

**REQUEST FOR PROPOSALS**

**OCCUPATIONAL SAFETY AND HEALTH TRAINING AND EDUCATION PROGRAM (OSH T&E)**

Bid Number – OSHT&E- 2022

**Issued on January 31, 2022**

**New York State Hazard Abatement Board and Department of Labor**

Division of Employment and Workforce Solutions

Harriman Office Campus

Building 12, Room 440

Albany NY, 12240

**Submission Deadline:**

12:00 PM New York State Time on Friday, March 4, 2022

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## **I. Funding Opportunity Description**

### **A. Purpose**

The Hazard Abatement Board (HAB), in partnership with the New York State Department of Labor (NYSDOL) , (collectively referred to as NYSDOL/HAB) is making approximately \$2.5 Million in funding available under this Occupational Safety and Health Training and Education Program (OSH T&E) Request for Proposals (RFP). Funds awarded under this RFP may be used to support activities occurring between August 1, 2022 and July 31, 2023.

The funds will support the provision of occupational safety and health training and education programs to employees and businesses at locations throughout New York State (NYS), including toxic substance education services, training and education for employees concerning the prevention of occupational diseases and injuries, and any other services deemed effective to promote the prevention of accidents and illness.

### **B. Background**

Article 29 of the NYS Labor Law established and charged the HAB with the responsibility for awarding grants to eligible requests for funding under the OSH T&E program.

The goal of the HAB's 2022-2023 OSH T&E program is to promote safe and healthful conditions in the workplace through training, education, and other proven preventive programs designed to:

- Identify, evaluate, and control safety and health hazards in the workplace;
- Encourage voluntary compliance with occupational safety and health regulations;
- Foster activities by businesses and employees intended to prevent workplace accidents, injuries and illnesses; and
- Make businesses and employees more aware of the NYS Right-to-Know Law and other regulations which mandate training and education on toxic substances in the workplace.

## **II. Award Information**

### **A. Use of Funds**

#### **1) Allowable Costs**

Training and education activities which may be funded under the grant program include, but are not limited to, the following:

- General or hazard-specific training on how to identify, evaluate, and control employee exposure to workplace hazards;
- Activities intended to improve the effectiveness of labor-management safety and health committees;
- Programs that are designed specifically to reduce infection and spread of airborne infectious disease such as COVID-19 and variants;

- Programs, not otherwise readily available from NYSDOL, that are designed specifically to reduce workplace accidents by teaching lockout/tagout procedures, safe electrical work practices, methods of working safely in confined spaces, etc.
- Programs addressing ergonomic and repetitive motion problems;
- Programs emphasizing disease prevention through control of carcinogens and other toxic chemicals, physical hazards such as noise, heat and vibration, or biological hazards such as hepatitis B virus and tuberculosis bacteria;
- Instruction of employees and businesses on their rights and responsibilities under the NYS Right-to-Know Law and Occupational Safety and Health Administration (OSHA)/Public Employees Safety and Health (PESH) standards on hazard communication, chemical hazards in laboratories, and specific substances such as lead, benzene, asbestos, etc.;
- Programs which help resolve unique and unusually difficult job safety and health problems, such as the threat of assault on the job, exposure to individual worker and organizational impairment due to the impairing effects of substance use (such as cannabis and alcohol), and other challenges; and
- Programs that highlight pollution prevention and toxic use reduction through active employee engagement and joint problem solving.

## 2) Restrictions on the Use of Funds

Funds for the following expenditures will not be allowed:

- Development of academic curricula for the education of occupational safety and health professionals or support personnel;
- Activities which support degree programs, safety engineer certificate programs, or extended academic programs designed to provide professional level credentials; however, grantees are permitted to award certificates of completion to individuals who receive training or education funded by this Program;
- Activities involving driver training or truck CDL Training. Powered Industrial Truck (PIT) or forklift training is allowable;
- Activities which promote safety and health but are not related to occupational safety and health hazards, including, but not limited to, CPR or First Aid Training, fire extinguisher training, and sexual harassment training;
- Wages paid to workers while in training, unless the business uses employees in a train-the-trainer approach. In that case, the wages of those employees can be charged to grant funds for the actual hours they are being trained as trainers and for the hours they conduct formal training for fellow employees during the grant period. The hours charged must be reasonable and documented;
- Refreshments provided during training programs;
- Stipends paid to trainees;
- Indirect or overhead rates except for indirect costs related to State University of New York (SUNY) and City University of New York (CUNY) Research Foundations;
- Severance pay;

- Awards of cash, trophies or the like;
- Accrued leave time;
- Purchase and/or rental of cellular telephones and devices;
- Audit services;
- Equipment expenses that are not related to the training purposes funded by this grant;
- To a certain extent, fringe benefits. Fringe benefits are allowable in accordance with the organization's actual cost or approved rate, but grant funding can only be used to reimburse the Bidder's cost of benefits up to a maximum of 40% of staff salaries charged to the contract. Fringe benefits in excess of 40% of staff salaries are the responsibility of the Bidder; and
- Any other cost deemed inappropriate by NYSDOL/HAB, such as training that does not directly benefit the participants or any cost that does not meet the intent of this RFP.

#### **B. Award Minimums**

There is no minimum award amount under the OSH T&E RFP. All awards are subject to funding availability.

#### **C. Contracts**

Contracts will be awarded for a period not to exceed one (1) year. Bidders must include only the training and education activities that can be reasonably accomplished within the contract period. The contract term will be August 1, 2022 – July 31, 2023. Contract terms will begin on August 1, 2022 and services may not begin prior to August 1, 2022. Bidders are cautioned that awards are made on a competitive basis, and due to the limited funding, it is unlikely that all Bidders will be awarded contracts. Further, if awarded, no payments will be made until the contract is developed and fully processed to execution, including Office of the Attorney General (OAG) and Office of the State Comptroller (OSC) approval, if applicable.

Contracts will be paid on a reimbursable payment basis. A successful Bidder ("Contractor" or grantee) must first pay for incurred expenses and then submit a voucher to NYSDOL for reimbursement. Contractors receiving grant awards will be required to provide reports at intervals specified by NYSDOL/HAB.

In 2017, the Governor's Office launched the Governor's Not-for-Profit (NFP) Prompt Contracting Initiative to assure that NFP State contracts are executed before their start dates, eliminating the situations where Contractors operated "at risk" and causing the potential for late contract payments.

HAB and NYSDOL are committed to the success of this project. Bidders awarded under this RFP must also be committed to negotiating their contract promptly and submitting all required data and documentation by agreed upon deadlines. Efforts to assist all Bidders and streamline contract development include webinars hosted by the Grants Gateway team, as well as one-on-one Grant Reform hotline/help desk support. The goal is to have all contracts fully processed to execution, including Office of the Attorney General (OAG) and Office of the State Comptroller (OSC) approval, if applicable, on or before the contract start date of August 1, 2022.

The grant award is subject to contract negotiation and approval of such contract by NYSDOL and, depending on the value of the contract, OSC and OAG. Contractors failure to sign the contract by June

12, 2022 may cause delay with regard to the August 1, 2022 contract start date. If the Contractor fails to sign the contract by December 31, 2022, HAB reserves the right to rescind the grant award and to reallocate the grant funds.

