

NEW YORK STATE
DEPARTMENT OF ECONOMIC DEVELOPMENT
REQUEST FOR PROPOSAL (RFP)

NEW YORK STATE CONTRACT REPORTER WEBSITE

RFP NUMBER 10-6032

PROPOSAL DUE DATE – November 18, 2011 by 3:00 P.M. EST
(Late proposals cannot be accepted)

(Release Date – October 19, 2011)

Request For Proposal (RFP) Response Form

RFP # 10-6032

Please review this RFP. Complete the following information and mail this form or if submitting a proposal, this form together with your entire proposal, to the address at the bottom of this page. Late proposals cannot be accepted.

/ / Attached is our proposal

/ / We do not intend to submit a proposal for the following reason(s):

Name of Organization: _____

Address: _____

- Is this address your company's principal place of business? Yes _____ No _____

The term "principal place of business" is defined as follows:

A company's principal place of business is generally considered to be the enterprise's main office, where the regular meetings of its board of directors occurs, and where a company's business is managed, conducted and directed, regardless of where the administrative departments or the physical property of the business are located. For purposes of determining the principal place of business, a foreign business enterprise's principal place of business is not necessarily the same as its state of incorporation. In sum, the determinate is where the actual "business" of the corporation takes place.

If the above address is not your principal place of business, please indicate the full address of your principal place of business on the following two lines:

- Will this product or service be substantially produced in NYS: Yes _____ No _____
- Subject to the "Conditions Governing Proposals" article stated in this RFP, proposals must be in agreement with all terms and conditions of this RFP.

Phone #: _____ **Fax #:** _____

Signature: _____ **Date:** _____

Type or Print Name and Title: _____

By checking this box, we request that you remove our name from your bidders' list

Mail this as the first page of your proposal. If not submitting a proposal, please mail this form to: Ms. Lynne Kramer, NYS Department of Economic Development, Office of Fiscal Management, 30 South Pearl Street, Albany, NY 12245.

RFP # 10-6032

Notice of Intent to Bid (optional)

This is to disclose that the undersigned intends to respond to the New York State Department of Economic Development's:

Request for Proposal, New York State Contract Reporter Website (RFP 10-6032)

Company _____
(legal entity of intended signatory to a contract)

Mailing Address _____

Phone/Fax/Email _____

Contact Person _____

Date _____

This Notice of Intent to Bid should be forwarded to Ms. Lisa Sutton no later than November 10, 2011 by 3:00 pm U.S. Eastern Standard time to: NYSCR-RFP@empire.state.ny.us or fax (518) 292-5809.

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SECTION I - ADMINISTRATIVE INFORMATION

1.0 PURPOSE

The New York State Department of Economic Development (“NYSDED”) also referred to as Empire State Development (“ESD”), is seeking the services of a qualified proposer (“Contractor”) to implement the following objectives: redesign/develop, host, maintain and enhance when and as necessary, the New York State Contract Reporter Internet Site (referred to hereafter as the “NYSCR” or the “Site”). The Contractor selected will work with the NYSDDED to implement the stated objectives and accepts full responsibility for the success of the project discussed in this Request for Proposal (RFP). The proposer must provide a timeline for the development of the new Site and successful completion of this project.

If you are interested in bidding on this project we suggest that you visit the existing Site at <http://www.nyscr.org> and register as a user of the Site to supplement your understanding of the NYSCR as discussed in this RFP.

1.1 DESIGNATED CONTACTS

For the purpose of the Procurement Lobbying requirements of this RFP (see section 3.7 and EXHIBIT D) the Department’s designated contacts shall be Ms. Lisa Sutton, and employees designated by the Department as part of the Department’s Contract Management Unit and all staff designated by the Department to have responsibilities and duties in the Department’s Administration and Counsel’s Office.

1.2 INQUIRES

Inquiries should be addressed to:

Ms. Lisa Sutton
NYS Department of Economic Development
30 South Pearl Street, 11th Floor
Albany, NY 12245

All questions must be submitted in writing to Ms. Sutton no later than November 2, 2011 by 3:00 pm U.S. Eastern Standard time to: NYSCR-RFP@empire.state.ny.us. All inquiries must cite the specific RFP section relative to the question. Question submittals must include a completed Report of Contact under State Finance Law §139-k(4) (see EXHIBIT D, Form 4). All questions and answers will be posted on the NYSCR website <http://www.nyscr.org>, and the ESD website <http://esd.ny.gov/> website, and distributed to all known

potential bidders. It is the bidder's responsibility to monitor and review the Q&A for clarifications and information pertinent and required of bidders. Please do not contact the Department by telephone.

1.3.1. This RFP is being made available by electronic means. If accepted by such means, the bidder acknowledges and accepts full responsibility to ensure that no changes are made to the RFP. In the event of conflict between a version of the RFP in the bidder's possession and the version maintained by NYSDDED, the version maintained by the NYSDDED shall govern.

1.3 SCHEDULE OF PERTINENT DATES

Release of RFP	October 19, 2011
Pre-Bid Conference	None
Deadline for Receipt of Questions	November 2, 2011 by 3:00 PM EST
Submission of Intent to Bid	November 10, 2011 by 3:00 PM EST (optional)
Submission of Proposals	November 18, 2011 by 3:00 PM EST Late proposals cannot be accepted.
Oral Presentations/Interviews	By appointment at the discretion of NYSDDED
Award of Contract	January 2012 (estimated)

1.4 PRE-BID CONFERENCE

There will be no pre-bid conference.

1.5 SUBMISSION OF PROPOSALS

Interested individuals or firms must submit their proposals no later than **3:00 P.M. U.S. Eastern Standard Time, on November 18, 2011.** Submit one (1) original and seven (7) copies of the proposal to the following address:

**NYS Department of Economic Development
Office of Fiscal Management
30 South Pearl Street, 2nd Floor
Albany, NY 12245
Attention: Lynne Kramer**

It is the responsibility of each individual or firm to ensure timely submission of its proposal. Proposals received after the scheduled date and time cannot be accepted. Proposals submitted by email or facsimile will not be accepted.

1.6. FINANCIAL RESOURCES

Prospective bidders must possess adequate property, plant, equipment, financial resources and organizational capacity to perform the services described in this RFP in an efficient and effective manner. You must have the financial resources to pay expenses in advance of the receipt of payment from the Department. The Department will accept your own certification that you have sufficient economic resources. However, we prefer a letter from a Certified Public Accountant (CPA), indicating that your company has sufficient working capital, positive net worth, and has or can obtain a line of credit. We will also accept a letter from a party other than a CPA (such as an attorney, or bank officer) familiar with your company, and attesting to your financial condition.

1.7 ORAL PRESENTATIONS/INTERVIEWS (if required)

Finalists may be required to give an oral presentation/interview to demonstrate their understanding of the objectives of the project. Finalists will be selected from bidders receiving the highest scores, based on the selection criteria identified in Section 2.7 of this RFP. The Department reserves the right to determine whether oral presentations/interviews will be necessary. If the Department decides to conduct oral presentations/interviews, such oral presentations/interviews will occur as outlined in Section 2.7.5 and Section 2.8 of this RFP.

SECTION II – PROGRAM BACKGROUND AND SCOPE OF SERVICES

2.0 BACKGROUND

The NYSCR is a legislatively mandated procurement opportunities newsletter published online by ESD. The newsletter includes bid solicitations from State Agencies, Public Authorities and Public Benefit Corporations; political sub-divisions of the State (e.g. counties, cities, towns and villages) and other entities allowed by law and approved by the Department (referred to hereafter as “Agencies” or “entities”). Solicitations include, but are not limited to: Invitations for Bid (“IFB”), Requests for Proposals (“RFP”), Requests for Information (“RFI”), Requests for Quotations (“RFQ”) and advertisements for single source, sole source and exempt procurements. The Site publishes new solicitations each weekday morning, and maintains a searchable archive of all previous notices. The Site also provides information about procurement news and events (workshops and conferences), announcements of a general nature and other procurement resource information (including website links) for the business community and for State Agency Users of the Site. The NYSCR currently utilizes the domains “NYSCR.org” and “NYSCR.com”; it has not yet been determined whether the updated website will also utilize those domains and/or if domains with the “.ny.gov” nomenclature will be used instead.

The Site has two primary functions: input and retrieval. Agency Users input solicitations and other information using online forms; Registered Users and “E”Alert subscribers retrieve this information after publication. Registered Users include members of the business community looking for business opportunities and Agency Users needing copies of their solicitations or wanting to search the archives. Solicitations can be retrieved as *Current (New)* solicitations, as *Open* (still open for bid, including Current) solicitations or as *Archived* solicitations (archives are created immediately upon publication and include “Current” and “Open”). The archived issues of the NYSCR are required as part of the public record of this official state publication. The Open solicitations (which include Current/New and Open) are searchable by keyword, agency or category. Archived solicitations are also searchable by keyword, agency, or category, and also by issue date and date range.

2.1 SCOPE OF SERVICES

SITE DESIGN

Because of changes to New York State’s Finance and Economic Development Laws and the age of the current site, the Department has determined that a newly designed NYS Contract Reporter website is required. In addition, a report from the Procurement Council to the Governor, Legislature and Division of Budget outlines key recommendations for the creation of a Statewide Electronic Procurement Opportunities Notification System to be incorporated into a revised NYSCR site. This study’s recommendations must be considered in the design and

construction of the new site. The study is available online at:

http://www.ogs.state.ny.us/procurecounc/pdfdoc/SEPONS_report_final.pdf.

2.1.1 Redesign Overview:

The Site shall be redesigned to improve the collection, retrieval/display and archiving of procurement notices from eligible entities. The redesign shall include a step-by-step submission process for solicitations that will support sorting, retrieving/displaying and archiving the solicitations and notices under distinct new category headings. Additional new features shall include the capability to sort solicitations geographically by FIPS code, the use of wizards/templates to speed the insertion of new and recurring ads, the ability to delay publication of an inserted ad, the creation of a Bidder Registry and the creation of an “Advertising by Prime Contractors” function. Although features of the existing site shall be incorporated into the design of the new site, the new site must be entirely reorganized to be more user-friendly, and to provide better navigation and more effective search features.

2.1.2 Publication Schedule:

Solicitations are published daily, Monday through Friday. Currently, solicitations entered by Agencies on one day are published the morning of the following day (“publication day”), creating the “Current” (New) issue of the publication. Daily means “business days,” Monday through Friday, excluding New York State holidays as follows: New Year’s Day, Martin Luther King, Jr. Day, Washington’s Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day and Christmas Day.

When the publication day for a solicitation falls on a State holiday, the publication day will be set to the next available business day. Solicitations submitted on Friday, Saturday and Sunday will be captured by the system and published on Monday morning. Solicitations submitted by State Agencies will appear for a minimum of fifteen business days, including the first day of publication. A publication schedule on the Site will advise on the insertion date, publication date and earliest possible due date for bid responses. This publication schedule must show the correlation between the publication date and the earliest possible due date for bid submission.

2.1.3 Capabilities & Appearance:

The new site must have improved functionality and design, plus a variety of enhancements. The appearance of the Site must be businesslike and well organized. It must have greater visual appeal than the current site and must make good use of color and graphic design. While the Site must have a unified look and feel overall, design elements must clearly differentiate each subsection and its related pages. Subsections may include, but are not

limited to, the public home page, subscriber pages, agency home page and Bidder Registry. Design considerations must not compromise speed, flexibility or the overall unified theme of the Site.

2.1.3.1 The Site must have an auto-alignment feature that balances the screen image for all sized monitors used to view the Site. All links must be in a hierarchical menu format. The new site must be easy for users to navigate, utilizing "alt text tabs," drop down menus, navigation bars (especially for items that fall "below the fold"), "bread crumb" paths, and/or other tools that improve navigation and functionality.

2.1.3.2 Users must be able to search and retrieve open solicitations (those that have not yet reached their proposal due date) using keyword(s), category, geography, agency and/or date or a combination thereof. The search function must include daily bid solicitations and notices, as well as quarterly and semi-annual reports required by law. In addition, Users must be able to search archived bid solicitations (bid due date has passed) by keyword, date of entry (month and year), geography and agency.

2.1.4 Users of the Site

The following terms define the types of users of the NYSCR Site:

- ***"Agency Users"*** place bid solicitation notices for goods or services and look for copies of their published solicitations to document the procurement process. These users require access to both the input and retrieval functions of the Site. One login should provide access to both functions.
- ***"Agency Administrators"*** have the rights of Agency Users, plus they assume for their agency some of the Site's administrative functions. These functions include, but are not limited to: editing of published solicitations, adding or modifying user accounts or agency locations for their agency and posting of award information for all Agency Users in their agency.
- ***"NYSCR System Administrator(s)"*** is a person or persons at NYSDER with permission to perform functions necessary to the operation of the NYSCR Site. System Administrator(s) can view all agency accounts and all solicitations on the Site.
- ***"Registered Users"*** have free access to the retrieval function of the Site. All users must register, using their email address, or an agreed-upon alternate unique identifier, as their username. When a new application for registration is received, the system will verify the email address (username) by sending an account verification message to the email address used to secure the account. Registered Users will be purged from the system after one year of inactivity. However, notification will be sent to the Registered User 14 days, seven days and one day prior to purging the account record, thereby permitting the user to reestablish the

account.

- **“Subscribers”** are Registered Users who have elected to pay a fee for the “E” Alert Bid Notification Service. Multi-user accounts will be available for corporate subscribers. It is essential that this service be user friendly and function reliably.
- **“Advertisers”** for “Advertising by Prime Contractors” are Registered Users who, as prime contractors on a state contract, are seeking NYS subcontractors and/or suppliers to help them fulfill that contract. Prime contractors are businesses that have been awarded a contract to complete a specific project for a state agency. For a fee, Advertisers may use the Site to solicit subcontractors for such projects. Advertisements must be approved by the System Administrator prior to payment and publication.
- **“Bidders”** are Registered Users who choose to enter additional information about their business into the Site’s Bidder Registry database. Participation in the Bidder Registry is optional. Users may join the Bidder Registry during their initial Site registration or at a later date.

2.1.5 Public Homepage Content

- Links for users to connect to procurement resource information
- Link to register to use the Site, with the option to provide additional information to join the Bidder Registry, now or in the future
- Link to subscribe to “E” Alerts
- Log in for Registered Users and Subscribers
- Log in for Agency Users
- Link for agencies to apply for approval to submit ads for publication
- Information about workshops and conferences posted by agencies and approved by the NYSCR System Administrator
- Links to FAQs, tutorials, procurement resources and other help. These must be clearly displayed.

2.1.6 Agency Database Content and Functionality

2.1.6.1 The Site’s agency database must accommodate a record for each entity eligible to advertise in the NYSCR. Each record must include:

- Locations/Departments for the agency
- Agency Users – associated with a specific location/department
- Agency Administrators – associated with a specific location/department but with agency-wide authority

2.1.6.2 An entity seeking to advertise for the first time must complete an online application prior to submitting a solicitation. Applications must be approved by the System Administrator. Applicants will be notified of approval via a system generated email that includes a case sensitive password and a link to instructions for submitting information for publication on the Site. The first person to receive approval to submit solicitations on behalf of an agency will be designated an Agency Administrator for that agency. If the agency already exists in the database, the system shall prevent creation of a duplicate agency account, offer information to the applicant about the existing agency account, and provide contact information for Agency Administrators at that agency.

2.1.6.3 Applicants must identify their organization as a state agency, authority, public benefit corporation, municipal or political subdivision of the state or other eligible, quasi-governmental entity (generally such not-for-profit corporations as Industrial Development Agencies and Local Development Corporations). Additionally, each entity will be categorized as either a state entity, i.e., governed by State Finance Law, Public Authorities Law, Economic Development Law or other state statutes, or as a political subdivision of the state governed by General Municipal Law.

2.1.6.4 Agency Users shall have the capability to:

- submit solicitations for publication on behalf of their agency
- submit reports, announcements, news and event information on behalf of their agency
- submit Omnibus Procurement Act notices, waivers and reports, with forms for filing available electronically on the site
- edit solicitations prior to publication
- post results for solicitations they posted
- access submission-related Help

2.1.6.5 Agency Administrators shall have the capability to:

- perform all functions of Agency Users
- maintain their agency's database records, including
 - adding, updating and deleting user accounts
 - adding, updating and deleting their agency's geographic locations
 - promoting their agency's Users to Administrators
 - modifying other Agency Administrator accounts for their own agency
 - posting bid results for any solicitation submitted by their agency

Agency Administrators will be able to modify only the records of their own agency.

2.1.6.7 NYSCR System Administrator shall have the capability to:

- perform all functions of Agency Users and Agency Administrators
- approve or deny agency applications for access to the Site
- add, edit and delete accounts
- change or reset all passwords
- delete applications
- view and modify all records in the agency database
- update/edit system generated automated response messages
- insert, review and edit solicitations and other notices
- add to FAQs
- approve announcements, news and event information prior to publication
- archive bid solicitations prior to the due date
- oversee and approve advertising by prime contractors
- oversee reporting capabilities
- search/filter on all fields in each database
- perform all other functions inherent in the current site
- perform other edits that do not impinge on the design and programming functions of the Site

The NYSCR System Administrator(s) shall be located at NYSDDED and at the site of the successful bidder for this RFP.

2.1.6.8 The current NYSCR agency database permits the creation of duplicate agency accounts. This duplication has resulted in Agency Administrators not having the ability to view all Agency Users for their agency, Agency Administrators and Agency Users that are not linked to their agency locations and the creation of more than one archive for an agency's solicitations. The new site must allow creation of only one account per agency, but must accommodate unlimited Agency Users and Agency Administrators for each agency's account.

