New York State Insurance Fund

# 'NO BID' FORM

**IFB # 2017-34-CL**

| |
|---|
| **DESCRIPTION: Electronic Billing Services** |
| **CONTRACT PERIOD: Bi-annual recruitment with a term expiring 12/1/21** |

| | | |
|---|---|---|
| **BIDS DUE:** | | **SUBMIT BIDS TO:** |
| **DATE:** | **5/11/17** | **IFB# 2017-34-CL**<br>NYSIF – Procurement Unit<br>15 Computer Drive West<br>Albany, NY 12205 |
| **TIME:** | **2:00 p.m.** | |

Bidders choosing not to bid are requested to complete and return only this page. Please check all boxes that apply:

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

☐ 2. We are unable to bid because _____

_____

_____

FAILURE TO RESPOND TO THIS BID SOLICITATION MAY RESULT IN YOUR FIRM BEING REMOVED FROM OUR MAILING LIST. A "NO BID" IS CONSIDERED A RESPONSE.

Name of Firm: _____ FEIN: _____

Address: _____

Web Page: _____ Telephone: _____

Email Address: _____ Fax: _____

Signature: _____ Date: _____

Typed Name & Title: _____

# NEW YORK
# STATE INSURANCE FUND

# INVITATION FOR BIDS

for

# ELECTRONIC BILLING SERVICES
# Bid # 2017-34-CL

April 4, 2017

NYSIF encourages the participation of Minority and Women-Owned Business Enterprises (M/WBE) in its procurement projects. NYSIF is committed to achieving the statewide goal of increasing opportunities for New York State Minority and Women-owned Business Enterprises. Any firm that feels it may meet the state requirements for certification is encouraged to visit the NYS Department of Economic Development for more information about the program and how to apply for certification.

# TABLE OF CONTENTS


| | PAGE |
|---|---|
| **IFB Calendar** | **4** |
| **SECTION I – GENERAL INFORMATION** | **6** |
| I.1 OVERVIEW OF THE NEW YORK STATE INSURANCE FUND | 6 |
| I.2 PURPOSE | 6 |
| I.3 SUMMARY OF NYSIF'S POLICY AND PROHIBITIONS REGARDING | 6 |
| I.4 INQUIRIES/ISSUING OFFICE/DESIGNATED CONTACT | 7 |
| I.5 METHOD OF AWARD | 7 |
| **SECTION II – BIDDER'S QUALIFICATIONS** | **8** |
| II.1 COMPLIANCE | 8 |
| II.3 LICENSES AND PERMITS | 8 |
| II.4 INSURANCE, indemnification AND BONDS | 8 |
| II.5 MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE PARTICIPATION | 10 |
| II.5 PARTICIPATION OF SERVICE DISABLED VETERAN OWNED BUSINESSES | 11 |
| II.5 USE OF NYSIF TRADEMARK AND LOGO | 11 |
| **SECTION III – SPECIFICATIONS** | **12** |
| III.1 FUNCTIONAL REQUIREMENTS | 12 |
| III.2 IMPLEMENTATION REQUIREMENTS | 18 |
| III.2 TECHNICAL REQUIREMENTS | 24 |
| **SECTION IV – CONTRACT PROVISIONS** | **25** |
| IV.1 CONTRACT PERIOD | 25 |
| IV.2 FEES | 25 |
| IV.3 PENALTIES | 25 |
| IV.3 PERMITS AND COMPLIANCE | 25 |
| **SECTION V – ADMINISTRATIVE** | **27** |
| V.1 BID FORMAT | 27 |
| V.2 REQUIRED APPENDICES AND EXHIBITS | 28 |
| V.3 BID SUBMISSION AND DELIVERY | 28 |
| V.4 NOTIFICATION OF AWARD | 29 |
| **BIDDER CERTIFICATION** | **15** |


**ATTACHMENTS:**


Exhibit A. NYSIF Standard Clauses
Exhibit B. General Specifications
Exhibit C. Contract Provisions
Exhibit M. MWBE Requirements and Procedures
Exhibit T. IT Technical Requirements (Vendor Project Plan)

Appendix D. Questionnaire "Nondiscrimination In Employment In Northern Ireland: MacBride Fair Employment Principles"
Appendix E. Vendor Responsibility Questionnaire
Appendix F. NYS Certifications
Appendix G. Encouraging Use of New York State Businesses in Contract Performance
Appendix H. Procurement Lobbying Legislation
Appendix N. ST-220CA, ST-220TD, and Q&A (4/26/06)
Appendix O. Contract Consultant Law (Forms A & B)
Appendix S. Use of Service-Disabled Veteran-Owned Business Enterprises

| | |
|---|---|
| Appendix T. | NYSIF Vendor Security Survey |
| Appendix U. | Vendor Profile |
| Appendix V. | Vendor Assurance of No Conflict of Interest or Detrimental Effect |
| Appendix Z. | Fee Schedule |

# IFB CALENDAR

| DATE | EVENT | COMMENTS |
|---|---|---|
| **4/4/17** | IFB Issued – Advertisement posted | Bid documents may be obtained here: www.nysif.com/procurement |
| **4/26/17** | Final date for bidder inquiries | **Written inquiries only** by 12:00 p.m. (EST) to:<br><br>Email: contracts@nysif.com<br>Fax: 518-437-4209 |
| **5/5/17** | Responses to inquiries | Written responses will be posted on NYSIF's website at: www.nysif.com/procurement |
| **5/11/17** | Final date for submission of bids | Deadline for response to this IFB.<br><br>**IFB# 2017-34-CL**<br>NYSIF – Procurement Unit<br>15 Computer Drive West<br>Albany, NY 12205<br><br>Sealed bids MUST be received by 2:00 p.m (EST). |
| **TBD** | Anticipated Start Date | Subject to the required approvals. |

# SECTION I – GENERAL INFORMATION

## I.1 OVERVIEW OF THE NEW YORK STATE INSURANCE FUND

The New York State Insurance Fund (NYSIF) was established in 1914 as part of the original enactment of the New York Workers' Compensation Law. The Fund's mission is to guarantee the availability of workers' compensation insurance at the lowest possible cost to employers, while maintaining a solvent fund, as well as to provide timely and appropriate indemnity and medical payments to injured workers. NYSIF is a self-supporting insurance carrier that competes with private insurers in both the workers' compensation and disability benefits markets in New York State. With 160,000 policyholders, over $2 billion in annual premium and $17 billion of assets, NYSIF is the largest workers' compensation carrier in the state and among the top five largest workers' compensation carriers in the nation. NYSIF provides disability benefits coverage for off-the-job injuries to more than 61,000 New York employers.

## I.2 PURPOSE

In 2007 NYSIF implemented an Electronic Medical Billing (E-Billing) processing system that transformed paper-based claims processing in NYSIF's business offices to a paperless, regional model. The goal of the E-Billing Project was to eliminate the manual entry of medical bill data for those medical providers who were partnered with an electronic billing vendor(s). The objective of this IFB is to solicit proposals from interested vendors who have the business understanding and the technological knowledge and capability required to provide the services as outlined in the Technical Requirements Section.

NYSIF reserves the right to choose one or more vendors to provide E-Billing services. The vendor(s) will be expected to provide the following throughout the established contract period:

- Delivery of quality medical billing data in electronic format, consistent with specification and within defined timeframes.
- Accommodation to changes in statutory requirements, changes in business needs, and ongoing enhancements and upgrades to the E-Billing system.

Proposals submitted in response to this solicitation must comply with the instructions and procedures contained herein.

**Please note: All fees for these services should be identified in Appendix Z. No fees will be chargeable to medical providers.**

## I.3 SUMMARY OF NYSIF'S POLICY AND PROHIBITIONS REGARDING PERMISSIBLE CONTACTS DURING A COVERED PROCUREMENT

Pursuant to State Finance Law §§139-j and 139-k, this IFB includes and imposes certain restrictions on communications between a Governmental Entity and a Bidder during the procurement process. A Bidder is restricted from making contacts from the earliest notice of intent to solicit bids through final award and approval of the Procurement Contract by the Governmental Entity and, if applicable, Office of the State Comptroller ("restricted period") to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law §139-j (3)(a). Designated staff, as of the date hereof, is identified on page 6 of this IFB. NYSIF employees are also required to obtain certain information when contacted during the restricted period and determine the responsibility of the Bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract

award and in the event of two findings within a 4-year period; the Bidder is debarred from obtaining governmental Procurement Contracts. Further information about these requirements is available from the designated contact(s).

## I.4 INQUIRIES/ISSUING OFFICE/DESIGNATED CONTACT

All inquiries concerning this solicitation will be addressed to the following Designated Contacts:

| | |
|---|---|
| Alex Romano | Heather Baumann |
| Contract Management Specialist | Assistant Director Financial Administration |
| E-Mail: contracts@nysif.com | E-Mail: contracts@nysif.com |

For inquires related specifically to Minority and Woman Owned Business Enterprises (MWBE) provisions of this procurement solicitation, the designated contract is:

Lucas McCullough
MWBE Fiscal Business Specialist
E-Mail: contracts@nysif.com

**All questions related to this IFB or the contract process must be submitted in writing** to contracts@nysif.com by the date and time indicated in the IFB Calendar, citing the particular bid section and paragraph number. **No telephone questions will be answered.**

Only questions received during the Question and Answer period (as outlined in the IFB Calendar) will be addressed. **Official answers to the questions will be posted on NYSIF's website at www.nysif.com/procurement, on the date indicated in the IFB Calendar.**

Prospective Bidders should note that all clarifications and exceptions are to be resolved prior to the submission of a bid. Answers may be included in a bid addendum.

## I.5 METHOD OF AWARD

This will be a bi-annual recruitment procurement, with all vendors that meet NYSIF's mandatory requirements eligible to participate. All bids will be reviewed and evaluated by NYSIF personnel.

## SECTION II – BIDDER'S QUALIFICATIONS

All bids submitted in response to this IFB must include the following information. Failure to submit information to meet any of the following mandatory requirements may result in your bid being deemed non-responsive and eliminate your bid from consideration.

### II.1 COMPLIANCE

By submitting a bid, Bidders are certifying they are qualified to perform the proposed work. Bidders must have the necessary staff, equipment, permits and licensing, and compliance for the schedule set forth in this contract.

### II.2 LICENSES AND PERMITS

The bidder shall obtain, maintain, and pay for all permits, licenses, and fees legally required to perform the work under this IFB, copies of which must be submitted to NYSIF prior the commencement of work. It is the responsibility of the Contractor to ensure that any subcontractors are also licensed and permitted appropriately for the work they perform.

### II.3 INSURANCE, INDEMNIFICATION AND BONDS

Prior to the commencement of the work to be performed by the successful Bidder, the Bidder shall file with NYSIF Certificates of Insurance evidencing compliance with all requirements contained in this IFB. Acceptance and/or approval by NYSIF does not and shall not be construed to relieve Bidder of any obligations, responsibilities or liabilities under the contract awarded by this IFB.

All insurance required by the IFB shall be obtained at the sole cost and expense of the Bidder, shall be maintained with insurance carriers licensed to do business in New York State and acceptable to NYSIF, shall be primary and non-contributing to any insurance or self insurance maintained by NYSIF, shall be endorsed to provide written notice be given to NYSIF at least thirty (30) days prior to the cancellation, non-renewal, or material alteration of such policies, which notice, evidenced by return receipt of United States Certified Mail, and shall be sent in accordance to the 'Notice' provision of the Agreement and shall name NYSIF, its officers, agents, and employees as additional insureds hereunder (General Liability Additional Insured Endorsement shall be on Insurance Service Office's (ISO) form number CG 20 26 11 85).

The Bidder shall be solely responsible for the payment of all deductibles and self insured retentions to which such policies are subject. Deductibles and self-insured retentions must be approved by NYSIF. Such approval shall not be unreasonably withheld.

If NYSIF allows subcontracting, the Bidder shall require that any subcontractors hired carry insurance with the same limits and provisions provided herein.

Each insurance carrier must be rated at least "A-" Class "VII" in the most recently published Best's Insurance Report. If, during the term of the policy, a carrier's rating falls below "A-" Class "VII", the insurance must be replaced no later than the renewal date of the policy with an insurer acceptable to NYSIF and rated at least "A-" Class "VII" in the most recently published Best's Insurance Report.

The Bidder shall cause all insurance to be in full force and effect as of the commencement date of the contract awarded as a result of this IFB, and to remain in full force and effect throughout the term of the contract and as further required by this IFB. The Bidder shall not take any action, or omit to take any

action that would suspend or invalidate any of the required coverages during the period of time such coverages are required to be in effect.

Not less than thirty (30) days prior to the expiration date or renewal date, the Bidder shall supply NYSIF with updated replacement Certificates of Insurance, and amendatory endorsements.

The Bidder, throughout the term of this contract, or as otherwise required by this IFB, shall obtain and maintain in full force and effect, the following insurance with limits not less than those described below and as required by the terms of this IFB, or as required by law, whichever is greater (limits may be provided through a combination of primary and umbrella/excess policies):

1. Commercial General Liability Insurance with a limit of not less than $2,000,000 each occurrence, $2,000,000 aggregate. Such liability shall be written on the ISO occurrence form CG 00 01, or a substitute form providing equivalent coverage and shall cover liability arising from premises operations, independent contractors, products-completed operations, broad form property damage, personal & advertising injury, cross liability coverage, liability assumed in a contract (including the tort liability of another assumed in a contract) and explosion, collapse & underground coverage.
2. Workers Compensation and NYS Disability Benefits, as required by New York State. Visit http://www.wcb.ny.gov/content/main/Employers/busPermits.jsp for further information.
3. Comprehensive Business Automobile Liability Insurance with a limit of not less than $1,000,000 each accident. Such insurance shall cover liability arising out of any automobile including owned, leased, hired and non-owned automobiles.
4. Data Breach and Privacy/Cyber Liability including Technology Error and Omissions with a limit of not less than $1,000,000 per occurrence, including coverage for damages arising from, but not limited to the following:
    a. Breach of duty to protect the security and confidentiality of Personally Identifiable Nonpublic Information (e.g. Medical, Financial, or Personal in Nature in Electronic of Non-Electronic Form
    b. Privacy notification costs
    c. Regulatory defense and penalties
    d. Third party electronic theft and computer fraud
    e. Professional Liability for damages arising from computer related services including but not limited to:
        i. Consulting
        ii. Data Processing
        iii. Programming
        iv. System Integration
        v. Hardware or Software Development
        vi. Installation
        vii. Distribution or Maintenance
        viii. Systems Analysis or Design

ix. Training

x. Staffing or Other Support Services

**Waiver of Subrogation.** Bidder shall cause to be included in all of the polices noted above, except Professional Liability, a waiver of the insurer's right of subrogation against NYSIF, or, if such waiver is unobtainable (i) an express agreement that such policy shall not be invalidated if Bidder waives or has waived before the casualty, the right of recovery against NYSIF or (ii) any other form of permission for the release of NYSIF.

Awarded Bidder shall furnish evidence of all policies to NYSIF, before any work is started. Certificates of Insurance may be supplied as evidence of such aforementioned policies; however, if requested by the Agency, the Bidder shall deliver to NYSIF within forty-five (45) days of the request a copy of such policies, certified by the insurance carrier as being true and complete. If a Certificate of Insurance is submitted it must: (1) be signed by an authorized representative of the insurance carrier or producer and notarized; (2) disclose any deductible, self-insured retention, aggregate limit or any exclusions to the policy that materially change the coverage; (3) indicate the Additional Insureds and Named Insureds as required herein; (4) reference the Agreement by number on the face of the certificate; and (5) expressly reference the inclusion of all required endorsements.

If, at any time during the term of the resulting contract, insurance as required is not in effect, or proof thereof is not provided to NYSIF, NYSIF shall have the option to: (i) direct the Contractor to suspend work with no additional cost or extension of time due on account thereof, or (ii) treat such failure as a breach in contract.

**The successful Bidder will indemnify NYSIF against any and all liability which may be assessed against it as a result of the actions, activities, neglect, or malpractice of the successful Bidder, its officers, employees, agents or subcontractors related to its performance of the functions required.**

## II.5 MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE PARTICIPATION

It is the policy of NYSIF to encourage the greatest possible participation by Minority and Women-Owned Business Enterprises (MWBE) as Bidders, subcontractors and suppliers on its procurement contracts, consistent with New York State laws. NYSIF has established a goal of 30% MWBE participation for its contracts.

Bidders are required to complete the forms contained within Exhibit M and submit those with the bid proposal. Failure to properly complete and provide these documents may result in rejection of the bid.

The Awarded Contractor(s) will be required to demonstrate its ability to meet NYSIF's goals for MWBE participation by documenting all subcontracted work related to this contract for which MWBE participation will take place. If a waiver (or partial waiver) from meeting NYSIF's MWBE goals is being sought, the contractor **MUST** complete the waiver form (Form 104 of Exhibit M) and provide supporting documentation as listed on the form's instructions detailing extensive efforts taken to seek and sub-contract MWBE vendors for this procurement.

The awarded contractor may be required to submit subcontractor and payment information in the New York State Contract System on a regular basis throughout the term of the contract. Subcontractors may also be required to verify such payments through this system.

Proof of utilization and payment to MWBE subcontractors is required.

Please see Exhibit M for further information.

## II.6 PARTICIPATION OF SERVICE DISABLED VETERAN OWNED BUSINESSES (SDVOB)

The Service-Disabled Veteran-Owned Business Act, signed into law by Governor Andrew M. Cuomo on May 12, 2014, allows eligible Veteran business owners to become certified as a New York State Service-Disabled Veteran-Owned Business (SDVOB) to increase participation in New York State's contracting opportunities.

We encourage any firm that believes it meets the state requirements for certification to visit The Division of Service-Disabled Veterans' Business Development within the NYS Office of General Services (OGS) at www.ogs.ny.gov.

For more general information on the program you can contact OGS via e-mail at VeteransDevelopment@ogs.ny.gov.

## II.7 USE OF NYSIF TRADEMARK AND LOGO

Bidders/Contractors may not use NYSIF, its name, trademarks, or logo without prior written approval from NYSIF. NYSIF will need to approve any website content and should be notified of any website content change. NYSIF shall display the vendor contact information on the NYSIF website with approval from the vendor.

## SECTION III – SPECIFICATIONS

No oral statements of any person shall alter or otherwise affect the terms, conditions, or specifications noted herein or in the contract for the service. Any amendments to this IFB that may be necessary will be issued in writing and posted to NYSIF's website (www.nysif.com/procurement).

### III.1 FUNCTIONAL REQUIREMENTS

These sections detail the Functional Requirements for the E-Billing system. The Bidder must certify the ability to fulfill these functional requirements in a manner consistent with the technical requirements detailed in Exhibit T.

III.1.1 General

To provide for current and future needs, the proposed technical solution must fit within the current NYSIF technical architecture and have the characteristics described in this document.

For this IFB, NYSIF defines a "claim" as a case file established for the purpose of administering workers' compensation benefits to an industrially injured worker or their dependents. A "bill" is defined as a provider's submission of itemized services/products and related charges. These terms are not interchangeable.

III.1.2 Design/Approach

The Bidder must certify that their service has a design based on a modern framework and will integrate with the NYSIF's existing E-Billing system. Changes in statutory requirements may result in changes to the requirements detailed in this document. The system must be able to evolve and be flexible to meet future needs. All file formats will be provided by NYSIF technical personnel, and are subject to change based upon prevailing business needs.

The Bidder must confirm that:

- They have dedicated personnel, including IT development personnel, assigned to the NYSIF account.
- They will develop changes in a period that is mutually agreed upon at the time of the change request.

III.1.3 The Bidder must confirm knowledge in the following areas:

- Medical billing processing knowledge -- particularly Worker's Compensation Medical bills and knowledge of the various New York State Workers' Compensation Board (WCB) Fee Schedules. Fee schedules included are:
  - New York State WCB Health Provider Fee Schedules;
  - New York State WCB All Patient Refined Diagnostic Related Groups (APR DRG) Fee Schedule;
  - New York State WCB Products of Ambulatory Surgery (PAS) Rates Fee Schedule;
  - New York State WCB Pharmacy Fee Schedule;
  - New York State WCB Dental Fee Schedule;
  - New York State WCB Durable Goods Fee Schedule;
  - New York State WCB Implementation of the NYS Department of Health Enhanced Ambulatory Patient Grouping (EAPG) Fee Schedule
- Development and implementation of a Medical Provider/Vendor database, particularly functionality to manage the creation and maintenance of medical provider information;

- File encryption/decryption methodologies;
- Secure file transfer protocols.

III.1.4 Integration with Existing NYSIF E-Billing Application

The system must integrate with the NYSIF E-Billing system. To integrate with NYSIF's E-Billing system, the proposed service must:

- Adhere to the NYSIF's proprietary file requirements for the Medical Provider/Vendor Registration process, Claim Eligibility process, Claim Eligibility File Error Report, Accept/Reject Report file and Monthly Invoice Process. File descriptions and layouts are detailed in the technical requirements (Exhibit T);
- Adhere to NYSIF file naming conventions. File naming conventions to be provided upon vendor selection;
- Adhere to the use of a standard encryption/decryption methodology;
- Adhere to the use of a standard secure file transfer protocol.

III.1.5 Performance Monitoring

The Bidder must confirm the following:

- Periodic scheduled and random monitoring of submitting provider EDI data, bill images, and attachments to ensure that NYSIF business rules are followed.
- Problems that medical providers have submitting bills will be sent to NYSIF only after vendor has completed a full investigation that determines the issue is a NYSIF technical problem. Referrals will be completely documented including definition of problem and all attempts at solving the issue.
- Medical providers will not be referred directly to NYSIF for technical issues.
- Copies of bills will not be sent to WCB unless confirmation of acceptance has been received from NYSIF.

**The Bidder further confirms that there will be 100% compliance with the requirement that there will be one bill image submitted that matches the EDI data submitted**

III.1.6 Testing and Change Control

The Bidder must confirm the following:

- The vendor will maintain separate development, testing, and production environments; testing should mirror the production environment, and production must be secure.
- The vendor's test environment will be capable of ingesting NYSIF's test data, to facilitate proper integration testing.
- The vendor will complete three successful test cycles before any change is implemented in production. If any changes are to be made to the vendor's system, NYSIF must be notified in advance, and integration testing, including but not limited to three consecutive cycles, must be completed before production implementation.
- The vendor shall not manipulate test files.

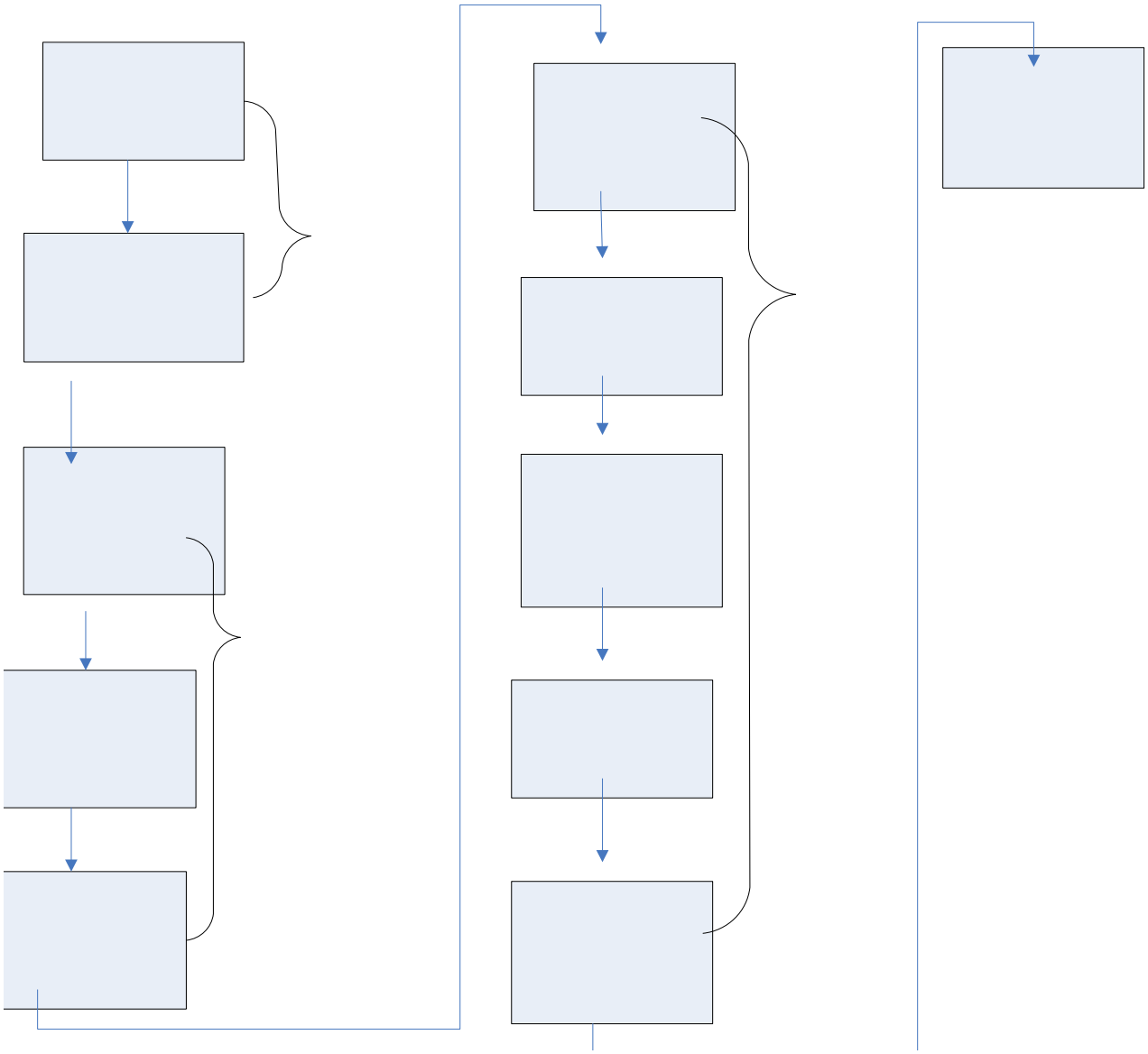
III.1.7 Information Security and Audit

The information contained in the E-Billing System is sensitive and confidential. NYSIF expects that the Bidder employ information-security best practices in maintaining the confidentiality, integrity, and availability of its information technology infrastructure and information entrusted to it by NYSIF against compromise or misuse by internal or external malicious users. The Bidder shall use encryption on all links that are routed through public networks – current practice requires PGP encryption and SFTP. Under no circumstances will secure information be sent via electronic mail.

The Bidder shall perform periodic information-security system checks/tests and generate activity reports, as requested by NYSIF.

## III. 1.8 Functional Requirements – eBilling Workflow

**High Level E-Billing System Workflow Diagram**



III.1.8.1 Medical Provider/Vendor Registration

The purpose of the Provider Registration process is to ensure that the providers recruited by the Bidder are entered in the NYSIF Provider system, and that use of the system facilitates submission of correct billing information to NYSIF. The NYSIF E-Billing system uses the NYSIF Provider system to verify the provider information so that payment can be made. If any issues are encountered, e.g. the provider information is not in the NYSIF Provider system, or if the information is incorrect, the associated medical bill will be rejected until the issues are resolved.

Accordingly, the Bidder must confirm that

- Medical providers will be educated and trained to submit bills that adhere to NYSIF requirements.
- Medical providers will be trained to use the vendor interface.
- Vendor will QA/Review submissions of newly registered providers to confirm that all NYSIF requirements are met, prior to actual submission to NYSIF.

In their response, the Bidder must also confirm acceptance of the technical requirements specific to Medical Provider and Vendor Registration, as detailed in Exhibit T, pages 3-5.

III.1.8.2 Claim Eligibility File

NYSIF will be providing its E-Billing partner(s) with claim information electronically. NYSIF will create an extract of eligible Claims each business day. This information will include all additions, modifications and deletions that have occurred since the previous transmission.

This Claims Eligibility file is an ASCII Text file. This ASCII text file will be encrypted and transmitted using a secure transmission protocol.

The purpose of the Claim Eligibility process is to ensure that when a Medical Provider submits Medical Bills for an established NYSIF claim, the medical bill is associated with the proper Carrier Case Number (i.e. Claim Number).

In their response, the Bidder must confirm acceptance of the technical requirements specific to the Claim Eligibility process, as detailed in Exhibit T, pages 6-8.

III.1.8.3 NYSIF Claim Eligibility File Accept/Reject Report

The purpose of the NYSIF Claim Eligibility File Error Report is to ensure that the Bidder has a standard method to communicate to NYSIF any processing errors that may occur during the processing and loading of the NYSIF Claim Eligibility File.

In their response, the Bidder must confirm acceptance of the technical requirements specific to the Claim Eligibility Accept/Reject Report, as detailed in Exhibit T, pages 9-10.

III. 1.8.4 Medical Bill, Pharmacy Bill, and Attachment File

The purpose of the Medical Bill, Pharmacy Bill and Attachment File process is to ensure that the Bidder electronically submits to NYSIF only those CMS 1450 (UB 04), CMS 1500 (HCFA 1500), WCB C4, WCB C4.1, WCB C4.2, WCB C4.3 and WCB C5 (billing data portion only), bill image and any attachments (commonly narrative medical reports) that are in accordance with the defined NYSIF business rules for electronic medical bill and attachment submission.

The pharmacy bill file should be created and transmitted separately from the file for other medical bills.

It is expected that the Bidder will apply a supplied set of business rules (edits) to any medical bill prior to transmission to NYSIF and will not transmit a bill to NYSIF that has failed one or more of the supplied validation rules.

NYSIF expects a minimum of two Medical Bill and Attachment files each business day. Current volume averages 50 bills per day, 1500 bills per month. Files should be compressed ("zipped"), named in accordance with NYSIF's .zip file naming conventions, and would include Medical Bill and Attachment file where the bill and associated attachments have been successfully matched to an established NYSIF claim as described in section 3.2. There should be a minimum of one attachment for each bill submitted.

If there are no records meeting the above criteria, an empty file should be transmitted.

In their response, the Bidder must:

- Confirm that the system will accept medical bills and their corresponding attachments from a registered medical provider/vendor;
- Confirm that the system will edit these medical bills and their corresponding attachments in accordance with NYSIF business rules;
- Confirm that the system will reject, with reason, any medical bill and corresponding attachment(s) that do not adhere to NYSIF business rules;
- Confirm that the medical provider will be notified within 24 hours in the event of rejection;
- Confirm that images will be created for all CMS 1450 (UB 04), CMS 1500 (HCFA 1500), WCB C4, WCB C4.1, WCB C4.2, WCB C4.3 and WCB C5 from the billing data received.
- Confirm that each medical bill image will be named using a NYSIF defined individual document image naming convention.
- Confirm that there will be one bill image for each submission.
- Confirm that the format of the billing file will be identified, CMS 1450 (UB 04), CMS 1500 (HCFA 1500), WCB C4, WCB C4.1, WCB C4.2, WCB C4.3 and WCB C5 e.g. modified NSF 2.0 format or an alternate fixed length text file;
- Confirm that the system will be monitored for performance;
- Confirm that NYSIF will be notified in the event of a system and/or transmission failure within one hour of discovery.
- Confirm that all file structures and data are validated before delivery to NYSIF.
- Confirm acceptance of the technical requirements specific to the Medical Bill, Pharmacy Bill, and attachments, as detailed in Exhibit T, pages 11-16, and 18-24.