#### **D. Contracting Process**

Once the award letters are issued, Contractors will be contacted by NYSDOL staff to begin contract negotiations and contract development. Once contracts are in place and programs underway, NYSDOL staff will monitor Contractor performance to ensure compliance with all contract provisions. In addition, Contractors are subject to fiscal audits and program monitoring by both NYSDOL/HAB and OSC.

#### **E. NYSDOL/HAB's Responsibilities**

NYSDOL/HAB will oversee implementation of the contract(s) awarded through this RFP, including regular monitoring of implementation and performance of the contract(s).

#### **F. Bidder's Responsibilities**

The Bidder shall be responsible for any costs incurred by the Bidder in the proposal preparation, or in activities related to the review of this proposal.

The act of filing a proposal indicates acceptance by the Bidder of the provisions and conditions contained in this RFP.

If a Bidder secures the services of a grant writer, that Bidder shall only authorize the grant writer to have the Grants Gateway role of *Grantee* (see [Section IV.C](#) for information on Grants Gateway). The grant writer should answer all questions with information about the Bidder, including name, address, etc. The Bidder, in the role of *Grantee Contract Signatory* or *Grantee System Administrator*, shall completely review the proposal and accept all responsibility for the proposal. Only the Bidder is permitted to submit the proposal using their *Grantee Contract Signatory* or *Grantee System Administrator* role.

#### **G. Participation Requirements**

Please refer to [Section VIII](#) (Attachments and Appendices) for further information on these requirements.

##### **1) Business Participation Opportunities for MWBEs**

Pursuant to NYS Executive Law Article 15-A and Parts 140-145 of Title 5 of the New York Codes, Rules and Regulations (NYCRR), NYSDOL is required to promote opportunities for maximum feasible participation of NYS certified Minority and Women-owned Business Enterprises ("MWBEs") and the employment of minority group members and women in the performance of the NYSDOL contracts.

##### **a) Contract Goals**

For purposes of this solicitation, NYSDOL hereby establishes an overall goal of **30%** for MWBE participation, **15%** for NYS certified minority-owned business enterprises ("MBE") participation and **15%** for NYS certified women-owned business enterprises ("WBE") participation (based on the current availability of MBEs and WBEs). A Contractor resulting from this RFP must document its good faith

efforts to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the contract. To that end, by submitting a response to this RFP, the Bidder agrees that NYSDOL may withhold payment pursuant to any contract awarded as a result of this RFP pending receipt of the required MWBE documentation. The directory of MWBEs can be viewed at: <https://ny.newnycontracts.com>. For guidance on how NYSDOL will evaluate a Contractor's "good faith efforts," refer to 5 NYCRR §142.8.

The Bidder understands that only sums paid to MWBEs for the performance of a commercially useful function, as that term is defined in 5 NYCRR § 140.1, may be applied towards the achievement of the applicable MWBE participation goal. The portion of a contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be 25% of the total value of the contract.

In accordance with 5 NYCRR §142.13, the Contractor further acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in a contract resulting from this RFP, such finding constitutes a breach of contract and NYSDOL may withhold payment as liquidated damages.

Such liquidated damages shall be calculated as an amount equaling the difference between: (1) all sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and (2) all sums actually paid to MWBEs for work performed or materials supplied under the contract.

By submitting a bid or proposal, the Bidder agrees to demonstrate its good faith efforts to achieve the applicable MWBE participation goals by submitting evidence thereof through the NYS Contract System ("NYSCS"), which can be viewed at <https://ny.newnycontracts.com>, provided, however, that the Bidder may arrange to provide such evidence via a non-electronic method by contacting:

NYSDOL  
Purchase and Contracts, MWBE Administrator  
State Campus  
Building 12, Room 454  
Albany, NY 12240  
518-474-2678

b) MWBE Utilization Plan (MWBE 100)

A Bidder will be required to submit MWBE 100 – MWBE Utilization Plan (Attachment 8) with their bid or proposal as evidence of compliance with the foregoing. Any modifications or changes to an accepted MWBE Utilization Plan after the contract award and during the term of the contract must be reported on a revised MWBE Utilization Plan and submitted to NYSDOL for review and approval.

NYSDOL will review the submitted MWBE Utilization Plan and advise the Bidder of acceptance or issue a notice of deficiency within 30 days of receipt.

If a notice of deficiency is issued, the Bidder will be required to respond to the notice of deficiency within seven (7) business days of receipt by submitting to NYSDOL, a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by NYSDOL to be inadequate, NYSDOL shall notify the Bidder and direct the Bidder to submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.

NYS DOL may disqualify a Bidder as being non-responsive under the following circumstances:

- If a Bidder fails to submit a MWBE Utilization Plan (MWBE 100, Attachment 8);
- If a Bidder fails to submit a written remedy to a notice of deficiency;
- If a Bidder fails to submit a MWBE 101, Request for Waiver (MWBE 101, Attachment 9); and/or
- If NYSDOL determines that the Bidder has failed to document good faith efforts.

The Contractor is required to make good faith attempts to utilize any MBE or WBE identified within its MWBE Utilization Plan, during the performance of the contract. Requests for a partial or total waiver of established goal requirements subsequent to contract award may be made at any time during the term of the contract to NYSDOL, but must be made prior to the submission of a request for final payment on the contract.

The Contractor will be required to submit a MWBE Quarterly Compliance Report to NYSDOL, by the 10<sup>th</sup> day following each end of quarter over the term of the contract documenting the progress made toward achievement of the MWBE goals of the contract.

## 2) Equal Employment Opportunity Requirements (EEO 100)

A Bidder will be required to submit EEO 100 – Equal Employment Opportunity Staffing Plan (Attachment 7) with their bid or proposal as evidence of compliance with the foregoing.

By submission of a bid or proposal in response to this solicitation, the Bidder agrees with all of the terms and conditions of the Master Contract for Grants – Standard Terms and Conditions, specifically section VI.J. (available in the Contract Documents module of the Grants Gateway portal). Contractors are required to ensure that it and any subcontractors awarded a subcontract for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work"), except where the Work is for the beneficial use of the contractor, undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the contract; or (ii) employment outside NYS.

The Bidder will be required to submit a Minority and Women-Owned Business Enterprises and Equal Employment Opportunity Policy Statement (Attachment 6) to NYSDOL with its bid or proposal.

If awarded a contract, Bidders shall submit a Workforce Utilization Report and shall require each of its subcontractors to submit a Workforce Utilization Report, in such format as shall be required by NYSDOL on a quarterly basis during the term of the contract.

Pursuant to Executive Order #6 which continues former Governor Andrew M. Cuomo Executive Order #162 issued on January 9, 2017, Contractors and subcontractors will also be required to report the gross wages paid to each of their employees for the work performed by such employees on the contract utilizing the EEO 101 form on a quarterly basis.

Further, pursuant to Article 15 of the Executive Law (the "Human Rights Law"), all other NYS and Federal statutory and constitutional non-discrimination provisions, the Contractor and subcontractors



will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the NYS Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

Please Note: Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the contract, leading to the withholding of funds, suspension or termination of the contract or such other actions or enforcement proceedings as allowed by the contract.