2.1.6.9 The Site must allow each agency to be associated with multiple departments, divisions, and units at multiple locations, with unique Users and Administrators assigned to any combination thereof. Access to the Site will be by username and a case sensitive password. All users will utilize their email address, or an agreed-upon alternate unique identifier, as their username. The password for an agency's initial account will be system generated

and emailed to the user once the NYSCR System Administrator approves the creation of the account. Passwords for accounts created by Agency Administrators will be system generated and emailed to users as the accounts are created. The System Administrator will have the ability to reset passwords. A “forgotten password” feature will supply the reset password to the user via email.

2.1.7 Solicitation Submission

2.1.7.1 Subject to NYSDER approval, the Contractor will develop insertion forms for solicitations and other notices with step-by-step choices (wizards), drop down lists and other features that will minimize errors and result in more effective data sorts. The Site must also allow for templates and quick-fill of data fields for fast, accurate submission of solicitations. The solicitation insertion forms must control certain data fields so as to insure compliance with statutory requirements, include fields for specific procurement tracking and permit optional fields in certain types of notices for flexibility in insertion. NYSDER will provide the Contractor with the record layout for the bid solicitation database.

2.1.7.2 The Site will affirm successful submission of solicitations and alert the user to submission failure. Notification of a successful submission will include the issue date when the solicitation will appear on the Site and, for notices in Categories 1 through 5 (below), a system assigned unique identification number. This number will appear in all published solicitations and related postings, and will link changes/edits/award postings back to the original solicitation. In addition, Users will have the option of receiving an email confirming that the submission was successful.

2.1.7.3 Generally, solicitations published in the NYSCR are governed by State Finance Law or General Municipal Law, and the content of the solicitations is governed by Economic Development Law. The Site’s solicitation submission forms must require state agency submissions to appear for 15 business days. The forms must permit a shorter advertising period for submissions from political subdivisions of the state (not governed by State Finance Law), and require that the entity acknowledge selecting a shorter publication period.

2.1.7.4 Although the default publication date is the next business day, the new site must offer Agency Users the option of delaying publication for up to 30 days after bid submission. Prior to publication, Agency Users and Administrators may edit or delete their own agency’s solicitations; the NYSCR System Administrator may edit or delete solicitations from all agencies. Only an Agency Administrator for the soliciting agency, or the NYSCR System Administrator, can edit a solicitation after it is published.

2.1.7.5 A solicitation cannot be deleted after publication, although it can be archived prior to the bid due date and flagged as “cancelled” by the Agency Administrator for that agency, or by the NYSCR System Administrator. The Site must automatically archive submissions that are cancelled prior to publication. Archived information must indicate that the solicitation was cancelled and by whom, and must include the cancellation date and the content of the solicitation. Published solicitations must be automatically archived after the bid due date has passed.

2.1.7.6 Agency Users must have the ability to upload attachments or other documents relating to a specific solicitation. The upload process must accommodate PDF, Excel and text files. Access to these documents will be provided via a link within the solicitation to which they relate. A history of these edits must be maintained and be available to viewers, noted by date and time, and by the person and agency making the change. To facilitate notification of all potential bidders, procurement officials must be able to post “Questions & Answers” related to specific solicitations. These documents and subsequent award information will be associated with the original solicitation using the solicitation’s unique identification number.

2.1.7.7 The Site shall require Registered Users to acknowledge that they are accessing a specific solicitation and inform them that if they are interested in bidding (whether they ultimately bid or not) they should register with the soliciting agency. When a Registered User accesses a solicitation, the Site will capture the User’s name, address, telephone number, fax number (optional), email address; and the date and time. Agency Users must be able to download a report (Excel file) that provides this information for each solicitation accessed.

2.1.7.8 For solicitations with attached documents, the Site will require Registered Users to accept specific terms before they can view the solicitation. These terms will include the following statement: “Downloading or printing a bid solicitation does not constitute registration to bid with the soliciting agency for this procurement. Failure to register, if required, releases the soliciting Agency from any and all responsibility for advising the Registered User of any changes to the bid solicitation, or to the existence of supplemental information which may become available.”

2.1.8 Items Entered for Publication - Solicitations and other Procurement Notices

2.1.8.1 Article 4-C Economic Development Law requires the following information to be included in the solicitations placed for publication on the NYSCR Site:

§ 142 Procurement Opportunities Newsletter.

“Notices of procurement contract opportunities shall mean: (c) for all other procurement contracts issued by agencies

- (i) the name of the contracting agency;*
- (ii) the contract identification number;*
- (iii) a brief description of the goods or services sought, the location where goods are to be delivered or services provided and the contract term;*
- (iv) the address where bids or proposals are to be submitted;*
- (v) the date when bids or proposals are due;*
- (vi) a description of any eligibility or qualification requirement or preference;*
- (vii) a statement as to whether the contract requirements may be fulfilled by a subcontracting, joint venture, or co-production arrangement;*
- (viii) any other information deemed useful to potential contractors;*
- (ix) the name, address, and telephone number of the person to be contacted for additional information; and*
- (x) a statement as to whether the goods or services sought had in the immediately preceding three year period been supplied by a foreign business enterprise”.*

2.1.9 Classification of Procurement Notices

2.1.9.1 The submission of bid solicitations and other procurement notices must allow for classification and categorization by type of notice. Procurement solicitations will be classified according to the following list. The Site must permit the System Administrator to add additional classes, and categories/subcategories within those classes, which must also be added to the archives.

- Classification 1 – Solicitations (to be archived)
 - Invitations for Bid (IFB)
 - Requests for Proposals (RFP)
 - Requests for Qualifications
 - Discretionary Procurements
 - Requests for Quotations (RFQ)
 - Expressions of Interest
 - Continuous Recruitment Solicitations
- Classification 2 - Procurement Notices (optional to be archived at the time of entry)
 - Requests for Information (RFI)
 - Draft RFPs for comment

- Classification 3 – Grant and Notices of Funds Availability (to be archived)
 - Grants
 - Notices of Funds Availability
- Classification 4 – Procurement Announcements (to be archived)
 - Announcements of change(s) to published solicitations
 - Announcements of Disposal (auction) of Surplus Property
 - Questions and Answers
 - Additional information regarding published solicitations
- Classification 5 – Notices of exempt procurements, including single source and sole source procurements (to be archived)
- Classification 6 – Bid Results and Agency Reports (to be archived)
 - Agency Reports – quarterly and semi-annual
 - Posted Bid Results
- Classification 7 – General Announcements
 - News and Events, conferences and workshops
 - Announcements of general interest

2.1.9.2 Classification of Procurement Notices Defined - Classifications to be used in the Site

2.1.9.2.1 Classification 1 and Continuous Recruitment Notices – IFBs, RFPs, Discretionary Procurements, RFQs and Expressions of Interest (which result in a preliminary qualified list of vendors) will be displayed for viewing as “New” (that day), and as “Open” (not yet reached the due date) solicitations. These will be available for viewing under “Solicitations” on the Registered User home page, by selecting the desired type of notice. The majority of Class 1 notices will appear for a minimum of 15 business days, as required by law and built into the NYSCR publication schedule (excluding Saturdays, Sundays and legal holidays). Agencies may select a longer advertising period but never a shorter one. For entities subject to General Municipal Law, the bid due date may be no less than five days from the publication date of the solicitation. Economic Development Law may require a longer advertising period for solicitations submitted by political subdivisions. The solicitation insertion form must notify Agency Users of the earliest possible due date for a solicitation, based on the user’s entity type.

Continuous Recruitment solicitations are placed for an indefinite period, but are required to be periodically updated. Agencies may elect to update a continuous recruitment solicitation quarterly, semi-annually or annually (every 90, 180 or 365 days). Continuous Recruitment solicitations must be re-approved (for a similar renewal

period) within ten business days of their expiration date. Two expiration alert notices will be sent to the Agency User who placed the solicitation (along with an additional message to the Agency Administrator(s) for that agency). A solicitation may also be updated, provided that only “not-material” information is changed. Once edited and resubmitted, or approved for continuation, the solicitation will continue to appear for another advertising period (90, 180 or 365 days), with a message noting the date the solicitation was updated/re-approved by the agency. If not re-approved or updated, the solicitation will be archived ten days after it expires.

2.1.9.2.2 Classification 2 Notices – RFIs, RFQs, Draft RFPs and Notices of Exempt Procurements will be displayed for viewing as “New” (that day), and as “Open” (not yet reached the due date) solicitations. These notices appear for a minimum of 7 business days, and may appear longer if so desired by the soliciting agency.

2.1.9.2.3 Classification 3 Notices – “Grants and Notices of Funds Availability” will be published for a minimum of fifteen business days and may appear longer if so desired by the soliciting agency. “Grants” and “Notices of Funds Availability” are two separate categories but will have the same submission form.

2.1.9.2.4 Classification 4 Notices – “Announcements of Solicitation Changes and Additional Information.” These announcements notify Registered Users about changes to open solicitations, such as Q&A additions, extended due dates, cancellations and other pertinent information. This information will be associated with the original solicitation utilizing the unique identifying number issued by the NYSCR at time the solicitation was submitted. In addition, when a Registered User opens the original solicitation, there will be a link to any announcements regarding changes or extensions to the solicitation. The link will include the date and time the solicitation was edited and a very brief summary (title of the change will be sufficient) of the change/update. When the link is selected it will open the new information notice. Class 4 notices will appear for as long as the original solicitation is open. These notices will be archived when the original solicitation is archived. The Site must inform Registered Users in a disclaimer that change announcements will not be automatically forwarded to them, that the soliciting agency may or may not post changes to the NYSCR and that if they want to be notified of any changes it is recommended that they register with the soliciting agency as a potential bidder. They may also subscribe to “E” Alerts, as “Announcements of Solicitation Changes and Additional Information.” placed in the NYSCR by the soliciting agency will appear in the same category as the original ad, and an “E” Alert for change notices will be sent to Subscribers.

“Questions and Answers” (Q&A) asked by bidders during the solicitation process are collected by the soliciting agency and released to all potential bidders. Agencies will be able to upload lists of “Q&A” in the category

of the original solicitation and linked to the original solicitation. The uploaded “Q&A” will then be viewable from the original solicitation, will appear on a list of posted “Q&A” lists under the “Announcements of Solicitation Changes and Additional Information” and will be archived with the original solicitation when the bid due date is past.

In addition, Announcements of notices of disposal of surplus property will be placed in this category for response from the business community. This feature will be available to authority and corporation users only, with information to agencies instructing them to contact the New York State Office of General Services regarding their surplus property disposal needs.

2.1.9.2.5 Classification 5 Notices – “Exempt Procurements,” including single source and sole source procurements. Notices of Exempt Procurements will automatically appear for a minimum of five business days, excluding Saturday, Sunday and legal holidays as programmed into the publication schedule.

2.1.9.2.6 Classification 6 Notices – “Agency Reports and Bid Results Postings” will include required reports and postings that will be archived on the Site. Bid Results Postings shall be associated with the original solicitation using the unique identification number assigned by the system when the original solicitation was submitted.

2.1.9.2.7 Classification 7 Notices – “Announcements of General Information.” This is a general class of announcements that are placed for viewing but are not archived, such as information on minority and women’s business participation; general notices of how to do business with a particular agency; and other items of a general nature not related to specific procurements, workshops, or conferences. The Agency User placing the announcement will select a period of time for the announcement to appear. The announcement will not appear on the Site until approved by the System Administrator, at which time an email will be generated by the Site notifying the Agency User of the approval or disapproval of the item.

Classification 1 through Classification 6 notices will be archived by the Site when the proposal due date or minimum publication time has passed. The archives must be completely viewable and searchable at any time.

2.1.9.3 Categories and Subcategories within Classifications

Using a newly developed set of categories and subcategories, Agency Users will categorize each of their solicitations hierarchically, first by Classification (1-7), then, if the solicitation is a procurement notice, as either

“Commodity,” “Service” or “Construction.” Under each of these categories, a “tree” of sub-categories will enable Agency Users to further categorize the solicitation, e.g., Construction, Technology, etc. “E”Alert bid notification Subscribers and Registered Users will use these same categories and sub-categories to customize “E”Alert accounts or select solicitations for viewing.

2.1.9.3.1 The new site must allow Agency Users to further identify solicitations using codes that coordinate with North American Industry Classification System (NAICS) codes (<http://www.census.gov/epcd/www/naics.html>), the National Institute of Governmental Purchasing (NIGP) codes (http://www.nigp.org/eweb/StartPage.aspx?Site=NIGP&webcode=abt_mv), and/or United Nations Standard Products and Services Code® (UNSPSC) (<http://www.unspsc.org>).

2.1.10 Bid Results Posting

State agencies are required by statute to post bid results; municipalities may, but are not required to, do so. Agency Users must be able to locate specific solicitations using the system assigned unique identification number or other search parameters. They must be able to enter bid results, update or amend contract award information and upload attachments that provide additional bid results information. This information will be matched to the appropriate solicitation using the unique identification number. Bid results must provide a link to the original solicitation, and archived bids must provide a link to the related bid results.

2.1.11 Fee Based Services

These features provide enhanced services for users as well as income needed to defray the cost of hosting, improvements, maintenance and marketing of the NYSCR. Registered Users may purchase one or more fee-based service. Terms of use for a service must be accepted prior to completion and submission of the application for that service. Fees will be collected using a “PayFlow” (PayPal) account system that will activate the NYSCR account or service once the fee is paid.

2.1.11.1 “E”Alert Accounts: Registered Users can subscribe to an “E”Alert Bid Notification Service that will notify them of new solicitations (in subscriber-selected categories) as they are published in the NYSCR. The notice will include the Category (see F), the title of the bid solicitation (as a link to the solicitation), the name of the agency placing the solicitation, the date bid responses are due, and the geographic location where the goods or services are to be delivered/provided. The “E”Alert Bid Notification service fee is currently \$79 for one year, with renewal notices sent 30 days, seven days and one day prior to expiration. The system generated renewal notices will

contain a link to enable users to renew their subscription on the Site.

2.1.11.2 Multi-user “E”Alert Bid Notification Service Accounts: Businesses may establish a master account with up to five sub-accounts. Each sub-account will have its own account profile that will be associated with an individual username/email address. Bid notifications sent to the sub-accounts will be based on their individual profiles and will be sent to their separate email addresses. The Multi-user account fee will be \$79 for a master account plus \$30 for each sub-account for one year. Renewal notices will be sent to the master account and all sub-accounts 30 days, seven days and one day prior to the account expiration date. The system generated renewal notices will contain a link that will enable the master account holder to renew the subscription on the Site.

Once established, “E”Alert subscriber accounts can be accessed and edited by the account holder and the NYSCR System Administrator. The System Administrator can also search and view the subscriber database. An account summary will detail each account and its status, and show a payment transaction number for the account.

2.1.11.3 Advertising: The Site must offer a new fee-based feature that enables prime contractors (“Advertisers”) to solicit subcontractors or suppliers for projects carried out on behalf of the State and political subdivisions of the State. Registered Users must be able to view these ads for free.

Advertisers must be Registered Users of the Site. They will use their Registered User credentials to access a secure area of the Site to submit and pay for their business advertisement. Advertisements may contain text and contact information. Upon approval of the ad by the System Administrator, payment will be processed and the ad will appear on the Site for 15 business days.

Ads may be canceled by the Advertiser at any time, with no refund due. At two days and again at one day prior to expiration of an ad, a system generated notice will be sent to the business, offering a 15 business day renewal of the ad at a special rate. If not renewed, the ad will expire at the end of the 15 day period.

Advertisers will be advised to print their ads for their files as the ads only appear on the Site for the specified advertising period and are not archived on the Site. The advertising period appears in the printed ad, and, in a renewal of the ad, the extended advertising period is shown and appears in the printed copy. Ads will be categorized using the same categories used for bid solicitation and other notices that appear on the Site. When an ad in a particular category appears on the Site, a notice that includes a link to the ad will be sent to “E” Alert Subscribers

who have elected to receive notices of ads in that category.

No trial periods will be available for fee-based features. However, the System Administrator must be able to create complementary accounts for these features and for advertising placement accounts as the need arises.

2.1.12 Verisign/PayFlow or Equivalent

Subscribers interested in utilizing the enhanced features of the Site (the “E” Alert Bid Notification System and Advertising) will pay for these features through a secure online transaction site. The secure online transaction site must have financial reporting capability and must process credit and debit card transactions through Visa, MasterCard and American Express. Credit card numbers must not be stored on the NYSCR Site and must not be made available to anyone (the Contractor, subcontractors, NYSDED staff members including the System Administrator). Fees for these enhanced features will be established by the Department and may change periodically, the initial fees will be provided to the Contractor to allow pre-setting of the fee structure for the new site. The Site must be scalable to allow fee-based features to be added and deleted in the future.

2.1.13 Centralized Bidder Registry

The Site shall offer a free Bidder Registry to businesses interested in state contracting opportunities, either as prime contractors, subcontractors or suppliers. Joining the Bidder Registry is an extension of the Registered User application process, and may be completed at the time the user initially registers or at a later date. Agency Users will search the Bidder Registry when they are seeking companies for procurement opportunities. Creation of the Bidder Registry is a recommendation of the SEPONS (Statewide Electronic Procurement Opportunities Notification System) and has several purposes:

- To allow Agency Users seeking companies for procurement opportunities to locate Bidders who have joined the Registry. Agency Users must be able to search the database and sort query results using a variety of parameters to be determined by NYSDED.
- To serve as a searchable list of potential subcontractors and suppliers for prime contractors looking to fulfill State contracting obligations, including utilization of NYS small businesses and minority- and women-owned businesses (MWBE). Initially this database will be searchable only by authorized Agency Users; NYSDED may permit direct searching by Registered Users in the future.
- To serve as a source of business information by ESD personnel performing market analysis and research, as well as for outreach to the businesses who have joined the Registry.

