



**REQUEST FOR PROPOSALS
for
COVID-19 Testing Services for Non-District K-12 Schools
for The
CITY OF PHILADELPHIA**

Issued by:
THE CITY OF PHILADELPHIA (“City”)
Department of Public Health

All proposals must be emailed to Shara Epstein, MD at covidtesting@phila.gov.

Applicants who have failed to submit complete applications will not be considered for the contract.

Proposals must be received no later than 5:00 p.m. Philadelphia, PA, local time, on August 27, 2021.

Pre-Proposal Conference (Highly Encouraged):

Date: August 23, 2021

Time: 12:00 PM ET

Location: Virtual (See Sec. IV.C)

<https://attendee.gotowebinar.com/register/1961381826382155280>

James F. Kenney, Mayor
Cheryl Bettigole, MD, MPH, Acting Commissioner, Department of Public Health

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I. Project Overview

A. Introduction; Statement of Purpose

The City of Philadelphia seeks to engage a vendor or vendors to provide in-school COVID-19 testing services to K-12 schools that are not affiliated with the School District of Philadelphia starting with the fall semester 2021, as well as outreach and marketing services to ensure that such schools are aware of the availability of COVID-19 testing services.

B. Department Overview

The mission of the Philadelphia Department of Public Health (the “Department”) is to protect and promote the health of all Philadelphians and to provide a safety net for the most vulnerable. The Department is the City of Philadelphia’s lead public health agency responding to the coronavirus disease pandemic. This contracting opportunity is being administered by the Department’s Division of COVID-19 Containment.

C. Project Background

The federal government is providing financial resources to enable and expand school-based COVID-19 testing and related activities. Funds will be provided directly to the Department for further distribution. The objectives and goals of this funding are primarily focused on providing needed resources to implement diagnostic and screening testing programs in schools aligned with CDC recommendations (<https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/k-12-guidance.html>), as well as outreach and marketing services designed to ensure that COVID-19 testing services are made available comprehensively and equitably. Screening programs may involve routine (e.g., weekly) testing of staff and students regardless of COVID-like symptoms or known exposures to help identify cases and outbreaks early, taking local levels of virus transmission into consideration. The Department expects to provide a total of approximately \$7,000,000 of available federal funding to the selected vendor or vendors in order to ensure students and staff can remain in schools safely through adequate and equitable access to testing resources as part of a layered disease prevention strategy.

D. Request for Proposals

The Department will accept proposals from non-profit or for-profit firms. Firms should highlight their subject matter experience relevant to implementing a multi-site infectious disease testing program, preferably involving multiple stakeholders and related culturally sensitive outreach and marketing service provision.

The intent is to contract with one firm or multiple firms to supply these services. Interested parties are encouraged to supply examples of similar projects and a list of references. The respondent may propose an initial milestone payment plan in accordance with the scope of work proposed to be refined upon negotiation.

E. General Disclaimer of the City

This RFP does not commit the City of Philadelphia to award a contract. This RFP and the process it describes are proprietary to the City and are for the sole and exclusive benefit of the City. No other party, including any Applicant, is intended to be granted any rights hereunder. Any response, including written documents and verbal communication, by any Applicant to this

RFP, shall become the property of the City and may be subject to public disclosure by the City, or any authorized agent of the City. The City is not liable for any costs incurred by Applicants in preparing and submitting a proposal in response to this RFP or for any costs and expenses incurred in meeting with, or making oral presentations to the City if so requested.

II. Scope of Work

A. Project Details

The Department's objectives for this project include the following:

- Provide COVID-19 testing services to K-12 schools in the City of Philadelphia that are not affiliated with the School District of Philadelphia.
- Provide outreach and marketing services sufficient to ensure equitable, culturally sensitive, and comprehensive availability of such testing services to such schools.
- Eliminate or reduce any logistical barriers to testing accessibility identified by such schools to the extent feasible.

The Applicant's proposed scope of work should address each objective specifically and describe in detail how the Applicant will achieve the objective, or how the Applicant will enable the Department to achieve the objective. The Applicant may propose to engage subcontractors to build firm capacity or meet an objective, but should provide detail about the logistics and feasibility of such engagement given the time sensitivity of this opportunity.

This *Section II, Scope of Work* states requirements for the project, including the services and the tangible work products to be delivered, and the tasks the Department has identified as necessary to meet those requirements. The Department reserves the right, however, to modify specific requirements, based on changed circumstances (such as a change in business or technical environments), the proposal selection process, and contract negotiations with the Applicant(s) selected for negotiations, and to do so with or without issuing a revised RFP. The Applicant must provide in its proposal a detailed proposed scope of work showing how it will meet the project requirements stated in this Section II.

B. Services and Tangible Work Products

1. Services

The Department requires at least the services listed below, including the specific tasks and work activities described. Applicant's proposed scope of work should state in detail how it will carry out each task, including the personnel/job titles (as identified in Section I, *Organizational and Personnel Requirements*) responsible for completing the task. For each service specified, the Applicant should propose criteria to determine when the tasks comprising the service are satisfactorily completed. Applicants may propose additional or revised tasks and activities, but should explain why each is necessary to achieve the project objectives.

- Establish and implement COVID-19 testing services program on-site at K-12 schools not affiliated with the School District of Philadelphia. Such testing services may include weekly screening, pooled testing, or other testing protocols consistent with applicable CDC guidance.

- Capacity to increase testing availability and/or reassign personnel on an emergency basis during an outbreak.
- Outreach and marketing directed to K-12 schools not affiliated with the School District of Philadelphia to ensure awareness and demonstrate value of testing services.
 - Direct outreach and relationship building with administrative staff of such schools.
 - Development and distribution of materials to publicize availability and communicate value of testing services.

2. Tangible Work Products

The Department requires completion and delivery of at least the tangible work products listed below. The proposed scope of work should state in detail how the Applicant will produce each work product, including the personnel/job titles (as identified in Section I, *Organizational and Personnel Requirements*), that will be responsible for delivering the work product. For each work product, the Applicant should propose criteria for satisfactory completion and delivery. Applicants may propose additional or revised tangible work products, but should explain why each is necessary to achieve the project objectives.

- Reporting in accordance with Section II.B.5, *Reporting Requirements*.

C. Timetable

The Department seeks firms that are able to start the work anticipated by this opportunity immediately upon notice of award and anticipates that the initial term of any contract awarded as a result of this RFP will be approximately 10 months from project start. Applicants should take note of the dynamic nature of the COVID-19 pandemic and acknowledge that the timetable may necessarily adjust.

D. Hours and Location of Work

Hours of operation and location of work for in-school COVID-19 testing services will be dependent on each school's hours of operation and location, as well as any other temporal or locational limitations on its ability to accommodate testing services. Outreach and marketing services will need to be sensitive to the availability of school staff, particularly administrative and any student health staff. Vendors will need to ensure continuity of testing services, and may need to be available to respond on an emergency basis in the case of outbreaks or other emergency situations requiring prompt provision of testing services.

E. Monitoring; Security and Background Checks

By submission of a proposal in response to this RFP, the Applicant agrees that it will comply and cooperate with all contract and compliance monitoring and evaluation activities undertaken by the City of Philadelphia, and with all security policies and requirements of the City. The Applicant acknowledges that the services required under this opportunity will involve sensitive health data, and that the successful Applicant will be required to agree to certain confidentiality and data security terms in order to protect the privacy of individuals receiving testing services. In addition, to the extent Applicant's activities are subject to the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g, Applicant will be required to agree to hold all information received and subject to that law in strict confidence as required by that law.

The Department may periodically inspect the testing services provided by the successful Applicant, including through announced or unannounced on-site visits.

In the performance of services at K-12 schools, Applicants must be prepared to fully comply with background checks required by the Public School Code, 24 P.S. § 1-111, and the Child Protective Services Law, 23 Pa.C.S.A. § 6301 *et seq.*

F. Reporting Requirements

The successful Applicant shall adhere to monthly financial reporting and weekly testing data reporting, including, but not limited to, reporting as required by the terms of the federal grant funding this opportunity. Financial reporting will include a summary of expenditures and unobligated funds. Weekly testing data must include the number of students enrolled for in-person learning, the number of tests administered by test type (e.g., antigen, PCR, other molecular test), and the number of positive results identified. Additionally, the successful Applicant will be required to submit bi-monthly invoices with supporting documentation to substantiate all costs incurred. Reporting on outreach and marketing efforts will also be required. The Department will communicate in writing any additional reporting requirements as needed. Reporting templates will be provided and the Department will work with the successful Applicant to ensure all information is reported in a timely, efficient manner. If hourly rates are charged, the invoice must also detail the number of hours, the hourly rate, and the individual who performed the service.

