

**NEW YORK STATE DEPARTMENT OF HEALTH**  
AMERICAN RECOVERY AND REINVESTMENT ACT of 2009 (ARRA)

An Invitation for Bid for

New York Early Intervention System (NYEIS)  
Training Venues

**IFB No. 1010251000**

Provide NYEIS Training Venues

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**Schedule of Key Events**

IFB Release Date	November 19, 2010
Written Questions Due	November 26, 2010
Responses to Written Questions Posted	December 10, 2010
Bid Due Date	December 27, 2010

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## **Contacts Pursuant to State Finance Law § 139-j and 139-k**

### **Designated Contacts:**

Pursuant to State Finance Law §§ 139-j and 139-k, the Department of Health identifies the following designated contacts to whom all communications attempting to influence this procurement must be made:

#### **Jonathan Mahar**

Grants & Procurement Unit  
New York State Department of Health  
ESP Corning Tower, Room 1325  
Albany NY 12237  
(518) 474-7896, fax (518) 474-8375  
Email: jpm12@health.state.ny.us

### **Permissible Subject Matter Contacts:**

Pursuant to State Finance Law § 139-j(3)(a), the Department of Health also identifies the following allowable contacts for communications related to the following subjects:

#### ***Submission of written proposals or bids:***

#### ***Submission of Written Questions:***

#### **Terry Ayers**

NYS Department of Health  
Bureau of Early Intervention  
ESP Corning Tower, Room 287  
Albany, NY 12237  
Phone: (518) 473-7016

#### ***Debriefings:***

#### ***Negotiation of Contract Terms after Award:***

#### **Bradley Hutton**

NYS Department of Health  
Bureau of Early Intervention  
ESP Corning Tower, Room 287  
Albany, NY 12237  
Phone: (518) 473-7016

*For further information regarding these statutory provisions, see the Lobbying Statute summary in Section V, Subsection K, of this solicitation.*

## **I. INTRODUCTION**

The New York State Department of Health (Department), as the lead State agency for the Early Intervention Program for infants and toddlers with disabilities, is issuing this Invitation for Bid (IFB) to solicit proposals to provide assistance to the Department in the delivery of a comprehensive statewide training effort for the New York Early Intervention System (NYEIS). The contract resulting from this solicitation is anticipated to be for a 10-month period from December 2010 through September 2011. The selected contractor will be expected to identify and provide training venues, provide computer equipment, and perform other related activities as described in this IFB.

This IFB contains specific eligibility criteria, project activities, technical requirements, and a draft training schedule for all counties/municipalities. This IFB also provides guidance on specific elements that must be included for a proposal to be considered for funding. Instructions and forms are contained herein.

This initiative is supported with funding from the American Recovery and Reinvestment Act (ARRA) of 2009. Special and timely reporting will be required as a condition of award. These reporting requirements are detailed in Section V, Subsection E, of this document and in Section II-C of the final AGREEMENT. In addition, because of the nature of ARRA funding, a special contract appendix will be included in any award agreement. Bidders should read Appendix ARRA – Special Language for Contracts Funded in Whole or in Part by the American Recovery and Reinvestment Act (Attachment 15) and familiarize themselves with the special requirements of this opportunity.

## **II. BACKGROUND**

The New York State Early Intervention Program (EIP) is a statewide, family-centered program for infants and toddlers with developmental delays or disabilities and their families. The Early Intervention Program, including an entitlement to early intervention services for eligible children and their families, was established in Public Health Law (PHL – Title II-A, Article 25) in 1992 and has been fully operational since July 1, 1993. The EIP is administered at the state level by the New York State Department of Health (SDOH). Each municipality within New York State administers the program at the local level through an Early Intervention Official, who is the single point of entry for children into the program.

The Department has developed the New York Early Intervention System (NYEIS) to facilitate the EIP's service delivery, financial, administrative and management functions at both the state and local levels. NYEIS is a new, web-based, state-of-the-art software application that will electronically manage early intervention administrative tasks and exchange of information. The system will be used by Department staff, the 58 municipal Early Intervention (EI) programs throughout New York State (including the 5 boroughs of New York City), and approximately 21,800 approved EI providers who have contracts with municipalities to provide services to the eligible children and families who

reside within them. Municipal staff and all approved contracted EI providers will be responsible for entering valid and reliable data into NYEIS.

### **III. DETAILED SPECIFICATIONS**

The Department is seeking a contractor to assist in the delivery of a comprehensive statewide NYEIS training effort. The selected vendor will provide training venues, up to 100 laptop/personal computers at any one time, high speed internet, and logistical coordination as described below. The Department, along with another contractor, will conduct face-to-face classroom training throughout the state for up to 80 municipal staff per day and up to 80 EI providers (each in classes of 20 trainees) per day in selected localities for a minimum of five days of scheduled training per month. Training will be delivered in locations provided by the winning bidder usually during the first two weeks of each month, which is anticipated to begin December 2010 through September 2011.

The first training of each month will include a three-day training venue for municipal staff (usually Tuesday, Wednesday, Thursday), and the second training will include a two-day training venue for EI providers (usually Tuesday, Wednesday). The five training sessions will be eight hours per day (usually 8:00 – 4:00 or 8:30 – 4:30). The maximum number of training venues needed per selected training week (e.g., including concurrent sessions) will be five, requiring a total of 100 laptops/personal computers. Several locations (Nassau and Westchester counties and the five boroughs of New York City) will include at least four concurrent training sessions (in different rooms) on each of five days for a total of 80 trainees per day. Whenever possible, training venues will be located in locations that are central and easy to get to by the trainees, and located in an area that will minimize excessive travel for any one county in the multi-municipality or regional group. For example, training for Region H (Genesee, Livingston, Orleans and Wyoming counties) will have municipal and provider staff from each county. The training venue should be located in a centralized location to all the counties, such as Batavia, NY.

Training is anticipated to begin on November 30, 2010. However, this start date could be delayed due to unexpected circumstances or the unavailability of the final training product. Upon the confirmation by the Department of when the first month of training will begin, the Department will provide training dates, times, and locations for the contractor to use in scheduling the remaining venues through September 2011. A final training plan that includes a minimum of 30 locations throughout New York State (including the five boroughs of New York City) will be shared with the contractor, upon its completion. A draft of the training schedule is provided on page 9 of this document; however, some dates and the sequence of some training locations are subject to change.

Additional training locations and dates may be needed (e.g., due to weather cancellations or other unanticipated need) necessitating bids for per day training in the downstate and upstate regions. The contractor is entitled to a cancellation fee (when the cancellation of training is at no fault of the contractor) consisting of 10% of the

quoted daily rate for the day(s) affected. The timeframe for cancellation that affects the cancellation fee will be negotiated with the winning bidder.

Once the training venue plan is finalized, the contractor must ensure that all training venue activities are completed on schedule, on budget, and according to the project requirements and deliverables outlined in this IFB.

The Department expects to award one contract through this IFB to a qualified bidder to assist the Department in delivering comprehensive statewide training on the New York Early Intervention System. Eligible organizations are for profit and not-for-profit corporations, partnerships, or institutions of higher education that are legally authorized to perform the contracted services. For the purposes of this IFB, if a consortium of the above receives an award, one agency must be identified as the primary contracting entity overseeing the project. A consortium is defined as two or more entities working together through a contractor/subcontractor relationship. Eligible organizations must have demonstrated capacity to provide the activities described in this IFB or to subcontract with individuals or agencies with the technological ability to conduct the activities described in this IFB. Eligible organizations must have some prior experience providing venues for trainings. Prior experience should be documented by providing the following: project name(s) and contract numbers; supporting agency; agency point of contact (name, office, telephone, e-mail); and a one-page (or less) project description that includes the number of locations and trainees, contract duration, number of training sessions supported, and method of support (bidder facilities/equipment, rented facilities/equipment). The Department reserves the right to pre-approve all subcontracts. Submission of a proposal indicates acceptance of all conditions contained in this IFB.

Minimum eligibility requirements:

- The ability to arrange and provide venues for training purposes.
- The ability to provide and set-up laptops, PCs, and peripherals.
- The ability to provide high speed internet.
- The ability to trouble-shoot and correct problems with laptops, PCs, and peripherals.
- The ability to provide a statewide coordinator/manager experienced in the above project workplan activities.

The bidder who is awarded a contract resulting from this IFB will work under the guidance of the Department, and, upon request, in collaboration with its designees. All training venues identified pursuant to this IFB are subject to the approval of the Department. The successful bidder(s) will consult with and obtain the approval of the Department before beginning work to ensure consistency and standardization of deliverables.

In addition, the contractor shall perform an on-site inspection or otherwise objectively verify the internet capacity (i.e. confirm in writing with the internet service provider regarding capacity) of selected venues to assure that any given venue will effectively

support 20 trainees, one instructor, and one training monitor's access to the internet per training class. If multiple training classes will be held at one venue, the venue's total capacity shall support the total number of simultaneous classes.

## A. Project Deliverables

1. **Project Activities**: The contractor will be required to perform/deliver the following project activities:
  - designation of a contact person who will work closely with the Department and its designees to coordinate all aspects of this project and to facilitate the exchange of necessary information;
  - provision of computers, peripheral equipment, and high speed internet;
  - provision of related technical support;
  - provision of training venues;
  - provision of an alternate training venue in the event the scheduled venue is cancelled or needs to be changed due to unforeseen circumstances;
  - logistical oversight of the training sessions and coordination with the Department's training contractor;
  - ensuring that the Department's training contractor has access to each venue at least 18 hours prior to the scheduled training (or as soon as available) to confirm training functionality;
  - loading of each computer with training data and attachments provided by the Department's training contractor necessary to conduct the training at each venue;
  - unloading (wiping clean) of each computer after the completion of each two- or three-day training session;
  - maintaining strict confidentiality of early intervention training data (e.g., names of children and families enrolled in the Early Intervention Program);
  - dissemination of NYEIS notepads, provided by the Department to each trainee; and
  - coordination and provision of on-site lunch, to be purchased by trainees.
2. **Technical Requirements**: The contractor must have the capacity to provide 20 laptops with external mice or 20 PCs with external mice, high speed internet, an overhead projector, and other peripheral equipment as described below per training session. In some cases, training will be held on concurrent days, requiring the availability of up to 100 laptops/PCs with external mice and peripheral equipment per day. The selected contractor will also be responsible for the following for each of the training sessions:

- 20 laptops or PCs running Windows XP sp2 or higher;
- Intel or AMD 1.5 GHz, 512MB Memory, 10GB Disk Storage, 1024X768 Graphics Resolution, Internet Explorer Version 6 or higher (if operating system is Windows Vista, increase Memory to 1.5GB);
- External mice;
- Overhead projector;
- Wireless router(s) (if needed);
- High speed internet connectivity;
- Wireless signal booster (if needed); and
- On-site technical support for computer and peripheral equipment and internet connectivity.

**3. Training Venue Requirements:** The contractor must comply with the following requirements for all training venues identified:

- Conveniently located within each training locality and for multi-municipality and regional groups conveniently located in an area that will minimize excessive travel for any one county in the group;
- Easily accessible from main roads and major highways;
- Sufficient free parking to accommodate each trainee and other associated staff;
- All training rooms must be large enough to accommodate 1 trainer, 20 trainees, 20 computer stations with chairs at minimum, and chairs for up to 5 other observers/technical assistance monitors (when space allows); and
- All venues must be ADA handicapped accessible.

In addition, the contractor shall perform an on-site inspection or otherwise objectively verify the internet capacity (i.e. confirm in writing with the internet service provider regarding capacity) of selected venues to assure that any given venue will effectively support 20 trainees, one instructor, and one training monitor's access to the internet per training class. If multiple training classes will be held at one venue, the venue's total capacity shall support the total number of simultaneous classes.

**4. Coordination of On-Site Lunch for Trainees:** The contractor must coordinate an on-site lunch based on the following requirements:

- Arrange for lunch menus from a local food vendor to be available to trainees and other observers (if they wish to order and purchase) upon their arrival to the training venue each morning so they can review and make selections before training begins;

- Ensure that the menu provides at least three meal choices and also provides for special diet and kosher selections, and diet drinks;
- Collect final lunch orders and money, and coordinate the ordering and delivery of food;
- Ensure lunch is provided in an area separate from inside the training room space;
- Lunch breaks will only be 30 minutes. All trainees will receive prior notice that it is expected they remain at the training venue, even at lunch time, to facilitate efficient delivery of training.

5. **Soft Services**: The contractor must provide transportation of laptops/PCs to and from each training venue throughout New York State if a venue is not already equipped. The contractor must also set up (including loading of provided documents to each laptop/PC), break down and provide technical service (if needed) for all computer and other equipment at each training venue. Set up of computer and other equipment must be complete by 3:00 p.m. the day before the first day of training. Training rooms at each venue must be kept secure during the entire training session.

**B. Travel Expenses**

The contractor must have the willingness and ability to travel to all of the selected training venues throughout New York State, including Long Island and the five boroughs of New York City, and remain for the duration of the training sessions. Travel and related expenses will not be separately reimbursed by the Department.

**C. What the New York State Department of Health Will Provide**

The Department will provide appropriate access to the NYEIS data application located at the Department of Health, the NYEIS User Manual and training files in electronic format to be loaded onto the laptops/PCs for all training participants, and NYEIS notepads for distribution to trainees at each training session.

A proposed draft of the county/municipal training schedule is provided below. Bidders must not only adhere to the schedule, but must also ensure the flexibility and ability to make changes to the schedule, as directed by the Department, to accommodate cancellations due to trainee unavailability, inclement weather, or other unforeseen circumstances.

**DRAFT STATEWIDE LAUNCH SCHEDULE**

**Monthly Outline of Training Sessions (See NYC Boroughs and Monroe County for alternative schedule)**

- Training 1 of each Month –Train Municipal Staff – 3 Days Classroom (usually Tuesday, Wednesday, and Thursday)
- Training 2 of each Month –Train Provider Staff – 2 Days Classroom (usually Tuesday and Wednesday)

**Proposed Statewide Monthly Training Schedule**  
**(December 2010 – September 2011)**

**December 2010 -- Month 1**

**Municipal Staff (tentative dates 11/30-12/2)**

**Provider Staff (tentative dates 12/14-15)**

1. Region B: Fulton, Herkimer, Madison, Montgomery
2. Region C: Delaware, Greene, Otsego, Schoharie
3. Rockland
4. Cortland

**January 2011 -- Month 2**

**Municipal Staff (tentative dates 1/4-6)**

**Provider Staff (tentative dates 1/11-12)**

5. Region F: Cayuga, Seneca, Tompkins, Yates
6. Monroe
7. Broome, Tioga & Chenango
8. Region G: Chemung, Schuyler, Steuben

**February 2011 -- Month 3**

**Municipal Staff (tentative dates 2/1-3)**

**Provider Staff (tentative dates 2/8-9)**

9. Suffolk – (2 concurrent sessions)
10. Westchester (2 concurrent sessions)

**March 2011-- Month 4**

**Municipal Staff (tentative dates 3/1-3)**

**Provider Staff (tentative dates 3/8-9)**

11. Ulster & Sullivan
12. Onondaga & Oswego
13. Region H: Genesee, Livingston, Orleans, Wyoming
14. Region I: Allegany, Cattaraugus, Chautauqua

**April 2011 -- Month 5**

**Municipal Staff (tentative dates 4/5-7)**

**Provider Staff (tentative dates 4/12-13)**

15. Erie
16. Niagara
17. Ontario & Wayne
18. Region D: Columbia, Dutchess, Putnam

**May 2011-- Month 6**

**Municipal Staff (tentative dates 5/3-5)**

**Provider Staff (tentative dates 5/10-11)**

19. Schenectady

20. Orange
21. Nassau (2 concurrent sessions)

### **June 2011 -- Month 7**

**Municipal Staff (tentative dates 6/7-9 and 6/21-23)**

**Provider Staff (tentative dates 6/7-8 and 6/21-22)**

Week 1 Face-to-Face Training for:

1. NYC Bronx Municipal Staff (2 concurrent sessions tentative dates **June 7, 8, 9**)
2. NYC Bronx Providers (2 concurrent sessions tentative dates **June 8, 9**)

Week 3 Face-to-Face Training for:

3. NYC Kings Municipal Staff (2 concurrent sessions tentative dates **June 21, 22, 23**)
4. NYC Kings Providers (2 concurrent sessions tentative dates **June 21, 22**)

### **July 2011 -- Month 8**

**Municipal Staff (tentative dates 7/6-8 and 7/19-21)**

**Provider Staff (tentative dates 7/6-7 and 7/19-20)**

Week 1 Face-to-Face Training for:

1. NYC Manhattan Municipal Staff (2 concurrent sessions tentative dates **July 6, 7, 8**)
2. NYC Manhattan Providers (2 concurrent sessions tentative dates **July 6, 7**)

Week 3 Face-to-Face Training for:

3. NYC Queens Municipal Staff (2 concurrent sessions tentative dates **July 19, 20, 21**)
4. NYC Queens Providers (2 concurrent sessions tentative dates **July 19, 20**)

### **August 2011 -- Month 9**

**Municipal Staff (tentative dates 8/2-4 and 8/16-18)**

**Provider Staff (tentative dates 8/2-3 and 8/16-17)**

Week 1 Face-to-Face Training

1. NY Staten Island Municipal Staff (2 concurrent sessions tentative dates **August 2, 3, 4**)
2. NY Staten Island Providers (2 concurrent sessions tentative dates **August 2, 3**)

Week 3 Face-to-Face Training

3. Region E: Jefferson, Lewis, Oneida Municipal Staff - (tentative dates **August 16, 17, 18**)

4. Region E: Jefferson, Lewis, Oneida Municipal Staff County Providers -  
(tentative dates August 16, 17)

**September 2011 -- Month 10**

**Week One: Municipal Staff (tentative dates 9/7-9)**

**Week Two: Provider Staff (tentative dates 9/13-14)**

22. Rescheduled Training Sessions (due to inclement weather or other unforeseen events) Tentative Dates 9/7-9
23. Rescheduled Training Sessions (due to inclement weather or other unforeseen events) Tentative Dates 9/13-14

**IV. BID REQUIREMENTS**

**A. Preparation of Bid**

Prepare your bid on the attached forms using indelible ink. Submit three originals and 10 copies, and two compact discs.