NYSDDED will provide the contractor with a list of fields to be used in the Bidder Registry database. Agency Users must be able to extract information from the Bidder Registry in a format that will be easy to import into a Word document, Access database, and/or Excel spreadsheet.

With certain exceptions, any business regardless of domicile (principal place of business) may join the Bidder Registry. The Site must block postings from businesses whose principal place of business is in a state that is on New York State's list of Discriminatory Jurisdictions. However, the System Administrator must be able to allow a business in a Discriminatory Jurisdiction to join the Bidder Registry. The System Administrator must be able to modify the list of Discriminatory Jurisdictions. NYSDDED will provide an initial list of these jurisdictions.

Businesses signing up for the Business Registry will receive a system generated message informing them of the success or failure of their registration. NYSDDED will provide the text for these messages.

Companies in the Business Registry must update their information annually, either by updating their account information or confirming the existing information. Businesses will receive system generated reminders 30 days, seven days and one day prior to the expiration of their record. Records not updated or confirmed will be automatically purged from the Site 30 days after their anniversary date.

Companies will be required to accept terms and conditions prior to joining the Bidder Registry. Agency Users retrieving information will also be provided with terms of acceptance holding the Department harmless and recommending all due diligence be undertaken by the agency conducting the procurement.

2.1.14 Archives

All solicitations and notices shall be archived in daily "issues" of the Contract Reporter, cataloged by issue date and calendar year. Each day, that day's issue will be added to the archives. However, every new solicitation appears as "New," as well as "Open," and all solicitations continue to appear as "Open" until the due date has passed. The new site's archive (launch date – onward), is to be separated from the archives of the old site (1998-last day of publication).

Data in the new archive will be available, viewable and searchable for seven years. Notwithstanding this requirement, the Contractor will provide an electronic copy of archived information for the previous calendar year, January 1 through December 31, annually. The Contractor will submit this information to the NYS Archives (in the

format requested by the Archives) no later than February 15th of the year immediately following the calendar year end.

The current site's archives must be available and searchable on the new site, and the Contractor must develop/provide the software necessary for Registered Users to perform such searches.

2.1.15 Hard Copy Subscriptions

The law now requires that a printed copy of the NYSCR be available, necessitating a user friendly "publication version" of the NYSCR that a Registered User self-publishes. Bid solicitations must be easy to select and print, with a default date range that meets statutory requirements. DED expects the Contractor to include as a standard function of the new site, the capability for printing of each daily issue (and issues within specified date ranges) as individual PDF or similar documents.

2.1.16 Quarterly and Semi-Annual Reports – required reports from Agencies & SUNY/CUNY

On a set schedule, the system will send an email message to agencies to remind them that required quarterly and semi-annual reports are due. Each agency location and SUNY/CUNY campus reports separately. Agencies must be able to submit reports via an online form. Reports must detail procurements only for the current reporting period. The reports must be archived by the system and must be available for viewing for the year for which they were filed. The reports remain on the current site as "Agency Reports" under Public Links.

2.1.17 Blast email function

The Site must have the ability for the System Administrator to send emails to specific segments of the Registered User database, for example: all, subscribers, advertisers or sub-groups based on data field selections such as "manufacturers" sorted on any of the demographic data fields in the Registered User database. In addition, blast emails must allow contact with Agency Users of the Site, including Agency Administrators, Agency Administrators only, or specific entities, such as: municipalities, school districts, agencies only, SUNY/CUNY schools, etc.

2.1.18 Automated Messages

The system must be designed to send a variety of automated messages to Registered Users, Subscribers, Agency Users and Agency Administrators. NYSDER will supply all text for the messages to be sent from the Site. Automated messages will include but are not limited to:

- Welcome message for new accounts, with activation link, which verifies email address
- Renewal notices for subscription expiration at 30 days, seven days, and one day prior to expiration (containing a hyperlink to renew)
- Acknowledgement for Bidder Registry applications
- Approval/denial of Bidder Registry applications
- Acknowledgement of agency applications to apply to use the NYSCR
- Acknowledgement of approval of agency applications, which include the system generated password and instructions for use

2.1.19 System Administrator Tools

A custom reports feature must be developed that will allow the NYSCR System Administrator to create reports using any one or more fields or databases in the Site. Such reports must include, but should not be limited to:

- Demographic information about Registered Users
- Activity of Agency Users, such as the number of times they logged onto the Site over the past 12 months, what categories have/have not been used, and how many submissions have been made in a given time period
- Site usage statistics, including the number of Registered Users, the number of Subscribers, Users by company type, expired subscriptions, etc.
- Information about companies in the Bidder Registry

Data in reports must be sortable and must facilitate the production of mailing labels and blast emails targeted to specific subsets of Site users. Site usage reports must be created daily, Monday through Friday. These reports must include the number of monthly and annual insertions in all categories, with the ability to run comparative reports for different time periods. In addition, the Site usage reports must provide information on the number of solicitation retrievals and the users who generate the most retrieval activity.

2.1.20 Tutorials, FAQ's, Help Features, Resources

The Contractor shall provide clear and concise downloadable tutorials detailing all uses of the Site. Information about the procurement process and available technical assistance will be provided, with additional information added as it is developed. Such information is likely to include Power Point presentations, webinars and taped workshop presentations and other tutorials. The Site must capture data about the utilization of these resources and make this information available to the NYSCR System Administrator in report form.

2.2 HOSTING, ENHANCEMENTS, MAINTENANCE AND OTHER CONTRACTOR REQUIREMENTS

2.2.1 Site technical maintenance and warranty period

A programming and functionality defect warranty shall be provided to NYSDDED for a period not less than 180 days following the date when all checklist items are completed. Items uncovered during this period shall be repaired without additional cost to NYSDDED.

2.2.2 Hosting

The Site shall be designed and hosted by the Contractor. The Contractor may subcontract the hosting of the Site but will remain fully accountable to the NYSDDED for the hosting services. The Contractor will be responsible to the NYSDDED for resolving any issues relating to hosting of the Site. The annual cost of hosting shall be detailed in the Budget (EXHIBIT B) of this proposal.

2.2.3 Enhancements

Enhancements to be designed and implemented by the Contractor at additional cost may be required in the future if required by legislative, policy or programmatic changes. The Contractor may not make any enhancements to the Site without an approved Change Order, as described below in the section titled “Change Control Management.” Proposals must describe how the Contractor will address future enhancements to the Site and how their proposed design will accommodate such enhancements, including incorporating additional fee-based services. Enhancements will be billed to NYSDDED at the same hourly rates itemized in the Budget (EXHIBIT B) submitted as part of the Contractor’s initial proposal for Site design and development.

2.2.4 Continuing Site Maintenance

In addition to design, hosting and enhancement expenses, bidders shall quote an annual charge, if any, for maintaining the Site. This annual maintenance charge is in addition to the annual charge for hosting the Site and providing any enhancements requested by NYSDDED. Please see the Budget (EXHIBIT B) of this RFP.

2.2.5 Site Compliance Requirements

The site must conform to the standards delineated in all applicable NYS Office for Technology policies, which can be found at <http://www.cio.ny.gov/tables/technologypolicyindex.htm>. The Site must also include the recommendations of the Americans with Disabilities Act Standard for Accessible Design (<http://www.usdoj.gov/crt/ada/stdspdf.htm>) and the W3C Accessibility Guidelines

(<http://www.w3.org/WAI/guid-tech.html>). Moreover, the Site must conform to the standards delineated in the NYS Office of Cyber Security and Critical Infrastructure Coordination Policy P03-002 v 3, which can be found at <http://www.dhSES.ny.gov/ocs/resources>. These policies include standards on physical and environmental security, access control, systems development and maintenance and citizens' notification in the event of a breach (or suspected breach) of private information.

2.2.6 Database Data Transfers

The account information for Registered Users and "E"Alert Subscribers in the existing system must be transferred to the new site. A process for reentering or transferring agency account information from the existing site to the new site must be developed.

2.2.7 Solicitation Data Transfers

Activity on the Site is continuous (24/7). During a three-week transition period prior to launch of the new site, the Contractor may be required to post solicitations to the new site to accommodate statutory publication requirements (approximately 250 bid solicitations each week). Agency Users will continue to post to the existing site during this three week period. Proposers may recommend a solicitation transition method other than the dual posting described here, which may be implemented at NYSDDED's sole discretion. To the extent possible, the Contractor will automate the dual posting or other solicitation transition method proposed if acceptable to the NYSDDED. The purpose of this is to develop a transition process that limits disruption to the maximum extent possible.

2.2.8 Change Control Management

Bidders shall describe the contract Change Control Management process to be implemented. Generally, all Change Requests (CRs) must be approved by designated NYSDDED and Contractor personnel prior to the start of work on any CR tasks. Prior to the Project Manager certifying in writing that the Site is complete, NYSDDED will not pay the Contractor for any cost increase associated with a CR for a change or enhancement that causes the Contract to exceed the "Total All Costs Categories" line in the Budget (EXHIBIT B) of this RFP. Unless the Contract is formally amended, including approval by the NYS Office of the State Comptroller, the cost of enhancements must be offset by a corresponding reduction in cost of one or more parts of the Site Design. No payment for post completion enhancements will be made until after the Department's Project Manager certifies in writing that the Site is complete.

2.2.9 Site Completion

As used in this RFP the term “complete” shall mean that all programming, testing, documentation and installation of the Site have been received and accepted in writing by the NYSDED’s Project Manager. This includes all source and object code; all graphics, animation and flash files in their original and layered state; all compiled and un-compiled project files; all training materials and agreed-upon documentation. In addition, acceptance requires that the Site operates as designed in the production environment for a period of seven consecutive days. The Contractor shall issue in duplicate a certification document and the Department’s Project Manager shall sign said document upon his satisfaction that the Site meets the definition of Complete as the term is used herein.

2.2.10 Documentation & Training

Site documentation shall be provided as Microsoft Word documents and PDF files, or other agreed-upon formats, and shall also be available online (with appropriate security such that different types of users may only view documentation intended for them). For example, a Registered User may not view documentation for a System Administrator.

The Contractor shall train up to five (5) NYSDED staff members, and/or such other individuals as may be desired by NYSDED, in all aspects (including technical, administrator, and user) of the Site. This training shall be limited to five days and shall be held at NYSDED’s Albany, NY offices. In addition, the Contractor shall make at least two appropriate staff members available for two months before and twelve months after Site completion to assist the Department with up to seven one-day “training seminars” for Agency Users. These seminars will take place throughout NYS.

2.2.11 Acceptance of Terms/Disclaimers

The Site shall prominently disclose an Acceptance of Terms/Disclaimers for the Site users listed in section 2.1.4. The Contractor shall propose and implement as part of the Site, and with the approval of the Department, Acceptance of Terms/Disclaimer language.

2.3 ARCHITECTURE OF THE EXISTING NYSCR

Attached is an architecture document that describes the current NYSCR. It is important to note that the attached information is not intended to describe the new site. As the new site must have all the capabilities of the existing site, but with improved functionality, design, and a variety of enhancements, the current architecture is provided to assist in insuring these capabilities.

2.4 NEW CATEGORIES

SERVICES

- Agricultural, Forestry Gardening, & Landscaping Services
- Advertising & Marketing Services
- Architectural, Engineering & Surveying Services
- Consulting Services
- Educational & Recreational Services
- Electrical & Electronic Equipment Repair & Maintenance
- Environmental or Recycling Technology or Services
- Equipment Repair or Maintenance Services
- Financial, Accounting, Banking, Leasing, Collection, Insurance or Bonding Services
- Food, Beverage, Commissary Services
- Heavy Equipment Repair or Maintenance Services
- Information Technology Services
- Janitorial Services
- Legal Services & Investigative Services
- Mailing Services
- Medical/Health Care Services
- Miscellaneous Services
- Pest Control Services
- Photography & Reproduction Services
- Printing, Publishing & Graphic Arts Services
- Rail, Marine & Aviation Services
- Real Property, Office, Hotel, Conferences/Meeting Space
- Refuse & Sewage Disposal Services
- Scientific & Technology Services
- Security Services
- Transporting & Warehousing Services
- Vehicle Repair or Maintenance Services

COMMODITIES/PRODUCTS

- Agriculture, Forestry Gardening, & Landscaping Products
- Advertising & Marketing Products
- Architectural, Engineering & Surveying Products
- Building Products & Materials
- Educational & Recreational Equipment
- Electrical & Electronic Equipment
- Environmental or Recycled Products
- Equipment Purchase or Lease
- Food, Beverages, Commissary
- Fuels & Lubricants
- Furniture & Office Supplies
- Heavy Equipment Purchase or Lease
- Highway & Road Products
- Information Technology Products
- Janitorial Products
- Mailing Products
- Medical/Health Care Products
- Miscellaneous Products
- Pest Control Products
- Photography & Reproduction Products
- Printing, Publishing & Graphic Arts Products
- Rail, Marine & Aviation Products
- Refuse & Sewage Disposal Products
- Scientific & Technology Equipment
- Security Products
- Textile & Leather Products
- Transporting & Warehousing Products
- Vehicle Purchase or Lease

CONSTRUCTION PROJECTS

- Building Construction & Rehabilitation – large projects, over \$1 million
- Building Construction & Rehabilitation – small projects – under \$1 million
- Cabinets, countertops, medical offices, kitchen & bathroom
- Electrical – High voltage
- Electrical – Low voltage
- Environmental Remediation
- Excavation, Grading & Site Preparation
- Flooring, Vinyl, Wood, Tile
- Heating, Ventilation & Air Conditioning
- Highway, Roads, Bridges, Paving, Sidewalks, Parking lots
- Masonry, Concrete, Block, Brick, Retaining Walls
- Miscellaneous Projects
- Painting
- Plumbing
- Rail, Marine & Aviation
- Roofing
- Site Preparation & Landscaping

2.5 DELIVERABLES

The deliverables for this project are consistent with the Scope of Services discussed above.

2.6 MINIMUM QUALIFICATION REQUIREMENTS

2.6.1 Prior to the proposal due date for this RFP, the proposer must be in business for a minimum of three (3) years, performing services essentially similar to those described in Site Design Scope of Service of this RFP.

2.6.2 The Proposer must provide as part of the proposal, the name and address of at least three (3) business references that can substantiate that the company has been in business for at least three years, performing services essentially similar to those described in Scope of Service of this RFP.

2.6.3 The Proposer must have prior experience developing software and hosting or working with a third party to provide hosting, of internet based website applications. Public program (State, federal, local) experience developing software and hosting internet based website applications is preferred. The Proposer must provide web address(es) of active sites that have been developed, designed and implemented by the Proposer. (Section 2.7 - Selection Criteria)

2.6.4 The Proposer must have the economic resources to pay expenses in advance of reimbursement from the State, for the services described in this RFP, as well as the expenses itemized in your proposal. (Section 1.7 - CPA Letter)

2.6.5 This Section of the RFP is not intended to itemize all requirements for an award of this project.

2.7 SELECTION CRITERIA

Proposals, which meet all the requirements of this RFP, will be evaluated by Department, based on the Selection Criteria stated in this section. Proposals will be scored based on the following criteria:

2.7.1 Experience

(32 points)

How well the bidder meets the qualification requirements addressed in the Scope of Service of this RFP. Particular attention will be given to prior experience in the design, programming and implementation of comparable website based applications systems and the hosting of such systems. The evaluation will include the resumes and experience of your project team, including subcontractors you would utilize for this project.

2.7.2 Ability to perform the required services

(45 points)

The bidder must demonstrate ability to use design and text to enforce composition and underlying message.

The bidder must specify the evaluation of the approach proposed to accomplish the Site Design Scope of Service of this RFP. The bidder must exhibit ability to complete the project on a timely schedule. (Section 3.1 – Complete Proposal)

2.7.3 Cost

(20 points)

Please complete EXHIBIT B - Budget in full.

Do not change the budget format. Failure to complete the financial proposal or bidder changes to the format may result in the disqualification of your proposal. Any bidder failing to complete the budget page will be disqualified.

PLEASE DO NOT SUBSTITUTE YOUR OWN BUDGET FORMAT.

Your budget must be separately bound from the rest of your proposal to allow for the cost evaluation to be completed independent of the technical evaluation (see section 2.8 below).

2.7.4 References

(3 points)

Proposers must supply a minimum of three (3) references (including name and address of the organization, contact name, and telephone number) that can substantiate the quality of the bidder's work to be considered for an award of this project. References must be provided with your proposal.

2.7.5 Oral Presentation

(Re-score of written proposal)

Finalists may be required to give an oral presentation and demonstrate their understanding of the objectives of the project. NYSDDED reserves the right to determine whether oral presentations/interviews will be necessary. Based on information provided at the oral presentation, the Evaluation Committee will re-score the Finalist's written proposals. Based on this re-scoring, the Finalist receiving the greatest number of total points will be declared the successful proposer. If oral presentations are not required by NYSDDED, the proposer receiving the greatest number of total points based on the scoring described in the Selection Criteria above will be declared the successful proposer.

2.8 EVALUATION PROCESS

Initial evaluation of proposals will be done in two parts – Technical Evaluation and Cost Evaluation. NYSDDED's Evaluation Committee will review the technical portion of each proposal based on the technical criteria listed above. NYSDDED's Evaluation Committee will not be advised of the costs proposed or cost scores (points awarded for cost) prior to the selection of the Finalists. However, the Evaluation Committee may be advised of

information contained in each bidder's budget (EXHIBIT B) if such information is deemed by the Department to be pertinent in assessing the level of effort to be put forth by the bidders in performing the project. Then cost scores, computed by NYSDDED's Contract Management Unit based on a weighted average formula, will be added to the technical score resulting in the total score for the written proposal.

