



MARK J. F. SCHROEDER
COMPTROLLER

CITY OF BUFFALO

DEPARTMENT OF
AUDIT AND CONTROL

1225 CITY HALL
BUFFALO, NEW YORK 14202
716-851-5255

ANNE FORTI-SCIARRINO, CPA
FIRST DEPUTY COMPTROLLER

GREGG S. SZYMANSKI, CPA
DEPUTY COMPTROLLER
INVESTMENT & DEBT MANAGEMENT

WILLIAM D. FERGUSON, CPA
DEPUTY COMPTROLLER
CITY ACCOUNTANT

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DEPUTY COMPTROLLER
CITY AUDITOR

REQUEST for PROPOSALS for **BOND COUNSEL SERVICES**

Issuance Date: October 16, 2017

Submission Deadline: November 16, 2017 by 4:00 p.m.

ADDRESS ALL PROPOSALS TO:

Mark J. F. Schroeder
Comptroller
City of Buffalo
65 Niagara Square, Room 1225
Buffalo, New York 14202
(716) 851-5255



SEALED BID INSTRUCTIONS

All bids must be sealed and must be addressed to the City Comptroller's Office, Mark J. F. Schroeder, 65 Niagara Square, 1225 City Hall, Buffalo, NY 14202. BID ENVELOPES MUST BE CLEARLY MARKED 'SEALED BID' AND SHOW THE PROPOSAL TITLE, OPENING DATE AND NAME OF BIDDER.

All bidders are hereby notified that sealed bids must be in the City Comptroller's Office by the time of the bid opening. Bidders are cautioned that it is their responsibility to originate the sending of bids in sufficient time to ensure receipt by the City Comptroller's Office prior to the time of the bid opening. Hand-carried bids shall be delivered to a representative of the City Comptroller's Office prior to the bid opening. Bids not in possession of the City Comptroller's Office at the time of the bid opening will not be considered.

All bids will be opened and reviewed by the Evaluation Committee of the Office of the City of Buffalo Comptroller.

PURPOSE OF REQUEST

The City of Buffalo (hereafter the “City”) is requesting proposals from qualified legal firms to provide Bond Counsel Services. Proposals will be evaluated in accordance with the criteria set forth in this Request for Proposals (RFP). Using this RFP, the City intends to select a firm who shall be available to provide legal and bond counsel services as needed to the City, its various Boards and its officers and employees which shall be coordinated through the City Comptroller’s Office.

GLOSSARY

The following definitions shall apply to and are used in this Request for Proposals (RFP):

“City” - refers to the City of Buffalo.

“Proposal” - refers to the complete responses to this RFP submitted by the Respondents.

“Qualified Respondent” - refers to those Respondents who (in the sole judgment of the City) have satisfied the qualification criteria set forth in this RFP.

“RFP” - refers to this Request for Proposals, including any amendments thereof or supplements thereto.

“Respondent” or “Respondents” - refers to the interested firm(s) that submit a Proposal.

1. INTRODUCTION AND GENERAL INFORMATION

1.1. Introduction and Purpose

The City is soliciting Proposals from interested persons and/or firms for the provision of professional Bond Counsel services, as more particularly described herein. Through a Request for Proposal process described herein, persons and/or firms interested in assisting the City with the provision of such services must prepare and submit a Proposal in accordance with the procedure and schedule in this RFP. The City will review Proposals only from those firms that submit a Proposal which includes all information required to be included as described herein (in the sole judgment of the City).

The City intends to qualify firm(s) that (a) possesses the professional, financial and administrative capabilities to provide the proposed services, and (b) will agree to work under the compensation terms and conditions determined by the City to provide the greatest benefit to the taxpayers of the City.

1.2. Procurement Process and Schedule

The City has structured a procurement process that seeks to obtain the desired results described above, while establishing a competitive, fair, and open process to assure that each person and/or firm is provided an equal opportunity to submit a Proposal in response to the RFP. Proposals will be evaluated in accordance with the criteria set forth within this RFP, which will be applied in the same manner to each Proposal received.

Proposals will be reviewed and evaluated by the City's Comptroller's evaluation committee. The Proposals will be reviewed to determine if the Respondent has met the minimum professional, administrative and financial areas described in this RFP. Based upon the totality of the information contained in the Proposal, including information about the reputation and experience of each Respondent, the Comptroller will determine which Respondents are qualified (professionally, administratively and financially).

The RFP process commences with the issuance of this RFP. The steps involved in the process and the anticipated completion dates are set forth in Table 1, Procurement Schedule. The City reserves the right to, among other things, amend, modify or alter the Procurement Schedule upon notice to all potential Respondents.

All communications concerning this RFP or the RFP process shall be directed to the City's designated contact person:

Gregg S. Szymanski, CPA.
Investment and Debt Management Officer
Department of Audit and Control
1225 City Hall, 65 Niagara Square
Buffalo, NY 14202
Telephone: 716-851-5265
Fax: 716-851-4358
E-Mail: gszymanski@ch.ci.buffalo.ny.us

All e-mail communication with Mr. Szymanski must include the words "Bond Counsel RFP" in the subject line.

