



**ERIE COUNTY WATER AUTHORITY
INTEROFFICE MEMORANDUM**

March 16, 2022

To: Jerome D. Schad, Chair
Peggy LaGree, Vice Chair
Michele Iannello, Treasurer

From: Terrence D. McCracken, Secretary to the Authority
Daniel J. NeMoyer, Director of Human Resources
John M. Catanzaro, Director of Operations

Subject: RFP for Health and Drug Screening for Erie County Water Authority
("Authority")

On February 23, 2022 the Authority's Board of Commissioners approved issuing an RFP for Employee Health Services and Drug Screening.

The RFP was forwarded to five prospective providers:

ADTS Aurora Drug Testing Services
Healthworks WNY
Great Lakes Physicians Group
WellNow/Urgent Care
USA Occupational Services

The scope of the RFP was to provide the following services for Authority employees and prospective hires:

1. Pre-employment drug screening.
2. Pre-employment physicals and physical agility screening and audiometry.
3. Mandated DOT post-accident and random drug testing
4. Non-DOT post-accident and random drug testing per the CBA's.
5. Work related injury evaluation and treatment

6. Face mask respirator fit testing and related health screenings

The RFPs were due to the Authority on March 8, 2022.

Three providers submitted responses to the RFP:

WellNow/Urgent Care
Healthworks – WNY; and
USA Occupational Services.

A review committee was made of up three Authority staff members to review the responses:

Terrence D. McCracken, Secretary to the Authority
John M. Catanzaro, Director of Operations and
Daniel J. NeMoyer, Director of Human Resources

This group is the most involved with these services since Mr. McCracken handles the pre-employment, Mr. Catanzaro supervises the majority of the employees with a CDL license and due to the physical nature of the work, his group sees the most injuries. Mr. NeMoyer is the direct liaison to the provider and addresses workers compensation claims and workplace health and injuries.

Of the responses submitted, the proposal submitted by USA Occupational Services only addressed drug and alcohol testing. The response also did not identify any physical offices within the Authority's service area. Therefore, we cannot consider this proposal to meet our needs.

For most part, the proposals from Healthworks WNY and WellNow/Urgent Care, addressed our needs.

On a price per service basis the two providers are fairly similar. However, WellNow charges a fee of \$500.00 per incident for 24/7 – 365 drug and alcohol testing, while the fee from Health Works is \$225.00 after hours and \$375.00 on Holidays.

As a 24 hour, 365 day a year operation, this is certainly a consideration.

The cost could be offset by the two WellNow locations in our service area which are open until 11:00 p.m.

Another serious consideration and difference between the two proposals is that Healthworks actively manages and administers the drug and alcohol testing programs, while the WellNow program is more of a self-service format. The difference matters when there is a DOT audit. With the Healthworks format, they are audited. with the WellNow program, the Authority would be audited.

The WellNow proposal also did not offer specifics relative to pre-employment and return to work physical agility tests.

When we called the WellNow designated Vice President for clarification on this, he offered that they could work with us to find a physical therapy professional to offer this service, but that it would be at a separate location from the WellNow office performing the associated physical exams.

This would require pre-employment candidates and employees returning to work to make appointment at two separate locations.

When considering all these factors, the review committee recommends that the Authority enter into a Professional Services Contract with Healthworks, WNY.

We have been very satisfied with their professional service and personal attention in the past.

REQUEST FOR PROPOSALS

HEALTH SERVICES AND DRUG SCREENING ECWA Project No. 202200063

General

The Erie County Water Authority (the “Authority”) is a local public benefit corporation created by a special act of the New York State Legislature, codified as Article 5, Title 3 of the Public Authorities Law, whose mission is to provide customers with a plentiful supply of safe, high quality and affordable drinking water through a reliable infrastructure. As such, the Authority operates a federally-designated critical infrastructure system whose assets, systems, and networks, whether physical or virtual, are so vital that their incapacity or destruction would have a debilitating impact on the physical or economic security, and the public health and safety, to residential, commercial, and industrial users including hospitals, health care facilities, and nursing homes, in 36 municipalities located within Erie County, parts of Chautauqua, Cattaraugus, western Wyoming, and western Genesee counties, as well as the territories of the Seneca Nation of Indians.

The Authority is seeking proposals from qualified companies to provide various health-related services to the Authority as described in the Scope of Work below.

