

December 21, 2017

SUBJECT: REQUEST FOR PROPOSALS FOR THE PERFORMANCE OF EXPERT PROFESSIONAL SERVICES FOR ASSET LIFE CYCLE MANAGEMENT AND FOR OPERATIONS ANALYSIS ACROSS ALL DEPARTMENTS AND FACILITIES ON A “CALL-IN” BASIS DURING 2018 (RFP# 51503) ADDENDUM #3

Dear Sir or Madam:

The Port Authority of New York and New Jersey hereby amends the subject Request for Proposals, dated December 8, 2017 as follows:

Agreement

1. On page 9, Section 21, after the last paragraph, skip a line and add the following:

“The Consultant must submit an MBE/WBE Participation Plan for each MBE/WBE subconsultant. Each Participation Plan shall contain, at a minimum, the following:

- Identification of the MBE/WBE: Provide the name and address of the MBE/WBE. If no MBE/WBEs are identified, describe the process for selecting participant firms in order to achieve the good-faith goals under this Agreement.
- Level of Participation: Indicate the dollar value and percentage of MBE/WBE participation expected to be achieved.
- Scope of Work: Describe the specific scope of work the MBE/WBEs will perform.

The MBE/WBE subconsultant listed on each of the MBE/WBE Participation Plans must be certified by the Authority in order for the Consultant to receive credit toward the MBE/WBE goals set forth in this Agreement. Please go to <http://www.panynj.gov/business-opportunities/sd-mwsdbe-profile.html> to search for MBE/WBEs by a particular commodity or service. The Authority makes no representation as to the financial responsibility of these firms or their ability to perform work under this Agreement.

Subsequent to Agreement award, all changes to any of the MBE/WBE Participation Plans must be submitted via a Modified MBE/WBE Participation Plan to the Project Manager for review and approval by OBD CR. For submittal of modifications to the MBE/WBE Plan, Consultants are directed to use Form PA3760D. The Consultant shall not make changes to any of its approved MBE/WBE Participation Plans or substitute MBE/WBE subconsultants or suppliers for those named in their approved plans without the Manager’s prior written approval. Unauthorized changes or substitutions, including performing the work designated for a subconsultant with the Consultant’s own forces, shall be a violation of this section. Progress toward attainment of

MBE/WBE participation goals set forth herein will be monitored throughout the duration of the Agreement.

The Consultant shall also submit to the Project Manager, along with invoices, the Statement of Subcontractor Payments, which may be downloaded at <http://www.panynj.gov/business-opportunities/become-vendor.html>. The Statement must include the name and business address of each MBE/WBE subconsultant and supplier actually involved in the Agreement, a description of the work performed and/or product or service supplied by each such subcontractor or supplier, the date and amount of each expenditure, and such other information that may assist the Project Manager in determining the Consultant's compliance with the foregoing provisions.

MBE/WBE Conditions of Participation

MBE/WBE participation will be counted toward meeting the MBE/WBE agreement goal, subject to all of the following conditions:

1. **Commercially Useful Function:** An MBE/WBE is considered to perform a commercially useful function when it is responsible for the execution of a distinct element of work on a contract and carries out its responsibilities by actually performing, managing, and supervising the work involved in accordance with normal industry practice. Regardless of whether an arrangement between the Consultant and the MBE/WBE represent standard industry practice, if the arrangement erodes the ownership, control or independence of the MBE/WBE or in any other way does not meet the commercially useful function requirement, that firm shall not be included in determining whether the MBE/WBE goal is met and shall not be included in MBE/WBE reports. If this occurs with respect to a firm identified as an MBE/WBE, the Consultant shall receive no credit toward the MBE/WBE goal and may be required to backfill the participation. An MBE/WBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction or contract through which funds are passed in order to obtain the appearance of MBE/WBE participation. An MBE/WBE may rebut a determination by the Authority that the MBE/WBE is not performing a commercially useful function to the Authority.
2. **Work Force:** The MBE/WBE must employ a work force (including administrative and clerical staff) separate and apart from that employed by the Contractor, other Subcontractors on the contract, or their Affiliates. This does not preclude the employment by the MBE/WBE of an individual that has been previously employed by another firm involved in the Contract, provided that the individual was independently recruited by the MBE/WBE in accordance with customary industry practice. The routine transfer of work crews from another employer to the MBE/WBE shall not be allowed.
3. **Supervision:** All Work performed by the MBE/WBE must be controlled and supervised by the MBE/WBE without duplication of supervisory personnel from the Consultant, other subconsultants on the agreement, or their Affiliates. This does not preclude routine communication between the supervisory personnel of the MBE/WBE and other supervisors necessary to coordinate the Work.

Counting MBE/WBE Participation

The value of the Work performed by an MBE/WBE, with its own equipment, with its own forces, and under its own supervision will be counted toward the goal, provided the utilization is a commercially useful function. An MBE/WBE prime contractor shall still provide opportunities for participation by other MBE/WBEs. Work performed by MBE/WBEs will be counted as set forth below. If the Authority determines that some or all of the MBE/WBEs work does not constitute a

commercially useful function, only the portion of the work considered to be a commercially useful function will be credited toward the goal.

1. Subconsultants: One hundred percent (100%) of the value of the Work to be performed by an MBE/WBE subconsultant will be counted toward the MBE/WBE goal. The value of such Work includes the cost of materials and supplies purchased by the MBE/WBE, except the cost of supplies or equipment leased from the Consultant, other subconsultants or their affiliates will not be counted. When an MBE/WBE subcontracts part of the work of its contract to another firm, the value of the subconsultant work may be counted toward MBE/WBE goals only if the MBE/WBE subconsultant is itself an MBE/WBE. Work that an MBE/WBE subconsultants to a non-MBE/WBE firm does not count toward MBE/WBE goals.
2. Material Suppliers: Sixty percent (60%) of the expenditure to an MBE/WBE material supplier will be counted toward the MBE/WBE goal. Packagers, brokers, manufacturer's representatives, or other persons who arrange or expedite transactions are not material suppliers within the meaning of this paragraph.
3. Broker's/Manufacturer's Representatives: One hundred percent (100%) of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees for transportation charges for the delivery of materials or supplies provided by an MBE/WBE broker/manufacturer's representative will be counted toward the MBE/WBE goal, provided they are determined by the Authority to be reasonable and not excessive as compared with fees customarily allowed for similar services. The cost of the materials and supplies themselves will not be counted.
4. Services: One hundred percent (100%) of fees or commissions charged by an MBE/WBE for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of the Work will be counted toward the MBE/WBE goal, provided the fee is reasonable and not excessive as compared with fees customarily allowed for similar services.
5. Joint Venture: Joint ventures between MBE/WBEs and non-MBE/WBEs may be counted toward the MBE/WBE goal in proportion to the total dollar value of the Agreement equal to the distinct, clearly defined portion of the work of the contract that the MBE/WBE performs with its own forces. Contact OBDCR at (201) 395-3958 for more information about requirements for such joint ventures.”

The date for receipt of proposals for the subject RFP remains 2:00 P.M. on January 5, 2018.

If you have any questions, please contact Ms. Courtney R. Eddington, Senior Contract Specialist, at ceddington@panynj.gov.

Sincerely,

David Gutiérrez, CPPO
Assistant Director
Procurement Department