



MEMORANDUM

To: New York State Procurement Council
From: OGS Preferred Sources Team (as Staff to the New York State Procurement Council)
Date: April 12, 2018
Subject: New York State Industries for the Disabled (“NYSID”) Application to add Temporary Personnel - Test Monitors and Proctors to the List of Approved Preferred Source Service Offerings

OVERVIEW

NYSID submitted an application for preferred source designation to provide Temporary Personnel - Test Monitors and Proctors Services to the New York State Office of General Services (“OGS”) and Empire State Development (“ESD”) on March 1, 2018 and amended on April 10, 2018.

Goodwill Industries of Greater New York and New Jersey (“Goodwill”) will be the lead member organization providing this service through NYSID. Goodwill has been providing temporary personnel services involving test monitors and proctors for the Metropolitan Transit Authority (“MTA”) through NYSID for 10 years. NYSID maintains that in order to meet potential future demands of New York State, they have other member agencies have the capability to offer Temporary Personnel – Test Monitors and Proctors Services in the future. The addition of Temporary Personnel - Test Monitors and Proctors Services as a NYSID preferred source offering will help ensure that the disabled workforce at Goodwill is provided with ongoing, meaningful, long-term employment.

BACKGROUND

NYSID has been providing Temporary Personnel - Test Monitors and Proctors Services to the MTA for 10 years, but the positions and duties included in this service are excluded from the approved definition of Temporary Personnel – Office Services, which NYSID is approved to offer as a preferred source service offering. Without an approved definition of Temporary Personnel - Test Monitors and Proctors Services, NYSID will no longer be able to provide test monitors and proctors to the MTA as a Preferred Source. NYSID maintains that the addition of this new service category to the List of Preferred Source Offerings is necessary to allow NYSID to continue to provide this service to the MTA and avoid the potential elimination of 11,626 annual hours or 5.96 full-time equivalents (“FTEs”) for employment of individuals with disabilities who currently hold test monitor and proctor positions that have been Preferred Source jobs for the past decade.

LEGAL AUTHORITY

State Finance Law § 162(3)(b) provides that the Procurement Council may recommend the addition of services to the List based upon a review of relevant factors as determined by the Procurement Council “including costs and benefits to be derived from such addition and shall include an analysis by the Office of General Services.”

In addition, the Preferred Source Guidelines adopted by the Procurement Council contain detailed requirements for applications to add commodities or services to the List, set forth in Section X.D., Application Requirements. Such requirements include, among other things: (1) Service Specifications, including a recitation as to how the service is new or substantially different from the services already offered by the preferred source; (2) Market Information, including information on the potential market for the new service; (3) Client Employment, including the nature of the tasks workers with disabilities will perform; (4) Preferred Source, identifying of the specific preferred source member organizations that will provide the service; (5) Value Added, identifying the value added by the preferred source client labor to the service; (6) Direct Labor Workforce, identifying the number and hours of direct labor to be performed by people with disabilities, including the percentage of direct labor to be performed by workers with disabilities; (7) Cost/Benefit Analysis, including a summary of projected costs and benefits expected to accrue to the State and the preferred source, as well broader social and economic impacts on client employment and government costs; (8) Cost/Price Data, providing information sufficient for OGS to approve the price data and confirm that the price of the service will not exceed 15% above prevailing market price; (9) Current Suppliers, identifying the current suppliers or contract holders of the proposed service if known; and (10) Preferred Source Suppliers, providing the projected first year value of anticipated contracts, information on any proposed suppliers, and any information as to methods employed in selecting such suppliers.

NYSID APPLICATION INFORMATION

1. Service Specifications

NYSID has requested that Temporary Personnel – Test Monitors and Proctors, as defined in the attached document, be added to the List of Preferred Source Offerings. The functions, responsibilities, and job titles included in the proposed service are outside of the definitions of the approved preferred source categories of Temporary Personnel – Office and Temporary Personnel – Warehouse.

