Reminder- The current CONR-385 and FAR overhead Audit Report must have been submitted to or be on file with NYSDOT, for all team members by the due date of the EOI submission.

This project will follow the department's electronic consultant selection process (Process II).

This is a Small Firm Opportunity project. Accordingly, the Department has established that small firms, as defined on the NYSDOT web site, will be given additional credit in the selection process. Engineering firm(s) authorized to perform engineering services in the State of New York proposed as the prime, must retain at least 55% of this projects work, and do not exceed the size standard applicable:

a) The current size standard for Engineering Services (NAICS* Code 541330) is average annual receipts of $15.0 million (or less) over the past three years (including all affiliated firms under common ownership).

b) Short listed firms are required to submit a completed Small Firm Opportunity Worksheet (https://www.dot.ny.gov/main/business-center/consultants/forms-publications-and-instructions) as part of their Shortlist Submittal as a PDF “Other” document.

c) *North American Industry Classification System (NAICS)

The Department anticipates only designating one Firm for this contract but reserves the right to make more than one designation. Designation(s) will be made from one shortlist with this contract number being designated to the highest ranked firm, and any additional designations being made in order from the same shortlist starting with the second ranked firm.

1. Project Identification
   Contract: D037682 PIN: S001.32.
   Title: Regional Design Services Agreement (RDSA) – Small Firm Opportunity - Regions 3,4,5 & 6

Notice is hereby given that the New York State Department of Transportation (NYSDOT) is seeking to retain an engineering firm(s) to perform the following: Design Services (Highway and Bridge) under a Regional Design Services Agreement (RDSA).

The following items are of specific importance to potential consultant firms:

1. Register using the NYSDOT Consultant Selection System (CSSWeb) application, including the provision of required salary roster information; https://www.dot.ny.gov/main/business-center/consultants/css-web

2. Consistent with Consultant instruction CI 11-04, submit required annual overhead audit performed in accordance with Federal Acquisition Regulation. Refer to CI 11-04 for instructions regarding submission requirements: http://www.dot.ny.gov/main/business-center/consultants/architectural-engineering/consultant-instructions/overhead


2. General Description of Agreement

**Work Phase Included:** Scoping, Preliminary and Final Design Phases I-VI and Construction Support Services

**In the following counties:** All Counties in NYSDOT Region 3, Region 4, Region 5 and Region 6

**Estimated Contract Duration:** Five Years (60 Months)

2a. Funding

Expected to be Federally and State funded.

2b. Key Dates

- Construction Letting Date: N/A
- Consultant Start Date: January 2, 2018
- Consultant Completion Date: December 31, 2022
- Anticipated design approval Date: N/A
- Anticipated PS&E date: N/A

2c. Electronic EOI

For the purpose of submitting an electronic EOI only, use the KEY PIN value: **S001.32**.

The firm has advised all team members that the contracting process will require that they possess an acceptable accounting system capable of segregating contract cost.

The firm agrees to use in the agreement the salary and overhead rates on record at the time of designation. The use of any subsequent salary and overhead data is at the sole discretion of the Department.

The firm agrees to accept reimbursement for assignments based either upon a cost plus, lump sum or specific hourly rate format of reimbursement. The format will be dependent upon the services being requested in the assignment(s).

**Chapter 10 of the Laws of 2006 amends State Finance Law §§ 8 and 163 by requiring:**

State Contractors to disclose, by employment category, the number of persons employed to provide services under a contract for consultant services, the number of hours worked and the amount paid to the contractor by the State as compensation for work performed by these employees. This will include information on any person working under any subcontracts with the State Contractor.

