

New York State Office of Temporary and Disability Assistance
Statistical Consultant Services

Bid Solicitation

1 **Purpose:** The Bureau of Audit and Quality Improvement (A&QI) of the New York State Office of Temporary and Disability Assistance (OTDA) intends to contract with qualified individuals interested in providing statistical consulting services in conducting Quality Control (QC) reviews, audit work in support of its mission, and special projects throughout OTDA.

2 **Background**

2.1 The New York State Office of Temporary and Disability Assistance (OTDA) is the single state agency responsible for the administration of various programs under the Social Security Act and the Supplemental Nutrition Assistance Program (SNAP). Implementation of the programs is conducted by the local Departments of Social Services at the County level and the City of New York. The federal government provides OTDA with a block grant for use in providing assistance to families under the Temporary Assistance for Needy Families (TANF) program and reimburses OTDA for the costs of some other programs at various rates and in accordance with standard cost principles set forth in the U.S. Office of Management and Budget Circular A-87 and federal program regulations. Included are direct and indirect costs as well as common costs that may be allocated among the various programs. Audit and Quality Improvement (A&QI) is the bureau within OTDA that is responsible for conducting quality control reviews, and program and fiscal audits of both Federal and non-Federal programs, and certain TANF data collection and reporting requirement efforts.

2.2 The federal government monitors state compliance with federal program eligibility requirements by a quality control (QC) monitoring program for SNAP and the gathering of data on recipients participating in TANF. A&QI conducts these activities monthly with stringent timeframes for completion and submission to the federal government. The SNAP QC monitoring is based on A&QI's review of statistically valid samples of recipient cases in the program i.e., the records pertaining to the recipients who are participating in the program which supports the recipients' eligibility to receive benefits. For TANF data reporting, A&QI collects required information from statistically valid samples. Over 100 data elements are collected for each case drawn. The federal government also requires OTDA (A&QI) to conduct program integrity activities that prevent and detect fraud in various programs. A&QI uses statistical samples for audit efficiency and the results are reported back to the statistician for analysis and reporting purposes.

2.3 In addition to the A&QI activities, the federal government conducts special audits. These audits are generally designed to monitor the administrative or management aspects of the programs, which are excluded from the regular quality control monitoring process. In each instance, the results of the sample of cases reviewed are projected to the universe of corresponding costs. Where the federal government is of the opinion that designated costs are not allowable and therefore not subject to federal reimbursement, these costs are disallowed. In such circumstances, OTDA has the right to appeal a disallowance of federal funding before administrative and judicial forums.

2.4 In addition to the programs required by federal law, OTDA administers programs solely required by state law. These programs generally do not qualify for reimbursement of costs by the federal government. However, in certain circumstances, expenditures initially made under state programs may, upon closer examination, qualify for federal reimbursement. A&QI regularly conducts audits designed to identify these costs. Such audits are known as FNP audits or federal non-participating audits.

3 **Administrative Information**

3.1 OTDA will use a combination of experience, outcome-based approach and pricing to select a successful Bidder.
3.2 Bidders must follow the instructions provided in this Bid Solicitation.

3.3 Contract Term: The contract resulting from this Bid Solicitation may be up to three (3) full years, beginning on October 9, 2014 and ending on or before October 8, 2017.

- 3.4 Time Table:
- 3.4.1 Contract Reporter/Release of Bid Solicitation June 16, 2014
- 3.4.2 Questions Due Date July 8, 2014
- 3.4.3 OTDA Responses to Questions.....July 11, 2014
- 3.4.4 Bid Due DateJuly 21, 2014
- 3.4.5 Anticipated Notification of AwardJuly 30, 2014
- 3.4.6 Contract Start DateOctober 9, 2014
- 3.5 From the release of the Bid Solicitation until final determination is announced, all contacts and questions relating to this solicitation must be made via e-mail to Kristin.Nitcher@otda.ny.gov Neither phone nor fax inquires will be accepted.
- 3.6 The Primary Point of Contact for this procurement is:
 Kristin Nitcher
 New York State Office of Temporary and Disability Assistance
 Audit and Quality Improvement

 40 North Pearl St,
 Riverview Center, 4th Floor
 Albany, NY 12243-0001
Kristin.Nitcher@otda.ny.gov
- 3.7 Other Permissible Point Contact (to the Bidder):
 Connie Blais
 New York State Office of Temporary and Disability Assistance
 Bureau of Contract Management
 40 North Pearl Street, 12D
 Albany, NY 12243
Constance.Blais@otda.ny.gov
- 3.8 Questions: Bidders may submit questions pertaining to this solicitation. OTDA will post official answers to the questions by the date indicated in Section 3.4.3 Bidders MUST raise any potential assumptions, exceptions, caveats, etc. to the terms and conditions, specifications, and requirements before the Questions Due Date as indicated in 3.4.2 only. Bids that contain material changes to the terms and conditions, specifications, and requirements set forth throughout this Bid Solicitation may be disqualified.
- 3.9 Bids must be received by 4:00 PM on the “Bid Due Date” specified in Section 3.4.4 of this Bid Solicitation. Bids must be submitted by e-mail, preferably, and mailed or hand-delivered to:

 NYS Office of Temporary and Disability Assistance
 Bureau of Contract Management
 40 North Pearl Street, 12D
 Albany, NY 12243
 Attn: Connie Blais
 *Bidders must e-mail Constance.Blais@otda.ny.gov prior to hand-delivery
- 3.10 Notification of Award - A Contract will be awarded to the successful Bidder. Unsuccessful Bidders will also be notified.
- 3.11 Contractor Compensation
- 3.11.1 Compensation for requested work will be based on the blended hourly rate and schedule agreed upon between the successful Bidder and OTDA. Based on recent years’ activities and spending, the expected annual utilization of

consulting hours, under the contract resulting from this Bid Solicitation, will not exceed 80 hours. This is an estimated amount, and there is no minimum usage guaranteed. Any new welfare reform activities may generate additional tasks, thus exceeding this estimate. Such subsequent work is subject to a separately negotiated cap agreeable to both parties, and required approvals in accordance with NYS Finance Law. Bidders must include in Attachment TWO: Table III Cost Form, one blended hourly rate for all Contractor staff who will be working on the projects. Based on past experience, Bidders are to assume 60% Senior Level Staff involvement, which includes the Project Director, and 40% Junior Level Staff involvement. Notwithstanding the foregoing, the Bidder shall provide the name, title, job descriptions and individual hourly rates for all people who will be performing the services called for in the Bid Solicitation. The blended hourly rate will be the basis for billing under the contract and should be inclusive of fringe benefits and all staff travel/per diem to and from OTDA's project office in Menands, NY and occasionally other OTDA offices.

- 3.11.2 Although the OTDA expects the need for statistical work to be primarily in Albany, the successful contractor will be expected to provide services as described in this solicitation and be available in Albany or any of A&QI's other five (5) offices located in Manhattan, Queens, Buffalo, Rochester, and Syracuse when requested by OTDA/A&QI staff. Contractors may occasionally be called to out-of-state meetings with OTDA and Federal officials. Recent years indicate that no more than five (5) travel days within New York State should be expected during the contract term, if the contractor is located in the Albany, NY area.
- 3.11.3 Required travel outside New York State that has been authorized, in writing, by OTDA will be reimbursable at the prevailing State travel rates for the Professional, Scientific and Technical bargaining unit, related to extraordinary meetings, conferences, hearings testimony, etc., at the express request of OTDA. The Contractor shall submit detailed backup including copies of receipts for its reimbursement of travel expenses. Reimbursement for site travel that Contractor staff has been directed to conduct, will be limited to the least costly mode of transportation that Contractor personnel should reasonably be expected to use for travel, and will be based on the least costly of the following travel distances: (1) the OTDA's project office to the site; or (2) an alternate location (i.e., Contractor's home office) to the site. The mode of transportation to be used is outlined in the New York State Travel Regulations. For additional information see <http://www.osc.state.ny.us/agencies/travel/travel.htm> . All other travel expense is considered ordinary and will be borne by the Contractor and included in the blended hourly rate.
- 3.12 Appendix A
Bidders should note that Appendix A, Standard Clauses For New York State Contracts, dated January 2014, attached hereto, is hereby expressly made a part of this Bid Document as fully as if set forth at length herein.
- 3.13 Minority and Women-Owned Business Enterprise (M/WBE) and Equal Employment Opportunity (EEO) Participation Requirements
- 3.13.1 New York State Executive Law §§ 310–318, (Article 15-A: Participation by Minority Group Members and Women with Respect To State Contracts -- hereinafter "the Statute"), was enacted to promote equality of employment and economic opportunities for minority group members and women in State contracting activities. The New York State Office of Temporary and Disability Assistance (OTDA) fully supports the efforts of the State of New York to promote Equal Employment Opportunity (EEO) for all persons and to promote equality of economic opportunity for minority group members and women who own business enterprises.
- 3.13.2 OTDA has developed compliance requirements, forms and procedures to ensure that (i) all contractors as defined under § 310 (3) (to include those who submit bids/proposals in an effort to be selected for contract award as well as those successful bidders/proposers with whom OTDA enters into State Contracts, as defined in § 310 (13) [hereinafter "Contractors"], as well as proposed or actual "Subcontractors", as defined in § 310 (14) shall comply with requirements to ensure Equal Employment Opportunities for Minority Group Members and Women, and, (ii) there are meaningful participation opportunities for certified minority or women-owned business enterprises (M/WBEs) in the OTDA procurement process. Contractors participating in and/or selected for procurement opportunities with OTDA shall fulfill their obligations to comply with applicable Federal, State and Local requirements concerning Equal Employment Opportunity and opportunities for Minority and Women Business Enterprises, including but not limited to the Statute and its implementing regulations as promulgated by the New York State Division of Minority and Women's Business Development (DMWBBD) and set forth at 5 NYCRR Parts 140-144). (Please refer to Appendix Z, attached and

incorporated by reference herein, for the specific EEO/MWBE requirements and associated forms required by this procurement.) These forms are to be submitted without change to OTDA goals specified in this solicitation. Copies of the required OTDA Forms are identified in Appendix Z of this solicitation and available on OTDA's Internet site at <http://otda.ny.gov/contracts/mwbe/forms.asp> .

