

**NEW YORK STATE DEPARTMENT OF HEALTH**

**An Invitation for Bid for**

**The Special Supplemental Nutrition Program for Women, Infants and Children (WIC)**

**IFB No. 16015**

**WIC Check Stock**

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**Schedule of Key Events**

IFB Release Date	April 8, 2015
Deadline for Submission of Questions (by 5:00 P.M. ET)	April 17, 2015
Response to Written Questions (on or about)	May 1, 2015
Bid Due Date (by 2:00 P.M. ET)	May 15, 2015
Anticipated Contract Start Date	July 1, 2015

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:

Joseph Zeccolo  
Bureau of Contracts  
Division of Administration  
New York State Department of Health  
Corning Tower, Room 2827  
Albany, New York 12237  
Phone: 518-474-7896  
E-mail: [joseph.zeccolo@health.ny.gov](mailto:joseph.zeccolo@health.ny.gov)

**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 permissible subjects:

**Submission of written bids; Submission of Written Questions; Debriefings; Negotiation of Contract Terms after Award:**

Sue Mantica  
Bureau of Supplemental Food Programs  
Division of Nutrition  
NYS Department of Health  
150 Broadway, Suite 650  
Albany, NY 12204  
Email: [sue.mantica@health.ny.gov](mailto:sue.mantica@health.ny.gov)

*For further information regarding these statutory provisions, see the Lobbying Statute summary in Section E. 12 of this solicitation.*

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## **A. INTRODUCTION**

The New York State Department of Health (DOH) is seeking bids for the provision of check stock for the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) that is administered in New York State by the Bureau of Supplemental Food Programs within the DOH's Division of Nutrition. The WIC check stock obtained through this procurement will be shipped to approximately 200 sites statewide and used in laser printers at approximately 500 statewide locations to produce magnetic ink character recognition (MICR) readable checks. Detailed product requirements are provided below in the section "WIC Check Stock Specifications."

The DOH is responsible for the requirements specified herein and for the evaluation of proposals. It is the intention of the State to enter into a contract, for a term of three (3) years, with the option to renew for two (2) additional one (1) year periods beginning on or about the date specified in the Schedule of Key Events on the cover page of this IFB.

## **B. BACKGROUND**

The WIC Program serves low-income pregnant, postpartum, and breastfeeding women, infants, and young children who are at nutritional risk due to medical conditions or inadequate dietary intake. WIC is an adjunct to health care, providing nutrition education and prescribed food packages to the targeted population. In New York State, 93 WIC local agencies are under contract to provide services to over 500,000 persons per month at 500 clinics statewide. These agencies include hospitals, health clinics, city and county health departments, and community action programs. Printing and distribution of checks for purchasing food occurs at these WIC local agencies.

## **C. WIC CHECK STOCK SPECIFICATIONS**

### **1. ESTIMATED QUANTITY**

39 million sheets – Approximately 13 million sheets per year.

The quantities listed are estimated only and based upon the historic filled requirements for one (1) year. There is no guarantee of actual ordered quantities. Payment shall be based upon the actual usage. There is no minimum quantity requirement per order.

### **2. SIZE**

8-1/2" X 11" bleeds three (3) sides, two (2) perforations, three (3) checks per sheet; each check measures 3-2/3" x 8-1/2".

### **3. STOCK**

White 24# BOND paper - must be a "Controlled" safety paper produced under tight security conditions with limited access. The paper must have toner retention treatment to enhance the fusion of variable data to the paper surface in order to deter attempted alteration.

### **4. SECURITY FEATURES**

#### **a. FRONT OF CHECKS**

- 1) Eraser Deterrent Ink (background clearly altered if erasure is attempted).
- 2) The documents must contain a hidden Void Pantograph that shall provide substantial protection against attempted reproduction by color and black and white copiers. The word "Void" must appear repetitiously across the face of the checks when reproduction is attempted. This feature will be tested for effectiveness across a full range of copier settings and must be compatible with bank imaging systems. The vendor must have the ability to pattern this feature in such a manner that meets image compliance for Image Replacement Documents produced by the banking system.
- 3) There is a white area at the bottom of each check for the MICR line.

#### **b. BACK OF CHECKS**

- 1) A "Custom" Artificial Watermark of the WIC Logo must be printed in multiple areas of each check back. These marks shall not photocopy or scan and shall be visible when held at an angle either toward or away from reflected lights. The Watermark design will be provided upon award of the bid.
- 2) Additional Security Marks: Must use pattern of unevenly spaced lines or other equally functional design to deter cut and paste attempts.
- 3) Printing on reverse for endorsement and program messages. The printing on reverse of check must conform to commercial code requirements of the Federal Reserve Bank.

### **5. PRESSWORK**

Front prints two (2) colors and contains prismatic printing - vertically printing the background of the document with a multi-colored void pantograph in which one (1) color gradually fades into the next. The copy bleeds left, top and right. Back prints four (4) lines in black. Also printed on back in white or transparent ink for the custom artificial watermark.

**6. INK**

Front: Must be PMS 492 and PMS 309, or a visually close match. This ink, including approved densities, must match for each run of WIC checks.

Back: Must use Black Ink for the four (4) lines. Back also prints in white or transparent ink for the custom artificial watermark.

All inks must be heat sensitive laser ink. DOH must approve the ink colors prior to printing. Ink must be low odor, non-yellowing and be allowed a 48 hour curing / drying time prior to shrink wrapping.

**7. PACKING**

Check stock (three (3) checks per sheet) will be shrink wrapped in packages of 500 sheets and boxed four (4) packages per box. Shipping containers must be clearly marked with specific words as instructed by DOH at the time of contract execution.

**8. INVENTORY**

Contractor will be required to maintain and store the lesser of three (3) months inventory of printed check stock or printed check stock equivalent to the remainder of the estimated quantity of the contract.

**9. DELIVERY**

Approximately 542 boxes of check stock will be needed per month. The contractor will be required to ship directly to approximately 200 individual delivery sites located throughout New York State. A listing of the current delivery sites is contained in Attachment 2. The New York State Department of Health will submit orders to the contractor by the close of business (5:00 p.m. ET) on the first business day following the 10th of each month. On rare occasions an emergency order requiring overnight shipping may be placed outside of this date. The first monthly order of checks will be transmitted electronically to the contractor in **August, 2015**.

**10. ORDER AND DELIVERY INSTRUCTIONS**

- a. The orders will be submitted electronically.
- b. The orders will be broken down by:
  - WIC Site Number
  - Site name
  - Site shipping address
  - The number of boxes to be shipped to each site
- c. The contractor will process and ship the orders to the specified locations within three (3) business days (Monday thru Friday) of receipt of the order.

- d. Each box of check stock shipped must be traceable to a specific print lot.
- e. The contractor will ship all orders by a traceable delivery service (i.e., UPS, Fed Ex) with expected delivery in three (3) to five (5) business days from the date of shipment.
- f. The contractor will send approved electronic confirmation of the order to the New York State Department of Health, Division of Nutrition within three (3) business days of complete shipment, including all tracking numbers. The format and method of the confirmation must be in a manner satisfactory to the Department.
- g. Shipping charges for check stock by regular ground delivery methods must be Free on Board (FOB) destination, inside delivery.
- h. If a discrepancy arises with a delivery, the contractor is responsible for providing proof of delivery.

**11. SPECIAL DELIVERIES**

There may be some rare occasions when the State will request a delivery be made by other than routine ground shipment. In these cases, the State will be responsible for the additional shipping charges incurred (as charged by the carrier). The contractor will send a separate invoice for these shipping charges. The invoice must include the shipper's weigh bill.

**12. QUALITY CONTROL**

Subsequent to an award, the winning bidder will be required to meet with Department of Health representative (s) to discuss quality control and back up equipment capabilities.

**13. NEGATIVES/DIGITAL FILES**

All negatives or digital copies become the property of the State of New York and are to be provided to the DOH within 30 days of completion or termination of the contract.

**14. PROOFS (SELECTED CONTRACTOR ONLY)**

Within 30 days of notification of award, the contractor will be required to submit one (1) box (2,000 sheets) of printed check stock, perforated, packaged and labeled the same as the final product would be when delivered for testing. This box of printed check stock is required for testing before approval of the production press run. Testing will include runs through DOH contracted bank's image scanning equipment to evaluate image compliance for Image Replacement Documents produced. If the check stock provided does not pass the test runs, the contractor will be given two (2) additional opportunities to provide check stock for testing. If, after three (3) attempts to provide check stock for testing, the selected contractor's check stock does not meet the approval

of the production press run, the award will be rescinded and DOH will then move to the next responsive low bidder.

## **15. PRODUCTION CONTROL AND PLANT SECURITY**

The contractor will use all means required to ensure that no documents shall be lost during production or storage and that none shall be reproduced unlawfully.

All manufacturing will be done on contractor controlled premises and shall be adequately secured to prevent damage or loss of product.

The contractor will utilize the established procedure for the immediate destruction and disposal of all product not delivered or inventoried under this contract.

The contractor must notify the New York State Department of Health of any change of manufacturing location and receive security clearance from the Department for said location prior to the start of the printing process. Also, if some part of the work is to be done at another location, the Department of Health must be notified before work begins and security clearance must be obtained.

The DOH reserves the right to enter the contractor's premises at any time during business hours, prior to production and at any time during production to inspect security at plant and storage facilities and to verify security measures. The steps detailed below within the Plant Security are to be utilized by the Department of Health in evaluating security measures.

### **Plant Security**

The physical plant must have a process in place that limits ingress and egress to the production and storage areas to only authorized persons. In those areas where security items are maintained or manufactured, public access must be precluded.

The plant will be of a permanent nature with a minimum of fire hazards and with the ability for being secured both during and after working hours.

During working hours, those areas in which security items are maintained or manufactured must be secured with controlled access limited to employees only. Employees are to be identified as having authority to enter the area.

After working hours, the premises will be secured with either an alarm system integrated with an enforcement agency or a duly recognized security force. In lieu of an alarm system, security guards, to be of a recognized security agency or private security personnel meeting the standards of a recognized security agency, should be sufficient to patrol the area.

