

**RFA#: 1312200945**

**New York State Department of Health**

**Office of Health Insurance Programs**

**Managed Long-Term Care and Fully Integrated Duals Advantage Ombudsman  
Program**

**Request for Applications**

<b>Release Date:</b>	<b>February 28, 2014</b>
<b>Letter of Interest Due:</b>	<b>March 14, 2014</b>
<b>Deadline to Submit Questions:</b>	<b>March 21, 2014</b>
<b>Questions, Answers and Updates Posted:</b>	<b>on or about March 28, 2014</b>
<b>Applications Due:</b>	<b>April 11, 2014 by 4:00 PM</b>

**NYSDOH Contact Name and Address:**

**Karis Browder  
Office of the Health Insurance Programs  
Division of Long-Term Care  
New York State Department of Health  
Email: FIDA@health.state.ny.us**

**Address Applications to:**

**Cathy Andersen  
Office of the Health Insurance Programs  
New York State Department of Health  
ESP, Corning Tower, Room 2276  
Albany, New York 12237**

**Late Applications will not be accepted.**

**Managed Long-Term Care and Fully Integrated Duals Advantage Ombudsman Program  
Request for Applications (RFA)  
RFA#: 1312200945**

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## **I. Introduction**

### **A. Description of the Program**

The New York State Department of Health (NYSDOH), Office of Health Insurance Programs (OHIP), Division of Long-Term Care (DLTC) announces the availability of state funds to establish a statewide Ombudsman Program for Managed Long-Term Care and Fully Integrated Duals Advantage Program Participants. This program will also provide Ombudsman services for beneficiaries of Long-Term Support Services (LTSS) in Mainstream Managed Care (MMC) plans. The Ombudsman will act as a resource and advocate for consumers and families as they navigate New York's Managed Long-Term Care (MLTC) and Fully Integrated Duals Advantage (FIDA) program system.

NYSDOH is seeking to fund one entity to provide Ombudsman services to the population of individuals who transition into Managed Long-Term Care Plans (MLTCPs). In addition, the Ombudsman will also serve individuals participating in the Fully Integrated Duals Advantage demonstration program as well as beneficiaries of Long-Term Support Services (LTSS) in Mainstream Managed Care plans. The Ombudsman will provide participants in both MLTC and FIDA programs and LTSS MMC plans with direct assistance in navigating their coverage and in understanding and exercising their rights and responsibilities.

The funded applicant will be the single entity in charge of Ombudsman services and shall develop a statewide infrastructure to deliver services on a local level. Local agencies will assist in the direct delivery of services through subcontract(s) with the funded applicant.

### **B. Background/Intent**

#### **Medicaid Redesign Team**

With issuance of Executive Order #5, Governor Andrew M. Cuomo established the Medicaid Redesign Team (MRT) in January 2011, bringing together a group of health care stakeholders, experts and advocates from throughout New York State. The goals of the MRT were to improve overall health system quality and efficiency, streamline and focus health care administrative and financial structures, and reduce Medicaid costs while emphasizing the delivery of well-managed, cost effective quality health services.

#### **Medicaid Redesign Team Proposal #90 (MRT 90)**

MRT 90 was developed and enacted in the 2011 New York State budget. It requires the mandatory transition and enrollment of certain community-based long-term care services recipients into MLTCPs.

This initiative, referred to as part of "Care Management for All," aims to improve benefit coordination, quality of care, and patient outcomes over the full range of health care, including mental health, substance abuse, developmental disability, and physical health care services. It will also redirect almost all Medicaid spending in the State from fee-for-service Medicaid (FFS), under which service providers bill directly to the State, to care management, under which a managed care organization, of one type or another, is paid a capitated rate by the state and is then responsible for managing patient care and reimbursing service providers.

Section 1115 of the Social Security Act gives the Secretary of Health and Human Services, through the Centers for Medicare and Medicaid Services (CMS), authority to approve demonstration projects that promote the objectives of the Medicaid program. The purpose of these demonstrations, which give States additional flexibility to design and improve their programs, is to demonstrate and evaluate policy approaches which expand eligibility to individuals who are not otherwise Medicaid eligible, provide services not typically covered by Medicaid, and develop innovative service delivery systems that improve care, increase efficiency, and reduce costs.

NYSDOH has two demonstration programs which relate to managed care and long-term care. The Partnership Plan is a demonstration that uses a managed care delivery system to create efficiencies in the Medicaid program and enables the extension of coverage to certain individuals who would otherwise be without health insurance. The Federal-State Health Reform Partnership (F-SHRP) demonstration provides Federal financial support for health reform that addresses the State's need to modernize its acute and long-term care infrastructure, increase capacity in primary and ambulatory care, and make investments in health information technology.

In order to implement the transition into Managed Long-Term Care, NYSDOH submitted an amendment to the CMS to both the Partnership Plan and F-SHRP Medicaid Section 1115 Demonstration waivers. The amendment requires that all dual-eligible individuals (persons in receipt of both Medicare and Medicaid) aged 21 or older and who are in need of community-based long-term care services for more than 120 days to be mandatorily enrolled into MLTCPs or other care coordination models. The amendment was approved by CMS in August 2012. The 1115 Waiver's Special Term and Conditions require that an Ombudsman program be created and maintained.

You may view additional information regarding MRT 90 via the following web address::  
[http://www.health.ny.gov/health\\_care/medicaid/redesign/mrt\\_90.htm](http://www.health.ny.gov/health_care/medicaid/redesign/mrt_90.htm).

### **Managed Long-Term Care (MLTC)**

The Long-Term Care Integration and Finance Act (Chapter 659 of the Laws of 1997) of New York State's Public Health Law (§4403f) authorizes the Commissioner of Health to certify managed long-term care plans and oversee their operation, including the quality of care. Managed long-term care supports people who are chronically ill or have disabilities and who need health and long-term care services, such as home care or adult day care, to stay in their homes and communities as long as possible. The MLTC plan arranges and pays for a large selection of health and social services, and provides choice and flexibility in obtaining needed services from one place.

Within the MLTC program there are three models of plans:

- a. MLTC Partial Plan.** A Medicaid capitation payment is provided to plans to cover the costs of long-term care and ancillary services including care management, home care, optometry, dental, rehabilitation therapies, audiology, respiratory therapy, nutrition, medical social services, personal care, podiatry, non-emergency transportation, home delivered and/or meals in a group setting, medical equipment, social day care, prostheses and orthotics, social/environmental supports, personal emergency response

system and adult day health care.

- b. Program of All-inclusive Care for the Elderly (PACE) Organizations.** A PACE organization provides a comprehensive system of health care services for members age 55 and older who are otherwise eligible for nursing home admission. Both Medicare and Medicaid pay for PACE services on a capitated basis. PACE members are required to use PACE physicians. An interdisciplinary team develops a care plan and provides on-going care management. The PACE plan is responsible for directly providing or arranging all primary, inpatient hospital and long-term care services required by a PACE member. The PACE is approved by CMS and the NYSDOH and services include Medicaid services described under the MLTC Medicaid plan, as well as inpatient hospital services, primary care and specialty hospital services, outpatient hospital/clinic services, laboratory services, prescription and non-prescription drugs, chronic renal dialysis, emergency transportation, mental health and substance abuse, x-ray and other radiology services.
- c. Medicaid Advantage Plus (MAP).** MAP Plans must be certified by NYSDOH as MLTC plans and by CMS as a Medicare Advantage Plan and are offered to individuals age 18 and older. As with the PACE model, the plan receives a capitation payment from both Medicaid and Medicare. The plan covers Medicare co-payments and deductibles. The MAP program provides the services included in both the MLTC Medicaid Plan and the PACE program.

Mandatory Enrollment in MLTC plans calls for the expansion of MLTC for Medicaid recipients who are also eligible for Medicare (dual eligibles) and in need of community-based long-term care services. Those currently in receipt of community-based long-term care services, or new users requesting the services, will have the option of enrolling in Partial, PACE, or MAP plans. If new MLTC recipients do not pick a plan, they will be automatically enrolled in Partial Capitation plans because only the Partial plans' benefit package is solely covered by Medicaid. PACE and MAP plans include benefits covered by Medicare, thereby excluding these plans as options for mandatorily enrolled individuals.

Managed long-term care assists chronically ill or disabled individuals who require health and long-term care services. MLTC plans receive a monthly risk-adjusted capitation payment from New York State Medicaid to pay for a range of health and social services. The benefit package includes home care, personal care, social supports, and transportation services. The costs of skilled nursing facility services are included in the capitation payment, thereby providing a financial incentive for the plans to keep their members healthy and living in the community. Depending on the type of plan, ambulatory care, inpatient, and mental health services may also be included in the benefit package.

The MLTC program has been implemented in New York City, Westchester, Nassau, Suffolk, Rockland and Orange Counties and has enrolled approximately 118,007 people (enrollment data as of November 1, 2013).

The schedule for implementation in additional counties is as follows:

- December 2013 – Albany, Erie, Onondaga and Monroe Counties

- Additional counties may be added at a later date.

It is anticipated that at least an additional 39,000 individuals will be enrolled into MLTC by the end of 2015, for a total estimated enrollment of 150,000 individuals. Of these, an estimated 100,000 will enroll into FIDA.

### **Fully Integrated Duals Advantage (FIDA) Demonstration Program**

NYSDOH and the Centers for Medicare and Medicaid Services (CMS) have established a State-Federal partnership to implement a Medicare-Medicaid Alignment Initiative to better serve individuals eligible for both Medicare and Medicaid (duals). NYSDOH refers to this as the Fully Integrated Duals Advantage (FIDA) Program. The initiative will test an innovative payment and service delivery model to alleviate the fragmentation and improve coordination of services for Medicare-Medicaid Enrollees, enhance quality of care and reduce costs for both State and Federal governments.

The FIDA program will serve dual eligible individuals requiring community care services for more than 120 days or who are nursing facility clinically eligible and are receiving facility-based long-term services and supports (LTSS). Services provided to these individuals include: seamless access to all physical health, behavioral health, and LTSS; a choice of plan and a choice of providers, with choices being facilitated by an independent, conflict-free enrollment broker; care planning and care coordination by individualized interdisciplinary teams that are centered around each dual eligible; consumer direction for personal care services; compliance with principles of integration, independence and person-centered care; continuity of care provisions to ensure seamless transition into one's FIDA plan and articulated network adequacy and access standards.

The FIDA program is authorized for the period from July 1, 2014 through December 31, 2017 in eight New York counties: Bronx, Kings, Nassau, New York, Queens, Richmond, Suffolk, and Westchester. Individuals eligible for FIDA will be passively enrolled into the program after a voluntary enrollment period. The enrollment schedule is as follows:

- Community-based duals:
  - Voluntary enrollment beginning July 1, 2014
  - Passive enrollment beginning September 1, 2014
- Nursing home duals:
  - Voluntary enrollment beginning October 1, 2014
  - Passive enrollment beginning January 1, 2015

Individuals eligible for FIDA will be passively enrolled into the program after a voluntary enrollment period, and may opt out of participation in FIDA. It is anticipated that approximately 100,000 individuals will be eligible for this program.

You may view the Memorandum of Understanding (MOU) between CMS and NYSDOH at the following link:

<http://www.cms.gov/Medicare-Medicaid-Coordination/Medicare-and-Medicaid-Coordination/Medicare-Medicaid-Coordination-Office/Downloads/NYMOU.pdf>

### **C. Goals of the Ombudsman Program**

The Ombudsman will play a critical role in assisting New York State in providing an independent, conflict-free entity available to provide participants with direct assistance in navigating their coverage and in understanding and exercising their rights as they transition into and navigate MLTC and FIDA plans. NYSDOH feels this will support participants and ensure they are receiving appropriate services. By providing high quality ombudsman services, the program will also assist NYSDOH in achieving its State and Federal goals relative to improving benefit coordination, quality of care, and patient outcomes over the full range of health care services for each of the populations served.

### **D. Objectives of the Ombudsman Program**

The funded Ombudsman will develop an approach and implement activities to meet the following objectives:

1. Establish a statewide Ombudsman infrastructure and appropriate staffing for MLTC, FIDA and LTSS MMC;
2. Procure services of local community-based organizations to provide statewide delivery of Ombudsman services; and provide oversight of subcontracted local agencies;
3. Establish an Ombudsman service delivery structure that includes a hotline, an interactive website, and email access to Ombudsman program staff or volunteers;
4. Provide in-person access;
5. Establish and maintain a “caller” database with participant/caregiver and complaint-specific data elements;
6. Provide consumer education and information for MLTC, FIDA and LTSS MMC participants/caregivers;
7. Provide consumer advocacy services for MLTC, FIDA and LTSS MMC participants/caregivers;
8. Establish Data Collection System;
9. Implement Reporting and Evaluation Requirements; and
10. Establish policies and procedures for obtaining participant/caregiver consent and for protecting participant/caregiver confidentiality.

## **II. Available Funding**

NYSDOH intends to award one contract for the Ombudsman Program. The anticipated multi-year contract period is: May 1, 2014 – April 30, 2019. Continued funding throughout this period is subject to satisfactory performance and available funding.

FIDA Ombudsman services will be available through the end of the Demonstration period, which is December 31, 2017. If the FIDA program is continued beyond the current end date, then the Ombudsman services for FIDA participants would continue through the revised end date of the Demonstration, or the contract end date of April 30, 2019. If the FIDA demonstration ends before April 30, 2019, the contract will continue through April 30, 2019 to

provide Ombudsman services for the MLTC and LTSS MMC participants. After the initial year of the contract, subsequent years will be subject to funding availability.

Likewise, total anticipated funding to support the provision of Ombudsman services is as follows:

<b>Anticipated Contract Period</b>	<b>Total funding</b>
5/1/14 – 4/30/15	\$3,750,000
5/1/15 – 4/30/16	\$5,000,000
5/1/16 – 4/30/17	\$5,000,000
5/1/17 – 4/30/18	\$5,000,000
5/1/18 - 4/30/19	\$5,000,000

The awardee will receive one contract to support infrastructure costs (personal and non personal services) to support the MLTC, FIDA and LTSS MMC populations and to operate the program and implement all required activities listed in the Scope of Work, renewed each April, throughout the five-year grant period.

Awards will be made to the highest scoring and passing application. Only passing applications will be considered for the award. In the event that there is not a passing score on any applications submitted, the Department will issue a follow-up Request for Applications.

### **III. Who May Apply**

All applicants must be located in and conduct business in NYS. Additional minimum eligibility requirements are as follows:

#### Minimum eligibility requirements

- Applications will be accepted only from not-for-profit corporations. Attachment 2, Applicant Attestation, must be signed and submitted with the application to attest to meeting this requirement;
- Must not have a personal, professional or financial relationship with any of the MLTC, FIDA or LTSS MMC plans or sponsoring entities;
- Must not be co-located with any MLTC, FIDA or LTSS MMC plan, any service provider, any entity funding or administering the MLTC, FIDA or LTSS MMC programs, or any entity making eligibility or enrollment decisions for participants.