2. Market Information

NYSID has identified a specific need for these services by the MTA. NYSID calculated an annual spend of approximately \$200,000 based on a contract to be let by the MTA. NYSID contacted several transportation authorities in New York State, including the Niagara Frontier Transportation Authority (“NFTA”), Capital District Transportation Authority (“CDTA”), Rochester-Genesee Regional Transportation Authority (“RGRTA”), and the Central New York Regional Transportation Authority (“Centro”) in their attempt to establish a potential statewide market for this service. NYSID also researched public information available through the Office of the State Comptroller’s Open Book website and Govspend.com to identify State spend on Temporary Personnel - Test Monitors and Proctors. NYSID also reached out to the Office of the State Comptroller (“OSC”), the NYS Education Department (“SED”), and the NYS Department of Civil Service regarding their needs for Temporary Personnel - Test Monitors and Proctors Services. None of these agencies provided additional information related to the potential demand for this service. NYSID was unable to identify any current spend for these services beyond the MTA. NYSID maintains that should demand increase, they will be able to provide Temporary Personnel - Test Monitors and Proctors Services statewide, but the primary market is driven by the MTA contract. Currently, there is no NYS centralized contract that offers Temporary Personnel - Test Monitors and Proctors.

3. Client Employment

NYSID maintains that a successful application will result in the preservation of employment for existing employees, and provide NYSID and Goodwill with a basis to provide new opportunities for ongoing employment for people that are significantly disabled. According to NYSID, individuals with disabilities will fill all titles and disciplines included in this application.

The contract between NYSID and the MTA will provide opportunities to 5.96 FTEs. Currently, 100% of the individuals working in these positions are disabled. NYSID states that compliance to the required disabled labor ratios will be maintained on potential future opportunities. The requirements are: at least 75% for contracts involving more than 10 FTE’s and a majority of disabled for contracts with 10 FTE’s or less. Because NYSID was unable to identify additional immediate demand for this service, the employment figures are specific to the MTA’s test monitor & proctor needs.

4. Preferred Source

NYSID has successfully provided Temporary Personnel Services to State and local government agencies for over 20 years. Their members currently employ 1,121 individuals with disabilities in a variety of temporary positions with varying levels of experience and complexity. The experience that NYSID member agencies have in providing Temporary Personnel Services, particularly in the NYC market, demonstrates that this service offers people with disabilities excellent employment opportunities at competitive wages and benefits such as paid sick leave and health care, when applicable.

The NYSID member agencies currently providing temporary staffing services, or who possess the capability to offer the service, include:

- Goodwill Industries of Greater New York & Northern New Jersey, Inc./GoodTemps
- Fedcap Rehabilitation Services
- Northeast Career Planning
- Rehabilitation Support Services
- The Corporate Source
- Abilities, Inc.
- Rochester Rehabilitation Center

NYSID has been meeting the specific Temporary Personnel needs of the MTA and its affiliate agencies for 10 years. NYSID’s primary objective with this submission is to preserve the existing employment of individuals with disabilities who have been providing this service to the MTA.

NYSID intends to work with traditional non-profit member agencies for the provision of this service as it has for the past two plus decades, but would consider the possibility of corporate partnerships, should the opportunity arise to create additional employment opportunities for individuals with disabilities.

5. Value Added

NYSID has reported that individuals with disabilities will be placed in these temporary test monitor and proctor positions and perform functions for procuring agencies including, but not limited to the following:

- Overseeing and supervising test-takers during an examination or official test
- Write information on the board in classrooms
- Review various forms and documents from candidates
- Give instructions to the candidate
- Check candidate's ID
- Obtain fingerprints of candidates on fingerprint cards provided by the purchasing agency
- Fill out monitor report and related forms
- Read instructions
- Count, distribute and collect tests
- Observe candidate
- Direct candidates to restrooms and exits

6. Direct Labor Workforce

NYSID estimates that 11,626 direct labor hours or 5.96 FTEs will be generated annually through this service offering and that individuals with significant disabilities will perform 100% of the direct labor required for these positions. This meets the requirement established in the Preferred Source Guidelines. NYSID also reports that clients working on the MTA contract will earn an average wage of \$13.78 per hour in 2018.