III.1.8.5 Billing Accept/Reject Report File

The purpose of the Accept/Reject file is to ensure that NYSIF has a standard method to communicate to their E-Billing vendor any processing errors that may occur during the processing and loading of the Medical Bill and Attachment files.

The selected vendor must monitor the status of rejected bills, working with providers as necessary to correct any erroneous data that would prevent processing.

If no Accept/Reject file is received, the selected vendor must notify NYSIF within 24 hours.

In their response, the Bidder must confirm acceptance of the technical requirements specific to the Medical Bill Accept/Reject File, as detailed in Exhibit T, pages 16 - 17.

## III.2 IMPLEMENTATION REQUIREMENTS

The Bidder must respond to the implementation requirements for the E-Billing system outlined in this section. The responses should provide NYSIF with an understanding of the roles and staffing plan for all aspects of this project.

III.2.1 Proposed Implementation Team and Plan

III.2.1.1 Proposed Implementation Team

- The Bidder must designate an account manager for NYSIF. The account manager must be responsible for maintaining the business relationship. The account manger must be named in the proposal and will serve as the focal point during the negotiation and thereafter, during the term of any resulting contract.
- The Bidder must designate an IT manager for NYSIF. The IT manager must be responsible for maintaining the data processing relationship.

III.2.1.2 The Project Implementation Plan

The Bidder must submit a project plan that will be used to create a consistent and coherent management plan for the project. The plan must include sufficient detail to demonstrate that the Bidder's knowledge and approach will:

- Manage the project;
- Guide the project execution;
- Document planning assumptions and decisions;
- Facilitate communication among the stakeholders;
- Define key management review for content, scope and schedule;
- Provide a baseline for progress management and project control.

The Bidder's plan must include the following:

- Description of the project management methodology and approach;
- Scope statement that includes the project objective, deliverables and milestones;
- Work Breakdown Structure (WBS) as a baseline scope document that includes the project elements. The WBS must show a level of detail that demonstrates the Bidder's understanding of the effort required to do the work. At a minimum, the project elements must include scope definition, requirements gathering, design, development, testing, implementation, and training and transition as applicable;
- Key or required staff and their expected effort;

- High-level subsidiary project management plans to address:
  - Schedule management;
  - Quality management;
  - Staffing management;
  - Communications management;
  - Risk management.
- Bidder's proposed organization chart and management structure;
- Definition of the review processes for each milestone and deliverable and a description of how the parties will conduct communication and status review;
- Description of the issue resolution process;
- Descriptions of the approach describing how the Bidder will manage subcontractors effectively should the Bidder choose to engage subcontractors.

III.2.1.3 System Development Life Cycle (SDLC) Overview

The Bidder must indicate its SDLC phases, including the activities, milestones and deliverables associated with each phase. These phases must be consistent with the proposed Software Development Methodology (SDM) in the Bidder's response with regard to effectively plan, organize, control and manage this project. The description may define other activities or deliverables that are not identified in this IFB as project requirements but that the Bidder deems necessary and/or appropriate. If such activities are included, the Bidder must describe them in sufficient detail and explain why the Bidder recommends them. The Bidder must include key activities and details for requirements, design, development, testing, documentation and training, deployment and post-deployment.

III.2.1.4 System Requirements Affirmation

The Bidder must confirm that systems analysis techniques will be utilized to affirm the requirements identified for the project.

III.2.1.5 Design

The Bidder must clearly identify its proposed design for deliverables; include the design approach, methods, tools and techniques for completing the technical design process. The Bidder must depict the design in sufficient detail in order to allow NYSIF to verify that the design meets the requirements in the IFB.

The Bidder must demonstrate how the design will be represented, such as through written specifications, design diagrams, a system prototype, CASE tool software, etc.

At a minimum, the Bidder's design approach must include the following design phase activities:

- High level;
- Detail;
- Documentation and testing;
- Approval.

III.2.1.6 Development and Testing

The Bidder must identify the development approach, methods, tools and techniques for the development process. The Bidder must include a description of the testing strategies for unit, system, user acceptance, volume and regression testing.

III.2.1.7 System Deployment and Post-Deployment

The Bidder must identify the proposed system deployment and post-deployment approach methods, specifically the tools and techniques for:

- Monitoring and maintaining its operation;
- Timely notification of all stakeholders in the event of failure within one hour of discovering failure.
- Recreation o f files in case of technical failure (required within twenty-four hours.)

III.2.2 Project Management

III.2.2.1 Project Manager

The Bidder must designate a Project Manager (PM). NYSIF requires that the PM take responsibility for providing extensive project management and implementation services for the project. The PM is expected to guarantee the successful, timely completion of those aspects of the project over which he/she has control. The Bidder must identify the PM services to be provided and how the PM will interact with the Account and IT Managers to achieve the overall objective of the successful and timely completion of the project.

III.2.2.2 Status Reporting

The Bidder will be required to meet regularly with and provide project status to the NYSIF project team. The purpose of these status meetings is to communicate progress, identify problems, recommend courses of action and obtain approval for making changes to the project plan.

In conjunction with the project status meetings, the PM must provide written status reports to NYSIF. Information should be provided using standard MS Office tools such at Word, Excel, Visio, etc. The format of the status report will be provided by NYSIF.

III.2.2.3 Meeting Documentation

The Bidder is responsible for documenting all meetings, including attendees, topics discussed, decisions recommended or made with follow-up details. Minutes and summaries from all meetings must be provided to the NYSIF project manager within three (3) business days after the meeting.

III.2.2.4 Project Plan

Upon contract award, the Bidder will be required to meet with the NYSIF project manager to review and refine the project plan submitted with the Bidder's Final Proposal. Further work cannot occur until the NYSIF project manager has approved the revised project plan. Throughout the project, the Bidder is required to maintain a detailed project plan. As the project progresses, the NYSIF project manager and the Bidder's project manager will work together to make any adjustments to the plan.

The Bidder's project plan must include the following detail – activities, sub-activities, tasks, estimated hours of work, resources, schedule start and end dates, dependencies in the relationships of tasks and critical path.

NYSIF reserves the right to modify the proposed plan based on its evaluation of the plan or during the project.

III.2.2.5 Communication Plan

A critical component of any project is the communication plan. The plan must incorporate the Bidder's method to ensure that all stakeholders are appropriately informed of the progress throughout the life of the project.

III.2.2.6 Change Request

III.2.2.6.1 Change Request Recording

Any proposed modifications and/or functional requirements must be recorded regardless of whether the modification is implemented. Change requests will be submitted to the NYSIF project manager for consideration. The following must be captured – requestor, date of submission, description of change, evaluation date, status, if rejected, the reason for the rejection, implementation date and acceptance date.

III.2.2.6.2 Change Request Evaluation

Change request submitted to the NYSIF project managers will be reviewed and, if appropriate, forwarded to the Bidder's project manager for assessment of the effort involved to implement. No work will begin until the change is approved in writing by the NYSIF project manager.

III.2.2.6.3 Change Request Implementation and Acceptance

As change requests are developed and implemented, the work involved will be subject to the same test, review and acceptance procedures as the other project deliverables. Changes will not be considered complete until final written acceptance by and sign-off from the NYSIF project manager.

III.2.2.7 Risk Management

The Bidder must work with the NYSIF project manager to implement a risk management process that is consistent with the proposed methodology. This will ensure that risks are identified, assessed and prioritized and that mitigation activities and contingency plans are developed to address significant risks. New or outstanding issues will be reviewed at the regularly scheduled status meeting.

III.2.2.8 Quality Assurance

The Bidder must implement an effective quality assurance methodology that ensures there is a clear understanding between the software provider and the customer as to the precise requirements and the intended use of the software. The Bidder must close the gap in understanding between their products and services and the needs of the NYSIF so the software quality will be fully agreed upon by both parties early in the process. The Bidder must establish and document quality assurance and quality control procedures to monitor each facet of the project.

III.2.2.9 Deliverables

Upon commencement of the project, NYSIF and the Bidder will develop and agree upon the policies for deliverable review, including timeframes and responsibilities. NYSIF may approve, reject or request revisions to any deliverable.

III.2.2.9.1 Document Deliverables

When a deliverable is a document, it must be submitted in electronic form unless otherwise specified.

III.2.2.9.2 List of Deliverables

The Bidder must propose a comprehensive list of deliverables for the project. This list must include, but is not limited to:

| Deliverable | Description |
|---|---|
| Project Work Plan | |
| Status Report | |
| Quality Assurance Plan | |
| Communication Plan | |
| Implementation Plan/Schedule | |
| Post-Implementation Review Plan | |
| Project Final Report | |

III.2.2.9.3 Conditions for Deliverables

Prior to beginning work on any deliverable, the Bidder must submit a detailed outline, format example and descriptions of the deliverable. NYSIF will review and approve the deliverable content and format or provide any requested changes to the Bidder.

The Bidder must:

- Ensure consistency among all deliverables associated with the project and must identify which project team member will be responsible for each deliverable;
- Conduct “walk-through” meeting for team members to review deliverables to ensure accuracy, completeness and to confirm NYSIF’s understanding of the content;
- Understand that all deliverables must be approved by NYSIF before it is considered complete;
- Provide deliverables in NYSIF specified form;
- Prepare a final project report within 2 months of implementation. The report must critique the implementation, the overall effectiveness of the project and any recommendations for follow-up activities.

III.2.3 Software

III.2.3.1 Development

The Bidder must develop all software and modifications to pre-existing software in accordance with design deliverables approved by NYSIF during the design sessions. The Bidder must provide any technical training and involve the NYSIF technical staff in development discussions as needed.

III.2.3.2 Testing

The Bidder must provide a description of the overall testing strategy and methodology including the use of testing tools, if any. The Bidder must plan, document and execute comprehensive test plans including at a minimum unit, integration, system and other testing for the system components for which they are responsible.

The Bidder must develop and execute test plans that include test scenarios that will not only pass but also fail the NYSIF defined eligibility rules. A comprehensive list of test scenarios will be provided upon vendor selection; for additional detail re NYSIF testing requirements, see section B.2.3.

The Bidder will be responsible for the performance for all tests except end-to end user acceptance testing.

III.2.3.3 End-To-End User Acceptance Testing

The NYSIF team will be responsible for the scheduling and coordinating the execution of end-to-end user acceptance testing. The NYSIF team will identify and document any issues discovered during the end-to-end user acceptance test process. The Bidder will be responsible for evaluating the occurrence, documenting the cause and planned resolution, implementing the resolution, re-presenting the item to NYSIF for acceptance, and documenting the resolution of the issue and the final acceptance by NYSIF.

In support of the end-to-end user acceptance testing, the Bidder must:

- Have a dedicated test environment;
- Use NYSIF claim data to conduct testing;
- Pre-edit data to ensure that records that violate NYSIF eligibility rules are not transmitted to NYSIF.

A minimum of three consecutive end-to-end tests must be executed successfully prior to production system implementation.

There will be no more than 5 attempts for the first successful end-to-end test.

III.2.3.4 Implementation

The Bidder will work with the NYSIF technical staff to develop an implementation strategy that will minimize the risk associated with deploying systems of this size, scope and complexity.

III.2.3.5 Support Services

The Bidder must allow access to support staff provided by the Bidder. This support staff must be capable of answering questions and mitigating any issues that arise once the system is implemented.

The Bidder must respond to failures within one hour.

III.2.3.6 System Acceptance

NYSIF will accept the system 60 days after the production implementation provided the system has been error-free in the final 30 days. In the event this level was not attained due to issues for which the Bidder is responsible, NYSIF reserves the right to withhold the system acceptance until the availability level is attained over an additional 30-day period. The Bidder must attach a system acceptance plan with their proposal.

III.2.3.7 Post Implementation

Throughout the life of this contract, the vendor will proactively monitor the system to ensure the delivery of electronic billing documents, and to maintain the required and expected level of point in time accuracy with respect to bill processing. The vendor must report any technical issue, including but not limited to system failures, to NYSIF within one hour of discovery, and ensure availability of the support staff resources detailed in section 4.2.

**Five incidents of failure to comply with the requirements defined in this document or errors that remain uncorrected for 30 days may be interpreted by NYSIF as a material breach of this contract, as per Exhibit C. See "Termination of Contract (For Cause)"**

## III.3 TECHNICAL REQUIREMENTS

III.3.1 Technical Requirements Overview

The Vendor will be expected to provide error-free electronic billing information in a format and on a schedule consistent with NYSIF's proprietary systems and business needs. This expectation would include conformity to specified file formats and naming conventions, compliance with standard encryption/decryption methods and transfer protocols, and the flexibility to respond to changes in statutory and other business requirements in a timely manner.

Details of NYSIF's electronic billing technical requirements can be found in Exhibit T. The Vendor must confirm the ability to comply with these specifications. To demonstrate the ability to meet NYSIF's technical needs, and to be considered for selection, the Vendor must complete, within a specified period, three successful full test cycles. While a single failed test cycle or a slight deviation from the timeframe will not exclude a vendor from consideration, multiple failures or large deviation from the timeframe may be deemed cause for exclusion. During this testing, the Vendor shall not manipulate test files at any time. Should test file manipulation be observed, the vendor may be excluded from further consideration.

The vendor must also agree that, upon selection, and once services begin, any subsequent changes made to the vendor's own system will be preceded by timely notice to NYSIF, and the same three successful full test cycles described above, performed in a non-production environment. As stated elsewhere in this document, the vendor must have a separate test and production environment.

III.3.2 Technical Requirements Detail

Refer to Exhibit T.

# SECTION IV – CONTRACT PROVISIONS

## IV.1 CONTRACT PERIOD

This will be a bi-annual recruitment procurement, with all vendors that meet NYSIF's mandatory requirements eligible to participate. All contracts must be executed by November 30, 2020. The term of the contract will be from execution until November 30, 2021. The term of each contract awarded will be a minimum of one year. No contract will extend beyond November 30, 2021.

## IV.2 FEES

All fees are to be identified in Appendix Z. No implementation fees are permitted, and no fees are to be charged to medical providers for these services. NYSIF reserves the right to not award due to a Bidder's pricing.

## IV.3 PENALTIES

Notwithstanding any other provisions, NYSIF reserves the right to penalize the contractor including termination of the contract if the contractor fails to live up to any of the requirements of this contract.

To gain a measure of assurance that the bidder selected will comply with all the requirements of this contract, NYSIF reserves the right to invoke penalties including, but not limited to, withholding payment, in whole or in part, at NYSIF's discretion, in any case where a question of non-performance arises.

## IV.4 PERMITS AND COMPLIANCE

The contractor shall obtain, maintain and pay for all certifications, permits and licenses legally required and shall give all notices, pay all fees and comply with all laws, rules, and regulations applicable to the work at no additional cost. The Contractor must also have all local licenses and certifications to perform the work described in this IFB. Copies of all certifications, licenses, and manufacturer's authorizations must accompany the Contractor's bid.

## IV.4 SUBCONTRACTING

Prior to the commencement of the work to be performed by the successful bidder, the bidder must agree to the following provisions:

The bidder agrees not to subcontract any of its services, unless as indicated in its proposal, without the prior written approval of NYSIF. Approval shall not be unreasonably withheld upon written receipt of written request to subcontract.

The bidder may arrange for a portion/s of its responsibilities under a contract to be subcontracted to qualified, responsible subcontractors, subject to approval of NYSIF if the bidder determines to subcontract a portion of the services, the subcontractors must be clearly identified and the nature and extent of its involvement in and/or proposed performance under the contract must be fully explained by the bidder to NYSIF. As part of this explanation, the subcontractor must submit to NYSIF a completed vendor assurance of no conflict of interest or detrimental effect form- Appendix v, as required by the bidder prior to execution of a contract.

The bidder retains ultimate responsibility for all services performed under a contract.

All subcontracts shall be in writing and shall contain provisions, which are functionally identical to, and consistent with, the provisions of the contract. Unless waived in writing by NYSIF, all subcontracts between the bidder and subcontractors shall expressly name NYS, through NYSIF, as the sole intended third party beneficiary of such subcontract. NYSIF reserves the right to review and approve or reject any subcontract, as well as any amendment to said subcontract(s), and this right shall not make NYSIF or NYS a party to any subcontract or create any right, claim, or interest in the subcontractor or proposed subcontractor against NYSIF.

NYSIF reserves the right, at any time during the term of the contract, to verify that the written subcontract between the bidder and subcontractors is in compliance with all of the provisions of this section and any subcontract provisions contained in the contract.

The bidder shall give NYSIF immediate notice in writing of the initiation of any legal action or suit which relates in any way to a subcontract with a subcontractor or which may affect the performance of the bidder's duties under the contract. Any subcontract shall not relieve the bidder in any way of any responsibility, duty and/or obligation of the contract.

If at any time during performance under the contract total compensation to a subcontractor exceeds or is expected to exceed $100,000, that subcontractor shall be required to submit and certify a vendor responsibility questionnaire.

## SECTION V – ADMINISTRATIVE

### V.1 BID FORMAT

Bids are to be submitted with each numbered item listed below as a separate section. Each proposal must follow the provided format, or the bid may be deemed non-responsive. Appendices do not need to be numbered. Addenda and Technical Publications should be included at the end of the bid.

**A. Title Page and Table of Contents**

The Title Page should identify the IFB for which the proposal is being submitted; the Bidder's name, as well as the name, title, address, telephone number, and email address of the bidder's contact person(s).

Please also include the name, title, address, telephone number, and email address of the person(s) authorized to make representations for the bidder and bind the firm, if other than the contact person identified above.

The Table of Contents should identify each major (numbered) section of the proposal, per the proposal format.

**B. Bidder Certification**

Each Bidder is required to submit the Bidder Certifications form, found after Section V. of the IFB.

**C. Company Background / Technical Experience**

Provide a background description of the bidder, including, but not limited to, the date the company was organized; and, if a corporation, when and where incorporated.

Include the size and number of staff in the company. Demonstrate any prior experience in performing similar assignments and your staffing capability and competency to complete the work within established deadlines. Include the following information for the bidder and all subcontractors:

1. Name and address of bidder's firm, other affiliates, other locations.
2. Name, title, address and telephone number of primary contact person at bidder.
3. Length of time providing electronic billing services.
4. Other city, state or federal government agencies previously under contract with the bidder for the past five years.
5. Other city, state or federal government agencies currently under contract with the bidder.
6. If requested, bidder must document its ability to service a contract with dollar sales volume similar in scope to this bid through submission of financial statements documenting past sales history. The bidder must be financially stable and able to substantiate the financial statements of its company. In addition to sales history, current financial statements may be requested and must be provided within five business days. NYSIF reserves the right to request additional documentation from the bidder and to

request reports on financial stability from independent financial rating services. NYSIF reserves the right to reject any bidder who does not demonstrate financial stability sufficient for the scope of this bid.

**D. Vendor Security Survey (Appendix T)**
The Vendor Security Survey, and any substantiating documents, even if included or referenced elsewhere in a bidder's response, should be submitted as one file and labeled separately in the electronic copy.

## V.2 REQUIRED APPENDICES AND EXHIBITS

The following appendices must be completed and returned with your proposal.

- ***MacBride Questionnaire*, Appendix D**
- ***Contractor Responsibility Questionnaire*, Appendix E**
- ***Bidder Questionnaire*, Appendix F**
- ***Encouraging Use of NYS Businesses in Contract Performance*, Appendix G**
- ***Procurement Lobbying Legislation*, Appendix H**
- ***MWBE and EEO Requirements and Procedures (Forms 101 & 106)*, Exhibit M**
- ***Use of Service-Disabled Veteran-Owned Business Enterprises*, Appendix S**
- ***Vendor Security Survey*, Appendix T**
- ***Vendor Assurance of No Conflict of Interest or Detrimental Effect*, Appendix V**
- ***Fee Schedule*, Appendix Z.**

Exhibits A, B and C should be retained by the Bidder for future reference. Do not return to NYSIF as part of the bid submission.

Any other appendices or exhibits referenced in this IFB but not indicated above as being required at time of submission are included for informational purposes only. The awarded contractor(s) will be required to complete these forms prior to contract execution.

## V.3 BID SUBMISSION AND DELIVERY

**One (1) *exact* hard copies of the bid,** including **everything** (forms, text and narrative sections and **all** required attachments) are to be submitted. Submission must also include **one (1) *exact* electronic copy** (CD/DVD-rom or USB flash drive) of the bid.

The bid and all copies must be submitted in a **sealed** envelope or another container and MUST be clearly addressed as follows:

IFB 2017-34-CL, FORMAL BID
NYSIF – Procurement Unit
15 Computer Drive West
Albany, NY 12205-1690

**To be considered,** bids must be received by the date and time indicated in the *IFB Calendar*. Bidders are responsible for seeing that bids are submitted and delivered on time. Consideration will be given only to complete and timely bids. NYSIF is not responsible for delays in the U.S. Postal Service or any other courier or paid priority shipping firm. Faxed/emailed bids will **NOT** be accepted.

## V.4 NOTIFICATION OF AWARD

The results of the bid will be posted on the NYSIF procurement page. A contract of work will be offered only upon successful completion of NYSIF's approval process.

# BIDDER CERTIFICATION

***Please initial where indicated for each item. Failure to complete and return this form will result in your bid being deemed <u>non-responsive</u>.***

I. **Certifications:**

_____1. The person or persons signing below is (are) duly authorized to sign the proposal and the contract, and is (are) identified on the *Title Page*.

_____2. Bidder is willing to enter into a contractual agreement containing, at a minimum, those terms and provisions identified in this IFB. *Any exceptions to these terms and conditions must be explicitly stated in a separate section of the proposal.*

_____3. The Bidder agrees to comply with all terms of Appendix A, Standard Clauses for All NYS Contracts.

_____4. The Bidder is in compliance with or meets all Bidder Certification Requirements (Appendix B, clause 39).

_____5. The fee(s) quoted in the Fee Proposal Schedule is a firm and irrevocable offer for 180 days.

_____6. The Bidder meets or exceeds all Mandatory Bidder Qualifications and has provided evidence of such in its bid/proposal.

_____7. The Bidder understands the work to be done, and is committed to performing the work as expeditiously as possible.

II. **Freedom of Information Law (FOIL):**

Please indicate whether you believe that any of the information supplied herein constitutes a trade secret or that disclosure of the information would cause substantial injury to the Bidder's competitive position and should be exempt from disclosure under the Freedom of Information Law (see Appendix B, clause 15 for additional information):

☐ No ☐ Yes

III. **Non-collusion:**

_____ I hereby attest that I am the person responsible within my firm for the final decision as to the price(s) and amount of this bid or, if not, that I have written authorization, enclosed herewith, from that person to make the statements set out below on his or her behalf and on behalf of my firm:

_____1. The price(s) and amount of this bid have been arrived at independently, without consultation, communication or agreement for the purpose of restricting competition with any other contractor, bidder or potential bidder.

_____ 2. Neither the price(s) nor the amount of this bid have been disclosed to any other firm or person who is a bidder or potential bidder on this project, and will not be disclosed prior to bid opening.

_____3. No attempt has been made nor will be made to solicit, cause or induce any firm or person to refrain from bidding on this project, or to submit a bid higher than the bid of this firm, or any intentionally high or non-competitive bid, or other form of complementary bid.

_____4. The bid of my firm is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary bid.

_____5. My firm has not offered nor entered into a subcontract or agreement regarding the purchase of materials or services from any firm or person, or offered, promised or paid cash or anything of value to any firm or person, whether in connection with this or any other project, in consideration for an agreement or promise by any firm or person to refrain from bidding or to submit a complementary bid on this project.

_____6. My firm has not accepted nor been promised any subcontract or agreement regarding the sale of materials or services to any firm or person, and has not been promised or paid cash or anything of value by any firm or person, whether in connection with this or any other project, in consideration for my firm's submitting a complementary bid, or agreeing to do so, on this project.

_____7. I have made a diligent inquiry of all members, officers, employees and agents of my firm with responsibilities relating to the preparation, approval or submission of my firm's bid on this project and have been advised by each of them that he or she has not participated in any communication, consultation, discussion, agreement, collusion, act or other conduct inconsistent with any of the statements and representations made in this affidavit.

**Conflicts of Interest:**

_____1. Bidder has provided "Appendix V – Vendor Assurance of No Conflict of Interest or Detrimental Effect", signed by an authorized executive or legal representative attesting that the Bidder's performance of the services does not and will not create a conflict of interest with, nor position Bidder to breach any other contract currently in force with, the State of New York, and that Bidder will not act in any manner that is detrimental to any State of New York project on which Bidder is rendering services.

_____2. Bidder hereby reaffirms the attestations made in its proposal and covenants, and represents that there is and shall be no actual or potential conflict of interest that could prevent Bidder's satisfactory or ethical performance of duties required to be performed pursuant to the terms of the IFB or subsequent Contract. Bidder shall have a duty to notify NYSIF immediately of any actual or potential conflicts.

_____3. In conjunction with any subcontract under this IFB or subsequent Contract, the Bidder shall obtain and deliver to NYSIF, prior to entering into a subcontract, an "Appendix V- Vendor Assurance of No Conflict of Interest or Detrimental Effect", signed by an authorized executive or legal representative of the subcontractor. Bidder shall also require in any subcontracting agreement that the subcontractor, in conjunction with any further subcontracting agreement, obtain and deliver to NYSIF a signed and completed Appendix V for each of its subcontractors prior to entering into a subcontract.

_____4. NYSIF and Bidder recognize that conflicts may occur in the future because the Bidder may have existing, or may establish new relationships. The NYSIF will review the nature of any relationships and reserves the right to terminate any contract for any reason, or for cause, if, in the judgement of NYSIF, a real or potential conflict of interest cannot be cured.

_____5. Bidder must disclose any existing or contemplated relationship with any other person or entity, including relationships with any of its members, shareholders of 5% or more, parents, subsidiary, or affiliated firm, which would constitute an actual or potential conflict of interest or appearance of impropriety, relating to other clients/customers of the Respondent or former officers and employees of the NYSIF, in connection with your rendering services enumerated in this IFB. If a conflict does or might exist, please describe how your firm would eliminate or prevent it. Indicate in the bid what procedures will be followed to detect, notify the NYSIF of, and resolve such conflicts.

_____6. Bidder must disclose whether it, or any of its members, shareholders of 5% or more, parents, affiliates, or subsidiaries, have been the subject of any investigation or disciplinary action by the New York State Commission on Public Integrity or its predecessor State entities (collectively, "Commission") and, if so, a brief description must be included indicating how any matter before the Commission was resolved or whether it remains unresolved.

**Public Officers Law:**

_____1. As, as a general rule and in accordance with New York Public Officers law, former employees of NYSIF may neither appear nor practice before NYSIF, nor receive compensation for services rendered on a matter before NYSIF, for a period of two years following their separation from NYSIF. In addition, former NYSIF are subject to a "lifetime bar" from appearing before NYSIF receiving compensation for services regarding any transaction in which they personally participated or which was under their active consideration during their tenure with NYSIF.

_____2. Bidder and its Subcontractors shall not engage any person who is, or has been at any time, in the employ of the State to perform services in violation of the provisions of the New York Public Officers Law; other laws applicable to the service of State employees; and the rules, regulations, opinions, guidelines or policies promulgated or issued by the New York State Joint Commission on Public Ethics, or its predecessors (collectively, the "Ethics Requirements"). Bidder certifies that all of its employees and those of its Subcontractors who are former employees of the State and who are assigned to perform services under this IFB or subsequent contract shall be assigned in accordance with all Ethics Requirements. During the Term, no person who is employed by Bidder or is Subcontractors and who is disqualified from providing services under the IFB or subsequent contract pursuant to any Ethics Requirements may share in any net revenues of the Contractor or its Subcontractors derived from a Contract. Bidder shall identify and provide the State with notice of those employees of Bidder and its Subcontractors who are former employees of the State that will be assigned to perform services under this IFB or subsequent Contract, and make sure that such employees comply with all applicable laws and prohibitions. The State may request that Bidder provide it with whatever information that State deems appropriate about each such person's engagement, work cooperatively with the State to solicit advice from the New York State Joint Commission on Public Ethics, and, if deemed appropriate by the State, instruct any such person to seek the opinion of the New York State Joint Commission on Public Ethics. The State shall have the right to withdraw or withhold approval of any Subcontractor if utilizing such Subcontractor for any work performed hereunder would be conflict with any of the Ethics Requirements. The State shall have the right to terminate the Contract at any time if any work performed hereunder is in conflict with any of the Ethics Requirements.

**Subcontracting:**

_____1. Bidder agrees not to subcontract any of its services, unless, as indicated in its proposal, without the prior written approval of NYSIF.

# BIDDER CERTIFICATION

**Signature**

**Typed Name**

**Company Position**

**Company Name**

**Date Signed**

**Sworn to before me this**

**_____Day of_____, 20___**

**Notary Public**

# NYSIF EXHIBIT A

# STANDARD CLAUSES

PLEASE RETAIN THIS DOCUMENT FOR FUTURE REFERENCE.