**B. Notice To Non-Bidders**

Bidders choosing not to bid are asked to submit a No-Bid form (Attachment 1 of this IFB) to the address listed in Section V, Subsection C, on page 14 by the Bid Due date and time indicated on the cover of this IFB. Failure to do so may result in the bidder being removed from the State's mailing list for future procurements.

**C. Required Contents of Bid Submission**

1. Department of Health Bid Form
2. Bid Cover Sheet
3. Bid Quotation Form
4. Bid Detail Sheet
5. State Consultant Services Form "A"
6. State Consultant Services Form "B"
7. NYS Taxation & Finance Contractor Certification Form ST-220-TD
8. NYS Taxation & Finance Contractor Certification Form ST-220-CA
9. Vendor Responsibility Questionnaire
10. Vendor Responsibility Attestation
11. M/WBE Procurement Forms: 12A – 12F

**Proposals that do not include ALL of these documents may be designated as non-responsive.**

Please note that bidders who complete and submit the Vendor Responsibility Questionnaire online will not be required to submit the Vendor Responsibility Questionnaire. If the Vendor Responsibility Questionnaire is submitted online, the bidder will only need to complete and submit the Vendor Responsibility Attestation.

In addition, prior to award, form ST-220-CA Contractor Certification to Covered Agency (Attachment 9) must be submitted to the Department of Health, and form ST-220-TD Contractor Certification (Attachment 8) must be filed with the New York State Department of Taxation and Finance. These forms should be submitted with the bid.

Bid Cover Sheet (Attachment 3) Instructions:

All information requested on this form must be complete. Confirm that any cost figures on this sheet match totals from the other bid sheets.

Bid Quotation Form (Attachment 4) Instructions:

The Bid Quotation form summarizes into one spreadsheet all required information and cost totals:

- Venue Name: Transfer the venue name from the Bid Detail sheet into the appropriate column. If more than one venue, list all.
- Cost of Venue: Specify total cost corresponding to the venue named in the adjacent column.
- Laptops/PCs: Specify the total cost for use of the 20 laptops/PCs or 40 for concurrent sessions.
- Hardware/Peripheral Equipment: Transfer the total cost for this category from the Bid Detail Sheet.
- Soft Services: Transfer the total cost for this category from the Bid Detail Sheet.
- Technical Support: Include a total cost for any technical support service available for each training session.
- Training Oversight & Coordination: Review the requirements listed for this category. Provide a total cost for these services for each training session.
- Coordination of Lunch: Review the requirements listed for this category. Provide a total cost for these services for each training session.
- Total Per Training: Calculate the total costs for each training session in this column. Confirm that the total figure reflects all charges listed.

Bid Detail Sheet (Attachment 5) Instructions:

The Bid Detail sheet requires a detailed and itemized list of venue names with addresses and itemized lists of equipment and soft services with their associated costs.

- Venue Name: Itemize each venue name with street address, city, state and zip code
- List Hardware/Peripheral Equipment: Itemize each piece of hardware and peripheral equipment showing the cost for use of each item listed in the adjoining cost column.
- List Soft Services: Itemize each software service, including transport, delivery and pick up, set up and break down. Show the cost for use of each service listed in the adjoining cost column.

#### **D. Method of Award**

The State will award the contract to the responsible and responsive bidder who offers the lowest total bid. In order to be considered responsible and responsive, the bid must include all IFB required documents. At the discretion of the Department of Health, all bids may be rejected. In the event of a tie, the determining factors for award, in descending order of importance, will be:

- Minority/Women-owned Business Enterprise (MWBE) utilization
- Past experience
- References

#### **V. ADMINISTRATIVE**

##### **A. Issuing Agency**

This Invitation For Bid (IFB) is a solicitation issued by the NYS Department of Health. The Department is responsible for the requirements specified herein and for the evaluation of all bids.

##### **B. Inquiries**

All substantive questions should be submitted in writing, via mail, or e-mail by the date listed in the Schedule of Key Events to:

Terry Ayers  
Bureau of Early Intervention  
NYS Department of Health  
ESP Corning Tower, Room 287  
Albany, NY 12237-0660  
E-mail: [BEIARRA@health.state.ny.us](mailto:BEIARRA@health.state.ny.us)

Questions of a technical nature can be addressed by mail or e-mail at the address above. Questions are of a technical nature if they are limited to how to prepare your proposal (e.g., formatting) rather than relating to the substance of the proposal. Each inquiry should cite the IFB number, section and paragraph to which it refers. Written questions will be accepted until the date indicated in the Schedule of Key Events. Any questions submitted electronically to the BEIARRA mail log must enter the following in the subject line of the e-mail: **BEI ARRA NYEIS Training Invitation for Bid.**

Prospective bidders should note that all clarification, including those relating to the terms and conditions of the contract, are to be raised during the Questions and Answers period.

Questions and Answers, as well as any IFB updates and/or modifications, will be posted on the Department of Health's website at <http://www.health.ny.gov/funding/> on or about the date listed on the Schedule of Key Events. Bidders wishing to receive these documents via mail must send a request, in writing, to the Department

at the address above.

**C. Submission of Proposals**

**Interested bidders should submit three originals and 10 signed copies, and two compact discs of their Bid Proposal not later than 4 p.m. on December 27, 2010.** Late bids will not be considered and will be returned to the bidder unopened. Originals and copies should not be bound or stapled; please use rubber bands or clips. Bids must be in a sealed envelope and clearly marked "IFB NYEIS Training Venue – Proposal Enclosed." Bid packages should be delivered in person or by U.S. Mail to:

Terry Ayers/Cori Lewis  
Administrative Services Unit  
Bureau of Early Intervention  
New York State Department of Health  
ESP Corning Tower, Room 287  
Albany, New York, 12237-0660

**It is the bidders' responsibility to see that bids are delivered to Room 287 prior to the date and time of the bid due date. Late bids due to delay by the carrier or not received in the Department's mail room in time for transmission to room 287 will not be considered. LATE BIDS will be rejected. E-mail bid submissions and faxed bid submissions are not acceptable and will not be considered.** The following additional instructions apply:

- The Bid Forms must be filled out in their entirety.
- The responsible corporate officer for contract negotiation must be listed. The Bid Form must be signed by the responsible corporate officer.
- All evidence and documentation requested under Section IV, Bid Requirements, must be provided at the time the proposal is submitted.

**D. Reserved Rights** The Department of Health Reserves the Right to:

1. Reject any or all proposals received in response to the IFB;
2. Withdraw the IFB at any time, at the agency's sole discretion;
3. Make an award under the IFB in whole or in part;
4. Disqualify any bidder whose conduct and/or proposal fails to conform to the requirements of the IFB;
5. Seek clarifications and revisions of proposals;

6. Use proposal information obtained through site visits, management interviews and the state's investigation of a bidder's qualifications, experience, ability or financial standing, and any material or information submitted by the bidder in response to the agency's request for clarifying information in the course of evaluation and/or selection under the IFB;
7. Prior to the bid opening, amend the IFB specifications to correct errors or oversights, or to supply additional information, as it becomes available;
8. Prior to the bid opening, direct bidders to submit proposal modifications addressing subsequent IFB amendments;
9. Change any of the scheduled dates;
10. Eliminate any mandatory, non-material specifications that cannot be complied with by all of the prospective bidders;
11. Waive any requirements that are not material;
12. Negotiate with the successful bidder within the scope of the IFB in the best interests of the state;
13. Conduct contract negotiations with the next responsible bidder, should the agency be unsuccessful in negotiating with the selected bidder;
14. Utilize any and all ideas submitted in the proposals received;
15. Unless otherwise specified in the solicitation, every offer is firm and not revocable for a period of 60 days from the bid opening; and,
16. Require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of an offerer's proposal and/or to determine an offerer's compliance with the requirements of the solicitation.

#### **E. Payment**

If awarded a contract, the contractor shall submit invoices to the State's designated payment office:

NYS Department of Health  
Administrative Services Unit  
Bureau of Early Intervention  
ESP Corning Tower, Room 287  
Albany, NY 12237

Payment for invoices and/or vouchers submitted by the CONTRACTOR shall only be rendered electronically unless payment by paper check is expressly authorized by the

Commissioner, in the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. The CONTRACTOR shall comply with the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the State Comptroller's website at [www.osc.state.ny.us/epay/index.htm](http://www.osc.state.ny.us/epay/index.htm), by email at [epunit@osc.state.ny.us](mailto:epunit@osc.state.ny.us) or by telephone at 518-474-6019. The CONTRACTOR acknowledges that it will not receive payment on any invoices and/or vouchers submitted under this Contract if it does not comply with the State Comptroller's electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

In addition to the Electronic Payment Authorization Form, a Substitute Form W-9 must be on file with the Office of the State Comptroller, Bureau of Accounting Operations. Additional information and procedures for enrollment can be found at <http://www.osc.state.ny.us/epay>.

Completed W-9 forms should be submitted to the following address:

NYS Office of the State Comptroller  
Bureau of Accounting Operations  
Warrant & Payment Control Unit  
110 State Street, 9<sup>th</sup> Floor  
Albany, NY 12236

Payment of such invoices by the State (NYS Department of Health) shall be made in accordance with Article XI-A of the New York State Finance Law. Payment terms will be monthly invoices for services provided.

Payment of such invoices by the Department shall be made in accordance with Article XI-A of the New York State Finance Law. Contractor payment will be done through submission of monthly vouchers to the Department's designated payment office. The Voucher must follow the format provided by the Department. The amount allowed per voucher will be based on the Bid Detail Sheet submitted in response to this IFB. Monthly vouchers will be due 15 days after the end of the month and must be accompanied by a progress report. Vouchers that are submitted without a progress report will not be processed for payment. Failure of the contractor to meet the deliverables outlined in this contract may also result in vouchers not being processed until the deliverables have been met.

This contract is funded by the American Recovery and Reinvestment Act of 2009 (ARRA). As such, special reporting requirements will be required before payments can be made. The special reports required are detailed in Attachment 16 of this document.

#### **F. Term of Contract**

This agreement shall be effective upon approval of the NYS Office of the State Comptroller. It is anticipated that the contract will be for the period November 30,

2010 through September 30, 2011. The contract may be extended for an undetermined period of time at the sole discretion of the Department.

This agreement may be canceled at any time by the Department of Health giving to the contractor not less than thirty (30) days written notice that on or after a date therein specified this agreement shall be deemed terminated and canceled.

#### **G. Debriefing**

Once an award has been made, bidders may request a debriefing of their proposal. Please note the debriefing will be limited only to the strengths and weaknesses of the bidder's proposal, and will not include any discussion of other proposals. Requests must be received no later than ten days from date of award or non-award announcement.

#### **H. Protest Procedures**

In the event unsuccessful bidders wish to protest the award resulting from this IFB, bidders should follow the protest procedures established by the Office of the State Comptroller (OSC). These procedures can be found on the OSC website at: [http://www.osc.state.ny.us/agencies/gbull/g\\_232.htm](http://www.osc.state.ny.us/agencies/gbull/g_232.htm).

#### **I. Vendor Responsibility Questionnaire**

New York State Procurement Law requires that state agencies award contracts only to responsible vendors. Vendors are invited to file the required Vendor Responsibility Questionnaire online via the New York State VendRep System or may choose to complete and submit a paper questionnaire. To enroll in and use the New York State VendRep System, see the VendRep System Instructions available at [www.osc.state.ny.us/vendrep](http://www.osc.state.ny.us/vendrep) or go directly to the VendRep system online at <https://portal.osc.state.ny.us>. For direct VendRep System user assistance, the OSC Help Desk may be reached at 866-370-4672 or 518-408-4672 or by email at [helpdesk@osc.state.ny.us](mailto:helpdesk@osc.state.ny.us). Vendors opting to file a paper questionnaire can obtain the appropriate questionnaire from the VendRep website [www.osc.state.ny.us/vendrep](http://www.osc.state.ny.us/vendrep) or may contact the Department of Health or the Office of the State Comptroller for a copy of the paper form. Bidders must complete and submit the Vendor Responsibility Questionnaire (Attachment 10) or the Vendor Responsibility Attestation (Attachment 11) with their bid, or the bid may be rejected at the Department's sole discretion.

#### **J. State Consultant Services Reporting**

Chapter 10 of the Laws of 2006 amended certain sections of State Finance Law and Civil Service Law to require disclosure of information regarding contracts for consulting services in New York State.

The winning bidders for procurements involving consultant services must complete a "State Consultant Services Form A, Contractor's Planned Employment from Contract Start Date through End of Contract Term" (Attachment 6) in order to be eligible for a contract.

Winning bidders must also agree to complete a "State Consultant Services Form B, Contractor's Annual Employment Report" (Attachment 7) for each state fiscal year included in the resulting contract. This report must be submitted annually to the Department of Health, the Office of the State Comptroller, and Department of Civil Service.

#### **K. Lobbying Statute**

Chapter 1 of the Laws of 2005, as amended by Chapter 596 of the Laws of 2005, provides, among other things, the following as pertains to development of procurement contracts with governmental entities:

- a. makes the lobbying law applicable to attempts to influence procurement contracts once the procurement process has been commenced by a state agency, unified court system, state legislature, public authority, certain industrial development agencies and local benefit corporations;
- b. requires the above mentioned governmental entities to record all contacts made by lobbyists and contractors about a governmental procurement so that the public knows who is contacting governmental entities about procurements;
- c. requires governmental entities to designate persons who generally may be the only staff contacted relative to the governmental procurement by that entity in a restricted period;
- d. authorizes the New York State Commission on Public Integrity to impose fines and penalties against persons/organizations engaging in impermissible contacts about a governmental procurement and provides for the debarment of repeat violators;
- e. 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;
- f. requires the timely disclosure of accurate and complete information from offerers with respect to determinations of non-responsibility and debarment;
- g. expands the definition of lobbying to include attempts to influence gubernatorial or local Executive Orders, Tribal-State Agreements, and procurement contracts;
- h. modifies the governance of the New York State Commission on Public Integrity;
- i. provides that opinions of the Commission shall be binding only on the person to whom such opinion is rendered;
- j. increases the monetary threshold which triggers a lobbyist's obligations under the Lobbying Act from \$2,000 to \$5,000; and

k. establishes the Advisory Council on Procurement Lobbying.

Generally speaking, two related aspects of procurements were amended: (i) activities by the business and lobbying community seeking procurement contracts (through amendments to the Legislative Law) and (ii) activities involving governmental agencies establishing procurement contracts (through amendments to the State Finance Law).

Additionally, a new section 1-t was added to the Legislative Law establishing an Advisory Council on Procurement Lobbying (Advisory Council). This Advisory Council is authorized to establish the following model guidelines regarding the restrictions on contacts during the procurement process for use by governmental entities (see Legislative Law §1-t (e) and State Finance Law §139-j). In an effort to facilitate compliance by governmental entities, the Advisory Council has prepared model forms and language that can be used to meet the obligations imposed by State Finance Law §139-k, Disclosure of Contacts and Responsibility of Offerers. Sections 139-j and 139-k are collectively referred to as “new State Finance Law.”

It should be noted that while this Advisory Council is charged with the responsibility of providing advice to the New York State Commission on Public Integrity regarding procurement lobbying, the Commission retains full responsibility for the interpretation, administration and enforcement of the Lobbying Act established by Article 1-A of the Legislative Law (see Legislative Law §1-t (c) and §1-d). Accordingly, questions regarding the registration and operation of the Lobbying Act should be directed to the New York State Commission on Public Integrity.

**L. Accessibility of State Agency Web-based Intranet and Internet Information and Applications**

Any web-based intranet and internet information and applications development, or programming delivered pursuant to the contract or procurement will comply with New York State Enterprise IT Policy NYS-P08-005, “Accessibility Web-based Information and Applications”, and New York State Enterprise IT Standard NYS-S08-005, Accessibility of Web-based Information Applications, as such policy or standard may be amended, modified or superseded, which requires that state agency web-based intranet and internet information and applications are accessible to persons with disabilities. Web content must conform to New York State Enterprise IT Standard NYS-S08-005, as determined by quality assurance testing. Such quality assurance testing will be conducted by Department of Health, contractor or other, and the results of such testing must be satisfactory to the Department of Health before web content will be considered a qualified deliverable under the contract or procurement.