The Authority reserves the right to modify or cancel this Request for Proposals; to reject any or all proposals; and to waive any or all irregularities. This Request for Proposals does not obligate the Authority to award a contract for any of the projects or to reimburse any costs associated with the preparation of any proposal.

The Request for Proposal (RFP) is being conducted pursuant to the New York State Finance Law §§139-j and 139-k and the Erie County Water Authority’s Purchasing Policy, as amended. The Purchasing Policy is available by accessing the Erie County Water Authority’s web site – <http://www.ecwa.org>, under the caption “Doing Business with ECWA”.

SCOPE OF SERVICES

The Authority is issuing this RFP to provide health services as outlined in the description of services below. The Authority is seeking a three-year contract with the option to renew the contract for two additional one-year terms.

The health services proposal will address the cost and delivery for the services requested below. It should also include a statement of the company and individual qualifications and experience in performing such services for employers as well as experience in Workers’ Compensation and litigation matters. While the Authority will consider alternate approaches to the scope of work and deviations from, or additions to, the major and minor services outlined below, all proposals must be submitted in the form outlined below and must include quotes for all major and minor tasks outlined.

Description of Services:

1) PRE-EMPLOYMENT PHYSICALS

- a. Provide all aspects of pre-employment physicals including: history, physician exam, vision screening, blood pressure, height, weight, and urine screening; as well as audiometry with evaluation by a physician, and agility testing, if required under scope of employment.

2) EVALUATION FOR RESPIRATOR CLEARANCE

- a. Provide all aspects of evaluation for on-site respirator clearance including: OSHA exam; Medical evaluation for respirator users including review of physical exam, medical and work history, and any ancillary tests; Spirometry, including Forced Vital Capacity (FVC), Forced Expiratory volume at one second (FEV1), and FEV/FVC ratio with interpretation, if required; Chest X-ray (PA View), if required; and Respirator fit testing.
- b. Provide any required follow-up respiratory clearance exams as required by law or at the request of the Authority.
- c. Maintain and provide all records of the respiratory clearance program necessary to comply with the records keeping requirements as required by law and to document this compliance should the Authority be audited or become involved in litigation arising from the respirator program.

3) ASBESTOS EVALUATION

- a. Provide all aspects of a Pre-employment Asbestos Exam and Annual Exam (if required under scope of employment), including comprehensive asbestos history Parts I and II, physician exam, height, weight, blood pressure, urine screen, and vision.
- b. Medical Evaluation for Respirator Users if required, including review of physical exam, medical and work history, and ancillary tests as required under law.
- c. Provide, if required, chest x-ray (PA View); Spirometry, including Forced Vital Capacity (FVC), Forced Expiratory volume at one second (FEV1), and FEV/FVC ratio with interpretation; Chest X-ray (PA View); Respirator fit testing in accordance with federal law; and Provide urinalysis including micro- and macroscopic review of color, glucose, ketones, leukocytes, nitrite, occult blood, pH, protein, specific gravity, and turbidity.

4) INDEPENDENT MEDICAL EVALUATIONS

- a. Provide all aspects of an Independent Medical Evaluations made at the request of the Authority.
- b. Review of the chart and post summary dictation is to be provided for all Insurance Carrier Evaluations.

- c. Specialized exams, including but not limited to orthopedic and pulmonary exams, shall also be provided from time to time at the request of the authority.

5) RETURN TO WORK EXAMS

- a. Provide all aspects of return to work exams including history and physician exam pertaining to disability with narrative report giving diagnosis, prognosis, and job restrictions if any. Also shall perform any ancillary tests as required including physical agility examinations.

6) OTHER SERVICES

- a. Emergency Care and Case Management; audiometry with evaluation by a physician and testing at 500, 1000, 2000, 3000, 4000, 6000, and 8000 Hz; Blood Chemistry; Urinalysis; CBC with Differential; and Lumbosacral X-Ray, as requested.