January 2014

## TABLE OF CONTENTS


| | | Page |
|---|---|---|
| 1. | Executory Clause | 3 |
| 2. | Non-Assignment Clause | 3 |
| 3. | Workers' Compensation Benefits | 3 |
| 4. | Non-Discrimination Requirements | 3 |
| 5. | Wage and Hours Provisions | 3 |
| 6. | Non-Collusive Bidding Certification | 4 |
| 7. | International Boycott Prohibition | 4 |
| 8. | Set-Off Rights | 4 |
| 9. | Records | 4 |
| 10. | Identifying Information and Privacy Notification | 4 |
| 11. | Equal Employment Opportunities For Minorities and Women | 4-5 |
| 12. | Conflicting Terms | 5 |
| 13. | Governing Law | 5 |
| 14. | Late Payment | 5 |
| 15. | No Arbitration | 5 |
| 16. | Service of Process | 5 |
| 17. | Prohibition on Purchase of Tropical Hardwoods | 5-6 |
| 18. | MacBride Fair Employment Principles | 6 |
| 19. | Omnibus Procurement Act of 1992 | 6 |
| 20. | Reciprocity and Sanctions Provisions | 6 |
| 21. | Compliance with New York State Information Security Breach and Notification Act | 6 |
| 22. | Compliance with Consultant Disclosure Law | 6 |
| 23. | Procurement Lobbying | 7 |
| 24. | Certification of Registration to Collect Sales and Compensating Use Tax by Certain State Contractors, Affiliates and Subcontractors | 7 |
| 25. | Iran Divestment Act | 7 |

## 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. 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.

**4. 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.

**5. 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.

**6. 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.

**7. 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).

**8. 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.

**9. 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.

**10. 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.

**11. 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.

**12. 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 Exhibit A, the terms of this Exhibit A shall control.

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

**14. 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.

**15. 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.

**16. 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.

**17. 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.

**18. 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.

**19. 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.

**20. 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.

**21. 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).

**22. 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.

**23. 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.

**24. 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.

**25. 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.

# NYSIF EXHIBIT B

# GENERAL SPECIFICATIONS

**PLEASE RETAIN THIS DOCUMENT FOR FUTURE REFERENCE**

# TABLE OF CONTENTS

**GENERAL** ..... 2
**APPLICABILITY** ..... 2
**GOVERNING LAW** ..... 2
**ETHICS COMPLIANCE** ..... 2
**CONFLICT OF TERMS** ..... 2
**BID SUBMISSION** ..... 2
**NOTIFICATION TO ALL BIDDERS** ..... 2
**INTERNATIONAL BIDDING** ..... 2
**BID OPENING** ..... 2
**BID SUBMISSION** ..... 2
**LATE BIDS** ..... 3
**BID CONTENTS** ..... 3
**ERRORS AND OMISSIONS** ..... 3
**EXTRANEOUS TERMS** ..... 3
**CONFIDENTIAL/TRADE SECRET MATERIALS** ..... 4
**RELEASE OF BID EVALUATION MATERIALS** ..... 4
**FREEDOM OF INFORMATION LAW** ..... 4
**PREVAILING WAGE RATES - PUBLIC WORKS AND BUILDING SERVICES CONTRACTS** ..... 4
**TAXES** ..... 5
**EXPENSES PRIOR TO CONTRACT EXECUTION** ..... 6
**ADVERTISING RESULTS** ..... 6
**PRODUCT REFERENCES** ..... 6
**REMANUFACTURED, RECYCLED, RECYCLABLE OR RECOVERED MATERIALS** ..... 6
**WARRANTIES** ..... 6
**PRODUCTS MANUFACTURED IN PUBLIC INSTITUTIONS** ..... 8
**PRICING** ..... 8
**DRAWINGS** ..... 8
**SITE INSPECTION** ..... 9
**SAMPLES** ..... 9
**BID EVALUATION** ..... 9
**BID EVALUATION** ..... 9
**CONDITIONAL BID** ..... 9
**CLARIFICATIONS / REVISIONS** ..... 10
**PROMPT PAYMENT DISCOUNTS** ..... 10
**EQUIVALENT OR IDENTICAL BIDS** ..... 10
**PERFORMANCE AND RESPONSIBILITY QUALIFICATIONS** ..... 10
**DISQUALIFICATION FOR PAST PERFORMANCE AND FINDINGS OF NON-RESPONSIBILITY** ..... 10
**QUANTITY CHANGES PRIOR TO AWARD** ..... 10
**TIMEFRAME FOR OFFERS** ..... 10
**ADMINISTRATIVE** ..... 10
**NYSIF PREROGATIVES** ..... 11
**NEW YORK STATE PROCUREMENT RIGHTS** ..... 13
**BIDDER CERTIFICATION REQUIREMENTS** ..... 13
**PARTICIPATION OF NYS BUSINESS ENTERPRISES** ..... 14
**DEBRIEFING** ..... 15
**NYSIF'S VENDOR PROTEST PROCEDURE** ..... 15

## GENERAL

### 1. APPLICABILITY

The terms and conditions set forth in this NYSIF Exhibit B are expressly incorporated in and applicable to the resulting procurement contracts let by NYSIF where incorporated by reference in its Bid Documents. Captions are intended as descriptive and are not intended to limit or otherwise restrict the terms and conditions set forth herein.

### 2. GOVERNING LAW

This procurement, the resulting contract and any purchase orders issued hereunder shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise, and actions or proceedings arising from the contract shall be heard in a court of competent jurisdiction in the State of New York.

### 3. ETHICS COMPLIANCE

All Bidders/Contractors and their employees must comply with the requirements of Sections 73 and 74 of the Public Officers Law, other State codes, rules, regulations and executive orders establishing ethical standards for the conduct of business with New York State. In signing the Bid, Bidder certifies full compliance with those provisions for any present or future dealings, transactions, sales, contracts, services, offers, relationships, etc., involving New York State and/or its employees. Failure to comply with those provisions may result in disqualification from the Bidding process, termination of contract, and/or other civil or criminal proceedings as required by law.

### 4. CONFLICT OF TERMS

Unless otherwise set forth in the procurement or contract documents, conflicts among documents shall be resolved in the following order of precedence:

**a.** **NYSIF Exhibit A** Standard Clauses

**b.** **Contract and other writing(s)** setting forth the final agreements, clarifications and terms between the Bid Documents and Contractor's Bid. Clarifications must be specifically noted in writing as to what was offered by the Contractor and what was accepted by the State. If not, such clarifications shall be considered last in the order of precedence under this paragraph.

**c.** **Bid Documents** (Other than Appendix A).

**d.** **NYSIF Exhibit B** (General Specifications).

**e.** **Contractor's Bid or Proposal**.

## BID SUBMISSION

### 5. NOTIFICATION TO ALL BIDDERS

NYSIF is responsible for providing addenda or responding to questions from prospective Bidders. If it is necessary to revise the Bid Documents before the due date for bids, amendments will be posted on NYSIF's website: www.nysif.com/procurement.

By submitting a bid, Bidders are certifying they are qualified to perform the proposed work. Bidders shall have the necessary staff, equipment, compliance, etc. as set forth in the Bid Documents.

### 6. INTERNATIONAL BIDDING

All offers (tenders), and all information and Product required by the solicitation or provided as explanation thereof, shall be submitted in English. All prices shall be expressed, and all payments shall be made, in United States Dollars ($US). Any offers (tenders) submitted which do not meet the above criteria will be rejected.

### 7. BID OPENING

Bids may, as applicable, be opened publicly. NYSIF reserves the right at any time to postpone or cancel a scheduled Bid opening.

### 8. BID SUBMISSION

All Bids are to be packaged, sealed and submitted to the location stated in the Bid Specifications. Bidders are solely responsible for timely delivery of their Bids to the location set forth in the Bid Specifications prior to the stated Bid opening date and time.

In the event that a Bidder fails to provide such information on the return Bid envelope or shipping material, the receiving entity reserves the right to open the shipping package or envelope to determine the proper Bid number or Product group, and the date and time of Bid opening. Bidder shall have no claim against the receiving entity arising from such opening and such opening shall not affect the validity of the Bid or the procurement.

Notwithstanding the receiving agency's right to open a Bid to ascertain the foregoing information, Bidder assumes all risk of late delivery associated with the Bid not being identified, packaged or labeled in accordance with the foregoing requirements.

All Bids must be signed by a person authorized to commit the Bidder to the terms of the Bid Documents and the content of the Bid (offer).

## 9. LATE BIDS

For purposes of Bid openings held and conducted by NYSIF, a Bid must be received in such place as may be designated in the Bid Documents at or before the date and time established in the Bid Specifications for the Bid opening.

Any Bid received at the specified location after the time specified will be considered a late Bid. A late Bid shall not be considered for award unless: (i) no timely Bids meeting the requirements of the Bid Documents are received or, (ii) in the case of a multiple award, an insufficient number of timely Bids were received to satisfy the multiple awards; and acceptance of the late Bid is in the best interests of NYSIF. Bids submitted for continuous or periodic recruitment contract awards must meet the submission requirements associated with their specifications. Delays in United States mail deliveries or any other means of transmittal, including couriers or agents of NYSIF shall not excuse late Bid submissions. Similar types of delays, including but not limited to, bad weather or security procedures for parking and building admittance shall not excuse late Bid submissions. Determinations by NYSIF relative to Bid timeliness shall be final.

## 10. BID CONTENTS

Bids must be complete and legible. All Bids must have original signatures. All information required by the Bid Specifications must be supplied by the Bidder on the forms or in the format specified. No alteration, erasure or addition is to be made to the Bid Documents. Changes may be ignored by NYSIF or may be grounds for rejection of the Bid. Changes, corrections and/or use of white-out in the Bid or Bidder's response portion of the Bid Document must be initialed by an authorized representative of the Bidder. Bidders are cautioned to verify their Bids before submission, as amendments to Bids or requests for withdrawal of Bids received by NYSIF after the time specified for the Bid opening, will not be considered.

## 11. ERRORS AND OMISSIONS

If a Bidder discovers any ambiguity, conflict, discrepancy, omission or other error in Bid Documents, immediately notify one of the Designated Contacts of such error and request the clarification or modification thereof. Notice to NYSIF of any problems described above must be made in writing and received at NYSIF on or before the date and time shown as the final date for Bidder inquiries. Any modifications deemed necessary by NYSIF shall be given by written notice and posted on NYSIF's Procurement website (www.nysif.com/procurement).

If prior to the final filing date for submission of a bid, a Bidder fails to notify NYSIF of a known error or an error that reasonably should have been known, the Bidder shall assume the risk. If awarded the contract, the Bidder shall not be entitled to additional compensation or time by reason of the error or its late correction.

## 12. EXTRANEOUS TERMS

Bids must conform to the terms set forth in the Bid Documents, as extraneous terms or material deviations (including additional, inconsistent, conflicting or alternative terms) may render the Bid non-responsive and may result in rejection of the Bid.

<u>Extraneous term(s) submitted on standard, pre-printed forms (including but not limited to: product literature, order forms, license agreements, contracts or other documents) that are attached or referenced with submissions shall not be considered part of the Bid or resulting Contract, but shall be deemed included for informational or promotional purposes only.</u>

Only those extraneous terms that meet all the following requirements may be considered as having been submitted as part of the Bid:

**a.** Each proposed extraneous term must be specifically enumerated in the "Comments and Limitations" section of the proposer's bid response; and

**b.** The Bidder must identify the particular specification requirement (if any) that Bidder rejects or proposes to modify by inclusion of the extraneous term; and

**c.** The Bidder shall enumerate the proposed addition, deletion, counter-offer, modification or deviation from the Bid Document, and the reasons therefore.

No extraneous term(s), whether or not deemed "material," shall be incorporated into a Contract or Purchase Order unless submitted in accordance with the above and NYSIF expressly accepts each such term(s) in writing. Acceptance and/or processing of the Bid shall not constitute such written acceptance of Extraneous Term(s).

## 13. CONFIDENTIAL/TRADE SECRET MATERIALS

Trade secret or proprietary materials as defined by the laws of the State of New York must be clearly marked and identified as such upon submission by the Bidder. Marking the Bid as "confidential" or "proprietary" on its face or in the document header or footer shall not be considered by NYSIF to be sufficient without specific justification as to why disclosure of particular information in the Bid would cause substantial injury to the competitive position of the Bidder. Bidders/Contractors intending to seek an exemption from disclosure of these materials under the Freedom of Information Law must request the exemption in writing at the time of bid submission, setting forth the reasons for the claimed exemption. Acceptance of the claimed materials does not constitute a determination on the exemption request, which determination will be made in accordance with statutory procedures. Properly identified information that has been designated confidential, trade secret, or proprietary by the Bidder will not be disclosed except as may be required by the Freedom of Information Law or other applicable State and federal laws.

Contractor further warrants, covenants and represents that any confidential information obtained by Contractor, its agents, Subcontractors, officers, distributors, resellers or employees in the course of performing its obligations, including without limitation, security procedures, business operations information, or commercial proprietary information in the possession of the State or NYSIF hereunder or received from another third party, will not be divulged to any third parties. Contractor shall not be required to keep confidential any such material that is publicly available through no fault of Contractor, independently developed by Contractor without reliance on confidential information of NYSIF, or otherwise obtained under the Freedom of Information Act or other applicable New York State laws and regulations. This warranty shall survive termination of this Contract. Contractor further agrees to take appropriate steps as to its agents, Subcontractors, officers, distributors, resellers or employees regarding the obligations arising under this clause to insure such confidentiality.

## 14. RELEASE OF BID EVALUATION MATERIALS

Requests concerning the evaluation of Bids may be submitted under the Freedom of Information Law. Information, other than statistical or factual tabulations or data such as the Bid Tabulation, shall only be released as required by law after Contract award. Bid Tabulations are not maintained for all procurements. Names of Bidders may be disclosed after Bid opening upon request. Written requests should be directed to contracts@nysif.com.

## 15. FREEDOM OF INFORMATION LAW

During the evaluation process, the content of each Bid will be held in confidence and details of any Bid will not be revealed (except as may be required under the Freedom of Information Law or other State law). The Freedom of Information Law provides for an exemption from disclosure for trade secrets or information the disclosure of which would cause injury to the competitive position of commercial enterprises. This exception would be effective both during and after the evaluation process. If the Bid contains any such trade secret or proprietary information, a written request to NYSIF to not disclose such information must accompany the Bid.. Such request must state with particularity the reasons why the information should not be available for disclosure and must be provided at the time of submission of the Bid. Notations in the header, footer or watermark of the Bid Document will not be considered sufficient to constitute a request for non-disclosure of trade secret or proprietary information. Where a Freedom of Information request is made for a trade secret or proprietary information, NYSIF reserves the right to determine upon written notice to the Bidder whether such information qualifies for the exemption for disclosure under the law. Notwithstanding the above, where a Bid tabulation is prepared and Bids publicly opened, such Bid tabulation shall be available upon request.

## 16. PREVAILING WAGE RATES - PUBLIC WORKS AND BUILDING SERVICES CONTRACTS

If any portion of work being Bid is subject to the prevailing wage rate provisions of the Labor Law, the following shall apply:

**a.** **"Public Works" and "Building Services" - Definitions**

**i.** **Public Works** Labor Law Article 8 applies to contracts for public improvement in which laborers, workers or mechanics are employed on a "public works" project (distinguished from public "procurement" or "service" contracts). The State, a public benefit corporation, a municipal corporation (including a school district), or a commission appointed by law must be a party to the Contract. The wage and hours provision applies to any work performed by Contractor or Subcontractors.

**ii.** **Building Services** Labor Law Article 9 applies to Contracts for building service work over $1,500 with a public agency, that: (i) involve the care or maintenance of an existing building, or (ii) involve the transportation of office furniture or

equipment to or from such building, or (iii) involve the transportation and delivery of fossil fuel to such building, and (iv) the principal purpose of which is to furnish services through use of building service employees.

**b.** **Prevailing Wage Rate Applicable to Bid Submissions** A copy of the applicable prevailing wage rates to be paid or provided are annexed to the Bid Documents. Bidders must submit Bids which are based upon the prevailing hourly wages, and supplements in cash or equivalent benefits (i.e., fringe benefits and any cash or non-cash compensation which are not wages, as defined by law) that equal or exceed the applicable prevailing wage rate(s) for the location where the work is to be performed. Bidders may not submit Bids based upon hourly wage rates and supplements below the applicable prevailing wage rates as established by the New York State Department of Labor. Bids that fail to comply with this requirement will be disqualified.

**c.** **Wage Rate Payments / Changes During Contract Term** The wages to be paid under any resulting Contract shall not be less than the prevailing rate of wages and supplements as set forth by law. It is required that the Contractor keep informed of all changes in the Prevailing Wage Rates during the Contract term that apply to the classes of individuals supplied by the Contractor on any projects resulting from this Contract, subject to the provisions of the Labor Law. Contractor is solely liable for and must pay such required prevailing wage adjustments during the Contract term as required by law.

**d.** **Public Posting & Certified Payroll Records** In compliance with Article 8, Section 220 of the New York State Labor Law:

**i.** **Posting** The Contractor must publicly post on the work site, in a prominent and accessible place, a legible schedule of the prevailing wage rates and supplements.

**ii.** **Payroll Records** Contractors and Subcontractors must keep original payrolls or transcripts subscribed and affirmed as true under the penalties of perjury as required by law. For public works contracts over $25,000 where the Contractor maintains no regular place of business in New York State, such records must be kept at the work site. For building services contracts, such records must be kept at the work site while work is being performed.

**iii.** **Submission of Certified Payroll Transcripts for Public Works Contracts Only** Contractors and Subcontractors on public works projects must submit monthly payroll transcripts to NYSIF that has prepared or directs the preparation of the plans and specifications for a public works project, as set forth in the Bid Specifications. For Mini-Bid solicitations, the payroll records must be submitted to the entity preparing the agency Mini-Bid project specification. For "agency specific" Bids, the payroll records should be submitted to the entity issuing the purchase order. For all other OGS Centralized Contracts, such records should be submitted to the individual agency issuing the purchase order(s) for the work. Upon mutual agreement of the Contractor and NYSIF, the form of submission may be submitted in a specified disk format acceptable to the Department of Labor provided: 1) the Contractor/Subcontractor retains the original records; and, (2) an original signed letter by a duly authorized individual of the Contractor or Subcontractor attesting to the truth and accuracy of the records accompanies the disk. This provision does not apply to Article 9 of the Labor Law building services contracts.

**iv.** **Records Retention** Contractors and Subcontractors must preserve such certified transcripts for a period of three years from the date of completion of work on the awarded contract.

**Day's Labor** Eight hours shall constitute a legal day's work for all classes of employees in this state except those engaged in farm and domestic service unless otherwise provided by law.

No laborers, workmen or mechanics in the employ of the Contractor, Subcontractor or other person doing or contracting to do all or part of the work contemplated by the Contract shall be permitted or required to work more than eight hours in any one calendar day or more than five calendar days in any one week except in cases of extraordinary emergency including fire, flood or danger to life or property. "Extraordinary emergency" shall be deemed to include situations in which sufficient laborers, workers and mechanics cannot be employed to carry on public work expeditiously as a result of such restrictions upon the number of hours and days of labor and the immediate commencement or prosecution or completion without undue delay of the public work is necessary, in the judgment of the NYS Commissioner of Labor, for the preservation of the Contract site or for the protection of the life and limb of the persons using the Contract site.

## 17. TAXES

**a.** Unless otherwise specified in the Bid Specifications or Contract, the quoted Bid price includes all taxes applicable to the transaction.

**b.** Purchases made by NYSIF are exempt from New York State and local sales taxes and, with certain exceptions, federal excise taxes. To satisfy the requirements of the New York State Sales tax exemption, either the Purchase Order issued by NYSIF or the invoice forwarded to authorize payment for such purchases will be sufficient evidence that the sale by the Contractor was made to the State, an exempt organization under Section 1116 (a) (1) of the Tax Law. No person, firm or corporation is, however, exempt from paying the State Truck Mileage and Unemployment Insurance or Federal Social Security taxes, which remain the sole responsibility of the Bidder/Contractor.

**c.** Pursuant to Revised Tax Law 5-a, Contractor will be required to furnish sales tax certification on its behalf and for its affiliates, and subcontractors for Contracts with a value greater than $100,000 in accordance with provisions of the law.

**18. EXPENSES PRIOR TO CONTRACT EXECUTION**

NYSIF is not liable for any costs incurred by a Vendor, Bidder or Contractor in the preparation and production of a Bid, Mini-Bid or best-and-final offers or for any work performed prior to Contract execution.

**19. ADVERTISING RESULTS**

The prior written approval of NYSIF is required in order for results of the Bid to be used by the Contractor as part of any commercial advertising. The Contractor shall also obtain the prior written approval of NYSIF relative to the Bid or Contract for press or other media releases.

**20. PRODUCT REFERENCES**

**a.** "**Or Equal**" In all Bid Specifications the words "or equal" are understood to apply where a copyrighted, brand name, trade name, catalog reference, or patented Product is referenced. References to such specific Product are intended as descriptive, not restrictive, unless otherwise stated. Comparable Product will be considered if proof of compatibility is provided, including appropriate catalog excerpts, descriptive literature, specifications and test data, etc. NYSIF's decision as to acceptance of the Product as equal shall be final.

**b.** **Discrepancies in References** In the event of a discrepancy between the model number referenced in the Bid Specifications and the written description of the Products which cannot be reconciled, with respect to such discrepancy, then the written description shall prevail.

**21. REMANUFACTURED, RECYCLED, RECYCLABLE OR RECOVERED MATERIALS**

Upon the conditions specified in the Bid Specifications and in accordance with the laws of the State of New York, Contractors are encouraged to use recycled, recyclable or recovered materials in the manufacture of Products and packaging to the maximum extent practicable without jeopardizing the performance or intended end use of the Product or packaging unless such use is precluded due to health, welfare, safety requirements or in the Bid Specifications. Contractors are further encouraged to offer remanufactured Products to the maximum extent practicable without jeopardizing the performance or intended end use of the Product and unless such use is precluded due to health, welfare, safety requirements or by the Bid Specifications. Where such use is not practical, suitable, or permitted by the Bid Specifications, Contractor shall deliver new materials in accordance with the "Warranties" set forth below.

Items with recycled, recyclable, recovered, refurbished or remanufactured content must be identified in the Bid or Bidder will be deemed to be offering new Product.

**22. WARRANTIES**

Where Contractor, product manufacturer or service provider generally offers additional or more advantageous warranties than set forth below, Contractor shall offer or pass through any such warranties to NYSIF. Contractor hereby warrants and represents:

**a.** **Product Performance** Contractor warrants and represents that Products delivered pursuant to this Contract conform to the manufacturer's specifications, performance standards and documentation, and the documentation fully describes the proper procedure for using the Products.

**b.** **Title and Ownership Warranty** Contractor warrants, represents and conveys (i) full ownership, clear title free of all liens, or (ii) the right to transfer or deliver perpetual license rights to any Products transferred to NYSIF under this Contract. Contractor shall be solely liable for any costs of acquisition associated therewith. Contractor fully indemnifies the NYSIF for any loss, damages or actions arising from a breach of said warranty without limitation.

**c.** **Contractor Compliance** Contractor represents and warrants to pay, at its sole expense, for all applicable permits, licenses, tariffs, tolls and fees to give all notices and comply with all laws, ordinances, rules and regulations of any governmental entity in conjunction with the performance of obligations under the Contract. Prior to award and during the Contract term and any renewals thereof, Contractor must establish to the satisfaction of the Commissioner that it meets or exceeds all requirements of the Bid/Contract and any applicable laws, including but not limited to, permits, insurance coverage, licensing, proof of coverage for worker's compensation and disability denefits (form C-105.2 and form DB-120.1, respectively), and shall provide such proof as required by the Commissioner. Failure to do so may constitute grounds for the Commissioner to cancel or suspend this Contract, in whole or in part, or to take any other action deemed necessary by the Commissioner.

**d.** **Product Warranty** Unless recycled or recovered materials are available in accordance with the "Recycled or Recovered Materials" clause herein, Product offered shall be standard new equipment, current model or most recent release of regular stock product with all parts regularly used with the type of equipment offered; and no attachment or part has been substituted or applied contrary to the manufacturer's recommendations and standard practice.

Contractor further warrants and represents that components or deliverables specified and furnished by or through Contractor shall individually, and where specified and furnished as a system, be substantially uninterrupted or error-free in operation and guaranteed against faulty material and workmanship for the warranty period, or for a minimum of one (1) year from the date of acceptance, whichever is longer ("Project warranty period"). During the Project warranty period, defects in the materials or workmanship of components or deliverables specified and furnished by or through Contractor shall be repaired or replaced by Contractor at no cost or expense to NYSIF. Contractor shall extend the Project warranty period for individual component(s), or for the System as a whole, as applicable, by the cumulative period(s) of time, after notification, during which an individual component or the System requires servicing or replacement (down time) or is in the possession of the Contractor, its agents, officers, Subcontractors, distributors, resellers or employees ("extended warranty").

Where Contractor, the Independent Software Vendor ("ISV"), or other third party manufacturer markets any Project Deliverable delivered by or through Contractor with a standard commercial warranty, such standard warranty shall be in addition to, and not relieve the Contractor from, Contractor's warranty obligations during the project warranty and extended warranty period(s). Where such standard commercial warranty covers all or some of the Project warranty or extended warranty period(s), Contractor shall be responsible for the coordination during the Project warranty or extended warranty period(s) with ISV or other third party manufacturer(s) for warranty repair or replacement of ISV or other third party manufacturer's Product.

Where Contractor, ISV or other third party manufacturer markets any Project Deliverable with a standard commercial warranty which goes beyond the Project warranty or extended warranty period(s), Contractor shall notify NYSIF and pass through the manufacturer's standard commercial warranty to NYSIF at no additional charge; provided, however, that Contractor shall not be responsible for coordinating services under the third party extended warranty after expiration of the Project warranty and extended warranty period(s).

**e.** **Replacement Parts Warranty** If during the regular or extended warranty period's faults develop, the Contractor shall promptly repair or, upon demand, replace the defective unit or component part affected. All costs for labor, material and transportation incurred to repair or replace defective Product during the warranty period shall be borne solely by the Contractor, and the State or NYSIF shall in no event be liable or responsible for such costs.

Any part of component replaced by the Contractor under the Contract warranty shall be replaced at no cost to NYSIF and guaranteed for the greater of: a) the warranty period under paragraph (d) above; or b) if a separate warranty for that part or component is generally offered by the manufacturer, the standard commercial warranty period offered by the manufacturer for the individual part or component.

**f.** **Virus Warranty** The Contractor represents and warrants that Licensed Software contains no known viruses. Contractor is not responsible for viruses introduced at Licensee's site.

**g.** **Date/Time Warranty** Contractor warrants that Product(s) furnished pursuant to this Contract shall, when used in accordance with the Product documentation, be able to accurately process date/time data (including, but not limited to, calculating, comparing, and sequencing) transitions, including leap year calculations. Where a Contractor proposes or an acquisition requires that specific Products must perform as a package or system, this warranty shall apply to the Products as a system.

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

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

**h.** **Workmanship Warranty** Contract warrants that all components or deliverables specified and furnished by or through Contractor under the Project Definition/Work Order meet the completion criteria set forth in the Project Definition/Work Order and any subsequent statement(s) of work, and that services will be provided in a workmanlike manner in accordance with industry standards.

**i.** **Survival of Warranties** All warranties contained in this Contract shall survive the termination of this Contract.

**23. PRODUCTS MANUFACTURED IN PUBLIC INSTITUTIONS**

Bids offering Products that are manufactured or produced in public institutions will be rejected.

**24. PRICING**

**a.** **Unit Pricing** If required by the Bid Specifications, the Bidder should insert the price per unit specified and the price extensions in decimals, not to exceed four places for each item unless otherwise specified, in the Bid. In the event of a discrepancy between the unit price and the extension, the unit price shall govern unless, in the sole judgment of NYSIF, such unit pricing is obviously erroneous.

**b.** **Net Pricing** Unless otherwise required by the Bid Specifications, prices shall be net, including transportation, customs, tariff, delivery and other charges fully prepaid by the Contractor to the destination(s) indicated in the Bid Specifications, subject to the cash discount.

**c.** **"No Charge" Bid** When Bids are requested on a number of Products as a Group or Lot, a Bidder desiring to Bid "no charge" on a Product in the Group or Lot must clearly indicate such. Otherwise, such Bid may be considered incomplete and be rejected, in whole or in part, at the discretion of NYSIF.

**d.** **Third Party Financing** If Product acquisitions are financed through any third party financing, Contractor may be required as a condition of Contract Award to agree to the terms and conditions of a "Consent & Acknowledgment Agreement" in a form acceptable to NYSIF.

**e.** **Best Pricing Offer** During the Contract term, if substantially the same or a smaller quantity of a Product is sold by the Contractor outside of this Contract upon the same or similar terms and conditions as that of this Contract at a lower price to a federal, state or local governmental entity, the price under this Contract, at the discretion of NYSIF, shall be immediately reduced to the lower price.

**f.** **Price Decreases** Price decreases shall take effect automatically during the Contract term and apply to Purchase Orders submitted on or after:

**i.** **GSA Changes**: Where NYS Net Prices are based on an approved GSA Schedule, the date the approved GSA Schedule pricing decreases during the Contract term; or

**ii.** **Commercial Price List Reductions**: Where NYS Net Prices are based on a discount from Contractor's list prices, the date Contractor lowers its pricing to its customers generally or to similarly situated government customers during the Contract term; or

Unless otherwise specified in the Bid Specifications, Contractor may offer lower prices or better terms (see Modification of Contract Terms) on any specific Purchase Order(s) without being in conflict with, or obligation to comply on a global basis, with the terms of this clause.

**g.** **Best and Final Prices** As specified in the Bid Documents and Contract, a Contractor may be solicited at the time of issuance of a Purchase Order or Mini-Bid award for best and final pricing for the Product or service to be delivered. Contractors are encouraged to reduce their pricing upon receipt of such request.

**25. DRAWINGS**

**a.** **Drawings Submitted With Bid** When the Bid Specifications require the Bidder to furnish drawings and/or plans, such drawings and/or plans shall conform to the mandates of the Bid Documents and shall, when approved by NYSIF, be considered a part of the Bid and of any resulting Contract. All symbols and other representations appearing on the drawings shall be considered a part of the drawing.

**b.** **Drawings Submitted During the Contract Term** Where required to develop, maintain and deliver diagrams or other technical schematics regarding the scope of work, Contractor shall do so on an ongoing basis at no additional charge, and must, as a condition of payment, update drawings and plans during the Contract term to reflect additions, alterations, and deletions. Such drawings and diagrams shall be delivered to the Commissioner's representative.

**c.** **Accuracy of Drawings Submitted** All drawings shall be neat and professional in manner and shall be clearly labeled as to locations and type of product, connections and components. Drawings and diagrams are to be in compliance with accepted drafting standards. Acceptance or approval of such plans shall not relieve the Contractor from responsibility for design or other errors of any sort in the drawings or plans, or from its responsibility for performing as required, furnishing product, services or installation, or carrying out any other requirements of the intended scope of work.

**26. SITE INSPECTION**

Where a site inspection is required by the Bid Specifications or Project Definition, Bidder shall be required to inspect the site, including environmental or other conditions for pre-existing deficiencies that may affect the installed Product, equipment, or environment or services to be provided and, which may affect Bidder's ability to properly deliver, install or otherwise provide the required Product/Services. All inquiries regarding such conditions shall be made in writing. Bidder shall be deemed to have knowledge of any deficiencies or conditions which such inspection or inquiry might have disclosed. Bidder must provide a detailed explanation with its Bid if additional work is required under this clause in order to properly complete the delivery and installation of the required Product or provide the requested service.

**27. SAMPLES**

**a.** **Standard Samples** Bid Specifications may indicate that the Product to be purchased must be equal to a standard sample on display in a place designated by NYSIF and such sample will be made available to the Bidder for examination prior to the opening date. Failure by the Bidder to examine such sample shall not entitle the Bidder to any relief from the conditions imposed by the Bid Specifications.