**M. Information Security Breach and Notification Act**

Section 208 of the State Technology Law (STL) and Section 899-aa of the General Business Law (GBL) require that State entities and persons or businesses conducting business in New York who own or license computerized data which includes private

information including an individual's unencrypted personal information plus one or more of the following: social security number, driver's license number or non-driver ID, account number, credit or debit card number plus security code, access code or password which permits access to an individual's financial account, must disclose to a New York resident when their private information was, or is reasonably believed to have been, acquired by a person without valid authorization. Notification of breach of that private information to all individuals affected or potentially affected must occur in the most expedient time possible without unreasonable delay, after measures are taken to determine the scope of the breach and to restore integrity; provided, however, that notification may be delayed if law enforcement determines that expedient notification would impede a criminal investigation. When notification is necessary, the State entity or person or business conducting business in New York must also notify the following New York State agencies: the Attorney General, the Office of Cyber Security & Critical Infrastructure Coordination (CSCIC) and the Consumer Protection Board (CPB). Information relative to the law and the notification process is available at: <http://www.cscic.state.ny.us/security/securitybreach/>.

#### **N. New York State Tax Law Section 5-a**

Section 5-a of the Tax Law, as amended, effective April 26, 2006, requires certain contractors awarded state contracts for commodities, services and technology valued at more than \$100,000 to certify to the Department of Tax and Finance (DTF) that they are registered to collect New York State and local sales and compensating use taxes. The law applies to contracts where the total amount of such contractors' sales delivered into New York State are in excess of \$300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made, and with respect to any affiliates and subcontractors whose sales delivered into New York State exceeded \$300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made.

This law imposes upon certain contractors the obligation to certify whether or not the contractor, its affiliates, and its subcontractors are required to register to collect state sales and compensating use tax and contractors must certify to DTF that each affiliate and subcontractor exceeding such sales threshold is registered with DTF to collect New York State and local sales and compensating use taxes. The law prohibits the State Comptroller, or other approving agencies, from approving a contract awarded to an offerer meeting the registration requirements but who is not so registered in accordance with the law.

Contractor must complete and submit directly to the New York State Taxation and Finance, Contractor Certification Form ST-220-TD (Attachment 8). Unless the information upon which the ST-220-TD is based changes, this form only needs to be filed once with DTF. If the information changes for the contractor, its affiliate(s), or its subcontractor(s), a new form (ST-220-TD) must be filed with DTF.

Contractor must complete and submit to the Department of Health the form ST-220-CA (Attachment 9), certifying that the contractor filed the ST-220-TD with DTF. Failure to

make either of these filings may render an offerer non-responsive and non-responsible. Offerers shall take the necessary steps to provide properly certified forms within a timely manner to ensure compliance with the law.

**O. Piggybacking**

New York State Finance Law section 163(10)(e) (see also <http://www.ogs.state.ny.us/procurecounc/pgbguidelines.asp>) allows the Commissioner of the NYS Office of General Services to consent to the use of this contract by other New York State agencies, and other authorized purchasers, subject to conditions and the Contractor's consent.

**P. M/WBE Utilization Plan for Subcontracting and Purchasing**

The Department of Health (DOH) encourages the use of Minority and/or Women Owned Business Enterprises (M/WBE's) for any subcontracting or purchasing related to this contract. Bidders who are not currently a New York State certified M/WBE must define the portion of all consumable products and personnel required for this proposal that will be sourced from a M/WBE. The amount must be stated in total dollars and as a percent of the total cost necessary to fulfill the IFB requirement. Supportive documentation must include a detail description of work that is required including products and services.

The goal for usage of M/WBE's is at least 10% of monies used for contract activities (Minority-owned – 5%; Women-owned – 5%). In order to assure a good-faith effort to attain this goal, the DOH requires that bidders complete the M/WBE Utilization Plan (Attachments 12A-12F) and submit this Plan with their bid documents.

Bidders that are New York State certified MBE's or WBE's are not required to complete this form. Instead, such bidders must simply provide evidence of their certified status.

Failure to submit the above referenced Plan (or evidence of certified M/WBE status) may result in disqualification of the vendor from consideration for award. Include this form with the Cost Proposal.

**VI. LIST OF APPENDICES**

The following will be incorporated into any contract resulting from this Invitation for Bid. This Invitation for Bid will, itself, be referenced as an appendix of the contract.

- Appendix A – Standard Clauses for All New York State Contracts
- Appendix B – Invitation for bid
- Appendix C – Proposal

The bidder's proposal (if selected for award), including any Bid Forms and all proposal requirements.

- Appendix D – General Specifications

- Appendix ARRA – Language for Contracts Funded in Whole or in Part by the American Recovery and Reinvestment Act
- Appendix E

Unless the CONTRACTOR is a political sub-division of New York State, the CONTRACTOR shall provide proof, completed by the CONTRACTOR'S insurance carrier and/or the Workers' Compensation Board, of coverage for:

- Workers' Compensation, for which one of the following is incorporated into this contract as **Appendix E-1**:
  - **CE-200**, Affidavit For New York Entities And Any Out-Of-State Entities With No Employees, That New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage Is Not Required; OR
  - **C-105.2** – Certificate of Workers' Compensation Insurance. PLEASE NOTE: The State Insurance Fund provides its own version of this form, the **U-26.3**; OR
  - **SI-12** – Certificate of Workers' Compensation Self-Insurance, OR **GSI-105.2** – Certificate of Participation in Workers' Compensation Group Self-Insurance.
- Disability Benefits coverage, for which one of the following is incorporated into this contract as **Appendix E-2**:
  - **CE-200**, Affidavit For New York Entities And Any Out-Of-State Entities With No Employees, That New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage Is Not Required; OR
  - **DB-120.1** – Certificate of Disability Benefits Insurance
  - **DB-155** – Certificate of Disability Benefits Self-Insurance
- Appendix G – Notices
- Appendix H – Health Insurance Portability and Accountability Act (HIPAA) (if applicable)
- Appendix X – Modification Agreement Form (to accompany modified appendices for changes in term or consideration on an existing period or for renewal periods)

## VII. ATTACHMENTS

1. Department of Health No-Bid Form
2. Department of Health Bid Form
3. Bid Cover Sheet
4. Bid Quotation Form
5. Bid Detail Sheet

6. State Consultant Services Form "A" - Contractor's Planned Employment From Contract Start Date through End of Contract Term
7. State Consultant Services Form "B" - Contractor's Annual Employment Report
8. NYS Taxation and Finance Contractor Certification Form ST-220-TD
9. NYS Taxation and Finance Contractor Certification Form ST-220-CA
10. Vendor Responsibility Questionnaire
11. Vendor Responsibility Attestation
12. M/WBE Procurement Forms – Attachments 12A - 12F
13. Standard Clauses for All New York State Contracts
14. General Specifications
15. Appendix ARRA – Special Language for Contracts Funded in Whole or in Part by the American Recovery and Reinvestment Act
16. Special ARRA Reports
17. Appendix G
18. Appendix H
19. Appendix X

**ATTACHMENT 1**

**NEW YORK STATE  
DEPARTMENT OF HEALTH  
NO-BID FORM**

PROCUREMENT TITLE: \_\_\_\_\_ FAU # \_\_\_\_\_

Bidders choosing not to bid are requested to complete the portion of the form below:

We do not provide the requested services. Please remove our firm from your mailing list

We are unable to bid at this time because:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please retain our firm on your mailing list.

\_\_\_\_\_  
(Firm Name)

\_\_\_\_\_  
(Officer Signature)                      \_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Officer Title)                              \_\_\_\_\_  
(Telephone)

\_\_\_\_\_  
(e-mail Address)

FAILURE TO RESPOND TO BID INVITATIONS MAY RESULT IN YOUR FIRM BEING REMOVED FROM OUR MAILING LIST FOR THIS SERVICE.

**ATTACHMENT 2**

**NEW YORK STATE  
DEPARTMENT OF HEALTH  
BID FORM**

PROCUREMENT TITLE: \_\_\_\_\_ FAU # \_\_\_\_\_

Bidder Name: \_\_\_\_\_

Bidder Address: \_\_\_\_\_

Bidder Fed ID No.: \_\_\_\_\_

A. \_\_\_\_\_ bids a total price of \$ \_\_\_\_\_  
(Name of Offerer/Bidder)

**B. Affirmations & Disclosures related to State Finance Law §§ 139-j & 139-k:**

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

Pursuant to State Finance Law §§139-j and 139-k, this *Invitation for Bid or Request for Proposal* includes and imposes certain restrictions on communications between the Department of Health (DOH) and an Offerer during the procurement process. An Offerer/bidder is restricted from making contacts from the earliest notice of intent to solicit *bids/proposals* through final award and approval of the Procurement Contract by the DOH and, if applicable, 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/are identified on the first page of this *Invitation for Bid, Request for Proposal, or other solicitation document*. DOH 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 on the Office of General Services Website at:

<http://www.ogs.state.ny.us/aboutOgs/regulations/defaultAdvisoryCouncil.html>

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:

1a. Was the basis for the finding of non-responsibility due to a violation of State Finance Law §139-j (Please circle):

No Yes



**D.** Offerer/Bidder agrees to provide the following documentation either *with their submitted bid/proposal* or *upon award* as indicated below:

With Bid

Upon Award

1. A completed N.Y.S Taxation and Finance Contractor Certification Form ST-220.

2. A completed State Consultant Services Form A, Contractor's Planned Employment From Contract Start Date through End of Contract Term

-----

\_\_\_\_\_  
(Officer Signature)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Officer Title)

\_\_\_\_\_  
(Telephone)

\_\_\_\_\_  
(e-mail Address)







## ATTACHMENTS 6 and 7

### Instructions

State Consultant Services  
Form A: Contractor's Planned Employment  
And

Form B: Contractor's Annual Employment Report

Form A: This report must be completed before work begins on a contract. Typically it is completed as a part of the original bid proposal. The report is submitted only to the soliciting agency who will in turn submit the report to the NYS Office of the State Comptroller.

Form B: This report must be completed annually for the period April 1 through March 31. The report must be submitted by May 15<sup>th</sup> of each year to the following three addresses:

1. the designated payment office (DPO) outlined in the consulting contract.
2. NYS Office of the State Comptroller  
Bureau of Contracts  
110 State Street, 11<sup>th</sup> Floor  
Albany, NY 12236  
Attn: Consultant Reporting  
or via fax to –  
(518) 474-8030 or (518) 473-8808
3. NYS Department of Civil Service  
Alfred E. Smith Office Building  
Albany, NY 12239  
Attn: Consultant Reporting

Completing the Reports: **Scope of Contract (Form B only):** a general classification of the single category that best fits the predominate nature of the services provided under the contract.

**Employment Category:** the specific occupation(s), as listed in the O\*NET occupational classification system, which best describe the employees providing services under the contract. Access the O\*NET database, which is available through the US Department of Labor's Employment and Training Administration, on-line at [online.onetcenter.org](http://online.onetcenter.org) to find a list of occupations.)

**Number of Employees:** the total number of employees in the employment category employed to provide services under the contract during the Report Period, including part time employees and employees of subcontractors.

**Number of hours (to be) worked:** for Form A, the total number of hours to be worked, and for Form B, the total number of hours worked during the Report Period by the employees in the employment category.

**Amount Payable under the Contract:** the total amount paid or payable by the State to the State CONTRACTOR under the contract, for work by the employees in the employment category, for services provided during the Report Period.

## ATTACHMENT 6

### Contractor's Planned Employment From Contract Start Date through End of Contract Term

State Consultant Services  <h1 style="margin: 0;">FORM A</h1>
---

<b>OSC Use Only</b> Reporting Code: Category Code: Date Contract Approved:
---

New York State Department of Health Contractor Name:	Agency Code 12000 Contract Number:
Contract Start Date:    /    /	Contract End Date:    /    /

Employment Category	Number of Employees	Number of Hours to be Worked	Amount Payable Under the Contract
Totals this page:			
Grand Total:			

Name of person who prepared this report:

Title:

Phone #:

Preparer's signature:

Date Prepared:    /    /  
(use additional pages if necessary)

Page \_\_\_ of \_\_\_

## ATTACHMENT 7

### Contractor's Annual Employment Report Report Period: April 1, \_\_\_\_ to March 31, \_\_\_\_

State Consultant Services <b>FORM B</b>
--

<b>OSC Use Only</b> Reporting Code: Category Code:
--

New York State Department of Health	Agency Code 12000
Contract Number:	
Contract Start Date: / /	Contract End Date: / /
Contractor Name:	
Contractor Address:	
Description of Services Being Provided:	

Scope of Contract (Chose one that best fits):

Analysis	Evaluation	Research
Training	Data Processing	Computer Programming
Other IT Consulting	Engineering	Architect Services
Surveying	Environmental Services	Health Services
Mental Health Services	Accounting	Auditing
Paralegal	Legal	Other Consulting

Employment Category	Number of Employees	Number of Hours to be Worked	Amount Payable Under the Contract
Totals this page:			
Grand Total:			

Name of person who prepared this report:

Title:

Phone #:

Preparer's signature:

Date Prepared: / /  
(use additional pages if necessary)

Page \_\_\_ of \_\_\_

**ATTACHMENT 8**  
N.Y.S Taxation and Finance  
Contractor Certification Form ST-220-TD



# Contractor Certification

(Pursuant to Section 5-a of the Tax Law, as amended, effective April 26, 2006)

# ST-220-TD

(5/07)

For information, consult Publication 223, *Questions and Answers Concerning Tax Law Section 5-a* (see *Need help?* below).

Contractor name				
Contractor's principal place of business		City	State	ZIP code
Contractor's mailing address (if different than above)				
Contractor's federal employer identification number (EIN)		Contractor's sales tax ID number (if different from contractor's EIN)		Contractor's telephone number ( )
Covered agency or state agency	Contract number or description		Estimated contract value over the full term of contract (but not including renewals) \$	
Covered agency address			Covered agency telephone number	

## General information

Section 5-a of the Tax Law, as amended, effective April 26, 2006, requires certain contractors awarded certain state contracts valued at more than \$100,000 to certify to the Tax Department that they are registered to collect New York State and local sales and compensating use taxes, if they made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000, measured over a specified period. In addition, contractors must certify to the Tax Department that each affiliate and subcontractor exceeding such sales threshold during a specified period is registered to collect New York State and local sales and compensating use taxes. Contractors must also file a Form ST-220-CA, certifying to the procuring state entity that they filed Form ST-220-TD with the Tax Department and that the information contained on Form ST-220-TD is correct and complete as of the date they file Form ST-220-CA.

All sections must be completed including all fields on the top of this page, all sections on page 2, Schedule A on page 3, if applicable, and Individual, Corporation, Partnership, or LLC Acknowledgement on page 4. If you do not complete these areas, the form will be returned to you for completion.

For more detailed information regarding this form and section 5-a of the Tax Law, see Publication 223, *Questions and Answers Concerning Tax Law Section 5-a*, (as amended, effective April 26, 2006), available at [www.nystax.gov](http://www.nystax.gov). Information is also available by calling the Tax Department's Contractor Information Center at 1 800 698-2931.

**Note:** Form ST-220-TD must be signed by a person authorized to make the certification on behalf of the contractor, and the acknowledgement on page 4 of this form must be completed before a notary public.

Mail completed form to:

**NYS TAX DEPARTMENT  
DATA ENTRY SECTION  
W A HARRIMAN CAMPUS  
ALBANY NY 12227**

## Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Director of Records Management and Data Entry, NYS Tax Department, W A Harriman Campus, Albany NY 12227.

## Need help?



**Internet access:** [www.nystax.gov](http://www.nystax.gov)  
(for information, forms, and publications)



**Fax-on-demand forms:** 1 800 748-3676



**Telephone assistance** is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday.

To order forms and publications: 1 800 462-8100  
**Sales Tax Information Center:** 1 800 698-2909  
 From areas outside the U.S. and outside Canada: (518) 485-6800

**Hearing and speech impaired** (telecommunications device for the deaf (TDD) callers only): 1 800 634-2110



**Persons with disabilities:** In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call 1 800 972-1233.

I, \_\_\_\_\_, hereby affirm, under penalty of perjury, that I am \_\_\_\_\_  
*(name)* *(title)*  
of the above-named contractor, and that I am authorized to make this certification on behalf of such contractor.

**Complete Sections 1, 2, and 3 below. Make only one entry in each section.**

**Section 1 — Contractor registration status**

- The contractor has made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made. The contractor is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law, and is listed on Schedule A of this certification.
- The contractor has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

**Section 2 — Affiliate registration status**

- The contractor does not have any affiliates.
- To the best of the contractor's knowledge, the contractor has one or more affiliates having made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made, and each affiliate exceeding the \$300,000 cumulative sales threshold during such quarters is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law. The contractor has listed each affiliate exceeding the \$300,000 cumulative sales threshold during such quarters on Schedule A of this certification.
- To the best of the contractor's knowledge, the contractor has one or more affiliates, and each affiliate has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

**Section 3 — Subcontractor registration status**

- The contractor does not have any subcontractors.
- To the best of the contractor's knowledge, the contractor has one or more subcontractors having made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made, and each subcontractor exceeding the \$300,000 cumulative sales threshold during such quarters is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law. The contractor has listed each subcontractor exceeding the \$300,000 cumulative sales threshold during such quarters on Schedule A of this certification.
- To the best of the contractor's knowledge, the contractor has one or more subcontractors, and each subcontractor has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Sworn to this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_

\_\_\_\_\_  
*(sign before a notary public)*

\_\_\_\_\_  
*(title)*





**ATTACHMENT 9**  
N.Y.S Taxation and Finance  
Contractor Certification Form ST-220-CA



# Contractor Certification to Covered Agency

(Pursuant to Section 5-a of the Tax Law, as amended, effective April 26, 2006)

# ST-220-CA

(6/06)

For information, consult Publication 223, *Questions and Answers Concerning Tax Law Section 5-a* (see *Need Help? on back*).