7) DRUG SCREENING SERVICES (PRE—EMPLOYMENT, PERIODIC, RANDOM, REASONABLE SUSPICION, POST ACCIDENT, RETURN TO DUTY, AND FOLLOW-UP)

- a. Forensic Toxicology Services performed by Hair Sample.
 - i. Must be able to comply with all Department of Transportation (DOT) regulations for testing and special reporting if requested.
 - ii. Shall include testing for the following Drug or Drug Classes
 - 1. Amphetamines
 - 2. Cocaine Metabolite
 - 3. Marijuana Metabolite
 - 4. Opiates
 - 5. Phencyclidine.
 - iii. Any utilized testing lab must be certified by the Department of Health and Human Services.
- b. Urine Collection with Chain of Custody
 - i. Must be able to comply with all Department of Transportation (DOT) and Federal Highway Administration regulations for testing and special reporting, if requested
 - ii. Shall include testing for the following Drug or Drug Classes
 - 1. Amphetamines
 - 2. Cocaine Metabolite
 - 3. Marijuana Metabolite
 - 4. Opiates
 - 5. Phencyclidine
 - iii. Any utilized testing lab must be certified by the Department of Health and Human Services

- c. Medical Review Officer
 - i. Compliant with Department of Transportation regulations.
 - ii. Will evaluate all test results.
 - iii. Must be same individual for all cases.
- d. Provide 24-hour collection services
- e. Provide off-site testing if required

8) BREATH ALCOHOL TESTING

- a. Performed with an Evidential Breath Testing Device approved by the National Highway Traffic Safety administration and is on the Conforming Products List of Evidential Breath Measurement Devices. The device will be calibrated in accordance with the manufacturer's specification and National Highway Transportation Safety Administration guidelines.
- b. Shall be conducted by a Breath Alcohol Technician meeting Department of Transportation requirements, if requested.
- c. Must be able to comply with all Department of Transportation (DOT) and Federal Highway Administration regulations, including but not limited to 49 CFR 40, 382, 391, 392, 395, and 383 as required.
- d. Shall consist of a screening test, and a confirmation test if required.
- e. Provide 24-hour collection services
- f. Provide off-site testing if required

9) DEVELOPMENT AND MAINTENANCE OF A DATABASE FOR RANDOM DRUG SCREEN SELECTION

- a. Set up a database of all covered Authority employees, a list, or multiple lists, of those employees will be provided by the Authority and updated from time to time.
- b. Establish a selection process for random alcohol and drug tests using a scientifically valid computer-based random number generator that is matched with the driver's social security number.
- c. Selection dates will be unannounced and spread evenly throughout the calendar year
- d. A maximum of 50% of the covered employees will be selected throughout the calendar year.
- e. Provide a computer-generated list of all tested employees on a quarterly basis.

Information Requests

All questions and requests for information are to be directed in writing to the designated Authority Contact Person, Daniel J. NeMoyer at szajdel@ecwa.org in accordance with New York State Finance Law §§139-j and 139-k.

Proposal Requirements

Proposals are to be concise, specific, and straightforward. All pertinent information is to be contained in the response. The use of artwork, special covers, and extraneous information in the proposal is discouraged. Proposals are to remain valid for a minimum of 90 days.

The proposal is to include the following:

- Item 1: Qualifications and related experience in Health Services and Drug Screening. Include a minimum of three references for similar work including company name, location, contact person.
- Item 2: Detailed project understanding and technical background in the above Health Services and Drug Screening.
- Item 3: Completed Required Forms regarding Public Authorities Law § 2875, 2876, and 2878, State Finance Law § 139 (j) and (k), and Unlawful Discriminatory Practices. (pp. 7-18).
- Item 4: Proof of insurance in accordance with Erie County Water Authority insurance requirements for Health Services and Drug Screening. (pp. 19-20).
- Item 5: Fee proposal, include a breakdown of all fees for each task. The fee breakdown should be summarized with a total proposed price package.

Proposals will be accepted until 4:00 p.m. on March 8, 2022. Five copies of each proposal are to be delivered to Erie County Water Authority, 3030 Union Road, Buffalo, New York 14227 to the attention of Daniel J. NeMoyer, Director of Human Resources. Proposals received after this time will not be considered and will be returned unopened. All proposals being mailed (including Federal Express, UPS, Priority Mail, etc.) or hand-delivered shall be directed to the attention of Daniel J. NeMoyer, Director of Human Resources in a sealed envelope and be clearly marked on the outside of the mailing or hand delivered envelope as follows: “**RFP PROPOSAL – HEALTH SERVICES AND DRUG SCREENING**”.

Evaluation and Selection

All proposals will be evaluated by a small in-house committee made up of Authority personnel familiar with the proposed project. Interviews and/or presentations of the proposals will be requested if needed. The proposals will be evaluated based on the criteria listed above.