### 3) Participation Opportunities for New York State Certified Service-Disabled Veteran Owned Businesses

Article 17-B of the NYS Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses (“SDVOB”), thereby further integrating such businesses into NYS’ economy. NYSDOL recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of NYSDOL contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in NYS, Bidders are expected to consider SDVOBs in the fulfillment of the requirements of the contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

#### a) Contract Goals

NYSDOL hereby establishes an overall goal of **6%** for SDVOB participation, based on the current availability of qualified SDVOBs. For purposes of providing meaningful participation by SDVOBs, the Bidder/Contractor should reference the directory of NYS Certified SDVOBs found at: <https://online.ogs.ny.gov/SDVOB/search>. Questions regarding compliance with SDVOB participation goals should be directed to NYSDOL, SDVOB Administrator, Purchase and Contracts, State Campus, Building 12, Room 454, Albany, NY 12240; Email: [Labor.sm.SDVOBAdmin@labor.ny.gov](mailto:Labor.sm.SDVOBAdmin@labor.ny.gov); Phone: 518-474-2678. Additionally, following contract execution, Contractor is encouraged to contact the Office of General Services’ Division of Service-Disabled Veterans’ Business Development at 518-474-2015 or [VeteransDevelopment@ogs.ny.gov](mailto:VeteransDevelopment@ogs.ny.gov) to discuss additional methods of maximizing participation by SDVOBs on the contract.

Contractor must document “good faith efforts” to provide meaningful participation by SDVOBs as subcontractors or suppliers in the performance of the contract (see [section II.G.3.d.](#) below).

#### b) SDVOB Utilization Plan (SDVOB 100)

In accordance with 9 NYCRR § 252.2(i), Bidders are required to submit a completed SDVOB Utilization Plan (SDVOB 100) with their bid.

The Utilization Plan shall list the SDVOBs that the Bidder intends to use to perform the contract, a description of the work that the Bidder intends the SDVOB to perform to meet the goals on the contract, the estimated dollar amounts to be paid to an SDVOB, or, if not known, an estimate of the

percentage of contract work the SDVOB will perform. By signing the Utilization Plan, the Bidder acknowledges that making false representations or providing information that shows a lack of good faith as part of, or in conjunction with, the submission of a Utilization Plan is prohibited by law and may result in penalties including, but not limited to, termination of a contract for cause, loss of eligibility to submit future bids, and/or withholding of payments. Any modifications or changes to the agreed participation by SDVOBs after the contract award and during the term of the contract must be reported on a revised SDVOB Utilization Plan and submitted to NYSDOL.

NYSDOL will review the submitted SDVOB Utilization Plan and advise the Bidder of NYSDOL's acceptance or issue a notice of deficiency within 20 days of receipt.

If a notice of deficiency is issued, the contractor agrees that it shall respond to the notice of deficiency, within seven business days of receipt, by submitting to NYSDOL a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by NYSDOL to be inadequate, NYSDOL shall notify the contractor and direct the contractor to submit, within five (5) business days of notification by NYSDOL, a request for a partial or total waiver of SDVOB participation goals (SDVOB 200). Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.

NYSDOL may disqualify a Bidder's bid or proposal as being non-responsive under the following circumstances:

- If a Bidder fails to submit an SDVOB Utilization Plan (SDVOB 100, Attachment 11);
- If a Bidder fails to submit a written remedy to a notice of deficiency;
- If a Bidder fails to submit a request for waiver (SDVOB 200, Attachment 12); and/or
- If NYSDOL determines that the Bidder has failed to document good faith efforts.

If awarded a contract, contractor certifies that it will follow the submitted SDVOB Utilization Plan for the performance of SDVOBs on the contract pursuant to the prescribed SDVOB contract goals set forth above.

Contractor further agrees that a failure to use SDVOBs as agreed in the Utilization Plan shall constitute a material breach of the terms of the contract. Upon the occurrence of such a material breach, NYSDOL shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsibility.

c) Request for Waiver (SDVOB 200)

Prior to submission of a request for a partial or total waiver, Bidders may speak to the SDVOB Administrator at NYSDOL for guidance.

In accordance with 9 NYCRR § 252.2(m), a Bidder that is able to document good faith efforts to meet the goal requirements, as set forth in [Section II.G.3.d.](#) below, may submit a request for a partial or total waiver on Form SDVOB 200, accompanied by supporting documentation. A Bidder may submit the request for waiver at the same time it submits its SDVOB Utilization Plan. If a request for waiver is submitted with the SDVOB Utilization Plan and is not accepted by NYSDOL at that time, the provisions of Sections II.G.3.c-e of this RFP will apply. If the documentation included with the Bidder's waiver request is complete, NYSDOL shall evaluate the request and issue a written notice of acceptance or denial within 20 days of receipt.

The contractor is required to make good faith attempts to utilize the SDVOBs identified within its SDVOB Utilization Plan, during the performance of the contract. Requests for a partial or total waiver of established goal requirements subsequent to contract award may be made at any time during the term of the contract to NYSDOL, but must be made prior to the submission of a request for final payment on the contract.

If NYSDOL, upon review of the SDVOB Utilization Plan and Monthly SDVOB Compliance Report (SDVOB 101) determines that the contractor is failing or refusing to comply with the contract goals and no waiver has been issued in regard to such non-compliance, NYSDOL may issue a notice of deficiency to the contractor. The contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of SDVOB contract goals.

Waiver requests should be sent to NYSDOL, Purchase and Contracts, SDVOB Administrator, State Campus, Building 12, Room 454, Albany, NY 12240.

d) Required Good Faith Efforts

In accordance with 9 NYCRR § 252.2(n), contractors must document their good faith efforts toward utilizing SDVOBs on the contract. Evidence of required good faith efforts shall include, but not be limited to, the following:

- Copies of solicitations to SDVOBs and any responses thereto.
- Explanation of the specific reasons each SDVOB that responded to contractors' solicitation was not selected.
- Dates of any pre-bid, pre-award or other meetings attended by contractor, if any, scheduled by NYSDOL with certified SDVOBs whom NYSDOL determined were capable of fulfilling the SDVOB goals set in the contract.
- Information describing the specific steps undertaken to reasonably structure the contract scope of work for the purpose of subcontracting with, or obtaining supplies from, certified SDVOBs.
- Other information deemed relevant to the waiver request.

e) Monthly SDVOB Contractor Compliance Report (SDVOB 101)

In accordance with 9 NYCRR § 252.2(q), the contractor is required to report Monthly SDVOB Contractor Compliance Report (SDVOB 101) to NYSDOL during the term of the contract for the preceding month's activity, documenting progress made towards achieving the contract SDVOB goals. This information must be submitted using form SDVOB 101 available on NYSDOL's website and should be completed by the contractor and submitted to NYSDOL, by the 10th day of each month during the term of the contract, for the preceding month's activity to: NYSDOL, SDVOB Administrator, Purchase and Contracts, State Campus, Building 12, Room 454, Albany, NY 12240. Email: [Labor.sm.SDVOBAdmin@labor.ny.gov](mailto:Labor.sm.SDVOBAdmin@labor.ny.gov); Phone: 518-474-2678.

f) Breach of Contract and Damages

In accordance with 9 NYCRR § 252.2(s), any contractor found to have willfully and intentionally failed to comply with the SDVOB participation goals set forth in the contract, shall be found to have breached the contract and contractor shall pay damages as set forth therein.

