) years.

d. Recover as liquidated damages, one percent of the total dollar amount of the contract for each one percent (or fraction thereof) of the commitment shortfall. (NOTE: The "total dollar amount of the contract" shall include approved change orders, amendments and for requirements contracts shall be based on actual quantities ordered by the City. For Concessions, the "total dollar amount of the contract" shall mean the Concession Fee paid to the City.)

The remedies enumerated above are for the sole benefit of the City and City's failure to enforce any provision or the City's indulgence of any non-compliance with any provision hereunder, shall not operate as a waiver of any of the City's rights in connection with any contract resulting from this NOCO nor shall it give rise to actions by any third parties including identified M/W/DSBE subcontractors.

**ANTIDISCRIMINATION POLICY SOLICITATION FOR PARTICIPATION AND COMMITMENT FORM**  
**Minority (MBE), Woman (WBE), Disabled (DSBE) and Disadvantaged (DBE) Business Enterprises<sup>1</sup>**

<b>DEPARTMENT OF COMMERCE</b>		<b>OFFICE OF ECONOMIC OPPORTUNITY (OEO)</b>		<b>Bid/RFP Opening Date:</b>
<b>Bid Number or Proposal Title:</b>		<b>Name of Bidder/Proposer:</b>		
List below ALL MBE/WBE/DBE/DSBEs that were solicited regardless of whether a commitment resulted therefrom. - Photocopy this form as necessary.				
<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> DSBE <input type="checkbox"/> M-DBE <input type="checkbox"/> W-DBE				
<b>Company Name</b>		<b>Date Solicited</b>	<b>Commitment Made</b>	
<b>Address</b>		<b>By Phone</b> <input type="checkbox"/> <b>By Mail</b> <input type="checkbox"/>	<b>Yes (If Yes, give date)</b> <input type="checkbox"/> <b>NO</b> <input type="checkbox"/>	
<b>Contact Person</b>		<b>Quote Received</b>	<b>Amount Committed To</b>	
<b>Telephone Number</b>		<b>YES<sup>2</sup></b> <input type="checkbox"/> <b>NO</b> <input type="checkbox"/>	<b>Dollar Amount</b>	
<b>Fax Number</b>			<b>\$</b>	
<b>Email Address</b>			<b>Percent of Total Bid/RFP</b>	
<b>OEO REGISTRY #</b>			<b>%</b>	
<b>CERTIFYING AGENCY</b>				
Work or Supply Effort to be Performed				
<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> DSBE <input type="checkbox"/> M-DBE <input type="checkbox"/> W-DBE		<b>Date Solicited</b>	<b>Commitment Made</b>	
<b>Company Name</b>		<b>By Phone</b> <input type="checkbox"/> <b>By Mail</b> <input type="checkbox"/>	<b>Yes (If Yes, give date)</b> <input type="checkbox"/> <b>NO</b> <input type="checkbox"/>	
<b>Address</b>		<b>Quote Received</b>	<b>Amount Committed To</b>	
<b>Contact Person</b>		<b>YES<sup>2</sup></b> <input type="checkbox"/> <b>NO</b> <input type="checkbox"/>	<b>Dollar Amount</b>	
<b>Telephone Number</b>			<b>\$</b>	
<b>Fax Number</b>			<b>Percent of Total Bid/RFP</b>	
<b>Email Address</b>			<b>%</b>	
<b>OEO REGISTRY #</b>				
<b>CERTIFYING AGENCY</b>				
Work or Supply Effort to be Performed				
<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> DSBE <input type="checkbox"/> M-DBE <input type="checkbox"/> W-DBE		<b>Date Solicited</b>	<b>Commitment Made</b>	
<b>Company Name</b>		<b>By Phone</b> <input type="checkbox"/> <b>By Mail</b> <input type="checkbox"/>	<b>Yes (If Yes, give date)</b> <input type="checkbox"/> <b>NO</b> <input type="checkbox"/>	
<b>Address</b>		<b>Quote Received</b>	<b>Amount Committed To</b>	
<b>Contact Person</b>		<b>YES<sup>2</sup></b> <input type="checkbox"/> <b>NO</b> <input type="checkbox"/>	<b>Dollar Amount</b>	
<b>Telephone Number</b>			<b>\$</b>	
<b>Fax Number</b>			<b>Percent of Total Bid/RFP</b>	
<b>Email Address</b>			<b>%</b>	
<b>OEO REGISTRY #</b>				
<b>CERTIFYING AGENCY</b>				
Give Reason(s) If No Commitment				

1. If Bidder/Proposer makes solicitation(s) and commitment(s) with a DBE, Bidder/Proposer shall indicate which class type, M-DBE or W-DBE, is submitted for credit.  
 2. Attach all quotations to this form.  
 09/2010