Contractor name		For covered agency use only Contract number or description	
Contractor's principal place of business	City	State	ZIP code
Contractor's mailing address (if different than above)		Estimated contract value over the full term of contract (but not including renewals)	
Contractor's federal employer identification number (EIN)	Contractor's sales tax ID number (if different from contractor's EIN)		\$
Contractor's telephone number	Covered agency name		
Covered agency address		Covered agency telephone number	

I, \_\_\_\_\_, hereby affirm, under penalty of perjury, that I am \_\_\_\_\_

(name)

(title)

of the above-named contractor, that I am authorized to make this certification on behalf of such contractor, and I further certify that:

(Mark an X in only one box)

The contractor has filed Form ST-220-TD with the Department of Taxation and Finance in connection with this contract and, to the best of contractor's knowledge, the information provided on the Form ST-220-TD, is correct and complete.

The contractor has previously filed Form ST-220-TD with the Tax Department in connection with \_\_\_\_\_

(insert contract number or description)

and, to the best of the contractor's knowledge, the information provided on that previously filed Form ST-220-TD, is correct and complete as of the current date, and thus the contractor is not required to file a new Form ST-220-TD at this time.

Sworn to this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_

(sign before a notary public)

(title)

## Instructions

### General information

Tax Law section 5-a was amended, effective April 26, 2006. On or after that date, in all cases where a contract is subject to Tax Law section 5-a, a contractor must file (1) Form ST-220-CA, *Contractor Certification to Covered Agency*, with a covered agency, and (2) Form ST-220-TD with the Tax Department before a contract may take effect. The circumstances when a contract is subject to section 5-a are listed in Publication 223, Q&A 3. This publication is available on our Web site, by fax, or by mail. (See *Need help?* for more information on how to obtain this publication.) In addition, a contractor must file a new Form ST-220-CA with a covered agency before an existing contract with such agency may be renewed.

If you have questions, please call our information center at 1 800 698-2931.

**Note:** Form ST-220-CA must be signed by a person authorized to make the certification on behalf of the contractor, and the acknowledgement on page 2 of this form must be completed before a notary public.

### When to complete this form

As set forth in Publication 223, a contract is subject to section 5-a, and you must make the required certification(s), if:

- i. The procuring entity is a *covered agency* within the meaning of the statute (see Publication 223, Q&A 5);
- ii. The contractor is a *contractor* within the meaning of the statute (see Publication 223, Q&A 6); and
- iii. The contract is a *contract* within the meaning of the statute. This is the case when it (a) has a value in excess of \$100,000 and (b) is a contract for *commodities* or *services*, as such terms are defined for purposes of the statute (see Publication 223, Q&A 8 and 9).

Furthermore, the procuring entity must have begun the solicitation to purchase on or after January 1, 2005, and the resulting contract must have been awarded, amended, extended, renewed, or assigned *on or after April 26, 2006* (the effective date of the section 5-a amendments).

Individual, Corporation, Partnership, or LLC Acknowledgment

STATE OF }
: SS.:
COUNTY OF }

On the \_\_\_ day of \_\_\_\_\_ in the year 20\_\_\_, before me personally appeared \_\_\_\_\_,
known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that
\_he resides at \_\_\_\_\_,
Town of \_\_\_\_\_,
County of \_\_\_\_\_,
State of \_\_\_\_\_; and further that:

[Mark an X in the appropriate box and complete the accompanying statement.]

- (If an individual): \_he executed the foregoing instrument in his/her name and on his/her own behalf.
(If a corporation): \_he is the \_\_\_\_\_ of \_\_\_\_\_, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, \_he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, \_he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.
(If a partnership): \_he is a \_\_\_\_\_ of \_\_\_\_\_, the partnership described in said instrument; that, by the terms of said partnership, \_he is authorized to execute the foregoing instrument on behalf of the partnership for purposes set forth therein; and that, pursuant to that authority, \_he executed the foregoing instrument in the name of and on behalf of said partnership as the act and deed of said partnership.
(If a limited liability company): \_he is a duly authorized member of \_\_\_\_\_, LLC, the limited liability company described in said instrument; that \_he is authorized to execute the foregoing instrument on behalf of the limited liability company for purposes set forth therein; and that, pursuant to that authority, \_he executed the foregoing instrument in the name of and on behalf of said limited liability company as the act and deed of said limited liability company.

Notary Public

Registration No.

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).
This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.
Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.
Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.
This information is maintained by the Director of Records Management and Data Entry, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the United States and outside Canada, call (518) 485-6800.

Need help?
Internet access: www.nystax.gov (for information, forms, and publications)
Fax-on-demand forms: 1 800 748-3676
Telephone assistance is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday. 1 800 698-2931
To order forms and publications: 1 800 462-8100
From areas outside the U.S. and outside Canada: (518) 485-6800
Hearing and speech impaired (telecommunications device for the deaf (TDD) callers only): 1 800 634-2110
Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call 1 800 972-1233.

**ATTACHMENT 10**  
OSC Vendor Responsibility Questionnaire

## NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE FOR-PROFIT BUSINESS ENTITY

You have selected the For-Profit Non-Construction questionnaire which may be printed and completed in this format or, for your convenience, may be completed online using the New York State VendRep System.

### COMPLETION & CERTIFICATION

The person(s) completing the questionnaire must be knowledgeable about the vendor's business and operations. An owner or officer must certify the questionnaire and the signature must be notarized.

### DEFINITIONS

All underlined terms are defined in the "New York State Vendor Responsibility Definitions List," found at <http://www.osc.state.ny.us/vendrep/documents/definitions.pdf>. These terms may not have their ordinary, common or traditional meanings. Each vendor is strongly encouraged to read the respective definitions for any and all underlined terms. By submitting this questionnaire, the vendor agrees to be bound by the terms as defined in the "New York State Vendor Responsibility Definitions List" existing at the time of certification.

### RESPONSES

Every question must be answered. Each response must provide all relevant information which can be obtained within the limits of the law. However, information regarding a determination or finding made in error which was subsequently corrected is not required. Individuals and Sole Proprietors may use a Social Security Number but are encouraged to obtain and use a federal Employer Identification Number (EIN).

### REPORTING ENTITY

Each vendor must indicate if the questionnaire is filed on behalf of the entire Legal Business Entity or an Organizational Unit within or operating under the authority of the Legal Business Entity and having the same EIN. Generally, the Organizational Unit option may be appropriate for a vendor that meets the definition of "Reporting Entity" but due to the size and complexity of the Legal Business Entity, is best able to provide the required information for the Organizational Unit, while providing more limited information for other parts of the Legal Business Entity and Associated Entities.

### ASSOCIATED ENTITY

An Associated Entity is one that owns or controls the Reporting Entity or any entity owned or controlled by the Reporting Entity. However, the term Associated Entity does **not** include "sibling organizations" (i.e., entities owned or controlled by a parent company that owns or controls the Reporting Entity), unless such sibling entity has a direct relationship with or impact on the Reporting Entity.

### STRUCTURE OF THE QUESTIONNAIRE

The questionnaire is organized into eleven sections. Section I is to be completed for the Legal Business Entity. Section II requires the vendor to specify the Reporting Entity for the questionnaire. Section III refers to the individuals of the Reporting Entity, while Sections IV-VIII require information about the Reporting Entity. Section IX pertains to any Associated Entities, with one question about their Officials/Owners. Section X relates to disclosure under the Freedom of Information Law (FOIL). Section XI requires an authorized contact for the questionnaire information.

**NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE  
FOR-PROFIT BUSINESS ENTITY**

I. LEGAL BUSINESS ENTITY INFORMATION			
<u>Legal Business Entity Name*</u>		<u>EIN</u> (Enter 9 digits, without hyphen)	
Address of the <u>Principal Place of Business</u> (street, city, state, zip code)		Telephone ext.	Fax
E-mail		Website	
Additional <u>Legal Business Entity Identities</u> : If applicable, list any other <u>DBA</u> , <u>Trade Name</u> , <u>Former Name</u> , <u>Other Identity</u> , or <u>EIN</u> used in the last five (5) years and the status (active or inactive).			
Type	Name	EIN	Status
1.0 <u>Legal Business Entity Type</u> – Check appropriate box and provide additional information:			
<input type="checkbox"/> <u>Corporation</u> (including <u>PC</u> )		Date of Incorporation	
<input type="checkbox"/> <u>Limited Liability Company</u> ( <u>LLC</u> or <u>PLLC</u> )		Date of Organization	
<input type="checkbox"/> <u>Partnership</u> (including <u>LLP</u> , <u>LP</u> or <u>General</u> )		Date of Registration or Establishment	
<input type="checkbox"/> <u>Sole Proprietor</u>		How many years in business?	
<input type="checkbox"/> Other		Date Established	
If Other, explain:			
1.1 Was the <u>Legal Business Entity</u> formed or incorporated in New York State?			<input type="checkbox"/> Yes <input type="checkbox"/> No
If 'No,' indicate jurisdiction where <u>Legal Business Entity</u> was formed or incorporated and attach a <u>Certificate of Good Standing</u> from the applicable jurisdiction or provide an explanation if a <u>Certificate of Good Standing</u> is not available.			
<input type="checkbox"/> United States    State    _____			
<input type="checkbox"/> Other                    Country    _____			
Explain, if not available:			
1.2 Is the <u>Legal Business Entity</u> publicly traded?			<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide <u>CIK Code</u> or Ticker Symbol			
1.3 Does the <u>Legal Business Entity</u> have a <u>DUNS</u> Number?			<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," Enter <u>DUNS</u> Number			

\*All underlined terms are defined in the "New York State Vendor Responsibility Definitions List," which can be found at <http://www.osc.state.ny.us/vendrep/documents/definitions.pdf>.

**NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE  
FOR-PROFIT BUSINESS ENTITY**

**I. LEGAL BUSINESS ENTITY INFORMATION**

<p>1.4 If the <u>Legal Business Entity</u>'s <u>Principal Place of Business</u> is not in New York State, does the <u>Legal Business Entity</u> maintain an office in New York State? (Select "N/A," if <u>Principal Place of Business</u> is in New York State.)</p>	<p><input type="checkbox"/> Yes   <input type="checkbox"/> No <input type="checkbox"/> N/A</p>
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If "Yes," provide the address and telephone number for one office located in New York State.

<p>1.5 Is the <u>Legal Business Entity</u> a New York State certified <u>Minority-Owned Business Enterprise</u> (MBE), <u>Women-Owned Business Enterprise</u> (WBE), <u>New York State Small Business</u> (SB) or a federally certified <u>Disadvantaged Business Enterprise</u> (DBE)? If "Yes," check all that apply: <input type="checkbox"/> New York State certified <u>Minority-Owned Business Enterprise</u> (MBE) <input type="checkbox"/> New York State certified <u>Women-Owned Business Enterprise</u> (WBE) <input type="checkbox"/> <u>New York State Small Business</u> (SB) <input type="checkbox"/> Federally certified <u>Disadvantaged Business Enterprise</u> (DBE)</p>	<p><input type="checkbox"/> Yes   <input type="checkbox"/> No</p>
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1.6 Identify Officials and Principal Owners, if applicable. For each person, include name, title and percentage of ownership. Attach additional pages if necessary. If applicable, reference to relevant SEC filing(s) containing the required information is optional.

Name	Title	Percentage Ownership ( <i>Enter 0% if not applicable</i> )

**NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE  
FOR-PROFIT BUSINESS ENTITY**

**II. REPORTING ENTITY INFORMATION**

The Reporting Entity for this questionnaire is:

Note: Select only one.

Legal Business Entity

*Note: If selecting this option, "Reporting Entity" refers to the entire Legal Business Entity for the remainder of the questionnaire. (SKIP THE REMAINDER OF SECTION II AND PROCEED WITH SECTION III.)*

Organizational Unit within and operating under the authority of the Legal Business Entity

SEE DEFINITIONS OF "REPORTING ENTITY" AND "ORGANIZATIONAL UNIT" FOR ADDITIONAL INFORMATION ON CRITERIA TO QUALIFY FOR THIS SELECTION.

*Note: If selecting this option, "Reporting Entity" refers to the Organizational Unit within the Legal Business Entity for the remainder of the questionnaire. (COMPLETE THE REMAINDER OF SECTION II AND ALL REMAINING SECTIONS OF THIS QUESTIONNAIRE.)*

**IDENTIFYING INFORMATION**

a) Reporting Entity Name

Address of the Primary Place of Business (street, city, state, zip code)

Telephone

ext.

b) Describe the relationship of the Reporting Entity to the Legal Business Entity

c) Attach an organizational chart

d) Does the Reporting Entity have a DUNS Number?

Yes  No

If "Yes," enter DUNS Number

e) Identify the designated manager(s) responsible for the business of the Reporting Entity. For each person, include name and title. Attach additional pages if necessary.

Name	Title

**NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE  
FOR-PROFIT BUSINESS ENTITY**

**INSTRUCTIONS FOR SECTIONS III THROUGH VII**

For each "Yes," provide an explanation of the issue(s), relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s). For each "Other," provide an explanation which provides the basis for not definitively responding "Yes" or "No." Provide the explanation at the end of the section or attach additional sheets with numbered responses, including the Reporting Entity name at the top of any attached pages.

<b>III. LEADERSHIP INTEGRITY</b> <b>WITHIN THE PAST FIVE (5) YEARS, HAS ANY CURRENT OR FORMER REPORTING ENTITY OFFICIAL OR ANY INDIVIDUAL CURRENTLY OR FORMERLY HAVING THE AUTHORITY TO SIGN, EXECUTE OR APPROVE BIDS, PROPOSALS, CONTRACTS OR SUPPORTING DOCUMENTATION ON BEHALF OF THE REPORTING ENTITY</b>	
3.0 <u>Sanctioned</u> relative to any business or professional permit and/or license?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other
3.1 <u>Suspended, debarred, or disqualified</u> from any <u>government contracting process</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other
3.2 The subject of an <u>investigation</u> , whether open or closed, by any <u>government entity</u> for a civil or criminal violation for any business-related conduct?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other
3.3 Charged with a misdemeanor or felony, indicted, granted immunity, convicted of a crime or subject to a <u>judgment</u> for: a) Any business-related activity; or b) Any crime, whether or not business-related, the underlying conduct of which was related to truthfulness?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other
For each "Yes" or "Other" explain:	

<b>IV. INTEGRITY – CONTRACT BIDDING</b> <b>WITHIN THE PAST FIVE (5) YEARS, HAS THE REPORTING ENTITY:</b>	
4.0 Been <u>suspended</u> or <u>debarred</u> from any <u>government contracting process</u> or been <u>disqualified</u> on any government procurement, permit, license, concession, franchise or lease, including, but not limited to, <u>debarment</u> for a violation of New York State Workers' Compensation or Prevailing Wage laws or New York State Procurement Lobbying Law?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.1 Been subject to a denial or revocation of a government prequalification?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.2 Been denied a contract award or had a bid rejected based upon a <u>non-responsibility finding</u> by a <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.3 Had a low bid rejected on a <u>government contract</u> for failure to <u>make good faith efforts</u> on any <u>Minority-Owned Business Enterprise, Women-Owned Business Enterprise or Disadvantaged Business Enterprise</u> goal or <u>statutory affirmative action requirements</u> on a previously held contract?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.4 Agreed to a voluntary exclusion from bidding/contracting with a <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.5 Initiated a request to withdraw a bid submitted to a <u>government entity</u> in lieu of responding to an information request or subsequent to a formal request to appear before the <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
For each "Yes," explain:	

**NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE  
FOR-PROFIT BUSINESS ENTITY**

<b>V. INTEGRITY – CONTRACT AWARD WITHIN THE PAST FIVE (5) YEARS, HAS THE REPORTING ENTITY:</b>	
5.0 Been <u>suspended</u> , cancelled or <u>terminated for cause</u> on any <u>government contract</u> including, but not limited to, a <u>non-responsibility finding</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
5.1 Been subject to an <u>administrative proceeding</u> or civil action seeking specific performance or restitution in connection with any <u>government contract</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
5.2 Entered into a formal monitoring agreement as a condition of a contract award from a <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
For each “Yes,” explain:	

<b>VI. CERTIFICATIONS/LICENSES WITHIN THE PAST FIVE (5) YEARS, HAS THE REPORTING ENTITY:</b>	
6.0 Had a revocation, <u>suspension</u> or <u>disbarment</u> of any business or professional permit and/or license?	<input type="checkbox"/> Yes <input type="checkbox"/> No
6.1 Had a denial, decertification, revocation or forfeiture of New York State certification of <u>Minority-Owned Business Enterprise</u> , <u>Women-Owned Business Enterprise</u> or federal certification of <u>Disadvantaged Business Enterprise</u> status for other than a change of ownership?	<input type="checkbox"/> Yes <input type="checkbox"/> No
For each “Yes,” explain:	