G. Specific Performance Standards

The City expects that the contract resulting from this RFP will include performance and quality standards for the project, including but not limited to the following:

- Compliance with CDC’s “ELC Reopening Schools: Support for Screening Testing to Reopen & Keep Schools Operating Safely” guidance, as updated by CDC (last updated 8/2/21), attached as Appendix F.

The City reserves the right to reject any item of work that does not meet the Department’s minimum standards of performance and quality, or that does not conform to the contract scope of work or applicable federal requirements and guidelines, including CDC guidance attached hereto as Appendix F. The City shall not be obligated to pay for rejected work.

H. Cost Proposal

Applicants must provide a detailed cost proposal, with a line-item breakdown of the costs for specific services and work products proposed. Cost proposals must be “fixed price” proposals. The proposed price must include all costs that will be charged to the City for the services and tangible work products the Applicant proposes to perform and deliver to complete the project and including, but not limited to, costs for the following, if the Department is to pay for them: employee compensation and fringe benefits; communication; printing; administrative expenses; bonding; any legally required background checks; rent, utilities, maintenance and security related to real estate; travel (reimbursable only at rates approved by the Department and in accordance with current City policies, which can be obtained from the Department, CDC guidance provided in Appendix F, and any applicable restrictions on the federal grant funding this opportunity);

project management; development; testing; implementation; maintenance; training; and all other work proposed. Any contract resulting from this RFP will provide for a not-to-exceed amount in the compensation section of the contract.

I. Organization and Personnel Requirements

The proposal must identify all personnel who will perform work on the project, by education level, skill set (described in detail), experience level, and job title. Resumes of all personnel so identified should be included in Applicant's proposal.

J. Technology Capabilities

The successful Applicant will be responsible for having and using the technology capabilities and resources necessary to perform the work. If the applicant is providing an IT solution, then the successful Applicant should have an understanding of and experience with hybrid IT infrastructure that includes a mix of cloud and on-premises legacy applications.

K. Alternative Solutions

If an Applicant offers options and/or alternative solutions that are not requested in this RFP or are not included in its proposed prices, the Applicant must provide the following information for each:

- A detailed description of the option/alternative solution (including, but not limited to, all features, functionality, and/or services that will be unavailable if the option/alternative is not purchased);
- If not included in the proposed prices, a full explanation of the rationale for not including;
- Detailed cost information for each option/alternative, in accordance with the cost proposal requirements of the RFP.

III. Proposal Format, Content, and Submission Requirements; Selection Process

A. Proposal Format

Proposals submitted in response to this RFP must include a cover letter signed by the person authorized to issue the proposal on behalf of the Applicant, and the following information, in the sections and order indicated:

1. Table of Contents
2. Introduction/Executive Summary
Provide an overview of the services being sought and proposed scope of services.
3. Applicant Profile
Provide a narrative description of the Applicant itself, including the following:
 - a. Applicant's business identification information, including name, business address, telephone number, website address, and federal taxpayer identification number or federal employer identification number;
 - b. A primary contact for the Applicant, including name, job title, address, telephone and fax numbers, and email address;

c. A description of Applicant’s business background, including, if not an individual, Applicant’s business organization (corporation, partnership, LLC, for profit or not for profit, etc.), whether registered to do business in Philadelphia and/or Pennsylvania, country and state of business formation, number of years in business, primary mission of business, significant business experience, whether registered as a minority-, woman-, or disabled-owned business or as a disadvantaged business and with which certifying agency, and any other information about Applicant’s business organization that Applicant deems pertinent to this RFP.

4. Project Understanding

Provide a brief narrative statement that confirms Applicant’s understanding of, and agreement to provide, the services and/or tangible work products necessary to achieve the objectives of the project that is the subject of this RFP. Applicant shall describe how the Applicant’s business experience will benefit the project.

5. Proposed Scope of Work

Provide a proposed scope of work, including a cost proposal and project timetable (schedule), in accordance with Section II, “Scope of Work,” of this RFP.

6. Statement of Qualifications; Relevant Experience

Provide a statement of qualifications and capability to perform the services sought by this RFP, including a description of relevant experience with projects that are similar in nature, size and scope to that which is the subject of this RFP. If any minimum qualifications for performance are stated in this RFP, Applicant must include a statement confirming that Applicant meets such minimum requirements.

7. References

Provide at least three references, preferably for projects that are similar in type, scope, size and/or value to the work sought by this RFP. If applicable, Applicant should provide references for projects with other municipalities that are similar in size to the City of Philadelphia. For each reference, include the name, address and telephone number of a contact person.

8. Proposed Subcontractors

State the intention to use subcontractors to perform any portion of the work sought by this RFP. For each such subcontractor, provide the name and address of the subcontractor, a description of the work Applicant intends the named subcontractor to provide, and whether the subcontractor can assist with fulfilling goals for inclusion of minority, woman, or disabled-owned businesses or disadvantaged businesses as stated in Appendix B. Note that if subcontractors at any tier may perform services arising directly out of a City contract resulting from this RFP, Applicants must inform them of the City’s minimum wage and benefits requirements and must require them to comply with such requirements.(See Section III.F for more information.)

9. Requested Exceptions to Contract Terms

State exceptions, if any, to City Contract Terms that Applicant requests, including the reasons for the request and any proposed alternative language. (See Section III.B for more information.)

10. Office of Economic Opportunity - Solicitation for Participation and Commitment Form/Diversity Report of Nonprofit Organizations

As a separate document, Applicants must include a completed Solicitation for Participation and Commitment Form when responding to an RFP that contains ranges for the participation of M/W/DSBEs. The form is provided with Appendix B-1 to this RFP. If Applicant is a nonprofit organization, such applicants must include a completed “Diversity Report of Nonprofit Organizations” on the form provided with Appendix B-2 of this RFP. If the Nonprofit Organization is responding to an RFP that contains ranges, in addition to the Diversity Report of Nonprofit Organizations, it must also submit a Solicitation for Participation and Commitment Form. (See Section III.D for more information.)

11. Tax and Regulatory Status and Clearance Statement

Include a statement, in the form requested in Appendix C, attesting to Applicant’s tax and regulatory compliance with the City. (See Section III.E for more information.)

12. Disclosure of Litigation; Disclosure of Administrative Proceedings

State, for the 5-year period preceding the date of this RFP, a description of any judicial or administrative proceeding that is material to Applicant’s business or financial capability or to the subject matter of this RFP, or that could interfere with Applicant’s performance of the work requested by this RFP, including, but not limited to, any civil, criminal or bankruptcy litigation; any bankruptcy filings over the past five years; any debarment or suspension proceeding; any criminal conviction or indictment; and any order or agreement with or issued by a court or local, state or federal agency. For each such proceeding, state the name of the case or proceeding, the parties involved, the nature of the claims involved, its current status and the final disposition, if any. Provide the same information for any officer, director, principal, or partner of Applicant’s organization, and for any subcontractor Applicant plans to use to perform the services described in this RFP.

13. Statement of Financial Capacity

Provide documentation demonstrating fiscal solvency and financial capability to perform the work sought by this RFP. Provide a general, independent statement of the Applicant’s financial condition in addition to one or both of the following:

- Applicant’s most recent audited or unaudited financial statements;
- Most recent IRS Form 990 (for non-profit organizations only).

14. Local Business Entity or Local Impact Certification: **See Appendix D for completion of Local Impact Statement.**

15. LGBTQ-Owned Business Data Collection (Optional if applicable to Applicant and/or Applicant’s proposed subcontractors)

As part of the City’s commitment to diversity, equity and inclusion in all aspects of City procurement, the City is collecting data to identify the number of companies beneficially owned

and controlled by Lesbian, Gay, Bisexual, Transgender and Queer persons who wish to do business with the City (collectively, “LGBTQ businesses”). The data will be used to identify the number of LGBTQ businesses currently doing business with the City. It will also assist in efforts to include LGBTQ certified businesses into the City’s vendor database. Response to this form, Appendix E, is voluntary. (See Section III. I)

16. Disclosure Requirements

Disclose all information required under Chapter 17-1400 of the Philadelphia Code, including any local and state political campaign contributions, as applicable.