The issuance of this request for proposal constitutes only an invitation to present response from potential parties. The Erie County Water Authority and the RFP review and selection committee reserve the right to determine in their sole discretion, whether any aspect of the proposal satisfactorily meets the criteria set forth in this Request for Proposal. The Erie County Water Authority and its committee reserves the right to seek additional information and clarifications as

well as financial information from the respondents submitting a proposal. The Authority reserves the right to negotiate with any respondent submitting a response, and the right to reject any or all responses with or without cause, in the event that the RFP is withdrawn by the Erie County Water Authority for any reason. The Erie County Water Authority shall have no liability to any respondent for any costs or experiences incurred in connection with this Request for Proposal or otherwise.

The Authority reserves the right to contract with multiple healthcare providers, or to contract for all, some or none of the services listed in the RFP. Contracts for services will be negotiated upon selection of successful respondents.

The final scope of work and fee will be negotiated with the selected respondent. The Authority desires to enter a service agreement that will be executed pending successful negotiation with the selected vendor and authorization by the Authority's Board of Commissioners. If an agreement cannot be negotiated within fifteen (15) days of notification to the designated respondent, the Authority may terminate negotiations with that respondent and negotiate an agreement with another respondent of its choice.

All firms submitting proposals will be notified of the selection results. It is anticipated that the selection process will be completed in March 2022, and that the agreement will be executed in March 2022.

NON-COLLUSIVE BIDDING CERTIFICATION

as mandated by Public Authority Law § 2878

By submission of this bid or proposal, each bidder/respondent and each person signing on behalf of any bidder/respondent certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his knowledge and belief:

(1) The prices in this bid or proposal have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder/respondent or with any competitor; and

(2) Unless otherwise required by law, the prices which have been quoted in this bid or proposal have not been knowingly disclosed by the bidder/respondent and will not knowingly be disclosed by the bidder/respondent prior to opening, directly or indirectly, to any other bidder/respondent or to any competitor; and

(3) No attempt has been made or will be made by the bidder/respondent to induce any other person, partnership, or corporation to submit or not to submit a bid for the purpose of restricting competition.

NOTICE

(Penal Law § 210.45)

IT IS A CRIME, PUNISHABLE AS A CLASS A MISDEMEANOR UNDER THE LAWS OF THE STATE OF NEW YORK, FOR A PERSON, IN AND BY A WRITTEN INSTRUMENT, TO KNOWINGLY MAKE A FALSE STATEMENT, OR TO MAKE A FALSE STATEMENT, OR TO MAKE A STATEMENT WHICH SUCH PERSON DOES NOT BELIEVE TO BE TRUE.

BID NOT ACCEPTABLE WITHOUT FOLLOWING CERTIFICATION:

Affirmed under penalty of perjury this _____ day _____, 20____

FIRM NAME _____

ADDRESS _____

_____ ZIP _____

AUTHORIZED SIGNATURE _____

TYPED NAME OF AUTHORIZED SIGNATURE _____

TITLE _____ TELEPHONE No. _____

SECTION 2875 OF THE PUBLIC AUTHORITIES LAW

§2875. GROUND FOR CANCELLATION OF CONTRACT BY PUBLIC AUTHORITY.

A clause shall be inserted in all specifications or contracts hereafter made or awarded by any public authority or by any official of any public authority created by the state or any political subdivision, for work or services performed or to be performed or goods sold or to be sold, to provide that upon the refusal of a person, when called before a grand jury, head of a state department, temporary state commission, or other state agency, the organized crime task force in the department of law, head of a city department, or other city agency, which is empowered to compel the attendance of witnesses and examine them under oath, to testify in an investigation concerning any transaction or contract had with the state, any political subdivision thereof or of a public authority, to sign a waiver of immunity against subsequent criminal prosecution or to answer any relevant question concerning such transaction or contract.

- (a) Such person, and any firm, partnership, or corporation of which he is a member, partner, director, or officer shall be disqualified from thereafter selling to or submitting bids to or receiving awards from or entering into any contracts with any public authority or official thereof, for goods, work or services, for a period of five years after such refusal, and to provide also that

- (b) any and all contracts made with any public authority or official thereof, since the effective date of this law, by such person and by any firm, partnership, or corporation of which he is a member, partner, director or officer may be canceled or terminated by the public authority without incurring any penalty or damages on account of such cancellation or termination, but any monies owing by the public authority for goods delivered or work done prior to the cancellation termination shall be paid.