**b.** **Bidder Supplied Samples** NYSIF reserves the right to request from the Bidder/Contractor a representative sample(s) of the Product offered at any time prior to or after award of a contract. Unless otherwise instructed, samples shall be furnished within the time specified in the request. Untimely submission of a sample may constitute grounds for rejection of Bid or cancellation of the Contract. Samples must be submitted free of charge and be accompanied by the Bidder's name and address, any descriptive literature relating to the Product and a statement indicating how and where the sample is to be returned. Where applicable, samples must be properly labeled with the appropriate Bid or Contract reference.

A sample may be held by NYSIF during the entire term of the Contract and for a reasonable period thereafter for comparison with deliveries. At the conclusion of the holding period the sample, where feasible, will be returned as instructed by the Bidder, at the Bidder's expense and risk. Where the Bidder has failed to fully instruct NYSIF as to the return of the sample (i.e., mode and place of return, etc.) or refuses to bear the cost of its return, the sample shall become the sole property of the receiving entity at the conclusion of the holding period.

**c.** **Enhanced Samples** When an approved sample exceeds the minimum specifications, all Product delivered must be of the same enhanced quality and identity as the sample. Thereafter, in the event of a Contractor's default, NYSIF may procure a Product substantially equal to the enhanced sample from other sources, charging the Contractor for any additional costs incurred.

**d.** **Conformance with Sample(s)** Submission of a sample (whether or not such sample is tested by, or for, NYSIF) and approval thereof shall not relieve the Contractor from full compliance with all terms and conditions, performance related and otherwise, specified in the Bid Specifications. If in the judgment of NYSIF the sample or product submitted is not in accordance with the specifications or testing requirements prescribed in the Bid Specifications, NYSIF may reject the Bid. If an award has been made, NYSIF may cancel the Contract at the expense of the Contractor.

**e.** **Testing** All samples are subject to tests in the manner and place designated by NYSIF, either prior to or after Contract award. Unless otherwise stated in the Bid Specifications, Bidder samples consumed or rendered useless by testing will not be returned to the Bidder. Testing costs for samples that fails to meet Contract requirements may be at the expense of the Contractor.

## BID EVALUATION

**28. BID EVALUATION**

NYSIF reserves the right to accept or reject any and all Bids, or separable portions of offers, and waive technicalities, irregularities, and omissions if NYSIF determines the best interests of the State will be served. NYSIF, in its sole discretion, may accept or reject illegible, incomplete or vague Bids and its decision shall be final. A conditional or revocable Bid which clearly communicates the terms or limitations of acceptance may be considered, and Contract award may be made in compliance with the Bidder's conditional or revocable terms in the offer.

**29. CONDITIONAL BID**

Unless the Bid Specifications provides otherwise, a Bid is not rendered non-responsive if the Bidder specifies that the award will be accepted only on all or a specified group of items or Product included in the specification. It is understood that nothing herein shall be deemed to change or alter the method of award contained in the Bid Documents.

**30. CLARIFICATIONS / REVISIONS**

Prior to award, NYSIF reserves the right to seek clarifications from Bidders on the contents of the bid/proposals Other than to provide such information as may be requested by NYSIF, no Bidder will be allowed to alter its proposal or add new information after the final filing date and time. Failure to provide requested information may result in rejection of the Bid.

**31. PROMPT PAYMENT DISCOUNTS**

While prompt payment discounts will not be considered in determining the low Bid, NYSIF may consider any prompt payment discount in resolving Bids which are otherwise tied. However, any notation indicating that the price is net, (e.g., net 30 days), shall be understood to mean only that no prompt payment discount is offered by the Bidder. The imposition of service, interest, or other charges, except pursuant to the provisions of Article 11-A of the State Finance Law, which are applicable in any case, may render the Bid non-responsive and may be cause for its rejection.

**32. EQUIVALENT OR IDENTICAL BIDS**

In the event two offers are found to be substantially equivalent, price shall be the basis for determining the award recipient. If two or more Bidders submit substantially equivalent Bids as to pricing or other factors, the decision of NYSIF to award a Contract to one or more of such Bidders shall be final.

**33. PERFORMANCE AND RESPONSIBILITY QUALIFICATIONS**

NYSIF reserves the right to investigate or inspect at any time whether or not the Product, services, qualifications or facilities offered by the Bidder/Contractor meet the requirements set forth in the Bid Specifications/Contract or as set forth during Contract negotiations. Contractor shall at all times during the Contract term remain responsible and responsive. A Bidder/Contractor must be prepared to present evidence of legal authority to do business in New York State, integrity, experience, ability, prior performance, organizational and financial capacity as well as where applicable, a statement as to supply, plant, machinery and capacity of the manufacturer or source for the production, distribution and servicing of the Product offered/Bid. If NYSIF determines that the conditions and terms of the Bid Documents, Bid Specifications or Contract are not complied with, or that items, services or Product proposed to be furnished do not meet the specified requirements, or that the legal authority, integrity experience, ability, prior performance, organization and financial capacity or facilities are not satisfactory, NYSIF may reject such Bid or terminate the Contract.

**34. DISQUALIFICATION FOR PAST PERFORMANCE AND FINDINGS OF NON-RESPONSIBILITY**

Bidder may be disqualified from receiving awards if Bidder, or anyone in Bidder's employment, has previously failed to perform satisfactorily in connection with public bidding or contracts or is deemed non-responsible.

**35. QUANTITY CHANGES PRIOR TO AWARD**

NYSIF reserves the right, at any time prior to the award of a specific quantity Contract, to alter in good faith the quantities listed in the Bid Specifications. In the event such right is exercised, the lowest responsible Bidder meeting Bid Specifications will be advised of the revised quantities and afforded an opportunity to extend or reduce its Bid price in relation to the changed quantities. Refusal by the low Bidder to so extend or reduce its Bid price may result in the rejection of its Bid and the award of such Contract to the lowest responsible Bidder who accepts the revised qualifications.

**36. TIMEFRAME FOR OFFERS**

NYSIF reserves the right to make awards within one hundred eighty (180) days after the date of the Bid opening or such other period of time as set forth in the Bid Documents, during which period, Bids must remain firm and cannot be withdrawn. Pursuant to Section 163(9)(e) of the State Finance Law and Section 2-205 of the Uniform Commercial Code when applicable, where an award is not made within the one hundred eighty (180) day period or other time specified as set forth in the Bid Documents, the Bids shall remain firm until such later time as either a Contract is awarded or the Bidder delivers to NYSIF written notice of the withdrawal of its Bid. Any Bid which expressly states therein that acceptance must be made within a shorter specified time, may at the sole discretion of NYSIF, be accepted or rejected.

## ADMINISTRATIVE

### 37. NYSIF PREROGATIVES

The contract award is subject to the availability of funds. Moreover, NYSIF is not liable for any costs incurred by any firm for work performed to prepare its proposal or for any travel and/or other expenses incurred in the preparation and/or submission of its proposal or with respect to any presentation/interview that may be required by NYSIF. Further, NYSIF is not liable for any costs incurred by the successful Bidder for services performed or costs incurred until the contracting process has been completed and all required approvals obtained.

NYSIF reserves the right to exercise the following:

a. Withdraw the IFB/RFP at any time, at NYSIF's sole discretion;

b. Make an award under the IFB/RFP in whole or in part;

c. Reject any or all bids received in response to the solicitation;

d. Cancel or limit the scope of the contract for any reason;

e. To not award a contract;

f. Seek clarifications and revisions of proposals;

g. Accept a bid for the contract other than the lowest cost;

h. Make multiple contract awards pursuant to the solicitation;

i. Waive any requirements that are not material;

j. Eliminate mandatory requirements unmet by all Bidders;

k. Change any of the scheduled dates;

l. Waive or modify minor irregularities in bids received after prior notification to the Bidder;

m. Consider modifications to bids at any time before the award is made, if such action is in the best interest of NYSIF;

n. Amend and modify the specifications after their release and post to NYSIF's procurement website (www.nysif.com/procurement);

o. Disqualify any Bidder whose conduct and/or proposal fails to conform to the requirements of the IFB/RFP;

p. Reject/disqualify a bid if, in NYSIF's sole opinion, the bid price is determined to be excessive;

q. Require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of a Bidder's proposal and/or to determine a Bidder's compliance with the requirements of the solicitation;

r. Use proposal information obtained through site visits, management interviews and the state's investigation of a Bidder's qualifications, experience, ability or financial standing, and any material or information submitted by the Bidder in response to the agency's request for clarifying information in the course of evaluation and/or selection under the IFB/RFP

s. Review Bidder's records used in determining bid;

t. Require the Bidder to demonstrate to the satisfaction of NYSIF any feature(s) presented as a part of its bid;

u. Investigate or make any inquiry into the capabilities of any Bidder to properly perform under any resultant contract;

v. Make inquiries, at NYSIF's discretion and by means which it may choose, into the Bidder's background or statements made in the bid to determine the truth and accuracy of all statements made therein;

w. Adjust or correct Bidders' mathematical errors and waive or modify other minor irregularities in proposals received, after prior notification to the Bidder;

x. Request any additional information deemed necessary for proper evaluation of bids;

y. Adopt as NYSIF property all submitted bids and to use any portions thereafter which are not specifically noted as proprietary by the submitting firms;

z. Utilize any and all ideas submitted in the proposals received;

aa. Adopt all or any part of a Bidder's proposal in selecting the optimum configuration;

bb. In any case where a question of non-performance of a contract arises, payment may be withheld in whole or in part at the

discretion of NYSIF. Should the amount withheld be finally paid, a cash discount originally offered may be taken by NYSIF as if no delay in payment had occurred;

cc. Submission of an invoice and payment, or electronic transmission, thereof by NYSIF shall not preclude NYSIF from obtaining reimbursement or demanding a price adjustment in any case where the service delivered is found to deviate from the terms and conditions of the bid and award documents. Any delivery made which does not meet such terms and conditions may be rejected, or accepted on an adjusted price basis as may be determined by NYSIF;

dd. Reject an obviously unbalanced bid or to make "NO AWARD" on individual listings or sub-items if individual bid prices are deemed to be unbalanced or excessive or if an error in the solicitation becomes evident. In such case, ranking and evaluation of bids may be made on remaining items. Award would be made on the remaining items. The determination of an unbalanced bid shall be at the sole discretion of NYSIF. Options contained in this paragraph shall also be at NYSIF's sole discretion;

ee. Terminate the contract(s) if it deems the price adjustment pursuant to the solicitation or contract is not in the best interests of NYSIF or the State;

ff. Implement changes in price based on unforeseen factors such as dramatic changes in availability, delivery, costs, etc., for product, supplies, etc., that substantively affect the contractor's business processes or that may impact contract pricing. Such changes may be based on information from the U.S. Bureau of Labor Statistics, industry data, or other sources;

gg. After an unsuccessful attempt to speak with the contact person noted on the reference form, survey another person knowledgeable and familiar with the Bidder from the submitted reference due to time constraints;

hh. Review and consider other known clients of the Bidder in addition to those provided, including NYSIF, and to disqualify based on unsatisfactory reports and/or records of services provided;

ii. Reject all bids which do not comply with the bid specifications. However, NYSIF may elect to award to the Bidder who receives the highest overall combined evaluation score providing that the Bidder's non-compliance is deemed by NYSIF to be non-material to overall performance of the services;

jj. Invalidate a Bidder's scores at any time during the evaluation process if the Bidder's bid is deemed non-responsive or is disqualified;

kk. Evaluate, accept and/or reject any and all bids, in whole or in part, and waive technicalities, irregularities and omissions if, in NYSIF's considered judgment, the best interests of NYSIF will be served. Separable portions of offers may also be accepted or rejected. In the event compliant bids are not received, NYSIF reserves the right to consider late or non-conforming bids as offers;

ll. Stop the work covered by this solicitation and any contract(s) resulting there from at any time that it is deemed the successful Bidder is unable or incapable of performing the work to NYSIF's satisfaction;

mm. Disqualify a Bidder from receiving the award if the Bidder, or anyone in the Bidder's employ, has previously failed to perform satisfactorily in connection with public bidding or contracts;

nn. Negotiate with Bidders to serve the best interests of the State and NYSIF;

oo. Begin contract negotiations with another Bidder in order to serve the best interests of NYSIF in the event that NYSIF is unsuccessful in negotiating a contract with the selected Bidder;

pp. Split the contract between several Bidders;

qq. If a contract is not approved by the State Comptroller or the Department of Financial Services, where applicable, or if a contract is awarded but terminated within 120 days, NYSIF reserves the right to contract with the next lowest Bidder (IFB)/next highest ranking offer (RFP);

rr. If two or more bids are found to be substantially equivalent, NYSIF, at its sole discretion, will determine award;

ss. Unless otherwise specified in the solicitation, every offer is firm and not revocable for a period of 180 days from the bid opening;

tt. Accept or reject any of the Bidder's employees assigned to this contract and to require their replacement at any time

uu. Consider amendments which are not specifically covered by the terms of the contract but are judged to be in the best interest of NYSIF and/or the State;

vv. Have any service completed via separate competitive bid or other means, as determined to be in the best interest of NYSIF;

ww. Adjust any Bidder's expected costs of the bid price based on a determination of the evaluation committee that the selection of the said Bidder will cause the State to incur additional costs.

## 38. NEW YORK STATE PROCUREMENT RIGHTS

To enable the State to acquire commodities, technology and services at the lowest price or best value from responsible and responsive bids, the State reserves the rights to:

a. Define requirements to meet Agency needs and to modify, correct and clarify requirements at any time during the process provided the changes are justified and maintain fairness in contracting with the business community;

b. Accept and/or reject any or all bids, and waive technicalities or portions of the bids in the best interest of the State;

c. Establish terms and conditions which must be met by all Bidders and/or, where permitted by the solicitation, eliminate mandatory requirements that are not met by any Bidder;

d. Establish, where permitted by solicitation, conditions under which the scope of the contract can be expanded and criteria for price increases or decreases during the contract period;

e. Award contracts for any or all parts of the bid solicitation in accordance with the Method of Award;

f. Consider every bid as firm and not revocable for a period of up to one hundred eighty (180) days from the bid opening or such other period of time specified in the solicitation. Subsequent to such one hundred eighty (180) day or other specified period, a bid may be withdrawn in writing.

g. Have the option to require a bond or other guarantee of performance, and to approve the amount, form and sufficiency thereof.

## 39. BIDDER CERTIFICATION REQUIREMENTS

Any company submitting a bid in response to this solicitation *must certify in writing* acceptance of the following contract conditions which relate to consideration of the bid:

a. NYSIF reserves the sole right of judgment and acceptance of a company's written bid.

b. The submitted bid must remain in effect for one hundred-eighty (180) days from the bidding deadline. However, a non-successful Bidder may withdraw its bid any time after the selection of the successful Bidder, upon written notice to NYSIF. Bidders whose bids have been rejected by NYSIF shall be notified of such rejection.

c. Compensation shall be paid by the State of New York, in accordance with its standard payment practices.

d. The Bidder certifies that, if selected, all services described in the bid document can and will be provided.

e. The successful Bidder agrees to submit an Equal Employment Opportunity Policy Statement and Staffing Plan to NYSIF, upon request, as outlined under Participation of New York State Business Enterprises.

f. The Bidder warrants that, if selected, it will not delegate, assign, encumber or subcontract, in whole or in part, its agreement and/or its responsibilities under the contract without prior written approval from NYSIF.

For any bid that includes services to be provided by subcontract with a third party, the Bidder will be responsible for the conduct and performance of the third party. NYSIF will consider the Bidder to be the prime contractor and the sole point of contact in regard to any contractual items specified or required in the bid documents.

The Bidder should obtain the consent of the proposed subcontractor and include it in the bid.

The bidder agrees not to subcontract any of its services, unless as indicated in its proposal, without prior written approval of NYSIF. Approval shall not be unreasonably withheld upon receipt of written request to subcontract.

g. The Bidder warrants that all information provided by it in connection with this bid is true and accurate.

h. The Bidder agrees not to make any claims for or have any right to damages because of any misinterpretation or misunderstanding of the specifications or because of any lack of information.

i. The Bidder warrants that the prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other Bidder or with any competitor. Unless otherwise required by law, the Bidder certifies that 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 the opening, directly or indirectly, to any Bidder or competitor and no attempt has been made or will be made by the Bidder to induce any other person, partnership, or corporation to submit or not submit a bid for the purpose of restricting competition. In addition, a Bidder is prohibited from making multiple bids in a different form (e.g., as prime Bidder and as a subcontractor to another prime Bidder).

A Bidder must include a statement in the bid describing all actual or potential relationships which may be considered to be a "conflict of interest." The "conflict of interest" will be taken under consideration by NYSIF's Bid Evaluation Committee. The Committee's determination of a disqualifying "conflict of interest" is final.

j. Disclose any existing or contemplated relationship with any other person or entity, including relationships with any member, shareholders of 5% or more, parent, subsidiary, or affiliated firm, which would constitute an actual or potential conflict of interest or appearance of impropriety, relating to other clients/customers of the Respondent or former officers and employees of the Agencies and their Affiliates, in connection with your rendering services enumerated in this RFP. If a conflict does or might exist, please describe how your Staffing Firm would eliminate or prevent it. Indicate what procedures will be followed to detect, notify the Agencies of, and resolve any such conflicts.

k. The Bidder must disclose whether it, or any of its members, shareholders of 5% or more, parents, affiliates, or subsidiaries, have been the subject of any investigation or disciplinary action by the New York State Commission on Public Integrity or its predecessor State entities (collectively, "Commission"), and if so, a brief description must be included indicating how any matter before the Commission was resolved or whether it remains unresolved.

A Bidder must include a statement in the bid describing all actual or potential relationships which may be considered to be a "conflict of interest." The "conflict of interest" will be taken under consideration by NYSIF's Bid Evaluation Committee. The Committee's determination of a disqualifying "conflict of interest" is final.

l. The Bidder will conform to all provisions of NYSIF Exhibit A, *Standard Clauses*.

m. The Bidder agrees that no New York State or local sales tax, transportation tax or Federal excise tax will be charged on any part of this project since NYSIF is an agency of the State of New York and tax exempt by statute.

n. The Bidder will save and hold harmless NYSIF and its management from all claims, suits, litigation and legal liability from any acts or omissions committed by the Bidder during the course of the contract.

o. The contractor is an independent contractor of the State and may not hold itself out nor claim to be an officer, employee or subdivision of the State nor may contractor make any claim, demand or application to or for any right based upon any different status.

p. Contractor represents and warrants that it shall secure all notices and comply with all laws, ordinances, rules and regulations of any governmental entity in conjunction with the performance of obligations under the Contract, at the contractor's expense. Prior to award and during the Contract term and any renewals thereof, Contractor must establish to the satisfaction of NYSIF that it meets or exceeds all requirements of the Bid and Contract and any applicable laws, including but not limited to, permits, licensing, and shall provide such proof as required by NYSIF. Failure to comply or failure to provide proof may constitute grounds for NYSIF to cancel or suspend the Contract, in whole or in part, or to take any other action deemed necessary by NYSIF. Contractor also agrees to disclose information and provide affirmations and certifications to comply with Sections 139-j and 139-k of the State Finance Law

q. All contractors and contractor employees must be aware of and comply with the requirements of the New York State Public Officers Law, all other appropriate provisions of New York State Law, and all resultant codes, rules and regulations from State laws establishing the standards for business and professional activities of State employees, and governing the conduct of employees of firms, associations and corporations in business with the State. In signing the bid, each Bidder has guaranteed knowledge and full compliance with those provisions for this and any other dealings, transactions, sales, contracts, services, offers or relationships involving the State and/or State employees. Failure to comply with those provisions may result in disqualification from the bidding process and in other civil or criminal proceedings as required by law.

r. As a general rule and in accordance with New York Public Officers law, former employees of NYSIF may neither appear nor practice before NYSIF, nor receive compensation for services rendered on a matter before NYSIF, for a period of two years following their separation from NYSIF. In addition, former NYSIF are subject to a "lifetime bar" from appearing before NYSIF receiving compensation for services regarding any transaction in which they personally participated or which was under their active consideration during their tenure with NYSIF.

s. Bidder and its Subcontractors shall not engage any person who is, or has been at any time, in the employ of the State to perform services in violation of the provisions of the New York Public Officers Law; other laws applicable to the service of State employees; and the rules, regulations, opinions, guidelines or policies promulgated or issued by the New York State Joint Commission on Public Ethics, or its predecessors (collectively, the "Ethics Requirements"). Bidder certifies that all of its employees and those of its Subcontractors who are former employees of the State and who are assigned to perform services under this RFP or subsequent contract shall be assigned in accordance with all Ethics Requirements. During the Term, no person who is employed by Bidder or is Subcontractors and who is disqualified from providing services under the RFP or subsequent contract pursuant to any Ethics Requirements may share in any net revenues of the Contractor or its Subcontractors derived from a Contract. Bidder shall identify and provide the State with notice of those employees of Bidder and its Subcontractors who are former employees of the State that will be assigned to perform services under this RFP or subsequent Contract, and make sure that such employees comply with all applicable laws and prohibitions. The State may request that Bidder provide it with whatever information that State deems appropriate about each such person's engagement, work cooperatively with the State to solicit advice from the New York State Joint Commission on Public Ethics, and, if deemed appropriate by the State, instruct any such person to seek the opinion of the New York State Joint Commission on Public Ethics. The State shall have the right to withdraw

or withhold approval of any Subcontractor if utilizing such Subcontractor for any work performed hereunder would be conflict with any of the Ethics Requirements. The State shall have the right to terminate the Contract at any time if any work performed hereunder is in conflict with any of the Ethics Requirements.

t. Bidder hereby reaffirms the attestations made in its proposal and covenants, and represents that there is and shall be no actual or potential conflict of interest that could prevent Bidder's satisfactory or ethical performance of duties required to be performed pursuant to the terms of the RFP or subsequent Contract. Bidder shall have a duty to notify NYSIF immediately of any actual or potential conflicts.

u. If NYSIF impedes or causes any delay in the completion of the Contractor's work, then NYSIF should be notified immediately in writing of the delay and the reason(s) for such delay.

v. Tax Law 5-a is in effect for all solicitations to purchase issued by covered agencies on or after January 1, 2005. It applies to contracts where (1) the total amount of such persons' sales delivered into New York State are in excess of $300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made, and with respect to any affiliates, subcontractors, or affiliates of subcontractors whose sales delivered into New York State exceeded $300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made, and (2) the contracts or agreements with state agencies or public authorities for the sale of commodities or services having a value in excess of $100,000. The law imposes upon certain contractors the obligation to certify whether or not the contract, its affiliates, its subcontractors and affiliates of the subcontractors are required to register to collect state sales and compensating use tax.

w. Pursuant to State Finance Law Sections 139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between NYSIF and a Bidder during the procurement process. A Bidder is restricted from making contacts from the earliest notice of a solicitation release through final award and approval of the Procurement Contract by NYSIF and, if applicable, Office of the State Comptroller or Department of Financial Services ("restricted period") to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law Section139-j (3)(a). Designated staff, as of the date hereof, is identified in the solicitation document (see INQUIRIES/ISSUING OFFICE/DESIGNATED CONTACT). NYSIF employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the Bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award, and in the event there are two findings within a 4 year-period, the Bidder is debarred from obtaining governmental Procurement Contracts.

x. Bidder has provided "Appendix V – Vendor Assurance of No Conflict of Interest or Detrimental Effect", signed by an authorized executive or legal representative attesting that the Bidder's performance of the services does not and will not create a conflict of interest with, nor position Bidder to breach any other contract currently in force with, the State of New York, and that Bidder will not act in any manner that is detrimental to any State of New York project on which Bidder is rendering services.

y. In conjunction with any subcontract under this RFP or subsequent Contract, the Bidder shall obtain and deliver to NYSIF, prior to entering into a subcontract, an "Appendix V- Vendor Assurance of No Conflict of Interest or Detrimental Effect", signed by an authorized executive or legal representative of the subcontractor. Bidder shall also require in any subcontracting agreement that the subcontractor, in conjunction with any further subcontracting agreement, obtain and deliver to NYSIF a signed and completed Appendix V for each of its subcontractors prior to entering into a subcontract.

z. NYSIF and Bidder recognize that conflicts may occur in the future because the Bidder may have existing, or may establish new relationships. The NYSIF will review the nature of any relationships and reserves the right to terminate any contract for any reason, or for cause, if, in the judgement of NYSIF, a real or potential conflict of interest cannot be cured.

## 40. PARTICIPATION OF NYS BUSINESS ENTERPRISES

It is the policy of New York State to maximize the 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.

For all contracts estimated to be $25,000 or more:

a. Contractors and subcontractors shall undertake or continue existing programs of affirmative action 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, affirmative action 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.

b. Prior to the award of a State contract, the contractor shall submit an Equal Employment Opportunity Policy Statement to NYSIF within the time frame established by NYSIF.

c. The contractor's EEO Policy Statement shall contain, but not necessarily be limited to, and the contractor, as a precondition to entering into a valid and binding State contract, shall, during the performance of the State contract, agree to the following:

   i. 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 programs of affirmative action 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 on State contracts.

   ii. 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.

   iii. At the request of NYSIF, 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. Except for construction contracts, prior to award of a State contract, the contractor shall submit to NYSIF a staffing plan of the anticipated work force to be utilized on the State contract or, where required, information on the contractor's total work force, including apprentices, broken down by specified ethnic background, gender and Federal Occupational Categories or other appropriate categories specified by NYSIF. The form of the staffing plan shall be supplied by NYSIF.

e. After an award of a State contract, the contractor shall submit to the contracting agency a work force utilization report, in a form and manner required by the agency, of the work force actually utilized on the State contract, broken down by specified ethnic background, gender and Federal Occupational Categories or other appropriate categories specified by the contracting agency.

**(Note: The contractor shall include the language of the above provisions in every subcontract in such a manner that the requirements of the provisions will be binding upon each subcontractor as to work in connection with the State contract. This includes the requirement that subcontractors shall undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and, when requested, provide to the contractor information on the ethnic background, gender and Federal Occupational Categories of the employees to be utilized on the State contract.)**

## 41. DEBRIEFING

Any unsuccessful Bidder may request a debriefing by notifying NYSIF in writing within seven (7) business days after receiving notification of the contract non-award. All requests for debriefings shall be emailed to contracts@nysif.com. The debriefing shall be addressed within 30 days of receipt of the written request, or as soon after that time as practicable under the circumstances.

A debriefing will be limited to a review of an unsuccessful Bidder's own submission and the scoring of that submission. An unsuccessful Bidder is not entitled to review the submission of the successful Bidder beyond being informed of the total scoring of the successful Bidder. Generally, NYSIF will provide a written response to debriefing requests, providing the unsuccessful Bidder with the top score, average score, and Bidder's score for each of the major evaluation categories as well as the Bidder's ranking in each.

## 42. NYSIF'S VENDOR PROTEST PROCEDURE

NYSIF's Vendor Protest Procedure (Protest), which provides vendors with an opportunity to administratively resolve disputes related to NYSIF's procurement decisions, is as follows:

**a. Protesting NYSIF's Procurement Decisions**

**i. Protest Phases**

Solicitation Phase Protest

A prospective proposer, Offeror or Bidder may, during the procurement solicitation phase, protest the content of a Request for Proposal (RFP) or Invitation for Bid (IFB) or any aspect of NYSIF's conduct of the solicitation phase of the procurement.

Such protests must be submitted in writing to NYSIF's Director of Administration, via certified mail or overnight mail service, and must be received by NYSIF no later than 1:00 p.m. on the 7th (seventh) business day prior to the date when proposals or bids are due. Solicitation phase protests are to be addressed as follows:

*Director of Administration*
*New York State Insurance Fund*
*15 Computer Drive West*
*Albany, NY 12205*
*Attn: Vendor Protest*

Post Award Protest

An actual proposer, Offeror or Bidder that has submitted a bid or proposal in response to a solicitation may protest the award of the contract for that solicitation. Such protest must be submitted in writing to NYSIF's Director of Administration, via certified mail or overnight mail service, and must be received by NYSIF no later than 1:00 p.m. on the 10th (tenth) business day following: 1) NYSIF's issuance of a Notice of Contract Award or Bid Tab Certification or; 2) NYSIF's issuance of a letter to the Bidder indicating that its proposal was not selected. Post award protests are to be addressed as follows:

*Director of Administration*
*New York State Insurance Fund*
*15 Computer Drive West*
*Albany, NY 12205*
*Attn: Vendor Protest*

**ii. Protest Contents**

Written protests must contain all the detail necessary for the Director of Administration to evaluate the protester's issue and make a determination. The written protest must, at a minimum, include the following:

- Name and title of person(s) filing the protest;
- Company name and address, telephone and fax numbers, and email address;
- The solicitation title and number;
- A detailed statement of all legal and/or factual grounds for disagreement with a specification or a procurement determination;
- A statement as to the form of relief requested; and
- Copies of all applicable supporting documentation.

**b. Protest Determination**

NYSIF's Director of Administration shall make a determination for every solicitation phase and post award protest submitted in accordance with this Procedure. A copy of the decision, stating the reason(s) upon which it is based and informing the protester of the right to appeal an unfavorable decision to the General Attorney of NYSIF, shall be sent to the protester or its agent by regular mail within thirty (30) days of receipt of the protest, except that upon notice to the protester such period may be extended.

NYSIF shall include the protest and all determinations thereon in the Procurement Record relevant to the bid being protested."

**c. Appeal Process**

Should the protester be dissatisfied with NYSIF's Director of Administration's determination, the protester may file a written appeal. Such written appeal must be sent via certified mail or overnight mail service and must be received by NYSIF no later than 1:00 p.m. of the 10th (tenth) business day following the protester's receipt of the determination. The appeal should be directed to NYSIF's General Attorney at the following address:

*General Attorney*
*New York State Insurance Fund*
*15 Computer Drive West*
*Albany, NY 12205*
*Attn: Vendor Protest*

An appeal of the decision shall not include any new facts and information unless requested in writing by the General Attorney.

The final determination on the appeal shall be issued within thirty (30) days of receipt of the appeal, except that upon notice to the protester such period may be extended. The decision of the General Attorney shall be a final and conclusive agency determination.

For contracts requiring approval by the Office of the State Comptroller (OSC), the protester may appeal to OSC directly. See

http://www.osc.state.ny.us/agencies/guide/MyWebHelp/Content/XI/17.htm for further information.

**d. Legal Appeals**

Nothing contained in these provisions is intended to limit or impair the rights of any vendor or contractor to seek and pursue remedies of law through the judicial process.