<b>VII. LEGAL PROCEEDINGS WITHIN THE PAST FIVE (5) YEARS, HAS THE REPORTING ENTITY:</b>	
7.0 Been the subject of an <u>investigation</u> , whether open or closed, by any <u>government entity</u> for a civil or criminal violation?	<input type="checkbox"/> Yes <input type="checkbox"/> No
7.1 Been the subject of an indictment, grant of immunity, <u>judgment</u> or conviction (including entering into a plea bargain) for conduct constituting a crime?	<input type="checkbox"/> Yes <input type="checkbox"/> No
7.2 Received any OSHA citation and Notification of Penalty containing a violation classified as <u>serious or willful</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
7.3 Had a <u>government entity</u> find a willful prevailing wage or supplemental payment violation or any other willful violation of New York State Labor Law?	<input type="checkbox"/> Yes <input type="checkbox"/> No
7.4 Entered into a consent order with the New York State Department of Environmental Conservation, or received an enforcement determination by any <u>government entity</u> involving a violation of federal, state or local environmental laws?	<input type="checkbox"/> Yes <input type="checkbox"/> No
7.5 Other than previously disclosed: a) Been subject to fines or penalties imposed by <u>government entities</u> which in the aggregate total \$25,000 or more; or b) Been convicted of a criminal offense pursuant to any administrative and/or regulatory action taken by any <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
For each “Yes,” explain:	

**NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE  
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VIII. FINANCIAL AND ORGANIZATIONAL CAPACITY	
8.0 Within the past five (5) years, has the <u>Reporting Entity</u> received any <u>formal unsatisfactory performance assessment(s)</u> from any <u>government entity</u> on any contract?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide an explanation of the issue(s), relevant dates, the <u>government entity</u> involved, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
8.1 Within the past five (5) years, has the <u>Reporting Entity</u> had any <u>liquidated damages</u> assessed over \$25,000?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide an explanation of the issue(s), relevant dates, contracting party involved, the amount assessed and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
8.2 Within the past five (5) years, have any <u>liens</u> or <u>judgments</u> (not including UCC filings) over \$25,000 been filed against the <u>Reporting Entity</u> which remain undischarged?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide an explanation of the issue(s), relevant dates, the Lien holder or Claimant's name(s), the amount of the <u>lien(s)</u> and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
8.3 In the last seven (7) years, has the <u>Reporting Entity</u> initiated or been the subject of any bankruptcy proceedings, whether or not closed, or is any bankruptcy proceeding pending?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide the bankruptcy chapter number, the court name and the docket number. Indicate the current status of the proceedings as "Initiated," "Pending" or "Closed." Provide answer below or attach additional sheets with numbered responses.	
8.4 During the past three (3) years, has the <u>Reporting Entity</u> failed to file or pay any tax returns required by <u>federal, state or local tax laws</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide the taxing jurisdiction, the type of tax, the liability year(s), the tax liability amount the <u>Reporting Entity</u> failed to file/pay and the current status of the tax liability. Provide answer below or attach additional sheets with numbered responses.	
8.5 During the past three (3) years, has the <u>Reporting Entity</u> failed to file or pay any New York State unemployment insurance returns?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide the years the <u>Reporting Entity</u> failed to file/pay the insurance, explain the situation and any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
8.6 During the past three (3) years, has the <u>Reporting Entity</u> had any <u>government audit(s)</u> completed?	<input type="checkbox"/> Yes <input type="checkbox"/> No
a) If "Yes," did any audit of the <u>Reporting Entity</u> identify any reported significant deficiencies in internal control, fraud, illegal acts, significant violations of provisions of contract or grant agreements, significant abuse or any <u>material disallowance</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes" to 8.6 a), provide an explanation of the issue(s), relevant dates, the <u>government entity</u> involved, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	

**NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE  
FOR-PROFIT BUSINESS ENTITY**

<b>IX. ASSOCIATED ENTITIES</b> <b>THIS SECTION PERTAINS TO ANY ENTITY(IES) THAT EITHER CONTROLS OR IS CONTROLLED BY THE REPORTING ENTITY.</b> <b>(SEE DEFINITION OF "ASSOCIATED ENTITY" FOR ADDITIONAL INFORMATION TO COMPLETE THIS SECTION.)</b>	
9.0 Does the <u>Reporting Entity</u> have any <u>Associated Entities</u> ? Note: All questions in this section must be answered if the <u>Reporting Entity</u> is either: – An <u>Organizational Unit</u> ; or – The entire <u>Legal Business Entity</u> which controls, or is controlled by, any other entity(ies). If "No," SKIP THE REMAINDER OF SECTION IX AND PROCEED WITH SECTION X.	<input type="checkbox"/> Yes <input type="checkbox"/> No
9.1 Within the past five (5) years, has any <u>Associated Entity Official</u> or <u>Principal Owner</u> been charged with a misdemeanor or felony, indicted, granted immunity, convicted of a crime or subject to a <u>judgment</u> for: a) Any business-related activity; or b) Any crime, whether or not business-related, the underlying conduct of which was related to truthfulness?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide an explanation of the issue(s), the individual involved, his/her title and role in the <u>Associated Entity</u> , his/her relationship to the <u>Reporting Entity</u> , relevant dates, the <u>government entity</u> involved, any remedial or corrective action(s) taken and the current status of the issue(s).	
9.2 Does any <u>Associated Entity</u> have any currently undischarged <u>federal</u> , New York State, New York City or New York local government <u>liens</u> or <u>judgments</u> (not including UCC filings) over \$50,000?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide an explanation of the issue(s), identify the <u>Associated Entity</u> 's name(s), <u>EIN</u> (s), primary business activity, relationship to the <u>Reporting Entity</u> , relevant dates, the Lien holder or Claimant's name(s), the amount of the <u>lien</u> (s) and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
9.3 Within the past five (5) years, has any <u>Associated Entity</u> :	
a) Been <u>disqualified</u> , <u>suspended</u> or <u>debarred</u> from any <u>federal</u> , New York State, New York City or other New York local <u>government contracting process</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
b) Been denied a contract award or had a bid rejected based upon a <u>non-responsibility finding</u> by any <u>federal</u> , New York State, New York City, or New York local <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
c) Been <u>suspended</u> , <u>cancelled</u> or <u>terminated for cause</u> (including for <u>non-responsibility</u> ) on any <u>federal</u> , New York State, New York City or New York local <u>government contract</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
d) Been the subject of an <u>investigation</u> , whether open or closed, by any <u>federal</u> , New York State, New York City, or New York local <u>government entity</u> for a civil or criminal violation with a penalty in excess of \$500,000?	<input type="checkbox"/> Yes <input type="checkbox"/> No
e) Been the subject of an indictment, grant of immunity, <u>judgment</u> , or conviction (including entering into a plea bargain) for conduct constituting a crime?	<input type="checkbox"/> Yes <input type="checkbox"/> No
f) Been convicted of a criminal offense pursuant to any administrative and/or regulatory action taken by any <u>federal</u> , New York State, New York City, or New York local <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
g) Initiated or been the subject of any bankruptcy proceedings, whether or not closed, or is any bankruptcy proceeding pending?	<input type="checkbox"/> Yes <input type="checkbox"/> No
For each "Yes," provide an explanation of the issue(s), identify the <u>Associated Entity</u> 's name(s), <u>EIN</u> (s), primary business activity, relationship to the <u>Reporting Entity</u> , relevant dates, the <u>government entity</u> involved, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	

**NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE  
FOR-PROFIT BUSINESS ENTITY**

**X. FREEDOM OF INFORMATION LAW (FOIL)**

<p>10. Indicate whether any information supplied herein is believed to be exempt from disclosure under the Freedom of Information Law (FOIL). Note: A determination of whether such information is exempt from FOIL will be made at the time of any request for disclosure under FOIL.</p>	<p><input type="checkbox"/> Yes   <input type="checkbox"/> No</p>
--	---

Indicate the question number(s) and explain the basis for the claim.

**XI. AUTHORIZED CONTACT FOR THIS QUESTIONNAIRE**

Name	Telephone ext.	Fax
Title	Email	

**NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE  
FOR-PROFIT BUSINESS ENTITY**

**Certification**

The undersigned: (1) recognizes that this questionnaire is submitted for the express purpose of assisting New York State contracting entities in making responsibility determinations regarding an award of a contract or approval of a subcontract; (2) recognizes that the Office of the State Comptroller (OSC) will rely on information disclosed in the questionnaire in making responsibility determinations and in approving a contract or subcontract; (3) acknowledges that the New York State contracting entities and OSC may, in their discretion, by means which they may choose, verify the truth and accuracy of all statements made herein; and (4) acknowledges that intentional submission of false or misleading information may constitute a misdemeanor or felony under New York State Penal Law, may be punishable by a fine and/or imprisonment under Federal Law, and may result in a finding of non-responsibility, contract suspension or contract termination.

**The undersigned certifies that he/she:**

- is knowledgeable about the Reporting Entity's business and operations;
- has read and understands all of the questions contained in the questionnaire;
- has not altered the content of the questionnaire in any manner;
- has reviewed and/or supplied full and complete responses to each question;
- to the best of his/her knowledge, information and belief, confirms that the Reporting Entity's responses are true, accurate and complete, including all attachments, if applicable;
- understands that New York State will rely on the information disclosed in the questionnaire when entering into a contract with the Reporting Entity; and
- is under obligation to update the information provided herein to include any material changes to the Reporting Entity's responses at the time of bid/proposal submission through the contract award notification, and may be required to update the information at the request of the New York State contracting entities or OSC prior to the award and/or approval of a contract, or during the term of the contract.

Signature of Owner/Officer \_\_\_\_\_

Printed Name of Signatory \_\_\_\_\_

Title \_\_\_\_\_

Reporting Entity Name \_\_\_\_\_

Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_ ;

\_\_\_\_\_ Notary Public

**ATTACHMENT 11**  
**Vendor Responsibility Attestation**

To comply with the Vendor Responsibility Requirements outlined in Section E, Administrative, 8. Vendor Responsibility Questionnaire, I hereby certify:

**Choose one:**

- An on-line Vendor Responsibility Questionnaire has been updated or created at OSC's website: <https://portal.osc.state.ny.us> within the last six months.
  
- A hard copy Vendor Responsibility Questionnaire is included with this proposal/bid and is dated within the last six months.
  
- A Vendor Responsibility Questionnaire is not required due to an exempt status. Exemptions include governmental entities, public authorities, public colleges and universities, public benefit corporations, and Indian Nations.

Signature of Organization Official: \_\_\_\_\_

Print/type Name: \_\_\_\_\_

Title: \_\_\_\_\_

Organization: \_\_\_\_\_

Date Signed: \_\_\_\_\_

**ATTACHMENTS 12A- 12F**  
**New York State Department of Health**  
**M/WBE Procurement Forms**

The following forms are required to maintain maximum participation in M/WBE procurement and contracting:

- A. Bidders Proposed M/WBE Utilization Form
- B. Minority Owned Business Enterprise Information
- C. Women Owned Business Enterprise Information
- D. M/WBE Utilization Plan
- E. M/WBE Letter of Intent to Participate
- F. M/WBE Staffing Plan

New York State Department of Health

**BIDDERS PROPOSED M/WBE UTILIZATION PLAN**

<b>Bidder Name:</b>	
<b>RFP Title:</b>	<b>RFP Number</b>

**Description of Plan to Meet M/WBE Goals**

--

**PROJECTED M/WBE USAGE**

	<b>%</b>	<b>Amount</b>
<b>1. Total Dollar Value of Proposal Bid</b>	<b>100</b>	<b>\$</b>
<b>2. MBE Goal Applied to the Contract</b>		<b>\$</b>
<b>3. WBE Goal Applied to the Contract</b>		<b>\$</b>
<b>4. M/WBE Combined Totals</b>		<b>\$</b>

**New York State Department of Health**

**MINORITY OWNED BUSINESS ENTERPRISE (MBE)  
INFORMATION**

In order to achieve the MBE Goals, bidder expects to subcontract with New York State certified MINORITY-OWNED entities as follows:

MBE Firm (Exactly as Registered)	Description of Work (Products/Services) [MBE]	Projected MBE Dollar Amount
<b>Name</b>  <b>Address</b>  <b>City, State, ZIP</b>  <b>Employer I.D.</b>  <b>Telephone Number</b> ( ) -		\$ _____
<b>Name</b>  <b>Address</b>  <b>City, State, ZIP</b>  <b>Employer I.D.</b>  <b>Telephone Number</b> ( ) -		\$ _____
<b>Name</b>  <b>Address</b>  <b>City, State, ZIP</b>  <b>Employer I.D.</b>  <b>Telephone Number</b> ( ) -		\$ _____

**New York State Department of Health**

**WOMEN OWNED BUSINESS ENTERPRISE (WBE)  
INFORMATION**

In order to achieve the WBE Goals, bidder expects to subcontract with New York State certified WOMEN-OWNED entities as follows:

WBE Firm (Exactly as Registered)	Description of Work (Products/Services) [WBE]	Projected WBE Dollar Amount
Name  Address  City, State, ZIP  Employer I.D.  Telephone Number ( ) -		\$ _____
Name  Address  City, State, ZIP  Employer I.D.  Telephone Number ( ) -		\$ _____
Name  Address  City, State, ZIP  Employer I.D.  Telephone Number ( ) -		\$ _____

**New York State Department of Health  
M/WBE UTILIZATION PLAN**

Agency Contract: \_\_\_\_\_ Telephone: \_\_\_\_\_  
 Contract Number: \_\_\_\_\_ Dollar Value: \_\_\_\_\_  
 Date Bid: \_\_\_\_\_ Date Let: \_\_\_\_\_ Completion Date: \_\_\_\_\_

Contract Awardee/Recipient: \_\_\_\_\_  
 Name \_\_\_\_\_  
 Address \_\_\_\_\_  
 Telephone \_\_\_\_\_

Description of Contract/Project Location: \_\_\_\_\_  
 \_\_\_\_\_

Subcontractors Purchase with Majority Vendors:

Participation Goals Anticipated: \_\_\_\_\_ % MBE \_\_\_\_\_ % WBE  
 Participation Goals Achieved: \_\_\_\_\_ % MBE \_\_\_\_\_ % WBE

Subcontractors/Suppliers:

Firm Name and City	Description of Work	Dollar Value	Date of Subcontract	Identify if MBE or WBE or NYS Certified

**Contractor's Agreement: My firm proposes to use the MBEs listed on this form**

Prepared By: (Signature of Contractor)	Print Contractor's Name:	Telephone #:	Date:
Grant Recipient Affirmative Action Officer Signature (If applicable):			

**FOR OFFICE USE ONLY**

Reviewed By: _____	Date: _____
M/WBE Firms Certified: _____	Not Certified: _____
CBO: _____	MCBO: _____

**New York State Department of Health**

**MWBE ONLY**

**MWBE SUBCONTRACTORS AND SUPPLIERS  
LETTER OF INTENT TO PARTICIPATE**

To: \_\_\_\_\_ Federal ID Number: \_\_\_\_\_  
(Name of Contractor)

Proposal/ Contract Number: \_\_\_\_\_

Contract Scope of Work: \_\_\_\_\_

The undersigned intends to perform services or provide material, supplies or equipment as: \_\_\_\_\_

Name of MWBE: \_\_\_\_\_

Address: \_\_\_\_\_

Federal ID Number: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Designation:

MBE - Subcontractor

WBE - Subcontractor

MBE - Supplier

WBE - Supplier

Joint venture with:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Fed ID Number: \_\_\_\_\_

MBE

WBE

Are you New York State Certified MWBE? \_\_\_\_\_ Yes \_\_\_\_\_ No

The undersigned is prepared to perform the following work or services or supply the following materials, supplies or equipment in connection with the above proposal/contract. (Specify in detail the particular items of work or services to be performed or the materials to be supplied): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

at the following price: \$ \_\_\_\_\_

The contractor proposes, and the undersigned agrees to, the following beginning and completion dates for such work.

Date Proposal/ Contract to be started: \_\_\_\_\_

Date Proposal/ Contract to be Completed: \_\_\_\_\_

Date Supplies ordered: \_\_\_\_\_ Delivery Date: \_\_\_\_\_

The above work will not further subcontracted without the express written permission of the contractor and notification of the Office. The undersigned will enter into a formal agreement for the above work with the contractor ONLY upon the Contractor's execution of a contract with the Office.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of M/WBE Contractor

\_\_\_\_\_  
Printed/Typed Name of M/WBE Contractor

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

This form is to be submitted with bid attached to the Subcontractor's Information Form in a sealed envelope for each certified Minority or Women-Owned Business enterprise the Bidder/Awardee/Contractor proposes to utilize as subcontractors, service providers or suppliers.

If the MBE or WBE proposed for portion of this proposal/contract is part of a joint or other temporarily-formed business entity of independent business entities, the name and address of the joint venture or temporarily-formed business should be indicated.

## New York State Department of Health M/WBE STAFFING PLAN

Check applicable categories:       Project Staff       Consultants        
Subcontractors

Contractor  
Name \_\_\_\_\_

Address  
\_\_\_\_\_  
\_\_\_\_\_

	Total	Male	Female	Black	Hispanic	Asian/ Pacific Islander	Other
<b>STAFF</b>							
<b>Administrators</b>							
Managers/Supervisors							
Professionals							
Technicians							
Clerical							
Craft/Maintenance							
Operatives							
Laborers							
Public Assistance Recipients							
<b>TOTAL</b>							

\_\_\_\_\_  
(Name and Title)

\_\_\_\_\_  
Date

**ATTACHMENT 13**

**Standard Clauses for All New York State Contracts**

**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 previous consent, in writing, of the State and any attempts to assign the contract without the State's written consent are null and void. The Contractor may, however, assign its right to receive payment 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 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.

**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.

(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, 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:

(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, 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; or (iii) banking services, insurance policies or the sale of securities. 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 Governor's Office 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.