17. Defaults

Provide a description, in detail, of any situation occurring within the past five (5) years in which the Applicant, or a joint venture or partnership of which Applicant was a part, defaulted or was deemed to be in noncompliance of any contractual obligations, explaining the issues involved in the default, the outcome, the actions taken by Applicant to resolve the matter. Also provide the name, title and telephone number of the party to the contract who asserted the event of default or noncompliance or the individual who managed the contract for that party.

B. Notice to Applicants to State Requested Exceptions to Contract Terms in Proposal

The City’s standard contract terms and conditions for services of the type sought by this contracting opportunity (Contract Terms) are set forth in the General Provisions attached to this RFP as Appendix A. By submitting a proposal in response to this contract opportunity, the Applicant agrees that, except as provided herein, it will enter into a contract with the City containing substantially the Contract Terms.

For any contract awarded for work to be performed on or after July 1, 2019 the City has instituted a policy of making all of its payments under the contract through electronic deposits into the awarded entity’s designated bank account. Before any City payments are made, the awarded entity will be required to supply the City with the information necessary for the City to initiate electronic payments by completing one of the electronic payment processing enrollment forms available on the City’s vendor portal at <https://secure.phila.gov/finance/vendorpayments>. Applicants awarded a contract before July 1, 2019 are encouraged to complete one of the electronic payment processing enrollment forms before the conversion to electronic payments becomes mandatory. The City intends to stop issuing paper checks.

Applicants must state clearly and conspicuously any modifications, waivers, objections or exceptions they seek (“Requested Exceptions”) to the Contract Terms in a separate section of the proposal entitled “Requested Exceptions to Contract Terms.” For each Requested Exception, the Applicant must identify the pertinent Contract Term by caption and section number and state the reasons for the request. The Applicant must also propose alternative language or terms for each Requested Exception. Requested Exceptions to the City’s Contract Terms will be approved only when the City determines in its sole discretion that a Requested Exception makes business sense, does not pose unacceptable risk to the City, and is in the best interest of the City. By submitting its proposal, the Applicant agrees to accept all Contract Terms to which it does not expressly seek a Requested Exception in its proposal. The City reserves the right, in its sole discretion, to evaluate and reject proposals based in part on whether the Applicant’s proposal contains

Requested Exceptions to Contract Terms, and the number and type of such requests and alternative terms proposed.

If, after the City issues its Notice of Intent to Contract to an Applicant, the Applicant seeks Requested Exceptions to Contract Terms that were not stated in its proposal, the City may, in its sole discretion, deny the Requested Exceptions without consideration or reject the proposal.

The City reserves the right, in its sole discretion, (i) to waive any failure to comply with the terms of this Notice to Applicants if it determines it is in the best interest of the City to do so; and (ii) to require or negotiate terms and conditions different from and/or additional to the Contract Terms in any final contract resulting from this contract opportunity, without notice to other Applicants and without affording other Applicants any opportunity to revise their proposals based on such different or additional terms.

C. Health Insurance Portability and Accountability Act (HIPAA)

The work to be provided under any contract entered into pursuant to this RFP may be subject to the federal Health Insurance Portability and Accountability Act (HIPAA), as amended, and/or other state or federal laws or regulations governing the privacy and security of health information. The selected Applicant must comply with the “Terms and Conditions Relating to Protected Health Information” which are posted on the City’s website at <https://philawx.phila.gov/econtract/> under the “About” link and which will be incorporated into the contract by reference.

D. Office of Economic Opportunity – Participation Commitment/Diversity Reports

Each Applicant is subject to the provisions of Mayoral Executive Order 01-21, the City’s Antidiscrimination Policy, and is required to exercise its “Best and Good Faith Efforts” in response to the ranges specified in the Appendix B-1 portion of Appendix B, included with this RFP for participation by Minority Business Enterprises (“MBE”), Woman Business Enterprises (“WBE”) and Disabled Business Enterprises (“DSBE”) (collectively, “M/W/DSBE”) as those terms are defined in Executive Order 01-21. Forms, instructions and special contract provisions for the Antidiscrimination Policy explain these requirements in more detail and are included in Appendix B-1 to this RFP. Applicants are required to complete and return with their proposals the “Solicitation for Participation and Commitment” form which is included in Appendix B-1. The City encourages proposals from M/W/DSBE Applicants. M/W/DSBE Applicants, like all other Applicants, are required to submit a proposal that is responsive to the Antidiscrimination Policy. The M/W/DSBE Applicant will receive credit towards the participation range for its certification category (i.e., MBE range, WBE range or DSBE range). For this RFP, OEO has identified the following areas for participation, although this list is not intended to be exhaustive and MBEs and WBEs are strongly encouraged to apply to this opportunity as prime Applicant:

Outreach
Marketing
PPE Supplies
Courier Service
Signage

Safety Cones
Trailer/Shed
Background Checks

If Applicant is a nonprofit organization, Mayoral Executive Order 01-21 requires nonprofit Applicants to document their diversity policies. Applicants that are nonprofit organizations should refer to the special contract provisions and instructions attached to this RFP as Appendix B-2. Included in Appendix B-2 is the form, “Diversity Report of Nonprofit Organizations,” which should be completed and returned with proposals submitted by nonprofit Applicants in addition to the Solicitation for Participation and Commitment form.

If Applicant is a nonprofit organization, Mayoral Executive Order 01-21 requires nonprofit Applicants to document their diversity policies. Applicants that are nonprofit organizations should refer to the special contract provisions and instructions attached to this RFP as Appendix B-2. Included in Appendix B-2 is the form, “Diversity Report of Nonprofit Organizations,” which should be completed and returned with proposals submitted by nonprofit Applicants even if a nonprofit Applicant is also submitting a “Solicitation for Participation and Commitment” form.

E. The Philadelphia Tax and Regulatory Status and Clearance Statement

It is the policy of the City of Philadelphia to ensure that each contractor and subcontractor has all required licenses and permits and is current with respect to the payment of City taxes or other indebtedness owed to the City (including, but not limited to, taxes collected by the City on behalf of the School District of Philadelphia), and is not in violation of other regulatory provisions contained in the Philadelphia Code. To assist the City, through its Department of Revenue and Department of Licenses and Inspections, in determining this status, each Applicant is required to submit with its proposal the certification statement entitled City of Philadelphia Tax and Regulatory Status and Clearance Statement which is attached to this RFP as Appendix C.

If the Applicant is not in compliance with the City’s tax and regulatory codes, an opportunity will be provided to enter into satisfactory arrangements with the City. If satisfactory arrangements cannot be made, Applicants will not be eligible for award of the contract contemplated by this RFP.

The selected Applicant will also be required to assist the City in obtaining the above information from its proposed subcontractors (if any). If a proposed subcontractor is not in compliance with City Codes and fails to enter into satisfactory arrangements with the City, the non-compliant subcontractor will be ineligible to participate in the contract contemplated by this RFP and the selected applicant may find it necessary to replace the non-compliant subcontractor with a compliant subcontractor. Applicants are advised to take these City policies into consideration when entering into their contractual relationships with proposed subcontractors.

If an Applicant or a proposed subcontractor is not currently in compliance with the City’s tax and regulatory codes, please contact the Revenue Department to make arrangements to come into compliance at 215-686-6600 or revenue@phila.gov.

Applicants need not have a City of Philadelphia Business Income and Receipts Tax Account Number (formerly Business Privilege Tax Account Number) and Commercial Activity License Number (formerly Business Privilege License Number) to respond to this RFP, but will, in most circumstances, be required to obtain one or both if selected for award of the contract contemplated by the RFP.¹ Applications for a Business Income and Receipts Tax Account Number or a Commercial Activity License² may be made on line by visiting the City of Philadelphia Business Services Portal at <https://www.phila.gov/services/business-self-employment/business-taxes/> and clicking on “Get a tax account.” If you have specific questions, call the Department of Revenue at 215-686-6600 for questions related to City of Philadelphia Business Income and Receipts Tax Account Number or the Department of Licenses and Inspections through 215-686-8686 for questions related to the Commercial Activity License.