# APPENDIX B1

# ADDITIONAL SPECIFICATIONS FOR TECHNOLOGY CONTRACTS

**PLEASE RETAIN THIS DOCUMENT FOR FUTURE REFERENCE**

# TABLE OF CONTENTS

**SOFTWARE LICENSE GRANT** ..... 2
**PRODUCT ACCEPTANCE** ..... 3
**AUDIT OF LICENSED PRODUCT USAGE** ..... 4
**OWNERSHIP/TITLE TO PROJECT DELIVERABLES** ..... 4
**PROOF OF LICENSE** ..... 5
**PRODUCT VERSION** ..... 5
**CHANGES TO PRODUCT OR SERVICE OFFERINGS** ..... 5
**NO HARDSTOP/PASSIVE LICENSE MONITORING** ..... 6
**SOURCE CODE ESCROW FOR LICENSED PRODUCT** ..... 6

## 1. SOFTWARE LICENSE GRANT

Where Product is acquired on a licensed basis the following shall constitute the license grant:

**a.** **License Scope** Licensee is granted a non-exclusive, perpetual license to use, execute, reproduce, display, perform, or merge the Product within its business enterprise in the United States up to the maximum licensed capacity stated on the Purchase Order. Product may be accessed, used, executed, reproduced, displayed or performed up to the capacity measured by the applicable licensing unit stated on the Purchase Order (i.e., payroll size, number of employees, CPU, MIPS, MSU, concurrent user, workstation). Licensee shall have the right to use and distribute modifications or customizations of the Product to and for use by any Authorized Users otherwise licensed to use the Product, provided that any modifications, however extensive, shall not diminish Licensor's proprietary title or interest. No license, right or interest in any trademark, trade name, or service mark is granted hereunder.

**b.** **License Term** The license term shall commence upon the License Effective Date, provided, however, that where an acceptance or trial period applies to the Product, the License Term shall be extended by the time period for testing, acceptance or trial.

**c.** **Licensed Documentation** If commercially available, Licensee shall have the option to require the Contractor to deliver, at Contractor's expense: (i) one (1) hard copy and one (1) master electronic copy of the Documentation in a mutually agreeable format; (ii) based on hard copy instructions for access by downloading from the Internet (iii) hard copies of the Product Documentation by type of license in the following amounts, unless otherwise mutually agreed:

- Individual/Named User License - one (1) copy per License
- Concurrent Users - 10 copies per site
- Processing Capacity - 10 copies per site

Software media must be in a format specified by the Authorized User, without requiring any type of conversion.

Contractor hereby grants to Licensee a perpetual license right to make, reproduce (including downloading electronic copies of the Product) and distribute, either electronically or otherwise, copies of Product Documentation as necessary to enjoy full use of the Product in accordance with the terms of license.

**d.** **Product Technical Support & Maintenance** Licensee shall have the option of electing the Product technical support and maintenance ("maintenance") set forth in the Contract by giving written notice to Contractor any time during the Centralized Contract term. Maintenance term(s) and any renewal(s) thereof are independent of the expiration of the Centralized Contract term and will not automatically renew.

Maintenance shall include, at a minimum, (i) the provision of error corrections, updates, revisions, fixes, upgrade and new releases to Licensee, and (ii) Help Desk assistance with locally accessible "800" or toll free, local telephone service, or alternatively on-line Help Desk accessibility. Contractor shall maintain the Products so as to provide Licensee with the ability to utilize the Products in accordance with the Product documentation without significant functional downtime to its ongoing business operations during the maintenance term.

Authorized User shall not be required to purchase maintenance for use of Product, and may discontinue maintenance at the end of any current maintenance term upon notice to Contractor. In the event that Authorized User does not initially acquire or discontinues maintenance of licensed Product, it may, at any time thereafter, reinstate maintenance for Product without any additional penalties or other charges, by paying Contractor the amount which would have been due under the Contract for the period of time that such maintenance had lapsed, at then current NYS net maintenance rates.

**e.** **Permitted License Transfers** As Licensee's business operations may be altered, expanded or diminished, licenses granted hereunder may be transferred or combined for use at an alternative or consolidated site not originally specified in the license, including transfers between Agencies ("permitted license transfers"). Licensee(s) do not have to obtain the approval of Contractor for permitted license transfers, but must give thirty (30) days prior written notice to Contractor of such move(s) and certify in writing that the Product is not in use at the prior site. There shall be no additional license or other transfer fees due Contractor, provided that: i) the maximum capacity of the consolidated machine is equal to the combined individual license capacity of all licenses running at the consolidated or transferred site (e.g., named users, seats, or MIPS); or ii) if the maximum capacity of the consolidated machine is greater than the individual license capacity being transferred, a logical or physical partition or other means of restricting access will be maintained within the computer system so as to restrict use and access to the Product to that unit of licensed capacity solely dedicated to beneficial use for Licensee. In the event that the maximum capacity of the consolidated machine is greater than the combined individual license capacity of all licenses running at the consolidated or transferred site, and a logical or physical partition or other means of restricting use is not available, the fees due Contractor shall not exceed the fees otherwise payable for a single license for the upgrade capacity.

**f.** **Restricted Use By Outsourcers / Facilities Management, Service Bureaus / or Other Third Parties** Outsourcers, facilities management or service bureaus retained by Licensee shall have the right to use the Product to maintain Licensee's business operations, including data processing, for the time period that they are engaged in such activities, provided that: 1) Licensee gives notice to Contractor of such party, site of intended use of the Product, and means of access; and 2) such party has executed, or agrees to execute, the Product manufacturer's standard nondisclosure or restricted use agreement which executed agreement shall be accepted by the Contractor ("Non-Disclosure Agreement"); and 3) if such party is engaged in the business of facility management, outsourcing, service bureau or other services, such third party will maintain a logical or physical partition within its computer system so as to restrict use and access to the program to that portion solely dedicated to beneficial use for Licensee. In no event shall Licensee assume any liability for third party's compliance with the terms of the Non-Disclosure Agreement, nor shall the Non-Disclosure Agreement create or impose any liabilities on the State or Licensee.

Any third party with whom a Licensee has a relationship for a state function or business operation, shall have the temporary right to use Product (e.g., JAVA Applets), provided that such use shall be limited to the time period during which the third party is using the Product for the function or business activity.

**g.** **Archival Back-Up and Disaster Recovery** Licensee may use and copy the Product and related Documentation in connection with: i) reproducing a reasonable number of copies of the Product for archival backup and disaster recovery procedures in the event of destruction or corruption of the Product or disasters or emergencies which require Licensee to restore backup(s) or to initiate disaster recovery procedures for its platform or operating systems; ii) reproducing a reasonable number of copies of the Product and related Documentation for cold site storage. "Cold Site" storage shall be defined as a restorable back-up copy of the Product not to be installed until and after the declaration by the Licensee of a disaster; iii) reproducing a back-up copy of the Product to run for a reasonable period of time in conjunction with a documented consolidation or transfer otherwise allowed herein. "Disaster Recovery" shall be defined as the installation and storage of Product in ready-to-execute, back-up computer systems prior to disaster or breakdown which is not used for active production or development.

**h.** **Confidentiality Restrictions** The Product is a trade secret, copyrighted and proprietary product. Licensee and its employees will keep the Product strictly confidential, and Licensee will not disclose or otherwise distribute or reproduce any Product to anyone other than as authorized under the terms of Contract. Licensee will not remove or destroy any proprietary markings of Contractor.

**i.** **Restricted Use by Licensee** Except as expressly authorized by the terms of license, Licensee shall not:

i. Copy the Product;

ii. Cause or permit reverse compilation or reverse assembly of all or any portion of the Product;

iii. Export the Licensed Software in violation of any U.S. Department of Commerce export administration regulations.

## 2. PRODUCT ACCEPTANCE

Unless otherwise provided by mutual agreement of the Authorized User and the Contractor, Authorized User(s) shall have thirty (30) days from the date of delivery to accept hardware products and sixty (60) days from the date of delivery to accept all other Product. Where the Contractor is responsible for installation, acceptance shall be from completion of installation. Failure to provide notice of acceptance or rejection or a deficiency statement to the Contractor by the end of the period provided for under this clause constitutes acceptance by the Authorized User(s) as of the expiration of that period. The License Term shall be extended by the time periods allowed for trial use, testing and acceptance unless NYSIF or Authorized User agrees to accept the Product at completion of trial use.

Unless otherwise provided by mutual agreement of the Authorized User and the Contractor, Authorized User shall have the option to run testing on the Product prior to acceptance, such tests and data sets to be specified by User. Where using its own data or tests, Authorized User must have the tests or representative set of data available upon delivery. This demonstration will take the form of a documented installation test, capable of observation by the Authorized User, and shall be made part of the Contractor's standard documentation. The test data shall remain accessible to the Authorized User after completion of the test.

In the event that the documented installation test cannot be completed successfully within the specified acceptance period, and the Contractor or Product is responsible for the delay, Authorized User shall have the option to cancel the order in whole or in part, or to extend the testing period for an additional thirty (30) day increment. Authorized User shall notify Contractor of acceptance upon successful completion of the documented installation test. Such cancellation shall not give rise to any cause of action against the Authorized User for damages, loss of profits, expenses, or other remuneration of any kind.

If the Authorized User elects to provide a deficiency statement specifying how the Product fails to meet the specifications within the testing period, Contractor shall have thirty (30) days to correct the deficiency, and the Authorized User shall have an additional sixty (60) days to evaluate the Product as provided herein. If the Product does not meet the specifications at the end of the extended testing period, Authorized User, upon prior written notice to Contractor, may then reject the Product and return all defective Product to

Contractor, and Contractor shall refund any monies paid by the Authorized User to Contractor therefor. Costs and liabilities associated with a failure of the Product to perform in accordance with the functionality tests or product specifications during the acceptance period shall be borne fully by Contractor to the extent that said costs or liabilities shall not have been caused by negligent or willful acts or omissions of the Authorized User's agents or employees. Said costs shall be limited to the amounts set forth in the Limitation of Liability Clause for any liability for costs incurred at the direction or recommendation of Contractor.

**3. AUDIT OF LICENSED PRODUCT USAGE**

Contractor shall have the right to periodically audit, no more than annually, at Contractor's expense, use of licensed Product at any site where a copy of the Product resides provided that: (i) Contractor gives Licensee(s) at least thirty (30) days advance written notice, (ii) such audit is conducted during such party's normal business hours, (iii) the audit is conducted by an independent auditor chosen on mutual agreement of the parties. Contractor shall recommend a minimum of three (3) auditing/accounting firms from which the Licensee will select one (1). In no case shall the Business Software Alliance (BSA), Software Publishers Association (SPA), Software and Industry Information Association (SIIA) or Federation Against Software Theft (FAST) be used directly or indirectly to conduct audits, or be recommended by Contractor; (iv) Contractor and Licensee are each entitled to designate a representative who shall be entitled to participate, and who shall mutually agree on audit format, and simultaneously review all information obtained by the audit. Such representatives also shall be entitled to copies of all reports, data or information obtained from the audit; and (v) if the audit shows that such party is not in compliance, Licensee shall be required to purchase additional licenses or capacities necessary to bring it into compliance and shall pay for the unlicensed capacity at the NYS Net Price in effect at time of audit, or if none, then at the Contractor's U.S. Commercial list price. Once such additional licenses or capacities are purchased, Licensee shall be deemed to have been in compliance retroactively, and Licensee shall have no further liability of any kind for the unauthorized use of the software.

**4. OWNERSHIP/TITLE TO PROJECT DELIVERABLES**

**a. <u>Definitions</u>**

**i.** For purposes of this paragraph, "Products." A deliverable furnished under this Contract by or through Contractor, including existing and custom Products, including, but not limited to: a) components of the hardware environment, b) printed materials (including but not limited to training manuals, system and user documentation, reports, drawings), whether printed in hard copy or maintained on diskette, CD, DVD or other electronic media c) third party software, d) modifications, customizations, custom programs, program listings, programming tools, data, modules, components, and e) any properties embodied therein, whether in tangible or intangible form (including but not limited to utilities, interfaces, templates, subroutines, algorithms, formulas, source code, object code).

**ii.** For purposes of this paragraph, "Existing Products." Tangible Products and intangible licensed Products that exist prior to the commencement of work under the Contract. Contractor bears the burden of proving that a particular product was in existence prior to the commencement of the Project.

**iii.** For purposes of this paragraph, "Custom Products." Products, preliminary, final or otherwise, which are created or developed by Contractor, its Subcontractors, partners, employees or agents for Authorized User under the Contract.

**b. <u>Title to Project Deliverables</u>** Contractor acknowledges that it is commissioned by the Authorized User to perform the services detailed in the Purchase Order. Unless otherwise specified in writing in the Bid or Purchase Order, the Authorized User shall have ownership and license rights as follows:

**i. Existing Products:**

**1. Hardware -** Title and ownership of Existing Hardware Product shall pass to Authorized User upon Acceptance.

**2. Software -** Title and ownership to Existing Software Product(s) delivered by Contractor under the Contract that is normally commercially distributed on a license basis by the Contractor or other independent software vendor proprietary owner ("Existing Licensed Product"), whether or not embedded in, delivered or operating in conjunction with hardware or Custom Products, shall remain with Contractor or the proprietary owner of other independent software vendor(s) (ISV). Effective upon acceptance, such Product shall be licensed to Authorized User in accordance with the Contractor or ISV owner's standard license agreement, provided, however, that such standard license, must, at a minimum: (a) grant Authorized User a non-exclusive, perpetual license to use, execute, reproduce, display, perform, adapt (unless Contractor advises Authorized User as part of Contractor's proposal that adaptation will violate existing agreements or statutes and Contractor demonstrates such to the Authorized User's satisfaction) and distribute Existing Licensed Product to the Authorized User up to the license capacity stated in the Purchase Order or work order with all license rights necessary to fully effect the general business purpose(s) stated in the Bid or Authorized User's Purchase Order or work order, including the financing assignment rights set forth in paragraph (c) below; and (b) recognize the State of New York as the licensee where the Authorized User is a state agency, department, board, commission, office or institution. Where these rights are not otherwise covered by the ISV's owner's standard license agreement, the Contractor shall be

responsible for obtaining these rights at its sole cost and expense. The Authorized User shall reproduce all copyright notices and any other legend of ownership on any copies authorized under this paragraph.

**ii. Custom Products**: Effective upon creation of Custom Products, Contractor hereby conveys, assigns and transfers to Authorized User the sole and exclusive rights, title and interest in Custom Product(s), whether preliminary, final or otherwise, including all trademark and copyrights. Contractor hereby agrees to take all necessary and appropriate steps to ensure that the Custom Products are protected against unauthorized copying, reproduction and marketing by or through Contractor, its agents, employees, or Subcontractors. Nothing herein shall preclude the Contractor from otherwise using the related or underlying general knowledge, skills, ideas, concepts, techniques and experience developed under a Purchase Order, project definition or work order in the course of Contractor's business. Authorized User may, by providing written notice thereof to the Contractor, elect in the alternative to take a non-exclusive perpetual license to Custom Products in lieu of Authorized User taking exclusive ownership and title to such Products. In such case, Licensee on behalf of all Authorized Users shall be granted a non-exclusive perpetual license to use, execute, reproduce, display, perform, adapt and distribute Custom Product as necessary to fully effect the general business purpose(s) as stated in paragraph (b)(i)(2), above.

**c. Transfers or Assignments to a Third Party Financing Agent** It is understood and agreed by the parties that a condition precedent to the consummation of the purchase (s) under the Contract may be the obtaining of acceptable third party financing by the Authorized User. The Authorized User shall make the sole determination of the acceptability of any financing proposal. The Authorized User will make all reasonable efforts to obtain such financing, but makes no representation that such financing has been obtained as of the date of Bid receipt. Where financing is used, Authorized User may assign or transfer its rights in Licensed Products (existing or custom) to a third party financing entity or trustee ("Trustee") as collateral where required by the terms of the financing agreement. Trustee's sole rights with respect to transferability or use of Licensed Products shall be to exclusively sublicense to Authorized User all of its Licensee's rights under the terms and conditions of the License Agreement; provided, further, however, in the event of any termination or expiration of such sublicense by reason of payment in full, all of Trustee's rights in such Licensed Product shall terminate immediately and Authorized User's prior rights to such Existing Licensed Product shall be revived.

**d. Sale or License of Custom Products Involving Tax-Exempt Financing (i.e., Certificates of Participation - COPS)** The Authorized User's sale or other transfer of Custom Products which were acquired by the Authorized User using third party, tax-exempt financing may not occur until such Custom Products are, or become, useable. In the event that the Contractor wishes to obtain ownership rights to Custom Product(s), the sale or other transfer shall be at fair market value determined at the time of such sale or other transfer, and must be pursuant to a separate written agreement in a form acceptable to the Authorized User which complies with the terms of this paragraph.

**e. Contractor's Obligation with Regard to ISV (Third Party) Product** Where Contractor furnishes Existing Licensed Product(s) as a Project Deliverable, and sufficient rights necessary to effect the purposes of this section are not otherwise provided in the Contractor or ISV's standard license agreement, Contractor shall be responsible for obtaining from the ISV third party proprietary owner/developer the rights set forth herein to the benefit of the Authorized User at Contractor's sole cost and expense.

## 5. PROOF OF LICENSE

The Contractor must provide to each Licensee who places a Purchase Order either: (i) the Product developer's certified License Confirmation Certificates in the name of such Licensee; or (ii) a written confirmation from the Proprietary owner accepting Product invoice as proof of license. Contractor shall submit a sample certificate, or alternatively such written confirmation from the proprietary developer. Such certificates must be in a form acceptable to the Licensee.

## 6. PRODUCT VERSION

Purchase Orders shall be deemed to reference Manufacturer's most recently released model or version of the Product at time of order, unless an earlier model or version is specifically requested in writing by Authorized User and Contractor is willing to provide such version.

## 7. CHANGES TO PRODUCT OR SERVICE OFFERINGS

**a. Product or Service Discontinuance** Where Contractor is the Product Manufacturer/Developer, and Contractor publicly announces to all U.S. customers ("date of notice") that a Product is being withdrawn from the U.S. market or that maintenance service or technical support provided by Contractor ("withdrawn support") is no longer going to be offered, Contractor shall be required to: (i) notify NYSIF, each Licensee and each Authorized User then under contract for maintenance or technical support in writing of the intended discontinuance; and (ii) continue to offer Product or withdrawn support upon the Contract terms previously offered for the greater of: a) the best terms offered by Contractor to any other customer, or b) not less than twelve (12) months from the date of notice; and (iii) at Authorized User's option, provided that the Authorized User is under contract for maintenance on the date of notice, either: provide the Authorized User with a Product replacement or migration path with at least equivalent functionality at no additional charge to enable Authorized User to continue use and maintenance of the Product.

In the event that the Contractor is not the Product Manufacturer, Contractor shall be required to: (i) provide the notice required under the paragraph above, to the entities described within five (5) business days of Contractor receiving notice from the Product Manufacturer, and (ii) include in such notice the period of time from the date of notice that the Product Manufacturer will continue to provide Product or withdraw support.

The provisions of this subdivision (a) shall not apply or eliminate Contractor's obligations where withdrawn support is being provided by an independent Subcontractor. In the event that such Subcontractor ceases to provide service, Contractor shall be responsible for subcontracting such service, subject to state approval, to an alternate Subcontractor.

**b**. **Product or Service Re-Bundling** In the event that Contractor is the Product manufacturer and publicly announces to all U.S. customers ("date of notice") that a Product or maintenance or technical support offering is being re-bundled in a different manner from the structure or licensing model of the prior U.S. commercial offering, Contractor shall be required to: (i) notify the State and each Authorized User in writing of the intended change; (ii) continue to provide Product or withdrawn support upon the same terms and conditions as previously offered on the then-current NYS Contract for the greater of: a) the best terms offered by Contractor to any other customer, or b) not less than twelve (12) months from the date of notice; and (iii) shall submit the proposed rebundling change to NYSIF for approval prior to its becoming effective for the remainder of the Contract term. The provisions of this section do not apply if the Contractor is not the Product manufacturer.

## 8. NO HARDSTOP/PASSIVE LICENSE MONITORING

Unless an Authorized User is otherwise specifically advised to the contrary in writing at the time of order and prior to purchase, Contractor hereby warrants and represents that the Product and all Upgrades do not and will not contain any computer code that would disable the Product or Upgrades or impair in any way its operation based on the elapsing of a period of time, exceeding an authorized number of copies, advancement to a particular date or other numeral, or other similar self-destruct mechanisms (sometimes referred to as "time bombs," "time locks," or "drop dead" devices) or that would permit Contractor to access the Product to cause such disablement or impairment (sometimes referred to as a "trap door" device). Contractor agrees that in the event of a breach or alleged breach of this provision that Authorized User shall not have an adequate remedy at law, including monetary damages, and that Authorized User shall consequently be entitled to seek a temporary restraining order, injunction, or other form of equitable relief against the continuance of such breach, in addition to any and all remedies to which Authorized User shall be entitled.

## 9. SOURCE CODE ESCROW FOR LICENSED PRODUCT

If Source Code or Source Code escrow is offered by either Contractor or Product manufacturer or developer to any other commercial customers, Contractor shall either: (i) provide Licensee with the Source Code for the Product; or (ii) place the Source Code in a third party escrow arrangement with a designated escrow agent who shall be named and identified to the State, and who shall be directed to release the deposited Source Code in accordance with a standard escrow agreement acceptable to the State; or (iii) will certify to the State that the Product manufacturer/developer has named the State, acting by and through the Authorized User, and the Licensee, as a named beneficiary of an established escrow arrangement with its designated escrow agent who shall be named and identified to the State and Licensee, and who shall be directed to release the deposited Source Code in accordance with the terms of escrow. Source Code, as well as any corrections or enhancements to such source code, shall be updated for each new release of the Product in the same manner as provided above and such updating of escrow shall be certified to the State in writing. Contractor shall identify the escrow agent upon commencement of the Contract term and shall certify annually that the escrow remains in effect in compliance with the terms of this paragraph.

The State may release the Source Code to Licensees under this Contract who have licensed Product or obtained services, who may use such copy of the Source Code to maintain the Product.

# NYSIF EXHIBIT C

# CONTRACT PROVISIONS

# TABLE OF CONTENTS

**GENERAL** **PAGE**

CONTRACT DOCUMENTS ..... 2
TERM ..... 2
TERMINATION OF CONTRACT ..... 2
SUSPENSION OF WORK ..... 2
VENDOR RESPONSIBILITY ..... 3
SAVINGS/FORCE MAJEURE ..... 3
DISASTER RECOVERY PLAN ..... 3
PRODUCT DELIVERY ..... 4
WEEKEND AND HOLIDAY DELIVERY ..... 4
SHIPPING / RECEIPT OF PRODUCT ..... 4
PRODUCT SUBSTITUTION ..... 4
REJECTED PRODUCT ..... 5
INSPECTION AND ACCEPTANCE OF THE WORK ..... 5
TITLE AND RISK OF LOSS ..... 5
EMERGENCY CONTRACTS ..... 5
ASSIGNMENT ..... 5
ASSIGNMENT OF CLAIM ..... 6
RIGHT TO AUDIT ..... 6
POLICY COMPLIANCE ..... 6
SUBCONTRACTORS / SUPPLIERS ..... 6
CONTRACT BILLINGS ..... 6
REMEDIES FOR BREACH ..... 7
INSTALLATION ..... 7
PRODUCT ACCEPTANCE – HARDWARE AND SOFTWARE ..... 7
TOXIC SUBSTANCES ..... 8
COOPERATION WITH THIRD PARTIES ..... 8
INDEPENDENT CONTRACTOR ..... 8
EMPLOYEES, SUBCONTRACTORS AND AGENTS ..... 8
OWNERSHIP OF DOCUMENTS ..... 8
INFORMATION SECURITY CLAUSE ..... 8
CONFIDENTIALITY CLAUSE ..... 9
INDEMNIFICATION ..... 9
INDEMNIFICATION RELATING TO THIRD PARTY RIGHTS ..... 9
LIMITATION OF LIABILITY ..... 9
NON-SOLICITATION ..... 10
CONTRACTOR CONSULTANT LAW ..... 10
INSURANCE ..... 10
PERFORMANCE / BID BOND ..... 10
NOTICE ..... 10
MODIFICATIONS TO THE AGREEMENT ..... 11
SEVERABILITY ..... 11
CHOICE OF LAW: VENUE ..... 11
COUNTERPARTS / SIGNATURES ..... 11

## 1. CONTRACT DOCUMENTS

The contract documents consist of the contract agreement, proposal, bid document specifications, addenda issued prior to receipt of bids, and all subsequent modifications and changes issued pursuant to the bid documents.

The contract represents the agreement between the parties and supersedes all prior negotiations, representations and agreements, whether written or oral, including the bidding documents which may have resulted from the Bid Documents.

The contract may be revised, modified and/or amended by mutual written consent of both parties and where applicable the approval of the NYS Attorney General (AG), Office of the State Comptroller (OSC) or the Department of Financial Services (DFS). The contract is made in accordance with the laws of New York State.

## 2. TERM

In addition to any stated renewal periods in the Contract, any Contract or unit portion thereof let by NYSIF may be extended by NYSIF for an additional period(s) of up to one year with the written concurrence of the Contractor and, where required, OSC or DFS approval. Such extension may be exercised on a month to month basis or in other stated periods of time during the one year extension.

## 3. TERMINATION OF CONTRACT

**a. For Cause**: For a material breach that remains uncured for more than thirty (30) days or other specified period after written notice to the Contractor, the Contract may be terminated by NYSIF at the Contractor's expense where Contractor becomes unable or incapable of performing, or meeting any requirements or qualifications set forth in the Contract, or for non- performance, or upon a determination that Contractor is non-responsible. Such termination shall be upon written notice to the Contractor. In such event, NYSIF may complete the contractual requirements in any manner it may deem advisable and pursue available legal or equitable remedies for breach. NYSIF shall have the right to award a new contract to a third party. In the event of termination for cause, NYSIF shall seek recovery damage incurred by NYSIF and the reasonable re-procurement costs associated in reassigning the contract.

**b. For Convenience**: This Contract may be terminated at any time by NYSIF for convenience upon sixty (60) days written noticeor other specified period without penalty or other early termination charges due. Such termination of the Contract shall not affect any project or Purchase Order that has been issued under the Contract prior to the date of such termination. If the Contract is terminated pursuant to this subdivision, NYSIF shall remain liable for all accrued but unpaid charges incurred through the date of the termination. Contractor shall use due diligence and provide any outstanding deliverables.

**c. For Non-Responsibility:** Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate NYSIF officials or staff, the contract may be terminated by NYSIF at the Contractor's expense where the Contractor is determined by NYSIF to be non-responsible. In such event, NYSIF may complete the contractual requirements in any manner it may deem advisable and pursue available legal or equitable remedies for breach.

**d. For Violation of the Sections 139-j and 139-k of the State Finance Law:** NYSIF reserves the right to terminate the Contract in the event it is found that the certification filed by the Bidder in accordance with Section 139-k of the State Finance Law was intentionally false or intentionally incomplete. Upon such finding, NYSIF may exercise its termination right by providing written notification to the Contractor in accordance with the written notification terms of the Contract.

**e. For Violation of Revised Tax Law 5a**: NYSIF reserves the right to terminate the contract in the event it is found that the certification filed by the Contractor in accordance with §5-a of the Tax Law is not timely filed during the term of the Contract or the certification furnished was intentionally false or intentionally incomplete. Upon such finding, NYSIF may exercise its termination right by providing written notification to the Contractor.

**f. Conflicts of Interest**: NYSIF reserves the right to review the nature of relationships and reserves the right to terminate the contract for any reason, or for cause, if, in the judgement of NYSIF, a real or potential conflict of interest cannot be cured

**4. SUSPENSION OF WORK**

**a. For Convenience:** NYSIF may order the contractor in writing to suspend performance of all or any part of the work for a reasonable period of time, not to exceed thirty (30) days, as determined by NYSIF.

Upon receipt of a suspension order, the contractor shall, as soon as practicable, cease performance of the work as ordered.

The contractor specifically agrees that a suspension, interruption or delay of the performance of the work pursuant to this proposal shall not increase the cost of performance of the work of this contract.

**b. For Non-Responsibility:** NYSIF, in its sole discretion, reserves the right to suspend any or all activities under this contract, at any time, when NYSIF discovers information that calls into questions 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 NYSIF issues a written notice authorizing a resumption of performance under the contract.

**5. VENDOR RESPONSIBILITY**

The contractor shall at all times during the contract term remain responsible. The Contractor agrees, if requested by NYSIF, 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.

**6. SAVINGS/FORCE MAJEURE**

A force majeure occurrence is an event or effect that cannot be reasonably anticipated or controlled. Force majeure includes, but is not limited to, acts of God, acts of war, acts of public enemies, strikes, fires, explosions, actions of the elements, floods, or other similar causes beyond the control of the Contractor or NYSIF in the performance of the Contract which non- performance, by exercise of reasonable diligence, cannot be prevented. Contractor shall provide NYSIF with written notice of any force majeure occurrence as soon as the delay is known.

Neither the Contractor nor NYSIF shall be liable to the other for any delay in or failure of performance under the Contract due to a force majeure occurrence. Any such delay in or failure of performance shall not constitute default or give rise to any liability for damages. The existence of such causes of such delay or failure shall extend the period for performance to such extent as determined by the Contractor and NYSIF to be necessary to enable complete performance by the Contractor if reasonable diligence is exercised after the cause of delay or failure has been removed.

Notwithstanding the above, at the discretion of NYSIF where the delay or failure will significantly impair the value of the Contract to the State, NYSIF may:

**a.** Accept allocated performance or deliveries from the Contractor. The Contractor, however, hereby agrees to grant preferential treatment to NYSIF with respect to Product subjected to allocation; and/or

**b.** Purchase from other sources (without recourse to and by the Contractor for the costs and expenses thereof) to replace all or part of the Products which are the subject of the delay, which purchases may be deducted from the Contract quantities without penalty or liability to NYSIF; or

**c.** Terminate the Contract or the portion thereof which is subject to delays, and thereby discharge any unexecuted portion of the Contract or the relative part thereof.

In addition, NYSIF reserves the right, in its sole discretion, to make an equitable adjustment in the Contract terms and/or pricing should extreme and unforeseen volatility in the marketplace affect pricing or the availability of supply. "Extreme and unforeseen volatility in the marketplace" is defined as market circumstances which meet the following criteria: (i) the volatility is due to causes outside the control of Contractor; (ii) the volatility affects the marketplace or industry, not just the particular Contract source of supply; (iii) the effect on pricing or availability of supply is substantial; and (iv) the volatility so affects Contractor's performance that continued performance of the Contract would result in a substantial loss.