**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 State Finance Law §165. (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 -- 7<sup>th</sup> 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 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. PURCHASES OF APPAREL.** In accordance with State Finance Law 162 (4-a), the State shall not purchase any apparel from any vendor unable or unwilling to certify that: (i) such apparel was manufactured in compliance with all applicable labor and occupational safety laws, including, but not limited to, child labor laws, wage and hours laws and workplace safety laws, and (ii) vendor will supply, with its bid (or, if not a bid situation, prior to or at the time of signing a contract with the State), if known, the names and addresses of each subcontractor and a list of all manufacturing plants to be utilized by the bidder.

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## **ATTACHMENT 14**

### **General Specifications**

APPENDIX D  
GENERAL SPECIFICATIONS

- A. By signing the "Bid Form" each bidder attests to its express authority to sign on behalf of this company or other entity and acknowledges and accepts that:
- All specifications, general and specific appendices, including Appendix-A, the Standard Clauses for all New York State contracts, and all schedules and forms contained herein will become part of any contract entered, resulting from the Request for Proposal. Anything which is not expressly set forth in the specification, appendices and forms and resultant contract, but which is reasonable to be implied, shall be furnished and provided in the same manner as if specifically expressed.
- B. The work shall be commenced and shall be actually undertaken within such time as the Department of Health may direct by notice, whether by mail, telegram, or other writing, whereupon the undersigned will give continuous attention to the work as directed, to the end and with the intent that the work shall be completed within such reasonable time or times, as the case may be, as the Department may prescribe.
- C. The Department reserves the right to stop the work covered by this proposal and the contract at any time that the Department deems the successful bidder to be unable or incapable of performing the work to the satisfaction of the Department and in the event of such cessation of work, the Department shall have the right to arrange for the completion of the work in such manner as the Department may deem advisable and if the cost thereof exceeds the amount of the bid, the successful bidder and its surety be liable to the State of New York for any excess cost on account thereof.
- D. Each bidder is under an affirmative duty to be informed by personal examination of the specifications and location of the proposed work and by such other means as it may select, of character, quality, and extent of work to be performed and the conditions under which the contract is to be executed.
- E. The Department of Health will make no allowances or concession to a bidder for any alleged misunderstanding or deception because of quantity, quality, character, location or other conditions.
- F. The bid price is to cover the cost of furnishing all of the said services, materials, equipment, and labor to the satisfaction of the Department of Health and the performance of all work set forth in said specifications.
- G. The successful bidder will be required to complete the entire work, or any part thereof as the case may be, to the satisfaction of the Department of

Health in strict accordance with the specifications and pursuant to a contract therefore.

H. Contractor will possess, at no cost to the State, all qualifications, licenses and permits to engage in the required business as may be required within the jurisdiction where the work specified is to be performed. Workers to be employed in the performance of this contract will possess the qualifications, training, licenses and permits as may be required within such jurisdiction.

I. Non-Collusive Bidding

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

- a. 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;
- b. 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 person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition;
- c. 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.

NOTE: Chapter 675 of the Laws of New York for 1966 provides that every bid made to the state or any public department, agency or official thereof, where competitive bidding is required by statute, rule or regulation, for work or services performed or to be performed or goods sold or to be sold, shall contain the foregoing statement subscribed by the bidder and affirmed by such bidder as true under penalties of perjury.

A bid shall not be considered for award nor shall any award be made where (a), (b) and (c) above have not been complied with; provided however, that if in any case the bidder cannot make the foregoing certification, the bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefore. Where (a), (b) and (c) above have not been complied with, the bid shall not be considered for award nor shall any award be made unless the head of the purchasing unit of the state, public department or agency to which the bid is made or its designee, determines that such disclosure was not made for the purpose of restricting competition.

The fact that a bidder has published price lists, rates, or tariffs covering items being procured, has informed prospective customers of proposed or pending publication of new or revised price lists for such items, or has sold the same items to other customers at the same price being bid, does not constitute, without more, a disclosure within the meaning of the above quoted certification.

Any bid made to the State or any public department, agency or official thereof by a corporate bidder for work or services performed or to be performed or goods, sold or to be sold, where competitive bidding is required by statute, rule or regulation and where such bid contains the certification set forth above shall be deemed to have been authorized by the board of directors of the bidder, and such authorization shall be deemed to include the signing and submission of the bid and the inclusion therein of the certificate as to non-collusion as the act and deed of the corporation.

- J. A bidder may be disqualified from receiving awards if such bidder or any subsidiary, affiliate, partner, officer, agent or principal thereof, or anyone in its or its employ, has previously failed to perform satisfactorily in connection with public bidding or contracts.
- K. The Department reserves the right to make awards within ninety (90) days after the date of the bid opening, during which period bids shall not be withdrawn unless the bidder distinctly states in the bid that acceptance thereof must be made within a shorter specified time.
- L. **Work for Hire Contract**  
Any contract entered into resultant from this request for proposal will be considered a "Work for Hire Contract." The Department will be the sole owner of all source code and any software which is developed or included in the application software provided to the Department as a part of this contract.
- M. **Technology Purchases Notification --** The following provisions apply if this Request for Proposal (RFP) seeks proposals for "Technology"
  - 1. For the purposes of this policy, "technology" applies to all services and commodities, voice/data/video and/or any related requirement, major software acquisitions, systems modifications or upgrades, etc., that result in a technical method of achieving a practical purpose or in improvements of productivity. The purchase can be as simple as an order for new or replacement personal computers, or for a consultant to design a new system, or as complex as a major systems improvement or innovation that changes how an agency conducts its business practices.

2. If this RFP results in procurement of software over \$20,000, or of other technology over \$50,000, or where the department determines that the potential exists for coordinating purchases among State agencies and/or the purchase may be of interest to one or more other State agencies, PRIOR TO AWARD SELECTION, this RFP and all responses thereto are subject to review by the New York State Office for Technology.
3. Any contract entered into pursuant to an award of this RFP shall contain a provision which extends the terms and conditions of such contract to any other State agency in New York. Incorporation of this RFP into the resulting contract also incorporates this provision in the contract.
4. The responses to this RFP must include a solution to effectively handle the turn of the century issues related to the change from the year 1999 to 2000.

N. YEAR 2000 WARRANTY

1. Definitions

For purposes of this warranty, the following definitions shall apply:

- a. Product shall include, without limitation: any piece or component of equipment, hardware, firmware, middleware, custom or commercial software, or internal components or subroutines therein which perform any date/time data recognition function, calculation, comparing or sequencing. Where services are being furnished, e.g. consulting, systems integration, code or data conversion or data entry, the term Product shall include resulting deliverables.
- b. Vendor's Product shall include all Product delivered under this Agreement by Vendor other than Third Party Product.
- c. Third Party Product shall include products manufactured or developed by a corporate entity independent from Vendor and provided by Vendor on a non-exclusive licensing or other distribution Agreement with the third party manufacturer. Third Party Product does not include product where Vendor is: a) corporate subsidiary or affiliate of the third party manufacturer/developer; and/or b) the exclusive re-seller or distributor of product manufactured or developed by said corporate entity.

## 2. Warranty Disclosure

At the time of bid, Product order or Product quote, Vendor is required to disclose the following information in writing to Authorized User:

- a. For Vendor Product and for Products (including, but not limited to, Vendor and/or Third Party Products and/or Authorized User's Installed Product) which have been specified to perform as a system: Compliance or non-compliance of the Products individually or as a system with the Warranty Statement set forth below; and
- b. For Third Party Product Not Specified as Part of a System: Third Party Manufacturer's statement of compliance or non-compliance of any Third Party Product being delivered with Third Party Manufacturer/Developer's Year 2000 warranty. If such Third Party Product is represented by Third Party Manufacturer/Developer as compliant with Third Party Manufacturer/Developer's Year 2000 Warranty, Vendor shall pass through said third party warranty from the third party manufacturer to the Authorized User but shall not be liable for the testing or verification of Third Party's compliance statement.

An absence or failure to furnish the required written warranty disclosure shall be deemed a statement of compliance of the product(s) or system(s) in question with the year 2000 warranty statement set forth below.

## 3. Warranty Statement

Year 2000 warranty compliance shall be defined in accordance with the following warranty statement:

Vendor warrants that Product(s) furnished pursuant to this Agreement shall, when used in accordance with the Product documentation, be able to accurately process date/time data (including, but not limited to, calculating, comparing, and sequencing) from, into, and between the twentieth and twenty-first centuries, and the years 1999 and 2000, including leap year calculations. Where a purchase requires that specific Products must perform as a package or system, this warranty shall apply to the Products as a system.

In the event of any breach of this warranty, Vendor shall restore the Product to the same level of performance as warranted herein, or repair or replace the Product with conforming Product so as to minimize interruption to Authorized User's ongoing business processes, time being of the essence, at Vendor's sole cost and

expense. This warranty does not extend to correction of Authorized User's errors in data entry or data conversion.

This warranty shall survive beyond termination or expiration of the Agreement.

Nothing in this warranty shall be construed to limit any rights or remedies otherwise available under this Agreement.

- O. No Subcontracting  
Subcontracting by the contractor shall not be permitted except by prior written approval and knowledge of the Department of Health.
- P. Superintendence by Contractor  
The Contractor shall have a representative to provide supervision of the work which Contractor employees are performing to ensure complete and satisfactory performance with the terms of the Contract. This representative shall also be authorized to receive and put into effect promptly all orders, directions and instructions from the Department of Health. A confirmation in writing of such orders or directions will be given by the Department when so requested from the Contractor.
- Q. Sufficiency of Personnel and Equipment  
If the Department of Health is of the opinion that the services required by the specifications cannot satisfactorily be performed because of insufficiency of personnel, the Department shall have the authority to require the Contractor to use such additional personnel, to take such steps necessary to perform the services satisfactorily at no additional cost to the State.
- R. Experience Requirements  
The Contractor shall submit evidence to the satisfaction of the Department that it possesses the necessary experience and qualifications to perform the type of services required under this contract and must show that it is currently performing similar services. The Contractor shall submit at least two references to substantiate these qualifications.
- S. Contract Amendments  
This agreement may be amended by written agreement signed by the parties and subject to the laws and regulations of the State pertaining to contract amendments. This agreement may not be amended orally.

The contractor shall not make any changes in the scope of work as outlined herein at any time without prior authorization in writing from the Department of Health and without prior approval in writing of the amount of compensation for such changes.

T. Provisions Upon Default

1. In the event that the Contractor, through any cause, fails to perform any of the terms, covenants or promises of this agreement, the Department acting for and on behalf of the State, shall thereupon have the right to terminate this agreement by giving notice in writing of the fact and date of such termination to the Contractor
2. If, in the judgement of the Department of Health, the Contractor acts in such a way which is likely to or does impair or prejudice the interests of the State, the Department acting on behalf of the State, shall thereupon have the right to terminate this agreement by giving notice in writing of the fact and date of such termination to the Contractor. In such case the Contractor shall receive equitable compensation for such services as shall, in the judgement of the State Comptroller, have been satisfactorily performed by the Contractor up to the date of the termination of this agreement, which such compensation shall not exceed the total cost incurred for the work which the Contractor was engaged in at the time of such termination, subject to audit by the State Comptroller.

U. Termination Provision

Upon termination of this agreement, the following shall occur:

1. Contractor shall make available to the State for examination all data, records and reports relating to this Contract; and
2. Except as otherwise provided in the Contract, the liability of the State for payments to the Contractor and the liability of the Contractor for services hereunder shall cease.

V. Conflicts

If, in the opinion of the Department of Health, (1) the specifications conflict, or (2) if the specifications are not clear as to (a) the method of performing any part of the work, or as to (b) the types of materials or equipment necessary, or as to (c) the work required to be done in every such situation, the Contractor shall be deemed to have based his bid upon performing the work and furnishing materials or equipment in the most inexpensive and efficient manner. If such conflicts and/or ambiguities arise, the Department of Health will furnish the Contractor supplementary information showing the manner in which the work is to be performed and the type or types of material or equipment that shall be used.

W. MINORITY AND WOMEN OWNED BUSINESS POLICY STATEMENT

The New York State Department of Health recognizes the need to take

affirmative action to ensure that Minority and Women Owned Business Enterprises are given the opportunity to participate in the performance of the Department of Health's contracting program. This opportunity for full participation in our free enterprise system by traditionally, socially and economically disadvantaged persons is essential to obtain social and economic equality and improve the functioning of the State economy.

It is the intention of the New York State Department of Health to fully execute the mandate of Executive Law, Article 15-A and provide Minority and Women Owned Business Enterprises with equal opportunity to bid on contracts awarded by this agency in accordance with the State Finance Law.

To implement this affirmative action policy statement, the contractor agrees to file with the Department of Health within 10 days of notice of award, a staffing plan of the anticipated work force to be utilized on this contract or, where required, information on the contractor's total work force, including apprentices, broken down by specified ethnic background, gender, and Federal occupational categories or other appropriate categories specified by the Department. The form of the staffing plan shall be supplied by the Department.

After an award of this contract, the contractor agrees to submit to the Department a work force utilization report, in a form and manner required by the Department, of the work force actually utilized on this contract, broken down by specified ethnic background, gender and Federal occupational categories or other appropriate categories specified by the Department.

#### X. Contract Insurance Requirements

1. The successful bidder must without expense to the State procure and maintain, until final acceptance by the Department of Health of the work covered by this proposal and the contract, insurance of the kinds and in the amounts hereinafter provided, in insurance companies authorized to do such business in the State of New York covering all operations under this proposal and the contract, whether performed by it or by subcontractors. Before commencing the work, the successful bidder shall furnish to the Department of Health a certificate or certificates, in a form satisfactory to the Department, showing that it has complied with the requirements of this section, which certificate or certificates shall state that the policies shall not be changed or canceled until thirty days written notice has been given to the Department. The kinds and amounts of required insurance are:
  - a. A policy covering the obligations of the successful bidder in accordance with the provisions of Chapter 41, Laws of 1914, as amended, known as the Workers' Compensation Law, and the

contract shall be void and of no effect unless the successful bidder procures such policy and maintains it until acceptance of the work (reference Appendix E).

- b. Policies of Bodily Injury Liability and Property Damage Liability Insurance of the types hereinafter specified, each within limits of not less than \$500,000 for all damages arising out of bodily injury, including death at any time resulting therefrom sustained by one person in any one occurrence, and subject to that limit for that person, not less than \$1,000,000 for all damages arising out of bodily injury, including death at any time resulting therefrom sustained by two or more persons in any one occurrence, and not less than \$500,000 for damages arising out of damage to or destruction of property during any single occurrence and not less than \$1,000,000 aggregate for damages arising out of damage to or destruction of property during the policy period.
  - i. Contractor's Liability Insurance issued to and covering the liability of the successful bidder with respect to all work performed by it under this proposal and the contract.
  - ii. Protective Liability Insurance issued to and covering the liability of the People of the State of New York with respect to all operations under this proposal and the contract, by the successful bidder or by its subcontractors, including omissions and supervisory acts of the State.
  - iii. Automobile Liability Insurance issued to and covering the liability of the People of the State of New York with respect to all operations under this proposal and the contract, by the successful bidder or by its subcontractors, including omissions and supervisory acts of the State.

Y. Certification Regarding Debarment and Suspension

Regulations of the Department of Health and Human Services, located at Part 76 of Title 45 of the Code of Federal Regulations (CFR), implement Executive Orders 12549 and 12689 concerning debarment and suspension of participants in federal programs and activities. Executive Order 12549 provides that, to the extent permitted by law, Executive departments and agencies shall participate in a government-wide system for non-procurement debarment and suspension. Executive Order 12689 extends the debarment and suspension policy to procurement activities of the federal government. A person who is debarred or suspended by a federal agency is excluded from federal financial and non-financial assistance and

benefits under federal programs and activities, both directly (primary covered transaction) and indirectly (lower tier covered transactions). Debarment or suspension by one federal agency has government-wide effect.

Pursuant to the above-cited regulations, the New York State Department of Health (as a participant in a primary covered transaction) may not knowingly do business with a person who is debarred, suspended, proposed for debarment, or subject to other government-wide exclusion (including any exclusion from Medicare and State health care program participation on or after August 25, 1995), and the Department of Health must require its prospective contractors, as prospective lower tier participants, to provide the certification in Appendix B to Part 76 of Title 45 CFR, as set forth below:

1. APPENDIX B TO PART 76-CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION-LOWER TIER COVERED TRANSACTIONS

Instructions for Certification

- a. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
- b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered and erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
- c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
- d. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered Transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of

those regulations.

- e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
- f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions.
- g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of parties Excluded from Federal Procurement and Non-procurement Programs.
- h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- i. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions
  - a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily exclude from participation in this transaction by any Federal department agency.
  - b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Z. Confidentiality Clauses

1. Any materials, articles, papers, etc., developed by the CONTRACTOR under or in the course of performing this AGREEMENT shall contain the following, or similar acknowledgment: "Funded by the New York State Department of Health". Any such materials must be reviewed and approved by the STATE for conformity with the policies and guidelines for the New York State Department of Health prior to dissemination and/or publication. It is agreed that such review will be conducted in an expeditious manner. Should the review result in any unresolved disagreements regarding content, the CONTRACTOR shall be free to publish in scholarly journals along with a disclaimer that the views within the Article or the policies reflected are not necessarily those of the New York State Department of Health. The Department reserves the right to disallow funding for any educational materials not approved through its review process.
2. Any publishable or otherwise reproducible material developed under or in the course of performing this AGREEMENT, dealing with any aspect of performance under this AGREEMENT, or of the results and accomplishments attained in such performance, shall be the sole and exclusive property of the STATE, and shall not be published or otherwise disseminated by the CONTRACTOR to any other party unless prior written approval is secured from the STATE or under circumstances as indicated in paragraph 1 above. Any and all net proceeds obtained by the CONTRACTOR resulting from any such publication shall belong to and be paid over to the STATE. The STATE shall have a perpetual royalty-free, non-exclusive and irrevocable right to reproduce, publish or otherwise use, and to authorize others to use, any such material for governmental purposes.