NYSDDED reserves the right to determine whether oral presentations/interviews will be necessary. If NYSDDED decides to conduct oral presentations/interviews, such oral presentations/interviews will occur as follows:

2.8.1 Following the evaluation of proposals as provided above, the Evaluation Committee will determine the Finalists to be interviewed as the five (5) having the highest combined technical and cost scores above 60 points, based on the Selection Criteria identified in this RFP. NYSDDED anticipates that five (5) proposers will be selected as Finalists. The Department reserves the right to select any number of firms as finalists. If fewer than five (5) proposals are received, or if fewer than five (5) proposals receive a score of 60 points, the number of finalists selected shall be reduced accordingly.

2.8.2 Each Finalist will be notified of the date, place and time of their oral presentation/interview to be held in Albany, New York. The oral presentation/interview should further document the proposer's ability to provide the required services. Key personnel directly responsible for the project including the Senior Project Consultant should be present and participate in the oral presentation/interview. The purpose of the oral presentation/interview is to provide the Evaluation Committee with an opportunity to obtain a detailed understanding of:

- The extent of your organization's knowledge of the RFP subject matter and understanding of the project requirements; and
- Whether the methods and resources used by your organization are necessary, cost effective, and appropriate.

Further information with regard to the format of this stage of the evaluation may be provided to the finalists prior to their oral presentations/interview. Each presentation will be limited to one (1) hour in duration.

2.9 CONTRACT AWARD

Following the oral presentation/interviews, if any, the Evaluation Committee members will re-score each proposer interviewed on the technical criteria listed above. NYSDDED anticipates that the Evaluation Committee will make an award recommendation of one proposer based upon its determination of the best value for NYSDDED as the highest total scores (technical and cost).

Upon selection, negotiations will be commenced with the successful proposer to enter into a contract setting forth the general terms that would govern any subsequent contract for services contemplated by this RFP. The

Department will not enter into protracted negotiation with the successful bidder over contract terms and conditions or wait an unreasonable amount of time for the return of a signed contract. If the successful bidder does not sign and return to the Department the proposed contract including any draft of the proposed contract, within thirty (30) calendar days of receipt by the Contractor, the Department reserves the right to declare the award of the project to the Contractor null (null award). The Department will not be responsible for any cost incurred by the Contractor as a result of a null award. An award will then be made to the next highest scoring proposer.

2.10 DEBRIEFING

An unsuccessful bidder has the right to a debriefing regarding the reasons its proposal was not selected for award. Upon request, the Department will provide a debriefing to any unsuccessful applicant as to the reasons that the proposal submitted was not selected for an award. To request a review of an unsuccessful proposal contact Ms. Lynne Kramer, Office of Fiscal Management, by phone at: (518) 292-5156 or via e-mail at lkramer@empire.state.ny.us. A review should be requested by an unsuccessful bidder within thirty (30) days of the date of the notice that its proposal was not selected for an award.

2.11 INDEPENDENT EVALUATION

The Department, at its discretion, may retain the services of an independent auditor, consultant or the New York State Office for Technologies (OFT) to assist its personnel in evaluating responses to this Request for Proposal.

Prospective vendors shall fully cooperate with the Department's auditor, consultant or OFT; providing company, financial, software, system or any other information deemed necessary for the Department to adequately evaluate proposals.

SECTION III - PROPOSAL CONTENT AND CONDITIONS

3.0 GENERAL INFORMATION

In preparing proposals, individuals and firms should follow the guidelines within this RFP.

3.1 COMPLETE PROPOSAL

Each participating bidder must submit a complete proposal with each element of the Selection Criteria, Section 2.7, addressed. In addition, all proposals must include the following information. Bidders supplying incomplete responses may be deemed non-compliant. Proprietary or confidential data shall be readily separable from the proposal in order to facilitate eventual public inspection of the non-confidential portion of the proposal. Please follow the format listed below:

3.1.1 Title page, indicating:

Name, address (both mail and email) phone & fax number, contact person, and federal ID number. It must also include a statement that the offer shall be firm and not revocable for a period of 60 days after bid due date unless withdrawn in writing.

3.1.2 Please provide a company overview that outlines your key competencies, and demonstrates what sets you apart from other bidders. Please limit to two pages.

3.1.3 A discussion of the relevant experience of your company and your staff proposed to provide the Scope of Services. This shall include a demonstration of how your company and staff meet the experience requirements in Section 2.7.1. Please limit to three pages.

3.1.4 Resumes of the company's key personnel and other staff proposed to provide the Scope of Services.

3.1.5 The methods and processes your company proposes to accomplish the Scope of Services, and industry standard IT practices for design and application solutions. If any of the tasks associated with the project will be completed by non-company employees (i.e. sub-contractors), the qualifications and experience of those individuals must to be specified.

3.1.5.1 The selected vendor shall be required to provide the following, subject to the approval of NYSDDED:

a. User Acceptance Test Phase – Test plans and supporting documentation that define the items included in the accompanying Scope of Services. A Stress/Load test report shall be performed at NYSDDED's request.

b. Setup Development Environment – A formal development environment that will be distinct and separate from Stage and Production.

- c. Setup Training Environment – A training environment to provide for isolated access with the least interruption.
- d. Setup Production Environment - This process shall be completed with adequate lead-time to ensure that all hardware and software is placed and ready to go live.
- e. Deployment Phase – Deployment and rollback instructions for each release. The configuration documentation shall provide instruction on administrative tasks, maintenance tasks and configuration tasks.
- f. Train & Test – Training to end-users for the content management system; including train-the-trainer and front-line user sessions.

Proposal narrative should be 12 – 15 pages.

3.1.6 Quality Management Plan

The bidder shall describe the measurement and control methods that will be used to deliver quality products. The Quality Management Plan shall include the following components:

3.1.6.1. Quality Assurance

The bidder shall describe its approach for an ongoing Quality Assurance evaluation process for deliverable, software development activities, and the resulting software products discussed in section 2.1 of this RFP to insure that all software products have undergone evaluation and testing.

3.1.6.2. Corrective Action

The bidder shall describe its proposed approach for corrective-action procedures to handle each problem detected, to bring performance in line with the requirements of this RFP. The bidder shall describe the manner in which problems will be logged, categorized, prioritized, tracked, and closed.

3.1.6.3. Communications Management

The bidder shall describe the proposed types of project information and the method used to gather, store and distribute project information.

3.1.7. References as described in Section 2.7.4.

3.1.8. Budget Requirements.

EXHIBIT B (Budget) of this RFP must be completed and submitted as part of your proposal. All discussion of proposed costs, rates or expenses must occur only with the budget form. Annual personnel cost shall include all employment-related expenses including payroll taxes, health insurance, employer liability insurance, etc. If any of the personnel duties will be filled with subcontractors, please include their costs under the Subcontractor lines of your budget proposal on the EXHIBIT B (Budget) form provided.

Subcontractor services are performed by other organizations or individuals who are not employees of the Contractor. Use of subcontractors must be clearly explained in the proposal, and identified by name on EXHIBIT B (Budget). (See Sections 4.8.1 General Obligations, 4.8.2 M/WBE Goals, and Section 4.7 Subcontracts).

3.1.9 Other.

Please complete and include EXHIBIT D (Procurement Lobbying Disclosure Pursuant to Sections 139-j and 139-k of State Finance Law respectively), EXHIBIT E (Non-Collusive Bidding Certification), EXHIBIT F (MacBride Fair Employment Principles), EXHIBIT G (Responsibility Questionnaire) and EXHIBIT H (M/WBE Utilization Goal Requirements for NYSDDED Contracts). The successful bidder must also complete the following but their inclusion is not required at the time of proposal:

3.1.10 New York State tax forms ST-220-CA and ST-220-TD. The ST-220-CA may be found at http://www.tax.state.ny.us/pdf/2006/fillin/st/st220ca_606_fill_in.pdf.

The ST-220-TD may be found at http://www.tax.state.ny.us/pdf/2007/fillin/st/st220td_507_fill_in.pdf.

3.2. CONDITIONS GOVERNING PROPOSALS

3.2.1 Only those bidders that have supplied complete information will be considered.

3.2.2 FOIL: Any patented or proprietary information included in the proposal must be clearly identified in the proposal and in a cover letter submitted with the proposal (see section 3.4 below).

3.2.3 The Department reserves the following prerogatives:

3.2.3.1. to accept or reject any or all proposals received with respect to this RFP;

3.2.3.2. to decline to award a contract resulting from this RFP;

3.2.3.3. to require clarification from any bidder for the purposes of assuring a full understanding of responsiveness to the requirements of the RFP;

3.2.3.4. to waive or modify minor irregularities in proposals received;

3.2.3.5. to eliminate mandatory requirements unmet by all bidders;

3.2.3.6. to negotiate with any or all bidders, within the proposal requirements, to best serve the interests of the State of New York;

3.2.3.7. to amend the specifications contained in this RFP after its release, with due notice given to all potential bidders known to the Department to reflect the changed specifications;

3.2.3.8. to utilize any or all ideas submitted in the proposals received unless those ideas are covered by legal patent or proprietary rights and the bidder has so advised the Department in statements contained in the bidders proposal and in a cover letter annexed thereto;

3.2.3.9. to award contract(s) for any or all parts of a proposal; and

3.2.3.10 to elect to award contract(s) to one or more responsive and responsible offerers, provided that the basis for the election among multiple contracts at the time of award shall be the most practical and economical alternative and shall be in the best interest of the State.

3.2.4. By submitting a proposal, the bidder agrees that it will not make any claim for or have any right to damages because of any lack of information or misinterpretation of the information provided in this RFP.

3.3. FREEDOM OF INFORMATION LAW

The Department is subject to the Freedom of Information Law (FOIL), which governs the process for the public disclosure of certain records maintained by the Department (See Public Officers Law, Sections 87 and 89).

Individuals or firms which submit proposals to the Department may request that the Department except all or part of such proposal from public disclosure, pursuant to Section 87(a)(d) of the Public Officers Law, on the grounds that the proposal contains trade secrets, proprietary information, or that the information, if disclosed, would cause substantial injury to the competitive position of the firm submitting the information. Such exception may extend to information contained in the request itself, if public disclosure would defeat the purpose for which the exception is sought. The request for such an exception must be in writing and should state the reasons for the requested exception. It must also specify the proposal or portions thereof for which the exception is requested.

If the Department grants the firm's request for exception from disclosure, the Department shall keep such proposal in secure facilities and shall notify the firm of any request the Department receives for disclosure of the proposal.

3.4. NOTIFICATION OF AWARD

The Department will notify the successful proposer verbally, followed by written confirmation. The Department will notify, in writing, each bidder (companies and individuals who submitted a proposal) whose proposal is not selected for the award of this project.

3.5. COST OF PROPOSAL

The Department is not liable for any and all costs incurred by the bidder or any individual or firm associated with the bidder, for work performed to prepare, explain and submit the bidder's proposal. In addition, the Department is not liable for any and all costs incurred by the bidder or any individual or firm associated with the

bidder to discuss, propose, negotiate or otherwise address in any way whatsoever, terms and conditions of any contract resulting from this RFP. Further, the Department is not liable for any costs incurred until the contract has been approved by the Attorney General and the State Comptroller's Office.

3.6. PROCUREMENT LOBBYING

Please note the following and complete the forms provided in EXHIBIT D. Please note that Form 4 of EXHIBIT D must be submitted to the Department whenever you contact us. Pursuant to State Finance Law §§139-j and 139-k, this Request for Proposal includes and imposes certain restrictions on communications between the Department and an Offerer/Bidder during the procurement process. An Offerer/Bidder is restricted from making contacts from the earliest notice of intent to solicit offers through final award and approval of the Procurement Contract by the Department and Office of the State Comptroller ("restricted period") to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law §139-j(3)(a). Designated staff, as of the date hereof, is identified in Section 1.1 of this solicitation. To avoid conflicts and other issues concerning statutory exceptions, the Department requires that Offerers/Bidders contact only Department staff identified in the aforementioned section of this solicitation. Department employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the Offerer/Bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a 4 year period, the Offerer/Bidder is debarred from obtaining governmental Procurement Contracts. Further information about these requirements can be found at <http://www.ogs.state.ny.us/aboutOgs/regulations/defaultAdvisoryCouncil.html> or by calling the New York State Office of General Services; Ms. Anne Phillips, OGS Legal Services, Empire State Plaza, 41st Floor Tower Building, Empire State Plaza, Albany NY 12242. Telephone: (518) 474-5607. E-mail: Anne.Phillips@OGS.State.NY.US.

State Finance Law Sections 139-j and 139-k may be viewed at

<http://www.ogs.state.ny.us/aboutogs/regulations/advisoryCouncil/sfl139-j.htm> and at

<http://www.ogs.state.ny.us/aboutogs/regulations/advisoryCouncil/sfl139-k.htm>

SECTION IV - CONTRACTUAL INFORMATION

4.0 CONTRACT PREPARATION

A contract defining all terms and conditions of the parties will be drafted by the Department. The contract may incorporate any or all of this RFP, APPENDIX A - Standard Clauses for All New York State Contracts (attached hereto as EXHIBIT A), and as much of the successful bidder's final proposal as may be appropriate, and other documents as may be deemed suitable by the Department.

After the Department and the successful bidder execute the Contract, it must be submitted for approval to the Attorney General's Office (AG) and the Office of the State Comptroller (OSC) before it will become effective. The Contract will not be considered fully executed until approved by both the AG and OSC.

The Department will not enter into protracted negotiation with the successful bidder over contract terms and conditions or wait an unreasonable amount of time for the return of a signed contract. If the successful bidder does not sign and return to the Department the proposed contract including any draft of the proposed contract, within thirty (30) calendar days of receipt by the Contractor, the Department reserves the right to declare the award of the project to the Contractor null (null award). The Department will not be responsible for any cost incurred by the Contractor as a result of a null award. Moreover, the Department reserves the right to cancel for cause any proposed amendment to the original contract which is not signed and returned to the Department within thirty (30) calendar days of receipt by the Contractor.

4.1 CONTRACT TERM/TERMINATION/CONSIDERATION ADJUSTMENT

The successful bidder shall perform the work and provide the services set forth in this RFP for a period of five (5) years. The Contract may be extended for five (5) additional one (1) year terms upon mutual consent of the parties, formal amendment, and approval of the New York State Office of the State Comptroller. Expenses itemized in the Budget shall be reconsidered pursuant to said amendments. The total term of the contract shall not exceed ten (10) years. In addition to other termination rights as may be permitted by New York State Law, the Department has the absolute right to terminate any contract resulting from this RFP early for cause, convenience or unavailability of State funds, as more fully described in Section 4.2 of this RFP. If the Contract is not terminated early, consideration (the Budget) will be adjusted upon mutual written consent of the parties three (3) years from the term start date of the Contract. Prices will be adjusted in accordance with the Consumer Price Index Urban (CPIU), or at other rates as may be documented from authoritative sources at the Department's discretion, not to exceed 5% annually.

4.2 CANCELLATION/TERMINATION

4.2.1. Department Termination.

Once a contract or other agreement resulting from this RFP is fully executed and approved, the Department has the right to cancel it early, in whole or in part, for cause or unavailability of State funds at any time or for convenience on thirty (30) calendar day written notice to the Contractor. If cancelled for cause, payment to the Contractor for approved charges incurred will be made at the Department's sole discretion. If cancelled for convenience, the Department agrees to pay the Contractor for charges incurred in the performance of the Contract up to the time of cancellation. If cancelled for unavailability of State funds, the Department will not be liable for payment but will use its best efforts to pay outstanding charges previously approved by the Department to the extent permitted by New York State Law.

Additionally, the Department also reserves the right to terminate this contract in the event it is found that the certification filed by the Contractor in accordance with New York State Finance Law §139-k (EXHIBIT D) was intentionally false or intentionally incomplete. Upon such finding, the Department may exercise its termination right by providing written notification to the Contractor in accordance with the written notification terms of the contract.

4.3 PAYMENT PROCESS

Payment for services performed to the satisfaction of the Department shall be made in the ordinary course of State business upon receipt of duly authenticated invoices/vouchers and upon receipt of reports and/or deliverables, if required elsewhere in this RFP. Payment shall require the approval of the Department's Project Manager and Director of Management Information Systems. Invoices/vouchers shall be sent to the attention of the Director of Management Information Systems. Receipts (original copies preferred, the Department reserves the right to require original receipts) for all non-personal expenses must be attached as evidence of cost. A detailed accounting of the staff time and effort attributed to complete project tasks is required and must include personnel titles, hourly rates, dates of service, and deliverables. Vouchers or invoices shall detail expenses in a manner essentially similar to the Budget required as part of your proposal and subject to the terms and conditions discussed throughout this RFP. The Department shall withhold ten percent (10%) of the "Total All Costs Categories" line which appears in the Contractors proposal as EXHIBIT B Budget, Page 1 until such time as the Department's Project Manager certifies in writing that the Site is complete (see section 2.2.9).

4.4 ADMINISTRATIVE AND FISCAL REQUIREMENTS

4.4.1. Sole/Single Source Contracts.

For purposes of this agreement, sole source contracts are defined as where only one vendor is capable of supplying the required services or properties because such service or property offered is so unique that it cannot be duplicated or obtained elsewhere, or involves creative artistry of a similar nature.

Single source contracts are defined as where, although more than one vendor can supply the required services or properties, circumstances of a material and substantial nature make the awarding of the contract to one vendor over the others appropriate.

The requirement for competitive bidding may be waived upon prior written approval of the Project Manager provided that prior to the acceptance of such services or properties the Contractor provides a detailed written statement to the Department which describes the sole or single source determination, the alternatives considered, and the terms of the proposed contract. In addition, the Contractor must establish, to the satisfaction of the Department, the reasonableness of the proposed expenditure. In general, the price charged to the Department should be no greater than the price charged in the private sector. Sole/single source contracts are to be avoided whenever possible.