#### Preferred eligibility requirements

- Knowledge about areas related to Medicaid and Medicare services such as benefits programs and eligibility is preferred;
- Knowledge about Long-Term Support Services;
- Demonstrated experience in running a call center with caller tracking, trending and reporting;
- Demonstrated experience in working with dual eligible, or similar populations on time-sensitive issues and in resolving or helping to resolve issues;
- Demonstrated experience at and skill in negotiation (through experience in alternative dispute resolution techniques, for example);



- Willingness to commit to comprehensive confidentiality protections and procedures; and
- Willingness to commit to undergoing training on FIDA, Medicare, Medicaid, Long-Term Support Services, participant services and benefits programs.

**IMPORTANT:** All not-for-profit applicants are required to prequalify prior to grant application. Applicants are strongly encouraged to begin the process as soon as possible in order to participate in this RFA. To learn more about prequalification, go to the Grants Reform website (<http://www.grantsreform.ny.gov/>) where you can preview the questions and required documents.

#### **IV. Project Narrative/Work Plan Outcomes**

##### **A. Establish a statewide Ombudsman infrastructure and appropriate staffing for MLTC, FIDA and LTSS MMC.**

1. The Ombudsman will adequately staff project with experienced, knowledgeable personnel to administer a large scale statewide initiative and include an opportunity for volunteerism;
2. The Ombudsman will have staff dedicated and trained to fulfill the MLTC, FIDA and LTSS MMC Ombudsman responsibilities. The Contractor will also have supervision for the programs' Ombudsman activities;
3. The Ombudsman will ensure sufficient regional capacity to provide delivery of Ombudsman services in the MLTC, FIDA and LTSS MMC counties which may include subcontracting with local agencies;
4. Applicants may subcontract components of the scope of work. For those applicants that propose subcontracting, it is preferable to identify subcontracting agencies during the application process. Applicants that plan to subcontract are expected to state in the application the specific components of the scope of work to be performed through subcontracts.
5. The Ombudsman will hire an attorney(s) to perform and/or oversee hearings and appeals matters;
6. The Ombudsman will develop and implement policies and procedures, including maintaining individual files on participant matters to the extent that records have been collected and need to be kept together; and
7. The Ombudsman will develop and implement an internal quality assurance program.

##### **B. Procure services of local community-based organizations to provide statewide delivery of Ombudsman services; and provide oversight of subcontracted local agencies.**

##### **C. Establish a service delivery structure that includes a hotline, an interactive website, and e-mail access to Ombudsman program staff or volunteers (this can be through subcontract(s)).**

1. The Ombudsman will establish and maintain an accessible, culturally and linguistically competent telephone call center that will answer calls Monday-Friday from 8am – 8pm. The hotline will be accessible through a statewide toll-free number and be staffed, and shall provide information and assistance to participants and their caregivers. The call center must have TTY access and be located within the 48 contiguous states;

2. The Ombudsman will develop an accessible, interactive website through which participants and their caregivers can submit electronic requests for information, advice, referral, and direct assistance; and
3. The Ombudsman will maintain an email address through which participants and their caregivers can submit electronic requests for information, advice, referral, and direct assistance. The Ombudsman will respond to email inquiries within one business day.

**D. Provide In-Person Access.**

1. The Ombudsman will provide in-person access at prescribed times and locations or as scheduled to meet the needs of participants or their caregivers.

**E. Establish and Maintain a “caller” database with Participant/Caregiver and Complaint-specific data elements.**

1. The Ombudsman will develop a “caller” database with critical fields that can be searched and tracked. All participants and caregivers who contact the Ombudsman through any of the available means of contact will be tracked. The database will be required to be able to generate required reports and be updated as necessary.

**F. Provide consumer education and information for MLTC, FIDA and LTSS MMC Participants/Caregivers.**

1. The Ombudsman will develop multi-media education materials and provide information to inform the consumer and increase awareness of programs. The Ombudsman will develop and maintain an outreach and education campaign (e.g., written materials/flyers, audio tapes, posters, ads, presentations). The approach must reflect the needs of consumers;
2. The Ombudsman will maintain materials and periodically update these materials to reflect changes in the program; and
3. The Department must approve all written outreach, education and enrollment materials to ensure that information is comprehensive, understandable, accurate and unbiased. The Contractor must submit all materials to the Department for approval a minimum of 30 days prior to their scheduled use.

**G. Provide consumer advocacy services for MLTC, FIDA and LTSS MMC Participants/Caregivers.**

1. The Ombudsman will explain all benefits, coverage and access rules and procedures; explain all Member rights and responsibilities and explain Medicaid, Medicare and FIDA eligibility;
2. The Ombudsman will assist participants/caregivers in exercising their rights and responsibilities; assist Participants in accessing covered benefits – including requesting prior authorization, obtaining referrals, advising providers on medical necessity requirements, conferring with interdisciplinary team regarding overcoming obstacles to access;
3. The Ombudsman will assist participants/caregivers in raising and resolving quality of care and quality of life issues;
4. The Ombudsman will assist participants/caregivers in understanding and participating in the interdisciplinary care planning and interdisciplinary team’s role in care coordination;
5. The Ombudsman will assist in ensuring self-direction and decision making;

6. The Ombudsman will assist with accessing participant records from the **MLTC, FIDA and LTSS MMC** plans;
7. The Ombudsman will explain the grievance and appeal process; and
8. The Ombudsman will assist participants/caregivers in resolving problems and issues using skilled negotiation techniques and providing assistance in filing grievances when informal problem resolution proves unsuccessful.

#### **H. Establish Data Collection System.**

1. The data collection system and procedures will meet requirements outlined by NYSDOH and be finalized between the awardee and NYSDOH during the contracting period. Applicants should discuss how they propose to capture data in their service delivery systems when completing the project narrative and work plan sections of the application;
2. The Ombudsman will collect data on complaints received through the hotline and outcomes of efforts to resolve complaints and to provide reports; and
3. The Ombudsman will collect data on timeliness of responses to and resolution of participant complaints.

#### **I. Establish Policies and Procedures For Obtaining Participant/Caregiver Consent and For Protecting Participant/Caregiver Confidentiality.**

1. The Ombudsman will establish procedures to protect against inappropriate disclosures of identifying information.

### **V. Administrative Requirements**

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

This RFA is issued by the New York State Department of Health, Office of Health Insurance Programs. The Department is responsible for the requirements specified herein and for the evaluation of all applications.

#### **B. Question and Answer Phase**

All questions should be submitted by email to: [FIDA@health.state.ny.us](mailto:FIDA@health.state.ny.us). Include the subject line: Ombudsman RFA # 1312200945

To the degree possible, each inquiry should cite the RFA section and paragraph to which it refers.

Questions related to formatting or other minor details related to preparation of the application may also be addressed in writing at the email address noted above.

**All questions must be received by the date referenced on the cover page of this RFA.**

**All questions submitted by email should list “Ombudsman RFA # 1312200945” in the subject line.**

Prospective applicants should note that all clarifications and exceptions, including those relating to the terms and conditions of the contract, are to be raised prior to the submission of an application.

This RFA has been posted on the Department's public website at: <http://www.health.ny.gov/funding/> and the NYS Grants Gateway website at: [https://www.grantsgateway.ny.gov/IntelliGrants\\_NYSGG/module/nysgg/goportal.aspx](https://www.grantsgateway.ny.gov/IntelliGrants_NYSGG/module/nysgg/goportal.aspx). Questions and answers, as well as any updates and/or modifications, will also be posted on these websites. All such updates will be posted by the date identified on the cover sheet of this RFA.

### **C. Letter of Interest**

Submission of a letter of interest is strongly encouraged but is not a requirement nor is it an obligation upon the applicant to submit an application in response to this RFA. Applications may be submitted without first having submitted a letter of interest. ([See](#) Attachment 4)

### **D. Applicant Conference**

An Applicant Conference will not be held for this project.

### **E. How to File an Application**

Applications must be **received** at the following address by the date and time posted on the cover sheet of this RFA. Late applications will not be accepted.\*

Cathy Andersen  
Office of the Health Insurance Programs  
Division of Long-Term Care  
New York State Department of Health  
ESP, Corning Tower, Room 2276  
Albany, New York 12237

Applicants shall submit one **(1) original**, signed application and **five (5) copies**. Application packages should be clearly labeled with the name and number of the RFA as listed on the cover of this RFA document. **Applications will not be accepted via fax or e-mail.**

\* It is the applicant's responsibility to see that applications are delivered to the address above prior to the date and time specified. Late applications due to a documentable delay by the carrier may be considered at the Department of Health's discretion.

### **F. DEPARTMENT OF HEALTH RESERVED RIGHTS**

The Department of Health reserves the right to:

1. Reject any or all applications received in response to this RFA.
2. Withdraw the RFA at any time, at the Department's sole discretion.
3. Make an award under the RFA in whole or in part.

4. Disqualify any applicant whose conduct and/or proposal fails to conform to the requirements of the RFA.
5. Seek clarifications and revisions of applications.
6. Use application information obtained through site visits, management interviews and the state's investigation of an applicant's qualifications, experience, ability or financial standing, and any material or information submitted by the applicant in response to the agency's request for clarifying information in the course of evaluation and/or selection under the RFA.
7. Prior to application opening, amend the RFA specifications to correct errors or oversights, or to supply additional information, as it becomes available.
8. Prior to application opening, direct applicants to submit proposal modifications addressing subsequent RFA amendments.
9. Change any of the scheduled dates.
10. Waive any requirements that are not material.
11. Award more than one contract resulting from this RFA.
12. Conduct contract negotiations with the next responsible applicant, should the Department be unsuccessful in negotiating with the selected applicant.
13. Utilize any and all ideas submitted with the applications received.
14. Unless otherwise specified in the RFA, every offer is firm and not revocable for a period of 60 days from the bid opening.
15. Waive or modify minor irregularities in applications received after prior notification to the applicant.
16. Require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of an offerer's application and/or to determine an offerer's compliance with the requirements of the RFA.
17. Negotiate with successful applicants within the scope of the RFA in the best interests of the State.
18. Eliminate any mandatory, non-material specifications that cannot be complied with by all applicants.
19. Award grants based on geographic or regional considerations to serve the best interests of the State.

#### **G. Term of Contract**

Any state contract resulting from this RFA will be effective only upon approval by the New York State Office of the Comptroller.

It is expected that contracts resulting from this RFA will have the following multi-year time period: May 1, 2014 – April 30, 2019.

Continued funding throughout this period is contingent on satisfactory contractor performance and availability of funds. DOH also reserves the right to revise the award amounts as necessary due to changes in the availability of funding.

## **H. Payment and Reporting Terms and Conditions**

1. The Department may, at its discretion, make an advance payment to not-for-profit grant contractors in an amount not to exceed twenty-five (25) percent of the state contract.
2. The funded contractor will be required to submit quarterly invoices and required reports of expenditures to the designated payment office:

NYS Department of Health- OHIP-DLTC  
Corning Tower – Room 1911  
Empire State Plaza  
Albany, NY 12237

Grant contractors shall provide complete and accurate billing invoices to the Department's designated payment office in order to receive payment. Billing invoices submitted to the Department must contain all information and supporting documentation required by the Contract, the Department and the Office of the State Comptroller (OSC). Payment for invoices 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 OSC's procedures and practices 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: [epayments@osc.state.ny.us](mailto:epayments@osc.state.ny.us) or by telephone at 855-233-8363. CONTRACTOR acknowledges that it will not receive payment on any claims for reimbursement submitted under this contract if it does not comply with the OSC's electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

Payment of such claims for reimbursement by the State (NYS Department of Health) shall be made in accordance with Article XI-A of the New York State Finance Law.

Payment terms will be: Contractor will be reimbursed for actual expenses incurred as allowed in the Contract Budget and Workplan.

3. The grant contractor will be required to submit reports specified in the text of this RFA and the following periodic reports:
  - Quarterly Report of Activities
  - Budget Statement and Report of Expenditures (BSROE)
  - Annual Report

All State payment and reporting requirements will be detailed in Attachment D of the final NYS Master Grant Contract.

## **I. Minority & Woman-Owned Business Enterprise Requirements**

Pursuant to New York State Executive Law Article 15-A, the New York State Department of Health ("DOH") 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 DOH 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 DOH 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, the New York State Department of Health hereby establishes a goal of 20% on any subcontracted labor or services, equipment, materials, or any combined purchase of the foregoing greater than \$25,000 under a contract awarded from this solicitation. The goal on the eligible portion of this contract will be 10% for Minority-Owned Business Enterprises ("MBE") participation and 10% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs and outreach efforts to certified MWBE firms). 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 DOH may withhold payment pending receipt of the required MWBE documentation. For guidance on how DOH will determine "good faith efforts," refer to 5 NYCRR §142.8.

The directory of New York State Certified MWBEs can be viewed at: <https://ny.newnycontracts.com>. The directory is found in the upper right hand side of the webpage under "Search for Certified Firms" and accessed by clicking on the link entitled "MWBE Directory" Engaging with firms found in the directory with like product(s) and/or service(s) is strongly encouraged and all communication efforts and responses should be well documented.

By submitting an application, a grantee agrees to complete an MWBE Utilization plan as directed in **Attachment 10** of this RFA. DOH will review the submitted MWBE Utilization Plan. If the plan is not accepted, DOH may issue a notice of deficiency. If a notice of deficiency is issued, Grantee agrees that it shall respond to the notice of deficiency within seven (7) business days of receipt. DOH may disqualify a Grantee as being non-responsive under the following circumstances:

- a) If a Grantee fails to submit a MWBE Utilization Plan;

- b) If a Grantee fails to submit a written remedy to a notice of deficiency;
- c) If a Grantee fails to submit a request for waiver (if applicable); or
- d) If DOH determines that the Grantee has failed to document good-faith efforts to meet the established DOH MWBE participation goals for the procurement.

In addition, successful awardees will be required to certify they have an acceptable Equal Employment Opportunity policy statement in accordance with Section III of Attachment M of the resulting contract.

#### **I. Limits on Administrative Expenses and Executive Compensation**

Effective July 1, 2013, limitations on administrative expenses and executive compensation contained within Governor Cuomo's Executive Order #38 and related regulations published by the Department (Part 1002 to 10 NYCRR – Limits on Administrative Expenses and Executive Compensation) went into effect. Applicants agree that all state funds dispersed under this procurement will, if applicable to them, be bound by the terms, conditions, obligations and regulations promulgated by the Department. To provide assistance with compliance regarding Executive Order #38 and the related regulations, please refer to the Executive Order #38 website at: <http://executiveorder38.ny.gov>.

#### **J. Vendor Identification Number**

Effective January 1, 2012, in order to do business with New York State, you must have a vendor identification number. As part of the Statewide Financial System (SFS), the Office of the State Comptroller's Bureau of State Expenditures has created a centralized vendor repository called the New York State Vendor File. In the event of an award and in order to initiate a contract with the New York State Department of Health, vendors must be registered in the New York State Vendor File and have a valid New York State Vendor ID.