In the case of manufacturing facilities, the area allocated and used for the printing and/or storage of the completed product and necessary plates etc., used in the production of the item must be secured in the fashion named above for both during and after working

hours.

The contractor must have a procedure to secure and account for documents during production and storage while in the plant, and the procedure must be followed to account for the disposal of waste and overruns. All waste is to be destroyed on site under dual custody by contractor's employees.

In all of the above, inspections of the premises must indicate that the security measures are fully utilized at all times and not just merely available. Vendor must provide secure storage and accountability of the finished product while in the manufacturer's hands and provisions for the secure shipment of the completed items to their destination.

#### **D. BID REQUIREMENTS**

The bidder must provide with their bid the following criteria:

##### **1. MINIMUM BIDDER QUALIFICATIONS**

Using the Technical Response Form, bidders must submit documentation to verify they meet the following minimum bidder requirements:

- a.** Manufacturing plant and storage facility must be located in the continental United States.
- b.** Three (3) years' experience providing verifiable delivery to multiple locations within critical timelines;
- c.** Experience working simultaneously with a minimum of three (3) clients. This experience must have occurred within the last three (3) years ending December 31, 2014 and be specifically for producing safety paper products for each client totaling a minimum of 13 million sheets per client per year.

##### **2. MINIMUM TECHNICAL REQUIREMENTS**

Bidder must provide a description or documentation of the following items:

- a.** Procedure to limit access to production and storage areas to authorized persons; and
- b.** Security provisions to prevent unauthorized access after working hours; and
- c.** Procedure to account for any production overruns or waste and to ensure immediate destruction and disposal of any unused product; and
- d.** In addition the bidder must attest to meeting the requirements stated under Section C.15 Production Control and Plant Security of this IFB; and

- e. Bidder must also agree that the State and the USDA Food and Nutrition Service reserve a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use and authorize others to use for Federal Government purposes, the copyright of any software and associated documentation developed under the resulting contract; and
- f. Bid Safety Stock Samples: Bids must be accompanied by a sample (or samples) printed on safety stock. Samples must show evidence of the bidder's ability to produce secure documents by illustrating each of the following features:
  - Eraser deterrent ink
  - Hidden Void Pantograph (should the renewal option of the resulting contract be executed by DOH, the DOH reserves the right to request changes to the pattern of the void pantograph, watermark logo and ink colors at no additional charge).
  - Pattern of Unevenly Spaced Lines (or functionally equivalent design) to deter photocopying
  - Multi-color prismatic printing
  - If the bidder cannot provide a single sample illustrating all features, the bidder may submit multiple samples (i.e., different types of documents) to illustrate the various features.

**FAILURE TO SUBMIT STOCK SAMPLE (S) WITH BID WILL CONSTITUTE REJECTION OF THE BID.**

**3. METHOD OF AWARD**

At the discretion of the Department of Health, all bids may be rejected. The State will award the contract to the responsible and responsive bidder who offers the lowest total bid.

In the event of a tie, the determining factor(s) for award, in descending order of importance, will be:

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

Once a bidder is selected, the Department of Health will issue a contract to the vendor. In order to be considered responsible and responsive, the bid must include all Invitation for Bid (IFB) required documents and meet the minimum qualifications as stated in the IFB. Bids that do not meet the minimum qualifications will not be considered for award.

#### 4. COST PROPOSALS

The bid price will be per unit and include all customs duties and charges and be net Free on Board (FOB) destination, including all costs necessary or incidental to proper execution of job including inside delivery to approximately 200 sites throughout New York State (See Attachment 2).

#### E. ADMINISTRATIVE

##### 1. ISSUING AGENCY

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

##### 2. INQUIRIES

Questions concerning this solicitation must be submitted in writing by the date and time located in the Schedule of Key Events on the cover of this IFB #16015 via an email to [bsfprfp@health.ny.gov](mailto:bsfprfp@health.ny.gov) or by delivery to the following address:

Stacey Johnson  
Bureau of Supplemental Food Programs  
Division of Nutrition  
NYS Department of Health  
150 Broadway – Suite 650  
Albany, New York 12204-2719

Questions and answers, as well as any IFB updates and or modifications related to this IFB, will be posted on the Department of Health's website at <http://www.health.ny.gov/funding/> on or about the date indicated on the cover of this IFB.

##### 3. SUBMISSION OF BIDS

**Interested vendors should submit four (4) handwritten signed originals and four (4) copies of their Bid Proposal. The Bid Proposal must be received not later than the date and time noted in the Schedule of Key Events.**

Prepare your bid on the attached forms. Print the name of your company on each page of the bid in the block provided.

Bids shall be prepared in accordance with the requirements stated in this IFB. **All documentation requested under the Bid Requirements section (Section D) must be provided at the time the proposal is submitted.**

Responses to this solicitation, including all samples, should be clearly marked “**IFB # 16015 WIC Check Stock**” and directed to:

**Bureau of Supplemental Food Programs  
Division of Nutrition  
NYS Department of Health  
150 Broadway, Suite 650  
Albany, NY 12204-2719  
ATTENTION: Sue Mantica / Bid Enclosed**

Bid proposals should be in a sealed envelope and should be marked “**BID ENCLOSED**” and labeled with the contents of the envelope as listed below. The bid envelope should be packaged together, along with the safety stock sample.

**The Bid proposal must include the following documents:**

- Technical Response Form (Attachment 4)
- Cost Proposal (Attachment 7)
- Safety Stock Sample (s) (see Section D: Bid Requirements, Bid Safety Stock Samples description)

The Bid proposal should also include the following completed forms:

- Vendor Responsibility Attestation (Attachment 1)
- Cover Sheet (Attachment 3)
- Reference Submission Form (Attachment 5)
- NYS Department of Health Lobbying Form (Attachment 6)
- M/WBE Utilization Plan (Attachment 9)
- Encouraging Use of New York Businesses in Contract Performances (Attachment 10)

**It is the bidder’s responsibility to see that bids are delivered to the address above prior to the date and time noted on the Schedule of Key Events.** Bidders must allow extra time to comply with the security procedures in effect at the Riverview Center building when hand delivering bids or delivering by independent courier services.

**LATE BIDS due to the delay by the carrier or not received in the department’s mail room will not be considered.**

**NOTICE TO NON-BIDDERS:**

If your company elects NOT to submit a bid, you are requested to complete and return a copy of the “No-Bid Form” (Attachment 8) to the address above.

**4. THE DEPARTMENT OF HEALTH RESERVES THE RIGHT TO**

- a. Reject any or all proposals received in response to the IFB;
- b. Withdraw the IFB at any time, at the agency's sole discretion;
- c. Make an award under the IFB in whole or in part;
- d. Disqualify any bidder whose conduct and/or proposal fails to conform to the requirements of the IFB;
- e. Seek clarifications and revisions of proposals;
- f. 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;
- g. Prior to the *bid opening*, amend the IFB specifications to correct errors or oversights, or to supply additional information, as it becomes available;
- h. Prior to the bid opening, direct bidders to submit proposal modifications addressing subsequent IFB amendments;
- i. Change any of the scheduled dates;
- j. Eliminate any mandatory, non-material specifications that cannot be complied with by all of the prospective bidders;
- k. Waive any requirements that are not material;
- l. Negotiate with the successful bidder within the scope of the IFB in the best interests of the state;
- m. Conduct contract negotiations with the next responsible bidder, should the agency be unsuccessful in negotiating with the selected bidder;
- n. Utilize any and all ideas submitted in the proposals received;
- o. Unless otherwise specified in the solicitation, every offer is firm and not revocable for a period of 365 days from the bid opening; and,
- p. 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.

**5. PAYMENT**

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

1. Preferred Method: Email a .pdf copy of your signed voucher to the BSC at: DOHaccountspayable@ogs.ny.gov with a subject field as follows:

Subject: Unit ID: 3450270 Contract #C0XXXXXX

Alternate Method: Mail vouchers to BSC at the following U.S. postal address:

NYS Department of Health  
Unit ID 3450297  
PO Box 2093  
Albany, NY 12220-0093

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. 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 and/or vouchers by the State (New York State Department of Health) shall be made in accordance with Article XI-A of the New York State Finance Law.

Payments cannot be processed by the New York State Department of Health until the contract deliverables according to the contract terms have been delivered in satisfactory condition. Payment will be based on an invoice used in the supplier's normal course of business.

The contractor will send one (1) consolidated invoice within 30 days after the close of each month, to the address noted above: [DOHAccountspayable@ogs.ny.gov](mailto:DOHAccountspayable@ogs.ny.gov). The contractor will also submit an electronic spreadsheet of the invoice data to the same address. The invoice must contain sufficient data, including, but not limited to, the following:

- WIC Site Number
  - WIC Site Name
  - Total by site of quantity shipped
  - Grand Totals for the monthly shipment
  - Total number of product shipped including associated cost
  - SFS Vendor ID number
  - Unit ID 3450270
- [DON-BSC@health.state.ny.us](mailto:DON-BSC@health.state.ny.us)

## **6. CONTRACT RENEWAL PRICING**

Prices shall remain firm for the first three (3) years of the contract period. Should NYSDOH elect to renew the term of the contract beyond the initial three (3) year period, the pricing for the optional contract renewal will be subject to a price increase or decrease of the lesser of three percent (3%) or the percent increase or decrease in the Producer Price Index (PPI)-Commodities –Paper; Table 5: Producer price indexes and percent changes for selected commodity groupings of intermediate demand by commodity type category, Base Period: 1982=100, unless otherwise indicated as published by the United States Bureau of Labor Statistics, Washington, D.C., 2012 for the 12 month-period ending three (3) calendar months prior to the end date of the third year of the contract for the fourth year renewal and the end date of the fourth year of the contract for the fifth year renewal.

## **7. TERM OF CONTRACT**

The agreement shall be effective upon approval of the NYS Office of the State Comptroller.