Interested parties are encouraged to refer to the City's website (below) regarding questions asked and answered.

http://www.city-buffalo.com/Home/City_Departments/Administration_Finance_Policy_and_Urban_Affairs/Purchasing_Division/CalendarofUpcomingFormalBids

Proposals must be submitted to, and be received by the Comptroller's Office, via mail or hand delivery, by 4:00 p.m. on November 16, 2017. Proposals will not be accepted by facsimile or e-mail transmissions. Proposals shall be opened in the City Comptroller's Conference room, located at 65 Niagara Square, Room 1226, Buffalo, New York 14202 on November 16, 2017, at 4:00 P.M.

Subsequent to issuance of this RFP, the City (through the issuance of addenda to all persons and/or firms that have received a copy of the RFP and posting on the City's web site listed above) may modify, supplement or amend the provisions of this RFP in order to respond to inquiries received from prospective Respondents or as otherwise deemed necessary or appropriate by (and in the sole judgment of) the City.

TABLE 1
ANTICIPATED PROCUREMENT SCHEDULE
ACTIVITY DATE

1. Issuance of Request for Proposals – October 16, 2017.
2. Questions by email due by October 30, 2017
3. Answers to questions will be issued on November 6, 2017.
4. Receipt of Proposals due by 4:00 p.m. on November 16, 2017.
5. Interview with prospective Respondents (if necessary) – December 11-12, 2017
6. Review Process/Determination – December 18, 2017.

1.3. Conditions Applicable to RFP

Upon submission of a Proposal in response to this RFP, the Respondent acknowledges and consents to the following conditions relative to the submission and review and consideration of its Proposal:

- All costs incurred by the Respondent in connection with responding to this RFP shall be borne solely by the Respondent.
- The City reserves the right (in its sole judgment) to reject for any reason any and all responses and components thereof and to eliminate any and all Respondents responding to this RFP from further consideration for this procurement.
- The City reserves the right (in its sole judgment) to reject any Respondent that submits incomplete responses to this RFP, or a Proposal that is not responsive to the requirements of this RFP.
- The City reserves the right, without prior notice, to supplement, amend, or otherwise modify this RFP, or otherwise request additional information.
- All Proposals shall become the property of the City and will not be returned.
- All Proposals will be made available to the public at the appropriate time, as determined by the City (in the exercise of its sole discretion) in accordance with law.
- The City may request Respondents to send representatives to the City for interviews.
- Any and all Proposals not received by the Comptroller's Office by 4:00 p.m. on November 16, 2017 will be rejected.
- Neither the City, nor its officers, officials or employees shall be liable for any claims or damages resulting from the solicitation or preparation of the Proposal, nor will there be any reimbursement to Respondents for the cost of preparing and submitting a Proposal or for participating in this procurement process.

1.4. Rights of the City

The City reserves, holds and may exercise, at its sole discretion, the following rights and options with regard to this RFP and the procurement process in accordance with the provisions of applicable law:

- To determine that any Proposal received complies or fails to comply with the terms of this RFP.
- To supplement, amend or otherwise modify the RFP through issuance of addenda to all prospective Respondents who have received a copy of this RFP.
- To waive any technical non-conformance with the terms of this RFP.
- To change or alter the schedule for any events called for in this RFP upon the issuance of notice to all prospective Respondents who have received a copy of this RFP.
- To conduct investigations of any or all of the Respondents, as the City deems necessary or convenient, to clarify the information provided as part of the Proposal and to request additional information to support the information included in any Proposal.
- To suspend or terminate the procurement process described in this RFP at any time (in its sole discretion). If terminated, the City may determine to commence a new procurement process or exercise any other rights provided under applicable law without any obligation to the Respondents.
- The City shall be under no obligation to complete all or any portion of the procurement process described in this RFP.

1.5. Addenda or Amendments to RFP

During the period provided for the preparation of responses to the RFP, the City may issue addenda, amendments or answers to written inquiries. Those addenda will be noticed by the City and will constitute a part of the RFP. All responses to the RFP shall be prepared with full consideration of the addenda issued prior to the Proposal submission date.

1.6. Cost of Proposal Preparation

Each Proposal and all information required to be submitted pursuant to the RFP shall be prepared at the sole cost and expense of the Respondent. There shall be no claims whatsoever against the City, its officers, officials or employees for reimbursement for the payment of costs or expenses incurred in the preparation of the Proposal or other information required by the RFP.

1.7. Proposal Format

Proposals must cover all information requested in this RFP. Proposals which in the judgment of the City fail to meet the requirements of the RFP or which are in any way conditional, incomplete, obscure, contain additions or deletions from requested information, or contain errors may be rejected.

2. SCOPE OF SERVICES

The City of Buffalo Comptroller is seeking a qualified firm to serve as Bond Counsel to the City on all debt issues during the contract period. Annually the City expects to issue approximately \$25 million general obligation debt, exclusive of refunding bonds and may issue additional short term debt as needed. The firm selected will be expected to provide: 1) all the duties of a Bond Counsel related to issuance of debt; and; 2) specialized legal counsel related to general municipal finance law. The scope is further described in Appendix A, attached hereto.

3. SUBMISSION REQUIREMENTS

3.1. General Requirements

The Proposal submitted by the Respondent must meet or exceed the professional, administrative and financial qualifications set forth in this Section 3 and shall incorporate the information requested below.

In addition to the information required as described below, a Respondent may submit supplemental information that it feels may be useful in evaluating its Proposal. Respondents are encouraged to be clear, factual, and concise in their presentation of information.