If already enrolled in the Vendor File, please include the Vendor Identification number on the application cover sheet. If not enrolled, to request assignment of a Vendor Identification number, please submit a New York State Office of the State Comptroller Substitute Form W-9, which can be found on-line at:

[http://www.osc.state.ny.us/vendor\\_management/issues\\_guidance.htm](http://www.osc.state.ny.us/vendor_management/issues_guidance.htm). Additional information concerning the New York State Vendor File can be obtained on-line at: [http://www.osc.state.ny.us/vendor\\_management/index.htm](http://www.osc.state.ny.us/vendor_management/index.htm), by contacting the SFS Help Desk at 855-233-8363 or by emailing at [helpdesk@sfs.ny.gov](mailto:helpdesk@sfs.ny.gov).

#### **K. Vendor Responsibility Questionnaire**

The New York State Department of Health recommends that vendors file the required Vendor Responsibility Questionnaire online via the New York State VendRep System. To enroll in and use the New York State VendRep System, see the VendRep System Instructions available at [http://www.ocs.state.ny.us/vendrep/vendor\\_index.htm](http://www.ocs.state.ny.us/vendrep/vendor_index.htm) or go directly to the VendRep system online at <https://portal.osc.state.ny.us>.

Vendors must provide their New York State Vendor Identification Number when enrolling. To request assignment of a Vendor ID or for VendRep System assistance, contact the Office



of the State Comptroller's Help Desk 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 complete and submit a paper questionnaire can obtain the appropriate questionnaire from the VendRep website [www.osc.state.ny.us/vendrep/forms\\_vendor.htm](http://www.osc.state.ny.us/vendrep/forms_vendor.htm) or may contact the Office of the State Comptroller's Help Desk for a copy of the paper form.

Applicants should complete and submit the Vendor Responsibility Attestation (Attachment 5).

## **L. Vendor Prequalification for Not-for-Profits**

Beginning July 31, 2013, all not-for-profit vendors subject to prequalification will be required to prequalify prior to grant application and execution of contracts.

Prequalification is a new statewide process designed to facilitate prompt contracting for not-for-profit vendors. Interested vendors will be asked to submit commonly requested documents, and answer frequently asked questions once. The application requests organizational information about the vendor's *capacity*, *legal compliance*, and *integrity*.

Not-for-profit vendors subject to prequalification will submit their responses online in the new Grants Gateway, and all information will be stored in a virtual, secured vault. Once a vendor is registered with the system, State agencies will have ready access to the vault, eliminating redundant submissions of such information by the vendor. Not-for-profits will only have to prequalify every three years, with responsibility to keep their information current throughout the three year period. To obtain access to the Grants Gateway, vendors should submit a registration form downloadable on the Grants Reform website at: <http://grantsreform.ny.gov/Grantees>.

## **M. General Specifications**

1. By signing the letter of commitment from the Board or equivalent, each applicant attests to its express authority to sign on behalf of the applicant.
2. Contractors 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.
3. Submission of an application indicates the applicant's acceptance of all conditions and terms contained in this RFA, including the terms and conditions of the contract. Any exceptions allowed by the Department during the Question and Answer Phase must be clearly noted in a cover letter attached to the application.
4. An applicant may be disqualified from receiving awards if such applicant 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.
5. Provisions upon default:

- a. The services to be performed by the Applicant shall be at all times subject to the direction and control of the Department as to all matters arising in connection with or relating to the contract resulting from this RFA.
- b. In the event that the Applicant, through any cause, fails to perform any of the terms, covenants or promises of any contract resulting from this RFA, the Department acting for and on behalf of the State shall there upon have the right to terminate the contract by giving notice in writing of the fact and date of such termination to the Applicant.
- c. If, in the judgment of the Department, the Applicant 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 any contract resulting from this RFA 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.

## **VI. Completing the Application**

### **A. Application Content**

Applications should not exceed 20 double-spaced pages (excluding the work plan, budget forms, and all attachments), using a 12-pitch font with one-inch margins on all sides. Recommended page limits for each section are indicated. Pages should be numbered consecutively, including all attachments. Up to five points may be deducted for applications that do not comply with these submission requirements.

An Applicant Attestation (Attachment 2), Applicant Cover Sheet (Attachment 3) and an Application Checklist (Attachment 6) must be included in your application package and signed by an official signatory from the applicant organization.

Applicants should provide a response to all questions and statements in each section listed below. Number and letter the narrative response to correspond to each question or statement and all elements within the question in the order presented in each section.

Include budgets that are reflective of workplans. An Applicant Checklist (Attachment 6) has been included to help ensure that submission requirements have been met. Applicants should review this attachment before and after writing the application.

### **B. Application Format**

<b>Section</b>	<b>Page Limit</b>	<b>Maximum Score</b>
Program Summary	1	0
Statement of Need	2	5
Organizational Capacity	2	10
Project Narrative	12	35

Work Plan	No limit	20
Program Performance/Evaluation	3	10
Budget	No limit	20
<b>Total</b>	<b>20</b>	<b>100</b>

**1. Program Summary:**

**Maximum Page: 1 page**

**Not Scored**

Summarize your proposed program in one page or less, including all major activities your agency will undertake to meet the stated goals of this initiative.

**2. Statement of Need:**

**Maximum Pages: 2 pages**

**Maximum Score: 5 points**

- a. Describe the problems that low income elderly, chronically ill, homeless and disabled individuals you propose to serve experience in understanding Medicare, Medicaid, MLTC, FIDA and the complexities of health insurance coverage and long-term support services.
- b. Identify existing assistance services, community resources and potential community partners who serve low income elderly, chronically ill, homeless and disabled individuals, and how you propose to work collaboratively with these groups to meet the needs of the targeted population in providing Ombudsman services.

**3. Organizational Capacity:**

**Maximum Pages: 2 pages:**

**Maximum Score: 10 points**

- a. Describe your agency, its mission, its structure and scope of services. Include an organizational chart as an Attachment to your application. The organizational chart should show the overall structure of your institution and how the program described in this application will relate to the rest of the agency.
- b. Describe your agency's experience working on topics related to long-term care population (Medicare, Medicaid, etc.)
- c. Describe your agency's history of providing education and advocacy services to the long-term care population.
- d. Describe how the activities proposed in your application will be distinct from, and clearly in addition to, your agency's current activities.
- e. Describe your agency's establishment and utilization of Information Technology (IT) capacity related to securely maintaining and tracking data.

**4. Project Narrative:**

**Maximum pages: 12 pages**

**Maximum Score: 35 points**

*The project narrative summarizes goals and objectives developed in the Work Plan.*

- a. Describe the process for establishing an Ombudsman infrastructure and appropriate staffing for both MLTC, FIDA and LTSS MMC.

- i. The Ombudsman will adequately staff the project with experienced, knowledgeable personnel to administer a large scale statewide initiative and include an opportunity for volunteerism;
  - ii. The Ombudsman will have staff dedicated and trained to fulfill the MLTC, FIDA and LTSS MMC Ombudsman responsibilities, as well as designated supervision for the Ombudsman activities;
  - iii. The Ombudsman will ensure sufficient regional capacity to provide delivery of Ombudsman services in the MLTC, FIDA and LTSS MMC counties which may include subcontracting with local agencies;
  - iv. The Ombudsman will hire an attorney(s) to perform and/or oversee hearings and appeals matters;
  - v. The Ombudsman will develop and implement policies and procedures, including maintaining individual files on participant matters to the extent that records have been collected and need to be kept together; and
  - vi. The Ombudsman will develop and implement an internal quality assurance program.
- b. Describe your process to procure services of local community-based organizations to provide statewide delivery of Ombudsman services; and provide oversight of subcontracted local agencies.
- c. Describe your process to establish a service delivery structure that includes a hotline, an interactive website, and e-mail access to Ombudsman program staff or volunteers.
  - i. The Ombudsman will establish and maintain an accessible, culturally and linguistically competent telephone call center that will answer calls Monday-Friday from 8am – 8pm. The hotline will be accessible through a statewide toll-free number and staffed by the Contractor, and shall provide information and assistance to participants and their caregivers. The call center must have TTY access and be located within the 48 contiguous states;
  - ii. The Ombudsman will develop an accessible, interactive website through which participants and their caregivers can submit electronic requests for information, advice, referral, and direct assistance; and
  - iii. The Ombudsman will maintain an email address through which participants and their caregivers can submit electronic requests for information, advice, referral, and direct assistance. The Ombudsman will respond to email inquiries within one business day.
- d. Describe your process to provide In-Person Access.
  - i. The Ombudsman will provide in-person access at prescribed times and locations or as scheduled to meet the needs of participants/caregivers.
- e. Describe your process to establish and maintain a “caller” database with participant/caregiver and complaint-specific data elements.
  - i. The Ombudsman will develop a “caller” database with critical fields that can be searched and tracked. All participants/caregivers who contact the Ombudsman through any of the available means of contact will be tracked. The database will be required to be able to generate required reports and be updated as necessary.
- f. Describe your process to provide consumer education and information for MLTC, FIDA and LTSS MMC participants/caregivers.

- i. The Ombudsman will develop multi-media education materials and provide information to inform the consumer and increase awareness of programs. The Ombudsman will develop and maintain an outreach and education campaign (e.g., written materials/flyers, audio tapes, posters, ads, presentations). The approach must reflect the needs of consumers;
  - ii. The Ombudsman will maintain materials and periodically update these materials to reflect changes in the program; and
  - iii. The Department must approve all written outreach, education and enrollment materials to ensure that information is comprehensive, understandable, accurate and unbiased. The Contractor must submit all materials to the Department for approval a minimum of 30 days prior to their scheduled use.
  
- g. Provide consumer advocacy services for MLTC, FIDA and LTSS MMC participants/caregivers.
  - i. Describe your plan to provide consumer information, including explain all benefits, coverage and access rules and procedures; explain all Member rights and responsibilities and explain Medicaid, Medicare and FIDA eligibility;
  - ii. Describe your plan to assist participants/caregivers in exercising their rights and responsibilities; assist participants/caregivers in accessing covered benefits – including requesting prior authorization, obtaining referrals, advising providers on medical necessity requirements, conferring with interdisciplinary team regarding overcoming obstacles to access;
  - iii. Describe your plan to assist participants/caregivers in raising and resolving quality of care and quality of life issues;
  - iv. Describe your plan to assist participants/caregivers in understanding and participating in the interdisciplinary care planning and interdisciplinary team work around care coordination;
  - v. Describe the applicants plan to assist with accessing participant records from the MLTC, FIDA and LTSS MMC plan(s);
  - vi. Describe your plan to explain the grievance and appeal process; and
  - vii. Describe your plan to assist participants/caregivers in resolving problems and issues using skilled negotiation techniques and providing assistance in filing grievances when informal problem resolution proves unsuccessful.
  
- h. Establish data collection system.
  - i. Describe the data collection systems and procedures to be established;
  - ii. Describe your current data collection process. Describe where data collection falls within your organization, and who is responsible for data collection, and their qualifications to oversee such a system;
  - iii. Describe how data will be collected on complaints received through the hot-line and outcomes of efforts to resolve complaints and to provide reports; and
  - iv. Describe how data on timeliness of responses to and resolution of participant complaints.
  
- i. Establish policies and procedures for obtaining participant/caregiver consent and for protecting participant confidentiality.

- i. Describe the plan to comply with all requirements established by NYSDOH for obtaining consent, ensuring access to records, coordinating contacts with plans, coordinating referrals, and for ensuring confidentiality, and
- ii. Describe the plan to establish procedures to protect against inappropriate disclosures of identifying information.

**5. Work Plan: Use Work Plan Forms (Attachment 8)**

**Maximum Score: 20 points**

*The work plan pages are not included in the application page limit.*

Complete Attachment 8, Ombudsman Program Work Plan, in accordance with the Work Plan Instructions (Attachment 7). The work plan forms should describe the objectives and activities necessary to meet program goals.

**Please note that successful applicants may be asked to modify work plans prior to initiation of the contract to address issues identified during the review process.**

**6. Program Performance/Evaluation:**

**Maximum Pages: 3 pages**

**Maximum score: 10 points**

- a. Describe your current program performance evaluation process. Describe where program performance/evaluation falls within your organization, and who is responsible for performance/evaluation, and their qualifications to oversee an evaluation/program performance.
- b. Describe the means by which you determine, on an ongoing basis, if your methods of service delivery are effective.
- c. State what performance measures will be used to evaluate the program service delivery.

**7. Budget: Use Budget Forms (Attachment 10)**

**Maximum Score: 20 points**

*The budget pages and justification are not included in the application page limit.*

- a. Complete five sets of budget forms as directed for each of the prescribed periods according to budget instructions (Attachment 9).
  - For each set, complete all required Budget Forms (Attachment 10).
  - The five consecutive years' budgets should be labeled as follows:
    - Budget Year 1 May 1, 2014 - April 30, 2015
    - Budget Year 2 May 1, 2015 - April 30, 2016
    - Budget Year 3 May 1, 2016 - April 30, 2017
    - Budget Year 4 May 1, 2017 - April 30, 2018
    - Budget Year 5 May 1, 2018 - April 30, 2019
- b. For each budget year, a justification for each cost should be submitted in narrative form. The budget narrative should not exceed two-double spaced pages (not included in the page limits).

- c. The amount requested in each budget year should be reasonable and cost effective, relate directly to the activities described in the application, and be consistent with the scope of services outlined in the RFA.
- d. All budgeted positions should be consistent with the proposed services. The budget justifications should delineate how the percentage of staff time devoted to this initiative has been determined. The budgets should also include all subcontracts/consultants with contractual amounts and methodologies.
- e. For partially funded positions, the percent effort being requested should be reasonable for the responsibilities being proposed in the program design.
- f. Budgeted items should be justified and fundable under State and Federal guidelines.
- g. Funding requested for administrative and management costs should adhere to the following guidelines:
  - Indirect costs are limited to a maximum of 10% of total direct costs.
  - Funds requested may NOT be used to supplant resources supporting existing services or activities.
  - Ineligible budget items will be removed from the budget prior to contracting. Ineligible items are those determined by NYSDOH to be inadequately justified in relation to the proposed program or are not fundable under existing State and Federal guidance (OMB circulars). The budget amount requested will be reduced to reflect the removal of the ineligible items.
  - Funding may support a fair proportion of the overall organizational structure to an extent that it allows the funded applicant to implement program activities. This includes funding for administrative staff, supervisors and support personnel, and non personal service costs such as a share of space, supplies, telephone, basic equipment such as computers and printers and other expenses associated with program implementation and service delivery.

### **C. Review & Award Process**

Applications meeting the guidelines set forth above will be reviewed and evaluated competitively using an objective rating system reflective of the required items specified for each section. A panel convened by the Division of Long-Term Care (DLTC) will conduct a review of applications from eligible applicants. The reviewers will consider the following factors: (1) responsiveness to the Request for Applications, (2) agency capacity, (3) the comprehensiveness of program design, (4) the appropriateness of the evaluation strategy, and (5) justification for costs included in the budget.