It is the intention of the State to enter into a contract beginning on or about the date specified in the Schedule of Key Events, for a term of three (3) years with the option to renew for two (2) additional one (1) year periods as stated in the Invitation for Bid.

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.

## **8. 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 (10) business days from date of award or non-award announcement.

## **9. 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 in Chapter XI Section 17 of the Guide to Financial Operations (GFO). Available on-line at:

<http://www.osc.state.ny.us/agencies/guide/MyWebHelp/>

## **10. 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 [ciohelpdesk@osc.state.ny.us](mailto:ciohelpdesk@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. The winning bidder must also complete and submit the Vendor Responsibility Attestation (Attachment 1).

## **11. 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" 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" 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.

State Consultant Services Form A: Contractor's Planned Employment and Form B: Contractor's Annual Employment Report may be accessed electronically at:  
<http://www.osc.ny.gov/procurement/>.

## **12. 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.

**13. 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.

**14. 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.dhSES.ny.gov/ocs/incident-reporting>

## **15. 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 attached hereto. 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 attached hereto, 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.

Forms ST-220-TD and ST-220-CA may be accessed electronically at:  
ST-220-TD:

[www.tax.ny.gov/pdf/current\\_forms/st/st220td\\_fill\\_in.pdf](http://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf)

ST-220-CA:

[www.tax.ny.gov/pdf/current\\_forms/st/st220ca\\_fill\\_in.pdf](http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf)

**16. PIGGYBACKING**

New York State Finance Law section 163(10)(e) (see also <http://ogs.ny.gov/BU/PC/Docs/Guidelines.pdf>) 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.

**17. CONTRACTOR REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED MINORITY AND WOMAN OWNED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN.**

**NEW YORK STATE LAW**

Pursuant to New York State Executive Law Article 15-A, the New York State Department of Health recognizes its obligation to promote opportunities for maximum feasible participation of certified minority-and women-owned business enterprises and the employment of minority group members and women in the performance of New York State Department of Health contracts.

In 2006, the State of New York commissioned a disparity study to evaluate whether minority and women-owned business enterprises had a full and fair opportunity to participate in state contracting. The findings of the study were published on April 29, 2010, under the title "The State of Minority and Women-Owned Business Enterprises: Evidence from New York" ("Disparity Study"). The report found evidence of statistically significant disparities between the level of participation of minority-and women-owned business enterprises in state procurement contracting versus the number of minority-and women-owned business enterprises that were ready, willing and able to participate in state procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the statewide certified minority- and women-owned business enterprises program. The recommendations from the Disparity Study culminated in the enactment and the implementation of New York State Executive Law Article 15-A, which requires, among other things, that New York State Department of Health establish goals for maximum feasible participation of New York State Certified minority- and women – owned business enterprises ("MWBE") and the employment of minority groups members and women in the performance of New York State contracts.

## Business Participation Opportunities for MWBEs

For purposes of this solicitation, New York State Department of Health hereby establishes an overall goal of 30% for MWBE participation, 15% for Minority-Owned Business Enterprises (“MBE”) participation and 15% for Women-Owned Business Enterprises (“WBE”) participation (based on the current availability of qualified MBEs and WBEs). A contractor (“Contractor”) on the subject contract (“Contract”) must document good faith efforts to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract and Contractor agrees that New York State Department of Health may withhold payment pending receipt of the required MWBE documentation. The directory of New York State Certified MWBEs can be viewed at: <http://www.esd.ny.gov/mwbe.html>.

For guidance on how New York State Department of Health will determine a Contractor’s “good faith efforts,” refer to 5 NYCRR §142.8.

In accordance with 5 NYCRR §142.13, Contractor acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such finding constitutes a breach of Contract and New York State Department of Health may withhold payment from the Contractor as liquidated damages.

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

By submitting a bid or proposal, a bidder on the Contract (“Bidder”) agrees to submit the following documents and information as evidence of compliance with the foregoing:

- A. Bidders are required to submit a MWBE Utilization Plan on Form #1 with their bid or proposal. Any modifications or changes to the MWBE Utilization Plan after the Contract award and during the term of the Contract must be reported on a revised MWBE Utilization Plan and submitted to New York State Department of Health.
- B. New York State Department of Health will review the submitted MWBE Utilization Plan and advise the Bidder of New York State Department of Health acceptance or issue a notice of deficiency within 30 days of receipt.
- C. If a notice of deficiency is issued, Bidder agrees that it shall respond to the notice of deficiency within seven (7) business days of receipt by submitting to the DOH, [address phone and fax information], a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by New York State Department of Health to be inadequate, New York State Department of Health shall notify the Bidder and direct the Bidder to submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals on Form #2. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.
- D. New York State Department of Health may disqualify a Bidder as being non-responsive under the following circumstances:
  - a) If a Bidder fails to submit a MWBE Utilization Plan;
  - b) If a Bidder fails to submit a written remedy to a notice of deficiency;

- c) If a Bidder fails to submit a request for waiver; or
- d) If New York State Department of Health determines that the Bidder has failed to document good faith efforts.

Contractors shall attempt to utilize, in good faith, any MBE or WBE identified within its MWBE Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract Award may be made at any time during the term of the Contract to New York State Department of Health, but must be made prior to the submission of a request for final payment on the Contract.

Contractors are required to submit a Contractor's Quarterly M/WBE Contractor Compliance & Payment Report on Form #3 to the New York State Department of Health address, phone and fax information, by the 10<sup>th</sup> day following each end of quarter over the term of the Contract documenting the progress made toward achievement of the MWBE goals of the Contract.

#### Equal Employment Opportunity Requirements

By submission of a bid or proposal in response to this solicitation, the Bidder/Contractor agrees with all of the terms and conditions of Appendix A including Clause 12 - Equal Employment Opportunities for Minorities and Women. The Contractor is required to ensure that it and any subcontractors awarded a subcontract over \$25,000 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, shall undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.

Bidder further agrees, where applicable, to submit with the bid a staffing plan (Form #4) identifying the anticipated work force to be utilized on the Contract and if awarded a Contract, will, upon request, submit to the New York State Department of Health, a workforce utilization report identifying the workforce actually utilized on the Contract if known.

Further, pursuant to Article 15 of the Executive Law (the "Human Rights Law"), all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

**Please Note: Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Contract,**

**leading to the withholding of funds, suspension or termination of the Contract or such other actions or enforcement proceedings as allowed by the Contract.**

**18. IRAN DIVESTMENT ACT**

By submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, Bidder/Contractor (or any assignee) certifies that it is not on the “Entities Determined To Be Non-Responsive Bidders/Offerers Pursuant to The New York State Iran Divestment Act of 2012” list (“Prohibited Entities List”) posted on the OGS website at: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf> and further certifies that it will not utilize on such Contract any subcontractor that is identified on the Prohibited Entities List. Additionally, Bidder/Contractor is advised that should it seek to renew or extend a Contract awarded in response to the solicitation, it must provide the same certification at the time the Contract is renewed or extended.

During the term of the Contract, should the Department of Health receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, the Department of Health will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the Department of Health shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, seeking compliance, recovering damages, or declaring the Contractor in default.

The Department of Health reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

**19. ENCOURAGING USE OF NEW YORK BUSINESSES IN CONTRACT PERFORMANCE**

Public procurements can drive and improve the State’s economic engine through promotion of the use of New York businesses by its contractors. New York State businesses have a substantial presence in State contracts and strongly contribute to the economies of the state and the nation. In recognition of their economic activity and leadership in doing business in New York State, bidders/proposers for this contract for commodities, services or technology are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the contract. Such partnering may be as subcontractors, suppliers, protégés or other supporting roles. All bidder’s should complete Attachment 10 to indicate their intent to use/not use New York Businesses in the performance of this contract.

## F. APPENDICES

The following will be incorporated as appendices 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 – The “Invitation for Bids” Document
- ❑ APPENDIX C – Proposal

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

- ❑ APPENDIX D – General Specifications
- ❑ 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 M – Participation by Minority Group Members and Women With Respect to State Contracts: Requirements and Procedures
- APPENDIX X – Modification Agreement Form (to accompany modified appendices for changes in term or consideration on an existing period or for renewal periods)

**G. ATTACHMENTS**

- |               |   |
|---------------|---|
| Attachment 1  | Vendor Responsibility Attestation                               |
| Attachment 2  | New York State WIC Local Agency Delivery Addresses              |
| Attachment 3  | Cover Sheet   |
| Attachment 4  | Technical Response Form   |
| Attachment 5  | Reference Submission Form                                       |
| Attachment 6  | Lobbying Form   |
| Attachment 7  | Cost Proposal   |
| Attachment 8  | No-Bid Form   |
| Attachment 9  | M/WBE Utilization Plans   |
| Attachment 10 | Encouraging Use of New York Businesses in Contract Performances |
| Attachment 11 | Sample Standard New York State Contract Language and Appendices |

**ATTACHMENT 1 - VENDOR RESPONSIBILITY ATTESTATION**

**Attachment 1**  
**Vendor Responsibility Attestation**

To comply with the Vendor Responsibility Requirements outlined in Section E, Administrative, 10. 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: \_\_\_\_\_