3.2. Administrative Information Requirements

The Respondent shall, as part of its Proposal, provide the following information:

1. An executed letter of intent, which must be signed by someone authorized to bind the firm to all commitments made in its response.
2. An executive summary (not to exceed two (2) pages) of the information contained in all the other parts of the Proposal.
3. Name, address and telephone number of the Respondent submitting a Proposal pursuant to this RFP, **and the name of the key contact person.**
4. A description of the business organization (*i.e.*, corporation, partnership, joint venture, etc.) of each Respondent, its ownership and its organizational structure.
5. A statement that the Respondent has complied with all applicable affirmative action (or similar) requirements with respect to its business activities, together with evidence of such compliance.
6. The number of years Respondent has been in business under the present name.
7. Any judgments within the last three (3) years in which Respondent has been adjudicated liable for professional malpractice. If yes, please explain.
8. Confirm the ability to meet the Insurance Coverage Requirement as included in Appendix B, attached hereto.

9. Whether the Respondent is now or has been involved in any bankruptcy or reorganization proceedings in the last ten (10) years. If yes, please explain.
10. A statement that the Respondent, if successful, can adhere to, and would be willing to execute, a contract or document similar containing such provisions as provided in Appendix B, attached hereto.
11. Confirm appropriate federal and state licenses to perform activities.
12. Whether the Respondent has any existing or potential conflicts of interest that would prevent the Respondent from fully performing the tasks described in this RFP.

3.3. Professional Information Requirements.

1. Respondent shall submit a description of its overall experience in providing the type of services sought in the RFP. At a minimum, the following information on past experience should be included as appropriate to the RFP:
 - Description and scope of work by Respondent.
 - Name, address and contact information of references.
 - Explanation of perceived relevance of the experience to the RFP.
2. Brief description of Respondent's relevant clients including municipal government clients in New York State during the last three (3) years.
3. Names and resumes of attorneys who will be assigned to provide legal services to the City.
4. A narrative statement of the Respondent's understanding of the City's needs and goals.

3.4. Specific Tax Information

1. Provide a sample tax questionnaire.
2. Provide your firm's primary contact for these tax related issues.
3. What does your firm believe are the primary federal tax risks/exposures that municipalities face, especially in light of increased IRS attention?
4. How would your firm assist the City to mitigate such exposures?

3.5. Professional References

For each reference the Respondent must include the name, address, e-mail address, and telephone numbers of individuals qualified to provide information from both the management and technical viewpoints.

1. Please list all clients in New York State who have hired your firm for bond counsel services during the past three years, including name, title and telephone number of contact.
2. Please provide contact information requested above for three references from current clients in New York State similar to the City of Buffalo in size and

sophistication. Include the length of time during which services were performed; and a description of the specific services provided.

3. Please provide a statement as to whether the firm is listed in the directory of municipal bond attorneys in The Bond Buyer's Municipal Marketplace.
4. Please list all clients who have terminated your relationship during the past three years, and their reasons for doing so. Please include the name, title and telephone number of contact.

3.6. Price Proposal

1. For each of the following services, you must state your Firm's proposed fees:
 - Fee for preparation of each Bond Resolution.
 - Fee per issuance of each \$5,000,000 of General Obligation Notes (e.g.: TANs, RANs, BANs) and maximum fee per transaction, if applicable.
 - Fee per issuance of each \$5,000,000 of General Obligation Bonds (e.g.: taxable or tax-exempt) and maximum fee per transaction, if applicable.
 - Fee per issuance of each \$5,000,000 of General Obligation Refunding Bonds and maximum fee per transaction, if applicable.
 - Hourly rates of the individuals identified for services that may be required that are not covered by any of the above categories. Please indicate any discounted rates for governmental entities.
2. Prepare an Itemized Invoice, under a Competitive Bid Scenario, based upon the following:
 - A. Bond Counsel Responsibilities:
 - Preparation (drafting) of all bond resolutions via City project information and required reviews (SEQR, etc.) in a form acceptable for filing with the Common Council for adoption.
 - Assists and/or reviews the preparation and advertising of the City's 30-Day Comment and 20-Day Estoppel Periods.
 - Review of borrowing for Private Use and exposure to Tax Implications.
 - Review of the City's Official Statement for content and editorial assistance.
 - Analysis on report of bids pertaining to IRS rules, Arbitrage and Local Finance Law.
 - Bond Sale Closing; includes the procurement of any and all documents.
 - B. Borrowing Specifics:
 - General Obligation Bonds \$24,360,000 w/23 resolutions.

- General Obligation Refunding Bonds \$21,220,000 w/1 resolution.
3. Provide your firm's charge structure for services rendered outside the issuance of bonds?

Proposals must be received by the City no later than 4:00 p.m. on November 16, 2017, and must be mailed or hand-delivered to Office of the Comptroller, 65 Niagara Square, Room 1225, Buffalo, New York 14202. Proposals forwarded by facsimile or e-mail will not be accepted.

To be responsive, Proposals must provide all requested information, and must be in strict conformance with the instructions set forth herein. Proposals and all related information must be bound, and signed and acknowledged by the Respondent.

The successful Respondent to this RFP can expect a contract with the City on the date of the awarding of the RFP for a term of five years. This agreement may be terminated by either party with 90 days written notice to the other party with or without cause.

