



Department of Health

Request for Proposals

RFP # 20035

Center of Excellence in Tobacco Policy

Issued: 4/1/2021

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.

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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.

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1.0 CALENDAR OF EVENTS

RFP 20035 – CENTER OF EXCELLENCE IN TOBACCO POLICY	
<u>EVENT</u>	<u>DATE</u>
Issuance of Request for Proposals	4/1/2021
Deadline for Submission of Written Questions	5/14/2021, 4:00 p.m. ET
Responses to Written Questions Posted by DOH	On or About 5/24/2021
Deadline for Submission of Proposals	6/24/2021 by 4:00 p.m. ET
<i>Anticipated</i> Contract Start Date	3/1/2022

2.0 OVERVIEW

Through this Request for Proposals (RFP), the New York State Department of Health (NYSDOH), Bureau of Tobacco Control (BTC) is seeking competitive proposals from qualified vendors to develop and implement a Center of Excellence in Tobacco Policy that will build on and advance previous policy center initiatives consistent with the evolution of BTC and the tobacco control environment in New York State (State) to provide services as further detailed in [Section 4.0](#) (Scope of Work). It is the Department’s intent to award one (1) contract from this procurement.

BTC focuses on developing and implementing tobacco control policies that provide lasting and broad-based community-norm change. Under the direction of the BTC, the Center of Excellence in Tobacco Policy will identify, research, and support effective policy approaches to support community and state-level interventions to address the public health threats posed by the use, marketing and manufacture of tobacco products. It should be noted that, for purposes of this RFP, tobacco products include all tobacco products and electronic cigarettes (also referred to as electronic nicotine delivery systems or ENDS, e-cigarettes, electronic vapor products) and the Center of Excellence in Tobacco Policy’s work will include electronic cigarettes.

The Center of Excellence in Tobacco Policy’s purpose will be to provide legal background and policy guidance for research, development and implementation of tobacco control strategies and policies as needed to the NY tobacco control community consisting of the BTC, BTC grantees, advocates and community partners.

The Center of Excellence in Tobacco Policy will not provide legal advice or representation to the NYSDOH BTC, funded contractors or the State tobacco control community.

2.1 Introductory Background

The New York Health Care Reform Act of 2000 (HCRA 2000) created the Tobacco Use Prevention and Control Program (Tobacco Control Program) within the Department “to improve the health, quality of life, and economic well-being of all New York citizens” (Public Health Law Section 1399-ii).

The NYSDOH BTC administers the state's comprehensive Tobacco Control Program (TCP) to reduce morbidity and mortality and to alleviate the social and economic burdens caused by tobacco use. The public health approach used by the TCP is evidence-based and policy-driven, and modeled on the Centers for Disease Control and Prevention (CDC) “Best Practices for Comprehensive Tobacco Control,” to prevent initiation of tobacco use by youth and young adults, promote quitting among adults and youth, eliminate exposure to secondhand smoke, and identify and eliminate tobacco related disparities among population groups (including persons with low socioeconomic status, mental illness and/or substance use disorders, and persons with disability).

The major components of BTC’s comprehensive TCP include BTC community contractors (Advancing Tobacco-Free Communities and Health Systems for a Tobacco-Free NY contractors), telephonic and internet cessation support services, health communications (media), robust surveillance and evaluation activities, and other statewide supportive efforts. Throughout this document, these parts are referred to as “contractors.” The TCP uses the most current research findings to drive program activities, works collaboratively with state and national partners to meet program goals, promotes policy change through evidence-based strategies that alter social norms and make tobacco less desirable, less acceptable and less accessible, and systematically evaluates its efforts to maximize impact and improve outcomes. Below is a description of the TCP’s major components.

Tobacco-Free Communities

Advancing Tobacco-Free Communities (ATFC) contractors work on fostering environments that support policies and interventions that reinforce the tobacco-free norm. Contractors accomplish this by implementing a coordinated set of evidence-based strategies to build public and organizational support for tobacco control policies. By effectively educating and mobilizing the public and educating government and organizational policy makers, communities become receptive to or even demand strong tobacco control policies. ATFC contractors carrying out this work are comprised of adults and youth dedicated to promoting a healthy, tobacco-free norm.

ATFC contractors focus on educating communities about four (4) policy initiatives: reducing the impact of tobacco retail marketing, reducing exposure to secondhand smoke in multi-unit housing, increasing tobacco-free outdoor areas and increasing support for smoke-free movies. Tobacco marketing initiatives may include restricting the density of tobacco retailers, keeping the price of tobacco products high, and prohibiting the sale of flavored tobacco products. Tobacco-free outdoor policy change results in tobacco-free public parks, beaches, playgrounds, clubs, college campuses, and the outdoor areas and entryways of businesses throughout New York State. ATFC contractors also work to protect the health of NY residents by increasing the availability of smoke-free multi-unit housing throughout the state by assisting public housing authorities, nonprofit community development corporations and market-rate

apartment management companies to adopt 100% no-smoking policies in their buildings. ATFC contractors implement multimedia campaigns, community events and other strategies to inform, educate, and engage the general population to decrease the social acceptability of tobacco use and realize each of these policy initiatives.

Health Systems for a Tobacco-Free NY

Health Systems contractors emphasize the advancement of organizational change addressing tobacco dependence from a systems and organizational perspective. The Public Health Service (PHS) “Clinical Practice Guideline for Treating Tobacco Use and Dependence” describes key health systems change components. These include:

1. Implementation of tobacco user screening systems,
2. Health system networks that provide education, resources, and quality improvement feedback to promote provider intervention,
3. Dedicated tobacco dependence treatment staff ensuring that evidence-based treatment is provided in a timely way and clear communications with staff are maintained, and
4. Evidence-based tobacco dependence treatments (medication and counseling) are universally covered benefits by health plans.

Health Systems contractors work with health care systems to address tobacco use primarily among disproportionately affected populations including but not limited to people with low incomes, low educational attainment, and poor mental health by supporting the health systems change efforts described above.