**ATTACHMENT 2 – NEW YORK STATE WIC LOCAL AGENCY DELIVERY ADDRESSES**

Site Number	WIC Delivery Site Name	Street Address	City	Zip Code
200-01	Woman's Health Center WIC	220 Green St	Albany	12202
201-02	Warren County WIC	1340 State Route 9	Lake George	12845
202-01	Whitney M Young Jr WIC	920 Lark Dr	Albany	12207
203-01	Joe Bruno Family WIC	2331 5th Ave	Troy	12180
204-03	Cornell Cooperative Extension WIC	650 Franklin St	Schenectady	12305
205-01	Madison County WIC	603 Seneca St	Oneida	13421
205-02	Herkimer County WIC	401 E German St	Herkimer	13350
206-01	Fulmont Community Action WIC	20 Park St	Fonda	12068
206-04	Fulmont Community Action WIC	53 Church St	Gloversville	12078
207-01	Delaware Opportunities WIC	35430 State Highway 10	Hamden	13782
208-01	Schoharie County WIC	795 E Main St	Cobleskill	12043
209-01	Opportunities for Chenango WIC	44 W Main St	Norwich	13815
210-01	Opportunities for Otsego WIC	3 W Broadway	Oneonta	13820
211-01	Catholic Cherities WIC	431 E Allen St	Hudson	12534
211-07	St Patrick's Academy WIC	82 Woodlawn Ave	Catskill	12414
212-01	Washington County WIC	411 Lower Main St	Hudson Falls	12839
213-01	Cayuga County WIC	157 Genesee St	Auburn	13021
214-01	Oswego County WIC	10 George St	Oswego	13126
215-01	Jordan Health Link WIC	273 Upper Falls Blvd	Rochester	14605
216-01	Finger Lakes SPCC WIC	79 S Main St	Canandaigua	14424
216-02	Finger Lakes SPCC WIC	513 W Union St	Newark	14513
217-01	Cortland County WIC	32 N Main St	Cortland	13045
218-01	Tioga Opportunities WIC	110 Central Ave	Owego	13827
219-01	Oneida County WIC	617 South St	Utica	13501
219-02	Oneida County WIC	301 W Dominick St	Rome	13440
220-01	Onondaga County WIC	375 W Onondaga St	Syracuse	13202
220-02	Onondaga County WIC	7608 Oswego Rd	Liverpool	13090
221-02	Broome County WIC	225 Front St	Binghamton	13905
222-01	NCFHC Jefferson County WIC	238 Arsenal St	Watertown	13601
222-08	NCFHC Lewis County WIC	7785 N State St	Lowville	13367
222-15	NCFHC St Lawrence County WIC	3 Remington Ave	Canton	13617
222-29	NCFHC Franklin County WIC	44 Catherine St	Malone	12953
223-01	Essex County WIC	132 Water St	Elizabethtown	12932
224-01	Clinton County WIC	133 Margaret St	Plattsburgh	12901
225-01	Tompkins County WIC	55 Brown Rd	Ithaca	14850
226-01	St Regis Mohawk WIC	412 State Route 37	Akwesasne	13655
227-01	Hamilton County WIC	139 White Birch Ln	Indian Lake	12842
229-01	Cattaraugus County WIC	1 Leo Moss Dr	Olean	14760
231-01	Catholic Charities WIC	237 4th St	Niagara Falls	14303
231-02	Kenmore Catholic Charities WIC	3370 Delaware Ave	Kenmore	14217
231-04	Catholic Charities WIC	20 Market St	Lockport	14094
231-11	Seaton Professional Bldg WIC	2121 Main St	Buffalo	14214
231-12	South Buffalo WIC	200 Cazenovia St	Buffalo	14210
231-16	Northwest Community WIC	155 Lawn Ave	Buffalo	14207
231-18	Harlem Rd WIC	3527 Harlem Rd	Cheektowaga	14225

231-19	Genesee St WIC	930 Genesee St	Buffalo	14211
231-20	East Eagle St WIC	211 E Eagle St	Buffalo	14204
233-01	Livingston County WIC	2 Murry Hill Dr	Mount Morris	14510
234-01	Oak Orchard WIC	314 Ellicott St	Batavia	14020
234-02	Oak Orchard WIC	301 West Ave	Albion	14411
234-03	Oak Orchard WIC	280 West Ave	Brockport	14420
235-01	Chemung County WIC	103 Washington St	Elmira	14901
236-01	StMary's Hospital WIC	89 Genesee St	Rochester	14611
236-02	Waring Plaza WIC	250 Waring Rd	Rochester	14609
236-08	Monroe County WIC	691 Saint Paul St	Rochester	14605
238-01	ProAction Steuben County WIC	117 E Steuben St	Bath	14810
239-01	Saratoga County EOC WIC	39 Bath St	Ballston Spa	12020
240-02	Ulster County WIC	6 Aaron Ct	Kingston	12401
241-01	Sullivan County WIC	50 Community Ln	Liberty	12754
242-01	Putnam County WIC	1Geneva Rd	Brewster	10509
243-01	Orange County WIC	33 Route 17M	Harriman	10926
243-02	Middletown Health Dept WIC	33 Fulton Plaza	Middletown	10940
244-01	Monsey Family Health WIC	23 Robert Pitt Dr	Monsey	10952
244-04	Robert Yager Health WIC	50 Sanatorium Rd	Pomona	10970
245-01	Family Partnership WIC	29 N Hamilton St	Poughkeepsie	12601
245-02	Hudson River Healthcare WIC	1037 Main St	Peekskill	10566
245-03	Hudson River Healthcare WIC	6 Henry St	Beacon	12508
246-01	Open Door Family Medical WIC	165 Main St	Ossining	10562
246-02	Open Door Family Medical WIC	80 Beekman Ave	Sleepy Hollow	10591
247-01	Mount Vernon WIC	107 W 4th St	Mount Vernon	10550
248-01	Grover Johnson WIC	16 Guion PI	New Rochelle	10801
248-02	Family Wellness WIC	1600 E 233rd St	Bronx	10466
248-03	Family Wellness WIC	3401 White Plains Rd	Bronx	10467
249-01	Yonkers Dist Health WIC	20 S Broadway	Yonkers	10701
249-02	Westchester County WIC	112 E Post Rd	White Plains	10601
249-03	Westchester County WIC	S Main St	Port Chester	10573
251-01	East Harlem WIC	2253 3rd Ave	New York	10035
252-01	William F Ryan WIC	801 Amsterdam Ave	New York	10025
252-03	William F Ryan WIC	279 East 3rd St	New York	10009
253-01	Gouverneur Hospital WIC	227 Madison St	New York	10002
253-02	Chinatown WIC	125 Walker St	New York	10013
255-01	New York Downtown Hospital WIC	69 Gold St	New York	10038
255-03	Chinatown WIC	244 Grand St	New York	10002
256-01	St Luke's Roosevelt Hospital WIC	1111 Amsterdam Ave	New York	10025
256-02	Roosevelt Hospital WIC -	1000 10th Ave	New York	10019
257-01	Harlem Hospital WIC	506 Lenox Ave	New York	10037
257-02	Council Health WIC	1727 Amsterdam Ave	New York	10031
261-01	North Central Bronx Hospital WIC	3424 Kossuth Ave	Bronx	10467
261-02	Jacobi Medical WIC	1400 Pelham Pkwy S	Bronx	10461
262-01	Columbia Presbyterian Hospital WIC	68 Nagle Ave	New York	10040
262-04	Washington Heights WIC	549 W 180th St	New York	10033
262-05	High Risk Obstetrics WIC	622 W 168th St	New York	10032

262-06	Charles Rangel WIC	534 W 135th St	New York	10031
264-01	Family Preservation WIC	1125 Grand Concourse	Bronx	10452
264-03	South Bronx WIC	856 Longwood Ave	Bronx	10459
264-04	Morrisania WIC	1225 Gerard Ave	Bronx	10452
265-01	Partners in Health WIC	2021 Grand Concourse	Bronx	10453
265-02	St Barnabas Hospital WIC	4487 3rd Ave	Bronx	10457
265-03	Union Community Health WIC	260 E 188th St	Bronx	10458
267-01	Bronx Lebanon Hospital WIC	21 E Mount Eden Ave	Bronx	10452
269-01	Morris Heights Health WIC	85 W Burnside Ave	Bronx	10453
269-02	Morris Heights Health WIC	25 E 183rd St	Bronx	10453
269-03	StAnn's WIC	625 E 137 St	Bronx	10454
269-04	Parkchester WIC	2019 Westchester Ave	Bronx	10462
269-05	Vanguard WIC	825 E 233rd St	Bronx	10466
270-01	Westchester Sq WIC	22 Westchester Sq	Bronx	10461
270-02	Fordham Plaza WIC	1Fordham Plaza	Bronx	10458
270-03.	Montefiore Health WIC	432 E 161st St	Bronx	10451
273-01	Urban Health Plan WIC	1070 Southern Blvd	Bronx	10459
273-02	Plaza Dol Sol WIC	37-16 108th St	Corona	11368
274-01	Maimonides Medical WIC	5613 Fort Hamilton Pkwy	Brooklyn	11219
275-01	Jamaica Hospital WIC	134-20 Jamaica Ave	Jamaica	11418
276-01	South Jamaica Multi Service WIC	114-02 Guy R Brewer Blvd	Jamaica	11434
276-03	Hillcrest Medical Plaza WIC	79-18 164th St	Jamaica	11432
278-01	Bedford Stuyvesant FHC WIC	20 New York Ave	Brooklyn	11216
279-01	Brownsville Family Health WIC	408 Rockaway Ave	Brooklyn	11212
280-01	Brookdale Hospital WIC	465 New Lots Ave	Brooklyn	11207
281-01	PHS Bushwick WIC	335 Central Ave	Brooklyn	11221
281-02	PHS Gravesend WIC	2555 Ocean Ave	Brooklyn	11229
281-03	PHS East Tremont WIC	517 E Tremont Ave	Bronx	10457
281-05	PHS Corona WIC	103-24 Roosevelt Ave	Corona	11368
281-10	PHS Jamaica WIC	90-40 160th St	Jamaica	11432
281-12	PHS Astoria WIC	12-26 31st Ave	Astoria	11106
281-13	PHS Ridgewood WIC	853 Onderdonk Ave	Ridgewood	11385
281-15	PHS Flushing WIC	133-30 37th Ave	Flushing	11354
281-19	PHS Greenpoint WIC	387 Graham Ave	Brooklyn	11211
283-01	Sunset Park Family Health WIC	6025 6th Ave	Brooklyn	11220
283-02	Sunset Terrace Family Health WIC	514 49th St	Brooklyn	11220
283-04	Park Slope Family Health WIC	220 13th St	Brooklyn	11215
285-03	Wyckoff Heights Medical WIC	316A Himrod St	Brooklyn	11237
285-06	Wykoff Williamsburg WIC	168 Division Ave	Brooklyn	11211
286-01	Brooklyn Hospital WIC	485 Coney Island Ave	Brooklyn	11218
286-02	Downtown Brooklyn Hospital WIC	121 Dekalb Ave	Brooklyn	11201
286-03	Brooklyn Hospital WIC	1606 Fulton St	Brooklyn '	11213
286-04	Crown Heights WIC	535 Empire Blvd	Brooklyn	11225
286-05	Family Health WIC	77161st St	Brooklyn	11220
287-01	Coney Island Hospital WIC	2601 Ocean Pkwy	Brooklyn	11235
288-01	East NY D&T Center WIC	2094 Pitkin Ave	Brooklyn	11207
291-01	Kings County Hospital WIC	451 Clarkson Ave	Brooklyn	11203