4. EVALUATION

The City's objective in soliciting Proposals is to enable it to select a Respondent that will provide high quality and cost effective services to the citizens of Buffalo. The City will consider Proposals only from Respondents that, in the City's sole judgment, have demonstrated the capability and willingness to provide high quality services to the citizens of the City in the manner described in this RFP. Proposals will be evaluated by the City on the basis of which is the most advantageous, with demonstrable experience and other factors considered. The evaluation will consider:

1. Experience and reputation in the field; and
2. Knowledge of New York municipal corporations; and
3. Familiarity and expertise in municipal finance; and
4. Complex transactional dealings; and
5. Availability to accommodate the required meetings of the City; and
6. Litigation experience and results; and
7. Pertinent government experience; and
8. The cost of services; and
9. Other factors demonstrated to be in the best interest of the City.

The City will select the most advantageous Proposal based on all of the evaluation factors set forth in this RFP. The City will make the award that is in the best interest of the City.

Each Proposal must satisfy the objectives and requirements detailed in this RFP except as otherwise stated. Successful Respondent shall be determined by an evaluation of the total content of the Proposal submitted and any follow-up interviews. The City reserves the right to not select any of the Proposals;

The City shall not be obligated to explain the results of the evaluation process to any Respondent.

Submission Requirements

Proposals must be received by the City no later than 4:00 p.m. on November 16, 2017, and must be mailed or hand-delivered to:

Hon. Mark J. F. Schroeder
Comptroller
City of Buffalo
65 Niagara Square, Room 1225
Buffalo New York 14202

Please submit one original and five (5) copies of the RFP on 8 ½” x 11” paper. Each submission must include a signed Non-Collusion Certification and Form 2A- Bidders Affirmative Action Statement.

BID ENVELOPES MUST BE CLEARLY MARKED “SEALED BIDS” AND SHOW THE PROPOSAL TITLE, OPENING DATE AND NAME OF BIDDER.

APPENDIX “A”

BOND COUNSEL SCOPE OF SERVICES

The firm selected will be expected to perform all of the normal duties associated with providing bond counsel services on all General Obligation debt issues during the contract period. At the request of the City, the firm will also provide specialized legal counsel related to general municipal finance.

The City of Buffalo issues annually approximately \$25 million in general obligation debt exclusive of refundings and may issue additional short term debt.

A. Specialized Services

1. Provide legal counsel to the City on issues related to general municipal finance law and make presentations as needed to City staff, City Council, or other interested parties.
2. Recommend financial or management policies to assure compliance with applicable laws.
3. Advise concerning the applicable requirements of federal tax laws and changes thereto relating to existing debt instruments, including arbitrage rebate requirements.
4. Assist in interpreting SEC Rule 15c2-12 requirements for both annual and material event reporting for existing debt instruments.
5. At the City’s option, represent the City in any litigation related to tax-exempt bonds.
6. If necessary, review and advise on the use of municipal leases.

B. Services at the time of Debt Issuance

1. Advise the City concerning the procedural and substantive legal requirements governing the issuance and sale of its obligations and the security therefore.
2. Prepare or review City-drafted resolutions, ordinances, indentures, agreements, notices, and other documents and proceedings, including election proceedings, if required by statute, for the authorization, issuance, sale and delivery of bonds and notes by the City.
3. Advise the City with respect to the giving of statutory notices of hearing and the conducting of such hearings, if any, as are required by law.
4. Consult with and provide assistance to City staff, Financial Advisor, underwriters, etc. in the preparation of official statements, bond purchase contracts, investment agreements, and other documents in connection with the sale of City bonds.

5. Assist City Staff and the Financial Advisor regarding the bond issue structure, timing of sale, and other matters.
6. Advise and assist concerning state and federal securities laws relating to the necessary disclosure of factual and legal information with respect to such bond sales. This work would include due diligence review of the official statement and information relating to it to the extent deemed necessary to protect the interests of the City and all parties concerned in connection with the issuance of bonds and notes.
7. Advise concerning the applicable requirements of federal tax laws relating to the issuance and sale of the bonds.
8. Attend meetings as requested and make presentations regarding the debt issue to City staff, City Council or other interested parties.
9. Advise regarding compliance with yield restrictions and arbitrage regulations.
10. Assist in interpreting SEC Rule 15c2-12 requirements for both annual and material event reporting.
11. Provide the City and bond purchasers with a legal opinion approving the validity of the bonds and opining on the federal income tax status (exempt, taxable) of the interest to be paid on the bonds.
12. Supervise the printing and delivery of the City's bonds.
13. Prepare and review all closing documents, including opinions of other counsel as may be deemed necessary.
14. Assemble and examine transcripts of all proceedings taken in connection with the issuance and sale of the bonds.
15. At the City's option, represent the City in any litigation related to the bond issue.

APPENDIX “B” - CITY OF BUFFALO STANDARD RFP CONTRACT PROVISIONS

THIS AGREEMENT, entered the ____ day of _____ (Month), 20__, by and between

The CITY OF BUFFALO, a municipal corporation of the State of New York having its principal place of business at 65 Niagara Square, 1225 City Hall in the City of Buffalo, New York 14202, (hereinafter called the “City”); and _____, a (business corporation/ partnership/ sole proprietorship) created under the laws of the State of _____, and having its principal place of business at ____ (address), (hereinafter called the “Contractor”);

W I T N E S S E T H

WHEREAS on *(date)* the City issued a request for proposals seeking *(nature of service)*; and

WHEREAS, on *(date)* the Contractor submitted a response to the request for proposals;

Now, therefore, it is AGREED as follows:

1 Contract and Bond

1.1 Contract Documents

The contract consists of this document and the Request for Proposals, attached hereto and incorporated herein as if fully set forth herein, dated ____ including Attachments A, B, C, D if relevant in the City’s sole discretion and Contractor’s response to the request for proposals. These constitute the entire agreement between the parties.