This is to CERTIFY that neither the undersigned nor any member, partner, director, or officer of the firm has refused to sign a waiver of immunity against subsequent criminal prosecution or to answer any relevant question concerning a transaction or contract with the state, any political subdivision thereof, a public authority or with a public department, agency or official of the state or of any political subdivision thereof or of a public authority, when called before a grand jury, head of a state department, temporary state commission, or other state agency, the organized crime task force in the department of law, head of a city department, or other city agency, which is empowered to compel the attendance of witnesses and examine them under oath.

(Name of Individual, Partnership or Corporation)

By _____
(Person authorized to sign)

(SEAL)

SECTION 2876 OF THE PUBLIC AUTHORITIES LAW

§2876. DISQUALIFICATION TO CONTRACT WITH PUBLIC AUTHORITY

Any person who, when called before a grand jury, head of a state department, temporary state commission or other state agency, the organized crime task force in the department of law, head of a city department or other city agency, which is empowered to compel the attendance of witnesses and examine them under oath to testify in an investigation concerning any transaction or contract had with the state, any political subdivision thereof, a public authority or with a public department, agency or official of the state or of any political subdivision thereof or of a public authority, refuses to sign a waiver of immunity against subsequent criminal prosecution or to answer any relevant questions concerning such transaction or contract, and any firm, partnership or corporation of which he is a member, partner, director or officer shall be disqualified from thereafter selling to or submitting bids to or receiving awards from or entering into any contracts with any public authority or any official of any public authority created by the state or any political subdivision, for goods, work or services, for a period of five years after such refusal or until a disqualification shall be removed pursuant to the provisions of section twenty-six hundred three of this article.

It shall be the duty of the officer conducting the investigation before the grand jury, the head of a state department, the chairman of the temporary state commission or other state agency, the organized crime task force in the department of law, the head of a city department or other city agency before which the refusal occurs to send notice of such refusal, together with the names of any firm, partnership or corporation of which the person so refusing is known to be a member, partner, officer or director, to the commissioner of transportation of the state of New York, or the commissioner of general services as the case may be, and the appropriate departments, agencies and officials of the state, political subdivisions thereof or public authorities with whom the persons so refusing and any firm, partnership or corporation of which he is a member, partner, director or officer, is known to have a contract. However, when such refusal occurs before a body other than a grand jury, notice of refusal shall not be sent for a period of ten days after such refusal occurs. Prior to the expiration of this ten day period, any person, firm, partnership or corporation which has become liable to the cancellation or termination of a contract or disqualification to contract on account of such refusal may commence a special proceeding at a special term of the supreme court, held within the judicial district in which the refusal occurred, for an order determining whether the questions in response to which the refusal occurred were relevant and material to the inquiry. Upon the commencement of such proceeding, the sending of such notice of refusal to answer shall be subject to order of the court in which the proceeding was brought in a manner and on such terms as the court may deem just. If a proceeding is not brought within ten days, notice of refusal shall thereupon be sent as provided herein.

This is to CERTIFY that neither the undersigned nor any member, partner, director, or officer of the firm has refused to sign a waiver of immunity against subsequent criminal prosecution or to answer any relevant question concerning a transaction or contract with the state, any political subdivision thereof, a public authority or with a public department, agency or official of the state or of any political subdivision thereof or of a public authority, when called before a grand jury,

head of a state department, temporary state commission, or other state agency, the organized crime task force in the department of law, head of a city department, or other city agency, which is empowered to compel the attendance of witnesses and examine them under oath.

(Name of Individual, Partnership or Corporation)

By _____
(Person authorized to sign)

(SEAL)

FORMS A, B, and C

STATE FINANCE LAW REQUIREMENTS

The Erie County Water Authority (the “Authority”) is a government entity, as that term is defined in State Finance Law §§ 139-j(1)(a) and 139-k(1)(a). When the Authority seeks to procure goods or services by means of an Invitation or Notice to Bid, or a Request for Proposals, the State Finance Law imposes certain restrictions on anyone who may wish to offer goods or services to the Authority as an Offerer, as that term is defined in §§ 139-j(1)(h) and 139-k(1)(h).

During the Restricted Period, as defined in §§ 139-j(1)(f) and 139-k(1)(f), when bids or proposals are being solicited, the Authority will designate a contact person with whom the Offerer may contact for information and other authorized purposes as set forth in §139-j of the State Finance Law. The designated contact is identified in the Notice to Bidders, or in the Request for Proposal. An Offerer is authorized to contact the Authority’s designated contact for such purposes as set forth in § 139-j(3).