Cessation Support and Services

The BTC funds the New York State Smokers’ Quitline, which provides cessation coaching, information and referral services to New York State residents who call the toll-free number 1-866-NY-QUITS (1-866-697-8487) or visit the Quitline website at www.nysmokefree.com. The Quitline also provides individual cessation services and information to employers and healthcare providers as part of the BTC’s population-based, systems change model.

Public Health Communications (Media)

Paid media campaigns and earned media coverage of tobacco prevention and control events support BTC, state and community partner efforts to advance tobacco control by educating the community and key community leaders, and increasing the public’s awareness that tobacco use continues to be a serious public health problem. State funded and community contractor campaigns use television, radio, billboard, print advertising and social media to expose tobacco industry marketing tactics, deglamorize tobacco use and promote effective tobacco control policies.

Policy, Training and Evaluation

BTC contracts with organizations with expertise in policy, training, and evaluation. The Center of Excellence in Tobacco Policy established by this RFP will work with BTC and its BTC community contractors to support the adoption of evidence-based policies that reduce tobacco-related morbidity and mortality. A training contractor delivers customized professional development to BTC community contractors and staff, providing a wide range of training topics to fit BTC community contractors' needs and to deepen BTC community contractors' understanding and application of the evolving strategies that create effective policy change. BTC supports an internal surveillance and evaluation team and, as required by statute, contracts with an independent evaluator. Ongoing surveillance and evaluation activities performed by the independent evaluator monitor program progress and impact and ensure that BTC is investing resources wisely, making progress toward specified goals, and undertaking program improvements as necessary. The independent evaluator is also required to submit a report annually to the governor and the legislature on its findings.

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 contract term is expected to be for a period of 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).

3.0 BIDDERS QUALIFICATIONS TO PROPOSE

3.1 Minimum Qualifications

NYSDOH will accept proposals from organizations with the following types and levels of experience as a prime contractor.

- Bidding organization must have a primary mission of policy and/or legal scholarship, research, and policy development.
- Bidder must have a minimum of 3 years experience in each of the following:
 1. developing public health policy,
 2. providing policy and legal background and expertise,
 3. conducting research and writing reports,
 4. disseminating research and information, and
 5. providing guidance and technical assistance.
- Eligible bidder (Prime Contractor) and subcontractors are required to have a written policy in place no later than the time of contract award prohibiting any affiliation with a tobacco company or tobacco product manufacturer including receipt of gifts, grants, contracts, financial support and in-kind support, and other relationships. The selected Prime Contractor will ensure that subcontractors also have this written policy and that no subcontractors receiving funding through this award have any affiliations with a tobacco company or tobacco product manufacturer. As noted previously, the definition of tobacco products includes electronic cigarettes (also referred to as electronic nicotine delivery systems or ENDS, e-cigarettes, electronic vapor products).

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.

4.0 SCOPE OF WORK

This Section describes the *services* that are required to be provided by the selected bidder. The selected bidder must be able to provide all of these services throughout the contract term.

PLEASE NOTE: Bidders will be requested to provide responses that address all of the requirements of this RFP as part of its Technical Proposal.

The terms “bidders”, “vendors” and “proposers” are also used interchangeably. For purposes of this RFP, the use of the terms “shall”, “must” and “will” are used interchangeably when describing the Contractor’s/Bidder’s duties.

4.1 Tasks/Deliverables

4.1.1 Policy Research and Dissemination

Under the direction of BTC, the Center of Excellence in Tobacco Policy will support the NY tobacco control community by conducting legal research to identify emerging tobacco control issues amenable to policy intervention, and opportunities in NY to develop and implement tobacco control policies. The Center of Excellence in Tobacco Policy will:

- a) Develop four (4) fact sheets annually on tobacco related subjects to support policy progress, including clarification of NY tobacco laws, and analyzing the implementation of such laws. One (1) fact sheet should focus on low SES and/or rural communities. The topics will be determined collaboratively between the BTC and the contractor based on emerging tobacco control issues and BTC needs. The contractor will develop the draft factsheet(s) and the BTC will review the draft and provide feedback to the contractor. The contractor will revise until the factsheet(s) meets BTC approval.
- b) Develop six (6) briefs annually on emerging policy issues and opportunities in tobacco control. The topics will be determined collaboratively between the BTC and the contractor based on emerging tobacco control issues and BTC needs.
- c) Produce two (2) technical reports annually on specific policy topics to be determined by the BTC, see Section 4.3 Reporting and 5.4 Payment. One (1) technical report should include a focus on low SES and/or rural communities.
- d) Within 90 days of contract execution, create a website for BTC review and maintain a website to feature summaries of NY and national laws relating to tobacco. The website will serve as a clearinghouse for model tobacco control policies and legislation, legal research and background papers, technical reports, factsheets, tool kits, position papers and legislation useful for the NYS tobacco control community. All content will be subject to review and approval by BTC prior to going live and posting.
- e) Maintain an excel database of pending NYS tobacco related legislation to share with BTC via monthly report and monthly calls see Section 4.3 Reporting.
- f) Track and share trending and enacted local NYS point of sale (POS) Policies with BTC and via website.
- g) Maintain a database of innovative and trending policies nationwide to share with BTC via monthly reports, monthly calls and with BTC community contractors if appropriate via monthly calls and/or website or newsletters.
- h) Maintain awareness of the latest tobacco control science, through attendance at up to four (4) significant research conferences annually (e.g. Public Health Law Conference, American Public Health Association, National Association of County and City Health Officials, Center for Disease

Control, Office on Smoking and Health, National Conference on Tobacco or Health) and submit a summary report to the BTC of significant findings (best practices, lessons learned, etc.) for each conference and present to BTC as appropriate.

- i) Monitor industry activities, including policy opposition, product development, marketing and lobbying and other significant developments monthly and share with BTC staff during monthly calls and with BTC funded community contractors via monthly calls and/or newsletter.
- j) Have a written policy prohibiting any affiliation with a tobacco company or tobacco product manufacturer including receipt of gifts, grants, contracts, financial support and in-kind support, and other relationships for the complete term of this contract. The Center of Excellence in Tobacco Policy will ensure that subcontractors also have this written policy and that no subcontractors receiving funding through this contract have any affiliations with a tobacco company or tobacco product manufacturer (see Attachment C) for the complete term of this contract. As noted previously, for purposes of this RFP, tobacco products include electronic cigarettes (also referred to as electronic nicotine delivery systems or ENDS, e-cigarettes, electronic vapor products). See Section 5.4 Payment and Attachment C.