4.4.2. Administrative Expenses.

Administrative expenses charged up to the annual total proposed by the Contractor in response to EXHIBIT B (Budget) of this RFP, shall be billed at actual cost with no mark-up due the Contractor. Said administrative expenses are deemed to be ordinary and necessary expenses associated with the maintenance of the Department's account by the Contractor

4.4.3. Payments and Documentation.

All payments shall be made in the "ordinary course of State business" for services performed upon receipt of duly authenticated invoices/vouchers and agreed upon project statements of work, financial and activity reports. Payment for necessary travel shall be made in full compliance with the terms and conditions discussed in EXHIBIT C (NYS Contractor Travel Reimbursement Guidelines) of this RFP.

Payment in the "ordinary course of State business" may be barred by extraordinary events beyond the control of the Department. The Department shall take all steps necessary for payment to be made as reflected on a duly authenticated invoice with the understanding that payment not made within thirty (30) days receipt of such invoice shall be subject to payment of interest charges in accord with section 179F of the New York State Finance Law.

The Department in its discretion reserves the right to issue written administrative guidelines and

controls to supplement or make technical corrections to, the payment process described in this RFP. The Department will consult with the Contractor regarding administrative guidelines and controls, however, the Department reserves the right to implement administrative guidelines and controls at its sole discretion.

Actual dollar amounts itemized in the Budget (see EXHIBIT B) under the Personnel category may be interchanged in any amount upon written approval of the Department's Project Manager or his/her designee. Line items may be added to and/or removed from the Personnel category of the Budget (EXHIBIT B), with a corresponding reallocation of expenses (hours and totals) if such reallocation is necessary, upon written approval of both parties. Said addition and/or removal of Personnel line items shall only be made after the Contractor obtains written approval from the Department's Project Manager or his/her designee, with a copy of said approval sent by the Contractor to the Department's Contract Management Unit.

The release of this RFP by the NYSDED does not guarantee that a Contract will be entered into. Moreover, if a Contract is entered into (fully ratified) the right to assign work or all services described in this RFP is at the sole discretion of the NYSDED.

4.4.4. Other Payment and Documentation Provisions

4.4.4.1. Discounts allowed by suppliers of goods and services purchased by the Contractor on behalf of the Department must be fully disclosed and credited to the Department.

4.4.4.2. Where Contractor on behalf of the Department makes purchases, all bills and invoices rendered to the Department shall omit any tax (particularly sales tax) from which the State of New York is exempt. Reimbursement of first party subcontractor tax payments will be reimbursed when unavoidable.

4.4.4.3. Shipping Charges. The Contractor shall document such charges by submitting each individual shipping/messenger receipt, along with details determining reasonableness of charges.

4.4.4.4. NYSDED will provide no more than \$8,000 travel reimbursement to the Contractor at travel rates not to exceed those available to NYS employees. The training seminars are separate and apart from the training of NYSDED staff members, which is not eligible for travel reimbursement. Travel expenses will be billed based upon the prevailing New York State per diem rates. All travel authorized by the Department will be billed as incurred. Contractor shall incur no expenditures for travel outside of New York State without the prior written approval of the Project Manager or his/her designee.

4.4.4.5 Budget Reports

The Contractor shall provide monthly budget reports in a format prescribed by the Department. The Department may request that this report be prepared more frequently.

4.5. INTELLECTUAL PROPERTY/PERSONAL PROPERTY

The Department reserves the right to include intellectual/personal property provisions in the Contract, with regard to the ownership (exclusive and/or nonexclusive) of any property or work product created or purchased as a result of any agreement resulting from this RFP. The presumption is that, unless otherwise stated and agreed, all intellectual property is owned by the Department, including works made or performed for hire. Specifically exempt from the provisions of this paragraph are property, plant, equipment and preexisting software provided by the Contractor to the Department, for the purpose of carrying out the provisions of this RFP. Property, plant, equipment and preexisting software may become subject to intellectual/personal property regulation when agreed to in writing by the parties.

4.6. REPORTS

In addition to reports discussed elsewhere in this RFP, the Department reserves the right to request other reasonable programmatic and/or financial reports. When requested to do so, the successful bidder will provide the Department with reports in a reasonable period of time and in an acceptable format.

4.7. SUBCONTRACTS

4.7.1. Subcontracting is permitted when required by the Contractor to fulfill the terms and conditions of this RFP. Your proposal must identify the name and address of the subcontracting firm or firms and explain which element(s) of the Scope of Service (section 2.1) and Budget (see EXHIBIT B) the subcontractor(s) is responsible for. The Department is an equal opportunity Contractor and reserves the right to review and approve all subcontracting firms (see section 4.8 for details on Minority and Women-Owned Business Enterprise subcontracting).

4.7.2. After the contract resulting from this RFP, if any, is awarded, any subcontracts or purchases (except printing see Section 4.4.2 of this RFP) in excess of \$15,000 must adhere to the following:

4.7.2.1. For subcontracts or purchases which are competitively bid, Contractor must request proposals from a minimum of three (3) qualified firms, and the lowest responsible bidder shall be accepted unless otherwise approved in writing by the Department.

4.7.2.2. Subcontracts or purchases that are sole or single source (entered into without submission to competitive bid) must be approved in writing by the Department prior to entering into the agreement.

4.7.2.3. All subcontracts awarded pursuant to this section 4.7. shall adhere to all the terms and conditions set forth in this RFP and the resulting contract.

4.7.3. Sole/Single Source Contracts.

For purposes of this agreement, sole source contracts are defined as where only one vendor is capable of supplying the required services or properties because such service or property offered is so unique that it cannot be duplicated or obtained elsewhere, or involves creative artistry of a similar nature.

Single source contracts are defined as where, although more than one vendor can supply the required services or properties, circumstances of a material and substantial nature make the awarding of the contract to one vendor over the others appropriate.

The requirement for competitive bidding may be waived upon prior written approval of the Department's Project Manager provided that prior to the acceptance of such services or properties, the Contractor provides a detailed written statement to the Department which describes the sole or single source determination, the alternatives considered and the terms of the proposed contract. In addition, the Contractor must establish to the satisfaction of the Department, the reasonableness of the proposed expenditure. In general, the price charged to the Department should be no greater than the price charged in the private sector. Sole/single source contracts are to be avoided whenever possible.

4.8 MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES ("MWBE") PARTICIPATION AND EQUAL EMPLOYMENT OPPORTUNITIES ("EEO")

Article 15-A of the New York State Executive Law §§ 310–318 (“the Statute”) was enacted to promote equality of employment and economic opportunities for minority group members and women in State contracting activities. The New York State Department of Economic Development (NYSDED) fully supports the efforts of the State of New York to promote Equal Employment Opportunity (EEO) for all persons and promote equality of economic opportunity for minority group members and women who own business enterprises.

NYSDED has developed compliance requirements, forms and procedures to ensure that Contractors (to include those who submit bids/proposals in an effort to be selected for contract award as well as those successful bidders/proposers with whom NYSDDED enters into State Contracts) and proposed or actual Subcontractors comply with requirements concerning Equal Employment Opportunities for Minority Group Members and Women and meaningful participation opportunities for certified minority-owned or women-owned business enterprises (MWBEs) in the NYSDDED procurement process. Contractors participating in and/or selected for procurement opportunities with NYSDDED shall fulfill their obligations to comply with applicable Federal, State and Local

requirements concerning Equal Employment Opportunity and opportunities for MWBEs, including but not limited to, the Statute and its implementing regulations as promulgated by the New York State Division of Minority and Women's Business Development (“DMWBD”) and set forth at 5 NYCRR Parts 140-144).

The parties shall refer to Exhibit H, attached and incorporated by reference herein, for the specific EEO/MWBE requirements and associated forms required by this procurement. Forms shall be submitted without any changes to any NYSDDED goals specified in Exhibit H of this RFP. Copies of the required NYSDDED Forms are identified in Exhibit H.

4.9 REPRESENTATIONS AND WARRANTIES BY THE DEPARTMENT

The Department represents and warrants that it has the legal competence to grant the rights herein to the Contractor if and when a contract is entered into.

4.10 REPRESENTATIONS, WARRANTIES, AND COVENANTS BY THE CONTRACTOR

The Contractor represents warrants and covenants that:

4.10.1 It is a legal entity duly organized, validly existing and in good standing under the laws of the jurisdiction in which its home office is located and is, duly authorized to conduct business in the State of New York;

4.10.2 It has the legal power and authority to execute and deliver any contract resulting from this RFP and to consummate the obligations and activities contemplated on its part hereby. The execution and delivery of any contract resulting from this RFP has been duly authorized by the Contractor, and no other proceedings by the Contractor are necessary to authorize the execution and delivery of a contract or the performance of the Contractor's obligations hereunder;

4.10.3 All statements of fact contained in the Contractor's proposal, are true, complete, and accurate and shall be true, complete, and accurate during the term of the Contract and any extension thereof; and neither it, nor any of its directors, officers, employees, consultants or subcontractors has or will give anything of value to anyone to procure a Contract between the parties or to influence any official act or the judgment of any person in the negotiation of any of the terms of any Contract resulting from this RFP.

SECTION V – PROPOSAL FORMAT AND CONTENTS

5.0 CONTENT OF YOUR PROPOSAL

In preparing your proposal, please follow the format listed below:

- 5.1. Complete and submit the following forms:
 - 5.1.1. Request for Proposal (RFP) Response Form (see second page of the RFP)
 - 5.1.2. Procurement Lobbying (see EXHIBIT D of the RFP)
 - 5.1.3. Non-collusive Bidding Certification and Bidder's Identifying Data
(see EXHIBIT E of the RFP)
 - 5.1.4. Nondiscrimination in Employment in Northern Ireland (see EXHIBIT F of the RFP)
 - 5.1.5. Responsibility Questionnaire (see EXHIBIT G of the RFP)
 - 5.1.6. M/WBE Utilization Goal Requirements for NYSDED Contracts (EXHIBIT H)
- 5.2. Describe how you will provide the services discussed in Section 2.1 (Scope of Services) of this RFP. Limit your response to no more than ten (10) 8 ½" x 11" pages, 12 point font.
- 5.3. Organization and Staffing.
 - 5.3.1. Describe your organization including how it is staffed.
 - 5.3.2. Identify the individual(s) from your firm who will be the primary contact for NYSDED as well as other key personnel (by title) typically involved in providing the requested services.
 - 5.3.3. If subcontracting is proposed, companies must be identified by name. An explanation of the specific function they will perform and a description of the working arrangement must be provided.

Limit your response to five (5) 8 ½" x 11" pages, 12 point font.
- 5.4. Experience.

The NYSDED considers direct, prior experience in providing the services in this RFP highly desirable. Your proposal must cite how your company meets the requirements of this RFP and must identify past projects. Bidders must supply a minimum of three (3) references (including contact name and telephone number) that can substantiate that your company meets the requirements of this RFP. At least two of these references must be a customer who you performed services for similar to those discussed in Section 2.1 (Scope of Services) of this RFP.
- 5.5. Website Examples

Please provide the URLs for website examples as explained in Section 2.7.

5.6. Complete EXHIBIT B (Budget).

Please complete and submit all pages of EXHIBIT B (Budget). Budget pages are to be separately bound from all other pages of your proposal. Place the separately bound Budget in a report cover and submit it together with all other parts of your proposal.

5.7. Milestones

Please provide timeline for design, development and production milestones, consistent with the information provided in Scope of Services of this RFP.

5.8. Section 2

Please review Section 2 of this RFP carefully to insure that your proposal contains all information requested in Section 2.

EXHIBIT A

APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

APPENDIX A

STANDARD CLAUSES FOR NYS CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licenser, licensee, lessor, lessee or any other party):

1. EXECUTORY CLAUSE. In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

2. NON-ASSIGNMENT CLAUSE. In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

3. COMPTROLLER'S APPROVAL. In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed

\$85,000 (State Finance Law Section 163.6.a).

4. WORKERS' COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor

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and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

7. NON-COLLUSIVE BIDDING CERTIFICATION.

In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

8. INTERNATIONAL BOYCOTT PROHIBITION.

In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).

9. SET-OFF RIGHTS. The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the

term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

(a) **FEDERAL EMPLOYER IDENTIFICATION NUMBER and/or FEDERAL SOCIAL SECURITY NUMBER.** All invoices or New York State standard vouchers submitted for payment for the sale of goods or services or the lease of real or personal property to a New York State agency must include the payee's identification number, i.e., the seller's or lessor's identification number. The number is either the payee's Federal employer identification number or Federal social security number, or both such numbers when the payee has both such numbers. Failure to include this number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or New York State standard voucher, must give the reason or reasons why the payee does not have such number or numbers.

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(b) PRIVACY NOTIFICATION. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory.

The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in New York State's Central Accounting System by the Director of Accounting Operations, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.

In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts and will undertake or continue existing programs of affirmative action to ensure

that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "a", "b", and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

13. CONFLICTING TERMS. In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

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14. GOVERNING LAW. This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

15. LATE PAYMENT. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

16. NO ARBITRATION. Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

17. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption

will be the responsibility of the Contractor to meet with the approval of the State.

19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES. In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

20. OMNIBUS PROCUREMENT ACT OF 1992. It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development
Division for Small Business
30 South Pearl St -- 7th Floor
Albany, New York 12245
Telephone: 518-292-5220
Fax: 518-292-5884
<http://www.empire.state.ny.us>

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development
Division of Minority and Women's Business
Development
30 South Pearl St -- 2nd Floor
Albany, New York 12245
Telephone: 518-292-5250
Fax: 518-292-5803
<http://www.empire.state.ny.us>

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including

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certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

21. RECIPROcity AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

22. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW. If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4-g) of the State Finance Law (as amended by

Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

24. PROCUREMENT LOBBYING. To the extent this agreement is a "procurement contract" as defined by State Finance Law Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.

To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the contractor fails to make the certification required by Tax Law Section 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

EXHIBIT B
BUDGET

BUDGET WORKSHEET – Complete the budget for this project in full. Please DO NOT change the format of this budget.

PERSONNEL (Please list specific titles.)				
<u>Title</u>	<u>Hourly Rate</u>	<u>Number of</u> <u>Hours</u>	<u>Total Item</u>	<u>Total Cost</u>
_____	\$ _____	_____	\$ _____	
_____	\$ _____	_____	\$ _____	
_____	\$ _____	_____	\$ _____	
_____	\$ _____	_____	\$ _____	
_____	\$ _____	_____	\$ _____	
_____	\$ _____	_____	\$ _____	
Total Personnel Costs				\$ _____
SUBCONTRACTORS (Please list.)				
<u>Subcontractor</u>	<u>Hourly Rate</u>	<u>Number of</u> <u>Hours</u>	<u>Total Item</u>	
_____	\$ _____	_____	\$ _____	
_____	\$ _____	_____	\$ _____	
_____	\$ _____	_____	\$ _____	
_____	\$ _____	_____	\$ _____	
_____	\$ _____	_____	\$ _____	
_____	\$ _____	_____	\$ _____	
Total Subcontract Costs				\$ _____
MAINTENANCE/SUPPORT (see Section 2.2)	\$ _____	_____	\$ _____	
ADMINISTRATIVE/OTHER EXPENSES (i.e. supplies, travel, postage/shipping, telecommunications, etc.) Please list.				
<u>Travel (see section 4.4.4.4.)</u>			\$ 8,000.00	
_____			\$ _____	
_____			\$ _____	
_____			\$ _____	
_____			\$ _____	
Total Admin./Other Expenses				\$ _____
TOTAL PERSONNEL/SUBS./MAINT./ADMIN.				\$ _____
HOSTING (Annual Cost)				\$ _____
TOTAL ALL COST CATEGORIES				\$ _____

NOTE: Ten percent (10%) of the budget represented by the “TOTAL ALL COST CATEGORIES” line above shall be withheld pending formal written acceptance by NYSDDED which shall not be given prior to the re-launch of the www.nyscr.org website.

EXHIBIT C

NYS CONTRACTOR TRAVEL REIMBURSEMENT GUIDELINES

1. Allowance for lodging and meals have been set at the Federal Government allowances for their employees. The State allowance will change when the Federal allowances change. This usually occurs on an annual basis. Reimbursements will be made at the current published rates.

Receipts for lodging are mandatory. Receipts are not required for meals when the traveler is in overnight travel status. The Schedule which lists rates currently in effect for all destinations within the State is available at the New York State Office of the State Comptroller's website: <http://www.osc.state.ny.us/agencies/travel/reimbrate.htm>

The per diem allowances are based on the county of assignment, therefore, the traveler's destination, as noted on the claim for reimbursement, must include the county, as well as the city. The Schedule ends with the rate for all locations (counties) not listed on the Schedule.

Please note that all applicable taxes are included in the maximum lodging allowances. No reimbursement for taxes will be made separately.

Rates for areas outside of New York, the continental United States and foreign areas, are also available at the New York State Office of the State Comptroller's Website at: <http://www.osc.state.ny.us/agencies/travel/reimbrate.htm>

The maximum reimbursement for lodging and meal expenses may not exceed the lodging and meal allowances for the area of travel.