F. Compliance with Philadelphia 21st Century Minimum Wage and Benefits Ordinance

Applicants are advised that any contract awarded pursuant to this RFP is a “Service Contract,” and the successful Applicant under such contract is a “Service Contractor,” as those terms are defined in Chapter 17-1300 of the Philadelphia Code (“Philadelphia 21st Century Minimum Wage and Benefits Standard Ordinance”) Any Subcontractor (as defined in the General Provisions attached as an Appendix to this RFP), and any sub-subcontractor at any tier proposed to perform services sought by this RFP, is also a “Service Contractor” for purposes of Chapter 17-1300. If any such Service Contractor (i.e. Applicant and subcontractors at any tier) is also an “Employer,” as that term is defined in Section 17-1302 (more than five employees), and is among the Employers listed in Section 17-1303 of the Code, then during the term of any resulting contract, it is subject to the minimum wage and benefits provisions set forth in Chapter 17-1300 unless it is granted a waiver or partial waiver under Section 17-1304. Absent a waiver, these minimum wage and benefits provisions, which include a minimum hourly wage that is adjusted annually based on the CPI, health care and sick leave benefits, are mandatory and must be provided to Applicant’s employees or the employees of any subcontractor at any tier who perform services related to the City contract resulting from this RFP. Applicants and any subcontractors at any tier proposed by Applicants are strongly encouraged to consult Chapter 17-1300 of the Philadelphia Code,³ the General Provisions, and the About/Minimum Wage and Equal Benefits Ordinances Impacting Some City Contractors links on the eContract Philly home page for further details concerning the applicability of this Chapter to, and obligations it imposes on certain City contractors and subcontractors at any tier. In addition to the enforcement provisions contained in Chapter 17-1300, the successful Applicant’s failure or the failure of any subcontractor at any tier to comply (absent an approved waiver) with the provisions of Chapter 17-1300, or any discrimination or retaliation by the successful Applicant or Applicant’s subcontractors at any tier against any of their employees on account of having claimed a violation of Chapter 17-1300, shall be a material breach of any Service Contract resulting from this RFP. By submitting a proposal in response to this RFP, Applicants acknowledge that they

¹ Applicants that have a Business Privilege Tax Number should use that number, as it is automatically their Commercial Activity License Number, and need not apply for a new Commercial Activity License Number. Similarly, Applicants with a Business Privilege Tax Account Number should use that number as their Business Income and Receipts Tax Account Number.

² Commercial Activity Licenses are not typically required for non-profit organizations; however, Business Income and Receipts Tax Account Numbers typically are required.

³ A link to the Philadelphia Code is available on the City’s official web site, www.phila.gov. Click on “City Code and Charter,” located to the bottom right of the Welcome page under the box “Transparency.”

understand, and will comply with the requirements of Chapter 17-1300, and will require the compliance of their subcontractors at any tier if awarded a contract pursuant to this RFP. Applicants further acknowledge that they will notify any subcontractors at any tier proposed to perform services related to this RFP of the requirements of Chapter 17-1300.

G. Certification of Compliance with Equal Benefits Ordinance

If this RFP is a solicitation for a “Service Contract” as that term is defined in Philadelphia Code Section 17-1901(4) (“A contract for the furnishing of services to or for the City, except where services are incidental to the delivery of goods. The term does not include any contract with a governmental agency.”), and will result in a Service Contract in an amount in excess of \$250,000, pursuant to Chapter 17-1900 of the Philadelphia Code (*see* footnote 3 for online access to the Philadelphia Code), the successful Applicant shall, for any of its employees who reside in the City, or any of its employees who are non-residents subject to City wage tax under Philadelphia Code Section 19-1502(1)(b), be required to extend the same employment benefits the successful Applicant extends to spouses of its employees to life partners of such employees, absent a waiver by the City under Section 17-1904. By submission of their Proposals in response to this RFP, all Applicants so acknowledge and certify that, if awarded a Service Contract pursuant to this RFP, they will comply with the provisions of Chapter 17-1900 of the Philadelphia Code and will notify their employees of the employment benefits available to life partners pursuant to Chapter 17-1900. Following the award of a Service Contract subject to Chapter 17-1900 and prior to execution of the Service Contract by the City, the successful Applicant shall certify that its employees have received the required notification of the employment benefits available to life partners and that such employment benefits will actually be available, or that the successful Applicant does not provide employment benefits to the spouses of married employees. The successful Applicant’s failure to comply with the provisions of Chapter 17-1900 or any discrimination or retaliation by the successful Applicant against any employee on account of having claimed a violation of Chapter 17-1900 shall be a material breach of the any Service Contract resulting from this RFP. Further information concerning the applicability of the Equal Benefits Ordinance, and the obligations it imposes on certain City contractors is contained in the General Provisions attached to this RFP and the About/Minimum Wage and Equal Benefits Ordinances Impacting Some City Contractors links on the eContract Philly home page.

H. Local Business Entity or Local Impact Certification

Pursuant to Mayoral Executive Order No. 04 -12, the City Department will, in the selection of the successful Applicant, consider whether that Applicant has certified that either (1) Applicant meets the criteria stated in Section 17-109(3)(b) of the Philadelphia Code to qualify as a Local Business Entity or (2) in the performance of the resulting contract, Applicant will employ City residents, or perform the work in the City. Any Applicant who wishes to demonstrate its eligibility for this consideration shall do so by completing, executing and attaching to its application a completed Local Business Entity or Local Impact Certification, the form of which is attached to this RFP as Appendix D. The Applicant shall then also include in a separate section of the application, labeled “Local Business Entity or Local Impact Certification,” a statement that the Applicant believes it has met the Local Business Entity or Local Impact criteria “as set forth in the attached Local Business Entity or Local Impact Certification.” The City Department

shall deem it a positive factor where the Applicant has, in the City's sole discretion, met the Local Business Entity or Local Impact criteria.

I. LGBTQ Applicant Opportunity Data

As part of the City's commitment to diversity, equity and inclusion in all aspects of City procurement, the City is collecting data to identify the number of companies beneficially owned and controlled by Lesbian, Gay, Bisexual, Transgender and Queer persons who wish to do business with the City (collectively, "LGBTQ businesses"). The data will be used to identify the number of LGBTQ businesses currently doing business with the City. It will also assist in efforts to include LGBTQ certified businesses into the City's vendor database. Response to this form, Appendix E, is voluntary.

J. Mandatory Online Application Requirements

You must apply via email as provided on the cover sheet of this RFP in order to be eligible for award of the contract opportunity described in this RFP.

K. Selection Process

This RFP is not a competitive bid subject to the requirement of Section 8-200 of the Philadelphia Home Rule Charter that award be made to the lowest responsible bidder. Cost to the City is a material factor, but it is not the sole, or necessarily the determining factor, in proposal evaluation. The City may, at its sole discretion, award a contract resulting from this RFP to a person or entity other than the responsible Applicant submitting the lowest price. If the City chooses to award a contract, that contract will be awarded to the Applicant whose proposal the City determines, in its sole discretion, is the most advantageous to the City and in the City's best interest.

The City will base its selection on criteria that include, but are not limited to:

1. Superior ability or capacity to meet particular requirements of contract and needs of City Department and those it serves
2. Eligibility under Code provisions relating to campaign contributions
3. Superior prior experience of Applicant and staff
4. Superior quality, efficiency and fitness of proposed solution for City Department
5. Superior skill and reputation, including timeliness and demonstrable results
6. Special benefit to continuing services of incumbent, such as operational difficulties with transition or needs of population being served
7. Benefit of promoting long-term competitive development and allocation of experience to new or small businesses, including those owned by minority or disabled persons or by women
8. Lower cost
9. Administrative and operational efficiency, requiring less City oversight and administration
10. Anticipated long-term cost effectiveness
11. Meets prequalification requirements
12. Applicant's certification of its Local Business Entity/Local Impact status pursuant to Executive Order 04-12

If a contract is awarded pursuant to this RFP, in compliance with Section 17-1402 (c) of the Philadelphia Code, a notice will be published on the City’s website listing the names of all Applicants and identifying the successful Applicant and the basis for the award to that Applicant. This notice will appear on the City’s website for at least one week before the contract is executed. In no event, however, shall the City Department or City Agency issuing this RFP be obligated to debrief unsuccessful Applicants as to the basis for its decision not to award a contract to them.