4.1.2 Policy Development

The Center of Excellence in Tobacco Policy will provide policy development to the NY tobacco control community to advance tobacco control policy. This will include identifying emerging tobacco control issues and developing effective policy responses that can be implemented at the organizational, municipal, county or state level. The Center of Excellence in Tobacco Policy will:

- a) Assemble, compile develop and submit to BTC two (2) model tobacco control policies for use by the NY tobacco control community annually. See Section 5.4 for payment details of 4.1.2.

4.1.3 Technical Assistance

Under the direction of the BTC, the Center of Excellence in Tobacco Policy will provide technical assistance to the NY tobacco control community and local community leaders on strategies to develop and implement effective tobacco control policies. The contractor is responsible for all staff travel and related expenses. The Center of Excellence in Tobacco Policy will:

- a) Provide on-call assistance to communities, including guidance on policy scope and language, understanding the implications of different tobacco control policy approaches and customization of policies to specific community needs, including low SES and/or rural communities. Historically, approximately 35-50 calls for assistance have occurred per month. The actual monthly volume of calls for assistance may be higher or lower.
- b) Attend, in-person, or provide written comments for up to 12 selected public hearings annually. The contractor will determine whether in-person attendance or written comments is appropriate. Travel costs for Center of Excellence staff for up to 12 public hearings are to be included in their bid proposal.
- c) Identify emerging tobacco control issues and share with BTC staff and BTC community contractors via calls, meetings, website and newsletter.

- d) Apprise BTC community contractors of opportunities for comment on Federal, State and local proposed regulations and prepare talking points to be shared via calls, meetings, website, email listserv and newsletters.
- e) Publish a quarterly email newsletter which will be disseminated to BTC community contractors and posted on the Policy Center website.
- f) Host an annual one-full day Technical Assistance session for approximately 30 people including BTC and BTC's invited guests in Albany, New York on emerging topics in tobacco control, including low SES and/or rural communities. The Technical Assistance session will take place at the Department of Health. Contractor will create an agenda for BTC approval and provide copies of written materials for attendees. AV equipment will be provided by BTC. Travel costs for Center of Excellence staff for the annual one-day Technical Assistance session are to be included in their bid proposal.
- g) Provide technical assistance and guidance on tobacco control policy related issues by participating in 2 one- day Advancing Tobacco-Free Communities (ATFC) Program meetings in Albany annually. The cost of the facility and equipment for ATFC meetings are not incurred by the contractor. The contractor is only responsible for travel costs associated with attending the meetings.
- h) Provide technical assistance and guidance on tobacco control policy-related issues by participating in 12 conference calls with BTC staff annually to review deliverables and discuss emerging issues.
- i) Provide technical assistance and guidance on tobacco control policy related issues by participating in a two-day Annual BTC Statewide meeting in Albany, New York.
- j) Provide technical assistance and guidance on tobacco control policy-related issues by hosting two (2), two (2) hour long webinars annually on tobacco control policy-related topics determined by the Policy Center and the BTC to approximately 90 participants.
- k) Directly submit to the BTC tobacco policy-related media article links and summaries monthly.
- l) Provide technical assistance and guidance on tobacco control policy related issues by participating in 12 ATFC Program 90 minute calls annually.

The Center of Excellence in Tobacco Policy will not provide legal advice or representation to the NYSDOH BTC, funded contractors or the State tobacco control community.

4.1.4 Implementation Plan

Within 30 days of the contract start date, the Contractor will provide a comprehensive, logical, achievable implementation plan and timeline for organizing, implementing and accomplishing all contract deliverables as described in Section 4.0 Task/Deliverables section for the five (5) year contract period for review by the BTC. The timeline must include time for regular review and communication of information and presentation of information to program staff, and stakeholders to enhance program performance.

4.2 Staffing

The Center of Excellence in Tobacco Policy will ensure an organizational capacity and staffing structure that provides the required capacity and expertise to complete all deliverables outlined in Section 4.0 Scope of Work, and provide sufficient oversight of the entire project while maintaining excellent communication between the contractor and all components of the TCP throughout the duration of the resulting contract.

The Center of Excellence in Tobacco Policy will conduct recruitment, organization and training efforts that will provide for an adequate number of appropriately trained and qualified individuals to complete all deliverables outlined in Section 4.0. The Center of Excellence in Tobacco Policy will ensure that the staffing needs of the program are met on an ongoing basis.

Because the Center of Excellence in Tobacco Policy will provide policy assistance to the NYS tobacco control community, staff on this contract must consist of lawyers and public policy experts with experience in policy development and legal and legislative processes. The Project Director must be a lawyer. Required staff should include:

- Full-time Project Director who will ensure timely completion of all deliverables, timely submission of all deliverables for BTC review, timely submission of annual scope of work and budget, timely submission of payment vouchers to proper Department personnel and will be the DOH contact. The Project Director must have an excellent understanding of tobacco control science and practice and be capable of quickly developing an understanding of the TCP and New York-specific issues that might enhance or inhibit TCP success.
- Public policy experts, legal staff and consultants that have in-depth subject matter experience with tobacco control policy issues at the local, state, and federal levels, including the broad range of tobacco control policy solutions.

The Project Director and any legal staff named must have an excellent understanding of tobacco control science and practice and be capable of quickly developing an understanding of the TCP and New York-specific issues that might enhance or inhibit TCP success.

Staff participation is expected either remotely or in person as specified in the following meetings. Meeting staff must include at a minimum, the Project Director, and other staff as appropriate or determined by the TCP:

- Monthly conference calls with BTC staff (remote access)
- Monthly ATFC program calls (remote access)
- Annual BTC Statewide meeting in Albany, New York (in person)
- Two ATFC Program meetings annually in Albany, New York (in person)
- Annual Technical Assistance session in Albany, New York, for BTC and invited guests on emerging topics in tobacco control (in person)
- Biennial site visit conducted by BTC (in person in Albany NY)

The contractor must submit resumes of all staff for Department review and approval prior to individuals commencing work.