Pursuant to the State Finance Law, the Authority is also required to make certain findings before making any determinations as to the qualifications and eligibility of those seeking a procurement contract, as that term is defined in State Finance Law §§ 139-j(1)(g) and 139-k(1)(g). Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings of non-responsibility occurring within a 4-year period, the Offerer will be debarred from obtaining procurement contracts with the Authority. Further information about these requirements can be found in §§139-j and 139-k of the New York State Finance Law and the Erie County Water Authority’s Procurement Disclosure Policy.

The following forms will be used by the Authority to make such findings:

Form A - Offerer’s Affirmation of Understanding of, and Agreement to Comply with, the Authority’s Permissible Contact Requirement During the Restricted Period.

Form B - Offerer’s Certification of Compliance with State Finance Law.

Form C - Offerer’s Disclosure of Prior Non-Responsibility Determinations.

FORM A

**Offeror's Affirmation of Understanding of, and Agreement to Comply
with, the Permissible Contact Requirements During the Restricted Period**

Instructions:

The Erie County Water Authority (the "Authority") is a government entity, as that term is defined in State Finance Law §§ 139-j(1)(a) and 139-k(1)(a). The Authority must obtain a written affirmation of understanding and agreement to comply with procedures regarding permissible contacts with the Authority in the restricted period for a procurement contract in accordance with State Finance Law §139-j and §139-k. It is required that this affirmation be obtained as early as possible in the procurement process, but no later than when the Offeror submits its proposal.

Offeror affirms that it understands and agrees to comply with the procedures of the Authority relative to permissible contacts as required by State Finance Law §139-j(3) and §139-j(6)(b).

By: _____ Date: _____
Signature

Name: _____

Title: _____

Contractor Name: _____

Contractor Address: _____

FORM B

**Offeror's Certification of Compliance
With State Finance Law §139-k(5)**

Instructions:

The Erie County Water Authority (the "Authority") is a government entity, as that term is defined in State Finance Law §§ 139-j(1)(a) and 139-k(1)(a). The Authority must obtain a Certification that the information submitted for a procurement contract is complete, true, and accurate regarding any prior findings of non-responsibility, such as non-responsibility pursuant to State Finance Law §139-j. The Offeror must agree to sign the Certification, under penalty of perjury, and to provide the Certification to the Authority. The Certification should be obtained as early as possible in the process, but no later than when an Offeror submits its proposal.

Offeror Certification:

I certify that all information provided to the Authority relating to the awarding of a procurement contract is complete, true, and accurate.

By: _____ Date: _____
Signature

Name: _____

Title: _____

Contractor Name: _____

Contractor Address: _____

FORM C**Offeror's Disclosure of Prior
Non-Responsibility Determinations****Background:**

The Erie County Water Authority (the "Authority") is a government entity, as that term is defined in State Finance Law §§ 139-j(1)(a) and 139-k(1)(a). New York State Finance Law §139-k(2) obligates the Authority to obtain specific information regarding prior non-responsibility determinations with respect to State Finance Law §139-j. In accordance with State Finance Law §139-k, an Offeror must be asked to disclose whether there has been a finding of non-responsibility made within the previous four (4) years by any Governmental Entity due to: (a) a violation of State Finance Law §139-j; or (b) the intentional provision of false or incomplete information to a Government Entity.

The terms "Offeror" and "Governmental Entity" are defined in State Finance Law §§139-j(1) and §139-k(1). These sections also set forth detailed requirements about the restrictions on contacts during the procurement process. A violation of State Finance Law §139-j includes, but is not limited to, an impermissible contact during the restricted period (for example, contacting a person or entity other than the designated contact person, when such contact does not fall within one of the exemptions).

As part of its responsibility determination, State Finance Law §139-k(3) mandates consideration of whether an Offeror fails to timely disclose accurate or complete information regarding the above non-responsibility determination. In accordance with law, no Procurement Contract shall be awarded to any Offeror that fails to timely disclose accurate or complete information under this section, unless a finding is made that the award of the Procurement Contract to the Offeror is necessary to protect public property or public health safety, and the Offeror is the only source capable of supplying the required Article of Procurement, as that term is defined in State Finance Law §§ 139-j(1)(b) and 139-k(1)(b), within the necessary timeframe. See State Finance Law §139-j(10)(b) and §139-k(3).