- 3.13.3 It is important to note that in addition to direct sub-contracting on State contracts, contractors can also utilize a number of other vendors in support of their overall operations. Using NYS Certified MWBEs (link to Directory of NYS Certified MWBEs, <http://www.esd.ny.gov/MWBE.html>) as providers of these second tier services can be counted in satisfaction of the goals. The following are examples of indirect services that you may want to consider for compliance with MWBE subcontracting participation requirements: Accounting Services, Advertising, Building Maintenance, Car Rental, Cleaning Supplies, Copying, Electrical Services, Furniture, Heating and Cooling, Janitorial Services, Office Supplies, Pest Control, Printing Services, Publishing, Rubbish Removal, Security, Shredding Services, Tax Preparation, Technical Writing, Training, Travel Services, etc.
- 3.14 Vendor Responsibility
- 3.14.1 Section 163 of the State Finance Law (Purchasing services and commodities) requires that contracts for services and commodities be awarded on the basis of lowest price to a responsive and responsible vendor. The State and courts have determined that responsibility includes integrity, previous performance, legal authority to do business in New York State, and financial and organizational ability to perform the contract.
- 3.14.2 Vendor Responsibility requires that contractors complete and certify specific information on a Vendor Responsibility Questionnaire as unchanged, or in the event of an award or other changes, update information on an on-going basis. The OTDA recommends that bidders 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.osc.state.ny.us/vendrep/vendor_index.htm or go directly to the VendRep System online at <https://portal.osc.state.ny.us> .
- 3.14.3 Bidders must provide their New York State Vendor Identification Number when enrolling in the VendRep System and to participate in this Bid Solicitation. To request assignment of a New York State Vendor ID Number, Vendors must complete the Substitute Form W-9: Request for Taxpayer Identification Number & Certification, located at http://www.osc.state.ny.us/vendors/forms/ac3237s_fe.pdf. Bidders must e-mail the completed form to Constance.Blais@otda.ny.gov. Bidder's NYS Vendor Identification Number will be provided via e-mail within 48 business hours, along with further instructions. Bidders who do not already have a New York State Vendor ID number, must submit the completed W-9 prior to submission of bids.
- 3.14.4 Bidders opting to complete and submit a paper questionnaire can obtain the appropriate questionnaire from the VendRep website www.osc.state.ny.us/vendrep or may contact the Office of the State Comptroller's Help Desk for a copy of the paper form. Please call the OSC Help Desk with any questions at 518-408-4672 or 1-866-370-4672.
- 3.14.5 The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Commissioner of the OTDA or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.
- 3.14.6 Suspension of Work (for Non-Responsibility)
The Commissioner of the OTDA or his or her designee, in his or her sole discretion, reserves the right to suspend any or all activities under the Contract resulting from this Bid Solicitation, at any time, when he or she discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of the OTDA or his or her designee issues a written notice authorizing a resumption of performance under the Contract.
- 3.14.7 Termination (for Non-Responsibility)

3.14.7.1 Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate OTDA officials or staff, the Contract may be terminated by the Commissioner of the OTDA or his or her designee at the Contractor's expense where the Contractor is determined by the Commissioner of the OTDA or his or her designee to be non-responsible. In such event, the Commissioner of the OTDA or his or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

3.14.7.2 Subject to Section 3.14.6 of this Bid Solicitation, if the vendor is determined by the OTDA to be non-responsible, the OTDA shall inform the vendor of such ruling. The vendor shall have 30 days to request a meeting with the OTDA to explain the ruling and to demonstrate the finding to be incorrect or to correct/resolve any issue impacting vendor responsibility. If the OTDA's finding remains unchanged after meeting with the vendor, the vendor shall be removed from consideration for this contract or the contract shall be terminated in accordance with Section 3.18 of this Bid Solicitation.

3.15 Consulting Services Report

The Contractor shall demonstrate its compliance with Chapter 10 of the Laws of 2006 by submitting to the OTDA a "Contractor's Planned Employment From Contract Start Date Through The End Of the Contract Term (Form A)" upon signature of this Agreement and throughout the term of this agreement by submitting to the OTDA, to the NYS Department of Civil Service and to the Office of the State Comptroller a "State Consultant Services -Contractor's Annual Employment Report"-Form B for each State Fiscal Year. Such report shall be due no later than May 15th of each year following the end of the State Fiscal Year being reported. Such report shall conform with Bulletin No. G-226 -Form B as issued by the Office of the State Comptroller. The report must be submitted to the Office of the State Comptroller, Bureau of Contracts, 110 State Street, 11th floor, Albany, NY 12236, Attn: Consultant Reporting; and to the NYS Department of Civil Service, Albany, NY 12239, Attn: Executive Office.

3.16 The Contractor shall comply with the following New York State Insuring Requirements as set forth below:

a. **Workers' Compensation**

For work to be performed in NYS, the Contractor shall provide and maintain coverage during the life of this Agreement for the benefit of such employees as are required to be covered by the NYS Workers' Compensation Law.

If the Agreement involves work on or near a shoreline, a U.S. Longshore and Harbor Workers' Compensation Act and/or Jones Acts policy as applicable must be provided. Any waiver of this requirement must be approved by the Agency and will only be granted in unique or unusual circumstances.

Evidence of Workers' Compensation and Employers Liability coverage must be provided on one of the following forms specified by the Commissioner of the Workers' Compensation Board:

- (1) C-105.2 (9/07, or most current version) Certificate of Workers' Compensation Insurance
- (2) Form U-26.3 – Certificate of Workers' Compensation Insurance from the State Insurance Fund
- (3) GSI-105.2/SI-12 – Certificate of Workers' Compensation Self Insurance.

All forms are valid for one year from the date the form is signed/stamped, or until policy expiration, whichever is earlier.

b. **Disability Benefits**

For work to be performed in NYS, the Contractor shall provide and maintain coverage during the life of this Agreement for the benefit of such employees as are required to be covered by the NYS Disability Benefits Law. Any waiver of this requirement must be approved by the Agency and will only be granted in unique or unusual circumstances.

Evidence of Disability Benefits coverage must be provided on one of the following forms specified by the Commissioner of the Workers' Compensation Board:

- (1) DB-120.1 (May 2006 or most current version) – Certificate of Insurance Coverage under the NYS Disability Benefits Law.
- (2) DB-155 - Certificate of Disability Self-Insurance.
- (3) CE-200 - Certificate of Attestation of Exemption [**Note:** This form will only be accepted as evidence of an exemption from providing Disability Benefits insurance as required by Law. The Agency will not accept this as an exemption from providing Workers' compensation Insurance].

All forms are valid for one year from the date the form is signed/stamped, or until policy expiration, whichever is earlier. On forms where a certificate holder can be indicated, the contractor should ensure the carrier has entered the NYS Office of Temporary and Disability's name in this field, as the insurance carrier will notify the certificate holder if a policy is canceled.

3.17 Procurement Lobbying Act Requirements

3.17.1 On August 23, 2005, the Legislative Law and the State Finance Law (SFL) were amended to include provisions for the regulation of attempts to influence State and other governmental entity procurement contracts. Sections 139-j and 139-k of the SFL impose procurement record requirements relating to lobbying on procurement contracts. For state agencies and public authorities whose contracts are subject to the State Comptroller's approval, the Office of the State Comptroller (OSC) will examine the contract package to ensure that these requirements are included in the procurement record.

3.17.2 All procurement contracts with estimated annualized expenditures in excess of \$15,000 resulting from procurement transactions initiated on or after January 1, 2006 are subject to the procurement lobbying requirements and additional procurement record requirements.

3.17.3 The SFL defines a procurement contract as any contract or other agreement for an article of procurement involving an estimated annualized expenditure in excess of fifteen thousand dollars. Under the law, grants, SFL Article XI-B contracts, intergovernmental agreements, railroad and utility force accounts, utility relocation project agreements or orders and eminent domain transactions are not deemed to be procurement contracts.

3.17.4 Subject to certain exceptions, an assignment, amendment, renewal or extension of a procurement contract or any material change in a procurement contract resulting in a financial benefit to the contractor is covered by the provisions of the Act.

3.17.5 The law excludes amendments that are "authorized and payable" under the terms of the original procurement contract as it was finally awarded or approved by the State Comptroller. A few examples of amendments that are "authorized and payable" are: a lease agreement that may be extended for a stated period of time at the rent provided for in the original lease or at that rent plus an escalator, or a highway contract that authorizes change orders that are subject to unit pricing.

3.17.6 SFL §139-j and SFL §139-k impose additional procurement record requirements. These requirements must be satisfied when submitting contracts to OSC for its approval.