4.3 Reporting

The contractor is required to prepare and submit monthly reports on contract deliverables in a format to be determined by the Department. In addition to the reports listed in Section(s) 4.1 , the contractor is required to prepare and submit monthly a database of technical assistance provided to the BTC, grantees and others. The contractor is required to develop, maintain and submit monthly, an excel database of pending NYS tobacco related legislation.

4.4 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>.

4.5 Security

The selected 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 Business Associate Agreement (Appendix H) and 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.

4.6 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 legal background and policy guidance for research, development and implementation of tobacco control strategies and policies. 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 four (4) months before the last day of its contract with the Department of Health or upon request of the Department.

5.0 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 tcp@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 tcp@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 State's designated payment office:

Preferred Method: Email a .pdf copy of your signed voucher to the BSC at:
AccountsPayable@ogs.ny.gov with a subject field as follows:

Subject: <<Unit ID: 3450263>> <<Contract # TBD>>

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

NYS Department of Health
Unit ID 3450263
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 State 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 State (NYS Department of Health) shall be made in accordance with Article XI-A of the New York State Finance Law. Payment terms will be:

Monthly payments will be made based upon satisfactory completion/submission to the Department of each of the deliverables outlined in the RFP Section 4.0 Scope of Work, Attachment C and Attachment B, Cost Proposal.

Contractor and subcontractors are required to have a written policy prohibiting any affiliation with a tobacco company or tobacco product manufacturer including receipt of gifts, grants, contracts, financial support and in-kind support, and other relationships for the complete term of this contract. The Contractor will ensure that subcontractors also have this written policy and that no subcontractors receiving funding through this contract have any affiliations with a tobacco company or tobacco product manufacturer (see Attachment C) for the complete term of this contract. As noted previously, for purposes of this RFP, tobacco products include electronic cigarettes (also referred to as electronic nicotine delivery systems or ENDS, e-cigarettes, electronic vapor products). No payment will be made if contractor or subcontractor are not in compliance with Attachment C.

Payment of: Section 4.1.1 Policy Research and Dissemination

- a. Payment upon completion of each fact sheet (up to four annually) on tobacco related subjects to support policy progress, including clarification of NY tobacco laws, and analyzing the implementation of such laws.
- b. Payment upon completion and approval of each brief (up to 6 annually) on emerging policy issues and opportunities in tobacco control.
- c. Payment for each of 2 technical reports annually on specific policy topics to be determined by BTC, each report will be paid in the following manner: 35% at submission of first draft; 35% at submission of second draft and 30% upon completion, BTC approval and production.
- d. Monthly payment for creation and maintenance of a website to feature summaries of NY and national laws relating to tobacco.
- e. Monthly payment for the maintenance of an excel database of pending NYS tobacco related legislation to share with BTC via monthly report and monthly calls.
- f. Monthly payment for tracking and sharing trending and enacted local NYS point of sale (POS) Policies with BTC and via website.
- g. Monthly payment for maintenance of a database of innovative and trending policies nationwide to share with BTC via monthly calls and with BTC community contractors if appropriate via monthly calls and/or website or newsletters.
- h. Payment upon attendance and submission of a summary report at up to 4 significant research conferences annually (e.g. Public Health Law Conference, APHA, NACHHO, CDC, OSH, NCTOH).
- i. Monthly payment for monitoring industry activities, including policy opposition, product development, marketing and lobbying and other significant developments and share with BTC staff during monthly calls and with BTC community contractors via monthly calls and/or newsletter.

Payment of: Section 4.1.2 Policy Development: Payment for each of the 2 model tobacco control policies annually will be paid in the following manner: 35% at submission of first draft; 35% at submission of second draft and 30% upon completion and BTC approval.

Payment of: Section 4.1.3 Technical Assistance

- a. Monthly payment to provide on-call assistance to communities, including guidance on policy scope and language, understanding the implications of different tobacco control policy approaches and customization of policies to specific community needs. Historically,

approximately 35-50 calls for assistance have occurred per month. The actual monthly volume of calls for assistance may be higher or lower.

- b. Payment upon attendance and/or provision of comments for each of a selection of public hearings (up to 12 annually).
- c. Monthly payment for the identification of emerging tobacco control issues to be shared with BTC staff and BTC community contractors via calls, meetings, website and newsletter.
- d. Monthly payment to apprise BTC community contractors of opportunities for comment on Federal, State and local proposed regulations and prepare talking points to be shared via calls, meetings, website, email listserv and newsletters.
- e. Payment upon publication of each of 4 quarterly email newsletters which will be disseminated to BTC community contractors and posted on the Policy Center website.
- f. Payment for the annual one full day Technical Assistance session for approximately 30 people including BTC and BTC's invited guests in Albany, NY will be paid in the following manner: 25% upon submission of draft agenda, 25% at submission of final agenda and 50% upon completion of the Technical Assistance session.
- g. Payment upon participation in each of 2 one full day Advancing Tobacco Free Communities (ATFC) Program meetings in Albany annually to provide technical assistance and guidance on tobacco control policy related issues .
- h. Monthly payment for providing technical assistance and guidance on tobacco control policy related issues by participating in 12 conference calls with BTC staff annually to review deliverables and discuss emerging issues.
- i. Payment for providing technical assistance and guidance on tobacco control policy related issues by participating in a 2-day Annual BTC statewide meeting in Albany, New York.
- j. Payment upon hosting each of 2, 2 hour long webinars annually on tobacco control policy related topics determined by the Policy Center and the BTC to approximately 90 participants.
- k. Monthly payment for submission to BTC of tobacco policy related media article links and summaries monthly.
- l. Monthly payment for providing technical assistance and guidance on tobacco control policy related issues by participating in 12 ATFC Program 90 minute calls annually.