7. Cost/Benefit Analysis

This application preserves opportunities for meaningful direct labor employment for individuals with significant disabilities. A successful application will maintain the employment of individuals with disabilities currently employed in temporary test monitor and proctor positions. NYSID's application states that this diverse workforce is a direct benefit to New York State and aligns with the Governor's Executive Order 136 ("EO136"), which establishes New York as an Employment First State. A copy of EO 136 is included in the application for reference.

NYSID provided the following points detailing how this application aligns with EO 136):

- Sections B1 and D1 of EO136 establish the priority of "competitive integrated employment of individuals with disabilities." Temporary Personnel - Test Proctors and Monitors working on NYSID contracts work in an integrated setting, since they have regular contact with procuring agency staff, as well as the general public who are taking exams.
- NYSID states that their application for Temporary Personnel - Test Monitors and Proctors meets the stated goals found in Section D1c of EO136: "Ensuring that the state's workforce development strategy provides for individuals with disabilities, including strategies to maximize opportunities to hire individuals with disabilities in the private sector, the public sector, and in entities contracting with the state."
- Section D1e of EO136: encourages "the use of data to measure employment of New Yorkers with disabilities." NYSID records every job held by a person with disabilities working on a NYSID contract.
- The Executive Summary of EO136 says, "Specifically, the state aims to increase the employment rate of individuals with disabilities by 5%; decrease the poverty rate of individuals with disabilities by a comparable 5%." NYSID maintains that eliminating the Temporary Personnel - Test Monitors and Proctors jobs associated with the MTA contract for Temporary Services would deprive employment to 5.96 FTEs of individuals with disabilities.

8. Cost/Price Data

In the absence of spend information from a New York State centralized contract, NYSID submitted a market comparison from the General Services Administration ("GSA") website. The GSA market comparison showed a Test Proctor available for \$37.67 per hour. NYSID's proposed hourly bill rates are \$19.01 for Test Monitors and \$21.29 for Proctors. The chart below contains detailed information pertaining to the structure of NYSID's proposed bill rates supplemented with percentages calculated by OGS.

Job Title	Wage	Fringes	Fringe % of Wage	Wage and Fringe % of Total Rate	Sub-Total A	O/H	O/H % of Subtotal A	Sub-Total B	NYSID Fee (4%)	Total	% Markup from Wages
Proctor	\$ 14.56	\$ 2.54	17.5%	80.3%	\$ 17.10	\$ 3.37	19.7%	\$ 20.47	\$ 0.82	\$ 21.29	46.21%
Test Monitor	\$ 13.00	\$ 2.28	17.5%	80.4%	\$ 15.28	\$ 3.00	19.6%	\$ 18.28	\$ 0.73	\$ 19.01	46.24%

9. Current Suppliers

NYSID has reported data related to vendors who are eligible to participate on the OGS centralized contract for Administrative Services and other vendors who provided Temporary Personnel Services to the public sector in New York State over the past five years. It should be noted that the positions included in Temporary Personnel – Test Monitors and Proctors Services are not currently available on the OGS centralized contract for Administrative Services. NYSID also reached out to OSC, SED, and the NYS Department of Civil Service to inquire about their respective needs for test monitors and proctors and, to date, has been unable to uncover any information on demand for these services and current suppliers.

10. Preferred Source Suppliers

Goodwill, through NYSID, has been providing Temporary Personnel Services involving test monitors and proctors for the MTA for 10 years. NYSID has reported that Goodwill, along with six other member agencies will be able to meet the potential needs of other government entities. NYSID has reported that they plan on working with traditional non-profit members to provide this service, but would explore corporate partnership options if prospects arise to provide additional employment opportunities for individuals with disabilities. NYSID estimates a contract value of approximately \$200,000 for test monitors and proctors under the proposed contract with the MTA.