3.17.7 Vendor Responsibility Determination

3.17.7.1 In accordance with Section 3.14 of this chapter, Vendor Responsibility, the procurement record for every contract must include a determination that the offerer is responsible in accordance with vendor responsibility requirements set forth in that section. In addition to the general responsibility determination required by Section 16 of this chapter, for all

contracts subject to the State Comptroller's approval the procuring entity must make a separate responsibility determination as to whether the offerer has: (i) knowingly and willfully violated the prohibitions against impermissible contacts or certain ethics provisions, or failed to timely disclose accurate and complete information or otherwise failed to cooperate with the procuring entity, or (ii) failed to disclose prior determinations of non-responsibility by any governmental entity for any of the above reasons within the previous four (4) years.

3.17.7.2 Offerer Certification; Complete Disclosure

Every procurement record must include a disclosure by offerers with regard to non-responsibility determinations within the past four (4) years based on: (i) impermissible contacts or other violations of SFL §139-j; or (ii) the intentional provision of false or incomplete information to a governmental entity. (Note: To satisfy the requirement regarding offerers' disclosure, the governmental entity must specifically request information regarding prior findings of non-responsibility for violations of SFL §139-j. A general request for prior findings of non-responsibility is not sufficient.) In addition, any procurement contract award shall contain a certification by the offerer that the information provided to the procuring entity was complete, true and accurate.

3.18 Termination

All or any part of this Agreement may be terminated if the OTDA deems that termination would be in the best interest of the OTDA provided that the OTDA shall give written notice to the Contractor not less than 60 calendar days prior to the date upon which termination shall become effective, such notice to be made via registered or certified mail, return receipt requested or hand-delivered with receipt made. The date of such notice shall be deemed to be the date of postmark in the case of mail or the date of Contractor's receipt for notice in the case of hand delivery. In the case of termination under this section, the OTDA agrees to pay the Contractor for contract work performed and reasonable and appropriate expenses incurred in good faith. OTDA will not be obligated to pay the Contractor for lost and/or anticipated profits. The Contractor, on its part, agrees to incur no new obligations after receipt of notification of termination and to cancel as many outstanding obligations as possible

4 Bid Submission

Bids will be evaluated and scored based on the Bidder's understanding of the requirements presented in this Bid Solicitation, the approach and how the Bidder can assist OTDA in accomplishing this effort. All bids received shall be subject to an evaluation by OTDA, assisted by such personnel as deemed appropriate, to select the Bidder with whom an Agreement will be negotiated. OTDA will select the Bidder who will provide the most beneficial combination of qualifications and cost and who has met the requirements of this Bid Solicitation. Only proposals judged to be responsive to the submission requirements set forth in this Bid Solicitation will be evaluated.

4.1 Format and Content Evaluation

4.1.1 Bidder's Technical Response (Attachment ONE) will be examined to determine its compliance with the requirements of this Bid Solicitation. Failure to meet any format or content requirement specified in this Bid Solicitation may result in a Bidder's removal from further consideration. The bidders will be given an opportunity to correct any error of a procedural non-substantive nature which have not in the judgment of OTDA given them a competitive advantage. The Technical and Cost sections of each Bidder's submission will be evaluated by separate Review Committees. A Selection Committee will review the information provided by the two Review Committees and make the contract selection.

4.1.2 OTDA desires to select a responsible and responsive Bidder who will provide the "best value" taking into consideration services and price and who has met the requirements of this Bid Solicitation.

4.2 Criteria

The criteria against which each proposal will be evaluated are described below and outlined in the Attachment ONE, Table II. Bidder Response form. The maximum number of points that will be given to each criterion in scoring the proposal is identified in parentheses.

4.2.1 Qualifications and experience of the Bidder's Project Director (20 points)

- 4.2.1.1 At a minimum, the Project Director must have a Master's Degree in Statistical Analysis (or equivalent) from an accredited institution with at least five years of experience working with governmental programs. Twenty maximum points will be awarded to the most qualified and fewer points will be assigned to lesser qualified Project Directors.
 - 4.2.1.2 Three references from satisfied clients demonstrating the competence and satisfactory performance of the Project Director are required. References will be scored.
 - 4.2.1.3 Resumes should include dates of educational background and a detailed description of experience including dates and employers.
 - 4.2.2 Bidder's prior experience in working with specified aspects of Federal claiming and reporting – particularly the TANF and SNAP programs. Recent experience is preferred (30 points).
 - 4.2.2.1 Points will be awarded from 5 to 30 based on the relative prior experience with governmental programs with more points awarded for experience working with the SNAP and TANF programs.
 - 4.2.2.2 Statement should detail the specific work performed in the TANF and SNAP programs with dates and names of entities for which the work was performed.
 - 4.2.3 Understanding of OTDA's needs and objectives and the Bidder's planned approach to meeting those objectives. Bidders must demonstrate their understanding in Attachment ONE, Table II (10 points).
 - 4.2.4 The blended hourly rate as submitted on Attachment TWO: Table III. Cost Form (40 points). Based on past experience, Bidders are to assume 60% Senior Level Staff involvement, which includes the Project Director, and 40% Junior Level Staff involvement.
 - 4.3 Attachment ONE: Technical Response
 - 4.3.1 Each evaluator will assign points to each criterion within a category. When scoring is completed, each evaluator's scores will be totaled for each response. Then, each evaluator's score for the technical responses will be averaged together for a total technical score for a Bidder.
 - 4.3.2 The technical responses will be ranked from highest technical score to lowest technical score. The Bidder submitting the highest technical score will receive the maximum allowable score of 60. The remaining bids will be assigned points by dividing the bid being evaluated by the highest bid and multiplying by 60.
 - 4.3.3 Merits of competing responses will be evaluated both against the stated requirements of this Bid Solicitation and against each other. Recommendations will be developed and forwarded to the Selection Committee.
 - 4.4 Attachment TWO: Financial Submission
 - 4.4.1 The Financial Evaluation Committee will review financial submissions. All qualified Bidders will be ranked from lowest to highest bidder based on the blended hourly rate. The bidder with the lowest hourly rate will be assigned 40 points, the maximum allowable. Other bidders will be scored by using the low bid divided by the bid being evaluated and multiplying by the maximum number of points for cost (40).
 - 4.4.2 As a result of its analysis, the Financial Evaluation Committee will make a recommendation to the Selection Committee.
 - 4.5 Attachment THREE: Required Forms
- Bidders are required to complete and submit the certifications, forms and information as specified in Attachment THREE.

APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

PLEASE RETAIN THIS DOCUMENT
FOR FUTURE REFERENCE.

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STANDARD CLAUSES FOR NYS CONTRACTS

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

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

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

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

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

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

239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

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

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

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

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

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

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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
<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>

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

- (a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;
- (b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;
- (c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and
- (d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

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

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

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

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

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

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

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

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

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

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

January 2014

APPENDIX Z

Minority and Women-Owned Business Enterprise (MWBE) and Equal Employment Opportunity (EEO) Participation Requirements For All NYS Office of Temporary and Disability Assistance Contracts and Grants

Authority: Article 15-A of the Executive Law, 5 NYCRR parts 140-144, Appendix A: Standard Clauses for All New York State Contracts and requirements of any federal law concerning opportunities for minority and women-owned business enterprises which effectuate the purposes of Article 15-A.

I. General Provisions

- A. New York State Executive Law § 310–318, (Article 15-A: Participation by Minority Group Members and Women with Respect To State Contracts -- hereinafter “the Statute”), was enacted to promote equality of employment and economic opportunities for minority group members and women in State contracting activities. 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 enterprise 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 the New York State Office of Temporary and Disability Assistance (OTDA) establish goals for maximum feasible participation of New York State Certified minority and women – owned business enterprises (“MWBE”) and the employment of minority group members and women in the performance of New York State contracts. OTDA fully supports the efforts of the State of New York to promote Equal Employment Opportunity (EEO) for all persons, and to promote equality of economic opportunity for minority group members and women who own business enterprises.
- B. OTDA is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 142-144 (“MWBE Regulations”) for all State contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction. Where deemed appropriate, OTDA will implement the provisions of New York State Executive Law Article 15-A and the MWBE Regulations for all other OTDA contracts. These requirements include equal employment opportunities for minority group members and women (“EEO”) and contracting opportunities for certified minority and women-owned business enterprises (“MWBEs”). Contractor’s demonstration of “good faith efforts” pursuant to 5 NYCRR § 142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the “Human Rights Law”) or other applicable federal, state or local laws. Contractors participating in and/or selected for procurement opportunities with OTDA shall fulfill their obligations to comply with applicable Federal, State and Local requirements concerning Equal Employment Opportunity and opportunities for MWBEs, including but not limited to the Statute and its implementing regulations as promulgated by New York State’s Empire State Development (ESD) Division of Minority and Women’s Business Development (DMWBD) and set forth at 5 NYCRR Parts 140-144).