If designated, firms will submit the following forms:

1. Due at the time of signing the contract: "State Consultant Services - Contractor's Planned Employment from Contract Start Date through the End of the Contract Term" (otherwise called Form A)
   http://www.osc.state.ny.us/agencies/forms/
2. Due every year the contract is in force, on or before May 15th: "State Consultant Services - Contractor's Annual Employment Report" (otherwise called Form B) http://www.osc.state.ny.us/agencies/forms/

Please note, that in contrast to the information to be included on Form A, which is a one-time report of planned employment data for the entire term of a consulting contract on a projected basis, Form B will be submitted each year the contract is in effect and will capture historical information, detailing actual employment data for the most recently concluded State fiscal year (April 1 - March 31).

For more information and copies of the forms, firms are advised to visit the following OSC web site: http://osc.osc.state.ny.us/procurement/contractor_instr_forms_a_b.doc and/or Consultant Disclosure Information Contractor Instructions, Forms A and B). Or the following NYSDOT web site links (Business Center Heading):

3. Description of Work

The agreement provides for consultant design services which include, but are not limited to: scoping; all preliminary design activities (Phases I-IV); final design for bridge/culvert replacement, bridge/culvert rehabilitation, highway construction and highway rehabilitation projects; public involvement; design survey and mapping; right of way survey and mapping; environmental assessments and studies; in-depth bridge inspection; constructability review; Intelligent Transportation System (ITS) design; multi-site assignments (i.e. design of traffic signals, sign design, asset allocation and condition surveys, etc.); design for other Department facilities; construction support services.
A firm must be able to provide all of these services either directly or by their proposed subconsultants. Shortlisted firms may be asked to quantify their coverage of these services in their NYSDOT255 submission.

During the five-year term of this Regional Design Services Agreement, project and work assignments will be identified, associated individual scope of services prepared, and agreement reached with the Consultant regarding staffing requirements, cost and schedule.

3a. Scope of Services
To be designated, the prime consultant must be authorized by the State of New York to practice engineering. For environmental assessments and studies, personnel must have the necessary qualifications, certifications, training and experience. Additionally, all right-of-way surveying and mapping shall be performed by a firm authorized to provide professional land surveying in the State of New York. The levels of complexity for the assignments which will be awarded under these agreements should not exceed Routine.

3b. Description of the RDSA
The contract will contain a generalized description of typical services to be provided. The contract will be executed for a term of five (5) years beginning approximately in January, 2018. Following the execution of the agreement, individual projects will be identified and assigned, followed by a scope of services meeting, proposal preparation, negotiations and amendment to that firm’s contract. Work under this agreement is authorized when specific amendments are executed. Firms must anticipate attending a scope meeting in less than a week from designation of an individual project, with the project work to start approximately two (2) months later. Generally, the term of this contract will allow assignments to be made within the first three (3) years of the execution of this agreement. Accordingly, a selected firm must be able to initiate work on new assignments as often as needed and maintain the required production throughout the contract. No guarantee of work assignments can be made, but the need for this contract is based on the Department’s projected workload. The designated firm may contract for the advertised services with NYSDOT or with a municipality, at the Department’s sole discretion.

Accordingly, a selected firm must be able to initiate work on new assignments as often as needed and maintain the required production throughout the contract. No guarantee of work assignments can be made, but the need for this contract is based on the Department’s projected workload.

3c. Assignment Process
Following the designation and execution of the RDSA Contract, the Consultant team will be solicited for specific Design Services assignments.

Additionally:
- The maximum RDSA Contract value does not in any way indicate that the designated firm will receive that amount of work.
- Assignment work is authorized after execution of the supplemental agreement and must be completed within the five (5) year term of the agreement.
- Selected firms must be able to initiate work on new assignments as often as needed and maintain the required Design Services throughout the contract.

4. Guidance
4a. Staffing Requirements

1) **Key staff**: The selection and retention of a consultant will be contingent on the availability of the following proposed key staff, unless similarly qualified substitutes are approved during negotiation by NYSDOT.