IV. Proposal Administration

A. Procurement Schedule

RFP Posted	Friday, August 13, 2021
Pre-Proposal Meeting	Monday, August 23, 2021, 12:00 PM ET, virtual
Applicant Questions Due	Monday, August 23, 2021, 5:00 PM ET, via email
Answers Posted on RFPs Online	Wednesday, August 25, 2021
Proposals Due	Friday, August 27, 2021, 5:00 PM ET, via email
Applicant Interviews, Presentations	As determined by Department
Applicant Selection	Approximately Tuesday, August 31, 2021
Commencement of Work	As soon as possible upon receipt of notice from Department

The above dates are estimates only and the City reserves the right, in its sole discretion, to change this schedule. Notice of changes in the pre-proposal meeting date/time or location, the due date for Applicant questions, and the date for proposal submission will be posted on the City’s website at www.phila.gov/contracts (click on “Additional Opportunities”). The other dates/times listed may be changed without notice to prospective Applicants.

B. Questions Relating to the RFP

All questions concerning this RFP must be submitted in writing via email to Dr. Shara Epstein at covidtesting@phila.gov no later than Monday, August 23, 2021 at 5:00 PM ET, and may not be considered if not received by then. The City will respond to questions it considers appropriate to the RFP and of interest to all Applicants, but reserves the right, in its discretion, not to respond to any question. Responses will be posted on the City’s website at www.phila.gov/contracts (click on “Additional Opportunities” and go to the Opportunity Details page for this notice of contracting opportunity). Responses posted on the City’s website become part of the RFP upon posting. The City reserves the right, in its discretion, to revise responses to questions after posting, by posting the modified response. No oral response to any Applicant question by any City employee or agent shall be binding on the City or in any way considered to be a commitment by the City.

C. Pre-Proposal Conference

A pre-proposal virtual meeting to review the requirements of this RFP will be held on Monday, August 23, 2021, starting at 12:00 PM ET. Please register at the following link:

<https://attendee.gotowebinar.com/register/1961381826382155280>

Attendance at the pre-proposal meeting is optional but highly encouraged.

D. Interviews; Presentations

The Department reserves the right to request post-application interviews or presentations. If the Department so chooses, the Department also reserves the right to invite all or a selection of applicants to participate in the post-application process.

E. Term of Contract

It is anticipated that the initial term of the Contract shall commence on August 31, 2021 (the “Initial Term”) and, unless sooner terminated by the City pursuant to the terms of the Contract, shall expire up to twelve months thereafter. The City may, at its sole option, amend the Contract to add up to three (3) additional successive one-year terms (“Additional Terms”). Except as may be stated otherwise in such amendment, the terms and conditions of this Contract shall apply throughout each Additional Term.

V. General Rules Governing RFPs/Proposals; Reservation of Rights and Confidentiality

A. Revisions to RFP

The City reserves the right to change, modify or revise the RFP at any time. Any revision to this RFP will be posted on eContract Philly with the original Opportunity Details. It is the Applicant’s responsibility to check the eContract Philly website frequently to determine whether additional information has been released or requested.

B. City Employee Conflict Provision

City of Philadelphia employees and officials are prohibited from submitting a proposal in response to this RFP. No proposal will be considered in which a City employee or official has a direct or indirect interest.

C. Proposal Binding

By submitting its proposal, each Applicant agrees that it will be bound by the terms of its proposal for a minimum of 180 calendar days from the application deadline for this RFP. An Applicant’s refusal to enter into a contract which reflects the terms and conditions of this RFP or the Applicant’s proposal may, in the City’s sole discretion, result in rejection of Applicant’s proposal.

D. Contract Preparation Fee

Pursuant to Chapter 17-700 of the Philadelphia Code, the successful Applicant must generally pay a contract preparation fee. Regulations promulgated by the City Solicitor currently establish the following schedule of fees for preparation of the initial contract and subsequent amendments, based upon the amounts involved and whether the successful Applicant is a for-profit or nonprofit entity:

<u>Amount of Contract or Amendment</u>	<u>For-Profit Fees</u>		<u>Non-Profit Fees</u>	
	<u>Contract</u>	<u>Amendment</u>	<u>Contract</u>	<u>Amendment</u>
\$0-\$30,000	\$50	\$50	\$50	\$50
\$30,001-\$100,000	\$200	\$170	\$100	\$85
\$100,001-\$500,000	\$500	\$340	\$200	\$170
\$500,001-\$1,000,000	\$900	\$520	\$300	\$260
Over \$1,000,000	\$1,500	\$1,000	\$500	\$500

In its discretion, the Law Department may grant a full or partial waiver of any of the above fees in exceptional cases for good cause shown, such as violation of a grant covenant. Governmental entities are exempt from the fees. The Law Department reserves the right to collect up to twice the stated fee if extensive negotiation is required to reach a final contract with the successful Applicant.

E. Reservation of Rights

By submitting its response to this notice of contract opportunity as posted on the Additional Opportunities website at www.phila.gov/contracts (click on “*Additional Opportunities*”), the Applicant accepts and agrees to this Reservation of Rights and to the terms of this Notice of Contract Opportunity. The term “notice of contract opportunity,” as used herein, means this RFP and includes all information posted on *Additional Opportunities* in relation to this “New Contract Opportunity” as published on *Additional Opportunities*, including, without limitation, the information posted for this opportunity on the *Additional Opportunities* and including in addition to this RFP, any other document linked to the *Additional Opportunities* page or otherwise displayed on or linked to this notice of contract opportunity.

1. This Notice of Contract Opportunity

The City reserves and may, in its sole discretion, exercise any one or more of the following rights and options with respect to this notice of contract opportunity:

- (a) to reject any and all proposals and to reissue this notice of contract opportunity at any time prior to execution of a final contract;
- (b) to issue a new notice of contract opportunity with terms and conditions substantially different from those set forth in this or a previous notice of contract opportunity;
- (c) to issue a new notice of contract opportunity with terms and conditions that are the same or similar as those set forth in this or a previous notice of contract opportunity in order to obtain additional proposals or for any other reason the City determines to be in the City’s best interest;
- (d) to extend this notice of contract opportunity in order to allow for time to obtain additional proposals prior to the notice of contract opportunity application deadline or for any other reason the City determines to be in the City’s best interest;
- (e) to supplement, amend, substitute or otherwise modify this notice of contract opportunity at any time prior to issuing a notice of intent to contract to one or more Applicants;
- (f) to cancel this notice of contract opportunity at any time prior to the execution of a final contract, whether or not a notice of intent to contract has been issued, with or without issuing, in the City’s sole discretion, a new notice of contract opportunity for the same or similar services;

(g) to do any of the foregoing without notice to Applicants or others, except such notice as the City, in its sole discretion, elects to post on eContractPhilly.

2. Proposal Selection and Contract Negotiation

The City reserves and may, in its sole discretion, exercise any one or more of the following rights and options with respect to proposal selection:

(a) to reject any proposal if the City, in its sole discretion, determines the proposal is incomplete, deviates from or is not responsive to the requirements of this notice of contract opportunity, does not comply with applicable law (including, without limitation, Chapter 17-1400 of the Philadelphia Code), is conditioned in any way, or contains ambiguities, alterations or items of work not called for by this notice of contract opportunity, or if the City determines it is otherwise in the best interest of the City to reject the proposal;

(b) to reject any proposal if, in the City's sole judgment, the Applicant has been delinquent or unfaithful in the performance of any contract with the City or with others; is delinquent, and has not made arrangements satisfactory to the City, with respect to the payment of City taxes or taxes collected by the City on behalf of the School District of Philadelphia, or other indebtedness owed to the City; is not in compliance with City regulatory codes applicable to Applicant; is financially or technically incapable; or is otherwise not a responsible Applicant;

(c) to waive any defect or deficiency in any proposal, including, without limitation, those identified in subsections (a) and (b) preceding, if, in the City's sole judgment, the defect or deficiency is not material to the proposal;

(d) to require, permit or reject, in the City's sole discretion, amendments (including, without limitation, information omitted), modifications, clarifying information, and/or corrections to their proposals by some or all of the Applicants at any time following proposal submission and before the execution of a final contract;

(e) to issue a notice of intent to contract and/or execute a contract for any or all of the items in any proposal, in whole or in part, as the City, in its sole discretion, determines to be in the City's best interest;