The application with the highest acceptable score will receive the award. An acceptable score is a score above 60. In the event that one application does not meet an acceptable scoring threshold, the DLTC reserves the option of funding the highest scoring applicant contingent upon negotiated modifications to the application as agreed upon by the DLTC and the applicant. In the event of tie scores, applicants will be invited to meet with the DLTC to discuss their application and qualifications in order to determine the best qualified applicant.

If changes in funding amounts are necessary for this initiative, funding will be modified and awarded in the same manner as outlined in the award process described above.

Once an award has been made, applicants may request a debriefing of their application. Please note the debriefing will be limited only to the strengths and weaknesses of the subject application and will not include any discussion of other applications. Requests must be received no later than ten (10) business days from date of award or non-award announcement.

In the event unsuccessful applicants wish to protest the award resulting from this RFA, applicants should follow the protest procedures established by the Office of the State Comptroller (OSC). These procedures can be found on the OSC website at <http://www.osc.state.ny.us/agencies/guide/mywebhelp>, Chapter XI, Procurement and Contract Management, 17. Protest Procedures.

## **VII. Attachments**

- Attachment 1: NYS Master Grant Contract Template
- Attachment 2: Applicant Attestation
- Attachment 3: Application Cover Sheet
- Attachment 4: Letter of Interest
- Attachment 5: Vendor Responsibility Attestation
- Attachment 6: Applicant Checklist
- Attachment 7: Work Plan Instructions
- Attachment 8: Work Plan Template
- Attachment 9: Budget Instructions
- Attachment 10: Budget Template
- Attachment 11: MWBE Forms



**STATE OF NEW YORK MASTER CONTRACT FOR GRANTS FACE PAGE**

<p>STATE AGENCY (Name &amp; Address):</p>	<p>BUSINESS UNIT/DEPT. ID:</p> <p>CONTRACT NUMBER:</p> <p>CONTRACT TYPE:</p> <p><input type="checkbox"/> Multi-Year Agreement</p> <p><input type="checkbox"/> Simplified Renewal Agreement</p> <p><input type="checkbox"/> Fixed Term Agreement</p>
<p>CONTRACTOR SFS PAYEE NAME:</p>	<p>TRANSACTION TYPE:</p> <p><input type="checkbox"/> New</p> <p><input type="checkbox"/> Renewal</p> <p><input type="checkbox"/> Amendment</p>
<p>CONTRACTOR DOS INCORPORATED NAME:</p>	<p>PROJECT NAME:</p>
<p>CONTRACTOR IDENTIFICATION NUMBERS:</p> <p>NYS Vendor ID Number:</p> <p>Federal Tax ID Number:</p> <p>DUNS Number (if applicable):</p>	<p>AGENCY IDENTIFIER:</p> <p>CFDA NUMBER (Federally Funded Grants Only):</p>
<p>CONTRACTOR PRIMARY MAILING ADDRESS:</p> <p>CONTRACTOR PAYMENT ADDRESS:</p> <p><input type="checkbox"/> Check if same as primary mailing address</p> <p>CONTRACT MAILING ADDRESS:</p> <p><input type="checkbox"/> Check if same as primary mailing address</p>	<p>CONTRACTOR STATUS:</p> <p><input type="checkbox"/> For Profit</p> <p><input type="checkbox"/> Municipality, Code:</p> <p><input type="checkbox"/> Tribal Nation</p> <p><input type="checkbox"/> Individual</p> <p><input type="checkbox"/> Not-for-Profit</p> <p>Charities Registration Number:</p> <p>Exemption Status/Code:</p> <p><input type="checkbox"/> Sectarian Entity</p>

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

**STATE OF NEW YORK MASTER CONTRACT FOR GRANTS FACE PAGE**

<p><b>CURRENT CONTRACT TERM:</b></p> <p>From: _____ To: _____</p> <p><b>CURRENT CONTRACT PERIOD:</b></p> <p>From: _____ To: _____</p> <p><b>AMENDED TERM:</b></p> <p>From: _____ To: _____</p> <p><b>AMENDED PERIOD:</b></p> <p>From: _____ To: _____</p>	<p><b>CONTRACT FUNDING AMOUNT</b>  <i>(Multi-year - enter total projected amount of the contract; Fixed Term/Simplified Renewal - enter current period amount):</i></p> <p><b>CURRENT:</b></p> <p><b>AMENDED:</b></p> <p><b>FUNDING SOURCE(S)</b></p> <p><input type="checkbox"/> State</p> <p><input type="checkbox"/> Federal</p> <p><input type="checkbox"/> Other</p>
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*FOR MULTI-YEAR AGREEMENTS ONLY - CONTRACT PERIOD AND FUNDING AMOUNT:*  
 (Out years represent projected funding amounts)

#	CURRENT PERIOD	CURRENT AMOUNT	AMENDED PERIOD	AMENDED AMOUNT
1				
2				
3				
4				
5				

**ATTACHMENTS PART OF THIS AGREEMENT:**

- Attachment A:
  - A-1 Program Specific Terms and Conditions
  - A-2 Federally Funded Grants
  
- Attachment B:
  - B-1 Expenditure Based Budget
  - B-2 Performance Based Budget
  - B-3 Capital Budget
  - B-1(A) Expenditure Based Budget (Amendment)
  - B-2(A) Performance Based Budget (Amendment)
  - B-3(A) Capital Budget (Amendment)
  
- Attachment C: Work Plan
- Attachment D: Payment and Reporting Schedule
- Other:

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

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

CONTRACTOR:

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

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

Printed Name

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

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

STATE AGENCY:

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

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

Printed Name

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

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

STATE OF NEW YORK

County of \_\_\_\_\_

On the \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me personally appeared \_\_\_\_\_, to me known, who being by me duly sworn, did depose and say that he/she resides at \_\_\_\_\_, that he/she is the \_\_\_\_\_ of the \_\_\_\_\_, the contractor described herein which executed the foregoing instrument; and that he/she signed his/her name thereto as authorized by the contractor named on the face page of this Master Contract.

(Notary) \_\_\_\_\_

ATTORNEY GENERAL'S SIGNATURE

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

Printed Name

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

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

STATE COMPTROLLER'S SIGNATURE

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

Printed Name

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

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

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

**STATE OF NEW YORK  
MASTER CONTRACT FOR GRANTS**

This State of New York Master Contract for Grants (Master Contract) is hereby made by and between the State of New York acting by and through the applicable State Agency (State) and the public or private entity (Contractor) identified on the face page hereof (Face Page).

**WITNESSETH:**

**WHEREAS**, the State has the authority to regulate and provide funding for the establishment and operation of program services, design or the execution and performance of construction projects, as applicable and desires to contract with skilled parties possessing the necessary resources to provide such services or work, as applicable; and

**WHEREAS**, the Contractor is ready, willing and able to provide such program services or the execution and performance of construction projects and possesses or can make available all necessary qualified personnel, licenses, facilities and expertise to perform or have performed the services or work, as applicable, required pursuant to the terms of the Master Contract;

**NOW THEREFORE**, in consideration of the promises, responsibilities, and covenants herein, the State and the Contractor agree as follows:

**STANDARD TERMS AND CONDITIONS**

**I. GENERAL PROVISIONS**

**A. Executory Clause:** In accordance with Section 41 of the State Finance Law, the State shall have no liability under the Master Contract to the Contractor, or to anyone else, beyond funds appropriated and available for the Master Contract.

**B. Required Approvals:** In accordance with Section 112 of the State Finance Law (or, if the Master Contract is with the State University of New York (SUNY) or City University of New York (CUNY), Section 355 or Section 6218 of the Education Law), if the Master Contract exceeds \$50,000 (or \$85,000 for contracts let by the Office of General Services, or the minimum thresholds agreed to by the Office of the State Comptroller (OSC) for certain SUNY and CUNY contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount including, but not limited to, changes in amount, consideration, scope or contract term identified on the Face Page (Contract Term), it shall not be valid, effective or binding upon the State until it has been approved by, and filed with, the New York Attorney General Contract Approval Unit (AG) and OSC. If, by the Master 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, and filed with, the AG and OSC.

**Budget Changes:** An amendment that would result in a transfer of funds among program activities or budget cost categories that does not affect the amount, consideration, scope or other terms of such contract may be subject to the approval of the AG and OSC where the amount of such modification is, as a portion of the total value of the contract, equal to or greater than ten percent for contracts of less than five million dollars, or five percent for contracts of more than

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

five million dollars; and, in addition, such amendment may be subject to prior approval by the applicable State Agency as detailed in Attachment D (Payment and Reporting Schedule).

**C. Order of Precedence:**

In the event of a conflict among (i) the terms of the Master Contract (including any and all attachments and amendments) or (ii) between the terms of the Master Contract and the original request for proposal, the program application or other attachment that was completed and executed by the Contractor in connection with the Master Contract, the order of precedence is as follows:

1. Standard Terms and Conditions
2. Modifications to the Face Page
3. Modifications to Attachment A-2<sup>1</sup>, Attachment B, Attachment C and Attachment D
4. The Face Page
5. Attachment A-2<sup>2</sup>, Attachment B, Attachment C and Attachment D
6. Modification to Attachment A-1
7. Attachment A-1
8. Other attachments, including, but not limited to, the request for proposal or program application

**D. Funding:** Funding for the term of the Master Contract shall not exceed the amount specified as “Contract Funding Amount” on the Face Page or as subsequently revised to reflect an approved renewal or cost amendment. Funding for the initial and subsequent periods of the Master Contract shall not exceed the applicable amounts specified in the applicable Attachment B form (Budget).

**E. Contract Performance:** The Contractor shall perform all services or work, as applicable, and comply with all provisions of the Master Contract to the satisfaction of the State. The Contractor shall provide services or work, as applicable, and meet the program objectives summarized in Attachment C (Work Plan) in accordance with the provisions of the Master Contract, relevant laws, rules and regulations, administrative, program and fiscal guidelines, and where applicable, operating certificate for facilities or licenses for an activity or program.

**F. Modifications:** To modify the Attachments or Face Page, the parties mutually agree to record, in writing, the terms of such modification and to revise or complete the Face Page and all the appropriate attachments in conjunction therewith. In addition, to the extent that such modification meets the criteria set forth in Section I.B herein, it shall be subject to the approval of the AG and

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<sup>1</sup> To the extent that the modifications to Attachment A-2 are required by federal requirements and conflict with other provisions of the Master Contract, the modifications to Attachment A-2 shall supersede all other provisions of this Master Contract. See Section I(V).

<sup>2</sup> To the extent that the terms of Attachment A-2 are required by federal requirements and conflict with other provisions of the Master Contract, the federal requirements of Attachment A-2 shall supersede all other provisions of this Master Contract. See Section I(V).

OSC before it shall become valid, effective and binding upon the State. Modifications that are not subject to the AG and OSC approval shall be processed in accordance with the guidelines stated in the Master Contract.

**G. Governing Law:** The Master Contract shall be governed by the laws of the State of New York except where the Federal Supremacy Clause requires otherwise.

**H. Severability:** Any provision of the Master Contract that is held to be invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, shall be ineffective only to the extent of such invalidity, illegality or unenforceability, without affecting in any way the remaining provisions hereof; provided, however, that the parties to the Master Contract shall attempt in good faith to reform the Master Contract in a manner consistent with the intent of any such ineffective provision for the purpose of carrying out such intent. If any provision is held void, invalid or unenforceable with respect to particular circumstances, it shall nevertheless remain in full force and effect in all other circumstances.

**I. Interpretation:** The headings in the Master Contract are inserted for convenience and reference only and do not modify or restrict any of the provisions herein. All personal pronouns used herein shall be considered to be gender neutral. The Master Contract has been made under the laws of the State of New York, and the venue for resolving any disputes hereunder shall be in a court of competent jurisdiction of the State of New York.

**J. Notice:**

1. All notices, except for notices of termination, shall be in writing and shall be transmitted either:
  - a) by 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.
2. Notices to the State shall be addressed to the Program Office designated in Attachment A-1 (Program Specific Terms and Conditions).
3. Notices to the Contractor shall be addressed to the Contractor's designee as designated in Attachment A-1 (Program Specific Terms and Conditions).
4. 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 e-mail, upon receipt.
5. The parties may, from time to time, specify any new or different e-mail address, facsimile

number or address in the United States as their address for purpose of receiving notice under the Master Contract by giving fifteen (15) calendar days prior written notice to the other party sent in accordance herewith. The parties agree to mutually designate individuals as their respective representatives for the purposes of receiving notices under the Master Contract. Additional individuals may be designated in writing by the parties for purposes of implementation, administration, billing and resolving issues and/or disputes.

**K. 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. The Contractor shall have thirty (30) calendar days after service hereunder is complete in which to respond.

**L. 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 the Master Contract up to any amounts due and owing to the State with regard to the Master Contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of the Master 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 OSC.

**M. Indemnification:** 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 Master Contract. The Contractor shall indemnify and hold harmless the State and its officers and employees from claims, suits, actions, damages and cost of every nature arising out of the provision of services pursuant to the Master Contract.

**N. Non-Assignment Clause:** In accordance with Section 138 of the State Finance Law, the Master 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 shall be considered to be 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 State Agency and with the concurrence of OSC, where the original contract was subject to OSC'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 the merged 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 the Master Contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

**O. Legal Action:** No litigation or regulatory action shall be brought against the State of New York, the State Agency, or against any county or other local government entity with funds provided under

the Master Contract. The term “litigation” shall include commencing or threatening to commence a lawsuit, joining or threatening to join as a party to ongoing litigation, or requesting any relief from any of the State of New York, the State Agency, or any county, or other local government entity. The term “regulatory action” shall include commencing or threatening to commence a regulatory proceeding, or requesting any regulatory relief from any of the State of New York, the State Agency, or any county, or other local government entity.

**P. No Arbitration:** Disputes involving the Master 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.

**Q. Secular Purpose:** Services performed pursuant to the Master Contract are secular in nature and shall be performed in a manner that does not discriminate on the basis of religious belief, or promote or discourage adherence to religion in general or particular religious beliefs.

**R. Partisan Political Activity and Lobbying:** Funds provided pursuant to the Master Contract shall not be used for any partisan political activity, or for activities that attempt to influence legislation or election or defeat of any candidate for public office.

**S. Reciprocity and Sanctions Provisions:** The Contractor is hereby notified that if its 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 it offers shall 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 it be denied contracts which it would otherwise obtain.<sup>3</sup>

**T. Reporting Fraud and Abuse:** Contractor acknowledges that it has reviewed information on how to prevent, detect, and report fraud, waste and abuse of public funds, including information about the Federal False Claims Act, the New York State False Claims Act, and whistleblower protections.

**U. Non-Collusive Bidding:** By submission of this bid, the Contractor and each person signing on behalf of the Contractor 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 his or her knowledge and belief that its bid was arrived at independently and without collusion aimed at restricting competition. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive binding certification on the Contractor’s behalf.