1.2 Price

The price paid by the City to the Contractor shall be that set forth in the Response to the RFP.

2 Certificate of Non-Collusion

If the Contractor is a corporation, the execution of the non-collusive certification in its response to the request for proposals shall be deemed to include the signing to non-collusion as the act and deed of the corporation.

This contract shall not be binding or valid unless the proposal upon which it is awarded includes the statements as to non-collusion as set forth in the form of proposal.

2.1 The prices in the contract 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 applicant or competitor;

2.2 Unless otherwise required by law, the prices which have been quoted in the proposal have not been knowingly disclosed by the Applicant and will not be disclosed by the Applicant prior to opening, directly or indirectly, to any other Applicant or competitor;

2.3 No attempt has been made or will be made by the Applicant to induce any other person, partnership or corporation to submit a bid or proposal for the purpose of restricting competition.

3 Interest of Members of City

By executing this contract the Contractor certifies that no member of the governing body, and no officer, employee or agent of the City has or shall have any interest, financial or otherwise, direct or indirect, in this Contract.

4 Affirmative Action Statement

Contractor agrees to comply with the provisions of all applicable federal, state and City of Buffalo statutes, ordinances and regulations pertaining to civil rights and nondiscrimination.

5 Non-Discrimination

The contractor will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, sex, national origin, affection preference, disability, age, marital status or status with regard to public assistance or as a disabled veteran or veteran of the Vietnam era. Such prohibition against discrimination shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.

The contractor shall agree to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City, setting forth this nondiscrimination clause. In addition, the Applicant shall, in all solicitations or advertisements for employees placed by or on behalf of the Applicant, state that all qualified applicants will receive consideration for employment without regard to race, creed, religion, ancestry, sex, national origin, affectional preference, disability, age, marital status, status with regard to public assistance, status as disabled veteran or veteran of the Vietnam era, and comply in all other aspects with the requirements the Buffalo Code of Ordinances.

6 Reserved

7 Transfer of Interest

The Contractor shall not assign any interest in the Contract, and shall not transfer any interest in the same either by assignment or innovation without the prior written approval of the City, provided, however, that claims for money due or to income due to the contractor may be assigned to a bank, trust company or other financial institution, or to a Trustee in Bankruptcy without such approval. Notice to any such assignment or transfer shall be furnished to the City. The Contractor shall not subcontract any services under this contract without prior approval of the City or designated herein.

8 Compliance Requirements

All Applicants hired by the City of Buffalo are required by the regulations of the Americans with Disabilities Act of 1990 (ADA) that prohibits discrimination against individuals with disabilities. The contractor will not discriminate against any employee or applicant for employment because of their disability and will take affirmative action to ensure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, promotion, demotion, transfer, recruitment or recruitment advertising, layoff, discharge, compensation and fringe benefits, classification, referral and training. The ADA also requires Applicants associated with the City of Buffalo to provide qualified applicants and employees with disabilities with reasonable accommodation that does not impose undue hardship. Applicants also agree to post in a conspicuous place, accessible to employees and applicants, notices of their policy on non-discrimination. In the event of the contractor's noncompliance with the non-discrimination clauses of this contract, this contract may be canceled, terminated, or suspended, in whole or part,

and the contractor may be declared ineligible by the Buffalo Common Council from any further participation in City contracts in addition to other remedies as provided by law.

9 General Compliance

The Contractor agrees to comply with all applicable federal, state and local laws and regulations governing funds provided under this contract.

10 Performance Monitoring

The City will monitor the performance of the Contractor against goals and performance standards required herein. Substandard performance as determined by the City will constitute non-compliance with this agreement. If action to correct such substandard performance is not taken by the Contractor within a reasonable period of time after being notified by the City, contract termination procedures will be initiated. All work submitted by Contractor shall be subject to the approval and acceptance by the City or designated herein. The City or designated herein shall review each portion of the work when certified as complete and submitted by the Contractor and shall inform the Contractor of any apparent deficiencies, defects, or incomplete work, at any stage of the project.

11 Independent Contractor

Nothing contained in this agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of agent or employer/employee between the parties. The Contractor shall at all times remain an independent contractor with respect to the services to be performed under this Contract. Any and all employees of Contractor or other persons engaged in the performance of any work or services required by Contractor under this Contract shall be considered employees or sub-Applicants of the Contractor only and not of the City; and any and all claims that might arise, including Worker's Compensation claims under the Worker's Compensation Act of the State of New York or any other state, on behalf of said employees or other persons while so engaged in any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of contractor.

12 Hold Harmless and Insurance

The Contractor shall defend, indemnify and hold harmless the City, its officers and employees, from any liabilities, claims, damages, costs, judgments, and expenses, including, but not limited to, attorneys' fees, resulting directly or indirectly from Contractor's work and or from an act or omission of the contractor, its employees, its agents, subcontractors or employees thereof, in the performance of the services provided by this contract or by reason of the failure of the contractor to fully perform, in any respect, any of its obligations under this contract. In furtherance of the indemnity contractor shall provide the insurance coverage set forth herein.

The contractor shall procure and maintain at his own expense without cost to the City, insurance for liability for damages arising from operations under the Contract resulting in bodily injury, sickness and disease, including death, and for damage to or loss of use of property. The City of Buffalo must be named as Additional Insured on the Contractor's general liability and automobile liability policies.