3. No report, document or other data produced in whole or in part with the funds provided under this AGREEMENT may be copyrighted by the CONTRACTOR or any of its employees, nor shall any notice of copyright be registered by the CONTRACTOR or any of its employees in connection with any report, document or other data developed pursuant to this AGREEMENT.
4. All reports, data sheets, documents, etc. generated under this contract shall be the sole and exclusive property of the Department of Health. Upon completion or termination of this AGREEMENT the CONTRACTOR shall deliver to the Department of Health upon its demand all copies of materials relating to or pertaining to this AGREEMENT. The CONTRACTOR shall have no right to disclose or use any of such material and documentation for any purpose whatsoever, without the prior written approval of the Department of Health or its authorized agents.
5. The CONTRACTOR, its officers, agents and employees and subcontractors shall treat all information, which is obtained by it through its performance under this AGREEMENT, as confidential information to the extent required by the laws and regulations of the United States and laws and regulations of the State of New York.
6. All subcontracts shall contain provisions specifying:
  - a. that the work performed by the subcontractor must be in accordance with the terms of this AGREEMENT, and
  - b. that the subcontractor specifically agrees to be bound by the confidentiality provisions set forth in the AGREEMENT between the STATE and the CONTRACTOR.

AA. Provision Related to Consultant Disclosure Legislation

1. If this contract is for the provision of consulting services as defined in Subdivision 17 of Section 8 of the State Finance Law, the CONTRACTOR shall submit a "State Consultant Services Form B, Contractor's Annual Employment Report" no later than May 15<sup>th</sup> following the end of each state fiscal year included in this contract term. This report must be submitted to:
  - a. The NYS Department of Health, at the STATE's designated payment office address included in this AGREEMENT; and

- b. The NYS Office of the State Comptroller, Bureau of Contracts, 110 State Street, 11<sup>th</sup> Floor, Albany NY 12236 ATTN: Consultant Reporting - or via fax at (518) 474-8030 or (518) 473-8808; and
- c. The NYS Department of Civil Service, Alfred E. Smith Office Building, Albany NY 12239, ATTN: Consultant Reporting.

BB. Provisions Related to New York State Procurement Lobbying Law

- 1. The STATE reserves the right to terminate this AGREEMENT 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 STATE may exercise its termination right by providing written notification to the CONTRACTOR in accordance with the written notification terms of this AGREEMENT.

CC. Provisions Related to New York State Information Security Breach and Notification Act

- 1. 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). CONTRACTOR shall be liable for the costs associated with such breach if caused by CONTRACTOR'S negligent or willful acts or omissions, or the negligent or willful acts or omissions of CONTRACTOR'S agents, officers, employees or subcontractors.

DD. Lead Guidelines

All products supplied pursuant to this agreement shall meet local, state and federal regulations, guidelines and action levels for lead as they exist at the time of the State's acceptance of this contract.

## ATTACHMENT 15

### Appendix ARRA - VENDOR Special Language for Contracts Funded in Whole or in Part by the American Recovery and Reinvestment Act of 2009 (ARRA)\*

#### A. REGISTRATION REQUIREMENTS - DUNS

CONTRACTOR agrees to obtain a Data Universal Numbering System (DUNS) number (or update its existing DUNS record) as a condition for receiving this award.

For all documentation related to this AGREEMENT, the CONTRACTOR shall:

(a) Provide the annotation “DUNS” or “DUNS+4” followed by the DUNS number or “DUNS+4” that identifies the CONTRACTOR’s name and address exactly as stated in the AGREEMENT. The DUNS number is a nine-digit number assigned by Dun and Bradstreet, Inc. The DUNS+4 is the DUNS number plus a 4-character suffix that may be assigned at the discretion of the CONTRACTOR to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts .

(b) Contact Dun and Bradstreet directly to obtain a DUNS number, if it does not already have one.

(1) A CONTRACTOR may obtain a DUNS number—

(i) Via the Internet at <http://fedgov.dnb.com/webform> or if the CONTRACTOR does not have internet access, it may call Dun and Bradstreet at 1-866-705-5711 if located within the United States; or

(ii) If located outside the United States, by contacting the local Dun and Bradstreet office. The CONTRACTOR should indicate that it is an CONTRACTOR for a New York State Government contract when contacting the local Dun and Bradstreet office.

(c) The CONTRACTOR should be prepared to provide the following information to either obtain a DUNS number or to update its existing DUNS record:

- (1) Company legal business name.
- (2) Tradestyle, doing business, or other name by which your entity is commonly recognized.
- (3) Company physical street address, city, state and ZIP Code.
- (4) Company mailing address, city, state and ZIP Code (if separate from physical).
- (5) Company telephone number.
- (6) Date the company was started.
- (7) Number of employees at your location.
- (8) Chief executive officer/key manager.
- (9) Line of business (industry).

(10) Company Headquarters name and address (reporting relationship within your entity).

## **B. WAGE RATES**

Notwithstanding any other provision of law, and in a manner consistent with other provisions in the ARRA, all laborers and mechanics employed by contractors and subcontractors on projects funded directly by, or assisted in whole or in part by and through the Federal Government pursuant to the ARRA, shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31 of title 40, United States Code. With respect to the labor standards specified in this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and Section 3145 of Title 40, United States Code.

## **C. USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS**

Consistent with Section 1605 of the ARRA, the CONTRACTOR agrees to the following conditions:

(a) None of the funds appropriated or otherwise made available by this Act may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States.

(b) Subsection (a) shall not apply in any case or category of cases in which the head of the Federal department or agency involved finds that:

- (1) Applying subsection (a) would be inconsistent with the public interest;
- (2) Iron, steel, and the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
- (3) Inclusion of iron, steel, and manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent.

(c) If the head of a Federal department or agency determines that it is necessary to waive the application of subsection (a) based on a finding under subsection (b), the head of the department or agency shall publish in the Federal Register a detailed written justification as to why the provision is being waived.

(d) This section shall be applied in a manner consistent with United States obligations under international agreements.

## **D. SPECIAL REPORTING REQUIREMENTS**

In addition to regular Department of Health reporting requirements, the CONTRACTOR will be required to provide additional information related to this AGREEMENT. In accordance with Section 1512(c) of the ARRA, which requires, as a condition of receipt of funds, regular reporting on the use of funds, and the data elements of the Federal Funding Accountability and Transparency Act of 2006, as amended, CONTRACTORS that receive awards funded in whole or in part by the ARRA, must report information to the STATE monthly. Information to be reported may include but not be limited to the following:

- (1) The name of the project or activity;
- (2) The dollar amount of CONTRACTOR invoices;
- (3) The supplies delivered and/or services performed;
- (4) An assessment of the completion status of the project or activity;
- (5) An estimate of the number of jobs created and the number of jobs retained as a result of the ARRA funds;
- (6) The names and total compensation of each of the five most highly compensated officers for the calendar year in which the contract is awarded;
- (7) Specific information on first -tier subcontractors.

The CONTRACTOR will maintain detailed records of its expenditure of ARRA funds in connection with this AGREEMENT and submit reports as requested by the STATE. The STATE, as recipient of funds under the ARRA, is subject to timely reporting requirements and oversight by federal agency inspectors. In addition to the detailed reports required in this AGREEMENT, the STATE may request additional reports at its discretion.

**Payment for services rendered will be contingent on timely submission of the required reports.**

The CONTRACTOR is also responsible for holding all sub-contractors to these reporting requirements.

Specific reporting requirements are detailed in Section II-C of the AGREEMENT.

#### **E. FEDERAL OVERSIGHT**

The following ARRA Sections are incorporated into this AGREEMENT:

##### **SEC. 902. ACCESS OF GOVERNMENT ACCOUNTABILITY OFFICE.**

(a) ACCESS.—Each contract awarded using funds made available in this Act shall provide that the Comptroller General and his representatives are authorized to:

- (1) Examine any records of the contractor or any of its subcontractors, or any State or local agency administering such contract, that directly pertain to, and involve transactions relating to, the contract or subcontract; and
- (2) Interview any officer or employee of the contractor or any of its subcontractors, or of any State or local government agency administering the contract, regarding such transactions.

(b) RELATIONSHIP TO EXISTING AUTHORITY.—Nothing in this section shall be interpreted to limit or restrict in any way any existing authority of the Comptroller General.

##### **SEC. 1514. INSPECTOR GENERAL REVIEWS.**

(a) REVIEWS.—Any inspector general of a Federal department or executive agency shall review, as appropriate, any concerns raised by the public about specific investments using funds made available in this Act. Any findings of such reviews not related to an ongoing criminal proceeding shall be relayed immediately to the head of the department or agency concerned. In addition, the findings of such reviews, along with any audits conducted by any inspector general of funds made available in this Act, shall be posted on the inspector general's website and linked to the

website established by section 1526, except that portions of reports may be redacted to the extent the portions would disclose information that is protected from public disclosure under sections 552 and 552a of title 5, United States Code.

**SEC. 1515. ACCESS OF OFFICES OF INSPECTOR GENERAL TO CERTAIN RECORDS AND EMPLOYEES.**

(a) ACCESS.—With respect to each contract or grant awarded using covered funds, any representative of an appropriate inspector general appointed under section 3 or 8G of the Inspector General Act of 1978 (5 U.S.C. App.), is authorized to:

- (1) Examine any records of the contractor or grantee, any of its subcontractors or subgrantees, or any State or local agency administering such contract, that pertain to, and involve transactions relating to, the contract, subcontract, grant, or subgrant; and
- (2) Interview any officer or employee of the contractor, grantee, subgrantee, or agency regarding such transactions.

(b) RELATIONSHIP TO EXISTING AUTHORITY.—Nothing in this section shall be interpreted to limit or restrict in any way any existing authority of an inspector general.

**F. WHISTLEBLOWER PROTECTIONS**

The CONTRACTOR shall post notice of employees rights and remedies for whistleblower protections under Section 1553 of the ARRA. The substance of this clause shall be included in all subcontracts. At minimum, the posting shall include the following information:

Section 1553 of Division A, Title XV of the American Recovery and Reinvestment Act of 2009, P.L. 111-5, provides protections for certain individuals who make specified disclosures relating to Recovery Act funds. Any non-federal employer receiving recovery funds is required to post a notice of the rights and remedies provided under this section of the Act.

Who is protected?

Employees of non-federal employers receiving recovery funds, including state and local governments, contractors, subcontractors, grantees or professional membership organizations acting in the interest of recovery fund recipients.

What are whistleblowers protected from?

Covered employees are protected from being discharged, demoted, or otherwise discriminated against as a reprisal for making a protected disclosure.

What kinds of disclosures are protected?

To be protected, the disclosure must be made by the employee to the Recovery Accountability and Transparency Board, an Inspector General, the Comptroller General, a member of Congress, a state or federal regulatory or law enforcement agency, a person with supervisory authority over the employee, a court or grand jury, or the head of a federal agency or his/her representatives.

In addition, the disclosure must involve information that the employee believes is evidence of:

- gross mismanagement of an agency contract or grant relating to recovery funds;

- a gross waste of recovery funds;
- a substantial and specific danger to public health or safety related to the implementation or use of recovery funds;
- an abuse of authority related to the implementation or use of recovery funds; or
- a violation of law, rule, or regulation related to an agency contract or grant awarded or issued relating to recovery funds.

How to report a whistleblower reprisal complaint:

If you have a whistleblower reprisal complaint please refer to the [Agency Fraud Hotlines](#) page for links to the Inspectors General (<http://www.recovery.gov/?q=content/agency-fraud-hotlines>).

#### **G. MALFEASANCE**

CONTRACTORS or sub-contractors awarded funds made available under the ARRA shall promptly refer to an appropriate inspector general any credible evidence that a principal, employee, agent, contractor, sub-recipient, subcontractor, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds.

#### **H. CIVIL RIGHTS OBLIGATIONS**

Recipients and sub-recipients of ARRA funds or other Federal financial assistance must comply with Title VI of the Civil Rights Act of 1964 (prohibiting race, color, and national origin discrimination), Section 504 of the Rehabilitation Act of 1973 (prohibiting disability discrimination), Title IX of the Education Amendments of 1972 (prohibiting sex discrimination in education and training programs), the Age Discrimination Act of 1975 (prohibiting age discrimination in the provision of services), and a variety of program-specific statutes with nondiscrimination requirements.

Other civil rights laws may impose additional requirements on recipients and sub-recipients. These laws include, but are not limited to, Title VII of the Civil Rights Act of 1964 (prohibiting race, color, national origin, religious, and sex discrimination in employment), the Americans with Disabilities Act (prohibiting disability discrimination in employment and in services provided by State and local governments, businesses, and non-profit agencies), and the Fair Housing Act (prohibiting discriminatory housing practices based upon race, color, religion, sex, national origin, disability, or familial status), as well as any other applicable civil rights laws.

#### **I. PUBLICATION**

Information gathered from this agreement will be published on the Internet and linked to the website [www.recovery.gov](http://www.recovery.gov), maintained by the Accountability and Transparency Board. This Board may exclude posting contractual or other information on the website on a case-by-case basis when necessary to protect national security or to protect information that is not subject to disclosure under sections 552 and 552a of title 5, United States Code or under any other applicable law or regulation.

**J. ONE-TIME FUNDING**

ARRA funding provided for this AGREEMENT should be considered one-time funding and may not be available beyond the dates included in the AGREEMENT. All payments by the STATE will be contingent upon receipt of timely and acceptable reports as required in the AGREEMENT.

**K. JOB POSTING REQUIREMENTS**

The CONTRACTOR shall post any jobs that it creates or seeks to fill as a result of this ARRA funding on the New York State Department of Labor website ([www.labor.ny.gov](http://www.labor.ny.gov)) in addition to any other postings made. Any advertisements posted for such jobs or positions must indicate ARRA funding.

- \* This Appendix incorporates language mandated by Governor David A. Paterson in his May 27, 2009 executive memorandum to State Agencies that Administer ARRA Funds (Rider A).

**ATTACHMENT 16**  
**Special ARRA Reports**

**NEW YORK STATE DEPARTMENT OF HEALTH  
SPECIAL ARRA REPORTING – PROCUREMENTS (“Prime Vendors”)  
MONTHLY DATA ELEMENTS**

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These instructions supplement the ARRA reporting guidance available on the federal Recovery.gov Web site. Contractors should review the materials provided on the Recovery.gov Web site, relevant Federal Register notices, and the further guidance listed below for a full understanding of reporting requirements under the Recovery Act. These instructions build on publications issued by the Office of Management and Budget, including those referenced below.

For questions relating to these instructions, contact [doharrareporting@health.state.ny.us](mailto:doharrareporting@health.state.ny.us) or your contract administrator.

For further guidance, please review:

1. OMB June 22 guidance on reporting: [http://www.whitehouse.gov/omb/assets/memoranda\\_fy2009/m09-21.pdf](http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-21.pdf)
2. Frequently Asked Questions to expand on the guidance: [http://www.whitehouse.gov/omb/recovery\\_faqs/](http://www.whitehouse.gov/omb/recovery_faqs/)
3. Data dictionary describing data elements required in reports: <http://www.recovery.gov/?1=content/recipient-reporting>
4. OMB December 18, 2009 Updated Guidance on the American Recovery and Reinvestment Act – Data Quality, Non-Reporting Recipients, and Reporting of Job Estimates:  
[http://www.whitehouse.gov/omb/assets/memoranda\\_2010/m10-08.pdf](http://www.whitehouse.gov/omb/assets/memoranda_2010/m10-08.pdf)

**Instructions for completing *Special ARRA Reporting – Procurements Template***

The *Special ARRA Reporting – Procurements* template provides the data elements and format for monthly ARRA grant reporting. ARRA Section 1512 requires DOH (“prime recipient”) to submit quarterly reports on expenditures, performance status, and job creation for each ARRA grant received. This template captures contractor (“prime vendor”) information that DOH will either report directly on OMB’s FederalReportingTemplate – Grants and Loans or use to support DOH inputs. DOH may alter the data elements and formats in this template at any time. In addition, DOH will be making an Excel version of this template available and will strongly encourage electronic submission of this template to DOH when the Excel version is available.

ARRA Grant #: Federal grant number assigned to prime recipient.

Project Period: Contract period as indicated on DOH contract with prime vendor.

Prime vendor Name: Legal name of prime vendor.

Prime vendor DUNS #: Prime vendor organization’s 9-digit Data Universal Numbering System (DUNS) number.

Report Month and Year: Month and year for which report is being submitted.

Final Report: Indicate whether the report is the last report for the project.

**Prime Vendor – Jobs Created or Retained:** Prime vendors must list hours worked for each job created or retained as a result of ARRA funding for this grant project. The points below offer general guidance; refer to the federal Web sites listed above for a more comprehensive review of ARRA jobs reporting requirements.