**7. DISASTER RECOVERY PLAN**

A. Disaster Recovery Plan

Contractor shall develop and deliver, upon request, to NYSIF on or before a date as reasonably determined by NYSIF, and at no additional cost to NYSIF, a Disaster Recovery Plan for the services which is acceptable to NYSIF and all appropriate regulatory organizations having jurisdiction over Contractor. The Disaster Recovery Plan, which will apply specifically and exclusively to the services under this Agreement, shall provide a description of the Plan Assumptions, Recovery

Strategy, Disaster Declaration, Plan Notification and Activation, and Recovery Resources. Contractor shall make available at its premises its Master Disaster Recovery Plan applicable to all of its operations for review by NYSIF. NYSIF's approval of the disaster Recovery Plan shall not be unreasonably withheld. Review and acceptance of any Disaster Recovery Plan as may be required by any such regulatory organization shall be the responsibility of Contractor. The Disaster Recovery Plan shall provide, at a minimum, for Contractor to provide alternate electrical power for uninterrupted service. The Disaster Recovery Plan shall also designate one or more facilities (each a "Disaster Recovery Site") or separate computer resources to which Contractor shall move the Services (or affected portion of such services) upon the declaration of a Disaster requiring such a relocation (including a Disaster at a Disaster Recovery Site). Each Disaster Recovery Site must be appropriately equipped with data processing equipment which the parties reasonably believe should be sufficient to provide the Services in compliance with Attachment A. The Disaster Recovery Plan must also specify all procedures for the determination or declaration of a Disaster, which determination or declaration may not be unreasonably withheld or delayed by either party.

B. Access to Disaster Recovery Plans

1. Contractor shall make available to NYSIF any reports or findings of any regulatory agency dealing with Contractor's disaster recovery capabilities to provide services hereunder, unless it is prohibited from making such disclosure by law or by any such agency, together with any reports of its independent auditors relating to such plans. Contractor shall also make available to NYSIF results of any tests of Contractor's disaster recovery facilities conducted by Contractor or any third party with respect to the services provided under the Agreement. Contractor shall provide an annual briefing to NYSIF related to its disaster recovery strategy.

2. NYSIF acknowledges that Contractor's Master Disaster Recovery Plan providing disaster recovery for these services contains highly sensitive and confidential business information. It is understood and agreed that NYSIF may examine and approve the Master Disaster Recovery Plan; however, such examination shall be limited to that portion of the plan(s) which relates to the providing of services under this Agreement. Contractor may in its discretion limit NYSIF's review of its Master Disaster Recovery Plan(s) to a review of a copy maintained at Contractor's Capital Region office and not permit any copies to be made.

C. Disaster Event Notification

Contractor shall no later than twenty-four (24) hours after the occurrence of an event requiring activation of the Disaster Recovery Plan inform NYSIF that the plan has been activated. At that time, Contractor shall provide NYSIF with a description of the nature and extent of the disaster, an assessment of the impact on all services provided pursuant to this Agreement and a description of the specific recovery actions with their associated timeframes that have been or will be taken as part of the plan. Contractor will provide appropriate periodic updates of the recovery process as required by NYSIF.

## 8. PRODUCT DELIVERY

Delivery must be made as ordered to the address specified on the Purchase Order and in accordance with the terms of the Contract. Unless otherwise specified in the Bid Documents, delivery shall be made within thirty calendar days after receipt of a Purchase Order by the Contractor. The decision of NYSIF as to compliance with delivery terms shall be final. The burden of proof for delay in receipt of Purchase Order shall rest with the Contractor. In all instances of a potential or actual delay in delivery, the Contractor shall immediately notify NYSIF and confirm in writing the explanation of the delay, and take appropriate action to avoid any subsequent late deliveries. Any extension of time for delivery must be requested in writing by the Contractor and approved in writing by NYSIF. Failure to meet such delivery time schedule may be grounds for cancellation of the order or, in NYSIF's discretion, the Contract.

## 9. WEEKEND AND HOLIDAY DELIVERY

Unless otherwise specified in the Bid Specifications, deliveries will be scheduled for ordinary business hours, Monday through Friday (excluding legal holidays observed by the State of New York). Deliveries may be scheduled by mutual agreement for Saturdays, Sundays or legal holidays observed by the State of New York where the Product is for daily consumption, an emergency exists, the delivery is a replacement, delivery is late, or other reasonable circumstance, in which event the convenience of NYSIF shall govern

## 10. SHIPPING / RECEIPT OF PRODUCT

**a.** **Packaging** Tangible Product shall be securely and properly packed for shipment, storage and stocking in appropriate, clearly labeled shipping containers and according to accepted commercial practice, without any extra charges for packing materials, cases or other types of containers. The container shall become and remain the property of NYSIF User unless otherwise specified in the Contract documents.

**b.** **Shipping Charges** Unless otherwise stated in the Bid Specifications, all deliveries shall be deemed to be freight on board

(FOB) destination tailgate delivery at the dock. Contractor shall be responsible for ensuring that the Bill of Lading states "charges prepaid" for all shipments.

c. **Receipt of Product** The Contractor shall be solely responsible for assuring that deliveries are made to personnel authorized to accept delivery on behalf of NYSIF. Any losses resulting from the Contractor's failure to deliver Product to authorized personnel shall be borne exclusively by the Contractor.

## 11. PRODUCT SUBSTITUTION

In the event a specified manufacturer's Product listed in the Contract becomes unavailable or cannot be supplied by the Contractor for any reason (except as provided for in the Savings/Force Majeure Clause) a Product deemed in writing by NYSIF to be equal to or better than the specified Product must be substituted by the Contractor at no additional cost or expense to NYSIF. Unless otherwise specified, any substitution of Product prior to NYSIF's written approval may be cause for cancellation of Contract.

## 12. REJECTED PRODUCT

When Product is rejected, it must be removed by the Contractor from the premises of NYSIF within ten calendar days of notification of rejection by NYSIF. Upon notification of rejection, risk of loss of rejected or non-conforming Product shall remain with Contractor. Rejected items not removed by the Contractor within ten calendar days of notification shall be regarded as abandoned by the Contractor, and NYSIF shall have the right to dispose of Product as its own property. The Contractor shall promptly reimburse NYSIF for any and all costs and expenses incurred in storage or effecting removal or disposition after the ten-calendar day period

## 13. INSPECTION AND ACCEPTANCE OF THE WORK

NYSIF will, from time-to-time, inspect the products being provided and/or the services being performed under the terms of the contract.

All products/work shall be subject to the approval of NYSIF. In the event that any of the products provided/work performed are not acceptable to NYSIF in its sole judgment, the contractor shall replace the product/correct that work in an expeditious manner at no additional cost to NYSIF.

The contractor shall, without charge, promptly correct any problems NYSIF finds do not conform to the contract documents, unless in the public interest NYSIF consents to accept such product or work with an appropriate adjustment to the contract price.

If the contractor does not promptly correct rejected product/work, NYSIF may replace such product/correct such work and charge the cost thereof to the contractor, or terminate the contract in accordance with the Agreement.

## 14. TITLE AND RISK OF LOSS

Notwithstanding the form of shipment, title or other property interest, risk of loss shall not pass from the Contractor to NYSIF until the Products have been received, inspected and accepted by the receiving entity. Acceptance shall occur within a reasonable time or in accordance with such other defined acceptance period as may be specified in the Bid Specifications or Purchase Order. Mere acknowledgment by NYSIF personnel of the delivery or receipt of goods (e.g., signed bill of lading) shall not be deemed or construed as acceptance of the Products received. Any delivery of Product that is substandard or does not comply with the Bid Specifications or Contract terms and conditions, may be rejected or accepted on an adjusted price basis, as determined by NYSIF.

## 15. EMERGENCY CONTRACTS

In the event that a disaster emergency is declared by Executive Order under Section 28 of Article 2-B of the Executive Law, or NYSIF determines pursuant to its authority under Section 163 (10) (b) of the State Finance Law that an emergency exists requiring the prompt and immediate delivery of Product, NYSIF reserves the right to obtain such Product from any source, including but not limited to this Contract(s), if NYSIF in its sole discretion determines it will meet the needs of such emergency. Contractor shall not be entitled to any claim or lost profits for Product procured from other sources pursuant to this paragraph. The reasons underlying the finding that an emergency exists shall be included in the procurement record.

## 16. ASSIGNMENT

The Contractor shall not assign, transfer, convey, sublet, or otherwise dispose of the contract or its right, title or interest therein, or its power to execute such contract to any other person, company, firm or corporation in performance of the contract without the prior written consent of NYSIF. Failure to obtain consent to assignment from NYSIF shall revoke and annul such Contract. Notwithstanding the foregoing, the State shall not hinder, prevent or affect assignment of money by a Contractor for the benefit of its creditors. Prior to a consent to assignment of monies becoming effective, the Contractor shall file a written notice of such monies assignment(s) with NYSIF. Prior to a consent to assignment of a Contract, or portion thereof, becoming effective, the Contractor shall submit the request to assignment to NYSIF and seek written agreement from NYSIF. The assignment agreement

may be subject to the approval of AG and OSC or DFS. NYSIF reserves the right to reject any proposed assignee at its discretion.

Upon notice to the Contractor, the Contract may be assigned without the consent of the Contractor to another State Agency or subdivision of the State pursuant to a governmental reorganization or assignment of functions under which the functions are transferred to a successor Agency or to another Agency that assumes NYSIF responsibilities for the Contract.

**17. ASSIGNMENT OF CLAIM**

Contractor hereby assigns to the State any and all claims for overcharges associated with this Contract which may arise under the antitrust laws of the United States, 15 USC Section 1, et. seq. and the antitrust laws of the State of New York, General Business Law Section 340, et. seq.

**18. RIGHT TO AUDIT**

Contractor shall maintain accurate records and accounts of services performed and money expended under this agreement and shall furnish or make available such supplemental accounts, records or other information as are required to substantiate any estimate, expenditures or report as required by NYSIF (or its designee), or as may be necessary for auditing purposes or to verify that expenditures were made only for the purpose authorized by this agreement and consistent with all requirements as stated in the Request for Proposal. Such records and accounts and all supportive documentation shall be kept for at least six (6) years subsequent to dates of final payment hereunder, or until a final audit has been made by NYSIF (or its designee).

In case all or a part of such records are not made available for audit purposes, Contractor agrees that any cost items claimed but not supported by such records shall be disallowed, or if payment has already been made, Contractor shall, upon written demand of NYSIF, refund to NYSIF the amount disallowed.

SAS 70 Reports:

If Contractor utilizes a Statement on Audit Standards No. 70 (SAS 70), or a Statement on Standards for Attestation Engagements (SSAE) No. 16, as developed by the American Institute of Certified Public Accountants (AICPA), within the past twenty-four months prior to the Agreement, Contractor shall provide NYSIF with a copy of Contractor's Service Auditor's Report(s) for either Type I or Type II (Reports), or Service Organization Control (SOC) Report types 1, 2, or 3, on an annual basis. Such Report(s) shall be used for information purposes only. NYSIF reserves the right to request a copy of the Report(s) during the Agreement duration (including option periods). Production of Contractor SAS 70 Report(s), or SOC Reports shall not take the place of NYSIF's right under the Agreement to independently audit Contractor.

**19. POLICY COMPLIANCE**

Contractor warrants, covenants and represents that it will comply fully with all policies and procedures of NYSIF in performance of the Contract including but not limited to security, physical, facility, documentary and cyber security rules, policies, procedures and protocols.

**20. SUBCONTRACTORS / SUPPLIERS**

NYSIF reserves the right to reject any proposed Subcontractor or supplier for bona fide business reasons, which may include, but are not limited to: they are on the Department of Labor's list of companies with which New York State cannot do business; NYSIF determines that the company is not qualified; NYSIF determines that the company is not responsible; the company has previously provided unsatisfactory work or services; the company failed to solicit minority and women's business enterprises (MWBE) Bidders as required by prior Contracts.

## 21. CONTRACT BILLINGS

Contractor shall provide complete and accurate billing invoices to NYSIF in order to receive payment. Invoices must contain all information required by the Contract. All invoices must be sent to:

NYSIFAPVNDRINV@nysif.com

Submission of an invoice and payment thereof shall not preclude NYSIF from reimbursement or demanding a price adjustment in any case where the Product delivered is found to deviate from the terms and conditions of the Contract or where the billing was inaccurate.

Payments for invoices submitted by the Contractor shall be rendered electronically. Such electronic payment shall be made in accordance with ordinary State procedures and practices. The Contractor shall comply with NYSIF's procedures to authorize electronic payments. Contractor acknowledges that it will not receive payment on any invoices submitted under this Contract if it does not comply with NYSIF's electronic payment procedures. NYSIF's policy and the authorization form may be found on NYSIF's website at www.nysif.com/procurement.

Contractor shall provide, upon request of NYSIF, any and all information necessary to verify the accuracy of the billings. Such information shall be provided in the format requested by NYSIF and in a media commercially available from the Contractor. NYSIF may direct the Contractor to provide the information to the State Comptroller (OSC).

## 22. REMEDIES FOR BREACH

It is understood and agreed that all rights and remedies afforded below shall be in addition to all remedies or actions otherwise authorized or permitted by law:

**a.** **Cover/Substitute Performance** In the event of Contractor's material breach, NYSIF may, with or without formally Bidding: (i) Purchase from other sources; or (ii) If NYSIF is unsuccessful after making reasonable attempts, under the circumstances then existing, to timely obtain acceptable service or acquire replacement Product of equal or comparable quality, NYSIF may acquire acceptable replacement Product of lesser or greater quality.

Such purchases may, in the discretion of NYSIF, be deducted from the Contract quantity and payments due to Contractor.

**b.** **Withhold Payment** In any case where a question of non-performance by Contractor arises, payment may be withheld in whole or in part at the discretion of NYSIF. Should the amount withheld be finally paid, a cash discount originally offered may be taken as if no delay in payment had occurred.

**c.** **Bankruptcy** In the event that the Contractor files a petition under the U.S. Bankruptcy Code during the term of this Centralized Contract, NYSIF may, at its discretion, make application to exercise its right to set-off against monies due the Debtor or, under the Doctrine of Recoupment, credit NYSIF the amounts owed by the Contractor arising out of the same transactions.

**d.** **Reimbursement of Costs Incurred** The Contractor agrees to reimburse NYSIF promptly for any and all additional costs and expenses incurred for acquiring acceptable services, and/or replacement Product. Should the cost of cover be less than the Contract price, the Contractor shall have no claim to the difference. The Contractor covenants and agrees that in the event suit is successfully prosecuted for any default on the part of the Contractor, all costs and expenses expended or incurred by NYSIF in connection therewith, including reasonable attorney's fees, shall be paid by the Contractor

Where the Contractor fails to timely deliver pursuant to the guaranteed delivery terms of the Contract, NYSIF may rent substitute equipment temporarily. Any sums expended for such rental shall, upon demand, be reimbursed to NYSIF promptly by the Contractor or deducted by NYSIF from payments due or to become due the Contractor on the same or another transaction.

**e.** **Deduction/Credit** Sums due as a result of these remedies may be deducted or offset by NYSIF from payments due, or to become due, the Contractor on the same or another transaction. If no deduction or only a partial deduction is made in such fashion the Contractor shall pay to NYSIF the amount of such claim or portion of the claim still outstanding, on demand. NYSIF reserves the right to determine the disposition of any rebates, settlements, restitution, liquidated damages, etc., which arise from the administration of the Contract.

## 23. INSTALLATION

Where installation is required, Contractor shall be responsible for placing and installing the Product in the required locations. All materials used in the installation shall be of good quality and shall be free from any and all defects that would mar the appearance of the Product or render it structurally unsound. Installation includes the furnishing of any equipment, rigging and materials required to install or place the Product in the proper location. The Contractor shall protect the site from damage for all its work and shall repair damages or injury of any kind caused by the Contractor, its employees, officers or agents. If any alteration,

dismantling or excavation, etc. is required to effect installation, the Contractor shall thereafter promptly restore the structure or site. Work shall be performed to cause the least inconvenience to NYSIF and with proper consideration for the rights of other Contractors or workers. The Contractor shall promptly perform its work and shall coordinate its activities with those of other Contractors. The Contractor shall clean up and remove all debris and rubbish from its work as required or directed. Upon completion of the work, the building and surrounding area of work shall be left clean and in a neat, unobstructed condition, and everything in satisfactory repair and order.

**24. PRODUCT ACCEPTANCE – HARDWARE AND SOFTWARE**

Unless otherwise provided by mutual agreement, NYSIF shall have thirty (30) days from the date of delivery to accept hardware products and sixty (60) days from the date of delivery to accept all other Product. Where the Contractor is responsible for installation, acceptance shall be from completion of installation. Unless otherwise provided by mutual agreement, NYSIF shall have the option to run testing on the Product prior to acceptance. Costs and liabilities associated with a failure of the Product to perform in accordance with the functionality tests or product specifications during the acceptance period shall be borne fully by Contractor to the extent that said costs or liabilities shall not have been caused by negligent or willful acts or omissions by NYSIF's agents or employees. Said costs shall be limited to the amounts set forth in the Limitation of Liability Clause for any liability for costs incurred at the direction or recommendation of Contractor.

Failure to provide notice of acceptance or rejection or a deficiency statement to the Contractor by the end of the period provided for under this clause constitutes acceptance by NYSIF as of the expiration of that period.

**25. TOXIC SUBSTANCES**

Each Contractor furnishing a toxic substance as defined by Section 875 of the Labor Law, shall provide NYSIF with not less than two copies of a material safety data sheet, which shall include for each such substance the information outlined in Section 876 of the Labor Law.

Before any chemical product is used or applied on or in any building, a copy of the product label and Material Safety Data Sheet must be provided to and approved by NYSIF's agency representative.

**26. COOPERATION WITH THIRD PARTIES**

The Contractor shall be responsible for fully cooperating with any third party, including but not limited to other Contractors or Subcontractors of NYSIF, as necessary to ensure delivery of Product or coordination of performance of services

**27. INDEPENDENT CONTRACTOR**

It is understood and agreed that the legal status of the Contractor, its agents, officers and employees under this Contract is that of an independent Contractor, and in no manner shall they be deemed employees of NYSIF, and therefore are not entitled to any of the benefits associated with such employment. The Contractor agrees, during the term of this Contract, to maintain at Contractor'sexpense those benefits to which its employees would otherwise be entitled by law, including health benefits, and all necessary insurance for its employees, including worker's compensation, disability and unemployment insurance, and to provide NYSIF withcertification of such insurance upon request. The Contractor remains responsible for all applicable federal, state and local taxes, and allFICA contributions.

**28. EMPLOYEES, SUBCONTRACTORS AND AGENTS**

All employees, Subcontractors or agents performing work under the Contract must be trained staff or technicians who meet or exceed the professional, technical and training qualifications set forth in the Bid Specifications or the Bid Documents, whichever is more restrictive, and must comply with all security and administrative requirements of NYSIF. NYSIF reserves the right to conduct a security background check or otherwise approve any employee, Subcontractor or agent furnished by Contractor and to refuse access to or require replacement of any personnel for cause based on, including but not limited to, professional, technical or trainingqualifications, quality of work or change in security status or non-compliance with NYSIF's security or other requirements. Suchapproval shall not relieve the Contractor of the obligation to perform all work in compliance with the Contract terms. NYSIF reserves the right to reject and/or bar from the facility for cause any employee, Subcontractor, or agents of the Contractor.

**29. OWNERSHIP OF DOCUMENTS**

All drawings, specifications, computations, sketches, test data, survey results, reports and other documents including models, photographs, renderings and other material prepared for or relating to the project, including any material furnished by NYSIF are the property of NYSIF.

**30. INFORMATION SECURITY CLAUSE**

In the event of a Breach of Security as defined in NY CLS Gen Bus §899-aa and NY CLS State Technology Law §208, or otherwise, involving NYSIF supplied Personal Information or Private Information from systems owned, operated, sub-contracted

or otherwise routed through Contractor's systems or networks, Offeror shall notify NYSIF immediately, without unreasonable delay, pursuant to the NOTICE provision of this Agreement. "Breach of Security" shall mean the unauthorized acquisition or acquisition without valid authorization of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by a business. "Personal Information" shall mean any information concerning a person which, because of name, number, mark or other identifier, can be used to identify such person. "Private Information" shall mean personal information in combination with any one or more of the following data elements, when either the personal information or the data information or the data element is not encrypted or encrypted with an encryption key that has also been acquired: (i) social security number; (ii) driver's license number or non-driver identification cards number; or (iii) account number, credit or debit card number, in combination with any required security code, access code, or password which would permit access to an individual's financial account. Additionally, Offeror undertakes to, solely at its own cost and expense, provide any requisite notices that either Contractor or NYSIF would have to provide pursuant to NY CLS Gen Bus §899-aa and NY CLS State Technology Law §208, or any other applicable statute, both on behalf of Contractor and on behalf of NYSIF. Offeror's notification shall include but not be limited to a description of the categories of information that were, or are reasonably believed, to have been acquired by a person without valid authorization, including specification of which of the elements of personal information and private information were, or are reasonably believed to have been, so acquired, or as otherwise provided for by applicable law.

## 31. CONFIDENTIALITY CLAUSE

NYSIF Confidential Information includes but is not limited to: (i) the meaning ascribed to "*Nonpublic Personal Information*" in Title V of the Gramm-Leach-Bliley Act of 1999 or any successor federal statute, and the rules and regulations thereunder, all as may be amended or supplemented from time to time ("*GLBA*"), as it relates to NYSIF's consumers, (ii) "*Protected Health Information* ('*PHI*')" as such term is defined in the Health Insurance Portability and Accountability Act of 1996, or any successor federal statute, and the rules and regulations thereunder, all as may be amended or supplemented from time to time ("*HIPAA*") and (iii) any personally identifiable information protected under any other applicable state or federal statute, rule or regulation.

All material made available to the contractor or its staff will remain the property of NYSIF. In addition, the contractor, subcontractor and staff shall maintain the confidentiality of all material, including the identity of any parties and content of any material to which they are exposed or have access. All improvements to applications and processes developed at NYSIF's expense and within the scope of the services provided to NYSIF shall be the sole and exclusive property of NYSIF.

The contractor will not divulge, disclose or furnish to any other party the information or processes utilized at NYSIF, disclosed to the contractor or developed by the contractor or another during the course of the project unless such information is in the public domain.

The contractor will advise NYSIF if it is engaged in a project for any other insurance company, or subsidiary, that has a Workers' Compensation or Disability Benefits product line.

Any request for information from third parties shall be reported to NYSIF in writing within 24 hours. News releases pertaining to this project will not be made without prior NYSIF approval.

## 32. INDEMNIFICATION

Contractor shall be fully liable for the actions of its agents, employees, partners or Subcontractors and shall fully indemnify and save harmless NYSIF from suits, actions, damages and costs of every name and description relating to personal injury and damage to real or personal tangible property and intellectual property caused by any intentional act or negligence of Contractor, its agents, employees, partners or Subcontractors, <u>without limitation</u>; provided, however, that the Contractor shall not indemnify for that portion of any claim, loss or damage arising hereunder due to the negligent act or failure to act of NYSIF.

## 33. INDEMNIFICATION RELATING TO THIRD PARTY RIGHTS

The Contractor will also indemnify and hold NYSIF harmless from and against any and all damages, expenses (including reasonable attorneys' fees), claims, judgments, liabilities and costs that may be finally assessed against NYSIF in any action for infringement of a United States Letter Patent, or of any copyright, trademark, trade secret or other third party proprietary right except to the extent such claims arise from NYSIF's gross negligence or willful misconduct, provided that the State shall give Contractor: (i) prompt written notice of any action, claim or threat of infringement suit, or other suit, (ii) the opportunity to take over, settle or defend such action, claim or suit at Contractor's sole expense, and (iii) assistance in the defense of any such action at the expense of Contractor.

If usage shall be enjoined for any reason or if Contractor believes that it may be enjoined, Contractor shall have the right, at its own expense and sole discretion to take action in the following order of precedence: (i) to procure for NYSIF the right to continue Usage (ii) to modify the service or Product so that Usage becomes non-infringing, and is of at least equal quality and performance; or (iii) to replace said service or Product or part(s) thereof, as applicable, with non-infringing service or Product of at least equal quality and performance. If the above remedies are not available, the parties shall terminate the Contract, in whole or in part as necessary and applicable, provided NYSIF is given a refund for any amounts paid for the period during which Usage

was not feasible.

**34. LIMITATION OF LIABILITY**

Except as otherwise set forth in the Indemnification Paragraphs above, the limit of liability shall be as follows:

a. Contractor's liability for any claim, loss or liability arising out of, or connected with the Products and services provided, and whether based upon default, or other liability such as breach of contract, warranty, negligence, misrepresentation or otherwise, shall in no case exceed direct damages in: (i) an amount equal to two (2) times the charges specified in the contract, or (ii) one million dollars ($1,000,000), whichever is greater.

b. NYSIF may retain such monies from any amount due Contractor as may be necessary to satisfy any claim for damages, costs and the like asserted against NYSIF unless Contractor at the time of the presentation of claim shall demonstrate to the NYSIF's satisfaction that sufficient monies are set aside by the Contractor in the form of a bond or through insurance coverage to cover associated damages and other costs.

c. Notwithstanding the above, neither the Contractor nor NYSIF shall be liable for any consequential, indirect or special damages of any kind which may result directly or indirectly from such performance, including, without limitation, damages resulting from loss of use or loss of profit by NYSIF, the Contractor, or by others

**35. NON-SOLICITATION**

The Contractor shall contact NYSIF employees, including employees designated by NYSIF to receive marketing material and negotiate contracts only in connection with the transaction of business set forth herein. The Contractor shall be cognizant of sections 73 and 74 of the NYS Public Officers Law, which govern the conduct of the state employees, and sections 139-j and 139-k of the NYS Finance Law which governs the conduct of the state employees and their relations with outside parties.

The Contractor shall not contact or solicit NYSIF employees in connection with any contests, lotteries, challenges, or competitions, whether or not prizes, awards, gifts, remuneration or items of value are awarded. The Contractor shall neither solicit nor market directly to any NYSIF employees in their individual capacities. If the Contractor maintains identifiable records of NYSIF employees in connection with its performance hereunder, such records shall not be commercially exploit its relationship with NYSIF nor use NYSIF, its name, trademarks or logo for any advertising, marketing or other commercial purpose without prior written approval. This clause shall survive termination of any awarded contract.

**36. CONTRACTOR CONSULTANT LAW**

Effective June 19, 2006, Chapter 10 of the Laws of 2006 amended the Civil Service and State Finance Laws, relative to maintaining certain information on contract employees working under State agency service and consulting contracts. State agency consultant contracts are defined as "contracts entered into by a state agency for *analysis, evaluation, research, training, data processing, computer programming, engineering, environmental health and mental health services, accounting, auditing, paralegal, legal, or similar services*". The amendments require that certain contract employee information be provided to the state agency awarding such contracts, the Office of the State Comptroller (OSC), the Division of the Budget (DOB) and the Department of Civil Service (CS).

To meet these new requirements, the awarded contractor agrees to complete Form A - Contractor's Planned Employment Form, and Form B – Contractor's Annual Employment Report.

For more information on this requirement, please see the NYS Office of the State Comptroller's Guide to Financial Operations Section XI.18.C Consultant Disclosure Legislation.

**37. INSURANCE**

Prior to the commencement of the work, Contractor shall file with NYSIF Certificates of Insurance evidencing compliance with all requirements contained in the Bid Documents. Acceptance and/or approval by NYSIF do not and shall not be construed to relieve Contractor of any obligations, responsibilities or liabilities under this Agreement.

Contractor shall cause all insurance to be in full force and effect as of the commencement date of this Agreement and to remain in full force and effect throughout the term of this Agreement and as further required by this Agreement. Contractor shall not take any action, or omit to take any action that would suspend or invalidate any of the required coverages during the period of time such coverages are required to be in effect.

**38. PERFORMANCE / BID BOND**

NYSIF reserves the right to require a Bidder or Contractor to furnish without additional cost, a performance, payment or Bid bond or negotiable irrevocable letter of credit or other form of security for the faithful performance of the Contract. Where required, such bond or other security shall be in the form prescribed by NYSIF

**39. NOTICE**

Any communications between NYSIF and Contractor and notices provided herein, to be given or made, shall be in writing and shall be transmitted either by:

**a.** certified or registered United States mail, return receipt requested
**b.** facsimile transmission
**c.** personal delivery
**d.** expedited delivery service
**e.** e-mail

Such notices shall be addressed to:

New York State Insurance Fund
Procurement Unit
15 Computer Drive West
Albany, New York 12205
Email: contracts@nysif.com
Fax: 518-437-4209

or to such addressee as may be hereafter designated by notice.

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

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

**40. MODIFICATIONS TO THE AGREEMENT**

This Agreement may not be modified, renewed or discharged, except as herein specifically provided, or by an agreement in writing signed by both parties and, if applicable, approved by the Office of the State Comptroller or Department of Financial Services.

During the term of the contract, the contract may be amended as changes occur within the industry. NYSIF reserves the right to consider amendments which are not specifically covered by the terms of the contract but are judged to be in the best interest of NYSIF and the State. Examples of amendments may include but are not limited to new job titles under the Department of Labor Prevailing Wages, new categories of expertise, ancillary job classifications, on-going services, etc. NYSIF or the contractor may suggest changes. If the contractor offers new job titles or services, these services may be made available under this contract and may be offered at maximum not to exceed prices. It shall be the contractor's responsibility to submit to NYSIF service changes for consideration for contract amendment. These changes, if approved, shall take effect upon written notification by NYSIF and may be subject to approval by the Office of the State Comptroller or Department of Financial Services

**41. SEVERABILITY**

In the event that any provision of this Agreement shall be considered void, voidable, illegal or invalid for any reason, such provision shall be of no force and effect only to the extent that it is so declared void, voidable, illegal or invalid. All of the provisions of this Agreement not specifically found to be so deficient shall remain in full force and effect.

**42. CHOICE OF LAW: VENUE**

This Agreement shall be governed by and construed under the laws of the State of New York, without giving effect to the choice of law or conflict of law provisions thereof.

**43. COUNTERPARTS / SIGNATURES**

This Agreement may be executed in counterparts, each of which when so executed will be deemed to be an original. Such counterparts together will constitute one agreement.

# EXHIBIT M

## CONTRACTOR REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN

### GENERAL PROVISIONS

Pursuant to the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 140-145 ("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.

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

The contractor to the subject contract (the "Contractor" and the "Contract," respectively) agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to the New York State Insurance Fund, to fully comply and cooperate with the New York State Insurance Fund in the implementation of New York State Executive Law Article 15-A. These requirements include equal employment opportunities for minority group members and women ("EEO") and contracting opportunities for certified minority and women-owned business enterprises ("MWBEs"). The 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.