### **III. Eligibility Information**

#### **A. Bidder Eligibility**

Eligible Bidders must attest to the following statements:

- 1) The Bidder qualifies as one of the NYS Labor Law Article 29 categories of eligible Bidders: Public or Private Businesses; Labor Organizations or their Federations; Municipalities; Trade Associations; NFP Organizations; or Educational Institutions operating within NYS;
- 2) If the Bidder is a NFP organization, it is pre-qualified in Grants Gateway as described in [Section IV.C](#) of the OSH TE RFP. (Note: all other types of Bidders will check “Not Applicable” for this attestation.)
- 3) The Bidder employs two (2) or more paid employees (principals of corporations and owners of businesses such as sole proprietors or partners are not considered to be employees for this criterion);
- 4) The Bidder is headquartered in NYS or has at least one site located in NYS at the time of proposal submission;
- 5) The Bidder is in good standing regarding: Unemployment Insurance (UI) Worker Adjustment and Retraining Notification Act (WARN); Public Works; Labor Standards; Safety and Health; NYS Department of State Division of Corporations; Workers Compensation Insurance; and Disability Insurance;

HAB strongly encourages joint labor-management proposals and program designs that include input from both labor and management. Other joint proposals will be also be considered.

A NYS agency will be considered for funding if the proposed project will train county, local, or private sector employees as well as the agency’s own employees.

Bidders with existing or pending contracts with NYSDOL remain eligible to apply for funding under this OSH T&E RFP if the proposal does not propose training or services to the same individuals or entities as the existing or pending NYSDOL contract(s). In addition, the payments requested from awarded contracts under this RFP cannot duplicate reimbursement from other sources of funding.

#### **B. Participant Eligibility**

As stated in Article 29, §886 of the NYS Labor Law, participants include employees and businesses at locations throughout the state.

### **IV. Process for Proposal Submission**

#### **A. Questions Concerning This RFP**

Bidders may submit questions via electronic mail ([WDTD.Onestop@labor.ny.gov](mailto:WDTD.Onestop@labor.ny.gov)). Questions regarding this RFP will be accepted on an ongoing basis until Tuesday, February 15, 2022. No telephone inquiries will be accepted. All inquiries should include the following reference in the subject line: “OSH T&E Question”. Answers to all questions will be posted on HAB’s [website](#) on an ongoing basis until Friday, February 25, 2022.

The NYSDOL OSH T&E RFP Team can only answer program related questions. Bidders should direct any technical questions about the Grants Gateway portal to [grantsgateway@its.ny.gov](mailto:grantsgateway@its.ny.gov).

**B. Proposal Due Date**

Proposals must be submitted within Grants Gateway no later than 12:00 PM NYS Time on Friday, March 4, 2022. Any proposal or unsolicited amendments to proposals received after the due date and time will not be considered in the review process. No mailed, faxed or emailed documents will be accepted. NYSDOL/HAB takes no responsibility for any third-party error in the delivery of proposals (e.g. computer failure, power outages, etc.).

**C. Proposal Submission Instructions and Format**

A notice of the RFP has been posted in the NYS Contract Reporter, NYSDOL's Funding Opportunities [webpage](#), HAB's [webpage](#) and Grants Gateway.

All interested parties must be registered in the Grants Gateway and apply online via the Grants Gateway [website](#). Completed proposals must be submitted through the Grants Gateway by the designated date and time. Sufficient space is provided in each text box to accommodate answers to program specific questions. Uploaded documents will not be accepted from Bidders in response to program specific questions.

Please refer to the [Grants Gateway](#) for guides and videos on the Registration and Online Application Process.

The Grants Gateway Vault status of all non-governmental NFP Bidders must be designated in one of the status categories below at the date and time the proposal is due:

- 1) Document Vault Prequalified
  - a) Fully Prequalified
- 2) Document Vault Prequalified Open
  - a) If an organization proactively opens their document vault before the required documents expire, it will go to this status.
  - b) The Organization will not lose prequalification status unless an expiration date passes.
  - c) This allows NFPs to apply for funding opportunities without losing prequalification status.
- 3) Document Vault Prequalified/In review
  - a) This status is only available if an organization has proactively opened their vault prior to document expiration and has submitted it with updated documents.
  - b) The organization is still considered prequalified during this status EVEN IF the expiration date passes.
- 4) Document Vault Prequalified/Open for Prequalification Specialist (PQS) Edits
  - a) NYSDOL is making edits and prequalification status is maintained.

The HAB will not consider for funding any proposal from a non-governmental NFP that is not designated in one of the status categories above at the date and time the proposal is due.

Once it is determined that the non-governmental NFP is prequalified AND if that organization is awarded a grant, the organization must maintain prequalification status during the contract period. The organization will be given an opportunity to submit documents and information to the Grants Gateway in order to maintain and/or regain prequalification status.

For more information about Grants Gateway and Prequalification, please visit the Grants Gateway [website](#) or contact the Grants Management Team at: [grantsgateway@its.ny.gov](mailto:grantsgateway@its.ny.gov). The Grants Reform help desk/hotline can be reached at (518) 474-5595.

#### **D. RFP Timetable**

- RFP Release Date – January 31, 2022
- Deadline Date for Questions – February 15, 2022
- Final Date for Responses to Questions – February 25, 2022
- Proposal Due Date – 12:00 PM NYS Time on Friday, March 4, 2022
- Projected Notification of Awards – June 20, 2022
- Contract Start Date – August 1, 2022
- Contract End Date – July 31, 2023

#### **V. Proposal Requirements**

A complete proposal, including the Training and Grant Management Summary (TGMS 2022) and all attachments must be submitted via the Grants Gateway portal so NYSDOL/HAB can conduct a full and proper evaluation. Failure to answer all questions in the proposal will jeopardize the Bidder's potential for funding.

Each proposal consists of four parts – Minimum Requirements, Program Design, Work Plan, and Budget. The Grants Gateway system will not allow the submission of a proposal unless all parts are completed. The evaluation of a complete proposal will consist of a review of each part independently.

All proposed expenditures in the Budget section must be reasonable, necessary, and clearly related to the purposes and activities of the program as proposed.

#### **A. Minimum Requirements**

Minimum requirements must be responded to, but will not result in any award of points. Bidders are required to attest to the following minimum requirements:

- 1) The Bidder qualifies as one of the NYS Labor Law Article 29 categories of eligible Bidders: Public and Private Businesses; Labor Organizations or their Federations; Trade Associations; Municipalities; NFP Organizations; or Educational Institutions operating within NYS;
- 2) If the Bidder is a NFP organization, it is pre-qualified in Grants Gateway as described in Section IV.C of the OSH TE RFP. (Note: all other types of Bidders will check "Not Applicable" for this attestation.)