STAFF COMMENTS ON THE APPLICATION

OGS, acting as Staff to the Procurement Council, has reviewed the NYSID application and confirmed that the application meets the requirements of State Finance Law and the Preferred Source Guidelines, as set forth above. Although NYSID was unable to identify any current spend for these services beyond the MTA, NYSID will be able to provide Temporary Personnel - Transportation Test Monitor and Proctor Services statewide, thus meeting the requirement that the preferred source offering be provided to more than one State agency.

During OGS’s review we contacted OSC, SED and to New York State Department of Civil Service for information on demand for these services and their cost. All three advised that they did not hire temporary personnel as test monitors and proctors. Civil Service advised that they hire per diem employees. SED advised that some test monitors and proctors were school employees while others are obtained through contracts where the vendor is also creating the test and would not hire the test monitors and proctors independently. Civil Service pays the per diem employees that work as test monitors and proctors \$15. per hour. This rate does not take into account payroll taxes and administrative costs incurred by Civil Service.

NYSID’s proposed hourly bill rates range from \$19.01 to \$21.29 per hour, depending on the job duties for each position. The proposed hourly bill rates, see the Total Column above, can be deemed reasonable and statutorily compliant, based on the comparable pricing provided and OGS’s research of bill rates charged for temporary workers in the New York metropolitan area market and the bill rate structure.

The wage rates for the temporary workers range from \$13.00 per hour to \$14.56 per hour with a consistent fringe benefit rate of 17.5%. The wages are all at or above the minimum wage for New York City and appear reasonable. The overhead percentage for each proposed bill rate ranges from 19.6% to 19.7% and the NYSID Fee is consistently 4%. The total markup from the wage rate is approximately 46%, depending on the position. OGS research and prior experience has shown that private sector Temporary Personnel Services providers often have a markup between 35% and 50%.

Further analysis shows that between 80.3% and 80.4% of the proposed bill rates is delegated to the wages and fringe benefits of the temporary employees. OGS finds that this demonstrates the reasonable costs of labor and overhead necessarily incurred by a preferred source under efficient methods of administration per New York State Finance Law §162.6b.

The application is complete and contains specific service information, comparable pricing, labor cost, value added labor details, and sufficient information to confirm that the work being performed is meaningful, and will support the long-term employment of the disabled workforce at Goodwill with the availability to expand to other members and procuring agencies as needed. Staff has confirmed that these services are to be provided by Goodwill, a preferred source member agency. If statewide demand increases, six other non-profit preferred source members are capable of providing these services.

Annual sales for the services referenced within this application are estimated at \$200,000 and the prices proposed are within 15% of prevailing market value.

EMPIRE STATE DEVELOPMENT REVIEW:

As of the date of this summary, OGS has not received ESD's recommendation regarding this application.

STAFF FINDINGS:

1. The OGS Preferred Source Team reviewed the NYSID application submitted to OGS and ESD on March 1, 2018, together with supplemental information and has determined that the application meets the requirements of Preferred Source Guidelines, § X.B and § X.D.
2. This application is to add Temporary Personnel – Test Monitors and Proctors as a new service category to the List D of Preferred Source Offerings.
3. OGS reviewed this application with particular attention to the high percentage of individuals with disabilities currently employed in test monitor and proctor positions (100%), the number of jobs that will be preserved (5.96 FTEs), and the high percentage of each of the proposed hourly bill rates being dedicated to the wages and fringe benefits of the temporary workers (80.3%-80.4%).

STAFF RECOMMENDATION TO THE PROCUREMENT COUNCIL

Based upon the foregoing, Staff recommends that the Procurement Council approve NYSID's application, add the new service category of Temporary Personnel - Test Monitors and Proctors Services to List D of Preferred Source Offerings, and grant NYSID preferred source status for Temporary Personnel - Test Monitors and Proctors Services referenced throughout this memorandum. Upon approval of the Procurement Council, the List of Preferred Source Offerings, Section D will contain an additional checkmark (✓) to identify NYSID's Preferred Source Status for Temporary Personnel - Test Monitors and Proctors Services as identified in this application. The checkmark (✓) will be added under the NYSID column on the List of Preferred Source Offerings.