(f) to enter into negotiations with any one or more Applicants regarding price, scope of services, or any other term of their proposals, and such other contractual terms as the City may require, at any time prior to execution of a final contract, whether or not a notice of intent to contract has been issued to any Applicant and without reissuing this notice of contract opportunity;

(g) to enter into simultaneous, competitive negotiations with multiple Applicants or to negotiate with individual Applicants, either together or in sequence, and to permit or require, as a result of negotiations, the expansion or reduction of the scope of services or changes in any other terms of the submitted proposals, without informing other Applicants of the changes or affording them the opportunity to revise their proposals in light thereof, unless the City, in its sole discretion, determines that doing so is in the City's best interest;

(h) to discontinue negotiations with any Applicant at any time prior to the execution of a final contract, whether or not a notice of intent to contract has been issued to the Applicant, and to enter into negotiations with any other Applicant, if the City, in its sole discretion, determines it is in the best interest of the City to do so;

(i) to rescind, at any time prior to the execution of a final contract, any notice of intent to contract issued to an Applicant, and to issue or not issue a notice of intent to contract to

the same or a different Applicant and enter into negotiations with that Applicant, if the City, in its sole discretion, determines it is in the best interest of the City to do so;

(j) to elect not to enter into any contract with any Applicant, whether or not a notice of Intent to Contract has been issued and with or without the reissuing this notice of contract opportunity, if the City determines that it is in the City's best interest to do so;

(k) to require any one or more Applicants to make one or more presentations to the City at the City's offices or other location as determined by the City, at the Applicant's sole cost and expense, addressing the Applicant's proposal and its ability to achieve the objectives of this notice of contract opportunity;

(l) to conduct on-site investigations of the facilities of any one or more Applicants (or the facilities where the Applicant performs its services);

(m) to inspect and otherwise investigate projects performed by the Applicant, whether or not referenced in the proposal, with or without consent of or notice to the Applicant;

(n) to conduct such investigations with respect to the financial, technical, and other qualifications of each Applicant as the City, in its sole discretion, deems necessary or appropriate; and,

(o) to do any of the foregoing without notice to Applicants or others, except such notice as the City, in its sole discretion, elects to post on eContractPhilly.

3. Miscellaneous

(a) Interpretation; Order of Precedence. In the event of conflict, inconsistency or variance between the terms of this Reservation of Rights and any term, condition or provision contained in any notice of contract opportunity, the terms of this Reservation of Rights shall govern.

(b) Headings. The headings used in this Reservation of Rights do not in any way define, limit, describe or amplify the provisions of this Reservation of Rights or the scope or intent of the provisions, and are not part of this Reservation of Rights.

F. Confidentiality and Public Disclosure

The successful Applicant shall treat all information obtained from the City which is not generally available to the public as confidential and/or proprietary to the City. The successful Applicant shall exercise all reasonable precautions to prevent any information derived from such sources from being disclosed to any other person. The successful Applicant agrees to indemnify and hold harmless the City, its officials and employees, from and against all liability, demands, claims, suits, losses, damages, causes of action, fines and judgments (including attorney's fees) resulting from any use or disclosure of such confidential and/or proprietary information by the successful Applicant or any person acquiring such information, directly or indirectly, from the successful Applicant.

By submission of a proposal, Applicants acknowledge and agree that the City, as a municipal corporation, is subject to state and local public disclosure laws and, as such, is legally obligated to disclose to the public documents, including proposals, to the extent required thereunder. Without limiting the foregoing sentence, the City's legal obligations shall not be limited or expanded in any way by an Applicant's assertion of confidentiality and/or proprietary data.

APPENDIX A

**THE CITY OF PHILADELPHIA PROFESSIONAL SERVICES CONTRACT
GENERAL PROVISIONS FOR GENERAL CONSULTANT SERVICES**

Included as attachment with posted RFP opportunity.

**APPENDIX B
(CONSISTING OF APPENDIX B-1 AND APPENDIX B-2)**

**CITY OF PHILADELPHIA
OFFICE OF ECONOMIC OPPORTUNITY
ANTIDISCRIMINATION POLICY-MINORITY, WOMAN AND DISABLED
OWNED BUSINESS ENTERPRISES**

SPECIAL CONTRACT PROVISIONS, INSTRUCTIONS AND FORMS

APPENDIX B-1

**CITY OF PHILADELPHIA
OFFICE OF ECONOMIC OPPORTUNITY
ANTIDISCRIMINATION POLICY- MINORITY, WOMAN AND DISABLED OWNED BUSINESS
ENTERPRISES
FORMS, INSTRUCTIONS AND SPECIAL CONTRACT PROVISIONS
(NON-COMPETITIVELY BID CONTRACTS)
[Revision DATE: 01.04.21]**

COVID-19 Testing Services for Non- District K-12 Schools

Under the authority of Executive Order No. 01-21, the City of Philadelphia has established an antidiscrimination policy (“Policy”) relating to the participation of Minority (MBE), Woman (WBE) and Disabled (DSBE) Owned Business Enterprises in City contracts. Executive Order 01-21 is administered by the City’s Office of Economic Opportunity (“OEO”).

The purpose of this Policy is to provide equal opportunity for all businesses and to assure that City funds are not used, directly or indirectly, to promote, reinforce or perpetuate discriminatory practices. The City is committed to fostering an environment in which all businesses are free to participate in business opportunities without the impediments of discrimination and participate in all City contracts on an equitable basis. In accordance with the contracting requirements of the City, the City’s antidiscrimination policy is applicable to this Notice of Contracting Opportunity (hereinafter, “NOCO”).¹

The Office of Economic Opportunity has approved the following projected ranges of participation for this NOCO which serve as a guide in determining each Applicant’s responsibility:

MBE Ranges - 16% - 22%

These ranges represent the percentage of MBE, WBE and/or DSBE (collectively, “M/W/DSBE”) participation that should be attained by M/W/DSBEs from business opportunities existing in the available market absent discrimination in the solicitation and selection of these businesses and through Applicant’s exercise of Best and Good Faith Efforts. Best and Good Faith Efforts are those efforts, the scope, intensity and appropriateness of which are taken to achieve meaningful and representative opportunities for participation by M/W/DSBEs. These ranges are derived from an analysis of factors such as the size and scope of the contract and the availability of certified M/W/DSBEs to perform various elements of the contract. The submission of a Solicitation For Participation and Commitment Form and any supporting documentation (more fully discussed below) is an element of responsiveness to the NOCO and failure to submit the required information will result in rejection of your proposal.

Applicant hereby verifies that all forms, information and documentation submitted to OEO are true and correct and is notified that the submission of false information by Applicant is subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities which may include payment of a fine of at least \$1,000 and a term of imprisonment of not more than two years. Applicant also acknowledges that under 18 Pa.C.S. §4107.2 (a)(4) it is a felony in the third degree, punishable by a term of imprisonment of not more than seven years in addition to the payment of any fines or restitution, if, under any contract awarded pursuant to this NOCO, Applicant fraudulently obtains public moneys reserved for or allocated or available to minority business enterprises or women’s business enterprises.

¹ The term “Notice of Contracting Opportunity,” shortened to the acronym “NOCO,” refers to the City’s contract solicitation documents and information posted on eContract Philly. Generally, these documents take the form of a Request for Proposals (RFP), Request for Qualifications (RFQ) or Request for Expression of Interest (RFI) and include any other document or information (for example, exhibits, appendices) related to the posting of the new contract opportunity.

A. M/W/DSBE PARTICIPATION

1. Only firms that are certified by an approved certifying agency² and identified in the OEO Certification Registry by the time of contract award will be credited toward the participation ranges on City contracts. An OEO Certification Registry is maintained by the OEO and is available online at www.phila.gov/OEO/directory. Firms owned and controlled by minority persons, women or disabled persons, which are certified as MBE, WBE, DSBE or DBE by an approved certifying agency may apply to the OEO for listing in its OEO Certification Registry.