Section 4.1.4 Implementation Plan

~~~~~No payment will be made on this contract until the implementation plan (Section 4.1.4) has been reviewed and approved by the BTC.

All invoices submitted by the successful bidder pursuant to this AGREEMENT shall be submitted to the STATE on a monthly basis no later than thirty (30) days after the end date of the period for which payment is being claimed.

#### **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 10<sup>th</sup> 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 [tcp@health.ny.gov](mailto:tcp@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 offerer 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](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](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.

## **5.9 Subcontracting**

Bidder's may propose the use of a subcontractor. The Contractor shall obtain prior written approval from NYSDOH before entering into an agreement for services to be provided by a subcontractor. The Contractor is solely responsible for assuring that the requirements of the 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 offerer; 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 offerer's proposal and/or to determine an offerer'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 offerers 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 obligations 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**

Once an award has been made, bidders may request a debriefing of their proposal. Please note the debriefing will be limited only to the strengths and weaknesses of the bidder's proposal, and will not include any discussion of other proposals. Requests must be received no later than fifteen (15) calendar days from date of award or non-award announcement.

## **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 <http://www.ogs.ny.gov/purchase/snt/sflxi.asp>) 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](mailto: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.

## **6.0 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.

#### A. Bidder's Disclosure of Prior Non-Responsibility Determinations

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

#### B. 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)

#### C. 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](mailto: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](http://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](#).

#### D. 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.

#### E. 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.”

F. 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](#).

G. 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.

H. References

Provide references using [Attachment 9](#), (References) Provide three professional references from any of the following: firm, partners, colleagues or similar references that can verify the bidders qualifications to propose (Section 3.1). Provide reference entity names, addresses, contact names, telephone numbers, and email addresses.

I. 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.

J. 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.

K. Bidder’s Tobacco Free Attestation

Submit Attachment C, Tobacco Free Attestation; Attestation: Refusal of Funds from Tobacco-Related Entities, completed and signed by an individual authorized to bind the bidder contractually.

**Proposal cannot be reviewed until the above Attachment C, Refusal of Funds from Tobacco-Related Entities attestation is completed and signed.**

## **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 and Section 4.0 Scope of Work. 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.

### **A. 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.

### **B. Table of Contents**

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

### **C. Documentation of Bidder's Eligibility Responsive to Section 3.0 of RFP**

Bidders must be able to meet all the requirements stated in Section 3.1 of the RFP. The bidder must submit documentation that provides sufficient evidence of meeting the criterion. The documentation should clearly identify timeframes and related projects and may be in any format needed to demonstrate how they meet the minimum qualifications to propose.

#### **C.1. Minimum Qualifications**

- Bidding organization must have a primary mission of policy and/or legal scholarship, research, and policy development.

- Bidder must have a minimum of 3 years experience in each of the following:
  1. developing public health policy,
  2. providing policy and legal background and expertise,
  3. conducting research and writing reports,
  4. disseminating research and information, and
  5. providing guidance and technical assistance.

#### D. Technical Proposal Narrative

The technical proposal should provide a complete description of the bidder's capabilities to perform the services required by this RFP and Section 4.0 Scope of Work. Bidder's should provide a thorough narrative as outlined below and respond to each element listed below and label their responses with the corresponding section letter/number.

##### D.1 Policy Research and Dissemination

The bidder should describe the plan, approach and process to complete the deliverables as outlined in Section 4.1.1 and below.:

- D.1.1 Develop 4 fact sheets annually on tobacco related subjects to support policy progress, including clarification of NY tobacco laws, and analyzing the implementation of such laws. One (1) fact sheet should include a focus on low SES and/or rural communities. The topics will be determined collaboratively between the BTC and the contractor based on emerging tobacco control issues and BTC needs. The contractor provides the developed draft factsheet(s) for the BTC review and feedback. The Contractor revises the draft until the factsheet meets BTC approval.
- D.1.2 Develop 6 briefs annually on emerging policy issues and opportunities in tobacco control. The topics will be determined collaboratively between the BTC and the contractor based on emerging tobacco control issues and BTC needs.
- D.1.3 Produce 2 technical reports annually on specific policy topics to be determined by the BTC. One (1) technical report should include a focus on low SES and/or rural communities.
- D.1.4 Within 90 days of contract execution, create and maintain a website to feature summaries of NY and national laws relating to tobacco. The website serves as a clearinghouse for model tobacco control policies and legislation, legal research and background papers, technical reports, factsheets, tool kits, position papers and legislation useful for the NYS tobacco control community. All content is subject to review and approval by BTC prior to going live and posting.
- D.1.5 Maintain an excel database of pending NYS tobacco related legislation to share with BTC via monthly report and monthly calls.
- D.1.6 Track and share trending and enacted local NYS point of sale (POS) Policies with BTC and via website.
- D.1.7 Maintain a database of innovative and trending policies nationwide to share with BTC via monthly reports, monthly calls and with BTC community contractors if appropriate via monthly calls and/or website or newsletters.
- D.1.8 Maintain awareness of the latest tobacco control science, through attendance at up to four (4) significant research conferences annually (e.g. Public Health Law Conference, American Public

Health Association, National Association of County and City Health Officials, Center for Disease Control, Office on Smoking and Health, National Conference on Tobacco or Health) and submit a summary report to the BTC of significant findings (best practices, lessons learned, etc.) for each conference and present to BTC as appropriate.

- D.1.9 Monitor industry activities, including policy opposition, product development, marketing and lobbying and other significant developments monthly and share with BTC staff during monthly calls and with BTC community contractors via monthly calls and/or newsletter.

## D.2 Policy Development

- D.2.1 Assemble, compile develop and submit to BTC two (2) model tobacco control policies for use by the NY tobacco control community annually.

## D.3 Technical Assistance

- D.3.1 Provide on-call assistance to communities, including guidance on policy scope and language, understanding the implications of different tobacco control policy approaches and customization of policies to specific community needs, including low SES and/or rural communities. Historically, approximately 35-50 calls for assistance have occurred per month. The actual monthly volume of calls for assistance may be higher or lower.
- D.3.2 Attend up to 12 selected public hearings within New York State and/or provision of up to 12 written comments annually.
- D.3.3 Identify emerging tobacco control issues and share with BTC staff and BTC community contractors via calls, meetings, website and newsletter.