- C. Copies of the required OTDA Forms are identified in this Appendix and available on OTDA's Internet site at <http://www.otda.ny.gov>. The Contractor agrees to complete and submit these forms without change in response to goals specified in the RFP or contract. An electronic link to the current list of certified minority- and women-owned business enterprises also is available on OTDA's Internet site.
- D. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or breach of contract, leading to the withholding of funds or such other actions, liquidated damages pursuant to Section VII of this Appendix or enforcement proceedings allowed by the Contract.
- E. Further information regarding Article 15-A of the New York State Executive Law and the New York State Minority and Women's Business Enterprise Program is available on the DMWBD Internet site at <http://www.esd.ny.gov/ContactUs.asp>

II. Contract Goals

- A. For purposes of this procurement, the OTDA hereby establishes an overall goal of 20% for Minority and Women-Owned Business Enterprises ("MWBE") participation, 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). Additionally, an overall goal of 10-20% is established for Equal Employment Opportunity ("EEO") participation.
- B. For purposes of providing meaningful participation by MWBEs on the Contract and achieving the Contract Goals established in Section II-A hereof, Contractor should reference the directory of New York State Certified MBWEs found at the following internet address: <http://www.esd.ny.gov/ContactUs.asp>

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

- C. Where MWBE goals have been established herein, pursuant to 5 NYCRR §142.8, Contractor must document "good faith efforts" to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract. In accordance with Section 316-a of Article 15-A and 5 NYCRR §142.13, the Contractor acknowledges that if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such a finding constitutes a breach of contract and the Contractor shall be liable to the OTDA for liquidated or other appropriate damages, as set forth herein.
- D. As a condition of the Contract, the Contractor and OTDA agree to be bound by the provisions of §316 of Article 15-A of the New York State Executive Law regarding enforcement.
- E. OTDA reserves the right to establish separate and different goals on any State Contract, as identified in the specified procurement. For guidance on what factors OTDA will consider in determining what goals are appropriate in relation to a specific State Contract, refer to 5 NYCRR § 142.2(a)(1) - (6).

III. EEO Requirements

- A. Contractor agrees to be bound by the provisions of Article 15-A and the MWBE Regulations promulgated by the DMWBD. If any of these terms or provisions conflict with applicable law or regulations, such laws and regulations shall supersede these requirements.

B. Contractor shall comply with the following provisions of Article 15-A:

- 1.** Contractor and Subcontractors shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.
- 2.** The Contractor shall submit an EEO policy statement to the OTDA within seventy two (72) hours after the date of the notice by OTDA to award the Contract to the Contractor.
- 3.** If Contractor or Subcontractor does not have an existing EEO policy statement, the OTDA may provide the Contractor or Subcontractor a model statement (see OTDA 4970 – Minority/Women Business Enterprise (MWBE)/Equal Employment Opportunity (EEO) Policy Statement).
- 4.** The Contractor’s EEO policy statement shall include the following language:
 - a.** The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.
 - b.** The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
 - c.** The Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.
 - d.** The Contractor will include the provisions of Subdivisions (a) through (c) of this Subsection 4 which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Contract.

C. OTDA Form 4934.1 Equal Employment Opportunity (EEO) Staffing Plan

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

D. OTDA Form 4971 Equal Employment Opportunity (EEO) Workforce Employment Utilization/Compliance Report (“Workforce Report”)

- 1.** Once a contract has been awarded and during the term of the Contract, Contractor is responsible for updating and providing notice to the OTDA of any changes to the previously submitted Staffing Plan. This information is to be submitted on a quarterly basis during the term of the contract to report the actual workforce utilized in the performance of the contract by the specified categories listed including

ethnic background, gender, and Federal occupational categories. The Workforce Report must be submitted to report this information.

2. Separate forms shall be completed by Contractor and any subcontractor performing work on the Contract.
 3. In limited instances, Contractor may not be able to separate out the workforce utilized in the performance of the Contract from Contractor's and/or subcontractor's total workforce. When a separation can be made, Contractor shall submit the Workforce Report and indicate that the information provided related to the actual workforce utilized on the Contract. When the workforce to be utilized on the contract cannot be separated out from Contractor's and/or subcontractor's total workforce, Contractor shall submit the Workforce Report and indicate that the information provided is Contractor's total workforce during the subject time frame, not limited to work specifically under the contract.
 4. In the case where the Contractor's and/or subcontractor's work force does not change within the quarterly period, the Contractor shall so notify OTDA in writing.
 5. All forms and reports will be submitted to the OTDA program manager for this contract and forwarded to NYS OTDA, MWBE Program Management Unit, Harlem Center, 317 Lenox Avenue, NYC, NY 10027; (212) 961-8214; e-mail to: otda.sm.co.quarterly.compliance.eeo.staffing.reports@otda.ny.gov.
- E. Contractor shall comply with the provisions of the Human Rights Law, and all other State and Federal statutory and constitutional non-discrimination provisions. Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

IV. MWBE Requirements

The Contractor acknowledges that it is the policy of the State of New York and of OTDA that MWBEs shall be given the opportunity for meaningful participation in the performance of State Contracts. Therefore, Contractors agree to make good faith efforts to solicit active participation to meet established goals under this procurement by MWBEs identified in the ESD directory of certified businesses¹, which can be viewed at: <https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp?TN=ny&XID=4687>

1. For the purposes of this Appendix Z, the question of whether a Contractor has engaged in and documented "Good Faith Efforts" to solicit active participation to meet established goals under this procurement by MWBEs in the performance of State Contracts shall be determined by the OTDA Commissioner or his/her designee, after a thorough consideration of the factors listed in 5 NYCRR § 142.8.
2. The separate MBE and WBE participation goals established by OTDA for this procurement are based on the overall availability of MWBEs that have been certified to perform the specific scope of work identified under this procurement. For compliance purposes, these goals should not be construed as rigid and inflexible quotas which must be met, but must be targets reasonably attainable by means of

¹ All MWBE firms are required to be certified by Empire State Development (ESD) or must be in the process of obtaining certification from ESD. Should the Contractor identify a minority-owned or woman-owned firm that is not currently certified as an MWBE, the Contractor should request that the firm submit a certification application to ESD for an eligibility determination, with a copy to the OTDA MWBE Program Management Unit. OTDA's MWBE Program Management Unit will work with ESD to expedite the application; however, it is the responsibility of the Contractor to ensure that a sufficient number of certified MWBE firms have been identified in response to this procurement, in order to facilitate full MWBE participation.

applying every good faith effort to make all aspects of the entire Minority and Women-owned Business Program work.

A. The Contractor represents and warrants that Contractor has submitted the following OTDA forms either prior to, or at the time of, the execution of the contract:

1. MWBE Utilization Plan (OTDA Form 4937)

- a. Contractor agrees to use such MWBE Utilization Plan for the performance of MWBEs on the Contract pursuant to the prescribed MWBE goals set forth in Section II-A of this Appendix.
 - b. If a Contractor seeks modification to its previously approved MWBE Subcontractor Utilization Plan, the Contractor shall first notify OTDA in writing of such change and obtain approval from OTDA.
 - c. Contractor further agrees that a failure to submit and/or use such MWBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, the OTDA shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsiveness.
2. Certification of Good Faith Efforts (OTDA Form 4976) to achieve the overall prescribed MWBE participation percentage (20%) goals set forth in the procurement.
3. A MWBE Subcontractor's and/or Suppliers' Letter of Intent to Participate (OTDA Form 4938), which should document the names and signatures of certified MBEs and/or WBEs which have agreed to participate as subcontractors on the Contract.

V. Waivers

- A. For Waiver Requests Contractor should use OTDA Form 4969 Minority/Women Business Enterprise (MWBE) Subcontractor Request for Waiver Form.
- B. If the Contractor, after making good faith efforts, is unable to comply with MWBE goals, the Contractor may submit a request for waiver form documenting good faith efforts by the Contractor to meet such goals. If the documentation included with the waiver request is complete, the OTDA shall evaluate the request and issue a written notice of acceptance or denial within twenty (20) days of receipt.
- C. If the OTDA, upon review of the MWBE Utilization Plan and updated Quarterly MWBE Contractor Compliance Reports, determines that Contractor is failing or refusing to comply with the Contract goals and no waiver has been issued in regards to such non-compliance, the OTDA may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

VI. Quarterly MWBE Contractor Compliance Reports

- A. Contractor is required to submit the Minority/Women Business Enterprise (MWBE) Subcontractor Quarterly Compliance Report (OTDA Form 4968) to the OTDA by the 10th day following each end of quarter over the term of the Contract documenting the progress made towards achievement of the MWBE goals of the Contract.
- B. All reports will be submitted to the OTDA program manager for this contract and forwarded to NYS OTDA, MWBE Program Management Unit, Harlem Center, 317 Lenox Avenue, NYC, NY 10027; (212) 961-8214; e-mail to: otda.sm.co.quarterly.compliance.eeo.staffing.reports@otda.ny.gov

- C. Failure to timely submit a Contractor's MWBE Subcontractor Quarterly Compliance Report and/or other reports or information as requested by OTDA may result in payments under the contract being delayed until such reports or other information have been received by OTDA.² OTDA may also deem other noncompliance with requirements under the Statute as a breach of contract and commence any other means of enforcement permitted under the contract and/or by law.