2. No Applicant that seeks to meet the participation range(s) for participation by entering into a subcontract with any M/W/DSBE participant shall be considered to meet the range(s) if the M/W/DSBE participant does not perform a commercially useful function ("CUF"). An M/W/DSBE performs a Commercially Useful Function when it performs a distinct element of a City Contract (as required by the services to be performed in accordance with the NOCO) which is worthy of the dollar amount of the M/W/DSBE Subcontract and the M/W/DSBE carries out its responsibilities by managing and supervising the services involved and actually self-performing at least twenty percent (20%) of the services of the Subcontract with its own employees. For suppliers, an M/W/DSBE performs a Commercially Useful Function when it is responsible for sourcing the material, negotiating price, determining quality and quantity, ordering the material and paying for it from its own funds. Commercial usefulness will be evaluated and determined by the OEO on a proposal by proposal basis as informed by prevailing industry standards and the M/W/DSBE's NAIC codes. Participation that is not commercially useful will not be counted.

3. In order to maximize opportunities for as many businesses as possible, a firm that is certified in two or more categories (e.g. MBE and WBE and DSBE or WBE and DSBE) will only be credited toward one participation range as either an MBE or WBE or DSBE. The firm will not be credited toward more than one category. Applicants will note with their submission which category, MBE or WBE or DSBE, is submitted for credit.

4. An MBE/WBE/DSBE submitting as the prime Applicant is required, like all other Applicants, to submit a proposal that is responsive to the Policy. The M/W/DSBE Applicant will receive credit towards the participation range for its certification category (e.g., MBE range or WBE range or DSBE range). In addition, the participation of an M/W/DSBE partner, as part of a joint venture created for this contract, may be credited towards the participation ranges only to the extent of the M/W/DSBE partner's ownership interest in the joint venture in accordance with the following criteria:

- The MBE, WBE or DSBE partner(s) must be identified in the OEO Registry prior to contract award;
- The M/W/DSBE partner(s) must derive substantial benefit from the arrangement;
- The M/W/DSBE partner(s) must be substantially involved in all phases of the contract including planning, staffing and daily management;
- The business arrangement must be customary (i.e., each partner shares in the risk and profits of the joint venture commensurate with their ownership interest, contributes working capital and other resources, etc.).

5. M/W/DSBE Subcontractors must perform at least twenty percent (20%) of the total amount of work to be performed under the Subcontract with their own employees.

6. In listing participation commitments on the Solicitation for Participation and Commitment Form, Applicants are required to list a detailed description of the services or supply effort, the dollar amount of the quotation, and percentage of the contract the participation represents. In calculating the percentage

² Approved certifying agencies are identified on the OEO webpage found at www.phila.gov/OEO.

amount, Applicants may apply the standard mathematical rules in rounding off numbers. The OEO reserves the right to request clarifying information from Applicants in the event of an inconsistency or ambiguity in the Solicitation For Participation and Commitment Form.

B. RESPONSIVENESS

1. A proposal responsive to the Policy is one which contains documentary evidence of the M/W/DSBEs that have been solicited and that will be used by the Applicant on the contract, if awarded; where the proposal satisfies the M/W/DSBE participation ranges for that contract, the Applicant is rebuttably presumed not to have discriminated in its selection of contract participants.

2. Applicants must submit documentary evidence of MBE, WBE and DSBEs who have been solicited and with whom commitments have been made in response to each of the participation ranges included in this NOCO. Failure to submit the Solicitation For Participation and Commitment Form will result in the rejection of the proposal as nonresponsive, although the City, at its sole discretion, may allow Applicants to submit or amend the Solicitation For Participation and Commitment Form at any time prior to award. The Solicitation For Participation and Commitment Form must contain the following information:

- Documentation of all solicitations (regardless of whether commitments resulted therefrom) as well as all commitments made on the enclosed document entitled "Solicitation For Participation and Commitment Form". Applicants should only make actual solicitations of M/W/DSBEs whose services or materials are within the scope of this NOCO. Mass mailing of a general nature to M/W/DSBEs or similar methods will not be deemed solicitation, but rather will be treated as informational notification only. A reasonable period of time should be given to all solicited firms to ensure that they have sufficient time to adequately prepare their quotes/subproposals. The Applicant's listing of a commitment with an M/W/DSBE constitutes a representation that the Applicant has made a legally binding commitment to contract with such firm, upon receipt of a contract award from the City ("Contract Commitment").

- If the Applicant has entered into a joint venture with an MBE, WBE and/or DSBE partner, the Applicant is also required to submit along with the Solicitation For Participation and Commitment Form, a document entitled "Joint Venture Eligibility Information Form," available at OEO, for the City's review and approval of the joint venture arrangement.

3. If Applicant does not fully meet each of the range(s) for participation established for this NOCO, Applicant must demonstrate that it nonetheless exercised all Best and Good Faith Efforts to achieve the M/W/DSBE participation ranges. Applicant, through the submission of documentary evidence must show that Applicant took all necessary steps and made reasonable efforts to achieve the M/W/DSBE participation ranges, even if these efforts were not fully successful. OEO will evaluate the scope, intensity and appropriateness of these efforts to ascertain whether they could reasonably be expected to achieve M/W/DSBE participation commensurate with the ranges. Failure to submit the documentary evidence will result in rejection of the proposal as nonresponsive; the City, at its sole discretion, may allow Applicants to submit or amend their submission at any time prior to award which may result in revision to Applicant's participation commitments. The submission shall contain and discuss, at a minimum, the following:

- Reasons for not committing with any MBE/WBE/DSBEs that submitted a quote/subproposal, regardless of whether the quote/subproposal was solicited by Applicant.
- Any additional evidence pertinent to Applicant's conduct relating to this NOCO including sufficient evidence which demonstrates to the OEO that Applicant has not engaged in discriminatory practices in the solicitation of and commitment with contract participants. In describing Applicant's efforts to achieve participation within the ranges, Applicant may submit any corroborating documentation (e.g., copies of advertisements for participation).

The Applicant's documentary evidence will be reviewed by the OEO to determine whether Applicant exercised Best and Good Faith Efforts in response to the participation ranges. Applicant's expressed desire to self-perform services with its own employees will not excuse Applicant from exercising Best and Good Faith Efforts to include M/W/DSBEs in its proposal. OEO's review will include consideration of the following:

- Applicant's contracting activities and business practices on similar public and private sector contracts. For example, if Applicant rejects any M/W/DSBE based on price, Applicant must fully document its reasons for the rejection and also demonstrate that Applicant subjects non-M/W/DSBEs to the same pricing standards. OEO will investigate whether there was any attempt at good faith negotiation of price.
- Whether M/W/DSBEs were treated as equally as other businesses in the solicitation and commitment process. For example, the OEO will investigate whether M/W/DSBEs are given the same information, access to the plans and requirements of the contract and given adequate amount of time to prepare a quote/subproposal as others who were solicited by Applicant. The OEO will also investigate whether M/W/DSBEs were accorded the same level of outreach as non-M/W/DSBEs, for example whether Applicant short listed M/W/DSBEs for participation or solicited M/W/DSBEs at any pre-proposal meetings.
- Whether the Applicant's contracting decisions were based upon policies which disparately affect M/W/DSBEs. OEO will ascertain whether Applicant selected portions of work or material needs consistent with the capacity of available M/W/DSBE subcontractors and suppliers. OEO will consider whether Applicant employed policies which facilitate the participation of M/W/DSBEs on City contracts such as segmentation of the contract or prompt payment practices.

4. After review of the Applicant's submission and other information the OEO deems relevant to its evaluation, the OEO will make a written determination that will be forwarded to the awarding City Department.

- If the proposal is determined nonresponsive by the OEO, the Applicant will be notified and may file a written appeal with the Executive Director of OEO within forty-eight (48) hours of the date of notification; the decision of the Executive Director of OEO shall be final.

C. RESPONSIBILITY

1. Upon award, the completed Solicitation For Participation and Commitment Form and accompanying documents regarding solicitation and commitments with MBEs, WBEs and DSBEs become part of the contract and the successful Applicant is required to enter into legally binding agreement(s) ("M/W/DSBE Subcontract(s)") with its M/W/DSBE participants for the services and in the dollar amount(s) and percentage(s) as so committed (the "Contract Commitment(s)"). M/W/DSBE percentage commitments are to be maintained throughout the term of the contract and shall apply to the total contract value (including amendments). Any change in commitment, including but not limited to, substitutions for the listed firm(s), changes or reductions in the work and/or listed dollar/percentage amounts, must be pre-approved in writing by the OEO.