291-02	Kings County WIC	2266 Nostrand Ave	Brooklyn	11210
291-03	Kings County WIC	4302 Church Ave	Brooklyn	11203
293-01	Joseph P Addabbo Family WIC	6200 Beach Channel Dr	Arverne	11692
293-02	Vista Medical Bldg WIC	1288 Central Ave	Far Rockaway	11691
293-03	Joseph P Addabbo WIC	114-49 Sutphin Blvd	Jamaica	11434
294-01	ODA of Williamsburg WIC	12 Heyward St	Brooklyn	11249
295-01	Richmond University Medical WIC	355 Bard Ave	Staten Island	10310
296-01	Staten Island Hospital WIC	242 Mason Ave	Staten Island	10305
296-03	Health Clinic WIC	57 Bay St	Staten Island	10301
297-01	Elmhurst Hospital WIC	81-06 Baxter Ave	Elmhurst	11373
298-01	Tri Community Health WIC	1080 Sunrise Hwy	Amityville	11701
298-03	Elsie Owens Health Care WIC	82 Middle Country Rd	Coram	11727
298-04	MLK Jr Community Health WIC	1556 Straight Path	Wyandanch	11798
298-05	Dolan Family Health WIC	284 Pulaski Rd	Greenlawn	11740
298-07	Brentwood Family Health WIC	1869 Brentwood Rd	Brentwood	11717
298-08	South Brookhaven Family Health WIC	550 Montauk Hwy	Shirley	11967
298-09	South Brookhaven Family Health WIC	365 E Main St	Patchogue	11772
298-10	County Center Bldg WIC	300 Center Dr	Riverhead	11901
299-02	Freeport Roosevelt WIC	380 Nassau Rd	Roosevelt	11575
299-04	Hempstead Community WIC	160 N Franklin St	Hempstead	11550
299-05	New Cassel Family WIC	682 Union Ave	Westbury	11590
299-10	Nassau County DOH WIC	200 County Seat Dr	Mineola	11501
301-01	Allegany County DOH WIC ✓	3453 B State Route 417 E	Wellsville	14895
303-01	Greater Hudson Family WIC	147 Lake St	Newburgh	12550
305-01	Cohen Children's Medical WIC	400 Lakeville Rd	New Hyde Park	11042
306-01	Yeled V'Yalda Early Childhood WIC	1312 38th St	Brooklyn	11218
306-02	Yeled V'Yalda Early Childhood WIC	6002 Farragut Rd	Brooklyn	11236
307-01	Stony Brook Medical WIC	181 N Belle Meade Rd	East Setauket	11733
307-02	Family Service League WIC	1444 5th Ave	Bayshore	11706
307-03	Stony Brook WIC	60 Adams Ave	Hauppauge	11788
308-01	Chautauqua County WIC	326-328 Central Ave	Dunkirk	14048
308-02	Chautauqua County WIC	200 Harrison St	Jamestown	14701
310-01	CCB Neighborhood WIC	161-10 Jamaica Ave	Queens	11432
310-02	CCB Neighborhood WIC	42-71 65th Pl	Woodside	11377
311-01	Catholic Charities WIC	38 St John's Pl	Freeport	11520
311-03	Catholic Charities WIC	143 Schlegel Blvd	Amityville	11701
312-01	Bellevue Hospital WIC	462 1st Ave	New York	10016
312-02	Metropolitan Hospital WIC	190 1st Ave	New York	10029
312-04	Chinatown WIC	221 Canal St	New York	10013
312-05	Sunnyside WIC	49-02 Queens Blvd	Woodside	11377
313-01	Middletown Community Health WIC	140 Hammond St	Port Jarvis	12771
314-01	NBHN Woodhull Medical WIC	760 Broadway	Brooklyn	11206
314-02	NBHN Cumberland D&T WIC	100 N Portland Ave	Brooklyn	11205
314-03	NBHN Greenpoint WIC	875 Manhattan Ave	Brooklyn	11222
314-05	NBHN Williamsburg WIC	279 Graham Ave	Brooklyn	11211
315-01	Lincoln Medical WIC	234 E 149th St	Bronx	- 10451
315-02	Segundo Ruiz D&T WIC	545 E 142nd St	Bronx	10454

316-01	IFH North General WIC	1824 Madison Ave	New York	10035
316-02	IFH Mount Sinai WIC	1701 Lexington Ave	New York	10029
316-03	IFH Settlement Health WIC	2082 First Ave	New York	10029
900-01	Division of Nutrition	150 Broadway 6th Fl West	Albany	12204

**ATTACHMENT 3 – COVER SHEET**

**Attachment 3**  
**Vendor Cover Sheet**

<b>Name of Company</b>		<b>Federal Tax ID Number</b>
<b>Company Address</b>		<b>Vendor Identification Number</b>
<b>Name of Company Official Submitting Bid (Print or Type)</b>		<b>Title</b>
<b>Authorized Signature</b>		<b>Date</b>
<b>Phone</b>		<b>Extension</b>
<b>Toll Free Phone</b>		<b>Extension</b>
<b>Fax</b>		<b>Extension</b>
<b>E-Mail Address</b>		
<b>Company Web Site</b>		

**Person or Persons to Contact for Expediting New York State Contract Orders:**

<b>Name (s)</b>	
<b>Phone</b>	<b>Extension</b>
<b>Toll Free Phone</b>	<b>Extension</b>
<b>Fax</b>	<b>Extension</b>
<b>E-Mail Address (es)</b>	

**ATTACHMENT 4 – TECHNICAL RESPONSE FORM**

**Attachment 4**  
**TECHNICAL RESPONSE FORM**  
**IFB # 16015**

**Bidder's**  
**Name** \_\_\_\_\_

**An answer of "No" to any of the following questions will result in a disqualification of your bid proposal.**

**Please answer the following questions (attach extra sheets as necessary):**

**Minimum Bidder Qualifications:**

- 1) Is the manufacturing plant and storage facility located in the continental United States? \_\_\_\_\_ YES \_\_\_\_\_ NO  
Details Attached
- a. City and State of manufacturing plant and storage facility where checks will be manufactured and stored :

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

- 2) Do you have three (3) years of experience providing verifiable delivery to multiple locations within critical timelines? Attach a description of how your company meets the requirement of verified delivery and guaranteed delivery dates. \_\_\_\_\_ YES \_\_\_\_\_ NO  
Details attached
- 3) Does your company have experience working simultaneously with a minimum of three (3) clients specifically for producing safety paper products for each client totaling a minimum of 13 million sheets per client per year with experience occurring within the last three (3) years, ending December 31, 2014? \_\_\_\_\_ YES \_\_\_\_\_ NO  
Details attached

**Minimum Technical Requirements:**

- 1) Does your company have a procedure to limit access to production and storage areas to authorized persons? \_\_\_\_\_ YES \_\_\_\_\_ NO  
Details attached
- 2) Does your company have Security provisions to prevent unauthorized access after working hours? \_\_\_\_\_ YES \_\_\_\_\_ NO  
Details attached
- 3) Does your company have a procedure to account for any production overruns or waste and to ensure immediate destruction and disposal of any unused product? \_\_\_\_\_ YES \_\_\_\_\_ NO

- 4) Does your company attest to meeting the requirements stated under Section C.15 Production Control and Plant Security of this IFB? \_\_\_\_\_ YES \_\_\_\_\_ NO
- 5) Does your company agree that the State and the USDA Food and Nutrition Service reserve a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use and authorize others to use for Federal Government purposes, the copyright of any software and associated documentation developed under the resulting contract? \_\_\_\_\_ YES \_\_\_\_\_ NO
- 6) Have you included a sample of safety stock, as required in this Bid? \_\_\_\_\_ YES \_\_\_\_\_ NO  
**Include sample(s) with the features listed in Section D: Bid Requirements: a. eraser deterrent ink; b. hidden void pantograph; c. pattern of unevenly spaced lines (or functional equivalent design) to deter photocopying; d. multi-color prismatic printing.**

**Other Information (not mandatory):**

- 7) Where is the bidder's principal place of business? ("Principal Place of Business" is the location of the primary control, direction and management of the enterprise.) STATE OF \_\_\_\_\_

Person or persons to contact for expediting DOH contract orders:

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

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

Telephone Number: ( ) \_\_\_\_\_

Toll Free Telephone Number: ( ) \_\_\_\_\_

Fax Number: ( ) \_\_\_\_\_

Toll Free Fax Number: ( ) \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

\_\_\_\_\_/\_\_\_\_\_  
 Bidder's Signature / Date

\_\_\_\_\_/\_\_\_\_\_  
 Printed name of signatory / Title

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

**Reminder: Safety stock sample (s) must be submitted with your bid.**

**ATTACHMENT 5 – REFERENCE SUBMISSION FORM**

**Attachment 5**  
**REFERENCE SUBMISSION FORM**  
**IFB # 16015**

**Bidder:** \_\_\_\_\_

Provide three references that can verify the experience presented in your proposal.