<table>
<thead>
<tr>
<th>Staffing Role</th>
<th>Qty</th>
<th>Resume Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Manager – P.E. Required *</td>
<td>1</td>
<td>Yes</td>
</tr>
<tr>
<td>Lead Staff Person – Highway Design – P.E. Required*</td>
<td>1</td>
<td>Yes</td>
</tr>
<tr>
<td>Lead Staff Person – Bridge Design – P.E. Required*</td>
<td>1</td>
<td>Yes</td>
</tr>
</tbody>
</table>
2) **Non-key staff requiring resumes to be submitted:**

<table>
<thead>
<tr>
<th>Staffing Role</th>
<th>Qty</th>
<th>Resume Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lead Staff Person – Environmental</td>
<td>1</td>
<td>Yes</td>
</tr>
<tr>
<td>Lead Staff Person – Survey</td>
<td>1</td>
<td>Yes</td>
</tr>
</tbody>
</table>

3) **Additional Staffing Notes:** It is anticipated that the consultant will also provide the following staff on a full-time basis during various times during the contract:

- Lead Staff Person - Community Involvement
- Lead Staff Person - Traffic Engineering
- Lead Staff Person - Intelligent Transportation Systems (ITS)
- Lead Staff Person - Project Scoping
- Lead Staff Person - CADD
- Lead Staff Person - Asbestos Monitor
- Lead Staff Person - Landscape Architect

**Additional Staffing Notes: (to be addressed in the NYSDOT255’s)**

*P.E. Required* - Be currently registered with the New York State Education Department as a Professional Engineer (P.E.). An out-of-state P.E. registration may be substituted for a New York State P.E. provided that the individual received the P.E. based upon satisfactory completion of a 16 hour written examination, has applied for P.E. registration in New York State, and the New York State Education Department has acknowledged receipt of the individual’s intent to practice in New York under subsection (b) of section 7208 of the Education Law.

4b. **Resumes**

1) Resumes must be provided within the NYSDOT 255 submission for all Key Staff; and Non-Key Staff requiring resumes to be submitted as listed in 4a. above. Submit resumes ONLY for those individuals to be used on the project.

2) The total number of resumes that may be included in the NYSDOT 255 for this project is: **5**

4c. **Proofs of Authority**

When a firm is short-listed in the electronic selection process, the Proofs of Authority from the New York State Education Department and the Department of State, authorizing professional services for the Prime Consultant and all Team partners, must be downloaded from the appropriate websites with copies provided. If a Proof of Authority does not exist, the firm must provide a written explanation. For further details, refer to the short-list submittal instructions on the NYSDOT website: [https://www.dot.ny.gov/portal/page/portal/main/business-center/consultants/general-info/electronic-consultant-selection-(process-2)](https://www.dot.ny.gov/portal/page/portal/main/business-center/consultants/general-info/electronic-consultant-selection-(process-2))

5. **Cost and Complexity**

**Work Class:** Highway and Bridge

**Anticipated overall level of Complexity for this project is:** Routine

**Estimated Highway construction cost for this project:** $5,000,000.00

**Highway Complexity:** Routine

**Estimated Bridge construction cost for this project:** $5,000,000.00

**Bridge Complexity:** Routine

6. **Selection Schedule**

By responding to this advertisement the Consultant is committing to and will be expected to meet the following schedule. Days are calendar days. (This is a projected schedule that may be revised based on the needs of the State).

**Upon notification of being short-listed:**

Provide NYSDOT 255 with attachments, days from shortlist notification ---- 10
If designated:

Scope of services meeting, days from designation ................................. 7
First proposal due, days from designation .............................................. 21
Final proposal due, days from designation ............................................. 35
Completion of financial negotiation, days from designation ...................... 51

7. Advertisement Data
Key Contract Number: D037682 Key PIN: S001.32.
Submission Due Date: October 18, 2017 by noon

Submit the following items by the due date: Utilizing the Electronic Consultant Selection System web (CSSWeb) application, upload / submit the following information in the requested format:

1) Electronic Expression of Interest (E-EOI): CSSWeb application.
4) The current CONR386 Workload Disclosure Form (must be submitted by the Prime and include ALL team members - prime, joint venture partner and subconsultants). PDF format.
5) The Vendor Assurance of No Conflict of Interest or Detrimental Effect attestation is to be filled out by both Primes and subconsultants and submitted with the proposing firm’s Expression of Interest (EOI) along with the CONR 386. PDF format. https://www.dot.ny.gov/main/business-center/consultants/forms-publications-and-instructions See announcement posted to the NYSDOT website for further information Prime and include ALL team members - prime, joint venture partner and subconsultants). PDF format.