**V. Federally Funded Grants:** All of the Specific federal requirements that are applicable to the Master Contract are identified in Attachment A-2 (Federally Funded Grants) hereto. To the extent that the Master Contract is funded in whole or part with federal funds, (i) the provisions of the Master Contract that conflict with federal rules, federal regulations, or federal program specific requirements shall not apply and (ii) the Contractor agrees to comply with all applicable federal

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<sup>3</sup>As of October 9, 2012, the list of discriminatory jurisdictions subject to this provision includes the states of Alaska, Hawaii, Louisiana, South Carolina, West Virginia and Wyoming. Contact NYS Department of Economic Development for the most current list of jurisdictions subject to this provision.



rules, regulations and program specific requirements including, but not limited to, those provisions that are set forth in Attachment A-2 (Federally Funded Grants) hereto.

## II. TERM, TERMINATION AND SUSPENSION

**A. Term:** The term of the Master Contract shall be as specified on the Face Page, unless terminated sooner as provided herein.

**B. Renewal:**

**1. General Renewal:** The Master Contract may consist of successive periods on the same terms and conditions, as specified within the Master Contract (a “Simplified Renewal Contract”). Each additional or superseding period shall be on the forms specified by the State and shall be incorporated in the Master Contract.

**2. Renewal Notice to Not-for-Profit Contractors:**

a) Pursuant to State Finance Law §179-t, if the Master Contract is with a not-for-profit Contractor and provides for a renewal option, the State shall notify the Contractor of the State’s intent to renew or not to renew the Master Contract no later than ninety (90) calendar days prior to the end of the term of the Master Contract, unless funding for the renewal is contingent upon enactment of an appropriation. If funding for the renewal is contingent upon enactment of an appropriation, the State shall notify the Contractor of the State’s intent to renew or not to renew the Master Contract the later of: (1) ninety (90) calendar days prior to the end of the term of the Master Contract, and (2) thirty (30) calendar days after the necessary appropriation becomes law. Notwithstanding the foregoing, in the event that the State is unable to comply with the time frames set forth in this paragraph due to unusual circumstances beyond the control of the State (“Unusual Circumstances”), no payment of interest shall be due to the not-for-profit Contractor. For purposes of State Finance Law §179-t, “Unusual Circumstances” shall not mean the failure by the State to (i) plan for implementation of a program, (ii) assign sufficient staff resources to implement a program, (iii) establish a schedule for the implementation of a program or (iv) anticipate any other reasonably foreseeable circumstance.

b) Notification to the not-for-profit Contractor of the State’s intent to not renew the Master Contract must be in writing in the form of a letter, with the reason(s) for the non-renewal included. If the State does not provide notice to the not-for-profit Contractor of its intent not to renew the Master Contract as required in this Section and State Finance Law §179-t, the Master Contract shall be deemed continued until the date the State provides the necessary notice to the Contractor, in accordance with State Finance Law §179-t. Expenses incurred by the not-for-profit Contractor during such extension shall be reimbursable under the terms of the Master Contract.

## **C. Termination:**

### **1. Grounds:**

- a) Mutual Consent: The Master Contract may be terminated at any time upon mutual written consent of the State and the Contractor.
- b) Cause: The State may terminate the Master Contract immediately, upon written notice of termination to the Contractor, if the Contractor fails to comply with any of the terms and conditions of the Master Contract and/or with any laws, rules, regulations, policies, or procedures that are applicable to the Master Contract.
- c) Non-Responsibility: In accordance with the provisions of Sections IV(N)(6) and (7) herein, the State may make a final determination that the Contractor is non-responsible (Determination of Non-Responsibility). In such event, the State may terminate the Master Contract at the Contractor's expense, complete the contractual requirements in any manner the State deems advisable and pursue available legal or equitable remedies for breach.
- d) Convenience: The State may terminate the Master Contract in its sole discretion upon thirty (30) calendar days prior written notice.
- e) Lack of Funds: If for any reason the State or the Federal government terminates or reduces its appropriation to the applicable State Agency entering into the Master Contract or fails to pay the full amount of the allocation for the operation of one or more programs funded under this Master Contract, the Master Contract may be terminated or reduced at the State Agency's discretion, provided that no such reduction or termination shall apply to allowable costs already incurred by the Contractor where funds are available to the State Agency for payment of such costs. Upon termination or reduction of the Master Contract, all remaining funds paid to the Contractor that are not subject to allowable costs already incurred by the Contractor shall be returned to the State Agency. In any event, no liability shall be incurred by the State (including the State Agency) beyond monies available for the purposes of the Master Contract. The Contractor acknowledges that any funds due to the State Agency or the State of New York because of disallowed expenditures after audit shall be the Contractor's responsibility.
- f) Force Majeure: The State may terminate or suspend its performance under the Master Contract immediately upon the occurrence of a "force majeure." For purposes of the Master Contract, "Force majeure" shall include, but not be limited to, natural disasters, war, rebellion, insurrection, riot, strikes, lockout and any unforeseen circumstances and acts beyond the control of the State which render the performance of its obligations impossible.

### **2. Notice of Termination:**

- a) Service of notice: Written notice of termination shall be sent by:
  - (i) personal messenger service; or

(ii) certified mail, return receipt requested and first class mail.

b) Effective date of termination: The effective date of the termination shall be the later of (i) the date indicated in the notice and (ii) the date the notice is received by the Contractor, and shall be established as follows:

(i) if the notice is delivered by hand, the date of receipt shall be established by the receipt given to the Contractor or by affidavit of the individual making such hand delivery attesting to the date of delivery; or

(ii) if the notice is delivered by registered or certified mail, by the receipt returned from the United States Postal Service, or if no receipt is returned, five (5) business days from the date of mailing of the first class letter, postage prepaid, in a depository under the care and control of the United States Postal Service.

### **3. *Effect of Notice and Termination on State's Payment Obligations:***

a) Upon receipt of notice of termination, the Contractor agrees to cancel, prior to the effective date of any prospective termination, as many outstanding obligations as possible, and agrees not to incur any new obligations after receipt of the notice without approval by the State.

b) The State shall be responsible for payment on claims for services or work provided and costs incurred pursuant to the terms of the Master Contract. In no event shall the State be liable for expenses and obligations arising from the requirements of the Master Contract after its termination date.

### **4. *Effect of Termination Based on Misuse or Conversion of State or Federal Property:***

Where the Master Contract is terminated for cause based on Contractor's failure to use some or all of the real property or equipment purchased pursuant to the Master Contract for the purposes set forth herein, the State may, at its option, require:

a) the repayment to the State of any monies previously paid to the Contractor; or

b) the return of any real property or equipment purchased under the terms of the Master Contract; or

c) an appropriate combination of clauses (a) and (b) of Section II(C)(4) herein.

Nothing herein shall be intended to limit the State's ability to pursue such other legal or equitable remedies as may be available.

**D. Suspension:** The State may, in its discretion, order the Contractor to suspend performance for a reasonable period of time. In the event of such suspension, the Contractor shall be given a formal written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor shall comply with the particulars of the notice. The State shall have no obligation to reimburse Contractor's expenses during such suspension period. Activities may resume at such time

as the State issues a formal written notice authorizing a resumption of performance under the Master Contract.

### **III. PAYMENT AND REPORTING**

#### **A. Terms and Conditions:**

1. In full consideration of contract services to be performed, the State Agency agrees to pay and the Contractor agrees to accept a sum not to exceed the amount noted on the Face Page.
2. The State has no obligation to make payment until all required approvals, including the approval of the AG and OSC, if required, have been obtained. Contractor obligations or expenditures that precede the start date of the Master Contract shall not be reimbursed.
3. Contractor must provide complete and accurate billing invoices to the State in order to receive payment. Provided, however, the State may, at its discretion, automatically generate a voucher in accordance with an approved contract payment schedule. Billing invoices submitted to the State must contain all information and supporting documentation required by Attachment D (Payment and Reporting Schedule) and Section III(C) herein. The State may require the Contractor to submit billing invoices electronically.
4. Payment for invoices submitted by the Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the head of the State Agency, in the sole discretion of the head of such State Agency, due to extenuating circumstances. Such electronic payment shall be made in accordance with OSC's procedures and practices to authorize electronic payments.
5. If travel expenses are an approved expenditure under the Master Contract, travel expenses shall be reimbursed at the lesser of the rates set forth in the written standard travel policy of the Contractor, the OSC guidelines, or United States General Services Administration rates. No out-of-state travel costs shall be permitted unless specifically detailed and pre-approved by the State.
6. Timeliness of advance payments or other claims for reimbursement, 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.
7. Article 11-B of the State Finance Law sets forth certain time frames for the Full Execution of contracts or renewal contracts with not-for-profit organizations and the implementation of any program plan associated with such contract. For purposes of this section, "Full Execution" shall mean that the contract has been signed by all parties thereto and has obtained the approval of the AG and OSC. Any interest to be paid on a missed payment to the Contractor based on a delay in the Full Execution of the Master Contract shall be governed by Article 11-B of the State Finance Law.

## **B. Advance Payment and Recoupment:**

1. Advance payments, which the State in its sole discretion may make to not-for-profit grant recipients, shall be made and recouped in accordance with State Finance Law Section 179(u), this Section and the provisions of Attachment D (Payment and Reporting Schedule).
2. Advance payments made by the State to not-for-profit grant recipients shall be due no later than thirty (30) calendar days, excluding legal holidays, after the first day of the Contract Term or, if renewed, in the period identified on the Face Page.
3. For subsequent contract years in multi-year contracts, Contractor will be notified of the scheduled advance payments for the upcoming contract year no later than 90 days prior to the commencement of the contract year. For simplified renewals, the payment schedule (Attachment D) will be modified as part of the renewal process.
4. Recoupment of any advance payment(s) shall be recovered by crediting the percentage of subsequent claims listed in Attachment D (Payment and Reporting Schedule) and Section III(C) herein and such claims shall be reduced until the advance is fully recovered within the Contract Term. Any unexpended advance balance at the end of the Contract Term shall be refunded by the Contractor to the State.
5. If for any reason the amount of any claim is not sufficient to cover the proportionate advance amount to be recovered, then subsequent claims may be reduced until the advance is fully recovered.

## **C. Claims for Reimbursement:**

1. The Contractor shall submit claims for the reimbursement of expenses incurred on behalf of the State under the Master Contract in accordance with this Section and the applicable claiming schedule in Attachment D (Payment and Reporting Schedule).

Vouchers submitted for payment shall be deemed to be a certification that the payments requested are for project expenditures made in accordance with the items as contained in the applicable Attachment B form (Budget) and during the Contract Term. When submitting a voucher, such voucher shall also be deemed to certify that: (i) the payments requested do not duplicate reimbursement from other sources of funding; and (ii) the funds provided herein do not replace funds that, in the absence of this grant, would have been made available by the Contractor for this program. Requirement (ii) does not apply to grants funded pursuant to a Community Projects Fund appropriation.

2. Consistent with the selected reimbursement claiming schedule in Attachment D (Payment and Reporting Schedule), the Contractor shall comply with the appropriate following provisions:
  - a) Quarterly Reimbursement: The Contractor shall be entitled to receive payments for work, projects, and services rendered as detailed and described in Attachment C (Work Plan).

The Contractor shall submit to the State Agency quarterly voucher claims and supporting documentation. The Contractor shall submit vouchers to the State Agency in accordance with the procedures set forth in Section III(A)(3) herein.

b) Monthly Reimbursement: The Contractor shall be entitled to receive payments for work, projects, and services rendered as detailed and described in Attachment C (Work Plan).

The Contractor shall submit to the State Agency monthly voucher claims and supporting documentation. The Contractor shall submit vouchers to the State Agency in accordance with the procedures set forth in Section III(A)(3) herein.

c) Biannual Reimbursement: The Contractor shall be entitled to receive payments for work, projects, and services rendered as detailed and described in Attachment C (Work Plan).

The Contractor shall submit to the State Agency biannually voucher claims and supporting documentation. The Contractor shall submit vouchers to the State Agency in accordance with the procedures set forth in Section III(A)(3) herein.

d) Milestone/Performance Reimbursement:<sup>4</sup> Requests for payment based upon an event or milestone may be either severable or cumulative. A severable event/milestone is independent of accomplishment of any other event. If the event is cumulative, the successful completion of an event or milestone is dependent on the previous completion of another event.

Milestone payments shall be made to the Contractor when requested in a form approved by the State, and at frequencies and in amounts stated in Attachment D (Payment and Reporting Schedule). The State Agency shall make milestone payments subject to the Contractor's satisfactory performance.

e) Fee for Service Reimbursement:<sup>5</sup> Payment shall be limited to only those fees specifically agreed upon in the Master Contract and shall be payable no more frequently than monthly upon submission of a voucher by the contractor.

f) Rate Based Reimbursement:<sup>6</sup> Payment shall be limited to rate(s) established in the Master Contract. Payment may be requested no more frequently than monthly.

g) Scheduled Reimbursement:<sup>7</sup> The State Agency shall generate vouchers at the frequencies and amounts as set forth in Attachment D (Payment and Reporting Schedule),

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<sup>4</sup> A milestone/ performance payment schedule identifies mutually agreed-to payment amounts based on meeting contract events or milestones. Events or milestones must represent integral and meaningful aspects of contract performance and should signify true progress in completing the Master Contract effort.

<sup>5</sup> Fee for Service is a rate established by the Contractor for a service or services rendered.

<sup>6</sup> Rate based agreements are those agreements in which payment is premised upon a specific established rate per unit.

<sup>7</sup> Scheduled Reimbursement agreements provide for payments that occur at defined and regular intervals that provide for a specified dollar amount to be paid to the Contractor at the beginning of each payment period (i.e. quarterly, monthly or bi-annually). While these payments are related to the particular services and outcomes defined in the Master Contract, they are not dependent upon particular services or expenses in any one payment period and provide the Contractor with a defined and regular payment over the life of the contract.

and service reports shall be used to determine funding levels appropriate to the next annual contract period.

h) Fifth Quarter Payments:<sup>8</sup> Fifth quarter payment shall be paid to the Contractor at the conclusion of the final scheduled payment period of the preceding contract period. The State Agency shall use a written directive for fifth quarter financing. The State Agency shall generate a voucher in the fourth quarter of the current contract year to pay the scheduled payment for the next contract year.

3. The Contractor shall also submit supporting fiscal documentation for the expenses claimed.
4. The State reserves the right to withhold up to fifteen percent (15%) of the total amount of the Master Contract as security for the faithful completion of services or work, as applicable, under the Master Contract. This amount may be withheld in whole or in part from any single payment or combination of payments otherwise due under the Master Contract. In the event that such withheld funds are insufficient to satisfy Contractor's obligations to the State, the State may pursue all available remedies, including the right of setoff and recoupment.
5. The State shall not be liable for payments on the Master Contract if it is made pursuant to a Community Projects Fund appropriation if insufficient monies are available pursuant to Section 99-d of the State Finance Law.
6. All vouchers submitted by the Contractor pursuant to the Master Contract shall be submitted to the State Agency no later than thirty (30) calendar days after the end date of the period for which reimbursement is claimed. In no event shall the amount received by the Contractor exceed the budget amount approved by the State Agency, and, if actual expenditures by the Contractor are less than such sum, the amount payable by the State Agency to the Contractor shall not exceed the amount of actual expenditures.
7. All obligations must be incurred prior to the end date of the contract. Notwithstanding the provisions of Section III(C)(6) above, with respect to the final period for which reimbursement is claimed, so long as the obligations were incurred prior to the end date of the contract, the Contractor shall have up to ninety (90) calendar days after the contract end date to make expenditures; provided, however, that if the Master Contract is funded in whole or in part with federal funds, the Contractor shall have up to sixty (60) calendar days after the contract end date to make expenditures.