The Contractor shall furnish to the City a certificate or certificates of insurance in a form satisfactory to the City's Corporation Counsel showing compliance with all insurance requirements set forth herein, which certificate or certificates shall provide that the policies shall not be changed or cancelled until thirty (30) days written notice has been given to the City. The Contractor shall procure insurance coverage as hereinafter indicated.

LIABILITY AND PROPERTY DAMAGE:

(1) GENERAL LIABILITY INSURANCE issued to the Contractor and naming City as additional insured.

(2) Unless otherwise specifically required by special specifications, such policy shall have limits of not less than the following:

BODILY INJURY	
LIABILITY	
PROPERTY DAMAGE LIABILITY	
Limits:	
Each Occurrence	\$1,000,000
Aggregate	\$1,000,000

MOTOR VEHICLE INSURANCE:

Issued to the contractor and covering public liability and property damage on all utilized vehicles and naming the City as additional insured with coverage in the amount of at least:

BODILY INJURY	
LIABILITY	
PROPERTY DAMAGE LIABILITY	
Limits:	
Each Occurrence	\$1,000,000
Aggregate	\$1,000,000

PROFESSIONAL LIABILITY \$1,000,000

**NEW YORK STATE WORKERS COMPENSATION AND DISABILITY INSURANCE-
STATUTORY**

These are the minimum requirements that the selected Respondent must supply.

Each insurance company must be admitted in New York State. Evidence of Workers Compensation must be on the New York Form. Each insurance company must be authorized to do business in New York State.

13 Accounting Standards

The Contractor agrees to maintain the necessary source documentation and enforce sufficient internal controls as dictated by generally accepted accounting practices to properly account for expenses incurred under this contract.

14 Retention of Records

The Contractor shall retain all records pertinent to expenditures incurred under this contract for a period of three years after the resolution of all audit findings. Records for non-expendable property acquired with funds under this contract shall be retained for three years after final disposition of such property.

15 Inspection of Records

All Contractor records with respect to any matters covered by this agreement shall be made available to the City or its designees at any time during normal business hours, as often as the City deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data.

16 Living Wage Policy

The Buffalo Living Wage ordinance applies to City contracts for services of more than \$50,000 value when the City contracts with a contractor employing more than ten people. By entering this contract the Contractor agrees to abide by the terms of the City of Buffalo Living Wage Ordinance.

17 Applicable Law

The laws of the City of Buffalo and State of New York shall govern all interpretations of this contract, and the appropriate venue and jurisdiction for any litigation (and for any and all proceedings relating to any disputes) which may arise hereunder will be in those courts located within the County of Erie, State of New York, regardless of the place of business, residence or incorporation of the Contractor.

18 Conflict and Priority

In the event that a conflict is found between provisions in this Contract, the Contractor's Proposal or the City's Request for Proposals, the provisions in the following rank order shall take precedence:

1. The RFP
2. This Contract
3. Contractor's proposal (or so much thereof as has not been omitted by City)

19 Ownership of Materials

All finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials resulting from this Contract shall become the property of the City upon final approval of the final report or upon request by the City at any time before then. The City may use, extend, or enlarge any document produced under this Contract without the consent, permission of, or further compensation to the Contractor.

20 Termination

The City may cancel this Contract for any reason with or without cause upon thirty (30) days written notice. If either party fails to fulfill its obligations under the Contract in a proper and timely manner, or otherwise violates the terms of this Contract, the other party shall have the right to terminate this Contract, if the default has not been cured after a ten (10) days written notice has been provided. If termination shall be without cause, the City shall pay contractor all compensation earned to the date of termination. If the termination shall be for breach of this Contract by Contractor, the City shall pay Contractor all compensation earned prior to the date of termination minus any damages and costs incurred by the City as a result of the breach. If the contract is canceled or terminated, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by the Contractor under this agreement shall, at the option of the City, become the property of the City, and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

Notwithstanding the above, the Contractor shall not be relieved of liability to the City for damages sustained by the City as a result of any breach of this Contract by the Contractor. The City may, in such event, withhold payments due to the Contractor for the purpose of set-off until such time as

the exact amount of damages due to the City is determined. The rights or remedies provided for herein shall not limit the City, in case of any default by the Contractor, from asserting any other right or remedy allowed by law, equity, or by statute.

21 Prime Contractor Responsibilities

All sub-contractors will be subject to approval by the City. Prior to contract execution, the successful Applicant will be required to furnish the corporate or company name and the names of the officers and principals of all subcontractors. Notwithstanding any such approval by the City, the successful Applicant shall itself be solely responsible for the performance of all work set forth in any contract resulting from the RFP and for compliance with the price and other terms provided in the contract. The successful Applicant shall cause the appropriate provisions of its proposal and the contract to be inserted in all subcontracts.

The City's consent to or approval of any subcontract or subcontractor proposed by an Applicant shall not create or purport to create any obligation of the City to any such subcontractor, or any form of contractual relationship or relationship of privity between the City and the subcontractor. Any Applicant who obtains such approval or consent of the City shall be required to insert a clause so providing in all subcontracts.

22 Disclaimer

Any documentation provided the City of Buffalo with respect to this contract, including written documents and verbal communication, with the exception of materials marked as trade secrets or confidential, may be subject to public disclosure by the City, or any authorized agent of the City. Any materials submitted or ideas elicited in performance of this contract shall be the sole and absolute property of the City with the City having title thereto and unrestricted use thereof.