VII. Liquidated Damages – MWBE Participation

- A. Where OTDA determines that Contractor is not in compliance with the requirements of the Contract and Contractor refuses to comply with such requirements, or if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, Contractor shall be obligated to pay to the OTDA liquidated damages.
- B. Such liquidated damages shall be calculated as an amount equaling the difference between: (a) all sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and (b) all sums actually paid to MWBEs for work performed or materials supplied under the Contract.
- C. Determinations of compliance or non-compliance with the Contract's MWBE participation requirements shall be based upon the Contractor's Utilization Plan, MWBE Sub-Contractor Quarterly Reports, and any relevant documentation related thereto. The determination of what constitutes the willful and intentional failure to comply with the MWBE participation requirements will be based upon the evaluation of the same criteria considered in evaluating an MWBE subcontractor waiver request.
- D. Upon a determination that a willful and intentional failure to comply with the MWBE participation requirements has occurred, the OTDA shall withhold the amount established in paragraph B from any future payments otherwise required by this Contract. All funds being withheld pursuant to this provision shall be offset as liquidated damages upon the expiration or termination of the contract, unless the Contractor comes into compliance with the MWBE requirements at any time during the term of the Contract but prior to the submission of a request for final payment on the contract. All payments withheld pursuant to this provision shall be released upon OTDA's determination that the Contractor has come into compliance.
- E. In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by the OTDA, Contractor shall pay such liquidated damages to the OTDA within sixty (60) days after they are assessed by the OTDA unless prior to the expiration of such sixtieth day, the Contractor has filed a complaint with the Director of the Division of Minority and Woman Business Development pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the liquidated damages shall be payable if Director renders a decision in favor of the OTDA.

VIII. Sanctions

OTDA reserves the right to impose sanctions following a determination of non-compliance by a Contractor. Sanctions may be imposed upon the Contractor whenever EEO and/or MWBE program requirements have not been met in a timely and effective manner. Any/all of the following sanctions may be imposed:

- Disallowance of costs associated with such noncompliance;
- Initiation of procedures to suspend or terminate the grant or contract;
- Withholding of progress payments until such time as corrective actions have been undertaken by the Contractor to the satisfaction of OTDA;

² Contractors may be requested to provide additional Compliance Reports and information (i) to verify payments made to MWBEs, (ii) to verify MWBE utilization and/or, (iii) as needed to evaluate any other aspect of Contractor compliance with the requirements set forth herein.

- Deleting Contractor's name from bid lists for a specified period of time to be determined in the sole discretion of OTDA;
- Report Contractor as non-responsible to NYS OSC Vendor Responsibility System; and
- Other sanctions of which a Contractor has notice in writing prior to or during the performance of a contract.

Attachment ONE: Technical Response

Company Name: _____

Address: _____

Contact: _____ Phone Number: _____

E-mail Address: _____ Fax Number: _____

Name and Title of Individual authorized to negotiate contract:

All Subcontractors, including NYS Certified MWBE subcontractors and suppliers, to be utilized in the provision of services under the resultant contract, must be identified here.

Subcontractor: _____

Table I. Project Staffing			
Title	# of Staff	Responsibilities	Experience, Knowledge and Skills Required
Project Director	1		

Table II. Bidder Response		
Please provide descriptions of experience with, dates, agency names and how the Bidder understands and proposes to meet the following requirements. Bidder Responses should clearly indicate that the following work will be performed, as well as to describe other tasks that the Bidder believes should be included to perform effective statistical consulting services. Bidders may respond in the space provided or attach additional sheets if necessary.	Please provide the number of years of experience that the bidder has in meeting similar requirements	Dates of Experience
	1. Providing advice and assistance in interpreting governmental audit activities and audit reports. Provide appropriate statistical samples as requested.	

<i>Description:</i>		
2. Providing expert opinions in the form of affidavits and testimony in state hearings, Federal grant appeals hearings, State and Federal courts, and legislative bodies.		
<i>Description:</i>		
3. Assisting in the formulation and defense of sampling and statistical projection audit techniques.		
<i>Description:</i>		
4. Assist in formulating arguments to combat Federal disallowance initiatives and to bring disallowances to a favorable settlement for clients.		
<i>Description:</i>		
5. Providing advice and testimony in overturning governmental sanctions.		
<i>Description:</i>		
6. Developing strategies regarding Federal Quality Control sampling procedures and statistical projection methodologies so as to remain in compliance with mandates while attempting to minimize the imposition of anticipated Federal financial sanctions.		
<i>Description:</i>		
7. Developing strategies for federal TANF and NYS Welfare Reform Reporting regarding sampling procedures and statistical projection methodologies so as to comply with current and future reporting mandates related to such things as work participation, maintenance of effort, caseload reductions, and out-of-wedlock pregnancies.		
<i>Description:</i>		
8. Providing guidance in drawing the samples necessary to meet Federal TANF data reporting requirements.		
<i>Description:</i>		
9. Establish an appropriate statistical methodology for sampling to determine the validity of TANF data reports submitted to the Federal government.		
<i>Description:</i>		

10. Providing guidance on proper interpretation and projection of sample results concerning welfare reform reports that are requested by the New York State Legislature.		
<i>Description:</i>		
11. Establishing appropriate statistical methodology for projecting Supplemental Nutrition Assistance Program (SNAP) Quality Control (QC) statewide findings to individual social service districts and defending these results in the event of litigation.		
<i>Description:</i>		
12. Developing strategies regarding Earned Income Tax Credit (EITC) and Dependent Care Credit (DCC) sampling procedures and statistical projection methodologies so as to remain in compliance with federal TANF requirements while attempting to maximize federal financial funds.		
<i>Description:</i>		
13. Providing guidance and strategies in support of OTDA audit and programmatic responsibilities, some of which are in OTDA bureaus outside of A&QI. Activities include the selection of samples, the results of which will be projected over a universe.		
<i>Description:</i>		
14. Developing necessary software to support an automated sampling process in support of all OTDA work performed under contract. Such software must be compatible with the OTDA data processing environment.		
<i>Description:</i>		
15. Providing a sample generator similar to that currently available to OTDA/A&QI through internet access.		
<i>Description:</i>		
16. Developing strategies regarding Supplemental Security Income (SSI) Quality Control and other related SSI sampling procedures and to provide statistical projection methodologies.		
<i>Description:</i>		
17. Describe other tasks that the Bidder believes should be included to perform effective statistical consulting services:		
<i>Description:</i>		

Attachment TWO: Financial Component

A blended hourly rate for all Contractor staff that will be working on the projects must be shown in the space provided in the Table III. Cost Form. The blended rate will be effective for the term of the Contract.

The staffing breakdown schedule should list all assigned staff names, titles, job descriptions and individual hourly rates of pay. Numbers of staff listed in the staffing breakdown schedule must coincide with the Project Staffing Form in Attachment ONE. All billings will be on the basis of actual hours worked by the staff performing the work multiplied by the blended rate bid. Bids submitted with corrections, such as crossed out numbers, corrections made with correction tape or white-out will not be accepted, and may be disqualified.

Table III. Cost Form	
Blended Hourly Rate (All Staff) X 80 hours annually	
ASSUMPTION: Project Director 60% Junior Level Staff 40%	

Table IV. Staffing Breakdown			
Name	Title	Job Description	Hourly Rate
Project Director	1		

Authorized Signature

Date

Print or Type Name

Attachment THREE: Required Forms

1. Vendor Responsibility Questionnaire Updated Certification and Information within six (6) months prior to October 4th, 2014
2. Proof of Workers Compensation Insurance
3. Proof of Disability Benefits
4. MacBride Fair Employment Principles
5. Disclosure of Prior Non-Responsibility Determinations (PLA)
6. Non-Collusive Bidding
7. Bidder's Affirmation of Understanding of and Agreement pursuant to State Finance Law §139-j (3) and §139-j (6) (b)
8. Certification Regarding Drug-Free Workplace Requirements
9. Encouraging Use of New York State Businesses in Contract Performance
10. Contractor Disclosure of Contacts Form
11. New York State Consultant Services Contractor's Planned Employment Form (Form A)
12. New York State Consultant Services Contractor's Annual Employment Report (Form B)
13. NYS Department of Taxation and Finance ST-220-CA
14. NYS Department of Taxation and Finance ST-220-TD (to be sent to NYS DOT)
15. Equal Employment Opportunity (EEO) Staffing Plan
16. EEO Work Force Employment Utilization/Compliance Report
17. M/WBE Subcontractor Utilization Plan
18. M/WBE Subcontractors and/or Suppliers Letter of Intent to Participate
19. M/WBE/EE0 Policy Statement
20. M/WBE Contractor Quarterly Compliance Report
21. M/WBE Certification of Good Faith efforts

NON-DISCRIMINATION FORM
“NON-DISCRIMINATION IN EMPLOYMENT IN NORTHERN IRELAND:
MacBride Fair Employment Principles”

Please answer the following questions and sign below.

In accordance with Chapter 807 of the Laws of 1992 the Bidder, by submission of this bid, certifies that it or any individual or legal entity in which the Bidder holds a 10% or greater ownership interest, or any individual or legal entity that holds a 10% or greater ownership interest in the Bidder, either:

(Answer Yes or No to one or both of the following , as applicable)

1. Has business operations in Northern Ireland: Yes No

If yes:

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

Yes No

In the event the lowest responsible Bidder has not agreed to stipulate to the conditions set forth above and another Bidder who has agreed to stipulate to such conditions has submitted a cost proposal which is within five percent of the lowest responsible Bidder, the Office of Temporary and Disability Assistance shall refer such bids to the Commissioner of General Services, who may determine, in accordance with applicable law and rules, that it is in the best interest of the State that this contract be awarded to other than the lowest responsible Bidder.