#### **D. Identifying Information and Privacy Notification:**

1. Every voucher or New York State Claim for Payment submitted to a State Agency by the Contractor, 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 Contractor's Vendor Identification Number assigned by the Statewide Financial System, and any or all of the following identification numbers: (i) the Contractor's Federal employer identification number, (ii) the Contractor's Federal social security number, and/or (iii) DUNS number. Failure to

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<sup>8</sup> Fifth Quarter Payments occurs where there are scheduled payments and where there is an expectation that services will be continued through renewals or subsequent contracts. Fifth Quarter Payments allow for the continuation of scheduled payments to a Contractor for the first payment period quarter of an anticipated renewal or new contract.

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include such identification number or numbers may delay payment by the State to the Contractor. Where the Contractor does not have such number or numbers, the Contractor, on its voucher or Claim for Payment, must provide the reason or reasons for why the Contractor does not have such number or numbers.

2. 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 principle 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. The personal information is requested by the purchasing unit of the State Agency contracting to purchase the goods or services or lease the real or personal property covered by the Master Contract. This 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.

#### **E. Refunds:**

1. In the event that the Contractor must make a refund to the State for Master Contract-related activities, including repayment of an advance or an audit disallowance, payment must be made payable as set forth in Attachment A-1 (Program Specific Terms and Conditions). The Contractor must reference the contract number with its payment and include a brief explanation of why the refund is being made. Refund payments must be submitted to the Designated Refund Office at the address specified in Attachment A-1 (Program Specific Terms and Conditions).

2. If at the end or termination of the Master Contract, there remains any unexpended balance of the monies advanced under the Master Contract in the possession of the Contractor, the Contractor shall make payment within forty-five (45) calendar days of the end or termination of the Master Contract. In the event that the Contractor fails to refund such balance the State may pursue all available remedies.

**F. Outstanding Amounts Owed to the State:** Prior period overpayments (including, but not limited to, contract advances in excess of actual expenditures) and/or audit recoveries associated with the Contractor may be recouped against future payments made under this Master Contract to Contractor. The recoupment generally begins with the first payment made to the Contractor following identification of the overpayment and/or audit recovery amount. In the event that there are no payments to apply recoveries against, the Contractor shall make payment as provided in Section III(E) (Refunds) herein.

#### **G. Program and Fiscal Reporting Requirements:**

1. The Contractor shall submit required periodic reports in accordance with the applicable schedule provided in Attachment D (Payment and Reporting Schedule). All required reports or other work products developed pursuant to the Master Contract must be completed as provided by the agreed upon work schedule in a manner satisfactory and acceptable to the State Agency in order for the Contractor to be eligible for payment.



2. Consistent with the selected reporting options in Attachment D (Payment and Reporting Schedule), the Contractor shall comply with the following applicable provisions:

a) If the Expenditure Based Reports option is indicated in Attachment D (Payment and Reporting Schedule), the Contractor shall provide the State Agency with one or more of the following reports as required by the following provisions and Attachment D (Payment and Reporting Schedule) as applicable:

(i) *Narrative/Qualitative Report*: The Contractor shall submit, on a quarterly basis, not later than the time period listed in Attachment D (Payment and Reporting Schedule), a report, in narrative form, summarizing the services rendered during the quarter. This report shall detail how the Contractor has progressed toward attaining the qualitative goals enumerated in Attachment C (Work Plan). This report should address all goals and objectives of the project and include a discussion of problems encountered and steps taken to solve them.

(ii) *Statistical/Quantitative Report*: The Contractor shall submit, on a quarterly basis, not later than the time period listed in Attachment D (Payment and Reporting Schedule), a detailed report analyzing the quantitative aspects of the program plan, as appropriate (e.g., number of meals served, clients transported, patient/client encounters, procedures performed, training sessions conducted, etc.)

(iii) *Expenditure Report*: The Contractor shall submit, on a quarterly basis, not later than the time period listed in Attachment D (Payment and Reporting Schedule), a detailed expenditure report, by object of expense. This report shall accompany the voucher submitted for such period.

(iv) *Final Report*: The Contractor shall submit a final report as required by the Master Contract, not later than the time period listed in Attachment D (Payment and Reporting Schedule) which reports on all aspects of the program and detailing how the use of funds were utilized in achieving the goals set forth in Attachment C (Work Plan).

(v) *Consolidated Fiscal Report (CFR)*: The Contractor shall submit a CFR, which includes a year-end cost report and final claim not later than the time period listed in Attachment D (Payment and Reporting Schedule).

b) If the Performance-Based Reports option is indicated in Attachment D (Payment and Reporting Schedule), the Contractor shall provide the State Agency with the following reports as required by the following provisions and Attachment D (Payment and Reporting Schedule) as applicable:

(i) *Progress Report*: The Contractor shall provide the State Agency with a written progress report using the forms and formats as provided by the State Agency, summarizing the work performed during the period. These reports shall detail the Contractor's progress toward attaining the specific goals enumerated in Attachment C (Work Plan). Progress reports shall be submitted in a format prescribed in the Master Contract.

(ii) *Final Progress Report*: Final scheduled payment is due during the time period set forth in Attachment D (Payment and Reporting Schedule). The deadline for submission of the final report shall be the date set forth in Attachment D (Payment and Reporting Schedule). The State Agency shall complete its audit and notify the Contractor of the results no later than the date set forth in Attachment D (Payment and Reporting Schedule). Payment shall be adjusted by the State Agency to reflect only those services/expenditures that were made in accordance with the Master Contract. The Contractor shall submit a detailed comprehensive final progress report not later than the date set forth in Attachment D (Payment and Reporting Schedule), summarizing the work performed during the entire Contract Term (i.e., a cumulative report), in the forms and formats required.

3. In addition to the periodic reports stated above, the Contractor may be required (a) to submit such other reports as are required in Table 1 of Attachment D (Payment and Reporting Schedule), and (b) prior to receipt of final payment under the Master Contract, to submit one or more final reports in accordance with the form, content, and schedule stated in Table 1 of Attachment D (Payment and Reporting Schedule).

#### **H. Notification of Significant Occurrences:**

1. If any specific event or conjunction of circumstances threatens the successful completion of this project, in whole or in part, including where relevant, timely completion of milestones or other program requirements, the Contractor agrees to submit to the State Agency within three (3) calendar days of becoming aware of the occurrence or of such problem, a written description thereof together with a recommended solution thereto.

2. The Contractor shall immediately notify in writing the program manager assigned to the Master Contract of any unusual incident, occurrence, or event that involves the staff, volunteers, directors or officers of the Contractor, any subcontractor or program participant funded through the Master Contract, including but not limited to the following: death or serious injury; an arrest or possible criminal activity that could impact the successful completion of this project; any destruction of property; significant damage to the physical plant of the Contractor; or other matters of a similarly serious nature.

### **IV. ADDITIONAL CONTRACTOR OBLIGATIONS, REPRESENTATIONS AND WARRANTIES**

#### **A. Contractor as an Independent Contractor/Employees:**

1. The State and the Contractor agree that the Contractor is an independent contractor, and not an employee of the State and may neither hold itself out nor claim to be an officer, employee, or subdivision of the State nor make any claim, demand, or application to or for any right based upon any different status. The Contractor shall be solely responsible for the recruitment, hiring, provision of employment benefits, payment of salaries and management of its project personnel. These functions shall be carried out in accordance with the provisions of the Master Contract, and all applicable Federal and State laws and regulations.

2. The Contractor warrants that it, its staff, and any and all subcontractors have all the necessary licenses, approvals, and certifications currently required by the laws of any applicable local, state, or Federal government to perform the services or work, as applicable, pursuant to the

Master Contract and/or any subcontract entered into under the Master Contract. The Contractor further agrees that such required licenses, approvals, and certificates shall be kept in full force and effect during the term of the Master Contract, or any extension thereof, and to secure any new licenses, approvals, or certificates within the required time frames and/or to require its staff and subcontractors to obtain the requisite licenses, approvals, or certificates. In the event the Contractor, its staff, and/or subcontractors are notified of a denial or revocation of any license, approval, or certification to perform the services or work, as applicable, under the Master Contract, Contractor shall immediately notify the State.

**B. Subcontractors:**

1. If the Contractor enters into subcontracts for the performance of work pursuant to the Master Contract, the Contractor shall take full responsibility for the acts and omissions of its subcontractors. Nothing in the subcontract shall impair the rights of the State under the Master Contract. No contractual relationship shall be deemed to exist between the subcontractor and the State.
2. The Contractor agrees not to enter into any subcontracts, or revisions to subcontracts, that are in excess of \$100,000 for the performance of the obligations contained herein until it has received the prior written permission of the State, which shall have the right to review and approve each and every subcontract in excess of \$100,000 prior to giving written permission to the Contractor to enter into the subcontract. All agreements between the Contractor and subcontractors shall be by written contract, signed by individuals authorized to bind the parties. All such subcontracts shall contain provisions for specifying (1) that the work performed by the subcontractor must be in accordance with the terms of the Master Contract, (2) that nothing contained in the subcontract shall impair the rights of the State under the Master Contract, and (3) that nothing contained in the subcontract, nor under the Master Contract, shall be deemed to create any contractual relationship between the subcontractor and the State. In addition, subcontracts shall contain any other provisions which are required to be included in subcontracts pursuant to the terms herein.
3. Prior to executing a subcontract, the Contractor agrees to require the subcontractor to provide to the State the information the State needs to determine whether a proposed subcontractor is a responsible vendor.
4. When a subcontract equals or exceeds \$100,000, the subcontractor must submit a Vendor Responsibility Questionnaire (Questionnaire).
5. When a subcontract is executed, the Contractor must provide detailed subcontract information (a copy of subcontract will suffice) to the State within fifteen (15) calendar days after execution. The State may request from the Contractor copies of subcontracts between a subcontractor and its subcontractor.
6. The Contractor shall require any and all subcontractors to submit to the Contractor all financial claims for Services or work to the State agency, as applicable, rendered and required supporting documentation and reports as necessary to permit Contractor to meet claim deadlines and documentation requirements as established in Attachment D (Payment and Reporting Schedule) and Section III. Subcontractors shall be paid by the Contractor on a timely basis after submitting the required reports and vouchers for reimbursement of services or work, as

applicable. Subcontractors shall be informed by the Contractor of the possibility of non-payment or rejection by the Contractor of claims that do not contain the required information, and/or are not received by the Contractor by said due date.

**C. Use Of Material, Equipment, Or Personnel:**

1. The Contractor shall not use materials, equipment, or personnel paid for under the Master Contract for any activity other than those provided for under the Master Contract, except with the State's prior written permission.
2. Any interest accrued on funds paid to the Contractor by the State shall be deemed to be the property of the State and shall either be credited to the State at the close-out of the Master Contract or, upon the written permission of the State, shall be expended on additional services or work, as applicable, provided for under the Master Contract.

**D. Property:**

1. Property is real property, equipment, or tangible personal property having a useful life of more than one year and an acquisition cost of \$1,000 or more per unit.
  - a) If an item of Property required by the Contractor is available as surplus to the State, the State at its sole discretion, may arrange to provide such Property to the Contractor in lieu of the purchase of such Property.
  - b) If the State consents in writing, the Contractor may retain possession of Property owned by the State, as provided herein, after the termination of the Master Contract to use for similar purposes. Otherwise, the Contractor shall return such Property to the State at the Contractor's cost and expense upon the expiration of the Master Contract.
  - c) In addition, the Contractor agrees to permit the State to inspect the Property and to monitor its use at reasonable intervals during the Contractor's regular business hours.
  - d) The Contractor shall be responsible for maintaining and repairing Property purchased or procured under the Master Contract at its own cost and expense. The Contractor shall procure and maintain insurance at its own cost and expense in an amount satisfactory to the State Agency, naming the State Agency as an additional insured, covering the loss, theft or destruction of such equipment.
  - e) A rental charge to the Master Contract for a piece of Property owned by the Contractor shall not be allowed.
  - f) The State has the right to review and approve in writing any new contract for the purchase of or lease for rental of Property (Purchase/Lease Contract) operated in connection with the provision of the services or work, as applicable, as specified in the Master Contract, if applicable, and any modifications, amendments, or extensions of an existing lease or purchase prior to its execution. If, in its discretion, the State disapproves of any Purchase/Lease Contract, then the State shall not be obligated to make any payments for such Property.

- g) No member, officer, director or employee of the Contractor shall retain or acquire any interest, direct or indirect, in any Property, paid for with funds under the Master Contract, nor retain any interest, direct or indirect, in such, without full and complete prior disclosure of such interest and the date of acquisition thereof, in writing to the Contractor and the State.
2. For non-Federally-funded contracts, unless otherwise provided herein, the State shall have the following rights to Property purchased with funds provided under the Master Contract:
- a) For cost-reimbursable contracts, all right, title and interest in such Property shall belong to the State.
  - b) For performance-based contracts, all right, title and interest in such Property shall belong to the Contractor.
3. For Federally funded contracts, title to Property whose requisition cost is borne in whole or in part by monies provided under the Master Contract shall be governed by the terms and conditions of Attachment A-2 (Federally Funded Grants).
4. Upon written direction by the State, the Contractor shall maintain an inventory of all Property that is owned by the State as provided herein.
5. The Contractor shall execute any documents which the State may reasonably require to effectuate the provisions of this section.

## **E. Records and Audits:**

### **1. General:**

- a) The Contractor shall establish and maintain, in paper or electronic format, complete and accurate books, records, documents, receipts, accounts, and other evidence directly pertinent to its performance under the Master Contract (collectively, Records).
- b) The Contractor agrees to produce and retain for the balance of the term of the Master Contract, and for a period of six years from the later of the date of (i) the Master Contract and (ii) the most recent renewal of the Master Contract, any and all Records necessary to substantiate upon audit, the proper deposit and expenditure of funds received under the Master Contract. Such Records may include, but not be limited to, original books of entry (e.g., cash disbursements and cash receipts journal), and the following specific records (as applicable) to substantiate the types of expenditures noted:
  - (i) personal service expenditures: cancelled checks and the related bank statements, time and attendance records, payroll journals, cash and check disbursement records including copies of money orders and the like, vouchers and invoices, records of contract labor, any and all records listing payroll and the money value of non-cash advantages provided to employees, time cards, work schedules and logs, employee personal history folders, detailed and general ledgers, sales records, miscellaneous reports and returns (tax and otherwise), and cost allocation plans, if applicable.