23 Publicity

All publicity (including, but not limited to, news releases, news conferences, and commercial advertising) relating to this RFP and/or the services or products sought by this RFP and/or any contract awarded pursuant to this RFP shall require the prior written approval of the City of Buffalo Comptroller.

24 Contracts Restricted

This contract shall not be accepted from or awarded to any City employee or officer, or any firm in which a City employee or officer has a direct or indirect financial interest. By entering this contract the Contractor certifies that no City of Buffalo employee or officer has such direct or indirect financial interest in this contract.

25 MBE/WBE Plan

The contractor agrees to work toward a minority workforce goal of 25% and a women workforce goal of 5%. The Contractor will also work toward a business utilization goal for minority business enterprise of 25% and women business enterprise of 5%, as shall be specified in the Contractor's Affirmative Action Statement filed with the City of Buffalo.

26 Copyright and Patent Rights

The Respondent warrants that there are no existing claims of violation and respondent has no knowledge of any potential claims of violation of copyrights or patent rights in products being proposed in this RFP as of the date of RFP submittal. The Respondent will indemnify the City of Buffalo in any claim or action brought against the City of Buffalo based upon a claim that the software or hardware provided by the Respondent violated any copyright or patent rights.

No person, co-partnership, or corporation, shall submit more than one proposal, either directly or by agent. Each Applicant shall sign said proposal with his/her full name, in his/her own handwriting, and, if a partnership, each partner must sign; if a corporation, the corporate name shall be signed, and signed and acknowledged by a duly authorized officer thereof.

27 Reserved

28 Patent Infringement

The Contractor shall indemnify and save harmless the City of Buffalo, its servants, agents and employees from any and all suits or action at law or in equity, that may hereafter be brought against them or either of them, for, or on account of, the infringement, or alleged infringement, of any patent or patent rights upon or pertaining to any of the articles described herein.

29 Incorporation of RFP

All rules, regulations, and specifications, contained in the request for proposals, are deemed to be incorporated in this contract.

30 Reserved

31 Title

Contractor must transfer a good and incontrovertible title to any and all equipment furnished hereunder free and clear of all liens and encumbrances of whatever name and nature.

32 Assignment and Subcontracting

No contractor awarded a contract shall assign or subcontract any part of such contract to any person, firm or corporation by whom a proposal was submitted to the City for the same contract. In any event, no contractor shall assign, transfer or otherwise dispose of the within contract, or any part thereof, or any right, title or interest there under, without the prior written consent of the City granted or withheld in the City's sole discretion. Any such purported action without such consent shall be null and void.

33 Subcontractor List

The Contractor shall submit a list of proposed subcontractors to the Director of Purchase for approval and obtain his written consent thereto prior to the execution of the contract. Any change or revision to the list of subcontractors during the course of performance of this agreement must be upon prior written notice to the Director of Purchase.

34 Delivery Date, Penalties and Extensions of Time

The delivery date shall be of the essence of the contract. If the contractor and/or supplier fails to complete the contract within the specified delivery date or within any extensions thereof granted in accordance with this section, the City may elect to permit the contractor and/or supplier to proceed with and complete the contract, provided, however, that in any such case such permission shall not be deemed a waiver in any respect by the City of the contractor's and/or supplier's liability for damages or expenses thereby incurred by the City as a result of the failure to complete delivery within the specified time, but such liability shall continue in full force against the contractor and/or supplier as if such permission had not been granted. In order to avoid all controversy in the determination of actual damages or expenses to the City for the delay in completion of the contract

by reason of the City's election not to terminate the right of the contractor and/or supplier to proceed with the completion of the contract, the contractor and/or supplier and their surety shall be liable for and shall pay or allow to the City a sum equal to one percent (1%) of the total amount of the contract per day as fixed and agreed liquidated damages for each and every calendar day, Sundays and holidays included, after the date fixed for delivery during which time the contract shall remain incomplete, and any such damages and expenses may be deducted by the City from any payment or payments then due or thereafter to fall due to the contractor and/or supplier.

No extension of time for completion of this contract shall be granted unless the contractor and/or supplier shall make written application to the Director of Purchase no later than five (5) calendar days prior to the specified delivery date for an extension of time to complete delivery and the Director of Purchase shall have granted such extension in writing no later than the date upon which delivery was to have been made. The granting of any such extension and the length of time thereof shall be in the sole discretion of the Director of Purchase.

35 Provisions in Contracts Prohibiting Discrimination on Account of Race, Creed, Color or National Origin in Employment of Citizens

In the hiring of employees for the performance of work under this contract or any subcontract hereunder, contractor, subcontractor, nor any person acting on behalf of such contractor or subcontractor, shall not by reason of race, creed, color, disability, sex or national origin discriminate against any citizen of the state of New York who is qualified and available to perform the work to which the employment relates;

(b) That no contractor, subcontractor, nor any person on his/her behalf shall, in any manner, discriminate against or intimidate any employee hired for the performance of work under this contract on account of race, creed, color, disability, sex or national origin;

(c) That there may be deducted from the amount payable to the contractor by the state or municipality under this contract a penalty of fifty dollars for each person for each calendar day during which such person was discriminated against or intimidated in violation of the provisions of the contract;

(d) That this contract may be canceled or terminated by the state or municipality, and all moneys due or to become due hereunder may be forfeited, for a second or any subsequent violation of the terms or conditions of this section of the contract; and

(e) The aforesaid provisions of this section covering every contract for or on behalf of the state or municipality for the manufacture, sale or distribution of materials, equipment or supplies shall be limited to operations performed within the territorial limits of the state of New York.