2. Unless otherwise specified in the M/W/DSBE Subcontract, the successful Applicant shall, within five (5) business days after receipt of a payment from the City for services performed under the contract, deliver to its M/W/DSBE participants, their proportionate share of such payment for services performed (including the supply of materials). In connection with the payment of its M/W/DSBE participants, the successful Applicant agrees to fully comply with the City's payment reporting process which includes the use of electronic payment verification systems.

3. No privity of contract exists between the City and any M/W/DSBE participant identified in any contract resulting from this NOCO. The City does not intend to give or confer upon any such M/W/DSBE participant(s) any legal rights or remedies in connection with the subcontracted services pursuant to Executive Order 01-21 or by reason of any contract resulting from the NOCO except such rights or remedies that the M/W/DSBE subcontractor may seek as a private cause of action under any legally binding contract to which it may be a party.

4. If the OEO determines that the Applicant has discriminated against a M/W/DSBE at any time during the term of the contract, the OEO may recommend to the Director of Finance the imposition of sanctions on the Applicant including debarment of the Applicant from submitting and/or participating in future City contracts for a period of up to three (3) years.

D. ACCESS TO INFORMATION

1. The OEO shall have the right to make site visits to the Applicant's place of business and/or job site and obtain documents and information from any Applicant, subcontractor, supplier, manufacturer or contract participant that may be required in order to ascertain Applicant's responsiveness and responsibility.

2. Failure to cooperate with the OEO in its review may result in a recommendation to terminate the contract.

E. RECORDS AND REPORTS

1. The successful Applicant shall maintain all books and records relating to its M/W/DSBE commitments (e.g. copies of quotations, subcontracts, joint venture agreement, correspondence, cancelled checks, invoices, telephone logs) for a period of at least three (3) years following acceptance of final payment from the City. These records shall be made available for inspection by the OEO and/or other appropriate City officials including the City's Office of the Inspector General. The successful Applicant agrees to submit reports and other documentation to the OEO as deemed necessary by the OEO to ascertain the successful Applicant's fulfillment of its M/W/DSBE commitments.

F. REMEDIES

1. The successful Applicant's compliance with the requirements of Executive Order 01-21 is material to the contract. In the event the City determines that the successful Applicant has failed to comply with any of the requirements of this Antidiscrimination Policy, including substantial compliance with any Contract Commitment, the City may, in addition to any other rights and remedies it may have under the Contract which includes termination of the Contract, exercise one or more of the following remedies which shall be deemed cumulative and concurrent:

- Debar successful Applicant from proposing on and/or participating in any future contracts for a maximum period of three (3) years.
- Withhold from the contract payment(s) or any part thereof until corrective action is taken. If corrective action is not taken to the satisfaction of OEO, the City may, without institution of a lawsuit, deduct money in an amount equal to the M/W/DSBE shortfall which amount shall be collected and considered not as a penalty but as liquidated damages for the successful Applicant's failure to comply with the Contract Commitment.

The remedies enumerated above are for the sole benefit of the City and City's failure to enforce any provision or the City's indulgence of any non-compliance with any provision hereunder, shall not operate as a waiver of any of the City's rights in connection with any contract resulting from this NOCO nor shall it give rise to actions by any third parties including identified M/W/DSBE participants.

APPENDIX B-2

SPECIAL ANTIDISCRIMINATION CONTRACT PROVISIONS, INSTRUCTIONS AND FORMS FOR APPLICANTS THAT ARE NONPROFIT ORGANIZATIONS

In response to the objectives of Executive Order 01-21, Applicants that are nonprofit organizations will be required to submit the following information to the Office of Economic Opportunity (OEO):

1. identification of the race, gender, disability status, and ethnic composition of the nonprofit Applicant's workforce;
2. identification of the race, gender, disability status, and ethnic composition of the nonprofit Applicant's board of directors or trustees;
3. a list of the nonprofit Applicant's five highest dollar value M/W/DSBE suppliers of products and services; and
4. the nonprofit Applicant's statement explaining its efforts to maintain a diverse workforce, a diverse board of directors and operate a fair and effective supplier diversity program.

Please use the attached form, "Diversity Report of Nonprofit Organizations," to submit this information, attaching additional pages as needed. This information should be submitted with the Applicant's proposal, but the City, at its sole discretion, may allow applicants to submit or amend this form at any time prior to award.

If a nonprofit organization is responding to a contract opportunity where ranges have been established for M/W/DSBE participation, in addition to the "Diversity Report of Nonprofit Organizations" form, a nonprofit Applicant must also complete and submit with its proposal the "Solicitation for Participation and Commitment" form included in this Appendix.

**APPENDIX B-2
City of Philadelphia – Office of Economic Opportunity
Diversity Report of Nonprofit Organizations**

1 DEMOGRAPHIC BREAKDOWN OF WORKFORCE					
<p>Please provide the following demographic breakdown of your workforce by race/ethnicity/gender/ disability:</p>					
African American	#	%	Males	#	%
Asian/Pacific Islander				Females	
Caucasian					
Disabled					
Hispanic					
Native American					
Other					
Total Number of Employees					

2 DEMOGRAPHIC BREAKDOWN OF BOARD COMPOSITION					
<p>Please provide the following demographic breakdown of your Board of Directors or Trustees by race/ethnicity/gender/disability:</p>					
African American	#	%	Males	#	%
Asian/Pacific Islander				Females	
Caucasian					
Disabled					
Hispanic					
Native American					
Other					
Total Number of Directors or Trustees					

3 SUPPLIER DIVERSITY							
Please check the appropriate box to indicate if you have a supplier diversity policy. If “no,” please explain on your letterhead.						<input type="checkbox"/> Yes	<input type="checkbox"/> No
If you maintain a supplier diversity policy, please attach a copy of your supplier diversity policy.							
Please identify below, your agency’s five (5) highest minority, woman, and/or disabled owned business suppliers of products or services, indicating your estimated annual expenditure(s) with the firm:							
Company Name	Company Address	Company Telephone	Minority	Woman	Disabled	Annual Expenditures	
1							
2							
3							
4							
5							
Signature:		Date:		Non-Profit Name:			

APPENDIX C

CITY OF PHILADELPHIA TAX AND REGULATORY STATUS AND CLEARANCE STATEMENT FOR APPLICANTS

THIS IS A CONFIDENTIAL TAX DOCUMENT NOT FOR PUBLIC DISCLOSURE

This form must be completed and returned with Applicant's proposal in order for Applicant to be eligible for award of a contract with the City. Failure to return this form will disqualify Applicant's proposal from further consideration by the contracting department. Please provide the information requested in the table, check the appropriate certification option and sign below:

Applicant Name*	
Contact Name and Title	
Street Address	
City, State, Zip Code	
Phone Number	
Federal Employer Identification Number or Social Security Number: *	
Philadelphia Business Income and Receipts Tax Account Number (f/k/a Business Privilege Tax) (if none, state "none")*	
Commercial Activity License Number (f/k/a Business Privilege License) (if none, state "none")*	

____ I certify that the Applicant named above has all required licenses and permits and is current, or has made satisfactory arrangements with the City to become current with respect to the payment of City taxes or other indebtedness owed to the City (including, but not limited to, taxes collected by the City on behalf of the School District of Philadelphia), and is not in violation, or has made satisfactory arrangements to cure any violation, or other regulatory provisions applicable to Applicant contained in the Philadelphia Code.

____ I certify that the Applicant named above does not currently do business, or otherwise have an economic presence in Philadelphia. If Applicant is awarded a contract with the City, it promptly will take all steps necessary to bring it into compliance with the City's tax and other regulatory requirements.

Authorized Signature

Date

Print Name and Title

*Applicant name and number **must** correspond with those on file. Review the name and TIN requirements in the RFP's "Mandatory Online Application Requirements" section. Also, you may register your business and apply for a City of Philadelphia Business Income and Receipts Tax Account Number or a Commercial Activity License on line by visiting the City of Philadelphia Business Services Portal at <https://www.phila.gov/services/business-self-employment/business-taxes/> and clicking on "Register a business" and "Get a tax account."

Revised: October 2020 (7/21)

APPENDIX D

LOCAL BUSINESS ENTITY OR LOCAL IMPACT CERTIFICATION

Attached as separate document.

APPENDIX E

LGBTQ APPLICANT OPPORTUNITY DATA

LGBTQ Applicant Opportunity Data form attached as separate document in a fillable PDF for ease of use.

APPENDIX F

CDC ELC REOPENING SCHOOLS GUIDANCE

Attached as separate document.