1. A job created is a new position created and filled, or an existing unfilled position that is filled, that is funded by the Recovery Act.
2. A job retained is an existing position that is now funded by the Recovery Act.

**NEW YORK STATE DEPARTMENT OF HEALTH  
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3. A funded job is one in which the wages and salaries are either paid for or will be reimbursed with Recovery Act funding. Note that a job that is paid initially with non-Recovery Act dollars may be reported as created or retained as long as such dollars eventually will be reimbursed with Recovery Act funds for the jobs being reported. For example, a prime vendor may decide to begin hiring new employees as soon as they are notified of the amount of their ARRA contract, but before Recovery Act dollars are received or expended. If, in this situation, if the non-Recovery Act dollars that are paying the wages of the new employees were used as an advance on the Recovery Act dollars awarded, the prime vendor can appropriately report these jobs as created or retained.
4. Part-time jobs can be reported, subject to the above conditions.
5. Prime vendors should not attempt to report on the employment impact upon materials suppliers and central service providers (so-called “indirect” jobs) or on the local community (“induced” jobs).
6. Only include jobs created in the United States, the District of Columbia, and outlying areas.

Employee Name: Last name, first name of employee working in a job fully or partially funded by ARRA dollars.

Job Title: Position title assigned by prime vendor organization.

Type of Work: Select a classification to describe the job created or retained. A list of type of work classifications will be provided by the DOH contract manager.

Standard Hours in Full-time Schedule: Number of paid work days in payroll reporting period **X** number of paid hours in a standard full-time day:

ARRA Funded Hours: Number of hours employee worked in which salaries and wages were either paid for or will be reimbursed with Recovery Act funds. Include all Recovery Act funded hours, including vacation, holiday, and sick time. If the employee’s job was only partially funded by the Recovery Act, count only those hours funded by the Recovery Act. If the prime vendor does not have specific funding source information for each individual employee, calculate the proportion of Recovery Act funding against the full funding for each position. Use that proportion as the basis for calculating a proportionate share of Recovery Act funded hours. Use this proportionate share of hours as the amount reported.

Comments on Job Impact: Additional information regarding determination of hours worked, jobs impact beyond specific positions listed, basis for determining proportionate shares for jobs on projects with multiple funding sources, plans for reimbursement by Recovery Act funds if salaries and wages for reported jobs have not yet been paid for by the Recovery Act, explanation if expected job creation or retention did not occur, or other information pertinent to the job impact of the ARRA contract.

Supporting Documentation Submitted to DOH: Prime vendors must maintain documentation to substantiate that salaries and wages for jobs created or retained by the ARRA contract are either paid for or will be reimbursed with Recovery Act funding. Enter “Y” if prime vendor has provided DOH with appropriate documentation for hours reported.



**NEW YORK STATE DEPARTMENT OF HEALTH  
SPECIAL ARRA REPORTING – PROCUREMENTS (“Prime Vendors”)  
MONTHLY DATA ELEMENTS**

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December 31,2009

## Changes to Monthly Reporting Template Instructions – Prime Vendors

The Office of Management and Budget (OMB) issued updated guidance on 12/18/09 revising the methodology for reporting jobs created or retained as a result of Recovery Act funding<sup>1</sup>. The full text of the OMB memorandum is available at [http://www.whitehouse.gov/omb/assets/memoranda\\_2010/m10-08.pdf](http://www.whitehouse.gov/omb/assets/memoranda_2010/m10-08.pdf). Under the new rules, the subjective assessment of jobs created or retained as a consequence of an ARRA award has been replaced by a requirement to report only those jobs funded by the ARRA contract award. In addition, DOH as prime recipient will now report total FTEs for jobs created or retained by the ARRA contract award on a quarterly basis, not cumulatively over the contract period as specified under previous guidance.

Accordingly, DOH has made the following changes to its previously issued instructions to prime vendors for monthly ARRA contract reporting requirements:

**Prime Vendor – Jobs Created or Retained:** The definition of jobs created or retained has been revised as follows:

- A job created is a new position created or filled, or an existing unfilled position that is filled, that is funded by the Recovery Act contract.
- A job retained is an existing position that is now funded by the Recovery Act contract.
- A job funded by the Recovery Act is one in which the wages and salaries are either paid for or will be reimbursed by Recovery Act contract funding.

Note that a job that is paid initially with non-Recovery Act contract dollars may be reported as created or retained as long as such dollars eventually will be reimbursed with Recovery Act contract funds for the jobs being reported. For example, a prime vendor may decide to begin hiring new employees as soon as they are notified of the amount of their ARRA contract, but before Recovery Act contract dollars are received or expended. If, in this situation, the non-Recovery Act contract dollars that are paying the wages of the new employees were used as an advance on the Recovery Act contract dollars awarded, the prime vendor can appropriately report these jobs as created or retained.

This new guidance replaces item (1) in the previous DOH instructions. Item (2) has been deleted—see the revised “ARRA Funded Hours” item below for the methodology for split-funded jobs. Item (3) and the second bullet point in item (5) have also been deleted—prime vendors should simply report all hours worked and funded by the Recovery Act contract.

ARRA Funded Hours (formerly ARRA Project Hours): Number of hours employee worked in which salaries and wages were either paid for or will be reimbursed with Recovery Act contract funds. Include all Recovery Act funded hours, including vacation, holiday, and sick time. If the employee’s job was only partially funded by the Recovery Act contract, count only those hours funded by the Recovery Act contract. If the prime vendor does not have specific funding source information for each individual employee, calculate the proportion of Recovery Act contract funding against the full funding for each position. Use that proportion as the basis for calculating a proportionate share of Recovery Act funded hours. Use this proportionate share of hours as the amount reported.

This language replaces prior guidance specifying that hours reported should be the number of hours employee worked on the ARRA project in a job deemed to have been created or retained by ARRA, regardless of the funding source for wages and salaries related to jobs so designated.

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<sup>1</sup> Note that “ARRA contract award” and “Recovery Act contract” are used interchangeably. Prime vendors must submit separate Monthly Reporting Templates for each DOH ARRA contract award and should **not** accumulate data across all DOH ARRA awards or all Recovery Act funds received from any source.

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SPECIAL ARRA REPORTING – PROCUREMENTS (“Prime Vendors”)  
MONTHLY DATA ELEMENTS**

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Job Category: This field has been removed from the Monthly Reporting Template. Prime recipients do not need to distinguish between created and retained jobs. See the field “Supporting Documents Submitted to DOH” below for instructions on required documentation.

Comments on Job Impact: Include in comments any plans for reimbursement by Recovery Act contract funds if salaries and wages for reported jobs have not yet been paid for by the Recovery Act contract.

Supporting Documentation Submitted to DOH: Prime vendors must maintain documentation to substantiate that salaries and wages for jobs created or retained by the Recovery Act contract award are either paid for or will be reimbursed with Recovery Act contract funding. Prime vendors no longer need to document that a created or retained position would not have existed but for the ARRA contract award.

These new rules should be implemented for the quarter ended 12/31/09 to the extent practicable. Prime vendors may submit revised reports for October, November and December 2009 reflecting the revised jobs methodology. Do not revise reports for months prior to October 2009—jobs reports for those months should continue to follow prior guidance.

Please contact the DOH contract administrator if you have questions or need additional information regarding these changes. Questions may also be submitted to the DOH using the email address [doharrareporting@health.state.ny.us](mailto:doharrareporting@health.state.ny.us).



**ATTACHMENT 17**

**Appendix G**

## Appendix G

### NOTICES

All notices permitted or required hereunder shall be in writing and shall be transmitted either:

- (a) via certified or registered United States mail, return receipt requested;
- (b) by facsimile transmission;
- (c) by personal delivery;
- (d) by expedited delivery service; or
- (e) by e-mail.

Such notices shall be addressed as follows or to such different addresses as the parties may from time to time designate:

#### **State of New York Department of Health**

Name:

Title:

Address:

Telephone Number:

Facsimile Number:

E-Mail Address:

#### **[Insert Contractor Name]**

Name:

Title:

Address:

Telephone Number:

Facsimile Number:

E-Mail Address:

Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or email, upon receipt.

The parties may, from time to time, specify any new or different address in the United States as their address for purpose of receiving notice under this AGREEMENT by giving fifteen (15) days written notice to the other party sent in accordance herewith. The parties agree to mutually designate individuals as their respective representative for the purposes of receiving notices under this AGREEMENT. Additional individuals may be designated in writing by the parties for purposes of implementation and administration/billing, resolving issues and problems, and/or for dispute resolution.

**ATTACHMENT 18**

**Appendix H**

## Appendix H

for CONTRACTOR that uses or discloses individually identifiable health information on behalf of a New York State Department of Health HIPAA-Covered Program

- I. Definitions. For purposes of this Appendix H of this AGREEMENT:
  - A. “Business Associate” shall mean CONTRACTOR.
  - B. “Covered Program” shall mean the STATE.
  - C. Other terms used, but not otherwise defined, in this AGREEMENT shall have the same meaning as those terms in the federal Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), the Health Information Technology for Economic and Clinical Health Act (“HITECH”) and implementing regulations, including those at 45 CFR Parts 160 and 164.
- II. Obligations and Activities of Business Associate:
  - A. Business Associate agrees to not use or disclose Protected Health Information other than as permitted or required by this AGREEMENT or as Required By Law.
  - B. Business Associate agrees to use the appropriate administrative, physical and technical safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this AGREEMENT.
  - C. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this AGREEMENT.
  - D. Business Associate agrees to report to Covered Program as soon as reasonably practicable any use or disclosure of the Protected Health Information not provided for by this AGREEMENT of which it becomes aware. Business Associate also agrees to report to Covered Program any Breach of Unsecured Protected Health Information of which it becomes aware. Such report shall include, to the extent possible:
    - 1. A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;
    - 2. A description of the types of Unsecured Protected Health Information that were involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);
    - 3. Any steps individuals should take to protect themselves from potential harm resulting from the breach;
    - 4. A description of what Business Associate is doing to investigate the Breach, to mitigate harm to individuals, and to protect against any further Breaches; and
    - 5. Contact procedures for Covered Program to ask questions or learn additional information.
  - E. Business Associate agrees to ensure that any agent, including a subcontractor, to

whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of Covered Program agrees to the same restrictions and conditions that apply through this AGREEMENT to Business Associate with respect to such information.

- F. Business Associate agrees to provide access, at the request of Covered Program, and in the time and manner designated by Covered Program, to Protected Health Information in a Designated Record Set, to Covered Program in order for Covered Program to comply with 45 CFR § 164.524.
  - G. Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that Covered Program directs in order for Covered Program to comply with 45 CFR § 164.526.
  - H. Business Associate agrees to make internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Program available to Covered Program, or to the Secretary of the federal Department of Health and Human Services, in a time and manner designated by Covered Program or the Secretary, for purposes of the Secretary determining Covered Program's compliance with HIPAA, HITECH and 45 CFR Parts 160 and 164.
  - I. Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Program to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR § 164.528.
  - J. Business Associate agrees to provide to Covered Program, in time and manner designated by Covered Program, information collected in accordance with this AGREEMENT, to permit Covered Program to comply with 45 CFR § 164.528.
  - K. Business Associate agrees to comply with the security standards for the protection of electronic protected health information in 45 CFR § 164.308, 45 CFR § 164.310, 45 CFR § 164.312 and 45 CFR § 164.316.
- III. Permitted Uses and Disclosures by Business Associate
- A. Except as otherwise limited in this AGREEMENT, Business Associate may only use or disclose Protected Health Information as necessary to perform functions, activities, or services for, or on behalf of, Covered Program as specified in this AGREEMENT.
  - B. Business Associate may use Protected Health Information for the proper management and administration of Business Associate.
  - C. Business Associate may disclose Protected Health Information as Required By Law.
- IV. Term and Termination
- A. This AGREEMENT shall be effective for the term as specified on the cover page of this AGREEMENT, after which time all of the Protected Health Information provided by Covered Program to Business Associate, or created or received by

Business Associate on behalf of Covered Program, shall be destroyed or returned to Covered Program; provided that, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Appendix H of this AGREEMENT.

B. Termination for Cause. Upon Covered Program's knowledge of a material breach by Business Associate, Covered Program may provide an opportunity for Business Associate to cure the breach and end the violation or may terminate this AGREEMENT if Business Associate does not cure the breach and end the violation within the time specified by Covered Program, or Covered Program may immediately terminate this AGREEMENT if Business Associate has breached a material term of this AGREEMENT and cure is not possible.

C. Effect of Termination.

1. Except as provided in paragraph (c)(2) below, upon termination of this AGREEMENT, for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Program, or created or received by Business Associate on behalf of Covered Program. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.

2. In the event that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Program notification of the conditions that make return or destruction infeasible. Upon mutual agreement of Business Associate and Covered Program that return or destruction of Protected Health Information is infeasible, Business Associate shall extend the protections of this AGREEMENT to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

V. Violations

A. Any violation of this AGREEMENT may cause irreparable harm to the STATE. Therefore, the STATE may seek any legal remedy, including an injunction or specific performance for such harm, without bond, security or necessity of demonstrating actual damages.

B. Business Associate shall indemnify and hold the STATE harmless against all claims and costs resulting from acts/omissions of Business Associate in connection with Business Associate's obligations under this AGREEMENT. Business Associate shall be fully liable for the actions of its agents, employees, partners or subcontractors and shall fully indemnify and save harmless the STATE from suits, actions, damages and costs, of every name and description relating to breach notification required by 45 CFR Part 164 Subpart D, or State Technology Law § 208, caused by any intentional act or negligence of Business Associate, its agents, employees, partners or subcontractors, without limitation; provided,

however, that Business Associate shall not indemnify for that portion of any claim, loss or damage arising hereunder due to the negligent act or failure to act of the STATE.

VI. Miscellaneous

- A. Regulatory References. A reference in this AGREEMENT to a section in the Code of Federal Regulations means the section as in effect or as amended, and for which compliance is required.
- B. Amendment. Business Associate and Covered Program agree to take such action as is necessary to amend this AGREEMENT from time to time as is necessary for Covered Program to comply with the requirements of HIPAA, HITECH and 45 CFR Parts 160 and 164.
- C. Survival. The respective rights and obligations of Business Associate under (IV)(C) of this Appendix H of this AGREEMENT shall survive the termination of this AGREEMENT.
- D. Interpretation. Any ambiguity in this AGREEMENT shall be resolved in favor of a meaning that permits Covered Program to comply with HIPAA, HITECH and 45 CFR Parts 160 and 164.
- E. HIV/AIDS. If HIV/AIDS information is to be disclosed under this AGREEMENT, Business Associate acknowledges that it has been informed of the confidentiality requirements of Public Health Law Article 27-F.

**ATTACHMENT 19**

**Appendix X**

Agency Code 12000  
APPENDIX X

Contract Number: \_\_\_\_\_

Contractor: \_\_\_\_\_

Amendment Number X-\_\_\_\_\_

This is an AGREEMENT between THE STATE OF NEW YORK, acting by and through NYS Department of Health, having its principal office at Albany, New York, (hereinafter referred to as the STATE), and \_\_\_\_\_ (hereinafter referred to as the CONTRACTOR), for amendment of this contract.

This amendment makes the following changes to the contract (check all that apply):

- \_\_\_\_\_ Modifies the contract period at no additional cost
- \_\_\_\_\_ Modifies the contract period at additional cost
- \_\_\_\_\_ Modifies the budget or payment terms
- \_\_\_\_\_ Modifies the work plan or deliverables
- \_\_\_\_\_ Replaces appendix(es) \_\_\_\_\_ with the attached appendix(es) \_\_\_\_\_
- \_\_\_\_\_ Adds the attached appendix(es) \_\_\_\_\_
- \_\_\_\_\_ Other: (describe) \_\_\_\_\_

This amendment *is* / *is not* a contract renewal as allowed for in the existing contract.

All other provisions of said AGREEMENT shall remain in full force and effect.

Prior to this amendment, the contract value and period were:

\$ \_\_\_\_\_ From \_\_\_\_/\_\_\_\_/\_\_\_\_ to \_\_\_\_/\_\_\_\_/\_\_\_\_.  
(Value before amendment) (Initial start date)

This amendment provides the following modification (complete only items being modified):

\$ \_\_\_\_\_ From \_\_\_\_/\_\_\_\_/\_\_\_\_ to \_\_\_\_/\_\_\_\_/\_\_\_\_.

This will result in new contract terms of:

\$ \_\_\_\_\_ From \_\_\_\_/\_\_\_\_/\_\_\_\_ to \_\_\_\_/\_\_\_\_/\_\_\_\_.  
(All years thus far combined) (Initial start date) (Amendment end date)

Signature Page for:

Contract Number: \_\_\_\_\_

Contractor: \_\_\_\_\_

Amendment Number: X-\_\_\_\_\_

-----  
IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT as of the dates appearing under their signatures.

**CONTRACTOR SIGNATURE:**

By: \_\_\_\_\_  
(signature)

Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF NEW YORK                    )  
  )   SS:  
County of \_\_\_\_\_                )

On the \_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_ before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their/ capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
(Signature and office of the individual taking acknowledgement)

-----  
**STATE AGENCY SIGNATURE**

"In addition to the acceptance of this contract, I also certify that original copies of this signature page will be attached to all other exact copies of this contract."

By: \_\_\_\_\_  
(signature)

Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

-----  
**ATTORNEY GENERAL'S SIGNATURE**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**STATE COMPTROLLER'S SIGNATURE**

By: \_\_\_\_\_

Date: \_\_\_\_\_