Signature

Date

Bidder Disclosure of Prior Non-Responsibility Determinations

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

Address: _____

Name and Title of Person Submitting this Form: _____

Contract Procurement Number: _____

Date: _____

1. Has any Governmental Entity made a finding of non-responsibility regarding the individual or entity seeking to enter into the Procurement Contract in the previous four years? (Please circle):

No Yes

If yes, please answer the next questions:

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

No Yes

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

No Yes

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

Governmental Entity: _____

Date of Finding of Non-responsibility: _____

Basis of Finding of Non-Responsibility: _____

(Add additional pages as necessary)

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

No Yes

6. If yes, please provide details below.

Governmental Entity: _____

Date of Termination or Withholding of Contract: _____

Basis of Termination or Withholding: _____

(Add additional pages as necessary)

Contract Termination Provision

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

Bidder certifies that all information provided to the Governmental Entity with respect to State Finance Law §139-k is complete, true and accurate.

By: _____ Date: _____

Signature

Name: _____

Title: _____

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

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

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

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

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

(AFFIX ADDENDUM TO THIS PAGE IF SPACE IS REQUIRED FOR STATEMENT)

Contractor Signature

Name of Business

Non-Collusive Bidding Certification, cont'd.

Identifying Data

Potential Contractor:

Address: _____
Street

City, Town, etc.

Telephone: _____

Title: _____

If applicable, Responsible Corporate Officer

Name: _____

Title: _____

Signature: _____

Joint or combined bids by companies or firms must be certified on behalf of each participant.

Legal name of person, firm or corporation

Legal name of person, firm or corporation

By _____
Name

Name

Title

Title

Address _____
Street

Street

City

State

City

State

Procurement Lobbying Act

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

Background:

State Finance Law §139-j(6)(b) provides that:

Every Governmental Entity shall seek written affirmations from all Bidders as to the Bidder’s understanding of and agreement to comply with the Governmental Entity’s procedures relating to permissible contacts during a Governmental Procurement pursuant to subdivision three of this section.

Instructions:

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

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

By: _____ Date: _____

Name: _____

Title: _____

Contractor Name: _____

Contractor Address: _____

**CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS
ALTERNATIVE I - FOR GRANTEE OTHER THAN INDIVIDUALS**

**US DEPARTMENT OF HEALTH AND HUMAN SERVICES - CONTRACTORS
US DEPARTMENT OF EDUCATION - CONTRACTORS
US DEPARTMENT OF AGRICULTURE - CONTRACTORS**

This certification is required by the regulations implementing Sections 5151-5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.). The January 31, 1989 regulations were amended and published as Part II of the May 25, 1990 Federal Register (pages 21681-21691), and require certification by grantees (and by inference, sub-grantees and sub-contractors), prior to award, that they will maintain a drug-free workplace. Section 3017.630(c) of the regulation provides that a grantee (and by inference, sub-grantees and sub-contractors) that is a State may elect to make one certification to the Department in each federal fiscal year in lieu of certificates for each grant during the federal fiscal year covered by the certification. The certificate set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or government wide suspension or debarment. Contractors using this form should send it to:

Commissioner
New York Office of Temporary and Disability Assistance
40 N. Pearl St.
Albany, NY 12243.

- (A) The grantee certifies that it will or will continue to provide a drug-free workplace by:
- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - (b) Establishing an ongoing drug-free awareness program to inform employees about—
 - (1) The dangers of drug abuse in the workplace;
 - (2) The grantee's policy of maintaining a drug-free workplace;
 - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
 - (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
 - (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—

**ENCOURAGING USE OF NEW YORK STATE BUSINESSES
IN CONTRACT PERFORMANCE**

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

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

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

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

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

Will New York State businesses be used in the performance of this contract? _____ _____
Yes No

If yes, identify New York State businesses that will be used and provide the following identifying information. Add additional sheets if necessary.

Name:	
Taxpayer ID/EIN#:	
Address:	
Contract Type:	
Award Amount:	

Name:	
Taxpayer ID/EIN#:	
Address:	

Contract Type:	
Award Amount:	

Name:	
Taxpayer ID/EIN#:	
Address:	
Contract Type:	
Award Amount:	

Name:	
Taxpayer ID/EIN#:	
Address:	
Contract Type:	
Award Amount:	

Name:	
Taxpayer ID/EIN#:	
Address:	
Contract Type:	
Award Amount:	

Name:	
Taxpayer ID/EIN#:	
Address:	
Contract Type:	
Award Amount:	

Name (Typed): _____

Date: _____

Signature: _____

Title: _____

Company (Typed): _____

NEW YORK STATE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE

Contractor Disclosure of Contacts Form

This form shall be completed and submitted with your bid/proposal or offer. You must complete and submit one form for each person or organization whose function is to influence, or who may otherwise attempt to influence, this procurement contract, public works agreement and/or real property transaction. Failure to complete and submit this form shall result in a determination of non-responsiveness and disqualification of the bid, proposal or offer. If at the time of submission of this form, the specific name of a person authorized to attempt to influence a decision on your behalf is unknown, you agree to provide the specific person's information when it is available. You also agree to update this information during the negotiation or evaluation process of this procurement, and throughout the term of any contract awarded to your company pursuant to this bid/proposal or offer.

Name of Contractor: _____

Address: _____

Name and Title of Person Submitting this Form: _____

Name of Applicable Procurement: _____

Is this an initial filing in accordance with Section II, paragraph 1 of EO 127 or an updated filing in accordance with Section II, paragraph 2 of EO 127? (Please circle):

Initial filing

Updated filing

The following person or organization was retained, employed or designated by or on behalf of the Contractor to attempt to influence the procurement process:

Name: _____

Address: _____

Telephone Number: _____

Place of Principal Employment: _____

Occupation: _____

Does the above named person or organization have a financial interest in the procurement?

(Please circle) yes no

**New York State Consultant Services
Contractor's Annual Employment Report**
Report Period: April 1, to March 31,

Contracting State Agency Name: _____
 Contract Number: _____ Agency Business Unit: _____
 Contract Term: / / to / / Agency Department ID: _____
 Contractor Name: _____
 Contractor Address: _____
 Description of Services Being Provided: _____

Scope of Contract (Choose one that best fits):
 Analysis Evaluation Research Training
 Data Processing Computer Programming Other IT consulting
 Engineering Architect Services Surveying Environmental Services
 Health Services Mental Health Services
 Accounting Auditing Paralegal Legal Other Consulting

Employment Category	Number of Employees	Number of Hours Worked	Amount Payable Under the Contract
	0.00	0.00	\$0.00
	0.00	0.00	\$0.00
	0.00	0.00	\$0.00
	0.00	0.00	\$0.00
	0.00	0.00	\$0.00
	0.00	0.00	\$0.00
	0.00	0.00	\$0.00
	0.00	0.00	\$0.00
	0.00	0.00	\$0.00
	0.00	0.00	\$0.00
	0.00	0.00	\$0.00
	0.00	0.00	\$0.00
	0.00	0.00	\$0.00
	0.00	0.00	\$0.00
Total this Page	0.00	0.00	\$ 0.00
Grand Total			

Name of person who prepared this report: _____
 Title: _____ Phone #: _____
 Preparer's Signature: _____
 Date Prepared: / /



Contractor Certification to Covered Agency

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

ST-220-CA

(12/11)

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

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

I, _____, hereby affirm, under penalty of perjury, that I am _____

(name)

(title)

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

(Mark an X in only one box)

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

The contractor has previously filed Form ST-220-TD with the Tax Department in connection with _____
(insert contract number or description)

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

Sworn to this ____ day of _____, 20 ____

(sign before a notary public)

(title)

Instructions

General information

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

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

When to complete this form

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

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

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

Individual, Corporation, Partnership, or LLC Acknowledgment

STATE OF }
: SS.:
COUNTY OF }

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

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

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

Notary Public

Registration No.

Privacy notification

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

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

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

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

This information is maintained by the Manager of Document Management, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone (518) 457-5181.

Need help?

Visit our Web site at www.tax.ny.gov
• get information and manage your taxes online
• check for new online services and features

Telephone assistance
Sales Tax Information Center: (518) 485-2889
To order forms and publications: (518) 457-5431

Text Telephone (TTY) Hotline (for persons with hearing and speech disabilities using a TTY): (518) 485-5082

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



Contractor Certification

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

ST-220-TD

(12/11)

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

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

General information

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

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

For more detailed information regarding this form and section 5-a of the Tax Law, see Publication 223, *Questions and Answers Concerning Tax Law Section 5-a, (as amended, effective April 26, 2006)*. See *Need help?* for more information on how to obtain this publication.

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

Mail completed form to:

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

Privacy notification

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

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

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

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

This information is maintained by the Manager of Document Management, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone (518) 457-5181.

Need help?