Instructions:

The Authority must include a disclosure request regarding prior non-responsibility determinations in accordance with State Finance Law §139-k in its solicitation of proposals or bid documents or specifications or contract documents, as applicable, for procurement contracts. The attached form is to be completed and submitted by the individual or entity seeking to enter into a Procurement Contract. It shall be submitted to the Authority conducting the Governmental Procurement no later than when the Offeror submits its proposal.

FORM C (Continued)

Offeror's Disclosure of Prior Non-Responsibility Determinations

Name of Individual or Entity Seeking to Enter into the Procurement Contract:

Address: _____

Name and Title of Person Submitting this Form: _____

Contract Procurement Number: _____

Date: _____

1. Has any Governmental Entity made a finding of non-responsibility regarding the individual or entity seeking to enter into the Procurement Contract in the previous four years? (Please circle):
No Yes

If yes, please answer the next questions:

2. Was the basis for the finding of non-responsibility due to a violation of State Finance Law §139-j (Please circle):
No Yes

3. Was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a Governmental Entity? (Please circle) No Yes

4. If you answered yes to any of the above questions, please provide details regarding the finding of non-responsibility below.

Governmental Entity: _____

Date of Finding of Non-Responsibility: _____

Basis of Finding of Non-Responsibility: _____

(Add additional pages as necessary)

CONTRACT TERMINATION PROVISION

Instructions:

A Contract Termination Provision will be included in each procurement contract governed by State Finance Law §139-k. New York State Finance Law §139-k(5) provides that every procurement contract award subject to the provisions of State Finance Law §§139-k and 139-j shall contain a provision authorizing the governmental entity to terminate the contract in the event that the certification is found to be intentionally false or intentionally incomplete. This statutory contract language authorizes, but does not mandate, termination. “Government Entity” and “procurement contract” are defined in State Finance Law §§ 139 j(1) and 139-k(1).

This required clause will be included in a covered procurement contract.

A sample of the Termination Provision is included below. If a contract is terminated in accordance with State Finance Law §139-k(5), the Erie County Water Authority, as a governmental entity, is required to include a statement in the procurement record describing the basis for any action taken under the termination provision.

Sample Contract Termination Provision

The Erie County Water Authority, as a governmental entity, reserves the right to terminate this contract in the event it is found that the certification filed by the Offeror in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, the Authority may exercise its termination right by providing written notification to the Offeror in accordance with the written notification terms of this contract.

**OFFERER’S STATEMENT REGARDING PREVENTION OF
UNLAWFUL DISCRIMINATORY PRACTICES**

The Erie County Water Authority (the “Authority”), as an employer in New York State, is subject to the Human Rights Law, codified as Executive Law §290, *et. seq.*, and Labor Law §201-g. The Authority seeks to provide a work environment that is free from unlawful discriminatory practices as they are defined in Executive Law §296, as well as from inappropriate harassing conduct even if not deemed unlawful, to its employees, contractors, subcontractors, vendors, consultants, and any other person providing services on Authority premises. Pursuant to the Human Rights Law, it shall be unlawful to discriminate against an individual, or to subject an individual to harassment, due to age, race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or status as a victim of domestic violence. Accordingly, the Authority requires that any Offeror of a proposal or bid, agree to sign the following statement regarding unlawful discriminatory practices, including, but not limited to sexual harassment, under penalty of perjury. This statement should be provided to the Authority as early as possible in the procurement process, but not later than at the time of execution of a contract with the Authority. Failure to agree to sign the statement may result in the Authority deeming the bid or proposal withdrawn by the Offeror.

Offerer Statement:

I certify, under penalty of perjury, that the following statements are accurate:

- *Offerer is aware of its obligations under the Human Rights Law (Executive Law §290, et. seq.*
- *Offerer complies with the provisions of Executive Law §290, et. seq., including Executive Law §296, and does not permit unlawful discriminatory practices or harassment based on an individual’s age, race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or status as a victim of domestic violence in its workplace.*
- *Offerer complies with the provisions of Labor Law §201-g, has implemented a written policy addressing sexual harassment in the workplace which meets the minimum standards of Labor Law §201-g, and provides annual sexual harassment prevention training to all of its employees.*