The current CONR-385 and FAR overhead Audit Report must have been submitted to or be on file with NYSDOT, for all team members by the due date of the EOI submission.

FAILURE TO SUBMIT ALL OF THE ABOVE MATERIAL, WHEN IT IS DUE, MAY RESULT IN YOUR SUBMISSION TO BE FOUND NON-RESPONSIVE.

Type of D/M/WBE Credit: DBE.
D/M/WBE Credit Cap: 20%
Number of Required D/M/WBE Alternates: 2
Small Firm Credit: Yes
Electronic Inventory used: Design

When claiming D/M/WBE Credit or SDVOB Participation, Prime Firms are responsible for ensuring all of their proposed D/M/WBE and SDVOB sub-consultants are currently certified thru either the M/WBE Directory (https://ny.newnycontracts.com/ToFrontEnd/VendorSearchPublic.asp for M/WBE credit), the NYSUCP DBE Directory (https://nysucp.newnycontracts.com) for DBE credit) or the NYSOGS SDVOB Directory (http://www.ogs.ny.gov/Core/SDVOB.asp for SDVOB participation) for the type work they are being proposed to perform. Claiming D/M/WBE credit or SDVOB participation for a non-certified firm at the time of E-EOI submission may be grounds for a non-responsibility determination.

8. Measuring Distance to the Project Site and the Regional/Functional Office
Consistent with the established scoring methodologies, for the purpose of estimating distances to the Project Site each team member must use one of their own registered offices as the Functional Office at which the Project Manager (or the person in charge of the subconsultants activities in the case of a subconsultant) is available on essentially a daily basis for direct and visual supervision of the firms staff that is providing the key elements of its assigned activities.
The Functional Office must satisfy the following criteria to be scored as a “qualified” office location:

- Be currently in use and have been in existence for at least 3 months prior to its use for scoring purposes (or clearly demonstrated to be a relocation of a previously existing office meeting that same criteria)
- The physical location must be in a building either owned by the consultant company or rented pursuant to a lease of one year or more and accessible by the public.
• The consultant company is registered, licensed, and authorized to do business at the office location in accordance with applicable state and local rules and regulations.

• The proposed prime consultant or Joint Venture partner will operate the office location as a bona-fide office with a minimum of three full time equivalents employees (FTEs) for the consultant based on the consultant’s FTE breakout at that location per its current active NYSDOT consultant inventory information and physically located in and assigned to the qualifying office.

The consultant company must agree to provide notification to NYSDOT’s Selection Unit Supervisor if the location is closed or moved during the pendency of any project awarded to that company by NYSDOT.

Distance to the Project Site and the Regional/Functional Office should be measured from the Firm's Functional Office to the closest NYSDOT Regional Office listed below:

Region 3 @ State Office Building 333 E. Washington Street, Syracuse, NY 13202
Region 4 @ 1530 Jefferson Road, Rochester, NY 14623
Region 5 @ 100 Seneca Street, Buffalo, NY 14203
Region 6 @ 107 Broadway, Hornell, NY 14843

Distance must be measured in miles as you would drive a car -- not a straight line measurement. We require accurate numbers, either an actual odometer reading, through use of a map drawn to scale or a reputable database of distances. (Distance is subject to verification by NYSDOT.)