(ii) payroll taxes and fringe benefits: cancelled checks, copies of related bank statements, cash and check disbursement records including copies of money orders and the like, invoices for fringe benefit expenses, miscellaneous reports and returns (tax and otherwise), and cost allocation plans, if applicable.

(iii) non-personal services expenditures: original invoices/receipts, cancelled checks and related bank statements, consultant agreements, leases, and cost allocation plans, if applicable.

(iv) receipt and deposit of advance and reimbursements: itemized bank stamped deposit slips, and a copy of the related bank statements.

c) The OSC, AG and any other person or entity authorized to conduct an examination, as well as the State Agency or State Agencies involved in the Master Contract that provided funding, shall have access to the Records during the hours of 9:00 a.m. until 5:00 p.m., Monday through Friday (excluding State recognized holidays), 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.

d) The State shall protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law 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 Section 87 of the Public Officers Law, is reasonable.

e) Nothing contained herein shall diminish, or in any way adversely affect, the State's rights in connection with its audit and investigatory authority or the State's rights in connection with discovery in any pending or future litigation.

## **2. Cost Allocation:**

a) For non-performance based contracts, the proper allocation of the Contractor's costs must be made according to a cost allocation plan that meets the requirements of OMB Circulars A-87, A-122, and/or A-21. Methods used to determine and assign costs shall conform to generally accepted accounting practices and shall be consistent with the method(s) used by the Contractor to determine costs for other operations or programs. Such accounting standards and practices shall be subject to approval of the State.

b) For performance based milestone contracts, or for the portion of the contract amount paid on a performance basis, the Contractor shall maintain documentation demonstrating that milestones were attained.

## **3. Federal Funds:** For records and audit provisions governing Federal funds, please see Attachment A-2 (Federally Funded Grants).

**F. Confidentiality:** The Contractor agrees that it shall use and maintain information relating to individuals who may receive services, and their families pursuant to the Master Contract, or any other information, data or records deemed confidential by the State (Confidential Information) only

for the limited purposes of the Master Contract and in conformity with applicable provisions of State and Federal law. The Contractor (i) has an affirmative obligation to safeguard any such Confidential Information from unnecessary or unauthorized disclosure and (ii) must 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).

**G. Publicity:**

1. Publicity includes, but is not limited to: news conferences; news releases; public announcements; advertising; brochures; reports; discussions or presentations at conferences or meetings; and/or the inclusion of State materials, the State's name or other such references to the State in any document or forum. Publicity regarding this project may not be released without prior written approval from the State.

2. Any publications, presentations or announcements of conferences, meetings or trainings which are funded in whole or in part through any activity supported under the Master Contract may not be published, presented or announced without prior approval of the State. Any such publication, presentation or announcement shall:

a) Acknowledge the support of the State of New York and, if funded with Federal funds, the applicable Federal funding agency; and

b) State that the opinions, results, findings and/or interpretations of data contained therein are the responsibility of the Contractor and do not necessarily represent the opinions, interpretations or policy of the State or if funded with Federal funds, the applicable Federal funding agency.

3. Notwithstanding the above, the Contractor may submit for publication, scholarly or academic publications that derive from activity under the Master Contract (but are not deliverable under the Master Contract), provided that the Contractor first submits such manuscripts to the State forty-five (45) calendar days prior to submission for consideration by a publisher in order for the State to review the manuscript for compliance with confidentiality requirements and restrictions and to make such other comments as the State deems appropriate. All derivative publications shall follow the same acknowledgments and disclaimer as described in Section V(G)(2) (Publicity) hereof.

**H. Web-Based Applications-Accessibility:** Any web-based intranet and Internet information and applications development, or programming delivered pursuant to the Master Contract or procurement shall 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 person with disabilities. Web content must conform to New York State Enterprise IT Standards NYS-S08-005, as determined by quality assurance testing. Such quality assurance testing shall be conducted by the State Agency and the results of such testing must be satisfactory to the State Agency before web content shall be considered a qualified deliverable under the Master Contract or procurement.

**I. Non-Discrimination Requirements:** Pursuant to 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 and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex (including gender expression), 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. 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 the Master Contract shall be performed within the State of New York, the 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 the Master Contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, the 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 the Master Contract. The Contractor shall be subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 of the Labor Law.

**J. Equal Opportunities for Minorities and Women; Minority and Women Owned Business Enterprises:** In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if the Master Contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting State 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 State Agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting State 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 Contractor certifies and affirms that (i) it is subject to Article 15-A of the Executive Law which includes, but is not limited to, those provisions concerning the maximizing of opportunities for the participation of minority and women-owned business enterprises and (ii) the following provisions shall apply and it is Contractor's equal employment opportunity policy that:

1. The Contractor shall not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status;
2. The Contractor 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;
3. The Contractor shall 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, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

4. At the request of the State, 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 shall not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative shall affirmatively cooperate in the implementation of the Contractor's obligations herein; and

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

The Contractor shall include the provisions of subclauses 1 – 5 of this Section (IV)(J), in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (Work) except where the Work is for the beneficial use of the Contractor. Section 312 of the Executive Law does not apply to: (i) work, goods or services unrelated to the Master Contract; or (ii) employment outside New York State. The State shall consider compliance by the Contractor or a subcontractor with the requirements of any Federal law concerning equal employment opportunity which effectuates the purpose of this section. The State 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 State shall waive the applicability of Section 312 of the Executive Law to the extent of such duplication or conflict. The Contractor shall 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.

**K. 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.

1. If the total dollar amount of the Master Contract is greater than \$1 million, the Omnibus Procurement Act of 1992 requires that by signing the Master Contract, the Contractor certifies the following:

a) The Contractor has made reasonable efforts to encourage the participation of 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 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 the Master Contract and agrees to cooperate with the State in these efforts.

**L. Workers' Compensation Benefits:**

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

2. If a Contractor believes they are exempt from the Workers Compensation insurance requirement they must apply for an exemption.

**M. Unemployment Insurance Compliance:** The Contractor shall remain current in both its quarterly reporting and payment of contributions or payments in lieu of contributions, as applicable, to the State Unemployment Insurance system as a condition of maintaining this grant.

The Contractor hereby authorizes the State Department of Labor to disclose to the State Agency staff only such information as is necessary to determine the Contractor's compliance with the State Unemployment Insurance Law. This includes, but is not limited to, the following:

1. any records of unemployment insurance (UI) contributions, interest, and/or penalty payment arrears or reporting delinquency;
2. any debts owed for UI contributions, interest, and/or penalties;
3. the history and results of any audit or investigation; and
4. copies of wage reporting information.

Such disclosures are protected under Section 537 of the State Labor Law, which makes it a misdemeanor for the recipient of such information to use or disclose the information for any purpose other than the performing due diligence as a part of the approval process for the Master Contract.

**N. Vendor Responsibility:**

1. If a Contractor is required to complete a Questionnaire, the Contractor covenants and represents that it has, to the best of its knowledge, truthfully, accurately and thoroughly completed such Questionnaire. Although electronic filing is preferred, the Contractor may obtain a paper form from the OSC prior to execution of the Master Contract. The Contractor further covenants and represents that as of the date of execution of the Master Contract, there are no material events, omissions, changes or corrections to such document requiring an amendment to the Questionnaire.

2. The Contractor shall provide to the State updates to the Questionnaire if any material event(s) occurs requiring an amendment or as new information material to such Questionnaire becomes available.

3. The Contractor shall, in addition, promptly report to the State the initiation of any investigation or audit by a governmental entity with enforcement authority with respect to any alleged violation of Federal or state law by the Contractor, its employees, its officers and/or directors in connection with matters involving, relating to or arising out of the Contractor's business. Such report shall be made within five (5) business days following the Contractor becoming aware of such event, investigation, or audit. Such report may be considered by the State in making a Determination of Vendor Non-Responsibility pursuant to this section.

4. The State reserves the right, in its sole discretion, at any time during the term of the Master Contract:

a) to require updates or clarifications to the Questionnaire upon written request;

b) to inquire about information included in or required information omitted from the Questionnaire;

c) to require the Contractor to provide such information to the State within a reasonable timeframe; and

d) to require as a condition precedent to entering into the Master Contract that the Contractor agree to such additional conditions as shall be necessary to satisfy the State that the Contractor is, and shall remain, a responsible vendor; and

e) to require the Contractor 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. By signing the Master Contract, the Contractor agrees to comply with any such additional conditions that have been made a part of the Master Contract.

5. The State, in its sole discretion, reserves the right to suspend any or all activities under the Master Contract, at any time, when it discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor shall 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 State issues a written notice authorizing a resumption of performance under the Master Contract.

6. The State, in its sole discretion, reserves the right to make a final Determination of Non-Responsibility at any time during the term of the Master Contract based on:

a) any information provided in the Questionnaire and/or in any updates, clarifications or amendments thereof; or

b) the State's discovery of any material information which pertains to the Contractor's responsibility.

7. Prior to making a final Determination of Non-Responsibility, the State shall provide written notice to the Contractor that it has made a preliminary determination of non-responsibility. The State shall detail the reason(s) for the preliminary determination, and shall provide the Contractor with an opportunity to be heard.

**O. Charities Registration:** If applicable, the Contractor agrees to (i) obtain not-for-profit status, a Federal identification number, and a charitable registration number (or a declaration of exemption) and to furnish the State Agency with this information as soon as it is available, (ii) be in compliance with the OAG charities registration requirements at the time of the awarding of this Master Contract by the State and (iii) remain in compliance with the OAG charities registration requirements throughout the term of the Master Contract.

**P. Consultant Disclosure Law:**<sup>9</sup> 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.

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

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<sup>9</sup> Not applicable to not-for-profit entities.

**ATTACHMENT A-1**  
**AGENCY AND PROGRAM SPECIFIC CLAUSES**  
**Part A. Agency Specific Clauses**

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, licensor, licensee, lessor, lessee or any other party):

**A. 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).

**B. Prohibition on Purchase of Tropical Hardwoods:**

1. 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.

2. 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.

**C. 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.

**D. 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: [mwbecertification@esd.ny.gov](mailto:mwbecertification@esd.ny.gov)  
<http://esd.ny.gov/MWBE/directorySearch.html>

**E. 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.

**F. 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.

- G.** The CONTRACTOR certifies that all revenue earned during the budget period as a result of services and related activities performed pursuant to this contract shall be used either to expand those program services funded by this AGREEMENT or to offset expenditures submitted to the STATE for reimbursement.

**H. Administrative Rules and Audits:**

1. If this contract is funded in whole or in part from federal funds, the CONTRACTOR shall comply with the following federal grant requirements regarding administration and allowable costs:

a) For a local or Indian tribal government, use the principles in the common rule, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," and Office of Management and Budget (OMB) Circular A-87, "Cost Principles for State, Local and Indian Tribal Governments".

b) For a nonprofit organization other than

(i) an institution of higher education,

(ii) a hospital, or

(iii) an organization named in OMB Circular A-122, "Cost Principles for Non-profit Organizations", as not subject to that circular,

use the principles in OMB Circular A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-profit Organizations," and OMB Circular A-122.

c) For an Educational Institution, use the principles in OMB Circular A-110 and OMB Circular A-21, "Cost Principles for Educational Institutions".

d) For a hospital, use the principles in OMB Circular A-110, Department of Health and Human Services, 45 CFR 74, Appendix E, "Principles for Determining Costs Applicable to Research and Development Under Grants and Contracts with Hospitals" and, if not covered for audit purposes by OMB Circular A-133, "Audits of States Local Governments and Non-profit Organizations", then subject to program specific audit requirements following Government Auditing Standards for financial audits.

2. If this contract is funded entirely from STATE funds, and if there are no specific administration and allowable costs requirements applicable, CONTRACTOR shall adhere to the applicable principles in "1" above.

3. The CONTRACTOR shall comply with the following grant requirements regarding audits.

a) If the contract is funded from federal funds, and the CONTRACTOR spends more than \$500,000 in federal funds in their fiscal year, an audit report must be submitted in accordance with OMB Circular A-133.

b) If this contract is funded from other than federal funds or if the contract is funded from a combination of STATE and federal funds but federal funds are less than \$500,000, and if the CONTRACTOR receives \$300,000 or more in total annual payments from the STATE, the CONTRACTOR shall submit to the STATE after the end of the CONTRACTOR's fiscal year an audit report. The audit report shall be submitted to the STATE within thirty days after its completion but no later than nine months after the end of the audit period. The audit report shall summarize the business and financial transactions of the CONTRACTOR. The report shall be prepared and certified by an independent accounting firm or other accounting entity, which is demonstrably independent of the administration of the program being audited. Audits performed of the CONTRACTOR's records shall be conducted in accordance with Government Auditing Standards issued by the Comptroller General of the United States covering financial audits. This audit requirement may be met through entity-wide audits, coincident with the CONTRACTOR's fiscal year, as described in OMB Circular A-133. Reports, disclosures, comments and opinions required under these publications should be so noted in the audit report.

4. For audit reports due on or after April 1, 2003, that are not received by the dates due, the following steps shall be taken:

a) If the audit report is one or more days late, voucher payments shall be held until a compliant audit report is received.

b) If the audit report is 91 or more days late, the STATE shall recover payments for all STATE funded contracts for periods for which compliant audit reports are not received.

c) If the audit report is 180 days or more late, the STATE shall terminate all active contracts, prohibit renewal of those contracts and prohibit the execution of future contracts until all outstanding compliant audit reports have been submitted.

**I.** The CONTRACTOR shall accept responsibility for compensating the STATE for any exceptions which are revealed on an audit and sustained after completion of the normal audit procedure.

**J.** The STATE, its employees, representatives and designees, shall have the right at any time during normal business hours to inspect the sites where services are performed and observe the services being performed by the CONTRACTOR. The CONTRACTOR shall render all assistance and cooperation to the STATE in making such inspections. The surveyors shall have the responsibility for determining contract compliance as well as the quality of service being rendered.



**K.** The CONTRACTOR has an affirmative duty to take prompt, effective, investigative and remedial action where it has actual or constructive notice of discrimination in the terms, conditions or privileges of employment against (including harassment of) any of its employees by any of its other employees, including managerial personnel, based on race, creed, color, sex, national origin, age, disability, sexual orientation or marital status.

**L.** The CONTRACTOR shall not discriminate on the basis of race, creed, color, sex, national origin, age, disability, sexual orientation or marital status against any person seeking services for which the CONTRACTOR may receive reimbursement or payment under this AGREEMENT

**M.** The CONTRACTOR shall comply with all applicable federal, State and local civil rights and human rights laws with reference to equal employment opportunities and the provision of services.