# EXHIBIT M

## CONTRACT GOALS

For purposes of this solicitation, NYSIF conducted a comprehensive search and determined that the Contract does not offer sufficient opportunities to set goals for participation by MWBE's as subcontractors, service providers and suppliers to Contractor. Contractor is however, encouraged to make every good faith effort to promote and assist the participation of MWBE's on this Contract for the provision of service and materials. The directory of New York State Certified MWBE's can be viewed at:

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

## EQUAL EMPLOYMENT OPPORTUNITY(EEO) REQUIREMENTS

By submitting a bid or proposal, a bidder on the Contract ("Bidder") agrees to be bound by the provisions of Article 15-A and the MWBE Regulations promulgated thereunder by the Division of Minority and Women's Business Development of the New York State Department of Economic Development ("Division"). If any of these terms or provisions conflict with the applicable law or regulations, such laws and regulations shall supersede these requirements.

Each Contractor and subcontractor performing work on the Contract shall undertake or continue existing EEO programs to ensure that minority group member and woman 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.

Bidder further agrees to submit the following documents and information as evidence of compliance with the foregoing:

A. **Staffing Plan Form # 101**- All bidders and each subcontractor identified in the bid or proposal must complete a Staffing Plan and submit as part of the bid or proposal.

B. **Workforce Employment Utilization Form # 102**- If awarded a Contract, the Contractor and/or Subcontractors are required to submit electronically on a monthly basis for construction contracts, and a quarterly basis for all other contracts, 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. Workforce Employment Utilization reports are to be completed for the quarters ending 3/31, 6/30, 9/30 and 12/31 and submitted to the NYSIF M/WBE Program Management Unit within 15 days of the end of each quarter. If there are no changes to the work force utilized on the contract during the reporting period, the contractor can submit a copy of the previously submitted report indicating no changes with the date and reporting period updated. Reports are to be submitted electronically in excel form only to mwbeinfo@nysif.com. A copy of the excel version can be found on NYSIF's website at:

www.nysif.com/procurement

# EXHIBIT M

C. **MWBE Equal Employment Opportunity Policy Statement Form # 106 -** All bidders and each subcontractor identified in the bid or proposal must complete and submit as part of the bid or proposal.

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

**Please Note: Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions or enforcement proceedings as allowed by the Contract.**

**Form 101**
**STAFFING PLAN**
**Submit with Bid or Proposal-Instructions on page 2**

Reporting Entity

☐ Offeror ☐ Subcontractor

Report includes Contractor's/Subcontractor's

☐ Workforce Utilized in Performance of Contract
☐ Contractor/Subcontractor's Total Workforce

Offeror's Name

Offeror's Address

Solicitation Number

| EEO 1 Job Categories | SOC Job Title | SOC Job Code | Hours worked by Race/Ethnic Identification During Reporting Period | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | White | | Black/African American | | Hispanic/Latino | | Asian/Native Hawaiian or Other Pacific Islander | | Native American/Alaskan Native | |
| | | | Male | Female | Male | Female | Male | Female | Male | Female | Male | Female |
| Professionals | Lawyers | (23-1011) | | | | | | | | | | |
| Administrative Support Workers | Paralegals and Legal Assistants | (23-2011) | | | | | | | | | | |
| Administrative Support Workers | Miscellaneous Legal Support Workers | (23-2090) | | | | | | | | | | |
| Administrative Support Workers | Secretaries and Administrative Assistants | (43-6010) | | | | | | | | | | |
| | Other - | | | | | | | | | | | |
| | Other - | | | | | | | | | | | |
| | Other - | | | | | | | | | | | |
| **TOTAL ANTICIPATED HOURS WORKED** | | | | | | | | | | | | |

| EEO 1 Job Categories | SOC Job Title | SOC Job Code | Number of Employees by Race/Ethnic Identification During Reporting Period | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | White | | Black/African American | | Hispanic/Latino | | Asian/Native Hawaiian or Other Pacific Islander | | Native American/Alaskan Native | |
| | | | Male | Female | Male | Female | Male | Female | Male | Female | Male | Female |
| Professionals | Lawyers | (23-1011) | | | | | | | | | | |
| Administrative Support Workers | Paralegals and Legal Assistants | (23-2011) | | | | | | | | | | |
| Administrative Support Workers | Miscellaneous Legal Support Workers | (23-2090) | | | | | | | | | | |
| Administrative Support Workers | Secretaries and Administrative Assistants | (43-6010) | | | | | | | | | | |
| | Other - | | | | | | | | | | | |
| | Other - | | | | | | | | | | | |
| | Other - | | | | | | | | | | | |
| **TOTAL ANTICIPATED** | **EMPLOYEES** | | | | | | | | | | | |

Preparer's Name:

Preparer's Title:

Date:

Preparer's Signature:

_____

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

**Instructions for completing:**

1. Check off the appropriate box to indicate if the entity completing the Report is the Offeror or Subcontractor.
2. Check off the appropriate box to indicate work force to be utilized in the performance of the contract or the Offerors' total work force.
3. Enter the name and address of the Offeror and the solicitation number that this report applies to.
4. Verify that job titles are provided under the column titled "SOC Job Title" for each employee whose anticipated work will be reflected on the Report. If a necessary job title is not included, please add the corresponding job category, title and corresponding job code to the "EEO 1 Job Categories" "SOC Job Title" and "SOC Job Code" columns from the list of job categories, SOC titles, and SOC codes reflected in the EEO-1 Job Classification Guide, 2014. A copy of this guide can be found on NYSIF's website at: www.nysif.com/procurement
5. In the first group of boxes, identify the anticipated number of hours worked by persons identifying with each racial/ethnic category by gender for each job title in the SOC Job Title column.
6. In the second group of boxes, identify the anticipated number of persons identifying with each racial/ethnic category by gender for each job title in the SOC Job Title column.
7. Enter the name and the title for the person completing the form, enter the date upon which the Report was completed, and sign the form.

**RACE/ETHNIC IDENTIFICATION**

Race/ethnic designations as used by the Equal Employment Opportunity Commission and do not denote scientific definitions of anthropological origins. For the purposes of this Report, an employee must 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 Report 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/AFRICAN AMERICAN** a person, not of Hispanic origin, who has origins in any of the black racial groups of the original peoples of Africa.
- **HISPANIC/LATINO** a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.
- **ASIAN/NATIVE HAWAIIAN OR OTHER PACIFIC ISLANDER** a person having origins in any of the original peoples of the Far East, Southeast Asia, the the Indian subcontinent or the Pacific Islands.
- **NATIVE INDIAN/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.

**NEW YORK STATE INSURANCE FUND**
**FORM 102**
**WORKFORCE EMPLOYMENT UTILIZATION**

Reporting Entity

☐ Contractor ☐ Subcontractor

Contractor Name

Contractor Address

Contract Number

Reporting Period - Select One

| | | |
|---|---|---|
| ☐ January 1 - March 31 | | ☐ April 1 - June 30 |
| ☐ July 1 - September 30 | | ☐ October 1 - December 31 |
| ☐ January | ☐ February | ☐ March |
| ☐ April | ☐ May | ☐ June |
| ☐ July | ☐ August | ☐ September |
| ☐ October | ☐ November | ☐ December |

Workforce Identified in Report

☐ Workforce Utilized in Performance of Contract
☐ Contractor/Subcontractor's Total Workforce

| EEO 1 Job Categories | SOC Job Title | SOC Job Code | Hours worked by Race/Ethnic Identification During Reporting Period | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | White | | Black/African American | | Hispanic/Latino | | Asian/Native Hawaiian or Other Pacific Islander | | Native American/Alaskan Native | |
| | | | Male | Female | Male | Female | Male | Female | Male | Female | Male | Female |
| Professionals | Lawyers | (23-1011) | | | | | | | | | | |
| Administrative Support Workers | Paralegals and Legal Assistants | (23-2011) | | | | | | | | | | |
| Administrative Support Workers | Miscellaneous Legal Support Workers | (23-2090) | | | | | | | | | | |
| Administrative Support Workers | Secretaries and Administrative Assistants | (43-6010) | | | | | | | | | | |
| | Other - | | | | | | | | | | | |
| | Other - | | | | | | | | | | | |
| | Other - | | | | | | | | | | | |
| **TOTAL HOURS WORKED** | | | | | | | | | | | | |

| EEO 1 Job Categories | SOC Job Title | SOC Job Code | Number of Employees by Race/Ethnic Identification During Reporting Period | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | White | | Black/African American | | Hispanic/Latino | | Asian/Native Hawaiian or Other Pacific Islander | | Native American/Alaskan Native | |
| | | | Male | Female | Male | Female | Male | Female | Male | Female | Male | Female |
| Professionals | Lawyers | (23-1011) | | | | | | | | | | |
| Administrative Support Workers | Paralegals and Legal Assistants | (23-2011) | | | | | | | | | | |
| Administrative Support Workers | Miscellaneous Legal Support Workers | (23-2090) | | | | | | | | | | |
| Administrative Support Workers | Secretaries and Administrative Assistants | (43-6010) | | | | | | | | | | |
| | Other - | | | | | | | | | | | |
| | Other - | | | | | | | | | | | |
| | Other - | | | | | | | | | | | |
| **TOTAL EMPLOYEES** | | | | | | | | | | | | |

Preparer's Name:

Preparer's Title:

Date:

## GENERAL INSTRUCTIONS

The work force utilization (M/WBE **102)** is to be submitted on a monthly basis for construction contracts, and a quarterly basis for all other contracts, during the life of the contract to report the actual work force utilized in the performance of the contract broken down by the specified categories. When the work force utilized in the performance of the contract can be separated out from the contractor's and/or subcontractor's total work force, the contractor and/or subcontractor shall submit a Utilization Report of the work force utilized on the contract. When the work force to be utilized on the contract cannot be separated out from the contractor's and/or subcontractor's total work force, information on the total work force shall be included in the Utilization Report.

Utilization reports are to be completed for the quarters ended 3/31, 6/30, 9/30 and 12/31 and submitted to the M/WBE Program Management Unit within 15 days of the end of each quarter. If there are no changes to the work force utilized on the contract during the reporting period, the contractor can submit a copy of the previously submitted report indicating no change with the date and reporting period updated. Reports are to be submitted electronically in excel form only to mwbeinfo@nysif.com. A copy of the excel version can be found on NYSIF's website at: www.nysif.com/procurement.

## INSTRUCTIONS FOR COMPLETING

1. Check off the appropriate box to indicate if the entity completing the Report is the contractor or subcontractor.
2. Enter the number of the contract that the Report applies to along with the name and address of the contractor or subcontractor for which the Report has been prepared.
3. Check off the box that corresponds to the applicable monthly or quarterly reporting period for this Report.
4. Check off the appropriate box to indicate if the workforce being reported is just for the contract or the contractor's or subcontractor's total workforce.
5. Verify that job titles are provided under the column titled "SOC Job Title" for each employee whose work will be reflected on the Report. f a necessary job title is not included, please add the corresponding job category, title and corresponding job code to the "EEO 1 Job Categories" "SOC Job Title" and "SOC Job Code" columns from the list of job categories, SOC titles, and SOC codes reflected in the EEO-1 Job Classification Guide, 2014. A copy of this guide can be found on NYSIF's website at: www.nysif.com/procurement.
6. In the first group of boxes, identify the number of hours worked by persons identifying with each racial/ethnic category by gender for each job title in the SOC Job Title column.
7. In the second group of boxes, identify the number of persons identifying with each racial/ethnic category by gender for each job title in the SOC Job Title column,
8. Enter the name and title for the person completing the form, enter the date upon which the Report was completed, and check the box accepting the name entered into the Report as the digital signature of the preparer.

## 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 w;lith, 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 originals peoples of Europe, North Africa, or the Middle East.
- **BLACK/AFRICAN AMERICAN** a person, not of Hispanic origin, who has origins in any of the black racial groups of the original peoples of Africa.
- **HISPANIC/LATINO** a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.
- **ASIAN, NATIVE HAWAIIAN OR OTHER 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 AMERICAN/ALASKAN NATIVE** a person having origins in any of the original peoples of North America, and who maintains cultural identification though tribal affiliation or community recognition.

**Form 106**

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

**M/WBE AND EEO POLICY STATEMENT**

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

**M/WBE**

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

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

**EEO**

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

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

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

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

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

**Form 106**

Agreed to this _____ day of _____, 2_____

By _____

Print: _____ Title: _____

_____is designated as the Minority Business Enterprise Liaison

(Name of Designated Liaison)

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

**M/WBE Contract Goals**

_____ % Minority and Women's Business Enterprise Participation

_____% Minority Business Enterprise Participation

_____% Women's Business Enterprise Participation

**EEO Contract Goals**

_____% Minority Labor Force Participation

_____% Female Labor Force Participation

_____

(Authorized Representative)

Title: _____

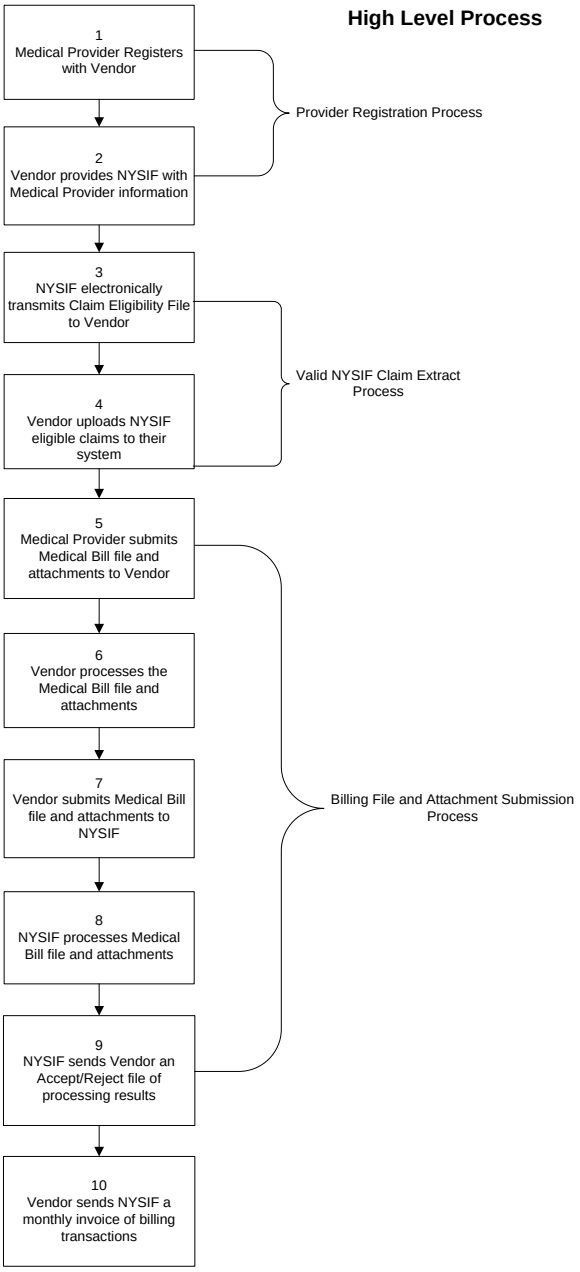
Date: _____

NYSIF New York State Insurance Fund
*Workers Compensation & Disability Benefits Specialists Since 1914*

# NEW YORK STATE INSURANCE FUND ELECTRONIC RECEIPT OF CLAIMANT'S MEDICAL BILLS PROJECT PLAN


NYSIF/Vendor Electronic Submission of Medical Billing Process Diagram ..... Page 2
Detailed NYSIF Provider Registration Workflow (Process 1 and 2) Diagram ..... Page 3
NYSIF Provider Registration Technical Specifications ..... Page 4
NYSIF Provider Registration Business Rules ..... Page 5
Detailed NYSIF Claim Eligibility Process (Process 3 and 4) Diagram ..... Page 6
NYSIF Claim Eligibility Process: (Process 3 and 4) Description ..... Page 7
NYSIF Claim Eligibility Process Business Rules ..... Page 8
Vendor Claim Eligibility Process Technical Specification for Claim Eligibility File Error Report(Process 4) Page 9
Vendor Claim Eligibility File Error Report Business Rules ..... Page 10
Detailed Medical Billing and Attachment Submission Process (Process 5-9) Diagram ..... Page 11
Technical Specifications for Bill and Attachment Submission Process: (Process 5-9) ..... Page 12
NSF Billing File Layout and Business Rules ..... Page 13
Vendor Attachment File Layout ..... Page 15
NYSIF Accept/Reject Report File Layout ..... Page 16
Medical Billing and Attachment Submission Process Business Rules ..... Page 18
Vendor Bill edits ..... Page 18
Vendor Invoice Submission Process Technical Specifications ..... Page 25
Vendor Invoice Detail File Layout ..... Page 25
Reference Documents ..... Page 27
Specialty Classifications for the New York Workers' Compensation Fee Schedule ..... Page 33
NYSIF/Vendor Test Scenarios ..... Page 34
Example Vendor Paper Invoice ..... Page 36
NSFFileLayout/CMS1500/C-4/UBForm Mapping ..... Page 37

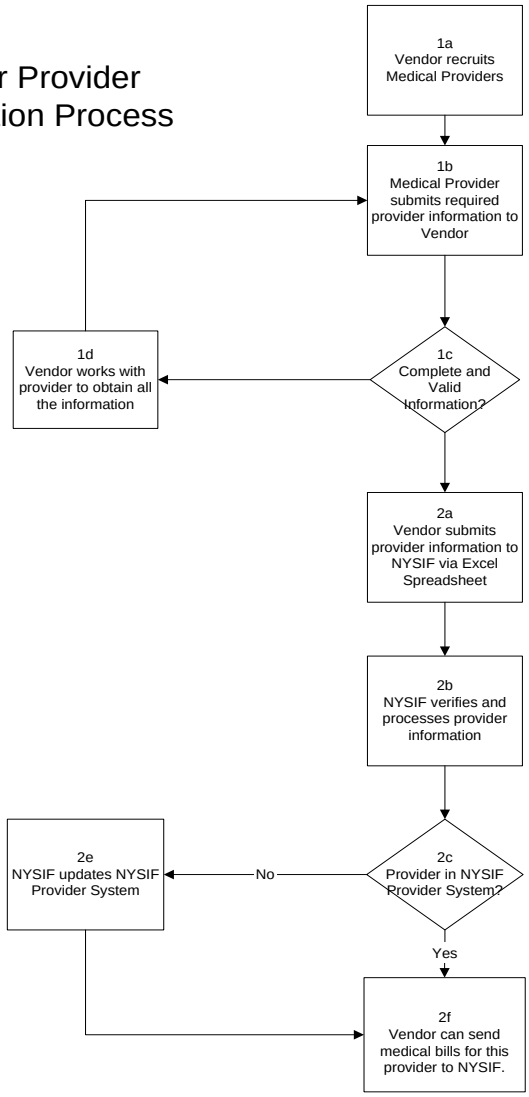
NYSIF/Vendor
Electronic Submission of
Medical Billing Process



***Detailed NYSIF Provider Registration Workflow***

***(Process 1 and 2)***

Vendor Provider Registration Process



***PROVIDER REGISTRATION TECHNICAL SPECIFICATIONS (PROCESS 1 AND 2)***

***Purpose:***

The purpose of the Provider Registration process is to ensure that the providers recruited by the vendor are entered into the NYSIF Provider System. The NYSIF e-Billing System uses the NYSIF Provider System to verify the provider information so that payments can be made. If a provider is not in the NYSIF Provider System, or if the information is incorrect, a medical bill will be rejected.

The vendor shall:

- Submit Medical Provider information to NYSIF. This information will include all additions, modifications and deletions that have occurred since the previous transmission.
- Submit this Medical Provider information in the form of an Excel spreadsheet.
- Create the Excel spreadsheet using the Provider Registration File Layout defined below.
- Name the Excel spreadsheet using the Provider Registration File Naming Convention defined below.
- Encrypt the Excel spreadsheet using a mutually agreed upon encryption methodology.
- Transmit the Excel spreadsheet via FTP.
- Transmit the Excel spreadsheet on a daily basis. If there are not records to transmit, an empty file will be transmitted.

***Process:***

1. Vendor will provide NYSIF with a list of vendor provider recruitments.
2. Vendor will obtain the NYSIF required provider information from the vendor Providers.
3. Vendor will verify that the information received for the provider is accurate and complete.
4. Vendor will work the providers to get the information if the information is not accurate or incomplete.
5. Vendor will submit the information to NYSIF in the form of an Excel spreadsheet .
6. NYSIF to verify and process the provider information to see if it currently exists in the NYSIF Provider System.
7. If the provider is correctly in the Provider System, then no further action is necessary. If the provider is not in the Provider System, NYSIF must add it.
8. NYSIF to add or correct their records, if necessary.

***Provider Registration File Naming Convention***

| Name | Type & Length | Description |
|---|---|---|
| Submitter ID | Char(9) | AB1234567 |
| PayerID | Char(9) | ABCD12345 |
| 6 Digit Date | Char(6) | MMDDYY - Date of creation of file |
| File Number or Unique Number | Char(2) | 2 Digit Sequence number of file |
| File Type | Char(3) | PRV |
| Extension | Char | .csv |

**Sample Record:**

AB1234567ABCD1234501130601PRV.csv

Note: No underscores in the Provider Registration File Naming Convention.

***Provider Registration File Layout***

| Field Name | Type & Max Length | Description |
|---|---|---|
| Business Name | Char(65) | Business Name if a business. |
| Last Name | Char(35) | Last Name of Provider, if not a business. |
| First Name | Char(30) | First Name of Provider, if not a business. |
| Initial | Char(1) | Middle initial of Provider, if not a business. |
| License Number | Number(6) | NY State Medical License number of Provider. |
| EIN | Number(9) | Federal Tax ID number used on 1099. Non Numeric Characters will be stripped if present. |
| 1099 Name | Char(65) | Legal name of entity associated with EIN number. |
| Center Name | Char(65) | Name of Medical Facility with which the Physician is associated. |
| Center Address Line 1 | Char(36) | Street Address of Facility with which the Physician is associated. |
| Center Address Line 2 | Char(36) | Street Address of Facility with which the Physician is associated. |
| Center City | Char(30) | City of Medical Facility with which the Physician is associated. |
| Center State | Char(2) | State of Medical Facility with which the Physician is associated. |
| Center Zip Code | Char(5) | Zip Code of Medical Facility with which the Physician is associated. |
| Center Zip Plus | Char(4) | Zip Plus of Medical Facility with which the Physician is associated. |
| Specialty Code | Char(12) | Specialty Classifications per the NYS Workers' Compensation Board Fee Schedule. |
| Treating Provider Social Security Number | Char(9) | The individual's physician's social security number is not required by NYS, however required by NYSIF to make payment as they use the social security number as a unique identifier. If a provider absolutely refuses to provide this information, NYSIF will create a "dummy" SSN within the NYSIF Provider System, so that payment can be made. |

| | | |
|---|---|---|
| WCB Authorization Number | Char(8) | Format for WCB Authorization number is the same as the Doctors License Number minus the first digit with a preceding one-character specialty code (for chiropractors, podiatrists and psychologists) and a dash character added to the end followed by a randomly generated number(check digit). Therefore the format would be “CNNNNN-N” where C = Character, N = Number and “-“ = short dash example “P02582-6” for Dr. Lewis Wolfstein a Podiatrist with a Doctors License Number of 002582. |
| Transaction Code | Char(1) | A = Add, C = Change, D = Delete |

***NYSIF PROVIDER REGISTRATION BUSINESS RULES:***

*(**Numbers at left refer to labeled steps in the process diagram**)*

1b. **WCB Authorization Number Field Clarification:**

- Vendor must ensure that the WCB Authorization number is that is given to NYSIF is the correct WCB Authorization Number for the provider.

- Any provider that treats workers’ compensation patients must register with the NYS Workers’ Compensation Board. The Workers’ Compensation Board issues a WCB Authorization Number as a result.
- A Physical Therapist and Occupational Therapist are not issued a WCB Authorization Number.
- Chiropractor, podiatrist, psychologist, medical doctor who are not authorized to treat workers’ compensation patients can treat on an emergency basis only.
- Format for WCB Authorization number is the same as the Doctors License Number minus the first digit with a preceding one-character specialty code (for chiropractors, podiatrists and psychologists) and a dash character added to the end followed by a randomly generated number(check digit). Therefore the format would be “CNNNNN-N” where C = Character, N = Number and “-“ = short dash example “P02582-6” for Dr. Lewis Wolfstein a Podiatrist with a Doctors License Number of 002582.
- A WCB authorization number formatted as NNNNNN-N (999999-9), use the first 6 digits as the provider license number . If it starts with any of the 4 letters below, change to "0" (zero)
  -C (CHIROPRACTORS)
  -L (LIMITED LICENSE PHYSICIANS)
  -P (PODIATRISTS)
  -S (PSYCHOLOGISTS)

  For example: P02582-6 for Dr. Wolfstein a podiatrist with a doctor's license number of 002582.

1b. **Provider Address**

- Vendor must ensure that the provider address that is given to NYSIF is the primary payment address.
- Only one address can be used for NYSIF e-billing processing.

1b. **Provider Information Updates**

- As updates in provider information are provided, vendor will include them in the spreadsheet that is being forwarded to NYSIF.

**1b. WCB Specialty Code**

- There are six types of providers: PT, OT, Chiropractor, Podiatrist, Psychologist, Medical.
- If a provider is a medical doctor, one of the WCB Specialty codes must be provided.

2a. Vendor will submit the Excel Spreadsheet electronically via FTP on a daily basis.

2e. SSN - The individual’s physician’s social security number is not required by NYS, however it is required by NYSIF to make payment as they use the social security number as a unique identifier. If a provider absolutely refuses to provide this information, NYSIF will create a “dummy” SSN within the NYSIF Provider System, so that payment can be made.

2f. NYSIF does not need to engage in end to end testing for each new provider once we are in production.

2f. While there is a remote chance that a provider will not be in NYSIF’s database (due to timing issues between when registered and the receipt of the Registration database file by NYSIF) it is very minimal and the majority of the providers will be in NYSIF’s provider database before a report or bill is passed onto NYSIF.

2f. If a provider is not registered with vendor, any bill that is submitted will be rejected by vendor, until the provider has registered with vendor and is entered into NYSIF’s Provider database.

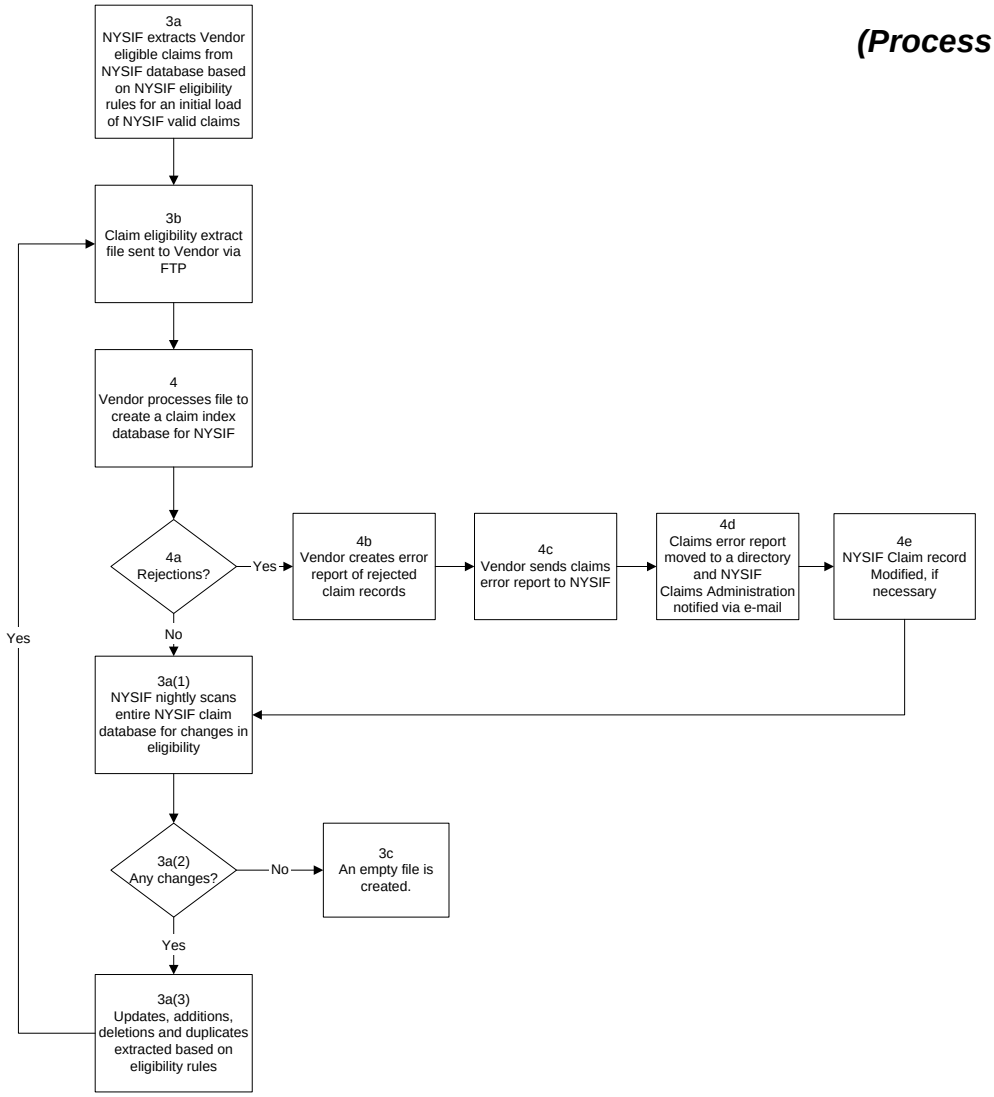
2f. Vendor should be able to add provider types per regulatory changes.

3. When an Individual providers wants to use his SSN as the billing TIN (for 1099 report), then the SSN must be provided. If the treating provider belongs to a medical group and the group uses a federal tax id as the billing TIN, then the treating provider's SSN is not required.

4. Provider registration must be sent 3 business days before the bill record is sent.

## *Detailed NYSIF Claim Eligibility Process*

## *(Process 3 and 4)*



***NYSIF Claim Eligibility Process: (Process 3 and 4)***

***Purpose:***
The purpose of the Claim Eligibility Process is to ensure that the Medical Provider submits Medical Bills for valid NYSIF Carrier Case Numbers only.