- 3) The Bidder employs two (2) or more paid employees (principals of corporations and owners of businesses such as sole proprietors or partners are not considered to be employees for this criterion);
- 4) The Bidder is headquartered in NYS or has at least one site located in NYS at the time of proposal submission;
- 5) The Bidder is in good standing regarding: UI; WARN; Public Work; Labor Standards; Safety and Health; NYS Department of State Division of Corporations; Workers Compensation Insurance; and Disability Insurance;
- 6) The Bidder understands NYSDOL strongly encourages the submission of proposals at least 48 hours prior to the due date and time to allow for sufficient opportunity to obtain assistance and take corrective action should there be a technical issue with the submission process;
- 7) The Bidder understands that proposals must be submitted electronically via the Grants Gateway System before the deadline listed on the cover of the RFP;
- 8) The Bidder understands that only someone in the role of Grantee Contract Signatory or Grantee System Administrator can electronically submit the proposal via the Grants Gateway and the Bidder has taken steps to ensure that correct roles have been assigned for their organization; and
- 9) The Bidder understands that the submission of late proposals will not be accepted and the Grants Gateway will prevent the submission of any proposal once the due date and time has passed according to the Grants Gateway System clock.

## **B. Program Design**

A total of 60 points will be available for Program Design. All questions must be answered and failure to answer all questions will jeopardize the Bidder's scoring and may jeopardize the potential for funding.

- 1) Incidence of Injuries and Illnesses [12 Points]
  - a) Identify the industry or industries to which the targeted health or safety hazard exists. Please type only the industry or industries (with the full NAICS code), separated by semi colons. Acceptable industries and codes include, but are not limited to: Accommodation and Food Services (72); Administrative and Support and Waste Management and Remediation Services (56); Agriculture, Forestry, Fishing and Hunting (11); Arts, Entertainment, and Recreation (71); Construction (23); Educational Services (61); Finance and Insurance (52); Health Care and Social Assistance (62); Information (51); Management of Companies and Enterprises (55); Manufacturing (31-33); Mining (21); Other Services [except Public Administration] (81); Professional, Scientific, and Technical Services (54); Public Administration/General Government (92); Real Estate Rental and Leasing (53); Retail Trade (44-45); Transportation and Warehousing (48-49); Utilities (22); Wholesale Trade (42); and Other (Specify Industry and Code). [1 point]
  - b) Identify the health or safety hazard that will be addressed through this proposal, highlighting the relevant occupational sector(s). Please type only the health or safety hazard, separated by semi-colons. Acceptable health and safety hazards include, **but are not limited to**: Aerial Lifts; Airborne Pathogens; Asbestos Exposure; Back Injuries/Lifting; Benzene Exposure; Biological/Hep B/Tuberculosis; Bloodborne Pathogens; COVID-19 and other infectious disease-related hazards; Bystander Exposure; Chemicals/Chemical Exposure; Communicable Diseases; Confined Spaces; Electrical/Electrocution; Emergency Evacuation; Ergonomic/Repetitive Motion/Musculoskeletal Injuries; Falling Objects; Falls, Slips, & Trips; Fire; Hazardous Waste Exposure; Height-Related; Infections/Universal Precautions; Lacerations; Ladder Safety; Lead

Exposure; Lock Out/Tag Out; Machine/Mechanical Injury; Mold Exposure; Pests/Bed Bugs; Physical/Noise/Heat/Vibration; Transportation Accidents; Welding; Workplace Violence; individual worker and organizational impairment due to substance use, such as cannabis and alcohol; and Other (Specify Health or Safety Hazard(s)). [1 point]

- c) Identify job tasks which generate significant exposures to safety or health hazards (<https://www.onetonline.org/find/>). [2 points]
  - d) Explain how you determined training needs for the proposed target population (i.e. Safety Consultation, Safety Committee input, Workers Compensation data, OSHA Log 300, etc.). [2 points]
  - e) Describe the risk assessment methodology conducted to determine the need for training. [2 points]
  - f) List the documented numbers, types, and rates of injuries and illnesses associated with the health or safety hazard proposed to be addressed. [2 points]
  - g) Compare and identify the source of the rates of injuries and illnesses to be addressed in the target group to be trained with other group rates in NYS. [2 points]
- 2) Target Population [9 Points]
- a) Provide, with specificity, the characteristics of the target population (such as average ages, skills, educational/literacy levels, etc) as well as the occupational titles of the target population. [3 points]
  - b) Identify the County or Counties that will be served by the program. [0 points]
  - c) List the target population's documented actual or potential exposure levels to the health or safety hazards proposed to be addressed. [2 points]
  - d) Clearly define the cause and effect relationship of accidents/health issues that have been identified for the target group. [2 points]
  - e) List the extent to which the project will prevent illness or injury to the target population, which threatens continued employment. [2 points]
- 3) Potential for Affecting Larger Groups [8 Points]
- a) Describe how information about workplace hazards gained from the training will be disseminated to others in the organization. [3 points]
  - b) Describe the extent to which different forms of outreach will be used, both for recruitment and sharing training materials, with other organizations. [3 points]
  - c) Describe how you will ensure adequate numbers of people will be trained and that there is outreach to a larger audience. [2 points]
- 4) Appropriateness of the Educational Strategy [13 Points]
- a) Identify the proposed training or educational strategy. [2 points]
  - b) Describe the proposed training or educational strategy, specifying how it will result in a decrease to the factors of severity or incidence rate of injury of the identified health or safety hazard for the proposed target population. [3 points]
  - c) Describe the extent to which the educational strategy takes into account the relevant characteristics of the target population (educational level, language spoken, prior training and experience, etc.). [2 points]



- d) Describe the extent to which the project and course materials are tailored to the target population. [2 points]
  - e) Describe the extent to which the combination of lectures, discussions, demonstrations, field exercises, etc., will impact the attitudes, skills and knowledge of the target population. [2 points]
  - f) Describe how the target number of individuals will be recruited for training. [2 points]
- 5) Involvement of the Target Population [4 Points]
- a) Indicate if the program/proposal was developed, in whole or in part, by a member of the target group(s), association comprised of members of the target group(s), or organization that provides representation for the target group(s). [2 points]
  - b) Identify the methods by which input was solicited from members of the target population in developing the proposal and by which feedback from members of the target population will continue to be incorporated into the project design. [2 points]
- 6) Ability to Plan and Implement Program/Expertise of Program Staff [10 Points]
- a) Indicate if the proposal is a Joint Venture. [0 points]
  - b) If yes, list any co-sponsor(s), including all contact information – name(s), mailing address(es), phone and email addresses – of all co-sponsor(s). (Note: if the proposal is not a Joint Venture, Bidder will type Not Applicable to this question.) [1 point]
  - c) Provide a brief summary of the bidding organization; describing the composition and number of employees, the trend in size over the past five (5) years, the length of its existence, and the geographic area and type of clientele served. [1 point]
  - d) Describe the extent to which the bidding organization has demonstrated effectiveness in planning, implementing, and operating prior occupational safety and health training and education projects or similar activities designed specifically for employees or businesses. Highlight the expertise of staff assigned to this program. [2 points]
  - e) Indicate if the bidding organization has implemented and operated prior occupational safety and health training and education projects in the past five years. [0 points]
  - f) If yes, describe the outcomes, if any, that could be attributed fully or partially to the prior occupational safety and health training and education project conducted in the past five years. The following are examples of outcomes: Implementation of new engineering controls [be specific]; Creation of a safety and health committee; Creation of new employer (or labor/management) safety policy; A decrease in accidents/illnesses; Designation of staff to monitor safety and health concerns; Decrease in OSHA/PESH citations; or Changes in work practices. (Note: if the Bidder did not provide training and education projects in the last five years, Bidder will type Not Applicable to this question.) [2 points]
  - g) Identify and describe the Bidder’s managerial expertise and fiscal responsibility, as demonstrated by the variety and complexity of current or recent programs administered. [2 points]
  - h) Indicate the technical and professional expertise of current or proposed staff, consultant(s), or other sub-contractor(s) in relation to the services to be provided, as indicated by resumes, minimum qualifications for hiring and position descriptions. Pertinent documents should be uploaded into Grants Gateway in “Pre-Submission Uploads.” [2 points]
- 7) Existing/Prior Programs [4 Points]