9. Evaluation Factors and Weights
   Step 1 - automated shortlisting (all firms are scored)
   Step 2 - committee review (only shortlisted firms are scored)

<table>
<thead>
<tr>
<th>Step 1 Weight</th>
<th>Step 2 Weight</th>
<th>Scoring Factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>40%</td>
<td>11%</td>
<td>1. Prior Experience</td>
</tr>
<tr>
<td>0%</td>
<td>55%</td>
<td>A. Firm in general</td>
</tr>
<tr>
<td>4%</td>
<td>1%</td>
<td>B. Staff</td>
</tr>
<tr>
<td></td>
<td></td>
<td>C. With NYSDOT</td>
</tr>
<tr>
<td>14%</td>
<td>4%</td>
<td>2. Organizational capability for this type of work</td>
</tr>
<tr>
<td>3%</td>
<td>7%</td>
<td>A. Prior NYSDOT performance ratings</td>
</tr>
<tr>
<td>3%</td>
<td>7%</td>
<td>B. Workload/Capacity</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(1). Project type workload (Design) with NYSDOT vs. capacity</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(2). Total remaining workload with NYSDOT</td>
</tr>
<tr>
<td>10%</td>
<td>3%</td>
<td>3. Logistics &amp; Familiarity</td>
</tr>
<tr>
<td>0%</td>
<td>5%</td>
<td>A. Logistics</td>
</tr>
<tr>
<td></td>
<td></td>
<td>B. Familiarity with the area</td>
</tr>
<tr>
<td></td>
<td></td>
<td>4. Other Factors</td>
</tr>
<tr>
<td>26%</td>
<td>7%</td>
<td>G. Size of Firm</td>
</tr>
</tbody>
</table>

100% 100% Total

It is expected that the Prime Firm will be assigned all weighted major tasks (M3 thru M8) unless otherwise noted below. All subconsultants must be assigned at least one (1) Task. (M9 and M10) must be assigned to one firm. (E20 and E21) should also be assigned to one firm.

Tasks/Responsibilities Breakout for Prior Experience (Firm and NYSDOT) Above (1A & 1C)

<table>
<thead>
<tr>
<th>Weight</th>
<th>Task</th>
</tr>
</thead>
<tbody>
<tr>
<td>10%</td>
<td>M3. Project Scoping (Highway)</td>
</tr>
<tr>
<td>10%</td>
<td>M4. Project Scoping (Bridge)</td>
</tr>
<tr>
<td>10%</td>
<td>M5. Preliminary Design (Highway)</td>
</tr>
<tr>
<td>10%</td>
<td>M6. Preliminary Design (Bridge)</td>
</tr>
<tr>
<td>20%</td>
<td>M7. Final Design (Highway)</td>
</tr>
<tr>
<td>20%</td>
<td>M8. Final Design (Bridge)</td>
</tr>
<tr>
<td>5%</td>
<td>M9. Design Survey and Mapping</td>
</tr>
</tbody>
</table>
5%  M10.  ROW Survey and Mapping  
5%  E12.  Storm Water Management  
2%  E20.  Asbestos Preliminary Investigation  
3%  E21.  Asbestos Sampling, Testing and Specifications  

Please note: Team composition and tasks assigned to each team member should be consistent from the E-EOI submission through the NYSDOT 255 submission.

9a. D/M/WBE Factors (added to overall score)  
1. Percentage of participation assigned to D/M/WBE subs = 10% (x D/M/WBE % of participation)  
2. Experience and prior NYSDOT performance = 5.5% (x D/M/WBE % of participation)  
3. Workload with the Division (Design) = 4.5% (x D/M/WBE % of participation)  

9b. Last Designation Factor (subtracted from overall score)  
Last Designation Factor Weight: 4%

Special Note: See paragraph 11 for additional Information on Last Designation adjustments for Multiple RDSA Agreements being advertised this Calendar Year/

10. Joint Ventures - Joint Ventures shall not be proposed due to the scope of the work and the size of the agreement.

11. General Information  

11a. Process, Policies and Conventions  
The New York State Department of Transportation (NYSDOT), in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A. Office the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation and Title 23 Code of Federal Regulations, Part 200. Title VI Program and Related Statutes, as amended, issued pursuant to such Act, hereby notifies all who respond to a written NYSDOT solicitation, request for proposal or invitation for bid that it will affirmatively insure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, sex, age, disability/handicap and income status in consideration for an award.