<p><b>Provide Three References</b></p> <hr/> <p><b>Reference #1</b></p> Name: _____ Title: _____ Organization/Company Name: _____  Phone: (____)-____-____      E-mail: _____ <hr/>
<p><b>Reference #2</b></p> Name: _____ Title: _____ Organization Name: _____  Phone: (____)-____-____      E-mail: _____ <hr/>
<p><b>Reference #3</b></p> Name: _____ Title: _____ Organization Name: _____  Phone: (____)-____-____      E-mail: _____

**ATTACHMENT 6 – LOBBYING FORM**



**1b. Was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a Governmental Entity? (Please circle):**

No

Yes

**1c. If you answered yes to any of the above questions, please provide details regarding the finding of non-responsibility below.**

**Governmental Entity:** \_\_\_\_\_

**Date of Finding of Non-responsibility:** \_\_\_\_\_

**Basis of Finding of Non-Responsibility:**

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

(Add additional pages as necessary)

**2a. Has any Governmental Entity or other governmental agency terminated or withheld a Procurement Contract with the above-named individual or entity due to the intentional provision of false or incomplete information? (Please circle):**

No

Yes

**2b. If yes, please provide details below.**

**Governmental Entity:** \_\_\_\_\_

**Date of Termination or Withholding of Contract:** \_\_\_\_\_

**Basis of Termination or Withholding:**

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

(Add additional pages as necessary)

**B. Offerer/Bidder certifies that all information provided to the Department of Health with respect to State Finance Law §139-k is complete, true and accurate.**

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

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

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

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

**ATTACHMENT 7 – COST PROPOSAL**

**Attachment 7**

**COST PROPOSAL  
IFB # 16015**

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

Estimated 3 year quantity is 19,500 boxes (39,000,000 sheets); estimated yearly quantity is 6,500 boxes (13,000,000 sheets).

Unit Price Per Box (2,000 sheets per box)

ITEM: WIC CHECK STOCK \$\_\_\_\_\_

There is no guarantee of actual order quantities.  
Payment shall be based upon the actual usage.  
There is no minimum quantity requirement per order.

**Failure to complete and submit this Cost Proposal Form with the Bid will result in disqualification.**

The Department of Health reserves the right to request changes to the pattern of the void pantograph, watermark logo and ink colors at renewal at no additional charge.

Bidder's Signature: \_\_\_\_\_ Date \_\_\_\_\_

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

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

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

**ATTACHMENT 8 – NO-BID FORM**

**Attachment 8  
NEW YORK STATE  
DEPARTMENT OF HEALTH**

**NO-BID FORM**

PROCUREMENT TITLE: WIC CHECK STOCK IFB #16015

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:

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---

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---

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 9 – M/WBE UTILIZATION PLAN**

**Attachment 9**  
**New York State Department of Health**  
**M/WBE Procurement Forms**  
**IFB # 16015**

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

M/WBE Form#1: Bidder's M/WBE Utilization Plan

M/WBE Form#2: M/WBE Waiver Request

M/WBE Form#3: QUARTERLY UPDATE - M/WBE CONTRACTOR COMPLIANCE & PAYMENT Report

M/WBE Form#4: M/WBE Staffing Plan

M/WBE Form#5: Equal Employment Policy Statement - Sample

M/WBE Form#6: M/WBE Workforce Employment Utilization Report

**New York State Department of Health**

**BIDDER/CONTRACTOR M/WBE UTILIZATION PLAN**

<b>Bidder/Contractor Name:</b>	
<b>Vendor ID:</b>	<b>Telephone No.</b>
<b>RFP/Contract Title:</b>	<b>RFP/Contract No.</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  
 BIDDER/CONTRACTOR PROPOSED M/WBE UTILIZATION PLAN  
 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:

<b>MBE Firm (Exactly as Registered)</b>	<b>Description of Work (Products/Services) [MBE]</b>	<b>Projected MBE Dollar Amount</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> ( ) -		\$ _____
<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  
 BIDDER/CONTRACTOR PROPOSED M/WBE UTILIZATION PLAN  
 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:

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

New York State Department of Health

M/WBE UTILIZATION WAIVER REQUEST

<b>Bidder/Contractor Name:</b>	
<b>Vendor ID:</b>	<b>Telephone No.</b>
<b>RFP/Contract Title:</b>	<b>RFP/Contract No.</b>

Explanation why Bidder/Contractor is unable to meet M/WBE goals for this project:

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Include attachments below to evidence good faith efforts:

- Attachment A. List of the general circulation, trade and MWBE-oriented publications and dates of publications soliciting for certified MWBE participation as a subcontractor/supplier and copies of such solicitation.
- Attachment B. List of the certified MWBEs appearing in the Empire State Development MWBE directory that were solicited for this contract. Provide proof of dates or copies of the solicitations and copies of the responses made by the certified MWBEs. Describe specific reasons that responding certified MWBEs were not selected.
- Attachment C. Descriptions of the contract documents/plans/specifications made available to certified MWBEs by the contractor when soliciting their participation and steps taken to structure the scope of work for the purpose of subcontracting with or obtaining supplies from certified MWBEs.
- Attachment D. Description of the negotiations between the contractor and certified MWBEs for the purposes of complying with the MWBE goals of this contract.
- Attachment E. Identify dates of any pre-bid, pre-award or other meetings attended by contractor, if any, scheduled by OGS with certified MWBEs whom OGS determined were capable of fulfilling the MWBE goals set in the contract.
- Attachment F. Other information deemed relevant to the request.

Section 4: Signature and Contact Information

By signing and submitting this form, the contractor certifies that a good faith effort has been made to promote MWBE participation pursuant to the MWBE requirements set forth under the contract. Failure to submit complete and accurate information may result in a finding of noncompliance, non-responsibility, and a suspension or termination of the contract.

Submitted by: \_\_\_\_\_ Title: \_\_\_\_\_

\_\_\_\_\_  
Signature

**New York State Department of Health  
QUARTERLY UPDATE  
M/WBE CONTRACTOR COMPLIANCE & PAYMENT REPORT**

<b>Contractor Name:</b>	
<b>Contract Title:</b>	<b>Contract No.</b>

**TOTAL PROJECTED M/WBE USAGE (from original M/WBE Utilization Plan)**

	%	Amount
1. Total Dollar Value Contract	100	\$
2. Planned MBE Goal Applied to the Contract		\$
3. Planned WBE Goal Applied to the Contract		\$
4. M/WBE Combined Totals		\$

**ACTUAL M/WBE USAGE\* AS OF \_\_\_\_\_ (insert date)**

	%	Amount
1. Total Dollar Value Completed to date	100	\$
2. MBE Utilization to date		\$
3. WBE Utilization to date		\$
4. M/WBE Combined Utilization to date		\$

\* Report usage from contract start date to quarterly end-date inserted above.

**Explain any deficiencies in attaining M/WBE goals in the space below:**

Submitted by : \_\_\_\_\_ Title: \_\_\_\_\_

\_\_\_\_\_  
Signature

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

Check applicable categories:     Project Staff         Consultants         Subcontractors

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

Address \_\_\_\_\_

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

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

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

\_\_\_\_\_  
Date

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

**M/WBE AND EEO POLICY STATEMENT**

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

**M/WBE**

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

Actively and affirmatively solicit bids for contracts and subcontracts from qualified State certified MBEs or WBEs, including solicitations to M/WBE contractor associations.

Request a list of State-certified M/WBEs from AGENCY and solicit bids from them directly.

Ensure that plans, specifications, request for proposals and other documents used to secure bids will be made available in sufficient time for review by prospective M/WBEs.

Where feasible, divide the work into smaller portions to enhanced participations by M/WBEs and encourage the formation of joint venture and other partnerships among M/WBE contractors to enhance their participation.

Document and maintain records of bid solicitation, including those to M/WBEs and the results thereof. Contractor will also maintain records of actions that its subcontractors have taken toward meeting M/WBE contract participation goals.

Ensure that progress payments to M/WBEs are made on a timely basis so that undue financial hardship is avoided, and that bonding and other credit requirements are waived or appropriate alternatives developed to encourage M/WBE participation.

**EEO**

programs of affirmative action to ensure that minority group members are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on state contracts.

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

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

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

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

\_\_\_\_\_  
Name & Title

\_\_\_\_\_  
Signature & Date

(a) This organization will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing

**New York State Department of Health  
WORKFORCE EMPLOYMENT UTILIZATION REPORT**

Check applicable categories:     Project Staff     Consultants     Subcontractors

Contractor Name \_\_\_\_\_ Contract # \_\_\_\_\_

Staff Used on Contract for the quarter   /  /   to   /  /  

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

**Explain variances from original staffing plan submitted in the space below:**

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

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

\_\_\_\_\_  
Date

## **Attachment 10**

### **Encouraging Use of New York Businesses in Contract Performance**

#### **I. Background**

New York State businesses have a substantial presence in State contracts and strongly contribute to the economies of the state and the nation. In recognition of their economic activity and leadership in doing business in New York State, bidders/proposers for this contract for commodities, services or technology are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the contract. Such partnering may be as subcontractors, suppliers, protégés or other supporting roles.

Bidders/proposers need to be aware that all authorized users of this contract will be strongly encouraged, to the maximum extent practical and consistent with legal requirements, to use responsible and responsive New York State businesses in purchasing commodities that are of equal quality and functionality and in utilizing service and technology. Furthermore, bidders/proposers are reminded that they must continue to utilize small, minority and women-owned businesses, consistent with current State law.

Utilizing New York State businesses in State contracts will help create more private sector jobs, rebuild New York's infrastructure, and maximize economic activity to the mutual benefit of the contractor and its New York State business partners. New York State businesses will promote the contractor's optimal performance under the contract, thereby fully benefiting the public sector programs that are supported by associated procurements.

Public procurements can drive and improve the State's economic engine through promotion of the use of New York businesses by its contractors. The State therefore expects bidders/proposers to provide maximum assistance to New York businesses in their use of the contract. The potential participation by all kinds of New York businesses will deliver great value to the State and its taxpayers.

#### **II. Required Identifying Information**

Bidders/proposers can demonstrate their commitment to the use of New York State businesses by responding to the question below:

Will New York State Businesses be used in the performance of this contract?