Visit our Web site at **www.tax.ny.gov**

- get information and manage your taxes online
- check for new online services and features



Telephone assistance

Sales Tax Information Center: (518) 485-2889

To order forms and publications: (518) 457-5431

Text Telephone (TTY) Hotline (for persons with hearing and speech disabilities using a TTY): (518) 485-5082



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

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

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

Section 1 — Contractor registration status

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

Section 2 — Affiliate registration status

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

Section 3 — Subcontractor registration status

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

Sworn to this ____ day of _____, 20 ____

(sign before a notary public)

(title)

EQUAL EMPLOYMENT OPPORTUNITY STAFFING PLAN

Submit with Bid or Proposal – Instructions on page 2

Solicitation/Program Name:	Report includes: <input type="checkbox"/> Work force to be utilized on this contract <input type="checkbox"/> Contractor/Subcontractor's total work force
Offeror's Name:	Reporting Entity: <input type="checkbox"/> Contractor <input type="checkbox"/> Subcontractor Subcontractor's name _____
Offeror's Address:	

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

EEO-Job Category	Total Work force	Work force by Gender		Work force by Race/Ethnic Identification										1.0				
		Total Male (M)	Total Female (F)	White (M) (F)		Black (M) (F)		Hispanic (M) (F)		Asian (M) (F)		Native American (M) (F)		Disabled (M) (F)		Veteran (M) (F)		
Officials/Administrators																		
Professionals																		
Technicians																		
Service Maintenance Workers																		
Office/Clerical																		
Skilled Craft Workers																		
Paraprofessionals																		
Protective Service Workers																		
Totals																		

PREPARED BY (Signature):	TELEPHONE NO.:	DATE:
	EMAIL ADDRESS:	
NAME AND TITLE OF PREPARER (Print or Type):	SUBMIT COMPLETED WITH BID OR PROPOSAL	

General instructions: All Offerors and each subcontractor identified in the bid or proposal must complete an EEO Staffing Plan (04-10) and submit it as part of the bid or proposal package. Where the work force to be utilized in the performance of the State contract can be separated out from the contractor's or subcontractor's total work force, the Offeror shall complete this form only for the anticipated work force to be utilized on the State contract. Where the work force to be utilized in the performance of the State contract cannot be separated out from the contractor's or subcontractor's total work force, the Offeror shall complete this form for the contractor's or subcontractor's total work force.

Instructions for completing:

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

RACE/ETHNIC IDENTIFICATION

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

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

OTHER CATEGORIES

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

**EQUAL EMPLOYMENT OPPORTUNITY
WORK FORCE EMPLOYMENT UTILIZATION/COMPLIANCE REPORT**

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

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

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

PREPARED BY (Signature):	TELEPHONE NO.: EMAIL ADDRESS:	DATE:
NAME AND TITLE OF PREPARER (Print or Type):		Submit completed form to M/WBE Program Unit: NYS OTDA M/WBE Program Management Unit Harlem Center, 9 th Floor 317 Lenox Avenue New York, NY 10027

General Instructions: The work force utilization/compliance report (**EEO Workforce Utilization report04-10**) is to be submitted on a quarterly basis during the life of the contract to report the actual work force utilized in the performance of the contract broken down by the specified categories. When the work force utilized in the performance of the contract can be separated out from the contractor's or subcontractor's total work force, the contractor or subcontractor shall submit a Utilization Report of the work force utilized on the contract. When the work force to be utilized on the contract cannot be separated out from the contractor's or subcontractor's total work force, information on the contractor's total work force shall be included in the Utilization Report. Utilization reports are to be completed each quarter and submitted to OTDA within **10 days** of the end of each quarter. If there are no changes to the work force utilized on the contract during the reporting period, the contractor can submit a written statement of no change or submit a copy of the previously submitted report with the date and reporting period updated.

Instructions for completing:

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

RACE/ETHNIC IDENTIFICATION

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

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

OTHER CATEGORIES

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

M/WBE SUBCONTRACTOR UTILIZATION PLAN

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

Offeror's Name:

Federal Identification Number:

Address:

Solicitation Number:

City, State, Zip Code:

Telephone Number:

Region/Location of Work:

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

1. Certified M/WBE Subcontractors/Suppliers Business Name, Address, Email Address, Telephone No.	2. Classification	3. Federal ID No.	4. Ethnicity Group. (See Below)	5. Dollar Value of Subcontracts /Supplies/Services and intended performance dates of each component of the contract.
A.	Primary Sub Contractor Owner's Name NYS ESD CERTIFIED <input type="checkbox"/> MBE <input type="checkbox"/> WBE			
B.	Primary Sub Contractor Owner's Name NYS ESD CERTIFIED <input type="checkbox"/> MBE <input type="checkbox"/> WBE			

PREPARED and APPROVED BY:

NAME AND TITLE OF PREPARER (Print or Type):

Signature: _____
Authorized Signature

DATE:
TELEPHONE NO:
EMAIL ADDRESS:

SUBMISSION OF THIS FORM CONSTITUTES THE OFFEROR'S ACKNOWLEDGEMENT AND AGREEMENT TO COMPLY WITH THE M/WBE REQUIREMENTS SET FORTH UNDER NYS EXECUTIVE LAW, ARTICLE 15-A, 5 NYCRR PART 143, AND THE ABOVE-REFERENCED SOLICITATION.

ETHNICITY MINORITY GROUP DEFINITION

Black

Persons having origins from any of the Black African racial groups.

Hispanic

Persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American descent of Either Indian or Hispanic origin, regardless of race.

Asian-Pacific

Persons having origins from the Far East, Southeast Asia or the Pacific Islands.

Asian-Indian Subcontinent

Persons having origins from the Indian subcontinent.

Native American

Persons having origins in any of the original peoples of North America

FOR AGENCY USE ONLY

REVIEWED BY:	DATE:
---------------------	--------------

UTILIZATION PLAN APPROVED: YES NO **Date:**

Contract No:

Contract Award Date:

Estimated Date of Completion:

Amount Obligated Under the Contract:

NOTICE OF DEFICIENCY ISSUED: YES NO

Date: _____

NOTICE OF ACCEPTANCE ISSUED: YES NO

Date: _____

**MINORITY/WOMEN OWNED BUSINESS ENTERPRISE (M/WBE)
 MWBE SUBCONTRACTORS AND
 /or SUPPLIERS LETTER OF INTENT
 TO PARTICIPATE**

To: _____ Federal ID Number: _____
 (Name of Contractor)

Proposal / Contract number: _____

Contract Scope of Work: _____

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

At the following price: \$ _____

Name of MWBE: _____

Address: _____

Federal ID Number: _____

Telephone Number: _____

Ethnicity (see page 2 for definition) _____

Gender (Male or Female): _____

Designation:

MBE – Subcontractor

WBE – Subcontractor

MBE – Supplier

WBE - Supplier

Joint venture with:

Name:

Address

Fed ID Number: _____

MBE

WBE

Are you a New York State Certified M/WBE?

Yes

No

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

Date Proposal/ Contract to be started: _____

Date Proposal/ Contract to be completed: _____

Date Supplies ordered: _____

Delivery date: _____

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

Date: _____

Signature of M/WBE Contractor: _____

Printed/Typed Name of M/WBE Contractor: _____

INSTRUCTIONS FOR M/WBE SUBCONTRACTORS AND SUPPLIERS’ LETTER

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

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

ETHNICITY MINORITY GROUP DEFINITION

Black	Persons having origins from any of the Black African racial groups.
Hispanic	Persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American descent of Either Indian or Hispanic origin, regardless of race.
Asian-Pacific	Persons having origins from the Far East, Southeast Asia or the Pacific Islands.
Asian-Indian Subcontinent	Persons having origins from the Indian subcontinent.
Native American	Persons having origins in any of the original peoples of North America.

**Contact: NYS OTDA
M/WBE Program Management Unit
Harlem Center – 9TH Floor
317 Lenox Avenue
New York, New York 10027
(212) 961-8214**

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

M/WBE AND EEO POLICY STATEMENT

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

This organization will require its contractors and subcontractors to take good faith actions to achieve the M/WBE contract participation goals and provide Equal Employment Opportunities set by NYS OTDA for the State-funded project by taking the following steps:

M/WBE

- (1) Actively and affirmatively solicit bids for contracts and subcontracts from qualified State certified MBEs or WBEs, including solicitations to M/WBE contractor associations.
- (2) Request a list of State-certified M/WBEs from NYS-OTDA and solicit bids from them directly.
- (3) Ensure that plans, specifications, request for proposals and other documents used to secure bids will be made available in sufficient time for review by prospective M/WBEs.
- (4) Where feasible, divide the work into smaller portions to increase participation by M/WBEs and encourage the formation of joint ventures and other partnerships among M/WBE contractors to encourage their participation.
- (5) Document and maintain records of bid solicitation, including those to M/WBEs and the results thereof. The Contractor will also maintain, or, where appropriate, require its subcontractors to maintain and submit, as required by OTDA, records of actions that its subcontractors have taken toward meeting M/WBE contract participation goals.
- (6) Ensure that project payments to M/WBEs are made on a timely basis so that undue financial hardship is avoided, and that bonding and/or other credit requirements may, in the sole discretion of OTDA, be waived and/or appropriate alternatives are developed to encourage M/WBE participation.
- (7) This organization will include the provisions of sections (1) through (6) of this agreement in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the State contract.

EEO

military status, predisposing genetic characteristics, victim of domestic violence status, or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on state contracts.

This organization shall state in all solicitation or advertisements for employees that in the performance of the State contract all qualified applicants will be afforded equal employment opportunities without discrimination because of race, religion/creed, color, national origin, sex, age, disability, sexual orientation, military status, predisposing genetic characteristics, victim of domestic violence status or marital status,

At the request of the contracting agency, this organization shall request that each employment agency, labor union, or authorized representative will not discriminate on the basis of race, religion/creed, color, national origin, sex, age, disability, sexual orientation, military status, predisposing genetic characteristics, victim of domestic violence status or marital status, and that such union or representative will affirmatively cooperate in the implementation of this organization's obligations herein.

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

- (a) This organization will not discriminate against any employee or applicant for employment because of race, religion/creed, color, national origin, sex, age, disability, sexual orientation,

Agreed to this _____ day of _____, 2_____

By _____

Print: _____ Title: _____

Minority/ Women Business Enterprise Liaison

_____ is designated as the Minority/Women Business
Enterprise Liaison
(Name of Designated Liaison)

responsible for administering the Minority and Women-Owned Business Enterprises-Equal
Employment Opportunity (MWBE-EEO) program.