By: _____ Date: _____

Name: _____

Title: _____

Offeror Name: _____

Offeror Address: _____

INSURANCE REQUIREMENTS

Request for Proposals – Health Services and Drug Screening Project No. 202200063

Insurance specs:

The following minimum insurance requirements shall apply to vendors providing services to the Erie County Water Authority (the Authority). If a service or project, in the opinion of the Authority, represents an unusual or exceptional risk, the Authority may establish additional insurance requirements for that service or project. All insurance required herein shall be obtained at the sole cost and expense of the contractor, including deductibles and self-insured retentions, and shall be in full force and effect on the contract commencement date and for the lifetime use of vendors “Product” and/or applicable statute of limitation. These requirements include but are not limited to the minimum insurance requirements.

Insurance Requirements:

a. Workers Compensation:

Part 1: Workers Compensation: Statutory

Part 2: Employers Liability: \$1,000,000.

Note: If New York State domiciled employees are used, coverage to be New York Statutory for both Parts 1 and 2

b. New York Disability Benefits Liability: Statutory coverage if New York State domiciled employees are used.

c. Commercial General Liability:

- \$2,000,000. General Aggregate
- \$2,000,000. Products/Completed Operations Aggregate
- \$1,000,000. Each Occurrence
- \$1,000,000. Personal Injury/Advertising Liability
- Per Project/Job Aggregate Limit Required
- Erie County Water Authority to be scheduled as an Additional Insured for both on-going and completed operations (attach Additional Insured endorsement to Certificate of Insurance)
- Insurance to be primary and non-contributory

d. Automobile Liability:

- \$1,000,000. Each Accident
- Erie County Water Authority to be scheduled as an Additional Insured.

e. Umbrella Liability:

- \$5,000,000. Each Occurrence
- \$5,000,000. Aggregate
- Per Project/Job Aggregate Limit Required
- Erie County Water Authority to be scheduled as an Additional Insured

f. Medical Professional Liability/Errors & Omissions:

- \$1,000,000. Per Claim
- \$3,000,000. Aggregate

Certificates of Insurance to be provided to the Authority prior to start of work as follows:

ACORD 25 including copy of Additional Insured Endorsement

Note: If coverage provided for NYS domiciled employees require Forms C 105.2 and DB 120.1 for Workers Compensation and NYS DBL.

Certificates of Insurance, on forms approved by the New York State Department of Insurance, must be submitted to the Authority prior to the award of contract. Renewals of Certificates of Insurance, on forms approved by the New York State Department of Insurance, must be received by the Authority 30 days prior to the expiration of the insurance policy period.

Certificates of Insurance and renewals, on forms approved by the New York State Department of Insurance, must be submitted to the Authority prior to the award of contract. Each insurance carrier issuing a Certificate of Insurance shall be rated by A. M. Best no lower than “A-” with a Financial Strength Code (FSC) of at least VII. The professional service provider shall name the Authority, its officers, agents and employees as additional insured on a Primary and Non-Contributory Basis, including a Waiver of Subrogation endorsement (form CG 20 26 11 85 or equivalent), on all applicable liability policies. Any liability coverage on a “claims made” basis should be designated as such on the Certificate of Insurance. Such insurance shall continue through the term of this Agreement and vendor shall purchase at his sole expense either 1) an Extended Reporting Endorsement (also, known as Tail Coverage); or 2) Prior Acts Coverage from new insurer with a retroactive date back to the date of, or prior to, the inception of this Agreement; or 3) demonstrate through Certificates of Insurance that vendor has Maintained continuous coverage with the same or original insurer. Coverage provided under items; 1), 2), or 3) will continue as long as the law allows.

To avoid confusion with similar insurance company names and to properly identify the insurance company, please make sure that the insurer’s National Association of Insurance Commissioners (N.A.I.C.) identifying number or A. M. Best identifying number appears on the Certificate of Insurance. Also, at the top of the Certificate of Insurance, please list the project number.

Acceptance of a Certificate of Insurance and/or approval by the Authority shall not be construed to relieve the outside vendor of any obligations, responsibilities, or liabilities.

Certificates of Insurance should be e-mailed to mmusarra@ecwa.org or mailed to Ms. Molly Jo Musarra, Claim Representative/Risk Manager Erie County Water Authority, 295 Main Street – Room 350, Buffalo, New York 14203-2494, or If you have any questions you can contact Ms. Musarra by e-mail or phone (716) 849-8465.