- D.3.4 Apprise BTC community contractors of opportunities for comment on Federal, State and local proposed regulations and prepare talking points to be shared via calls, meetings, website, email listserv and newsletters.
- D.3.5 Publish a quarterly email newsletter which will be disseminated to BTC community contractors and posted on the Policy Center website.
- D.3.6 Host an annual one-full day Technical Assistance session for approximately 30 people including BTC and invited guests in Albany, New York on emerging topics in tobacco control. The Technical Assistance session is to take place at the Department of Health. Contractor is to provide copies of written material. AV equipment will be provided by BTC.
- D.3.7 Provide technical assistance and guidance on tobacco control policy related issues by participating in 2 one-full day Advancing Tobacco-Free Communities (ATFC) Program meetings in Albany annually.
- D.3.8 Provide technical assistance and guidance on tobacco control policy-related issues by participating in 12 conference calls with BTC staff annually to review deliverables and discuss emerging issues.
- D.3.9 Provide technical assistance and guidance on tobacco control policy related issues by participating in a two-day Annual BTC Statewide meeting in Albany, New York.
- D.3.10 Provide technical assistance and guidance on tobacco control policy-related issues by hosting two (2), two(2) hour long webinars annually on tobacco control policy-related topics determined by the Policy Center and the BTC to approximately 90 participants.

- D.3.11 Directly submit to the BTC tobacco policy-related media article links and summaries monthly.
- D.3.12 Provide technical assistance and guidance on tobacco control policy related issues by participating in 12 ATFC Program 90 minute calls annually.

#### D.4 Implementation Plan

- D.4.1. The bidder should provide an overview of a comprehensive, logical, achievable plan and timeline for organizing, implementing and accomplishing all contract deliverables as described in Section 4.0 Scope of Work section for the five (5) year contract period. This timeline should include time for regular review and communication of information and presentation of information to program staff, and stakeholders to enhance program performance.

#### D.5. Staffing

- D.5.1 One full-time project director employed by the bidding organization is required. The project director duties include but are not limited to, ensuring timely completion and submission to BTC of all deliverables, timely submission of annual scope of work and budget update, and timely submission of claims for payment to the Business Service Center and proper Department personnel.
- D.5.2 Provide a staffing plan for implementation of all Section 4.0 Scope of Work outlined in this RFP. Specifically, bidders should provide the following in their staffing plan:
  - A. Title, responsibility, and type of staff available;
  - B. How the bidder plans to recruit, organize and train staff and provide an adequate number of appropriately trained and qualified individuals to complete all deliverables outlined in Section 4.0 and ensure that the staffing needs of the program are met on an ongoing basis;
  - C. Job description and qualifications for the proposed Full-time Project Director, which is to be a lawyer. In the description include their understanding of tobacco control science and practice and capability of quickly developing an understanding of the TCP and New York-specific issues that might enhance or inhibit TCP process. Also include how the Project Director is to ensure:
    - i. Timely completion of all deliverables;
    - ii. timely submission of all deliverables for BTC review;
    - iii. timely submission of annual scope of work and budget;
    - iv. timely submission of payment vouchers to proper Department personnel, and
    - v. be available for the Department to contact. description of how the proposed Full-time Project Director is to ensure have provide deliverables in Section 4.0;
  - D. Job description(s), and qualifications for each of the public policy experts, legal staff and consultants and explanation of their in-depth subject matter experience with tobacco control policy issues at the local, state, and federal levels, including the broad range of tobacco control policy solutions, policy development and legal and legislative processes.;

- E. Bidder's ability to provide sufficient additional management and administrative support staff necessary to organize, prepare and carry out all administrative tasks associated with conducting the services;
- F. Bidder's process for ensuring all Contractor and subcontractor staff are appropriately trained and how the training protocols provide for consistency among audit staff and the analysis of findings;
- G. How the Bidder intends to maintain the staffing levels and personnel planned;
- H. Staff participation by the Project Director and other staff as appropriate or determined by the TCP either remotely or in person as specified for each of the following meetings:
  - i. Monthly conference calls with BTC staff (remote access)
  - ii. Monthly ATFC program calls (remote access)
  - iii. Annual BTC Statewide meeting in Albany, New York (in person)
  - iv. Two ATFC Program meetings annually in Albany, New York (in person)
  - v. Annual Technical Assistance session in Albany, New York, for BTC and invited guests on emerging topics in tobacco control (in person)
  - vi. Biennial site visit conducted by BTC (in person in Albany)
- I. An organizational chart that delineates the titles of the staff responsible for fulfilling the tasks/deliverable detail in Section 4.0 Scope of Work, their lines of communications, and demonstrates how the organization intends to organize staff and management for this project

**Resumes are not required to be submitted with this proposal and will not be evaluated.**

#### D.6. Reporting

- D.6.1. Bidder should describe their plan to provide the reports described in Section(s) 4.3 and 4.1.

#### D.7. Information Technology

- D.7.1 Bidder should describe how it plans to comply with all NYS security policies and standards described in Section 4.4 Information Technology.

#### D.8. Security

- D.8.1 Bidder should describe how it plans to be in compliance with all applicable New York State security policies as identified in Section 4.5 Security.

#### D.9. Transition

- D.9.1 The bidder should provide an overview of its transition plan that ensures a complete and total transfer of all data, files, reports, and records necessary to perform the scope of work and generated from the inception of the contract through the end of the contract as well as making sure that all current and future requests during the transition period are addressed and completed. The overview should include a all items in Section 4.6 Transition.

### 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 bid price is to cover the cost of furnishing all of the said services, including but not limited to travel, materials, equipment, overhead, profit and labor to the satisfaction of the Department of Health and the performance of all work set forth in said specifications.

### 7.0 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.

|                                | <b>Electronic Submission</b>                                                                                                                 | <b>Paper Submission</b> |
|--------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|
| <b>Administrative Proposal</b> | 1 dedicated flash drives or CDs labeled “Administrative Proposal” containing a standard searchable PDF file with copy/read permissions only. | 4 Originals<br>4 Copies |
| <b>Technical Proposal</b>      | 1 dedicated flash drives or CDs labeled “Technical Proposal” containing a standard searchable PDF file with copy/read permissions only.      | 4 Originals<br>4 Copies |
| <b>Cost Proposal</b>           | 1 dedicated flash drives or CDs labeled “Cost Proposal” containing standard searchable PDF file(s) with copy/read permissions only.          | 4 Originals<br>4 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.** A font size of eleven (11) points or larger should be used. The Technical Proposal materials should be presented separate from the sealed Cost Proposal.
2. Where signatures are required, the proposals designated as originals should have a handwritten signature and be signed in blue ink.
3. 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;
4. Audio and/or videotapes are not allowed. Any submitted audio or videotapes will be ignored by the evaluation team; and

5. In the event that a discrepancy is found between the electronic and hardcopy proposal, the original hardcopy will prevail.

**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.**

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# 20035 Center of Excellence in Tobacco Policy – (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 # 20035)  