(Authorized Representative)

Title: _____

Date: _____

Contact:

**NYS OTDA
M/WBE Program Management Unit
Harlem Center - 9th Floor
317 Lenox Avenue
New York, NY 10027
(212) 961-8214**

CONTRACTOR QUARTERLY COMPLIANCE REPORT

INSTRUCTIONS: BEGINNING TEN DAYS FOLLOWING THE END OF THE FIRST CALENDAR QUARTER (March 31st, June 30th, September 30th, and December 31st) AFTER A CONTRACT IS AWARDED; QUARTERLY COMPLIANCE REPORTS WILL BE DUE FOR THE PROCEEDING QUARTER'S ACTIVITY.

Expenditure Code: C – Commodities, SC – Services/Consultants, CC –Construction Consultants, CN – Construction

Contract Number: _____ Contractor: _____	REPORTING PERIOD: From: ____/____/____ To: ____/____/____	MWBE Goal MBE _____ % WBE _____ % M/WBE _____ %
---	--	---

A	B	C	D
Amount of Actual Expenditures in Reporting Period	Minority-Owned Business Enterprise (MBE) Subcontracting Expenditures in Reporting Period	Women-Owned Business Enterprise (WBE) Subcontracting Expenditures in Reporting Period	Dual Minority and Women-Owned Business Enterprise (MWBE) Subcontracting Expenditures in Reporting Period
\$ _____ <small>(If none, enter 0)</small>	\$ _____ <small>(If none, enter 0)</small>	\$ _____ <small>(If none, enter 0)</small>	\$ _____ <small>(If none, enter 0)</small>

CERTIFIED M/WBE VENDOR(S) INFORMATION: ALL AREAS MUST BE FILLED IN, NOTHING SHOULD BE LEFT BLANK

Payee ID	Primary Owner's Name, Address, City, Zip	Ethnicity and Gender (Male or Female)	Service Location	MBE, WBE or Dual MWBE	Expenditure Code	Product Code	Amount	Date Paid
NAME AND TITLE OF PREPARER (Print or Type):			TELEPHONE NO.:			EMAIL ADDRESS:		
QUARTERLY REPORTS SHOULD BE SUBMITTED TO THE OTDA PROGRAM/CONTRACT MANAGER				FOR AGENCY USE ONLY				
				REVIEWED BY:			DATE:	

CREDIT WILL NOT BE GIVEN WITHOUT COMPLETE INFORMATION

INSTRUCTIONS:

List all M/WBEs used during the quarter, providing all requested information in appropriate columns. In the event that an M/WBE is used more than one time during a quarter, list the M/WBE only once for each expenditure category. Use the **Expenditure Code** defined at the top of the form to indicate the category of expenditures for which the M/WBE was used.

TOTALS FOR REPORT PERIOD

- Column A** Total Amount of Actual Expenditures in Report Period: Enter the amount (\$) for each Expenditure Code made during report period under this contract.
- Column B** MBE Subcontracting Expenditures: Enter the amount for each Expenditure Code with registered Minority Owned Business Enterprises made during the report period under this contract.
- Column C** WBE Subcontracting Expenditures: Enter the amount of expenditures for each Expenditure Code with registered Women Owned Business Enterprises made during the report period under this contract.
- Column D** MWBE Dual Subcontracting Expenditures: Enter the amount of expenditures for each Expenditure Code with registered Minority and Women Owned Business Enterprises made during the report period under this contract.

Use the following codes in the Product Code column to indicate the category of work for which the M/WBE was utilized:

PRODUCT CODE KEY:

A	Agriculture/Landscaping (e.g., all forms of landscaping services)
B	Mining (e.g., Geological Investigation)
C	Construction
C15	Building Construction – General Contractors
C16	Heavy Construction (e.g., highway, pipe laying)
C17	Special Trade Contractors (e.g., plumbing, heating, electrical, carpentry)
D	Manufacturing (production of goods)
E	Transportation, Communication and Sanitary Services (e.g., Delivery services, warehousing, broadcasting and cable systems)
F/G	Wholesale/Retail Goods (e.g., gravel, hospital supplies and equipment, food stores, computer stores, office supplies)
G52	Construction Materials (e.g., lumber, paint, lawn supplies)
H	Financial, Insurance and Real Estate Services
I	Services
I73	Business Services (e.g., copying, advertising, secretarial, janitorial, rental services of equipment, computer programming, security services)
I80	Health Services
I81	Legal Services
I82	Educational Services (e.g., AIDS education, automobile safety, tutoring, public speaking)
I83	Social Services (e.g., counselors, vocational training, child care)
I87	Engineering, architectural, accounting, research, management and related services

ETHNICITY MINORITY GROUP DEFINITION

Black	Persons having origins from any of the Black African racial groups.
Hispanic	Persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American descent of Either Indian or Hispanic origin, regardless of race.
Asian-Pacific	Persons having origins from the Far East, Southeast Asia or the Pacific Islands.
Asian-Indian Subcontinent	Persons having origins from the Indian subcontinent.
Native American	Persons having origins in any of the original peoples of North America.

Expenditure: An expenditure is an actual payment which has been made by an agency, either through the Office of the State Comptroller or by the agency's finance office directly, including subcontractor/supplier payments made by a prime contractor and verified by the agency.

Grants: For the purposes of this report, grants are monies dispensed by a contracting governmental agency to a person or institution to accomplish a public purpose authorized by law. According to Article 15-A, grants are considered to be State contracts. For the purpose of compliance reporting, the recipient of the grant is considered to be the "contractor". These contracts are subject to MWBE goals and reported in the same fashion as any other contract. Grant dollars expended should be reported on the form most appropriate for the majority of the grant (e.g. if the grant dollars are generally spent for construction, the monies should be reported on the construction form; if for training, the monies should be reported on the services/consultant form).

Not-for-Profit: An entity organized as a not-for-profit corporation pursuant to State Law. According to Article 15-A, not-for-profit entities are considered to be "contractors". These contractors are subject to MWBE goals and should be treated and reported in the same fashion as any other contractor. The expenditure of dollars by a not-for-profit entity should be reported on the form most appropriate to the majority of the funding (e.g. if the dollars are generally spent to provide training and/or rehabilitation services, then the monies should be reported on the services/consultant form; if the expenditures are made on a contract for low-income housing, the dollars should be reported on the construction form).

Subcontract: a) For construction, a subcontract is any portion of the contract or any service performed or supplies provided relative to that contract by any party other than the prime contractor;

b) For commodities and consultant/services, a subcontract is that portion of the total value of a contract portioned out to another consultant/individual or vendor. This is also known as second tier spending;

c) For grants/not-for-profits contracts, a subcontract is that portion of funding expended for supplies, equipment, printing, consultants, trainers, services, etc.

d) It is important to provide all information as requested or credit may not be allowed.

e) It is critical that you provide the detailed information requested on the CONTRACTOR QUARTERLY COMPLIANCE REPORT. List each M/WBE firm you have included in the MBE and WBE totals (for prime and subcontract expenditures) in each expenditure category. Missing information may result in the firm/dollars not counting toward agency MWBE participation goals.

M/WBE GOAL REQUIREMENTS CERTIFICATION OF GOOD FAITH EFFORTS

Contractors (to include those who submit bids/proposals in an effort to be selected for contract award as well as those successful bidders/proposers with whom OTDA enters into State contracts) must document “good faith efforts” to provide meaningful participation by New York State Certified M/WBE subcontractors or suppliers/vendors in the performance of this contract.

The undersigned hereby acknowledges that he/she took or may need to take the following actions on behalf of the Contractor to demonstrate, and upon request by OTDA, to provide written verification to document the aforesaid good faith efforts:

- (a) The Contractor attended any pre-bid, pre-award, or other meetings scheduled by the contracting agency or the NYS Department of Economic Development or its designee to inform certified minority- or women-owned business enterprises of contracting and subcontracting opportunities available on the project, for purposes of complying with contract participation goal requirements;
- (b) The Contractor identified economically feasible units of the project that could be contracted or subcontracted to certified minority- and women-owned business enterprises in order to increase the likelihood of participation by such enterprises on the contract;
- (c) The Contractor undertook efforts to reasonably structure the contract scope of work for purposes of subcontracting with certified minority- and- women-owned business enterprises;
- (d) The Contractor advertised in a timely fashion and in appropriate general circulation, trade and minority- and women-oriented publications, if any, concerning the contracting or subcontracting opportunity;
- (e) The Contractor made written solicitations in a timely fashion to a reasonable number of certified minority- and women- owned business enterprises identified from current certified lists of such business enterprises provided or maintained by the NYS Empire State Development’s Division of Minority and Women Owned Business Development, or its designee, of the contracting or subcontracting opportunity. The directory of certified businesses can be viewed at: <http://esd.ny.gov/index.html>
- (f) The Contractor can document if any timely responses to any such advertisements and solicitations were provided by certified minority- and women-owned business enterprises;
- (g) The Contractor followed-up initial solicitations by contacting the enterprises to determine whether the enterprises were interested in such contracting or subcontracting opportunity;
- (h) The Contractor provided interested certified minority- and women-owned business enterprises in a timely fashion with adequate information about the plans, specifications or terms and conditions of the State contract and requirements for the contracting or subcontracting opportunity so as to prepare an informed response to a contractor solicitation;