- a) Identify non-HAB funds expected to support the proposed training activities. [1 point]
- b) List the estimated total cost per person of each activity or training to be charged to this grant and describe how it was determined that the benefit of the activity was worth the cost. [1 point]
- c) Describe how the proposed activity or training does not duplicate occupational safety and health resources that are already available in the region. [1 point]
- d) Indicate if the organization had prior HAB Grants. [0 points]
- e) If yes, list any HAB grants since the 2012-2013 Program Year including the Year, Amount of Award, Topics of Training, and Measurable Outcomes of Training. (Note: if the Bidder did not have prior HAB grants, Bidder will type Not Applicable to this question.) [1 point]

**C. Work Plan**

A total of 20 points will be available in scoring the proposed work plan.

Utilizing the Grants Gateway system, Bidders will define the objectives, tasks, and performance measures that will detail the proposed plan to ensure training and service activities as identified in the program design. The following are examples of objectives: Implementation of new engineering controls; Creation of a safety and health committee; Creation of new employer (or labor/management) safety policy; A decrease in accidents/illnesses; Designation of staff to monitor safety and health concerns; Decrease in OSHA/PESH citations; and/or Changes in work practices. Bidders can include a total of 30 objectives, tasks, and performance measures. In defining the work plan, Bidders should:

- Describe, with clarity and specificity, the observable objectives (what will the trainees do, not do or do differently) after receiving training.
- Describe the proposed learning activities or tasks that will result in the proposed observable objectives.
- Identify the performance monitoring techniques that will be utilized in documenting the proposed observable objectives.

The work plan criteria to be reviewed include the following:

- 1) The objectives are realistic and align with safety and health training activities as proposed in the Program Design [Section](#) [5 points];
- 2) The tasks as described align with the associated objectives for providing safety and health training [5 points];
- 3) The performance measures as proposed will measure the associated safety and health objective attainment [5 points]; and
- 4) The performance measures will evaluate project effectiveness with safety and health training [5 points].

**D. Budget**

A total of 20 points will be available in scoring the proposed budget and the TGMS (Attachment 3, TGMS 2022).

A Bidder may receive up to 15 points based on cost per trainee, as follows:

- The proposal containing the lowest cost per trainee will receive a program cost score of 15 points. Each of the other proposals will receive a score based on the following formula: the proposal with the lowest cost per trainee divided by the cost per trainee from the proposal being scored, multiplied by 15 (the highest possible cost per trainee score). The number of trainees will be taken from the completed TGMS.

A Bidder may receive up to 5 points for a budget that focuses on training. Each proposal will be reviewed and the budget will be evaluated based on direct training costs versus administrative costs.

- Proposals where the budgeted costs focus 80% or more funding on direct training costs will receive 5 points.
- Proposals where the budgeted costs focus between 50% - 79% on direct training costs will receive 3 points.
- Proposals where the budgeted costs focus 49% or less on direct training costs will receive 0 points.

In the various expenditure budget forms located in the Grants Gateway system (Personal Services which includes Salary and Fringe and Non-Personal Services which includes Contractual, Travel, Operating Expenses, and Other), Bidders will account for how the funding will be allocated. Please consult [Section II.A.1.](#) in this RFP for eligible expenses.

Only categories in which the proposed program will be allocating funding need to be filled in. To avoid errors do not enter any information in categories where grant funding will not be used. Use the following as a guide in completing the budget.

- 1) Personal Services
  - a) Salaries

List the annual salaries of the staff that will be working on the project and the corresponding percentages of their time spent. Describe briefly, in the Budget Narrative, the roles of the staff titles listed. Provide an explanation of any anticipated changes or exceptions in staffing patterns and/or annual salary costs during the contract period.

- b) Fringe:

Briefly explain the calculation of fringe benefits, including a breakdown of the fringe benefit structure. Fringe benefits include social security, workers' compensation, UI, disability insurance and any insurance programs the Bidder organization provides. If budgeted fringe benefits represent an exception to standard policy, please explain the basis.

- 2) Non-Personal Services
  - a) Contractual:

This category includes institutions, individuals, or organizations external to the Bidder which have entered into an agreement with the Contractor to provide any services outlined in or associated with the contract, and whose services are to be funded under the contract. All such agreements are to be by bona fide written contract and a copy of each must be attached. If details are not known, include a brief narrative of each contracted service to be provided, indicating the organization/individual selected, anticipated outcomes and projected budget.

- b) Travel:

Staff travel costs should be budgeted in line with standard agency travel policy or OSC guidelines. Travel costs are reimbursed at NYS rates. Only travel costs for personnel listed under Staff Salaries are acceptable. Consultant or sub-contractor's travel expenses should be included in Contracted Services. Use the Budget Narrative to indicate how Staff Travel costs were calculated (i.e. number of miles, mileage rate). Any exceptional staff travel costs must be justified in the Budget Narrative. No out-of-state travel costs are allowed unless specifically detailed and approved. All non-local destinations for travel must have prior NYSDOL approval.

c) Equipment:

This section is used to itemize both purchased and rental equipment costs. Use the Budget Narrative to justify how the purchase/rental of equipment is related to the training purposes funded by this grant. Provide information regarding bids received for equipment purchases.

d) Space/Property & Utilities:

This section is used to itemize costs associated with Property related costs for space that is rented or owned. Use the respective Budget Narratives to indicate how the expense related to the training purposes funded by this grant and how the proportion of costs were determined.

e) Operating Expenses:

List operating expenses, such as supplies, postage, printing, photocopying, and telephones. Use the Budget Narrative to indicate how operating expenses were calculated. Any type of expense outside of the categories listed above and any exceptional dollar amounts must be explained in the Budget Narrative.

f) Other:

List other items not included under any other category. Any type of expense outside of the categories listed above and any exceptional dollar amounts must be explained in the Budget Narrative. Indirect Costs, if allowable, should be listed in this category.

While in the Grants Gateway, in order to confirm the Expenditure Budget is correct, the Expenditure Summary must be reviewed. The summary will show how much has been allocated in the grant request. The "Total" field must be the total of the grant request. Any changes must be made in the category's corresponding form. No changes can be made on the Expenditure Summary page.

## **VI. Proposal Review and Selection**

### **A. Evaluation of Proposals**

Failure to answer all questions in the proposal or upload all required attachments will jeopardize the Bidder's potential for funding. NYSDOL will first make an initial eligibility determination (minimum requirements) on each proposal received. Proposals deemed eligible will be scored based on further review and evaluation. Proposal scores will consist of 60% on Program Design, 20% on Budget, and 20% on Work Plan. Scoring will award points based on a "criteria met" or "criteria not met" scale. The technical review will be a combination of the work plan and program design.