It is the policy of New York State to encourage the use of New York State subcontractors and suppliers and to promote the participation of minority and women-owned businesses, where possible, in the procurement of goods and services. Information concerning the availability of New York State subcontractors and suppliers is available from the NYS Department of Economic Development


Failure to have this information in place at the time of EOI submission may result in the team being found non responsive.

1. To qualify to perform surveying services, all firms must be duly authorized to provide those services by the State Department of Education. Refer to CI 93-10: https://www.dot.ny.gov/main/business-center/consultants/architectural-engineering/consultant-instructions/business-practices

2. It is the consultant's responsibility to ensure they propose staff that is eligible to work on the proposed project. It is an individual's responsibility to comply with the Public Officer's Law.

3. All proposers are afforded an opportunity to receive a debriefing. Arrangements for a debriefing must be requested through the Contract Management Bureau at (518) 457-2600. An announcement of the Department's designation(s) will be posted to the NYSDOT web site: https://www.dot.ny.gov/main/business-center/consultants/architectural-engineering/css-advertisements-shortlists-and-designations
4. The New York State Department of Transportation (NYSDOT) has an administrative procedure for protest established which may be utilized by an interested party in challenging an Architectural / Engineering consultant designation made by NYSDOT. The complete procedure can be accessed via: www.dot.ny.gov/main/business-center/consultants/consultants-repository/misrep_protest.pdf

5. If you are included on another firm's proposal for more than 20% of the work, you may not include that firm on your proposal. Should this infraction occur one team must withdraw; firms will be contacted to resolve the situation. If not resolved by the firms, NYSDOT will reject both firms' proposals. A redistribution of the offered percent of work will not be accepted as a means of resolution after the proposal due date.

6. Designated Prime consultants and Joint Ventures must be able to demonstrate proof of coverage or exemption for Workers Compensation and Disability Benefits prior to the execution of the resulting contract.

7. All Firms shortlisted on more than one Regional Design Services Agreement (small firm opportunity) contract advertised together are required to submit a preference form stating the priority order in which they wish to be designated. The form will be posted on the Department's Web Site with each project announcement of the Shortlisted Firms, and once completed, uploaded through CSS Web as an “Other” Shortlist submission document.

8. Under normal situations the following process is used:
   a) As a subconsultant, firms are limited to a cumulative total of 60% of the work on all their RDSA contracts advertised in the same calendar year for similar services.
   b) Subconsultant assignments as an alternate will be eliminated first, followed by their least preferred choices where they were not an alternate.
   c) A firm can be on more than one winning team, but a firm's participation cannot exceed 100% of the work on all their RDSA contracts advertised in the same calendar year for similar services.
   d) Winning Teams are selected first.
   e) Once a prime receives a designation for a RDSA (small firm opportunity) agreement advertised this calendar year, the Department adjusts the prime's last designation factor by minus 2 points. This will affect that firm's score and relative position in any subsequent selection for agreements of this type advertised in the same calendar year.

11b. Compliance Procurement Lobbying Law

11b1. Required Form: "Permissible Contacts Certification Form"
   a) Offerer's Affirmation of Understanding of and Agreement pursuant to State Finance Law §139-j (3) and §139-j (6) (b)
   b) Offerer Disclosure of Prior Non-Responsibility Determinations

11b2. NYSDOT Guidelines and Procedures
Under the requirements of the State Procurement Act all communications regarding advertised projects are to be channeled through the Contract Management Bureau (*Designated Contacts). Until a designation is made, communication with any other NYSDOT employee concerning this project that is determined to be an attempt to influence the procurement may result in disqualification. Refer to "NYSDOT Procurement Lobbying Law Guidelines and Procedures" - see the NYSDOT web site: https://www.dot.ny.gov/main/business-center/consultants/general-info