36 Contract Executory

This contract shall be executory only to the extent that funds are appropriated and made available for the purposes thereof, and the City of Buffalo shall incur no obligation beyond such funds so appropriated and made available.

37 Amendment

No changes, modifications, or amendments in the terms and conditions of this contract shall be effective unless reduced to writing, and numbered and signed by the duly authorized representative of the City and the Contractor.

WE, THE UNDERSIGNED PARTIES, AGREE TO BE BOUND BY THIS CONTRACT.

by the CITY OF BUFFALO:

by the CONTRACTOR:

Date: _____

Date: _____

Signature: _____

Signature: _____

Name/Title: _____

Name/Title: _____

Agency: _____

Fed ID/S. Sec# _____

NON-COLLUSION CERTIFICATION

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

(1) The prices in this 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 proposer or with any competitor;

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

(3) No attempt has been made or will be made by the proposer to induce any other person, partnership or corporation to submit a proposal for the purpose of restricting competition.

FIRM/CORPORATION NAME _____

PRINCIPAL ADDRESS

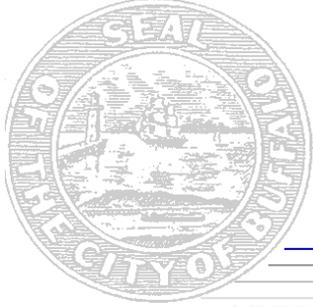
STREET

CITY STATE ZIP CODE

SIGNATURE OF INDIVIDUAL, PARTNERS OR OFFICERS

TITLE (TYPE OR PRINT NAME ABOVE)

TITLE (TYPE OR PRINT NAME ABOVE)



City of Buffalo

Living Wage Commission

APPLICATION FOR CONTRACT WITH THE CITY OF BUFFALO

The City's Living Wage Ordinance applies to contracts for services in which the City pays – or receives – more than \$50,000 per year, and the contractor employs more than ten people. If you are bidding, responding to an RFP, or otherwise planning to make a contract with the City, you must complete this form, a copy of which will be forwarded to the City's Living Wage Commission. Your subcontractors need not file a separate Application, but they must pay a living wage. If you win the contract, you and your subcontractors will file quarterly reports with the Living Wage Commission.

You must certify that you will pay at least the hourly wages mandated by the Ordinance. As of January 1, 2015, the hourly rates are \$11.45 if the employee receives health benefits from the employer, and \$12.85 if the employee does not receive health insurance. There will be an automatic cost-of-living adjustment each January 1.

There are two exceptions to the Ordinance. Professional contracts such as legal, architectural, or engineering services are not covered by the Ordinance. Also, persons employed in construction work covered by prevailing wage laws are exempt from the Ordinance.

The City department responsible for the contract should forward the completed Application for Contract of the employer chosen for the contract to: Living Wage Commission, c/o Cornell University ILR, 237 Main St., Suite 1200, Buffalo, NY, 14203.

1. Company Information

Company Name:	
Executive Officer:	
Address:	
City, State, Zip:	
Phone No.:	
Total No. of Employees:	

2. Please describe the specific project or service for which the contract is sought:

3. Contract Information

Dollar Value of Your Bid/Contract:	
Identifying City Contract or Project Number:	
Start and End Dates of Contract:	

4. If you answer "Yes" to any of these, you need not complete parts 5, 6, and 7

A) Are all persons who will work under the contract construction workers covered by federal or state prevailing wage laws?	<input type="checkbox"/> Yes <input type="checkbox"/> No
B) Is this a contract for professional services such as legal, architectural, or engineering?	<input type="checkbox"/> Yes <input type="checkbox"/> No
C) Do you employ less than ten people?	<input type="checkbox"/> Yes <input type="checkbox"/> No
D) Is the total value of the contract less than \$50,000 per year?	<input type="checkbox"/> Yes <input type="checkbox"/> No

5. Please describe the employees who will work on this contract. Attach additional sheets as needed.

Job Title	Duties to be Performed	Hourly Wage	Receives Health Benefits?

6. Subcontractors

Will there be subcontractors?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, please provide name address, and phone for each subcontractor. Attach additional sheets as needed.	

7. Please provide a signature by an official of your company with the legal authority to make binding commitments.

I certify that if awarded a City contract I will fully comply with the Living Wage Ordinance.

Date: _____ Signature: _____

Print: _____

Title: _____

FORM 2A – PROPOSERS AFFIRMATIVE ACTION STATEMENT

The _____
(Company Name)

hereby states that we will make good faith efforts to ensure a diverse workforce and minority business participation for this proposal/bid in accordance with the City of Buffalo Charter, Chapter 96, Bonds and Contracts.

We will work toward a minority workforce goal of 25%, and woman workforce goal of 5%. In addition, we will work toward a business utilization goal for minority business enterprise of 25% and woman business enterprise of 5%.

(Signature of Authorized representative of Bidder)

Date _____

BIDS/PROPOSALS FAILING TO INCLUDE OR COMPLETE ANY OF THE ABOVE ITEMS WILL BE CONSIDERED NON-RESPONSIVE AND WILL NOT BE ACCEPTED.

EEO-2