NYSDOL will establish both a Technical Review Committee and a Budget Review Committee. The Technical Review Committee will consist of both program and technical reviewers who will review both the Program Design and the Work Plan sections of the assigned proposal. Each proposal will be evaluated and scored separately.

It is important to note that:

- 1) Ineligible Bidders will be disqualified before completing a review;
- 2) Incomplete proposals will be disqualified;
- 3) All Bidders that are determined not to be responsive or responsible will be disqualified after completing a review;
- 4) Proposals that fail to meet minimum requirements will be disqualified; and
- 5) HAB reviews will result in a final award.

### **B. Method of Selection**

NYSDOL's review will result in a score comprised of the cost score as described in the Budget section ([V.D.](#)) of this RFP as well as the combined technical score as described in the Program Design section ([V.B.](#)) and the Work Plan section ([V.C.](#)). A complete response to each question is crucial to ensure full points are awarded.

NYSDOL will provide the HAB with award recommendations based on the evaluation point system detailed in Section [VI.A.](#) of this RFP.

In the case of tied scores, ties will be resolved by HAB review and a vote of the HAB members. HAB will receive the NYSDOL award recommendations, prior NYSDOL grant performance reports, committee review documents and proposals in determining the needs and appropriate allocation of resources for the award of grants. In accordance with Labor Law Article 2 section 27-a (15)(b), a majority vote of HAB is required for final awards.

HAB may consider the following items in determining the final awards:

- Prior performance under OSH T&E grants\*;
- High risk industries;
- Low skilled workers in high risk jobs;
- Coordination of OSH T&E program funded activities with activities funded through other occupational safety and health training grants;

- Small businesses (less than 250 employees);
- Lack of availability of training without grant funding;
- Lack of other resources available to provide the training;
- Availability to a geographic area that might not otherwise receive services;
- Cost reasonableness and effectiveness in relation to training proposed;
- Compliance with Worker Protection issues;
- First time Bidders;
- Score attained in Evaluation Process\*; and
- Completeness of the proposal.

(\*Based upon internal reports prepared by staff)

## **VII. Award Administration and Information**

### **A. Award Notices**

All Bidders will receive a letter informing them of the decision on their proposal and Contractors will be contacted by NYSDOL contract development staff.

Bidders who receive an award must be prepared to enter into contract negotiations immediately. HAB reserves the right to rescind the award of any Contractor that is unable or unwilling to promptly engage in the contracting process or to begin conducting their project activities in accordance with the terms of the contract.

### **B. Payment**

Once a contract has been developed and formally executed, funds will be released on a cost reimbursement basis. A Contractor must first pay for incurred expenses and then submit a voucher to NYSDOL for reimbursement. Vouchers must be submitted to NYSDOL on prescribed forms before payment is made. For cost reimbursements to be approved, certain records must be kept and specific documents submitted. The Contractor must provide documentation that the training took place. This will include attendance records for each training session to document attendance. Attendance records must include the OSH T&E sign-in sheet which is provided by NYSDOL at the time of OSH T&E contract execution. This form will include the Names of All Trainees, the Signatures of All Trainees, Title of the Approved Class, the Signature of the Trainer, Name of Subcontractor (if utilized), Name of Contractor, Date and Hours of Training\*, and Location of Training.

\*Additional notations required for sessions including lunch breaks.

The start date for all contracts resulting from this RFP is August 1, 2022. Any training that begins and/or is paid for prior to August 1, 2022 will fall outside the contract period and be ineligible for reimbursement.

**Electronic Payments** -- Payment for invoices submitted by the Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the Commissioner, in the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payment shall be

made in accordance with ordinary state procedures and practices. The Contractor shall comply with OSC procedures to authorize electronic payments. Authorization forms are available at the OSC [website](#), by email at [helpdesk@sfs.ny.gov](mailto:helpdesk@sfs.ny.gov), or by telephone at 518-474-4032. The Contractor acknowledges that it will not receive payment on any vouchers submitted under this contract if it does not comply with OSC electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

#### 1) Contract Reimbursement

Contracts valued at more than \$10,000 will be reimbursed on the basis of supporting documentation attached to vouchers which identify the costs incurred. Vouchers must be presented for payment quarterly, unless required monthly by a grant manager, during the contract's duration; the final voucher must be submitted within 60 days after the expiration date of the contract. Supporting documentation includes, but is not limited to, invoices, receipts, canceled checks, and computer printouts of salaries and fringe benefits. The Contractor's financial administration of the grant will be considered in evaluating subsequent grant proposals.

Vouchers from consultants must be on letterhead and must show the nature of the services rendered, dates of service, rates of pay, and total payment.

For-profit Contractors must have the fiscal ability and cash flow to incur program costs pending reimbursement.

The Contractor may not make a profit from its use of the funds expended by the HAB in making this grant.

#### 2) Purchase Order Agreements – Upfront Payments

Awards valued at \$10,000 or less will be paid as Purchase Order Agreements. The Purchase Order Agreements have different agreement terms and program requirements from standard contracts. The grant fund payments are provided in advance after the Purchase Order Agreement is executed. A reconciliation of expenses is conducted after the training or grant year are complete, at which time the Contractor shall provide supporting documentation showing how the grant funds were used. The Contractor must immediately return any funds not used toward the training program as described in the Agreement. Failure to do so will affect funding approval for future grant requests.

#### 3) Advances for NFP Contractors

In addition to the reimbursement process described above, NFP Contractors are eligible to apply for an advance of their award, up to 25% of total contract value. The following items must be submitted in order to receive such an advance:

- A statement from a certified public accountant which certifies that the Contractor's bookkeeping practices have been reviewed within the past twelve (12) months and that they meet generally acceptable accounting principles;
- A copy of a fidelity bond which covers all persons who will handle funds granted by the HAB, such bond shall be at least equal to or greater than the maximum amount of the advance, and indicate that NYSDOL is named as co-insured; and
- A statement signed by the Chairman of the Board of Directors, the Chief Operating Officer, or other appropriate chief executive official, accepting responsibility for operation of this

program. In addition, this statement must certify that all federal, state, and local taxes, and any UI contributions resulting from operation of this program will be paid, and that no past taxes or contributions are due and owing.

#### 4) Equipment Purchases

Any equipment purchased with project funds is the property of NYSDOL and shall be returned to NYSDOL at the conclusion of the contract unless otherwise agreed to by NYSDOL. In general, the purchase of equipment will not be approved unless it is demonstrated that the equipment is necessary for the direct provision of the training and is not reasonably available from other sources.

An equipment certification form must be filed for every piece of equipment purchased with project funds. Equipment purchased shall be labeled as property of NYSDOL. Equipment must be properly maintained and secured. NYSDOL must be notified immediately if equipment is damaged, stolen or lost by contacting:

NYS Department of Labor  
Contract Unit  
State Campus  
Building 12 Room 436  
Albany, New York 12240  
(518) 457-7629

If a Contractor wishes to purchase an item that is available to NYS as surplus, NYSDOL will arrange to provide the item in lieu of its purchase by the Contractor. All equipment must be purchased in compliance with the applicable NYS Laws, Rules, and Regulations, and the Contractor must have documentation which shows that price information was solicited from several vendors.