                            
YES            NO

If yes, identify New York State businesses that will be used and attach identifying information. Information should include at a minimum: verifiable business name, New York address and business contact information.



**ATTACHMENT 11 -Sample Standard NYS Contract Language and  
Appendices**

**Attachment 11**  
**MISCELLANEOUS / CONSULTANT SERVICES**

STATE AGENCY (Name and Address): . .	NYS COMPTROLLER'S NUMBER: ORIGINATING AGENCY CODE:3450000
CONTRACTOR (Name and Address): .	TYPE OF PROGRAM(S):.
CHARITIES REGISTRATION NUMBER:	CONTRACT TERM FROM: TO:
CONTRACTOR HAS ( ) HAS NOT ( ) TIMELY. FILED WITH THE ATTORNEY GENERAL'S CHARITIES BUREAU ALL REQUIRED PERIODIC OR ANNUAL WRITTEN REPORTS	FUNDING AMOUNT FOR CONTRACT TERM:
FEDERAL TAX IDENTIFICATION NUMBER: .	
MUNICIPALITY NO. (if applicable): .	
STATUS: CONTRACTOR IS ( ) IS NOT ( ) A SECTARIAN ENTITY	
CONTRACTOR IS ( ) IS NOT ( ) A NOT-FOR-PROFIT ORGANIZATION	( ) IF MARKED HERE, THIS CONTRACT'S RENEWABLE FOR __ ADDITIONAL ONE-YEAR PERIOD(S) AT THE SOLE OPTION OF THE STATE AND SUBJECT TO APPROVAL OF THE OFFICE OF THE STATE COMPTROLLER.
CONTRACTOR IS ( ) IS NOT ( ) A N Y STATE BUSINESS ENTERPRISE	

<b>BID OPENING DATE:</b>
--------------------------

APPENDICES ATTACHED AND PART OF THIS AGREEMENT  
Precedence shall be given to these documents in the order listed below.

<u>X</u>	APPENDIX A	Standard Clauses as required by the Attorney General for all State Contracts.
<u>X</u>	APPENDIX X	Modification Agreement Form (to accompany modified appendices for changes in term or consideration on an existing period or for renewal periods)
—	APPENDIX Q	Modification of Standard Department of Health Contract Language
<u>X</u>	STATE OF NEW YORK	AGREEMENT
<u>X</u>	APPENDIX D	General Specifications
<u>X</u>	APPENDIX B	Invitation For Bid (IFB)
<u>X</u>	APPENDIX C	Proposal
<u>X</u>	APPENDIX E-1	Proof of Workers' Compensation Coverage
<u>X</u>	APPENDIX E-2	Proof of Disability Insurance Coverage
<u>X</u>	APPENDIX G	Notices
—	APPENDIX H	Federal Health Insurance Portability and Accountability Act Business Associate Agreement
<u>X</u>	APPENDIX M	Participation by Minority Group Members and Women with respect to State Contracts: Requirements and Procedures

Contract No.:

IN WITNESS THEREOF, the parties hereto have executed or approved this AGREEMENT on the dates below their signatures.

_____	.	_____
CONTRACTOR	.	STATE AGENCY
.	.	
_____	.	_____
.	.	
By: _____	.	By: _____
.	.	
_____	.	_____
Printed Name	.	Printed Name
.	.	
Title: _____	.	Title: _____
.	.	
Date: _____	.	Date: _____

State Agency Certification:  
 "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."

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)

ATTORNEY GENERAL'S SIGNATURE	.	STATE COMPTROLLER'S SIGNATURE
.	.	
_____	.	_____
.	.	
Title: _____	.	Title: _____
.	.	
Date: _____	.	Date: _____

GLBU: DOH01  
APPENDIX X

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

Amendment Number X-\_\_\_\_\_ BSC Unit ID: 345<XXXX>\_\_\_\_\_

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 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.

Additionally, Contractor certifies that it is not included on the prohibited entities list published at <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf> as a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York. Under the Act, the Commissioner of the Office of General Services (OGS) has developed a list (prohibited entities list) of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law). Contractor (or any assignee) also certifies that it will not utilize on such Contract any subcontractor that is identified on the prohibited entities list.

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- BSC Unit ID: 345<XXXX>

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

**CONTRACTOR SIGNATURE:**

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

(signature)

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

(signature)

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

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

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

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

**STATE COMPTROLLER'S SIGNATURE**

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

Revised 6/3/2013

**APPENDIX A**

**STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS**

PLEASE RETAIN THIS DOCUMENT  
FOR FUTURE REFERENCE.

January 2014

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## **STANDARD CLAUSES FOR NYS CONTRACTS**

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

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

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

**3. COMPTROLLER'S APPROVAL.** In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law Section 163.6-a). However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.

**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 (including gender identity or expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristics, marital status or domestic violence victim 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. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition

precedent to payment by the State of any State approved sums due and owing for work done upon the project.

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

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

**9. SET-OFF RIGHTS.** The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

**10. RECORDS.** The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this

contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

**11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.** (a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, 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 the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

**12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.** In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00,

whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

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

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

Contractor will include the provisions of "a", "b", and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment

opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

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

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

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

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

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

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

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

**19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES.**

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

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

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

NYS Department of Economic Development  
Division for Small Business  
Albany, New York 12245  
Telephone: 518-292-5100  
Fax: 518-292-5884  
email: [opa@esd.ny.gov](mailto:opa@esd.ny.gov)

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  
633 Third Avenue  
New York, NY 10017  
212-803-2414  
email: [mwbcertification@esd.ny.gov](mailto:mwbcertification@esd.ny.gov)  
<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>

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. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT.**

Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

**23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW.**

If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded

the contract, the Department of Civil Service and the State Comptroller.

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

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

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

**26. IRAN DIVESTMENT ACT.** By entering into this Agreement, Contractor certifies in accordance with State Finance Law §165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at:  
<http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf>

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering

damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

STATE OF NEW YORK  
AGREEMENT

This AGREEMENT is hereby made by and between the State of New York Department of Health (STATE) and the public or private agency (CONTRACTOR) identified on the face page hereof.

WITNESSETH:

WHEREAS, the STATE has formally requested contractors to submit bid proposals for the project described in Appendix B for which bids were opened on the date noted on the face pages of this AGREEMENT; and

WHEREAS, the STATE has determined that the CONTRACTOR is the successful bidder, and the CONTRACTOR covenants that it is willing and able to undertake the services and provide the necessary materials, labor and equipment in connection therewith;

NOW THEREFORE, in consideration of the terms hereinafter mentioned and also the covenants and obligations moving to each party hereto from the other, the parties hereto do hereby agree as follows:

I. Conditions of Agreement

- A. This AGREEMENT incorporates the face pages attached and all of the marked appendices identified on the face page hereof.
- B. The maximum compensation for the contract term of this AGREEMENT shall not exceed the amount specified on the face page hereof.
- C. This AGREEMENT may be renewed for additional periods (PERIOD), as specified on the face page hereof.
- D. To exercise any renewal option of this AGREEMENT, the parties shall prepare new appendices, to the extent that any require modification, and a Modification Agreement (the attached Appendix X is the blank form to be used). Any terms of this AGREEMENT not modified shall remain in effect for each PERIOD of the AGREEMENT. The modification agreement is subject to the approval of the Office of the State Comptroller.
- E. Appendix A (Standard Clauses as required by the Attorney General for all State contracts) takes precedence over all other parts of the AGREEMENT.
- F. For the purposes of this AGREEMENT, the terms "Invitation For Bids" and "IFB" include all Appendix B documents as marked on the face page hereof.
- G. For the purposes of this AGREEMENT, the term "Bid Proposal" includes all Appendix C documents as marked on the face page hereof.

II. Payment and Reporting

- A. The CONTRACTOR shall submit complete and accurate invoices and/or vouchers, together with supporting documentation required by the contract, the State Agency and the State Comptroller, to the STATE's designated payment office in order to receive payment to one of the following addresses:

- 1. Preferred Method: Email a .pdf copy of your signed voucher to the BSC at: [DOHaccounts payable@ogs.ny.gov](mailto:DOHaccounts payable@ogs.ny.gov) with a subject field as follows:  
Subject: **Unit ID: 3450000 Contract #**\_\_\_\_\_

(Note: **do not** send a paper copy in addition to your emailed voucher.)

2. Alternate Method: Mail vouchers to BSC at the following U.S. postal address:

**NYS Department of Health  
Unit ID 3450000  
PO Box 2093  
Albany, NY 12220-0093**

- B. Payment of such invoices and/or vouchers by the State (NYS Department of Health) shall be made in accordance with Article XI-A of the New York State Finance Law.

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 [helpdesk@sfs.ny.gov](mailto:helpdesk@sfs.ny.gov) or by telephone at 1-855-233-8363. 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/vendors/vendorguide/guide.htm>.

### III. Term of Contract

- A. Upon approval of the Office of the State Comptroller, this AGREEMENT shall be effective for the term as specified on the cover page.
- B. This Agreement may be terminated by mutual written agreement of the contracting parties.
- C. This Agreement may be terminated by the Department for cause upon the failure of the Contractor to comply with the terms and conditions of this Agreement, including the attachments hereto, provided that the Department shall give the contractor written notice via registered or certified mail, return receipt requested, or shall deliver same by hand-receiving Contractor's receipt therefor, such written notice to specify the Contractor's failure and the termination of this Agreement. Termination shall be effective ten (10) business days from receipt of such notice, established by the receipt returned to the Department. The Contractor agrees to incur no new obligations nor to claim for any expenses made after receipt of the notification of termination.
- D. This Agreement may be deemed terminated immediately at the option of the Department upon the filing of a petition in bankruptcy or insolvency, by or against the Contractor. Such termination shall be immediate and complete, without termination costs or further obligations by the Department to the Contractor.
- E. 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.

#### IV. Proof of Coverage

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:

- A. Workers' Compensation, for which one of the following is incorporated into this contract as Appendix E-1:
  - 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
  - 2. 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
  - 3. SI-12 – Certificate of Workers' Compensation Self-Insurance, OR GSI-105.2 – Certificate of Participation in Workers' Compensation Group Self-Insurance.
  