Attention: Mary Beekley  
Division of Chronic Disease Prevention  
Corning Tower, Rm. 1055  
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.

## **7.1 No Bid Form**

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

## **8.0 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 offerers” 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 (Section 3.0).

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 to calculate the Technical Score for each responsive Bidder.

The technical evaluation is **75% (up to 75 points)** of the final 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 maximum price. 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 Total price of lowest cost proposal;

B is Total price 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 Composite Score**

A 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 composite scores.

### **8.6 Interviews: N/A**

### **8.7 References**

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).

### **8.8 Best and Final Offers**

NYSDOH reserves the right to request best and final offers. In the event NYSDOH 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.

### **8.9 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.

## 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](#)
- A. [Proposal Document Checklist](#)  
C. [Attestation: Refusal of Funds from Tobacco-Related Entities](#)

The following has been posted with the RFP on the Department website at <https://www.health.ny.gov/funding/> :

- B. Cost Proposal

**ATTACHMENT A  
PROPOSAL DOCUMENT CHECKLIST**

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

| RFP 20035 – Center of Excellence in Tobacco Policy |                                                                                                                                                                                                                              |                          |
|----------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|
| FOR THE ADMINISTRATIVE PROPOSAL                    |                                                                                                                                                                                                                              |                          |
| RFP §                                              | SUBMISSION                                                                                                                                                                                                                   | INCLUDED                 |
| § 6.1.A                                            | Attachment 1 – Bidder’s Disclosure of Prior Non-Responsibility Determinations, completed and signed.                                                                                                                         | <input type="checkbox"/> |
| § 6.1.B                                            | Freedom of Information Law – Proposal Redactions (If Applicable)                                                                                                                                                             | <input type="checkbox"/> |
| § 6.1.C                                            | Attachment 3- Vendor Responsibility Attestation                                                                                                                                                                              | <input type="checkbox"/> |
| § 6.1.D                                            | Attachment 4 - Vendor Assurance of No Conflict of Interest or Detrimental Effect                                                                                                                                             | <input type="checkbox"/> |
| § 6.1.E                                            | M/WBE Participation Requirements:                                                                                                                                                                                            | <input type="checkbox"/> |
|                                                    | Attachment 5 Form 1                                                                                                                                                                                                          | <input type="checkbox"/> |
|                                                    | Attachment 5 Form 2 (If Applicable)                                                                                                                                                                                          | <input type="checkbox"/> |
| § 6.1.F                                            | Attachment 7 - Bidder’s Certified Statements, completed & signed.                                                                                                                                                            | <input type="checkbox"/> |
| § 6.1.G                                            | Attachment 6- Encouraging Use of New York Businesses                                                                                                                                                                         | <input type="checkbox"/> |
| § 6.1.H                                            | Attachment 9 – References                                                                                                                                                                                                    | <input type="checkbox"/> |
| § 6.1.I.                                           | Attachment 10 - Diversity Practices Questionnaire                                                                                                                                                                            | <input type="checkbox"/> |
| § 6.1.J.                                           | Attachment 11 - Executive Order 177 Prohibiting Contracts with Entities that Support Discrimination                                                                                                                          | <input type="checkbox"/> |
| § 6.1.K.                                           | Attachment C – Attestation Refusal of Funds from Tobacco-Related Entities*<br>*Proposal cannot be reviewed until the above Attachment C, Refusal of Funds from Tobacco Related Entities attestation is completed and signed. | <input type="checkbox"/> |
| FOR THE TECHNICAL PROPOSAL                         |                                                                                                                                                                                                                              |                          |
| RFP §                                              | SUBMISSION                                                                                                                                                                                                                   | INCLUDED                 |
| § 6.2.A                                            | Title Page                                                                                                                                                                                                                   | <input type="checkbox"/> |
| § 6.2.B                                            | Table of Contents                                                                                                                                                                                                            | <input type="checkbox"/> |
| § 6.2.C                                            | Documentation of Bidder’s Eligibility (Requirement)                                                                                                                                                                          | <input type="checkbox"/> |
| § 6.2.D                                            | Technical Proposal Narrative                                                                                                                                                                                                 | <input type="checkbox"/> |
| FOR THE COST PROPOSAL REQUIREMENT                  |                                                                                                                                                                                                                              |                          |
| RFP §                                              | REQUIREMENT                                                                                                                                                                                                                  | INCLUDED                 |