For additional information concerning equipment purchases, please see Combined Terms and Conditions (Attachment 1) item A.4 as well as sections H, I, and O.

With any RFP proposal, a list of all equipment purchased under prior HAB grant awards must be submitted. Pertinent documents should be uploaded into Grants Gateway in "Pre-Submission Uploads."

#### 5) Development of Educational Material

As program training materials are developed, one copy of each draft must be forwarded to NYSDOL for review. At the end of the contract period, the Contractor will supply NYSDOL, at no cost, with one hard copy or one electronic copy (preferred) of all training materials produced. Ownership of the materials shall be in accordance with the Combined Terms and Conditions – A1 and A2, section Q (Attachment 1).

All materials produced must bear the legend "Produced through a grant from the NYS HAB's Occupational Safety and Health Training and Education Program (Contract Number)".

Appropriate acknowledgement shall be given to the HAB in any publications, training announcement, meeting, or training session which is funded in whole or in part through the grant.

#### 6) Contract Changes

Any change to the program or budget, as described in the executed contract, will require prior approval by NYSDOL. A formal or informal contract modification may be necessary.



7) Reporting Requirements

The Contractor will be required to file progress reports, at least quarterly, which outline activities, detail actual services delivered in comparison with services contractually required, and provide other pertinent information in a prescribed format on attainment of contract objectives. In all quarterly program reports to NYSDOL, the Contractor shall detail the actual services delivered in comparison with the services contractually required under the grant. Late submission of reports may cause delays in processing vouchers for advance or reimbursement payments. A Contractor's compliance with applicable reporting requirements will be considered in evaluating subsequent award requests.

8) Monitoring

NYSDOL will monitor compliance with contract provisions through on-site visits to verify fiscal data, program progress, and technical correctness of training.

NYSDOL shall be permitted unrestricted entry to the training and education sessions conducted by the Contractor, and/or any subcontractor(s) of the Contractor, for the purpose of monitoring the same to determine satisfactory compliance with the purposes and objectives of the grant. Entry may be without prior notification to the Contractor or subcontractor.

In all quarterly program reports to NYSDOL, the Contractor shall detail the actual services delivered, and compare the same with the services contractually required under the grant.

9) Program Assessment and/or Evaluation

The Contractor acknowledges that a written assessment or evaluation of the grant program will be made by NYSDOL at the end of the contract period, and may be used in determining the rating of the Contractor's proposal(s) for succeeding year grants.

10) Auditing

Contractors and subcontractors are subject to fiscal audits by staff of NYSDOL and the OSC. The purpose of such audits is to assure that all costs incurred were necessary, reasonable, and in compliance with contract terms and conditions. The contractor and its subcontractor must maintain all documents, records, and accounts to support OSH T&E program activities and expenditures for six (6) years following closeout of the contract.

As a condition of any subcontract, a proposed subcontractor or consultant of the Contractor must expressly agree to be audited by NYSDOL to the extent of its performance under the grant, said audit being unrestricted as to policies and/or procedures other than those established by NYSDOL in its RFP. Further, all such policies and/or procedures shall be expressly accepted by the Contractor or consultant as compliant with standards promulgated by the OSC.

NYSDOL expressly reserves the right to audit any and all funding sources of the Contractor to ensure that payment requests will not duplicate the reimbursement of costs and services received from other sources.

**C. General Requirements**

All proposals and accompanying documentation will become the property of the NYS and will not be returned. The content of each proposal will be held in strict confidence during the initial NYSDOL

evaluation process, and no details of the proposal will be discussed outside of the initial evaluation process. Details of the proposal may be discussed during the HAB final review as part of an HAB meeting which will be conducted in accordance with the NYS Open Meetings Law. The successful proposal and portions of the RFP deemed applicable by NYSDOL/HAB will be made part of the contract; therefore, an official authorized to commit the Bidder to a contract with NYSDOL/HAB must sign the proposal documents.

#### **D. Reservation Clauses**

NYSDOL/HAB, to serve the best interests of the state, reserves the right to:

- 1) Make no awards;
- 2) Postpone or cancel this RFP upon notification to all Bidders;
- 3) Amend the specifications after their release with appropriate notice to all Bidders;
- 4) Request Bidders to present supplemental information clarifying their proposal, either in writing or in formal presentation;
- 5) Waive or modify minor irregularities in proposals received after prior notification to the Bidder. This will in no way modify the RFP documents or excuse the Bidder from full compliance with its requirements;
- 6) Remove proposals with unreasonable costs from award consideration;
- 7) Correct any arithmetic errors in any proposal;
- 8) Reject any and all proposals received in response to this RFP;
- 9) Contact Bidders' references as a check on qualifications;
- 10) Award contracts to more than one Bidder;
- 11) To make reductions to proposals at any time before the award is made, if such action is in the best interest of NYS;
- 12) Make any payment contingent upon the submission of specific deliverables;
- 13) Require that all offers are held open for a period of 120 days unless otherwise expressly provided for in writing; and
- 14) Rescind the award of any Contractor that is unable or unwilling to promptly engage in the contracting process or to begin conducting their training in accordance with the contract terms. No Bidders will have any rights against HAB or NYSDOL arising from such action.

## VIII. Attachments

Attachment Number	Document Title	Required to be completed
1.	Combined Terms and Conditions – A-1 and A-2	Yes
2.	OSH Terms and Conditions	Yes
3.	Training and Grant Management Summary (TGMS 2022)	Yes
4.	Vendor Responsibility – Bidder Questionnaire	Yes, with original signatures
5.	Appendix – Minority and Women-Owned Business Enterprises	No
6.	Minority and Women-Owned Business Enterprises and Equal Employment Opportunity Policy Statement	Yes, with original signatures
7.	Equal Employment Opportunity Staffing Plan (EEO 100)	Yes, with original signatures
8.	Minority and Women-Owned Business Enterprises Utilization Plan (MWBE 100)	Yes, for Bidders requesting \$25,000 or more in grant funds and if MWBE 101 is not submitted, with original signatures.
9.	Application for Waiver of Minority and Women-Owned Business Enterprise Participation Goal (MWBE 101)	Yes, for Bidders requesting \$25,000 or more in grant funds and if MWBE 100 Utilization Plan is not submitted, with original signatures.
10.	Appendix – Service-Disabled Veteran-Owned Businesses	No
11.	Service-Disabled Veteran-Owned Businesses Utilization Plan (SDVOB 100)	Yes, if SDVOB 200 not submitted, with original signatures
12.	Application for Waiver of Service-Disabled Veteran-Owned Businesses Participation Goal (SDVOB 200)	Yes, if SDVOB 100 not submitted, with original signatures
13.	Executive Order (EO) 177 Certification	Yes, with original signatures
14.	Potential Conflict of Interest	Yes, with original signatures
15.	Key Contacts	Yes
16.	Part III Attachment D – Payment and Reporting Schedule	No

Note: NYSDOL/HAB make no guarantees, warranties, or assurances of any kind, express or implied, with respect to such information, including any information on linked sites and including, but not limited to, accuracy of the information or its completeness, timeliness, usefulness, adequacy, continued availability, or ownership.