If the cost of lodging exceeds the maximum allowance for lodging in the area of travel, the traveler's meal allowance must be used to offset the higher lodging rate. The following examples of an overnight stay in a location with a maximum allowance of \$110 (\$68 lodging, \$42 meals) at various lodging rates, illustrates how this will be applied:

<u>Actual Lodging</u>	<u>Meal Allowance</u>	<u>Max. Total Allowance</u>
\$68	\$42	\$110
90	20	110
84	26	110
156	0	110
160	0	110

2. No reimbursement will be allowed for lunch.
3. To be entitled to full meal allowances, traveler must be in travel status overnight and eligible for reimbursement for breakfast and dinner.
4. Meal Allowance for Non-Overnight Travel

When a traveler is in travel status for less than a day and lodging charges are not incurred, reimbursement will be made for breakfast and dinner with receipts, at the following maximum rates:

	Breakfast	Dinner
\$71 Meal Allowance	\$14	\$57
\$66 Meal Allowance	\$13	\$53
\$61 Meal Allowance	\$12	\$49
\$56 Meal Allowance	\$11	\$45
\$51 Meal Allowance	\$10	\$41
\$46 Meal Allowance	\$9	\$37

Note: Incidental expenses such as tips to bellmen, porters, hotel maids, etc., continue to be included in the allowances.

5. Transportation Costs

Any common carrier transportation costs incurred should be at coach rate unless extenuating circumstances prevent such, in which instance a justification must be submitted with the expense.

Receipts/air passenger coupons are required for reimbursement.

Transportation by personally owned automobiles will be reimbursed at the IRS rate in effect at the time of travel unless the Department agrees to an alternative rate. The mileage rate for the calendar year 2011, effective July 1, 2011 is 55.5 cents per mile.

<http://blog.taxworks.com/standard-mileage-rate-change/>

All taxi charges must be substantiated by a receipt.

NOTE: *Incidental expenses such as tips to bellmen, porters, hotel maids, etc., continue to be included in the Federal allowance.*

EXHIBIT D
PROCUREMENT LOBBYING DISCLOSURE PURSUANT TO
SECTIONS 139-J AND 139-K OF STATE FINANCE LAW

(For Agreements of \$15,000 or more please complete this form.)

Statutory Summary

Changes to the New York State Finance Law (referred to as the “new State Finance Law”) effective January 1, 2006, significantly alter the administrative process for the development of State procurement contracts¹. The procedures discussed herein are put in place to address the new State Finance Law. The New York State Department of Economic Development recognizes the considerable additional responsibility that the new State Finance Law places on potential bidders (“Offerers”) as well as on the Department and we regret any inconvenience. The Department assures you that we are interested in receiving a proposal from your company. Among other things, the new law:

- Makes the States lobbying law applicable to attempts to influence procurement contracts once the procurement process has been commenced by the Department.
- Requires the Department to record **all** contacts made by lobbyists and contractors (you) about a governmental procurement so that the public knows who is contacting the Department about procurements.
- Requires the Department to designate persons who generally may be the **only** staff contacted relative to the Department’s procurement in a restricted period.
- Authorizes the imposition of fines and penalties against persons/organizations engaging in impermissible contacts about a Department procurement and provides for the debarment of repeat violators.
- Directs the Office of General Services to disclose and maintain a list of non-responsible bidders pursuant to this new law and those who have been debarred and publish such list on its website.
- Expands the definition of lobbying to include procurement contracts.

Generally speaking, two related aspects of procurements were affected: (i) activities by the business and lobbying community seeking procurement contracts and (ii) activities involving governmental agencies establishing procurement contracts. The obligations imposed by State Finance Law Sections 139-j and 139-k are collectively referred to as the “new State Finance Law”. State Finance Law Sections 139-j and 139-k may be viewed at <http://www.ogs.state.ny.us/aboutogs/regulations/advisoryCouncil/sfl139-j.htm> and at <http://www.ogs.state.ny.us/aboutogs/regulations/advisoryCouncil/sfl139-k.htm>

The following contains language and forms (these forms must be completed and returned as part of your proposal, and when indicated at other times during this procurement process) to be reviewed and completed by you the bidder (“Offerer”), in compliance with sections 139-J and 139-k of the State Finance Law.

NYS Department of Economic Development Policy Language

Pursuant to State Finance Law §§139-j and 139-k, this Invitation for Bid includes and imposes certain restrictions on communications between the Department and an Offerer/bidder during the procurement process. An Offerer/bidder is restricted from making contacts from the earliest notice of intent to solicit offers through final award and approval of the Procurement Contract by the Department and Office of the State Comptroller (“restricted period”) to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law §139-j(3)(a). Designated staff, as of the date hereof, are any member of the Department’s Contract Management or Publications Unit. To avoid conflicts and other issues concerning statutory exceptions, the Department requires that Offerers contact only Department staff identified in the aforementioned section of this solicitation. Department employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the Offerer/bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a 4 year period, the Offerer/bidder is debarred from obtaining governmental Procurement Contracts. Further information about these requirements can be found at <http://www.ogs.state.ny.us/aboutOgs/regulations/defaultAdvisoryCouncil.html> or by calling the New York State Office of General Services; Ms. Anne Phillips, OGS Legal Services, Empire State Plaza, 41st Floor Tower Building, Empire State Plaza, Albany NY 12242. Telephone: (518) 474-5607. E-mail: Anne.Phillips@OGS.State.NY.US.

¹ “Procurement contract” shall mean any contract or other agreement for an article of procurement involving an estimated annualized expenditure in excess of fifteen thousand dollars. Grants, article eleven-B state finance law contracts, program contracts between not-for-profit organizations, as defined in article X1-B of the state finance law, and the unified court system, intergovernmental agreements, railroad and utility force accounts, utility relocation project agreements or orders and eminent domain transactions shall not be deemed procurement contracts.

Termination Provisions

The Department also reserves the right to terminate any PO resulting from this IFB in the event it is found that the certification filed by the Contractor in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, the Department may exercise its termination right by providing written notification to the Contractor in accordance with the written notification terms of this contract.

Form 1 - Offerer’s Affirmation of Understanding of and Agreement pursuant to State Finance Law §139-j (3) and §139-j (6) (b)

State Finance Law §139-j(6)(b) provides that: Every Governmental Entity shall seek written affirmations from all Offerers as to the Offerer’s understanding of and agreement to comply with the Governmental Entity’s procedures relating to permissible contacts during a Governmental Procurement pursuant to subdivision three of this section.

The Department must obtain the required affirmation of understanding and agreement to comply with procedures on procurement lobbying restrictions regarding permissible Contacts in the restricted period for a procurement contract in accordance with State Finance Law §§139-j and 139-k.

Offerer affirms that it understands and agrees to comply with the procedures of the Department relative to permissible contacts as required by State Finance Law §139-j (3) and §139-j (6) (b).

By: _____ Date: _____

Name: _____ Title: _____

Contractor Name: _____

Contractor Address: _____

Form 2 - Offerer’s Certification of Compliance with State Finance Law §139-k(5)

New York State Finance Law §139-k(5) requires that every Procurement Contract award subject to the provisions of State Finance Law §§139-k or 139-j shall contain a certification by the Offerer that all information provided to the procuring Governmental Entity with respect to State Finance Law §139-k is complete, true and accurate.

The Department must obtain the required certification that the information is complete, true and accurate regarding any prior findings of non-responsibility, such as non-responsibility pursuant to State Finance Law §139-j. The Offerer must agree to the certification and provide it to the procuring Governmental Entity.

Offerer Certification:

I certify that all information provided to the Department with respect to State Finance Law §139-k is complete, true and accurate.

By: _____ Date: _____

Name: _____ Title: _____

Contractor Name: _____

Contractor Address: _____

Form 3 - Offerer Disclosure of Prior Non-Responsibility Determinations

New York State Finance Law §139-k(2) obligates a Governmental Entity to obtain specific information regarding prior non-responsibility determinations with respect to State Finance Law §139-j. This information must be collected in addition to the information that is separately obtained pursuant to State Finance Law §163(9). In accordance with State Finance Law §139-k, an Offerer must be asked to disclose whether there has been a finding of non-responsibility made within the previous four (4) years by any Governmental Entity due to: (a) a violation of State Finance Law §139-j or (b) the intentional provision of false or incomplete information to a Governmental Entity. The terms "Offerer" and "Governmental Entity" are defined in State Finance Law § 139-k(1). State Finance Law §139-j sets forth detailed requirements about the restrictions on Contacts during the procurement process. A violation of State Finance Law §139-j includes, but is not limited to, an impermissible Contact during the restricted period (for example, contacting a person or entity other than the designated contact person, when such contact does not fall within one of the exemptions).

As part of its responsibility determination, State Finance Law §139-k(3) mandates consideration of whether an Offerer fails to timely disclose accurate or complete information regarding the above non-responsibility determination. In accordance with law, no Procurement Contract shall be awarded to any Offerer that fails to timely disclose accurate or complete information under this section, unless a finding is made that the award of the Procurement Contract to the Offerer is necessary to protect public property or public health safety, and that the Offerer is the only source capable of supplying the required Article of Procurement within the necessary timeframe. See State Finance Law §§139-j (10)(b) and 139-k(3).

The Department must include a disclosure request regarding prior non-responsibility determinations in accordance with State Finance Law §139-k in its solicitation of proposals or bid documents or specifications or contract documents, as applicable, for procurement contracts. The attached form is to be completed and submitted by the individual or entity seeking to enter into a Procurement Contract. It shall be submitted to the Governmental Entity conducting the Governmental Procurement.

Offerer Disclosure of Prior Non-Responsibility Determinations

Name of Individual or Entity Seeking to Enter into the Procurement Contract: _____

Address: _____

Name and Title of Person Submitting this Form: _____ Date: _____

1. Has any Governmental Entity made a finding of non-responsibility regarding the individual or entity seeking to enter into the Procurement Contract in the previous four years? (Please circle):
No Yes

If yes, please answer the next questions:

2. Was the basis for the finding of non-responsibility due to a violation of State Finance Law §139-j (Please circle):
No Yes

3. Was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a Governmental Entity? (Please circle):
No Yes

4. If you answered yes to any of the above questions, please provide details regarding the finding of non-responsibility below.
Governmental Entity: _____

Date of Finding of Non-responsibility: _____

Basis of Finding of Non-Responsibility: _____

(Add additional pages as necessary)

5. Has any Governmental Entity or other governmental agency terminated or withheld a Procurement Contract with the above-named individual or entity due to the intentional provision of false or incomplete information? (Please circle):
No Yes

6. If yes, please provide details below.
Governmental Entity: _____

Date of Termination or Withholding of Contract: _____

Basis of Termination or Withholding: _____

(Add additional pages as necessary)

OFFERER CERTIFIES THAT ALL INFORMATION PROVIDED TO THE GOVERNMENTAL ENTITY WITH RESPECT TO
STATE FINANCE LAW §139-K IS COMPLETE, TRUE AND ACCURATE.

By: _____ Date: _____

Signature: _____

Form 4 - Report of Contact under State Finance Law §139-k(4)

THIS FORM TO BE COMPLETED AND RETURNED TO THE DEPARTMENT WHENEVER YOU CONTACT US DURING THE DESIGNATED PERIOD. ATTEMPTS TO CONTACT THE DEPARTMENT WILL NOT BE ACKNOWLEDGED UNLESS YOU PROVIDE THIS FORM. THIS INCLUDES THE SUBMISSION OF QUESTIONS REGARDING THIS IFB.

New York State Finance Law §139-k(4) obligates every Governmental Entity during the Restricted Period of a Procurement Contract to make a written record of any Contacts made. The term "Contact" is defined by statute and refers to those oral, written or electronic communications that a reasonable person would infer are attempts to influence the Governmental Procurement. In addition to obtaining the required identifying information, the Governmental Entity must inquire and record whether the person or organization that made the Contact was the Offerer or was retained, employed or designated on behalf of the Offerer to appear before or Contact the Governmental Entity.

It should be noted that State Finance Law §139-k(6) provides: [a]ny communications received by a governmental entity from members of the state legislature, or legislative staffs, when acting in their official capacity, shall not be considered to be a "contact" within the meaning of this section and shall not be recorded by a governmental entity pursuant to this section.

Offerers and those designated, employed or retained by Offerers are hereby advised of the Department's intention to record all Contacts.

Record of Contact Under State Finance Law §139-k(4)

To: The New York state Department of Economic Development

Regarding Procurement Project No.: _____ (See first page of this document) Date: _____

From: _____
(Name and title of Offerer)

Subject: Record of Contact under State Finance Law §139-k(4). In accordance with State Finance Law §139-k(4), the following information is provided).

Address of Offerer: _____

Telephone Number: _____

Offerer's Place of Principal Employment (Name and Address of your Employer, may be different from the Offerer's name and address, if not state same as above).

Your Occupation: _____

1. Is the above named person or organization the "Offerer" in this governmental procurement? Please circle Yes or No

2. If no, was the above named person or organization retained, employed or designated by the "Offerer" to:

- Appear before the governmental entity about the governmental procurement? Please circle – Yes or No
- Contact the governmental entity about the governmental procurement? Please circle – Yes or No

EXHIBIT E

NON-COLLUSIVE BIDDING CERTIFICATION REQUIRED BY SECTION 139-D OF THE STATE
FINANCE LAW

SECTION 139-D, Statement of Non-Collusion in bids to the State

BY SUBMISSION OF THIS BID, BIDDERS AND EACH PERSON SIGNING ON BEHALF OF BIDDER CERTIFIES, AND IN THE CASE OF JOINT BID, EACH PARTY THERETO CERTIFIES AS TO ITS OWN ORGANIZATION, UNDER PENALTY OF PERJURY, THAT TO THE BEST OF HIS/HER KNOWLEDGE AND BELIEF:

1. The prices of this bid have been arrived at independently, without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other Bidder or with any competitor;
2. Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder prior to opening, directly or indirectly, to any other Bidder or to any competitor; and
3. No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

A BID SHALL NOT BE CONSIDERED FOR AWARD NOR SHALL ANY AWARD BE MADE WHERE 1, 2, 3 ABOVE HAVE NOT BEEN COMPLIED WITH; PROVIDED HOWEVER, THAT IF IN ANY CASE THE BIDDER(S) CANNOT MAKE THE FORGOING CERTIFICATION, THE BIDDER SHALL SO STATE AND SHALL FURNISH BELOW A SIGNED STATEMENT WHICH SETS FORTH IN DETAIL THE REASONS THEREFORE:

[BIDDERS AFFIX ADDENDUM TO THIS PAGE IF SPACE IS REQUIRED FOR STATEMENT]

Subscribed to under penalty of perjury under the laws of the State of New York, this _____ day of _____, 20__ as the act and deed of said individual, corporation or partnership.

Person Legally Responsible for Binding Bidder

Name _____ Title _____

Signature _____

Joint or combined bids must be certified on behalf of each participant

Legal name of person, firm or corporation

Legal name of person, firm or corporation

Person(s) Legally Responsible for Binding Participant

Name _____

Name _____

Title _____

Title _____

Business Address _____

Business Address _____

Bidder's Identifying Data

Bidder's Name _____

Business Address _____

Street

City

State

Zip

Telephone _____ Fax _____ E-mail _____

Federal id. Number _____

If Bidder is a Partnership complete the following:

Name of Partners or Principals

Business Address

If Bidder is a Corporation complete the following:

Name

Business Address

President

Secretary

Treasurer

EXHIBIT F

NONDISCRIMINATION IN EMPLOYMENT IN NORTHERN IRELAND: MACBRIDE FAIR EMPLOYMENT PRINCIPLES

In accordance with section 165 of the State Finance Law, the bidder, by submission of this bid certifies that it or any individual or legal entity in which the bidder holds a 10% or greater ownership interest, or any individual or legal entity that holds a 10% or greater ownership in the bidder, either: (answer yes or no to one or both of the following, as applicable),

- (1) has business operations in Northern Ireland;

Yes ____ or No ____

if yes:

- (2) shall take lawful steps in good faith to conduct any business operations that it has in Northern Ireland in accordance with the MacBride Fair Employment Principles relating to nondiscrimination in employment and freedom of workplace opportunity regarding such operations in Northern Ireland, and shall permit independent monitoring of their compliance with such Principles.

Yes ____ or No ____

Signature

Date

EXHIBIT G

RESPONSIBILITY QUESTIONNAIRE

INSTRUCTIONS:

Please complete this form answering every question. A “Yes” answer to any question requires a written explanation attached to the questionnaire and submitted on company letterhead signed by an officer of the company.

Companies are responsible for updating information in their Responsibility Questionnaire as changes occur. Any vendor recommended for award on a New York State contract will be required to have this form on file to ratify any of the contracts.

QUESTIONS:

Within the past five years, has your firm, any affiliate¹, any owner or officer or major stockholder or any person involved in the bidding or contracting process been the subject of any of the following:

1. a judgment or conviction for any business-related conduct constituting a crime under local, state or federal law including, but not limited to, fraud, extortion, bribery, racketeering, price-fixing, or bid collusion?

_____YES _____NO
2. a criminal investigation or indictment for any business-related conduct constituting a crime under local, state or federal law including, but not limited to, fraud, extortion, bribery, racketeering, price-fixing, or bid collusion?

_____YES _____NO
3. an unsatisfied judgment, injunction or lien obtained by a government agency including, but not limited to, judgments based on taxes owed and fines and penalties assessed by any government agency?

_____YES _____NO
4. an investigation for a civil violation (excluding minor traffic infractions) by any local, state or federal agency?

_____YES _____NO
5. a grant of immunity for any business-related conduct constituting a crime under local, state or federal law including, but not limited to, fraud, extortion, bribery, racketeering, price-fixing, or bid collusion?

_____YES _____NO
6. a local, state, or federal suspension, debarment or termination from a contract process?

_____YES _____NO
7. a local, state or federal contract suspension or termination for cause prior to the completion of the term of a contract?

_____YES _____NO
8. a local, state, or federal denial of award for non-responsibility?

_____YES _____NO
9. an administrative proceeding or civil action seeking specific performance or restitution in connection with any local, state or federal contract?