- B. Disability Benefits coverage, for which one of the following is incorporated into this contract as Appendix E-2:
  - 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
  - 2. DB-120.1 – Certificate of Disability Benefits Insurance OR
  - 3. DB-155 – Certificate of Disability Benefits Self-Insurance

#### V. Indemnification

- A. The CONTRACTOR shall be solely responsible and answerable in damages for any and all accidents and/or injuries to persons (including death) or property arising out of or related to the services to be rendered by the CONTRACTOR or its subcontractors pursuant to this AGREEMENT. The CONTRACTOR shall indemnify and hold harmless the STATE and its officers and employees from claims, suits, actions, damages and costs of every nature arising out of the provision of services pursuant to this AGREEMENT.
  
- B. The CONTRACTOR is an independent contractor and may neither hold itself out nor claim to be an officer, employee or subdivision of the STATE nor make any claims, demand or application to or for any right based upon any different status.

**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 Invitation for Bid. Anything which is not expressly set forth in the specifications, 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, e-mail, 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 shall 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 allowance 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 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. Any contract entered into resultant from this invitation for bid 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 for use in the application software provided to the Department as a part of this contract.
- M. Technology Purchases Notification --The following provisions apply if this Invitation for Bid (IFB) 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 IFB 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 IFB 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 IFB shall contain a provision which extends the terms and conditions of such contract to any other State agency in New York. Incorporation of this IFB into the resulting contract also incorporates this provision in the contract.

## N. Date/Time Warranty

### 1. Definitions: For the purposes of this warranty, the following definitions apply:

"Product" shall include, without limitation: when solicited from a vendor in a State government entity's contracts, RFPs, IFBs, or mini-bids, 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.

"Third Party Product" shall include product manufactured or developed by a corporate entity independent from the vendor and provided by the 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) 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. Date/Time Warranty Statement

Contractor warrants that Product(s) furnished pursuant to this Contract 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) transitions, including leap year calculations. Where a Contractor proposes or an acquisition requires that specific Products must perform as a package or system, this warranty shall apply to the Products as a system.

Where Contractor is providing ongoing services, including but not limited to: i) consulting, integration, code or data conversion, ii) maintenance or support services, iii) data entry or processing, or iv) contract administration services (e.g., billing, invoicing, claim processing), Contractor warrants that services shall be provided in an accurate and timely manner without interruption, failure or error due to the inaccuracy of Contractor's business operations in processing date/time data (including, but not limited to, calculating, comparing, and sequencing) various date/time transitions, including leap year calculations. Contractor shall be responsible for damages resulting from any delays, errors or untimely performance resulting therefrom, including but not limited to the failure or untimely performance of such services.

This Date/Time Warranty shall survive beyond termination or expiration of this contract through: a) ninety (90) days or b) the Contractor's or Product manufacturer/developer's stated date/time warranty term, whichever is longer. Nothing in this warranty statement shall be construed to limit any rights or remedies otherwise available under this Contract for breach of warranty.

- O. No Subcontracting Subcontracting by the contractor shall not be permitted except by prior written approval of the Department of Health. All subcontracts shall contain provisions specifying that the work performed by the subcontractor must be in accordance with the terms of this AGREEMENT, and that the subcontractor specifically agrees to be bound by the confidentiality provisions set forth in the AGREEMENT between the STATE and the CONTRACTOR.
- 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 judgment 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 judgment 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. 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. 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.

X. 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 whom 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.

Y. 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.

Z. 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 15th 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 following address New York State Department of Health, Bureau of Contracts Room -2756, Corning Tower, Albany, NY 12237; and
  - b. The NYS Office of the State Comptroller, Bureau of Contracts, 110 State Street, 11th 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, Albany NY 12239, ATTN: Consultant Reporting.

AA. Provisions Related to New York State Procurement Lobbying Law 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.

BB. Provisions Related to New York State Information Security Breach and Notification Act CONTRACTOR shall comply with the provisions of the New York State Information Security Breach and Notification Act (General

Business Law Section 899-aa; State Technology Law Section 208). 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.

CC. 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.

DD. On-Going Responsibility

1. General Responsibility Language: The CONTRACTOR shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Commissioner of Health or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.
2. Suspension of Work (for Non-Responsibility) :The Commissioner of Health or his or her designee, in his or her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when he or she discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of Health or his or her designee issues a written notice authorizing a resumption of performance under the Contract.
3. Termination (for Non-Responsibility) : Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate Department of Health officials or staff, the Contract may be terminated by Commissioner of Health or his or her designee at the Contractor's expense where the Contractor is determined by the Commissioner of Health or his or her designee to be non-responsible. In such event, the Commissioner of Health or his or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

EE. Provisions Related to Iran Divestment Act As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a provision has been added to the State Finance Law (SFL), § 165-a, effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) has developed a list (prohibited entities list) of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law). Pursuant to SFL § 165-a(3)(b), the initial list has been posted on the OGS website at <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf>.

By entering into this Contract, CONTRACTOR (or any assignee) certifies that it will not utilize on such Contract any subcontractor that is identified on the prohibited entities list. Additionally, CONTRACTOR agrees that should it seek to renew or extend the Contract, it will be required to certify at the time the Contract is renewed or extended that it is not included on the prohibited entities list. CONTRACTOR also agrees that any proposed Assignee of the Contract will be required to certify that it is not on the prohibited entities list before the New York State Department of Health may approve a request for Assignment of Contract.

During the term of the Contract, should New York State Department of Health receive information that a person is in violation of the above referenced certification, New York State Department of Health will offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then New York State Department of Health shall take such action as may be appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the CONTRACTOR in default.

New York State Department of Health reserves the right to reject any request for assignment for an entity that appears on the prohibited entities list prior to the award of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the prohibited entities list after contract award.

## 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.

## APPENDIX M

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

#### **I. General Provisions**

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

#### **II. Contract Goals**

- A. For purposes of this procurement, the New York State Department of Health hereby establishes an overall goal of 30% for Minority and Women-Owned Business Enterprises (“MWBE”) participation, 15% for Minority-Owned Business Enterprises (“MBE”) participation and 15% for Women-Owned Business Enterprises (“WBE”) participation (based on the current availability of qualified MBEs and WBEs).
- B. For purposes of providing meaningful participation by MWBEs on the Contract and achieving the Contract Goals established in Section II-A hereof, Contractor should reference the directory of New York State Certified MBWEs found at the following internet address:  
<http://www.esd.ny.gov/mwbe.html>

Additionally, Contractor is encouraged to contact the Division of Minority and Woman Business Development ((518) 292-5250; (212) 803-2414; or (716) 846-8200) to discuss additional methods of maximizing participation by MWBEs on the Contract.

- C. Where MWBE goals have been established herein, pursuant to 5 NYCRR §142.8, Contractor must document “good faith efforts” to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract. In accordance with Section 316-a of Article 15-A and 5 NYCRR §142.13, the Contractor acknowledges that if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such a

finding constitutes a breach of contract and the Contractor shall be liable to the New York State Department of Health for liquidated or other appropriate damages, as set forth herein.

### **III. Equal Employment Opportunity (EEO)**

- A. Contractor agrees to be bound by the provisions of Article 15-A and the MWBE Regulations promulgated by the Division of Minority and Women's Business Development of the Department of Economic Development (the "Division"). If any of these terms or provisions conflict with applicable law or regulations, such laws and regulations shall supersede these requirements.
- B. Contractor shall comply with the following provisions of Article 15-A:
1. Contractor and Subcontractors shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.
  2. The Contractor shall submit an EEO policy statement to the New York State Department of Health within seventy two (72) hours after the date of the notice by New York State Department of Health to award the Contract to the Contractor.
  3. If Contractor or Subcontractor does not have an existing EEO policy statement, the New York State Department of Health may provide the Contractor or Subcontractor a model statement (see Form #5 - Minority and Women-Owned Business Enterprises Equal Employment Opportunity Policy Statement).
  4. The Contractor's EEO policy statement shall include the following language:
    - a. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.
    - b. The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
    - c. The Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.
    - d. The Contractor will include the provisions of Subdivisions (a) through (c) of this Subsection 4 and Paragraph "E" of this Section III, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Contract.

#### C. Form #4 - Staffing Plan

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

#### D. Form #6 - Workforce Employment Utilization Report (“Workforce Report”)

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

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

#### **IV. MWBE Utilization Plan**

- A. The Contractor represents and warrants that Contractor has submitted an MWBE Utilization Plan (Form #1) either prior to, or at the time of, the execution of the contract.
- B. Contractor agrees to use such MWBE Utilization Plan for the performance of MWBEs on the Contract pursuant to the prescribed MWBE goals set forth in Section III-A of this Appendix.
- C. Contractor further agrees that a failure to submit and/or use such MWBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, New York State Department of Health shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsiveness.

## **V. Waivers**

- A. For Waiver Requests Contractor should use Form #2 – Waiver Request.
- B. If the Contractor, after making good faith efforts, is unable to comply with MWBE goals, the Contractor may submit a Request for Waiver form documenting good faith efforts by the Contractor to meet such goals. If the documentation included with the waiver request is complete, the New York State Department of Health shall evaluate the request and issue a written notice of acceptance or denial within twenty (20) days of receipt.
- C. If the New York State Department of Health, upon review of the MWBE Utilization Plan and updated Quarterly MWBE Contractor Compliance Reports determines that Contractor is failing or refusing to comply with the Contract goals and no waiver has been issued in regards to such non-compliance, the New York State Department of Health may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

## **VI. Quarterly MWBE Contractor Compliance Report**

Contractor is required to submit a Quarterly MWBE Contractor Compliance Report (Form #3) to the New York State Department of Health by the 10<sup>th</sup> day following each end of quarter over the term of the Contract documenting the progress made towards achievement of the MWBE goals of the Contract.

## **VII. Liquidated Damages - MWBE Participation**

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