11b3. Summary of the policy and prohibitions regarding permissible contacts
Contacts prior to designation
Any communications involving an attempt to influence the procurement are only permitted with the following Designated Contact Persons:

The Contract Management Designation Specialist
The Contract Management Designation Specialist Supervisor
The Contract Management Assistant Directors
The Contract Management Director
The Contract Management Civil Rights Unit Supervisor
The Contract Management Administrative Staff

These are some communications exempted from this restriction:

- Participation in a pre-proposal conference
- Protests, complaints of improper conduct or misrepresentation

If any other NYSDOT employee is contacted and they believe a reasonable person would infer that the communication was intended to influence the procurement, the contact must be reported by the NYSDOT employee. If the Department determines an impermissible contact was made, that offerer cannot be awarded the contract. A second violation would lead to a four year bar on the award of public contracts to the offerer.

**Contacts after designation**

NYSDOT identifies its primary negotiation contacts. The designated contacts include:

- The Contract Management Negotiation Specialist
- The Contract Management Negotiation Specialist Supervisor
- The Contract Management Assistant Directors
- The Contract Management Director
- The Consultant Job Manager
- The Contract Management Civil Rights Unit Supervisor
- The Contract Management Administrative Staff
- The Consultant Job Manager's immediate Supervisor
- Individual(s) that the Department may identify at or after designation

The law does not limit who may be contacted during the negotiation process. However, if any NYSDOT employee is contacted and they believe a reasonable person would infer that the communication was intended to influence the procurement, the contact must be reported by the NYSDOT employee.

**Information Required from Offerers that contact NYSDOT staff, prior to contract approval by the Office of the State Comptroller**

The individuals contacting NYSDOT should refer and shall be prepared to provide the following information, either by e-mail or fax as directed by NYSDOT: Person's name, firm person works for, address of employer, telephone number, occupation, firm they are representing, and whether owner, employee, retained by or designated by the firm to appear before or contact the NYSDOT.

**Applicability to an executed contract**

Restrictions similar to those described above apply to approval or denial of an assignment, amendment (other than amendments that are authorized and payable under the terms of the procurement contract as it was finally awarded or approved by the comptroller, as applicable), renewal or extension of a procurement contract, or any other material change in the procurement contract resulting in a financial benefit to the offerer. The staff noted above as well as the project manager and consultant manager are considered designated contact persons. The Department may identify other contact persons for each of these processes.

**11b4. Rules and regulations and more information on this law, please visit:**


**12. Iran Divestment Act**

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a new provision has been added to the State Finance Law (SFL), § 165-a, effective April 12, 2012. This act may be viewed in its entirety at http://www.ogs.ny.gov/about/regs/docs/ida2012.pdf. Pursuant to SFL § 165-a(3)(b), the Commissioner of the Office of General Services (OGS) has developed and maintains a list (prohibited entities list) of “persons” who are engaged in “investment activities in Iran” (both are defined terms in the law).

The list may be found on the OGS website at: http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf
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 will not utilize, on such Contract, any subcontractor that is identified on the prohibited entities list.

Additionally, any Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to this solicitation, must certify at the time the Contract is renewed, extended or assigned that it is not included on the prohibited entities list.

During the term of the Contract, should the New York State Department of Transportation (NYSDOT) receive information that a Bidder/Contractor (or any assignee) is in violation of the above-referenced certification, NYSDOT will offer the Bidder/Contractor (or any assignee) an opportunity to respond. If the Bidder/Contractor (or any assignee) fails to demonstrate that it has ceased its engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then NYSDOT shall take such action as may be appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

NYSDOT reserves the right to reject any bid or request for assignment for an entity that appears on the prohibited entities list prior to the award 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.