_____YES _____NO

¹ “Affiliate” meaning: (a) any entity in which the contractor owns more than 50% of the voting stock; (b) any individual, entity or group of principal owners or officers who own more than 50% of the voting stock of the vendor; or (c) any entity whose voting stock is more than 50% owned by the same individual, entity or group described in clause (b). In addition, if a vendor owns less than 50% of the voting stock of another entity, but directs or has the right to direct such entity’s daily operations, that entity will be an “affiliate” for purposes of this questionnaire.

10. a State Labor Law violation deemed willful? _____YES _____NO
11. a firm-related bankruptcy proceeding? _____YES _____NO
12. a sanction imposed as a result of judicial or administrative proceedings relative to any business or professional license? _____YES _____NO
13. a decertification, revocation or forfeiture of Women's Business Enterprise, Minority Business Enterprise or Disadvantaged Business Enterprise status? _____YES _____NO
14. an occupational Safety and Health Act citation and Notification of Penalty containing a violation classified as serious or willful? _____YES _____NO
15. a rejection of a bid on a New York State contract for failure to comply with the MacBride Fair Employment Principles? _____YES _____NO
16. a citation, notice, violation order, pending administrative hearing or proceeding or determination for violations of:
- federal, state or local health laws, rules or regulations
 - unemployment insurance or workers' compensation coverage or claim requirements
 - ERISA (Employee Retirement Income Security Act)
 - federal, state or local human rights laws
 - federal or state security laws
 - federal INS (Immigration and Naturalization Services) and Alienage laws
 - Sherman Act or other federal anti-trust laws
- _____YES _____NO
17. complaints or reports of contract deviation received within the past two years for contract performance issues arising out of a contract with any federal, state or local agency? _____YES _____NO
18. disputes within the past two years concerning your company's failure to provide commodities or services to political subdivisions within the past two years pursuant to centralized contracts with the New York State Office of General Services? _____YES _____NO
19. Employee Identification No., Social Security No., Name, DBA, trade name or abbreviation previously or currently used by your business which is different from that listed in your proposal. _____YES _____NO

CERTIFICATION:

The undersigned: recognizes that this responsibility questionnaire is submitted for the express purpose of assisting the State of New York or its agencies or political subdivisions to make a determination; acknowledges that the State or its agencies and political subdivisions may in its discretion, by means which it may choose, verify the truth and accuracy of all statements made herein; acknowledges that intentional submission of false or misleading information may constitute a felony under Penal Law Section 210.40 or a misdemeanor under Penal Law Section 210.35 or Section 210.45, and may also be punishable by a fine of up to \$10,000 or imprisonment of up to five years under 18 USC Section 1001; and states that the information submitted in this questionnaire and any attached pages is true, accurate and complete.

Name of Business

Signature of Officer

Address

Typed Copy of Signature

City, State, Zip

Title

Federal I.D. No.

EXHIBIT H

M/WBE Utilization Goal Requirements For NYSDed Contracts

PARTICIPATION BY MINORITY GROUP MEMBERS AND WOMEN WITH RESPECT TO STATE CONTRACTS: REQUIREMENTS AND PROCEDURES

I. General Provisions

- A. The Department is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 142-144 (“MWBE Regulations”) for all State contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing and (2) in excess of \$100,000 for real property renovations and construction.
- B. Contractor agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to the New York State Department of Economic Development (the “Department”), to fully comply and cooperate with the Department in the implementation of New York State Executive Law Article 15-A. These requirements include equal employment opportunities for minority group members and women (“EEO”) and contracting opportunities for certified minority and women-owned business enterprises (“MWBEs”). Contractor’s demonstration of “good faith efforts” pursuant to 5 NYCRR §142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Labor Law or other applicable federal, state or local laws.
- C. Failure to comply with the following requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the withholding of funds or such other actions or enforcement proceedings as allowed by the Contract.

II. Equal Employment Opportunity (EEO)

- A. Contractor agrees to be bound by the provisions of Article 15-A and the MWBE Regulations promulgated by the Division of Minority and Women's Business Development of the Department of Economic Development (the “Division”). If any of these terms or provisions conflict with applicable law or regulations, such laws and regulations shall supersede these requirements.
- B. Contractor shall comply with the following provisions of Article 15-A:
 - 1. Contractor and Subcontractors shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.
 - 2. The Contractor shall submit an EEO policy statement to the Department within seventy two (72) hours after the date of the Letter of Intent to award Contract.

3. If Contractor or Subcontractor does not have an existing EEO policy statement, the Department may provide the Contractor or Subcontractor a model statement (see Form 100 – Minority and Women-Owned Business Enterprises Equal Employment opportunity Policy Statement).
4. The Contractor’s EEO policy statement shall include the following language:
 - a. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.
 - b. The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
 - c. The Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.
 - d. Contractor will include the provisions of sections (a) through (c) of this subsection in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with this Contract.

C. Form 101 - Staffing Plan

To ensure compliance with the foregoing section, the Contractor shall submit a staffing plan to document the composition of the proposed workforce to be utilized in the performance of this contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. Contractors shall complete the Staffing plan form and submit it as part of their bid or proposal or within a reasonable time, but no later than the time of award of the contract.

D. Form 102 - Workforce Employment Utilization Report (“Workforce Report”)

1. Once a contract has been awarded and during the term of Contract, Contractor is responsible for updating and providing notice to the Department of any changes to the previously submitted Staffing Plan. This information is to be submitted on a quarterly basis during the term of the contract to report the actual workforce utilized in the performance of the contract by the specified categories listed including ethnic background, gender, and Federal occupational categories. The Workforce Report must be submitted to report this information.
2. Separate forms shall be completed by the Contractor and any subcontractor performing work on the Contract.
3. In limited instances, Contractor may not be able to separate out the workforce utilized in the performance of the Contract from Contractor's and/or sub Contractor's total workforce. When a

separation can be made, Contractor shall submit the Workforce Report and indicate that the information provided related to the actual workforce utilized on the subject contract. When the workforce to be utilized on the contract cannot be separated out from Contractor's and/or subcontractor's total workforce, Contractor shall submit the Workforce Report and indicate that the information provided is Contractor's total workforce during the subject time frame, not limited to work specifically under the contract.

III. Contract Goals

- A. For purposes of this procurement, the Department hereby establishes a goal of 5% for Minority-Owned Business Enterprises (“MBE”) participation and 7% for Women-Owned Business Enterprises (“WBE”) participation.
- B. For purposes of providing meaningful participation by MWBEs on this Contract and achieving the Contract Goals established in subsection “A”, Contractor should reference the directory of New York State Certified MBWEs found at the following internet address:

http://www.empire.state.ny.us/Small_and_Growing_Businesses/mwbe.asp

- C. Pursuant to 5 NYCRR §142.8, Contractor must document “good faith efforts” to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of this Contract. In accordance with section 316-a of Article 15-A and 5 NYCRR §142.13, the Contractor acknowledges that if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such a finding constitutes a breach of Contract and the Contractor shall be liable to the Department for liquidated or other appropriate damages, as set forth herein.

IV. **MWBE Utilization Plan**

- A. Form 103 – MWBE Utilization Plan
 - 1. Contractor is required to submit an MWBE Utilization Plan to the Department on “Form 103” with this bid/proposal or in the event such a plan was not submitted with a bid/proposal, prior to the execution of this Contract.
 - 2. The Utilization Plan shall list the MWBEs Contractor intends to use to perform on the Contract and provide a description of the Contract scope of work which Contractor intends to structure to increase the participation by NYS Certified MWBEs on Contract pursuant to the prescribed Contract Goals set herein, and the estimated or, if known, actual dollar amounts to be paid to and performance dates of each component of the Contract which Contractor intends to be performed by NYS Certified MWBEs.
 - 3. Any modifications or changes to the agreed participation by NYS Certified MWBEs after the Contract Award and/or during the Contract term must be reported on a revised MWBE Utilization Plan and submitted to the Department for approval.
- B. The Department will review the MWBE Utilization Plan and issue to Contractor a written notice of

acceptance or deficiency within twenty (20) days of its receipt. A notice of deficiency shall include (1) the name of any MWBE which is not acceptable for the purpose of complying with the MWBE participation goals and the reasons why it is not acceptable; (2) elements of the Contract scope of work which the Department has determined can be reasonably structured by Contractor to increase the likelihood of participation in the Contract by NYS Certified MWBEs; and (3) other information which the Department determines to be relevant to the MWBE Utilization Plan.

- C. In the event a notice of deficiency is issued Contractor shall respond to the notice within seven (7) business days of receipt by submitting a written remedy in response to the notice of deficiency to the Department. If the written remedy that is submitted is not timely or is found by the Department to be inadequate, the Department shall notify the Contractor and direct Contractor to submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals on forms provided by the Department. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.
- D. The Department may disqualify Contractor as being non-responsive under the following circumstances:
 - 1. If Contractor fails to submit a MWBE Utilization Plan;
 - 2. If Contractor fails to submit a written remedy to a notice of deficiency in a MWBE Utilization Plan;
 - 3. If Contractor fails to submit a request for waiver in the event of a deficiency within the utilization plan; or
 - 4. If the department determines that Contractor has failed to document good faith efforts to meet the contract goals prescribed in Article III.

V. Waivers

- A. For Waiver Requests Contractor should use Form 104 – Waiver Request.
- B. If the Contractor, after making good faith efforts, is unable to comply with MWBE goals, the Contractor may submit a Request for Waiver documenting good faith efforts by the Contractor to meet such goals. If the documentation included with the waiver request is complete, the Department shall evaluate the request and issue a written notice of acceptance or denial within twenty (20) days of receipt.
- C. If the Department, upon review of the Utilization Plan and updated Compliance Reports determines that Contractor is failing or refusing to comply with the Contract goals and no waiver has been issued in regards to such non-compliance, the Department may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven (7) days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

VI. Quarterly MWBE Contractor Compliance Report

Contractor is required to submit a Quarterly MWBE Contractor Compliance Report (Form MWBE 105) to the

Department by the 10th day following each end of quarter over the term of the Contract documenting the progress made towards achievement of the MWBE goals of the Contract.

VII. Administration Hearing on Disqualification

- A. If the Department disqualifies a bid based on deficiency in Contractor's utilization plan, Contractor shall be entitled to an administrative hearing, on the record, before the Department to review the determination of disqualification of the bid and determination of non-responsibility of the Contractor.
- B. Such final administrative determination shall be reviewable by a proceeding brought pursuant to Article 78 of the Civil Practice Law and Rules, provided such proceeding is commenced within thirty (30) days of notice given by certified mail, return receipt requested, rendering such final administrative determination in accordance with the provisions of Executive Law Article 15-A, §313.

VIII. Complaints

- A. If the Department determines that the Contractor is not in compliance with the requirements found in Part 142 of the MWBE Regulations and the Department is unsuccessful in its efforts to resolve the matter and bring the Contractor into compliance with the requirements, the Department may file a complaint with the Director according to the provisions of Executive Law Article 15-A, §§ 313 & 316 or may assess liquidated damages pursuant to § 316-a.
- B. Subsequent to the award of this Contract, if Contractor submits a Request for Waiver of MWBE participation goals and the Department denies the request or fails to respond within twenty (20) days of receiving it, or if Contractor has received a written determination from the Department that Contractor has failed or refused to comply with the provisions of this Contract, Contractor may file a complaint with the Director in accordance with the provisions of Executive Law Article 15-A, §§ 313 & 316.
- C. The complaint must be filed within twenty (20) days of the Department's receipt of the Request for Waiver. If the Department fails to respond in that time, or within twenty (20) days of a notification that the request has been denied by the Department or within twenty (20) days of receipt of notification from the Department that the Contractor has failed or refused to comply with the goals:
 - 1. A complaint shall set forth the facts and circumstances giving rise to the complaint together with a demand for relief.
 - 2. The party filing a complaint, whether the Contractor or the Department, shall deliver a copy to the other party. Both the complaint and the copy shall be delivered by either personal service or by certified mail, return receipt requested.
 - 3. Upon receipt of a complaint, the Director shall provide the party against whom the complaint has been filed with an opportunity to respond to the complaint. If within thirty (30) days of receipt of the complaint the Director is unable to resolve the complaint to the satisfaction of the Department and the Contractor, the complaint shall be referred to the Division's designated hearing officer. Upon conclusion of the administrative proceeding, the hearing officer will submit to the Director his or her final determination regarding the alleged violation of the Contract or refusal of the

Department to grant a waiver request by the Contractor and his or her recommendations regarding the imposition of fines, sanctions or penalties.

4. The Director, within ten (10) days of receipt of the hearing officer's decision, will issue a final determination with regard to fines, sanctions or penalties and shall cause a copy of such determination to be served upon the contractor by personal service or by certified mail, return receipt requested.
5. The penalties imposed for any violation which is premised upon either a fraudulent or intentional misrepresentation by Contractor or Contractor's representative or the Contractor's willful and intentional disregard of the MWBE participation requirement included in this Contract may include a determination that Contractor shall be ineligible to submit a bid to any contracting agency or be awarded any such Contract for up to one year following the final determination.
6. If a Contractor has previously been debarred, the penalties imposed for any subsequent violations, if such violation occurs within five years of the first violation, may result in debarment for up to five (5) years after the final determination. Such information shall be posted on the Division's web site.
7. The determination of the Department or the Contractor to proceed with a complaint shall not preclude the Department, in its discretion, from pursuing any other remedies which it may have pursuant to law and Contract, including withholding from payments to the Contractor the estimated amount of the fines and penalties which may be imposed pursuant to this subsection.

IX. Liquidated Damages - MWBE Participation

- A. In lieu of the complaint procedures set forth in Article VIII of this Appendix, if the Department determines that Contractor is not in compliance with the requirements of this subsection and Contractor refuses to comply with such requirements, or if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, Contractor shall be obligated to pay to the Department liquidated damages.
- B. Such liquidated damages shall be calculated as an amount equaling the difference between:
 1. All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and
 2. All sums actually paid to MWBEs for work performed or materials supplied under the Contract.
- C. In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by the Department, Contractor shall pay such liquidated damages to the Department within sixty (60) days after they are assessed by the Department unless prior to the expiration of such sixtieth day, the Contractor has filed a complaint with the Director pursuant to subdivision 8 of section 313 of the Executive Law in which event the liquidated damages shall be payable if Director renders a decision in favor of the Department.

**MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES –
EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT**

M/WBE AND EEO POLICY STATEMENT

I, _____, the (awardee/contractor) _____ agree to adopt the following policies with respect to the project being developed or services rendered at _____

M/WBE

This organization will and will cause its contractors and subcontractors to take good faith actions to achieve the M/WBE contract participations goals set by the State for that area in which the State-funded project is located, by taking the following steps:

- (1) Actively and affirmatively solicit bids for contracts and subcontracts from qualified State certified MBEs or WBEs, including solicitations to M/WBE contractor associations.
- (2) Request a list of State-certified M/WBEs from AGENCY and solicit bids from them directly.
- (3) Ensure that plans, specifications, request for proposals and other documents used to secure bids will be made available in sufficient time for review by prospective M/WBEs.
- (4) Where feasible, divide the work into smaller portions to enhanced participations by M/WBEs and encourage the formation of joint venture and other partnerships among M/WBE contractors to enhance their participation.
- (5) Document and maintain records of bid solicitation, including those to M/WBEs and the results thereof. Contractor will also maintain records of actions that its subcontractors have taken toward meeting M/WBE contract participation goals.
- (6) Ensure that progress payments to M/WBEs are made on a timely basis so that undue financial hardship is avoided, and that bonding and other credit requirements are waived or appropriate alternatives developed to encourage M/WBE participation.

Agreed to this _____ day of _____, 2_____

By _____

Print: _____ Title: _____

EEO

(a) This organization will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on state contracts.

(b) This organization shall state in all solicitation or advertisements for employees that in the performance of the State contract all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex disability or marital status.

(c) At the request of the contracting agency, this organization shall request each employment agency, labor union, or authorized representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of this organizations' obligations herein.

(d) This organization will include the provisions of sections (a) through (c) of this agreement in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the State contract

Minority Business Enterprise Liaison

_____ is designated as the Minority Business Enterprise Liaison
(Name of Designated Liaison)
responsible for administering the Minority and Women-Owned Business Enterprises- Equal Employment
Opportunity (M/WBE-EEO) program.

M/WBE Contract Goals

_____ % Minority Business Enterprise Participation

_____ % Women's Business Enterprise Participation

EEO Contract Goals

_____ % Minority Labor Force Participation

_____ % Female Labor Force Participation

(Authorized Representative)

Title: _____

Date: _____

STAFFING PLAN

Submit with Bid or Proposal – Instructions on page 2

Solicitation No.:	Reporting Entity:	Report includes Contractor's/Subcontractor's: <input type="checkbox"/> Work force to be utilized on this contract <input type="checkbox"/> Total work force
Offeror's Name:		<input type="checkbox"/> Offeror <input type="checkbox"/> Subcontractor Subcontractor's name _____
Offeror's Address:		

Enter the total number of employees for each classification in each of the EEO-Job Categories identified

EEO-Job Category	Total Work force	Work force by Gender		Work force by Race/Ethnic Identification													
		Total Male (M)	Total Female (F)	White (M) (F)		Black (M) (F)		Hispanic (M) (F)		Asian (M) (F)		Native American (M) (F)		Disabled (M) (F)		Veteran (M) (F)	
Officials/Administrators																	
Professionals																	
Technicians																	
Sales Workers																	
Office/Clerical																	
Craft Workers																	
Laborers																	
Service Workers																	
Temporary /Apprentices																	
Totals																	

PREPARED BY (Signature):	TELEPHONE NO.:	DATE:
	EMAIL ADDRESS:	
NAME AND TITLE OF PREPARER (Print or Type):		Submit completed with bid or proposal M/WBE 101 (Rev 11/08)

General instructions: All Offerors and each subcontractor identified in the bid or proposal must complete an EEO Staffing Plan (M/WBE 101) and submit it as part of the bid or proposal package. Where the work force to be utilized in the performance of the State contract can be separated out from the contractor's and/or subcontractor's total work force, the Offeror shall complete this form only for the anticipated work force to be utilized on the State contract. Where the work force to be utilized in the performance of the State contract cannot be separated out from the contractor's and/or subcontractor's total work force, the Offeror shall complete this form for the contractor's and/or subcontractor's total work force.