**N.** 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:

1. Workers' Compensation, for which one of the following is incorporated into this contract as **Attachment E-1**:

- a) **CE-200** -- Certificate of Attestation For New York Entities With No Employees And Certain Out Of State Entities, That New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage Is Not Required; OR
- b) **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
- c) **SI-12** -- Certificate of Workers' Compensation Self-Insurance, OR **GSI-105.2** -- Certificate of Participation in Workers' Compensation Group Self-Insurance

2. Disability Benefits coverage, for which one of the following is incorporated into this contract as **Attachment E-2**:

- a) **CE-200**, Certificate of Attestation For New York Entities With No Employees And Certain Out Of State Entities, That New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage Is Not Required; OR
- b) **DB-120.1** -- Certificate of Disability Benefits Insurance OR
- c) **DB-155** -- Certificate of Disability Benefits Self-Insurance

**O.** 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 any 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.

**P.** 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.

**Q.** All bidders/contractors agree that all state funds dispersed under this bid/contract will be bound by the terms, conditions, obligations and regulations promulgated or to be promulgated by the Department in accordance with E.O. 38, signed in 2012, governing restrictions on executive compensation.

**R.** The CONTRACTOR shall submit to the STATE (*monthly or quarterly*) voucher claims and reports of expenditures on such forms and in such detail as the STATE shall require. The CONTRACTOR shall submit vouchers to the State's designated payment office located in the:

**<< Insert Address >>**

**S.** If the CONTRACTOR is eligible for an annual cost of living adjustment (COLA), enacted in New York State Law, that is associated with this grant AGREEMENT, payment of such COLA shall be made separate from payments under this AGREEMENT and shall not be applied toward or amend amounts payable under Attachment B of this Agreement.

Before payment of a COLA can be made, the STATE shall notify the CONTRACTOR, in writing, of eligibility for any COLA. The CONTRACTOR shall be required to submit a written certification attesting that all COLA funding will be used to promote the recruitment and retention of staff or respond to other critical non-personal service costs during the State fiscal year for which the cost of living adjustment was allocated, or provide any other such certification as may be required in the enacted legislation authorizing the COLA.

**T. Certification Regarding Environmental Tobacco Smoke:** Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through State or local governments, by federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities where WIC coupons are redeemed. Failure to comply with the provisions of the law may result in the imposition of a monetary penalty of up to \$1000 for each violation and/or the imposition of an administrative compliance order on the responsible entity.

By signing this AGREEMENT, the CONTRACTOR certifies that it will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act. The CONTRACTOR agrees that it will require that the language of this certification be included in any subawards which contain provisions for children's services and that all subrecipients shall certify accordingly.

U. Pursuant to the Master Contract's Standard Terms and Conditions, I. (General Provisions); J. (Notices), 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 Vendor/Grantee Name Here**

Name:

Title:

Address:

Telephone Number:

Facsimile Number:

E-Mail Address:

**Part B. Program Specific Clauses**

Additional Department of Health program specific clauses follow in Attachment A-1 Part B.

<<    **OR**    >>

Attachment A-1 Part B intentionally omitted.

**ATTACHMENT B-1 - EXPENDITURE BASED BUDGET  
SUMMARY**

PROJECT NAME: \_\_\_\_\_

CONTRACTOR SFS PAYEE NAME: \_\_\_\_\_

CONTRACT PERIOD: From: \_\_\_\_\_

To: \_\_\_\_\_

CATEGORY OF EXPENSE	GRANT FUNDS	MATCH FUNDS	MATCH %	OTHER FUNDS	TOTAL
1. Personal Services					
a) Salary					
b) Fringe					
Subtotal					
2. Non Personal Services					
a) Contractual Services					
b) Travel					
c) Equipment					
d) Space/Property & Utilities					
e) Operating Expenses					
f) Other					
Subtotal					
<b>TOTAL</b>					

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

**ATTACHMENT B-1 - EXPENDITURE BASED BUDGET  
PERSONAL SERVICES DETAIL**

SALARY					
POSITION TITLE	ANNUALIZED SALARY PER POSITION	STANDARD WORK WEEK (HOURS)	PERCENT OF EFFORT FUNDED	NUMBER OF MONTHS FUNDED	TOTAL
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.					
12.					
13.					
14.					
15.					
Subtotal					
FRINGE - TYPE/DESCRIPTION					
PERSONAL SERVICES TOTAL					

**ATTACHMENT B-1 - EXPENDITURE BASED BUDGET**  
***NON-PERSONAL SERVICES DETAIL***

CONTRACTUAL SERVICES - TYPE/DESCRIPTION	TOTAL
1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	
TOTAL	

TRAVEL - TYPE/DESCRIPTION	TOTAL
1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	
TOTAL	

EQUIPMENT - TYPE/DESCRIPTION	TOTAL
1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	
TOTAL	

SPACE/PROPERTY EXPENSES: RENT - TYPE/DESCRIPTION	TOTAL
1.	
2.	
3.	
SPACE/PROPERTY EXPENSES: OWN - TYPE/DESCRIPTION	TOTAL
1.	
2.	
3.	
TYPE/DESCRIPTION OF UTILITY EXPENSES	TOTAL
1.	
2.	
3.	
TOTAL	

OPERATING EXPENSES - TYPE/DESCRIPTION	TOTAL
1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	
TOTAL	

OTHER - TYPE/DESCRIPTION	TOTAL
1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	
TOTAL	





**ATTACHMENT C – WORK PLAN  
DETAIL**

OBJECTIVE	BUDGET CATEGORY/ DELIVERABLE (if applicable)	TASKS	PERFORMANCE MEASURES
1:		a.	i.
		ii.	
		iii.	
		b.	i.
		ii.	
		iii.	
		c.	i.
		ii.	
		iii.	

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

OBJECTIVE	BUDGET CATEGORY/ DELIVERABLE (if applicable)	TASKS	PERFORMANCE MEASURES
2:		a.	i.
		ii.	
		iii.	
		b.	i.
		ii.	
		iii.	
		c.	i.
		ii.	
		iii.	

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

**ATTACHMENT D  
PAYMENT AND REPORTING SCHEDULE**

**I. PAYMENT PROVISIONS**

In full consideration of contract services to be performed the State Agency agrees to pay and the contractor agrees to accept a sum not to exceed the amount noted on the face page hereof. All payments shall be in accordance with the budget contained in the applicable Attachment B form (Budget), which is attached hereto.

**A. Advance Payment and Recoupment Language (if applicable):**

1. The State agency will make an advance payment to the Contractor, during the initial period, in the amount of \_\_\_\_\_ percent (\_\_\_%) the budget as set forth in the most recently approved applicable Attachment B form (Budget).
2. Recoupment of any advance payment(s) shall be recovered by crediting (\_\_\_%) of subsequent claims and such claims will be reduced until the advance is fully recovered within the contract period.
3. Scheduled advance payments shall be due in accordance with an approved payment schedule as follows:

Period: \_\_\_\_\_ Amount: \_\_\_\_\_ Due Date: \_\_\_\_\_

Period: \_\_\_\_\_ Amount: \_\_\_\_\_ Due Date: \_\_\_\_\_

Period: \_\_\_\_\_ Amount: \_\_\_\_\_ Due Date: \_\_\_\_\_

Period: \_\_\_\_\_ Amount: \_\_\_\_\_ Due Date: \_\_\_\_\_

**B. Interim and/or Final Claims for Reimbursement**

Claiming Schedule (*select applicable frequency*):

Quarterly Reimbursement  
Due date \_\_\_\_\_

Monthly Reimbursement  
Due date \_\_\_\_\_

Biannual Reimbursement  
Due date \_\_\_\_\_

Fee for Service Reimbursement  
Due date \_\_\_\_\_

- Rate Based Reimbursement  
Due date \_\_\_\_\_
- Fifth Quarter Reimbursement  
Due date \_\_\_\_\_
- Milestone/Performance Reimbursement  
Due date/Frequency \_\_\_\_\_
- Scheduled Reimbursement  
Due date/Frequency \_\_\_\_\_

## II. REPORTING PROVISIONS

### A. Expenditure-Based Reports *(select the applicable report type):*

- Narrative/Qualitative Report

The Contractor will submit, on a quarterly basis, not later than \_\_\_\_\_ days from the end of the quarter, the report described in Section III(G)(2)(a)(i) of the Master Contract

- Statistical/Quantitative Report

The Contractor will submit, on a quarterly basis, not later than \_\_\_\_\_ days from the end of the quarter, the report described in Section III(G)(2)(a)(ii) of the Master Contract.

- Expenditure Report

The Contractor will submit, on a quarterly basis, not later than \_\_\_\_\_ days after the end date for which reimbursement is being claimed, the report described in Section III(G)(2)(a)(iii) of the Master Contract.

- Final Report

The Contractor will submit the final report as described in Section III(G)(2)(a)(iv) of the Master Contract, no later than \_\_\_\_\_ days after the end of the contract period.

- Consolidated Fiscal Report (CFR)<sup>1</sup>

The Contractor will submit the CFR on an annual basis, in accordance with the time frames designated in the CFR manual. For New York City contractors, the due date shall be May 1 of each year; for Upstate and Long Island contractors, the due date shall be November 1 of each year.

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<sup>1</sup> The Consolidated Fiscal Reporting System is a standardized electronic reporting method accepted by Office of Alcoholism & Substance Services, Office of Mental Health, Office of Persons with Developmental Disabilities and the State Education Department, consisting of schedules which, in different combinations, capture financial information for budgets, quarterly and/or mid-year claims, an annual cost report, and a final claim. The CFR, which must be submitted annually, is both a year-end cost report and a year-end claiming document.

**B. Progress-Based Reports**

1. Progress Reports

The Contractor shall provide the report described in Section III(G)(2)(b)(i) of the Master Contract in accordance with the forms and in the format provided by the State Agency, summarizing the work performed during the contract period (see Table 1 below for the annual schedule).

2. Final Progress Report

Final scheduled payment will not be due until \_\_\_\_ days after completion of agency's audit of the final expenditures report/documentation showing total grant expenses submitted by vendor with its final invoice. Deadline for submission of the final report is \_\_\_\_\_. The agency shall complete its audit and notify vendor of the results no later than \_\_\_\_\_. The Contractor shall submit the report not later than \_\_\_\_days from the end of the contract.

**C. Other Reports**

The Contractor shall provide reports in accordance with the form, content and schedule as set forth in Table 1.

**TABLE I – REPORTING SCHEDULE**

PROGRESS REPORT #	PERIOD COVERED	DUE DATE

## Attachment 7

### Work Plan Instructions

A concise work plan is required to ensure that the Department and the contractor are both clear about what the expectations under the contract are. The following are required elements of this RFA designed to ensure that the minimum necessary information is obtained. NYSDOH may require additional information if deemed necessary. The core activities that are outlined in this RFA will be part of the work plan and will be audited for payment.

1. Program Objectives – this section defines the work of the project. The applicant should not change these objectives.
2. Tasks/Action Steps – this section will include activities or specific tasks to meet the stated objectives and defined requirement for each objective for the ombudsman services as stated in the **Project Narrative/Work Plan Outcomes section of the RFA**. This section must be completed by the applicant.
3. Target Date/Performance Measures/Progress to Date – this section will include the dates for assessing progress. Timeframes should include regularly scheduled, periodic check-in points for assessing progress in addition to start and end dates. These established timeframes must be used to help organize activities. This section must be completed by the applicant.

The contractor's quarterly reports detailing achievement of scheduled work plan benchmarks will form the basis by which submitted vouchers for contracted services are evaluated for payment.

The work plan should cover the contract period May 1, 2014 – April 30, 2019. (Note that the dates may be subject to change).

NOTE: The Budget Category/Deliverable column should be left blank.



## Attachment 9

### INSTRUCTIONS FOR COMPLETION OF BUDGET FORMS

Complete budget forms for each contract period. For each set of forms, complete all required budget pages. The budget not-to-exceed amounts are as follows:

Anticipated Contract Period	Funding
5/1/14-4/30/15	\$3,750,000
5/1/15-4/30/16	\$5,000,000
5/1/16-4/30/17	\$5,000,000
5/1/17-4/30/18	\$5,000,000
5/1/18-4/30/19	\$5,000,000

#### Tab 1 -Summary Budget

- A. **Project Name**
- B. **Contractor SFS Payee Name** - Enter official contractor name listed on Statewide Financial System (SFS). If you do not have an SFS Contractor name, please enter the official name of agency.
- C. **Contract Period** – “From” is the Start date of the budget and “To” is the end date of the budget. A separate budget must be completed for each 12 month budget period and labeled for each contract period.
- D. The **GRANT FUNDS** column is automatically populated based on the information entered in the major budget categories on Tabs 2 through 5 of the Excel spreadsheet. These categories include:
- Salaries
  - Fringe Benefits
  - Contractual Services
  - Travel
  - Equipment
  - Space, Property & Utilities
  - Operating Expenses
  - Other

#### Tab 2-Salaries

Please include all positions for which you are requesting reimbursement on this page. If you wish to show in-kind positions, they may also be included on this page. *Please include a written justification on Tab 6.*

**Position Title:** For each position, indicate the title along with the incumbent’s name. If a position is vacant, please indicate “TBD” (to be determined).

**Annualized Salary Per Position:** For each position, indicate the total annual salary regardless of funding source.

**Standard Work Week (Hours):** For each position, indicate the number of hours worked per week regardless of funding source.

**Percent of Effort Funded:** For each position, indicate the percent effort devoted to the proposed program/project.

**Number of Months Funded:** For each position, indicate the number of months funded on the proposed project.

**Total:** This column automatically calculates the total funding requested based on annualized salary, hours worked, percent effort and months funded for each position. If the amount requested for a position is less than what is automatically calculated, please manually enter the requested amount in the total column.

### **Tab 2 -Fringe Benefits**

On the bottom of Tab 2, please fill in the requested information on fringe benefits based on your latest audited financial statements. Also, please indicate the amount and rate requested for fringe benefits in this proposed budget. If the rate requested in this proposal exceeds the rate in the financial statements, a brief justification must be attached. *Please include a written justification on Tab 6.*

### **Tab 3 – Contractual Services**

Please indicate any services for which a subcontract or consultant will be used. Include an estimated cost for these services. *Please include a written justification on Tab 6.*

### **Tab 3 – Travel**

Please indicate estimated travel costs for the contract period. *Please include a written justification on Tab 6.*

### **Tab 4 – Equipment/Space/Utilities**

Please indicate estimated equipment or space costs for the contract period. *Please include a written justification on Tab 6.*

### **Tab 5 – Operating Expenses / Other**

Please indicate any operating expenses for the contract period. (*Operating costs may include supplies and any other miscellaneous costs for the contract period*). *Please include a written justification on Tab 6*

Please indicate the estimated Other costs requested for the contract period. (*Other expenses include indirect costs*) Please note indirect costs are limited to 10% of direct costs. *Please include a written justification on Tab 6. The justification for indirect costs needs to include the requested rate.*

**Tab 6 -Narrative Budget Justification** Please provide a brief narrative justification in the **JUSTIFICATION** column in Tab 6 for each budgeted item. Requested amounts entered on Tabs 2 through 5 will automatically populate the **BUDGETED** column on Tab 6. The justification should describe the requested item, the rationale for requesting the item, and how the item will benefit the proposed program/project.

**Those agencies selected for funding will be required to provide a more detailed budget as part of the contract process.**