| § 6.3                                              | Attachment B- Cost Proposal                                                                                                                                                                                                  | <input type="checkbox"/> |

**RFP # 20035 ATTACHMENT C  
Tobacco Free Attestation**

**ATTESTATION: REFUSAL OF FUNDS FROM TOBACCO-RELATED ENTITIES**

The bidder understands and agrees that if it becomes a vendor of the Department of Health, the bidder and all persons within the organizational unit it represents shall not accept any grant or anything else of value from, or otherwise be affiliated with<sup>1</sup>, any tobacco manufacturer, distributor, or other tobacco-related entity.<sup>2</sup>

The bidder understands and agrees that this attestation, when signed, serves as the bidder’s written policy regarding its tobacco-free status as defined herein.

The bidder understands and agrees to ensure that any agreement with subcontractors or consultants whose work is **instrumental** to achieving the goals and objectives of the contract shall execute a copy of this attestation.

Title: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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<sup>1</sup> *Affiliation* includes, but is not limited to:

- being employed by, or a contractor of, any tobacco company, association or any other agent known to advance the interests of a tobacco company or association; or
- owning a patent or proprietary interest in a technology or process related to the consumption of tobacco or other tobacco use-related products.

<sup>2</sup> *Tobacco manufacturer, distributor, or other tobacco-related entity* includes, but is not limited to, any person, corporation or entity, including any repacker or relabeler, that manufactures, fabricates, assembles, processes, or labels a tobacco product; or imports a finished tobacco product for sale or distribution in New York State.

## Frequently Asked Questions

Q. *What is the purpose of the Refusal of Funds from Tobacco-related Entities (RFTE) requirement?*

A. The RFTE requirement helps to assure that there are no conflicts of interest, potential conflicts of interest or perceived conflicts of interest between the DOH, its contractor's and tobacco-related entities. It assures that contractors do not rely on funding from sources that could dilute, or call into question, their commitment to tobacco control.

Q. *Does the RFTE requirement apply only during the life of the contract or does it extend more broadly?*

A. The RFTE requirement prohibits contractors from having any ongoing contractual relationships or any other affiliations with a tobacco manufacturer, its affiliates or its subsidiaries when the contractor signs the contract or from entering into such a relationship during the life of the contract. It does not bar grants to entities which have had past contractual relationships or any other affiliations with tobacco companies, nor does it prohibit contractors from entering into relationships with tobacco companies after the completion of the contract.

Q. *The RFTE requirement states that bidders may not accept any grant or anything else of value. In this context, what does "value" mean?*

A. Value means anything having or being perceived as having monetary value. This includes, but is not limited to, a salary, fee, goods, services, gifts, benefits, discounts, loans, advances, forbearances, travel, lodging, or any other thing paid, owed, given or promised. It also includes items which may be of a nominal value, including but not limited to refreshments, promotional items or ceremonial items (e.g., awards or plaques).

Q. *Does the RFTE requirement apply to the institutional recipient, the individuals working on the contract, or both?*

A. The RFTE requirement applies to both the institutional recipient and all individuals working on the contract.

Q. *How does the RFTE requirement apply to complex institutions, for example, universities or state or local governments? Is the entire university or state or local government bound by the RFTE requirement when one part of it accepts a DOH contract that includes the RFTE requirement in the funding announcement?*

A. No. DOH understands that it would be unduly burdensome for a university or state or local government to enforce this throughout the entire institution or state. For that reason, DOH only requires that the organizational unit receiving the contract comply with the RFTE requirement.

Q. *What does that mean in the context of an educational institution or other large institution such as a hospital? What is the "organizational unit receiving the contract"?*

A. In the case of an educational institution, the RFTE requirement applies to all programs of the School for which the contract project coordinator and/or principal investigator carries out the contract duties. It does not apply to other Schools or other components of the university. For example, if the contract project coordinator and principal investigator are carrying out the contract duties for a university's School of Public Health or for a department of the School of Public Health, the entire School of Public Health, including all of its departments and any other sub-units, must comply with the RFTE

requirement. Schools, departments, or other units located outside of the School of Public Health would not be similarly bound.

Similarly, in the case of a hospital, the RFTE requirement applies to the organizational unit for which the contract project coordinator and/or principal investigator are carrying out the contract duties. It does not apply to other organizational units within the hospital. For example, if the contract project coordinator and principal investigator are carrying out the contract duties in the community health unit of a hospital, the entire unit, including all of its departments and any other sub-units, must comply with the RFTE requirement. Other parts of the hospital would not be similarly bound.

*Q. What about a local government such as a local health department?*

A. The same principles apply. The department or agency within which the Contract Project Coordinator and/or Principal Investigator are carrying out the contract activities would be bound by the RFTE requirement. Other departments, agencies, etc. would not be.

*Q. Do the RFTE requirement restrictions apply to sub-contractors or anyone else to whom the contractor disburses DOH funds?*

A. The RFTE requirement of the contract applies to any sub-contractors that are instrumental to achieving the goals and objectives of the contract. For example, if a contractor subcontracts a scope of work to an entity to work on developing a media campaign to educate residents about the dangers of secondhand smoke in multi-unit housing buildings, or if a contractor sub-contracts with a consultant to do work with a health system to ensure tobacco screening policies, those sub-contracts/consultants are subject to the same requirements. If a contractor subcontracts with an entity to process payroll, conduct audits or rent space for a coalition meeting, those businesses are not subject to the RFTE requirement.

*Q. Is a contractor required to divest itself of tobacco-related stock or other financial holdings?*

A. No. The RFTE requirement does not contain divestiture provisions.

*Q. How will a contractor know the identity of tobacco manufacturers, distributors or other tobacco-related entities?*

A. DOH recognizes that identifying tobacco manufacturers, distributors and other tobacco-related entities can be challenging given the complex nature of conglomerates. Contractors are encouraged to review publicly-available information regarding tobacco companies.

*Q. Are there any exceptions to the RFTE requirement?*

A. DOH will consider, on a case-by-case basis, requests for a temporary waiver to permit a contractor to come into compliance with the RFTE requirement. Those requests should be submitted as a question during the procurement's open Q&A time.

*Q. Isn't DOH concerned that potential contractors that could make a real contribution to tobacco control may be disqualified by this RFTE requirement?*

A. DOH has made a substantial effort to assure that the RFTE required obligations are realistic, do not unduly burden institutions and do not interfere with humanitarian work. However, it is DOH's carefully considered view that it would be inconsistent with our mission and lead to conflicts of interest, if we were to fund institutions or, as described above, components of institutions that accept tobacco-

industry funding. We encourage institutions to review their own fundraising criteria and programs and consider the concerns we have put forward.

*Q. What is the penalty if a contractor is not compliant with the RFTE requirement?*

A. Depending on the nature of the noncompliance, the Department reserves the right to terminate the contract.