Instructions for completing:

1. Enter the Solicitation number that this report applies to along with the name and address of the Offeror.
2. Check off the appropriate box to indicate if the Offeror completing the report is the contractor or a subcontractor.
3. Check off the appropriate box to indicate work force to be utilized on the contract or the Offerors' total work force.
4. Enter the total work force by EEO job category.
5. Break down the anticipated total work force by gender and enter under the heading 'Work force by Gender'
6. Break down the anticipated total work force by race/ethnic identification and enter under the heading 'Work force by Race/Ethnic Identification'. Contact the OM/WBE Permissible contact(s) for the solicitation if you have any questions.
7. Enter information on disabled or veterans included in the anticipated work force under the appropriate headings.
8. Enter the name, title, phone number and email address for the person completing the form. Sign and date the form in the designated boxes.

RACE/ETHNIC IDENTIFICATION

Race/ethnic designations as used by the Equal Employment Opportunity Commission do not denote scientific definitions of anthropological origins. For the purposes of this form, an employee may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. However, no person should be counted in more than one race/ethnic group. The race/ethnic categories for this survey are:

- **WHITE** (Not of Hispanic origin) All persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.
- **BLACK** a person, not of Hispanic origin, who has origins in any of the black racial groups of the original peoples of Africa.
- **HISPANIC** a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.
- **ASIAN & PACIFIC ISLANDER** a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands.
- **NATIVE INDIAN (NATIVE AMERICAN/ ALASKAN NATIVE)** a person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

OTHER CATEGORIES

- **DISABLED INDIVIDUAL** any person who:
 - has a physical or mental impairment that substantially limits one or more major life activity(ies)
 - has a record of such an impairment; or
 - is regarded as having such an impairment.
- **VIETNAM ERA VETERAN** a veteran who served at any time between and including January 1, 1963 and May 7, 1975.
- **GENDER** Male or Female

WORK FORCE EMPLOYMENT UTILIZATION

Contract No.:	Reporting Entity: <input type="checkbox"/> Contractor <input type="checkbox"/> Subcontractor	Reporting Period: <input type="checkbox"/> January 1, 20__ - March 31, 20__ <input type="checkbox"/> April 1, 20__ - June 30, 20__ <input type="checkbox"/> July 1, 20__ - September 30, 20__ <input type="checkbox"/> October 1, 20__ - December 31, 20__
Contractor's Name:		Report includes: <input type="checkbox"/> Work force to be utilized on this contract <input type="checkbox"/> Contractor/Subcontractor's total work force
Contractor's Address:		

Enter the total number of employees in each classification in each of the EEO-Job Categories identified.

EEO-Job Category	Total Work force	Work force by Gender		Work force by Race/Ethnic Identification										Disabled		Veteran		
		Male (M)	Female (F)	White (M) (F)		Black (M) (F)		Hispanic (M) (F)		Asian (M) (F)		Native American (M) (F)		(M)	(F)	(M)	(F)	
Officials/Administrators																		
Professionals																		
Technicians																		
Sales Workers																		
Office/Clerical																		
Craft Workers																		
Laborers																		
Service Workers																		
Temporary /Apprentices																		
Totals																		

PREPARED BY (Signature):	TELEPHONE NO.: EMAIL ADDRESS:	DATE:
NAME AND TITLE OF PREPARER (Print or Type):	Submit completed form to: NYS (add Agency name) M/WBE 102 (Revised 11/08)	

General Instructions: The work force utilization (M/WBE 102) is to be submitted on a quarterly basis during the life of the contract to report the actual work force utilized in the performance of the contract broken down by the specified categories. When the work force utilized in the performance of the contract can be separated out from the contractor's and/or subcontractor's total work force, the contractor and/or subcontractor shall submit a Utilization Report of the work force utilized on the contract. When the work force to be utilized on the contract cannot be separated out from the contractor's and/or subcontractor's total work force, information on the total work force shall be included in the Utilization Report. Utilization reports are to be completed for the quarters ended 3/31, 6/30, 9/30 and 12/31 and submitted to the M/WBE Program Management Unit within 15 days of the end of each quarter. If there are no changes to the work force utilized on the contract during the reporting period, the contractor can submit a copy of the previously submitted report indicating no change with the date and reporting period updated.

Instructions for completing:

9. Enter the number of the contract that this report applies to along with the name and address of the Contractor preparing the report.
10. Check off the appropriate box to indicate if the entity completing the report is the contractor or a subcontractor.
11. Check off the box that corresponds to the reporting period for this report.
12. Check off the appropriate box to indicate if the work force being reported is just for the contract or the Contractor's total work force.
13. Enter the total work force by EEO job category.
14. Break down the total work force by gender and enter under the heading 'Work force by Gender'
15. Break down the total work force by race/ethnic background and enter under the heading 'Work force by Race/Ethnic Identification'. Contact the M/WBE Program Management Unit at (518) 474-5513 if you have any questions.
16. Enter information on any disabled or veteran employees included in the work force under the appropriate heading.
17. Enter the name, title, phone number and email address for the person completing the form. Sign and date the form in the designated boxes.

RACE/ETHNIC IDENTIFICATION

Race/ethnic designations as used by the Equal Employment Opportunity Commission do not denote scientific definitions of anthropological origins. For the purposes of this report, an employee may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. However, no person should be counted in more than one race/ethnic group. The race/ethnic categories for this survey are:

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 - **BLACK** a person, not of Hispanic origin, who has origins in any of the black racial groups of the original peoples of Africa.
 - **HISPANIC** a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.
 - **ASIAN & PACIFIC ISLANDER** a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands.
 - **NATIVE INDIAN (NATIVE AMERICAN/ALASKAN NATIVE)** a person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.
- OTHER CATEGORIES**
- **DISABLED INDIVIDUAL** any person who:
 - has a physical or mental impairment that substantially limits one or more major life activity(ies)
 - has a record of such an impairment; or
 - is regarded as having such an impairment.
 - **VIETNAM ERA VETERAN** a veteran who served at any time between and including January 1, 1963 and May 7, 1975.
 - **GENDER** Male or Female

M/WBE UTILIZATION PLAN

INSTRUCTIONS: This form must be submitted with any bid, proposal, or proposed negotiated contract or within a reasonable time thereafter, but prior to contract award. This Utilization Plan must contain a detailed description of the supplies and/or services to be provided by each certified Minority and Women-owned Business Enterprise (M/WBE) under the contract. Attach additional sheets if necessary.

Offeror's Name:

Address:

City, State, Zip Code:

Telephone No.:

Region/Location of Work:

Federal Identification No.:

Solicitation No.:

Project No.:

M/WBE Goals in the Contract: MBE % WBE %

1. Certified M/WBE Subcontractors/Suppliers Name, Address, Email Address, Telephone No.	2. Classification	3. Federal ID No.	4. Detailed Description of Work (Attach additional sheets, if necessary)	5. Dollar Value of Subcontracts/ Supplies/Services and intended performance dates of each component of the contract.
A.	<u>NYS ESD CERTIFIED</u> <input type="checkbox"/> MBE <input type="checkbox"/> WBE			
B.	<u>NYS ESD CERTIFIED</u> <input type="checkbox"/> MBE <input type="checkbox"/> WBE			

6. IF UNABLE TO FULLY MEET THE MBE AND WBE GOALS SET FORTH IN THE CONTRACT, OFFEROR MUST SUBMIT A REQUEST FOR WAIVER FORM (M/WBE 104).

PREPARED BY (Signature): DATE: NAME AND TITLE OF PREPARER (Print or Type): SUBMISSION OF THIS FORM CONSTITUTES THE OFFEROR'S ACKNOWLEDGEMENT AND AGREEMENT TO COMPLY WITH THE M/WBE REQUIREMENTS SET FORTH UNDER NYS EXECUTIVE LAW, ARTICLE 15-A, 5 NYCRR PART 143, AND THE ABOVE-REFERENCED SOLICITATION. FAILURE TO SUBMIT COMPLETE AND ACCURATE INFORMATION MAY RESULT IN A FINDING OF NONCOMPLIANCE AND POSSIBLE TERMINATION OF YOUR CONTRACT.	TELEPHONE NO.:	EMAIL ADDRESS:
	FOR M/WBE USE ONLY	
	REVIEWED BY:	DATE:
M/WBE 103 (Revised 11/08)	UTILIZATION PLAN APPROVED: <input type="checkbox"/> YES <input type="checkbox"/> NO Date: _____	
	Contract No.: _____ Project No. (if applicable): _____	
Contract Award Date: _____		
Estimated Date of Completion: _____		
Amount Obligated Under the Contract: _____		
Description of Work: _____		
NOTICE OF DEFICIENCY ISSUED: <input type="checkbox"/> YES <input type="checkbox"/> NO Date: _____		
NOTICE OF ACCEPTANCE ISSUED: <input type="checkbox"/> YES <input type="checkbox"/> NO Date: _____		

REQUIREMENTS AND DOCUMENT SUBMISSION INSTRUCTIONS

When completing the Request for Waiver Form please check all boxes that apply. To be considered, the Request for Waiver Form must be accompanied by documentation for items 1 – 11, as listed below. If box # 3 has been checked above, please see item 11. Copies of the following information and all relevant supporting documentation must be submitted along with the request:

1. A statement setting forth your basis for requesting a partial or total waiver.
2. The names of general circulation, trade association, and M/WBE-oriented publications in which you solicited certified M/WBEs for the purposes of complying with your participation goals.
3. A list identifying the date(s) that all solicitations for certified M/WBE participation were published in any of the above publications.
4. A list of all certified M/WBEs appearing in the NYS Directory of Certified Firms that were solicited for purposes of complying with your certified M/WBE participation levels.
5. Copies of notices, dates of contact, letters, and other correspondence as proof that solicitations were made in writing and copies of such solicitations, or a sample copy of the solicitation if an identical solicitation was made to all certified M/WBEs.
6. Provide copies of responses made by certified M/WBEs to your solicitations.
7. Provide a description of any contract documents, plans, or specifications made available to certified M/WBEs for purposes of soliciting their bids and the date and manner in which these documents were made available.
8. Provide documentation of any negotiations between you, the Offeror/Contractor, and the M/WBEs undertaken for purposes of complying with the certified M/WBE participation goals.
9. Provide any other information you deem relevant which may help us in evaluating your request for a waiver.
10. Provide the name, title, address, telephone number, and email address of offeror/contractor's representative authorized to discuss and negotiate this waiver request.
11. Copy of notice of application receipt issued by Empire State Development (ESD).

Note: Unless a Total Waiver has been granted, the Offeror/Contractor will be required to submit all reports and documents pursuant to the provisions set forth in the Contract, as deemed appropriate by AGENCY, to determine M/WBE compliance.

M/WBE Quarterly Report of

Is this a final report? Check One
Yes _____ No _____

NYS AGENCY Contract No. _____ **Project No.** _____

The following information indicates the payment amounts made by the grantee/contractor to the NYS Certified M/WBE subcontractor on this project. The payments as shown made are in compliance with contract documents for the above referenced project.

Contractors Name and Address		Federal ID#		Goals/\$ Amt. MBE _____%= _____ WBE _____%= _____ -		Contract Type _____				
						Paid to Contractor This Quarter _____				
						Total Paid to Contractor To Date _____				
		Project Completion Date		Work Location		Reporting Period: ___ 1 st Quarter (4/1-6/30) ___ 3 rd Quarter (10/1-12/31) ___ 2 nd Quarter (7/1-9/30) ___ 4 th Quarter (1/1-3/31)				
M/WBE Subcontractor/Vendor	Product Code*	Work Status This Report	Total Subcontractor Contract Amount		Payments this Quarter		Previous Payments		Total Payment Made to Date	
			MBE	WBE	MBE	WBE	MBE	WBE	MBE	WBE
Name:		___ Active								
FED ID#		___ Inactive								
		___ Complete								
Name:		___ Active								
FED ID#		___ Inactive								
		___ Complete								
Name:		___ Active								
FED ID#		___ Inactive								
		___ Complete								
Name:		___ Active								
FED ID#		___ Inactive								
		___ Complete								
Total										

*See bELOW for Product Codes

Date _____ **Name** _____ **Title** _____

Signature _____

PRODUCT KEY CODE

A	=	Agriculture/ Landscaping (e.g., all forms of landscaping services)
B	=	Mining (e.g., geological investigations)
C	=	Construction
C15	=	Building Construction – General Contractors
C16	=	Heavy Construction (e.g., highway, pipe laying)
C17	=	Special Trade Contractors (e.g., plumbing, heating, electrical, carpentry)
D	=	Manufacturing
E	=	Transportation, Communication and Sanitary Services (e.g., delivery services, warehousing, broadcasting and cable systems)
F/G	=	Wholesale/Retail Goods (e.g. hospital supplies and equipment, food stores, computer stores, office supplies)
G52	=	Construction Materials (e.g., lumber, paint, law supplies)
H	=	Financial, Insurance and Real Estate Services
I	=	Services
I73	=	Business Services (e.g., copying, advertising, secretarial, janitorial, rental services of equipment, computer programming, security services)
I81	=	Legal Services
I82	=	Education Services (e.g., AIDS education, automobile safety, tutoring, public speaking)
I83	=	Social Services (Counselors, vocational training, child care)
I87	=	Engineering, architectural, accounting, research, management and related services

CONTRACTOR BID SOLICITATION LETTER

MBE/WBE
Main Street
Anywhere, New York 00000

Re: CONTRACT # _____
COUNTY _____
Project Title _____

Dear MBE/WBE:

We are the low bidder on Project/Contract # _____ which involves [type of contract(s)] _____ in the _____ of New York. We are currently soliciting bid quotations or proposals from NY State certified M/WBE firms for any tasks of the work contained in this contract. The specialty items contained include the following:

ITEM(S)	DESCRIPTION	QUANTITY	PROJECTED START DATE

The Work Plan and specifications are currently available at our office for your review. If you are interested in participation on this project, please complete and submit a copy of the MBE/WBE Contractor Participation Bid/Proposal (Attachment # 7) no later than thirty (30) days from the (due date) _____.

If you need additional information and assistance, or need to review the Work Plan and specifications, please contact (authorized representative) of our office at (telephone).

In the event that you can not bid on this contract please complete the attached Minority/Women’s Contractor Unavailability Certification Form (See Attachment # 8).

Thank you for your interest as we look forward to a successful project.

Sincerely,

New York State Department of Economic Development
EXHIBIT H18

**M/WBE SUBCONTRACTORS AND SUPPLIERS
LETTER OF INTENT TO PARTICIPATE**

Recipient/Contractor: _____ Contract/Project No.: _____

Address: _____

Federal ID#: _____ Project/Contract # _____ Location of Work: _____

Dear Recipient/Contractor:

I, _____ intend to perform work for _____
(Name of Subcontractor/Vendor's Firm) (Name of Consultant/Contractor)

located at _____ in connection with the above project. My Minority/Women Business Enterprise (M/WBE) status as a MBE () and/or WBE () is certified as of _____
(Check all as applies) (cert. date)

_____ is prepared to do the following:
(Name of Subcontractor/Vendor's Firm)

(Describe work to be performed on the above project)	Unit Price	Total Amount

You have projected _____ for such work to start.
(Commencement Date)

_____ will sign a formal contract for the above work conditioned upon the
(Name of Subcontractor/Vendor's Firm)

approval of your executed contract with the recipient/contractor.

MBE: Subcontractor or Supplier (Please circle one)
WBE: Subcontractor or Supplier (Please circle one)

Company Official's Name _____ Title: _____

Company Official's Signature: _____

Address: _____

Consultant/Contractor (Please circle one)

Company Official's Name: _____ Title: _____

Company Official's Signature _____ Date: _____

Telephone Number: () _____ Fax Number: () _____

M/WBE CONTRACTOR PARTICIPATION BID/PROPOSAL

Prime Contractor _____
 Address _____

Re: CONTRACT # _____
 COUNTY _____
 Project Title _____

TO: _____
 (Name of Prime Contractor)

_____ proposes to perform the work as follows:
 (Name of M/WBE Firm)

(Specify in detail the particular work items to be performed thereof and associated dollar amounts)

TYPE OF WORK	UNIT PRICE	DOLLAR AMOUNT

 NAME OF M/WBE CONTRACTOR

 SIGNATURE OF M/WBE CONTRACTOR

 DATE

M/WBE CONTRACTOR UNAVAILABILITY CERTIFICATION

PROJECT/CONTRACT # _____

I, _____
(Principal or Prime Consultant/Contractor)

_____ of _____
(Title) (Name of Consultant's/Contractor's Firm)

_____ (Address) _____ (Telephone Number)

I certify that on (Date) _____ I contacted the following New York State Certified Minority/Women Business Enterprises by registered mail to obtain bids for work to be performed on the above-mentioned contract.

List of names of M/WBEs, and type of work that bids were requested

- _____
- _____
- _____

To the best of my knowledge and belief, said New York State Certified Minority/Women Business Enterprise contractor(s) was unavailable for work on this project, or unable to prepare a bid for the following reasons: Pease check appropriate reasons given by each MBE/WBE firm contacted above.)

- _____ I did not have the capability to perform the work
- _____ Contract too small
- _____ Remote location
- _____ Received solicitation notices too late
- _____ Did not want to work for this contractor
- _____ Other (give reason) _____

Signature of Prime Consultant/Contractor

Title Date