13. Conflicts of Interest for Design-Build Contracts

Please refer to Title 23 Section 636.116 of the Code of Federal Regulations, as quoted in full below. Consultants and subconsultants who perform design-related work on a project may not be allowed to compete as part of a design-build team for the same project. The Department will make such determinations on a case by case basis. Consultants should request a determination from the Department whenever a decision is made to progress a contract as design-build and the consultant is interested in proposing as part of a design-build team.

23 CFR 636.116 - What organizational conflict of interest requirements apply to design-build projects?

A. State statutes or policies concerning organizational conflict of interest should be specified or referenced in the design-build RFQ or RFP document as well as any contract for engineering services, inspection or technical support in the administration of the design-build contract. All design-build solicitations should address the following situations as appropriate:

1) Consultants and/or sub-consultants who assist the owner in the preparation of a RFP document will not be allowed to participate as an offeror or join a team submitting a proposal in response to the RFP. However, a contracting agency may determine there is not an organizational conflict of interest for a consultant or sub-consultant where:

   i. The role of the consultant or sub-consultant was limited to provision of preliminary design, reports, or similar "low-level" documents that will be incorporated into the RFP, and did not include assistance in development of instructions to offerors or evaluation criteria, or

   ii. Where all documents and reports delivered to the agency by the consultant or sub-consultant are made available to all offerors.

2) All solicitations for design-build contracts, including related contracts for inspection, administration or auditing services, must include a provision which:

   i. Directs offerors attention to this subpart;

   ii. States the nature of the potential conflict as seen by the owner;

   iii. States the nature of the proposed restraint or restrictions (and duration) upon future contracting activities, if appropriate;

   iv. Depending on the nature of the acquisition, states whether or not the terms of any proposed clause and the application of this subpart to the contract are subject to negotiation; and

   v. Requires offerors to provide information concerning potential organizational conflicts of interest in their proposals. The apparent successful offerors must disclose all relevant facts concerning any past, present or currently planned interests which may present an organizational conflict of interest. Such firms must state how their interests, or those of their chief executives, directors, key project personnel, or any proposed
consultant, contractor or subcontractor may result, or could be viewed as, an organizational conflict of interest. The information may be in the form of a disclosure statement or a certification.

3) Based upon a review of the information submitted, the owner should make a written determination of whether the offeror’s interests create an actual or potential organizational conflict of interest and identify any actions that must be taken to avoid, neutralize, or mitigate such conflict. The owner should award the contract to the apparent successful offeror unless an organizational conflict of interest is determined to exist that cannot be avoided, neutralized, or mitigated.

B. The organizational conflict of interest provisions in this subpart provide minimum standards for STDs to identify mitigate or eliminate apparent or actual organizational conflicts of interest. To the extent that State-developed organizational conflict of interest standards are more stringent than that contained in this subpart, the State standards prevail.

C. If the NEPA process has been completed prior to issuing the RFP, the contracting agency may allow a consultant or subconsultant who prepared the NEPA document to submit a proposal in response to the RFP.

D. If the NEPA process has not been completed prior to issuing the RFP, the contracting agency may allow a subconsultant to the preparer of the NEPA document to participate as an offeror or join a team submitting a proposal in response to the RFP only if the contracting agency releases such subconsultant from further responsibilities with respect to the preparation of the NEPA document.

14. Public Officers Law

Contractors, consultants, vendors, subconsultants and subcontractors may hire former State Agency or Authority employees. However, as a general rule and in accordance with New York State Public Officers Law, former employees of the State Agency or Authority may neither appear nor practice before the State Agency or Authority, nor receive compensation for services rendered on a matter before the State Agency or Authority, for a period of two years following their separation from State Agency or Authority service. In addition, former State Agency or Authority employees are subject to a “lifetime bar” from appearing before the State Agency or Authority or receiving compensation for services regarding any transaction in which they personally participated or which was under their active consideration during their tenure with the State Agency or Authority.

For more information, go to NYSDOT’s web site at: https://www.dot.ny.gov/index
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