NYSIF shall:

- Create a daily extract of eligible losses based on the business rules defined by the NYSIF Claims Department. This information will include all additions, modifications and deletions that have occurred since the previous transmission.
- Create this Loss Eligibility file in the form of an ASCII Text file. The ASCII text file will be semicolon delimited, CR LF (ASCII char(13) char(10) record terminator).
  **Note: Any field that might use the delimiter ";" in the contents of the field, must be wrapped with double quotes to prevent the record from rejecting. (e.g. 01;"ABC; a company")**
- Create the ASCII Text file using the NYSIF Claim Eligibility File Layout defined below.
- Name the ASCII Text file using the NYSIF Claim Eligibility File Naming Convention defined below.
- encrypt the ASCII Text file using an agreed upon encryption methodology.
- Transmit the ASCII Text file via ftp.
- Transmit the ASCII Text file on a daily basis, the specific time(s) to be determined.

***NYSIF Claim Eligibility File Naming Convention***

| Name | Type | Description |
|---|---|---|
| Submitter ID | Char(9) | AB1234567 |
| Payer ID | Char(9) | ABCD12345 |
| 6 Digit Date | Char (6) | MMDDYY - Date of creation of file |
| 6 Digit Time | Char (6) | HHMMSS – Time of file creation |
| Extension | Char | .CLM |

**Sample Record:**
AB1234567ABCD12345011306100615.CLM
Note: No underscores in the NYSIF Claim Eligibility File Naming Convention.

***NYSIF Claim Eligibility File Layout***

| Field Name | Type & Max Length | Description / Format |
|---|---|---|
| Last Name | Char(35) | Claimant Last Name. |
| First Name | Char(35) | Claimant First Name. |
| SSN | Char(9) | Claimant social security number, including any leading zeroes. No dashes allowed. It could be all zeros - **000000000**<br>Format: 023456789 |
| Date of Birth | Char(8) | Claimant Date of Birth<br>Format: YYYYMMDD |
| Date of Injury | Char(10) | Date of injury. Slashes are required.<br>Format: MM/DD/CCYY |
| Employer | Char(40) | Employer's Name. If Policy name has a ';' in the name, system is replacing it with a space. |
| Claim Number | Char(25) | NYSIF Carrier Case Number (i.e. Claim Number). |
| Unit Number | Char(3) | NYSIF Unit Number to which the claim is assigned. |
| Reviewer Name | Char(50) | NYSIF Case Manager name. |
| Reviewer Number | Char(15) | NYSIF Case Manager Telephone Number.<br>Format: (999) 999-9999 |
| Reviewer e-mail address | Char (30) | NYSIF Case Manager e-mail address.<br>Format: cmanager@anycompany.com |
| Transaction Type | Char(1) | A=Add, D=Delete.<br>Note: To change information on a claim, there should be both a delete record and an add record sent. The delete record will delete the original information and the add will add the changed information. |

**Sample Record:**
DOE;JANE;123456789;19680507;01/01/05;EXEC DEPT DIVISION OF PAROLE;62000682;091;J. DOE;(518) 437-9999;JDOE@NYSIF.COM;A**;**

***Process:***

**Initial Claim Eligibility Extract (*Numbers at left refer to labeled steps in the process diagram*):**

3a. NYSIF extracts vendor eligible claims from NYSIF database based on NYSIF eligibility rules for an initial load of NYSIF valid claims in Claim/Incident status

3b. Claim eligibility extract file is sent to vendor via FTP.

4. Vendor processes file to create a claim index database for NYSIF.

4a. Vendor system will scan extract for any rejections in the claimant information file.

4b. Vendor rejects individual claim records based on vendor rejection rules and creates an accept/reject report.

4c. Vendor sends claims accept/reject report to NYSIF. This should include all claims/losses that were sent to the vendor by NYSIF and whether they were accepted or rejected.

4d. Claims accept/reject report moved to a directory and NYSIF Claims Administration notified via e-mail.

4e. Claims Administration will determine if it is necessary for the claim record will be modified in the NYSIF system. Vendor shall be able to accept multiple claim eligibility files in a day.

**Subsequent Claim Eligibility Extract (*Numbers at left refer to labeled steps in the process diagram*):**

3a(1). NYSIF nightly scans entire NYSIF claim database for changes in eligibility

3a(2). Program determine if there are any changes in eligibility.

3a(3). Updates, additions, deletions and duplicates will be extracted based on subsequent file eligibility rules

3c. If there are no changes or updates to vendor claim eligibility, an empty file will be created and sent to vendor via FTP.

3b. Claim eligibility extract file sent to vendor via FTP

4. Subsequent eligibility files will be appended to existing claim index database.

5. Vendor sends claims accept/reject report to NYSIF. This should include all claims/losses that were sent to the vendor by NYSIF and whether they were accepted or rejected.

3a. The nightly extract contains active and deleted records.

- If a claim is brand new, it is an active record.
- If the claim is no longer considered for vendor eligibility, it is deleted.

3b. Claim updates (containing new or changed claimant information) will be extracted daily and the file will be sent securely to vendor at a time to be determined.

***Vendor Claim Eligibility Process Technical Specifications for NYSIF Claim Eligibility File Accept/Reject Report (Process 4)***

***Purpose:***
The purpose of the NYSIF Claim Eligibility File Accept/Reject Report is to ensure that the vendor has a standard method to communicate to NYSIF any processing errors that may occur during the vendor's processing and loading of the NYSIF Claim Eligibility File.

The vendor will:
- Process the NYSIF Claim Eligibility file and create a claim index database for NYSIF.
- Edit the NYSIF Claim Eligibility for any rejections.
- Reject any NYSIF Eligibility file claim records based on the rejection rules as defined below, vendor Claim Eligibility – Vendor Claim Eligibility File Accept Reject Report Business Rules
- Create an Accept/Reject Report of rejected and accepted claims, if necessary, in the form of an ASCII Text file. The ASCII text file will be semicolon delimited, CR LF (ASCII char(13) char(10) record terminator).
  **Note: Any field that might use the delimiter ";" in the contents of the field, must be wrapped with double quotes to prevent the record from rejecting. (e.g. 01;"ABC; a company")**
- Create an Claim Eligibility Accept/Reject Report for every Eligibility file delivered to the vendor. If no records in the claim file that was sent to the vendor, then the accept reject file should be sent as an empty file.
- Create the ASCII Text file using the Claim Eligibility File Accept/Reject Report Layout defined below.
- Name the ASCII Text file using the Claim Eligibility File Accept/Reject Report File Naming Convention defined below.
- Encrypt the ASCII Text file using an agreed upon encryption methodology.
- Transmit the ASCII Text file via ftp.
- Transmit one ASCII Text file for every NYSIF Claim Eligibility File.

The vendor shall be notified if NYSIF does not receive the Accept Reject report within 3 days of the claim file being sent to the vendor.

***Vendor Claim Eligibility File Accept/Reject Report File Naming Convention***

| Name | Type & Length | Description |
|---|---|---|
| Submitter ID | Char(9) | AB1234567 |
| PayerID | Char(9) | ABCD12345 |
| 6 Digit Date | Char(6) | Date of claimant file creation and submission in MMDDYY format. |
| File Number or Unique Number | Char(2) | Sequence number of file |
| File Type | Char(3) | ACK |
| Extension | Char | .CSV |

**Sample Record:**
AB1234567ABCD1234501130601ACK.CSV

Note: No underscores in the Vendor Claim Eligibility File Accept/Reject Report File Naming Convention.

***Vendor Claim Eligibility File Accept/Reject Report File Layout***

The Claim Eligibility File Accept/Reject Report will consist of 2 lines of data for each record.
If rejected:
- first line will consist of the Line number in the claim eligibility file separated by 2 dashes (--) and the explanation of the error that occurred.
  **Sample of first line:**
  Line Num: 1 – error message
- second line will consist of the exact data that was sent in claim eligibility file from NYSIF as well as the accept reject flag.

If accepted:
- first line will consist of the Line number in the claim eligibility file separated by 2 dashes (--) and the text "ACCEPTED"
  **Sample of first line:**
  Line Num: 1 – ACCEPTED
- second line will consist of the exact data that was sent in claim eligibility file from NYSIF as well as the accept reject flag.

| Field Name | Type & Max Length | Description / Format |
|---|---|---|
| Last Name | Char(25) | NYSIF Claimant Last Name. |
| First Name | Char(15) | NYSIF Claimant First Name. |

| Field Name | Type & Max Length | Description / Format |
|---|---|---|
| SSN | Char(9) | NYSIF Claimant Social Security Number, including all leading zeroes; no dashes. It could be all zeros - **000000000**<br>Format: 02345678 |
| Date of Birth | Char(8) | Claimant Date of Birth<br>Format: YYYYMMDD |
| Date of Injury | Char(10) | Date of injury. Slashes are required.<br>Format: MM/DD/CCYY |
| Employer | Char(40) | Employer's Name. If Policy name has a ';' in the name, system is replacing it with a space. |
| Claim Number | Char(25) | NYSIF Carrier Case Number (i.e. Claim Number). |
| Unit Number | Char(3) | NYSIF Unit Number to which the claim is assigned. |
| Reviewer Name | Char(50) | NYSIF Case Manager name. |
| Reviewer Number | Char(14) | NYSIF Case Manager telephone number.<br>Format: (999) 999-9999 |
| Review e-mail address | Char (30) | NYSIF Case Manager e-mail address.<br>Format: cmanager@anycompamy.com |
| Transaction Type | Char(1) | A=Add, D=Delete<br>Note: To change information on a claim, there should be both a delete record and an add record sent. The delete record will delete the original information and the add will add the changed information. |
| Accept / Reject Code | Char(1) | Accept / Reject code. A = accepted, R = rejected. |

**Sample Data:**
Line Num: 3597 -- ACCEPTED.
DOE;JOHN;999999999;19860508;01/01/2004;ABC COMPANY; 12345678;123;(518) 437-9999;MICHAEL SMITH;MSMITH@ANYCOMPANY.COM;A;A

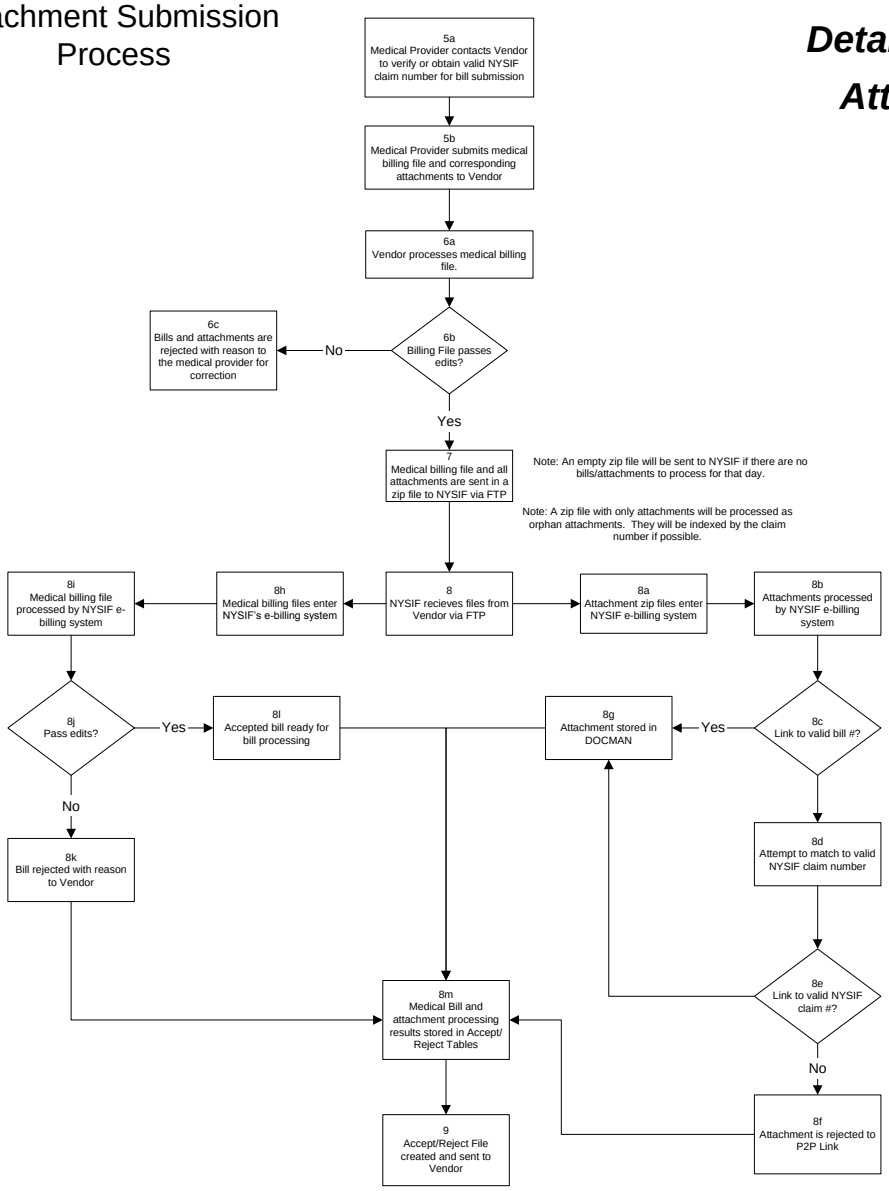
Line Num: 8482 -- 12 fields are expected, but only 11 exist.
DOE;JOHN;999999999;01/01/2004;ABC COMPANY; 12345678;123;MICHAEL SMITH;MSMITH@ANYCOMPANY.COM;A;R

***Vendor Claim Eligibility – Vendor Claim Eligibility File Accept/Reject Report Business Rules***

| Rejection Reason | Description |
|---|---|
| Claim Number (field 6) length is not greater than 0. | The length of the claim number must contain at least one character. |
| Transaction Type (field 11) length is not 1. | The length of Transaction Type must only be one character. |
| SSN (field 3) is invalid. | The SSN cannot have all the same numbers or contain alpha characters.<br>**EXCEPTION: 000000000 will be considered a valid SSN**. |
| 12 fields are expected, but only <nn> exist. | The vendor should expect 12 fields for each claim eligibility record. If all 12 are not present in file, the vendor should reject the record. |
| Invalid Date Of Injury (field 5) | Date Of Injury would be invalid if the field is blank. |

Medical Billing and Attachment Submission Process

***Detailed Medical Billing and Attachment Submission Process (Process 5-9)***



***Technical Specifications for Bill and Attachment Submission Process: (Process 5-9)***

***Purpose:***
This process will ensure that the vendor electronically submits to NYSIF only those CMS1500 and C4 (billing data portion only) and UB-04 and any attachments (commonly narrative medical reports) that are in accordance with the defined NYSIF business rules for electronic medical bill and attachment submission.

The vendor shall:
- Accept Medical Bills and their corresponding attachments from the registered Medical Providers.
- Edit these bills and attachments in accordance with NYSIF business rules.
- Reject, with reason, to the Medical Provider all medical bills and corresponding that do not adhere to NYSIF business rules.
- Create images for all accepted CMS 1500 and UB-04 and C-4 series, OT-4, PT-4, etc. from the billing data received.
- Confirm that there is only one copy of billing form for each billing record
- Confirm that bill image data matches the billing data file
- Create images for all corresponding attachments.
- Create a billing file for CMS 1500 and UB-04 and C-4 series in accordance with NSF 2.0 format (See sample documents pp 29-33).
- Name this NSF file using the vendor NSF File Naming Convention as defined below.
- Create an image file for all bills and attachments with each document image named using the Individual Document Image Naming Convention as defined below.
- ZIP and title the image file using the vendor Attachment File Naming Convention defined below.
- Encrypt the vendor Attachment file and vendor NSF 2.0 file using an agreed upon encryption methodology.
- Transmit the vendor Attachment file and vendor NSF 2.0 file **together** via ftp.
- Transmit the vendor Attachment file and vendor NSF 2.0 file on a daily basis at a to be determined time.
- Send an empty zip file with no bills and attachments when there are no bills to process for that day.
- Send “orphan” attachments in a zip file without an NSF bill file or with an NSF bill file.
- Notify NYSIF if vendor does not receive accept/reject file within 3 business days of submission to NYSIF

NYSIF shall:
- Validate the AAO record in the file layout of the zip file to ensure it was sent by vendor .
- Reject the entire file back to vendor if the vendor is not validated.
- Process the NSF file in accordance with NYSIF business rules.
- Create an Accept/Reject Report file indicating the results of the processing of the vendor NSF 2.0 file and vendor Attachment in the form of an ASCII text file. The ASCII text file will be semicolon delimited, CR LF (ASCII char(10) char(13) record terminator).
- Create the ASCII text file using the Accept/reject Report file layout as defined on page 15.
- Name the ASCII text file using the Accept/Reject Report File Naming Convention defined on page 15.
- Encrypt the Accept/Reject Report file using an agreed upon encryption methodology.
- Transmit the Accept/Reject Report file via ftp.
- Transmit the Accept/Reject Report file via ftp. Transmit Accept/Reject Report file on a daily basis at a to be determined time.
- Transmit Accept/Reject Report file on a daily basis at a to be determined time.

If NYSIF receives an empty zip file, no bills and attachments, an email will be sent out to vendor and NYSIF contacts, containing the following message:

“Please note NYSIF has received an empty zip file, indicating that there are no billing records to be processed today.”

***Vendor NSF and Attachment Zip File Naming Convention***

| Name | Type & Length | Description |
|---|---|---|
| Submitter ID | Char(9) | AB1234567 |
| PayerID | Char(9) | ABCD12345 |
| 6 Digit Date | Char(6) | MMDDYY - Date of CLM ZIP file creation and submission |
| File Number or Unique Number | Char(2) | Sequence number of file |
| File Type | Char(3) | CLM |
| Extension | Char | .ZIP |

**Sample Record:**
AB1234567ABCD1234501130601CLM.ZIP
Note: No underscores in the vendor NSF and Attachment Zip File Naming Convention.

***Vendor NSF File Naming Convention***

| Name | Type & Length | Description |
|---|---|---|
| Submitter ID | Char(9) | AB1234567 |
| PayerID | Char(9) | ABCD12345 |

| | | |
|---|---|---|
| 6 Digit Date | Char(6) | MMDDYY - Date of NSF file creation and submission |
| File Number or Unique Number | Char(2) | Sequence number of file |
| File Type | Char(3) | NSF |
| Extension | Char | .ALT |

**Sample Record:**
AB1234567ABCD1234501130601NSF.ALT
Note: No underscore in vendor NSF File Naming convention.

***7.NSF File Layout – including Standard WC Edits and NYSIF Edit***

| Field | NSF REC | NSF FLD | COL | LENGTH | DATA TYPE | Required Medical Receipt fields |
|---|---|---|---|---|---|---|
| Processor/VendorName | AA0 | 6 | 41 | 20 | A/N | T |
| Identifier(First 3 digits of each line) | | | | | A/N | T |
| Receipt Date | AA0 | 15 | 213 | 8 | Date | T (YYYYMMDD) |
| Claim Number | DA0 | 28 | 236 | 8 | N | T, will now accept incident status type claims |
| Patient SSN | DA0 | 18 | 157 | 9 | N | T,but can be all zeros |
| Diagnosis Code 1(ICD9 and ICD10) | EA0 | 30 | 179 | 7 | A/N | T(At least 1 Diag Code)(Implied decimal) |
| Diagnosis Code 2(ICD9 and ICD10) | EA0 | 31 | 186 | 7 | A/N | T(At least 1 Diag Code) (Implied decimal) |
| Diagnosis Code 3(ICD9 and ICD10) | EA0 | 32 | 193 | 7 | A/N | T(At least 1 Diag Code) (Implied decimal) |
| Diagnosis Code 4(ICD9 and ICD10) | EA0 | 33 | 284 | 7 | A/N | T(At least 1 Diag Code) (Implied decimal) |
| Bill Date | EA0 | 36 | 201 | 8 | Date | F (YYYYMMDD) |
| Admission Date | EA0 | 26 | 155 | 8 | Date | F |
| Discharge Date | EA0 | 27 | 163 | 8 | Date | F |
| Diagnosis Code 5 (ICD9 and ICD10) | EA0 | 49 | 291 | 7 | A/N | F (Implied decimal) |
| Diagnosis Code 6 (ICD9 and ICD10) | EA0 | 49 | 298 | 7 | A/N | F (Implied decimal) |
| Diagnosis Code 7 (ICD9 and ICD10) | EA0 | 50 | 305 | 7 | A/N | F (Implied decimal) |
| Diagnosis Code 8 (ICD9 and ICD10) | EA0 | 50 | 312 | 7 | A/N | F (Implied decimal) |
| Diagnosis Code 9 (ICD9 and ICD10) | EA2 | 50 | 230 | 7 | A/N | F (Implied decimal) |
| Admin Diagnosis Code (ICD9 and ICD10) | EA2 | 50 | 300 | 7 | A/N | F (Implied decimal) |
| Treating Zip Code | EA1 | 10 | 135 | 5 | N | T(if different than billing address box) |
| Procedure 1 (ICD9 and ICD10) | EA1 | 25 | 291 | 7 | A/N | F (Implied decimal) |
| Procedure 2 (ICD9 and ICD10) | EA1 | 25 | 298 | 7 | A/N | F (Implied decimal) |
| Procedure 3 (ICD9 and ICD10) | EA1 | 25 | 305 | 7 | A/N | F (Implied decimal) |
| Procedure 4 (ICD9 and ICD10) | EA1 | 25 | 312 | 7 | A/N | F (Implied decimal) |
| Procedure 5 (ICD9 and ICD10) | EA2 | 26 | 307 | 7 | A/N | F (Implied decimal) |
| Procedure 6 (ICD9 and ICD10) | EA2 | 26 | 314 | 7 | A/N | F (Implied decimal) |
| DRG Code | EA2 | 94 | 225 | 3 | N | F |
| PASRate | EA2 | 94 | 228 | 2 | N | F |
| Diagnosis Code 10 (ICD9 and ICD10) | EA2 | 94 | 237 | 7 | A/N | F (Implied decimal) |
| Diagnosis Code 11 (ICD9 and ICD10) | EA2 | 95 | 244 | 7 | A/N | F (Implied decimal) |
| Diagnosis Code 12 (ICD9 and ICD10) | EA2 | 95 | 251 | 7 | A/N | F (Implied decimal) |
| Diagnosis Code 13 (ICD9 and ICD10) | EA2 | 95 | 258 | 7 | A/N | F (Implied decimal) |
| Diagnosis Code 14 (ICD9 and ICD10) | EA2 | 95 | 265 | 7 | A/N | F (Implied decimal) |
| Diagnosis Code 15 (ICD 9 and ICD 10) | EA2 | 95 | 272 | 7 | A/N | F (Implied decimal) |
| Diagnosis Code 16 (ICD 9 and ICD 10) | EA2 | 95 | 279 | 7 | A/N | F (Implied decimal) |
| Diagnosis Code 17 (ICD 9 and ICD 10) | EA2 | 95 | 286 | 7 | A/N | F (Implied decimal) |
| Diagnosis Code 18 (ICD 9 and ICD 10) | EA2 | 95 | 293 | 7 | A/N | F (Implied decimal) |
| Date Service From | FA0 | 5 | 40 | 8 | Date | T(minimum 1 required) YYYYMMDD |
| Date Service To | FA0 | 6 | 48 | 8 | Date | F(YYYYMMDD) |
| Place of Service Code | FA0 | 7 | 56 | 2 | N | T |
| Procedure Code | FA0 | 9 | 60 | 5 | A/N | T |
| Modifier 1 | FA0 | 10 | 65 | 2 | A/N | F |
| Modifier 2 | FA0 | 11 | 67 | 2 | A/N | F |
| Modifier 3 | FA0 | 12 | 69 | 2 | A/N | F |
| DX Pointer 1 | FA0 | 14 | 78 | 1 | N | T(minimum 1 required) |
| DX Pointer 2 | FA0 | 15 | 79 | 1 | N | T(minimum 1 required) |

| | | | | | | |
|---|---|---|---|---|---|---|
| DX Pointer 3 | FA0 | 16 | 80 | 1 | N | T(minimum 1 required) |
| DX Pointer 4 | FA0 | 17 | 81 | 1 | N | T(minimum 1 required) |
| Billed Amount | FA0 | 13 | 250 | 9 | N | T (Implied decimal) |
| NDC | FB0 | 15 | 110 | 11 | N | T (if pharmacy bill) |
| NDC Quantity | FB0 | 16 | 121 | 7 | N | T(if pharmacy bill) |
| Days | FA0 | 18 | 82 | 4 | N | T |
| Revenue Code | FA0 | 50 | 246 | 4 | N | F |
| Billing Provider Taxid(Payee) | BA0 | 6 | 32 | 9 | N | T |
| Billing Zip Code | BA1 | 17 | 218 | 5 | N | T |
| Type of Bill | BA1 | | 237 | 4 | N | T (for UB only) |
| Bill Reference(Patient Acct#) | CA0 | 3 | 6 | 17 | A/N | T |
| Treating Provider License(Provider) | CA0 | 28 | 213 | 6 | A/N | T(if Health Care Practice) |
| Patients Last Name | CA0 | 4 | 23 | 20 | A/N | T |
| Patients First Name | CA0 | 5 | 43 | 12 | A/N | T |
| Patients Middle Initial | CA0 | 6 | 55 | 1 | A/N | F |
| Submitter Bill Number | CA0 | 31 | 290 | 12 | N | T(This should match the Submitter Bill Number in the attachment name) |
| Anesthesia Duration | FA0 | 19 | 86 | 4 | N | F |
| Anesthesia Start Time | FA0 | 50 | 238 | 4 | N | F |
| Anesthesia End Time | FA0 | | 242 | 4 | N | F |
| NPI | BA0 | | 135 | 15 | N | T(EAPG type bills) |
| Modifier4 | FA0 | | 278 | 2 | A/N | F |
| Modifier5 | FA0 | | 280 | 2 | A/N | F |
| Value_Code_1 | EA0 | | 95 | 2 | N | T(EAPG type bills) |
| Value_Amt_1 | EA0 | | 97 | 4 | N | T(EAPG type bills) |
| Treating_Addr1 | EA1 | | 53 | 30 | A/N | T |
| Treating_Addr2 | EA1 | | 83 | 30 | A/N | T |
| City | EA1 | | 113 | 20 | A/N | T |
| State | EA1 | | 133 | 2 | A/N | T |
| Zip_plus | EA1 | | 140 | 4 | N | T |
| | XA0 | | | | | |
| | YA0 | | | | | |
| | ZA0 | | | | | |

***NSF Business Rules:***

- All records in the NSF file must be 320 characters.
- There should be a YA0 record in between every XA0 and BA0 record.
- The AA0 record line must only appear once in the NSF file. Must be the first line in the file.
- The ZA0 record line must only appear once in the NSF file. Must be the last line in the file
- The FA0 record must appear for every procedure line on the bill.
- There is an implied decimal point, in the days field, at the tenth decimal place in the ALT file. Example: 0010 will be processed as 1.0.
- Use attachment code 24 for any bills that are being billed on a UB.
- Use attachment code RX for any bills that are pharmacy bills.
- Naming convention of the file should not change, however pharmacy bills should be send in a separate file from any non-pharmacy bills.
- If it is over 500 lines due to the days/unit values then default the days/units to 1.

  This edit does not apply to the following codes:

  CPT code 00100 - 01999 (anesthesia codes)

  CPT 99070

  Category III codes

  NDC code

  HCPCSCodes

- If it is over 500 lines when days/units are 1 then the provider should not be able to submit more than 500 lines.

***Vendor Attachment File Naming Convention***

| | Type & Max Length | Description / Example |
|---|---|---|
| Submitter ID | Char(9) | AB1234567 |
| Payer ID | Char(9) | ABCD12345 |
| Filler | Char(1) | _(underscore) |
| SSN | Char(9) | NYSIF Claimant Social Security Number, including any leading zeroes; no dashes.<br>Example: 023880000 Can be zeros |
| Filler | Char(1) | _(underscore) |
| Date of Injury | Number(8) | Date of Injury. Format is CCYYMMDD.<br>Example: 20060101 |
| Filler | Char(1) | _(underscore) |
| EIN | Number(13) | Federal Tax ID number used on 1099. Non-numeric characters will be stripped if present.<br>Example: 123456789 |
| Filler | Char(1) | _(underscore) |
| Vendor Bill ID | Number(10) | The vendor's unique numeric identifier that is assigned to each medical bill. Primary link to the bill. |
| Filler | Char(1) | _(underscore) |
| Vendor Attachment ID | Number(10) | The vendor's unique numeric identifier that is assigned to each Medical Bill attachment. |
| Filler | Char(1) | _(underscore) |
| Claim Number | Char(25) | NYSIF Carrier Case Number (i.e. Claim Number)<br>Example: 20303200021 |
| Unit Number | Char(3) | NYSIF Unit Number to which the claim is assigned |
| Filler | Char(1) | _(underscore) |
| Type of Document | Char (2) | 00= CMS1500,01=First Report,02=Supplemental Report,03=P&S Report,04=QME,05=Consult,06=AME,07=Entire File,08=Diagnostic,09=Chart Notes,10=Pre-Authorization Request,11=Referral Request,12=Disability Status,13=Operative Report,14=Ambulance,15=Ancillary,16=Home Care,17=Other,18=Transportation,19=LMN,20=CMN,21=Radiology,22=Pathology,23=PT OT Notes,24=UB04/92,25=PCE/FCA,26=IME,27=Physician Script/Orders,28=Employee's Report of Claim,29=Supply Invoice,30=History & Physical,31=Discharge Summary,32=Anesthesia,33=ER Notes,34=34DWC-8,35=DWC-96,36=Itemized Billing,37=DWC-73,38=DWC-73,39=Non-Medical Billing,C1=C1,C2=C2,C3=C3,C4=C4,C5=C5,N=Narrative,F2=Transcription,Filler |
| Filler | Char(1) | _(underscore) |
| Extension | Char(3) | PDF<br>DWC<br>TIF<br>TIFF<br>PDF<br>DOC<br>DOCX<br>XLS<br>XLSX<br>Blank<br>Other |

The file extension must be ".PDF". The file must be in "flat" form, i.e. non-alterable.
The image format shall be: PDF using CCITT Group 4 compression, bi-tonal depth, black and white or color, as appropriate, compression: lossless, spatial resolution: at least 200 dpi. Document must be machine searchable. Bill SR=Stage Report, PDF and PDF/A. NYSIF reserves right to change image format to TIFF, PDF/A at anytime and increase DPI for all images to 300 DPI. NYSIF may request that a higher resolution be used for a particular document on a limited basis to ensure good image quality.

This is not a one to one mapping of CPT code to the document type. Providers know what medical reports they need to submit with the CPT codes billed. They will determine which document type to use. It is not feasible to map the CPT to the document type.

For example:
Medicine CPT: provider could submit a document type of C4=C4, CN=EC4Narr, 09=Chart Notes, 17=other
Pathology CPT: document type of 22=pathology, 17=other
E/M CPT: 01=First Report, 05=Consult, C4=C4, CN=EC4Narr, 17=other
Surgical CPT: 13=operative report, 17=other

The minimum set of attachments for these codes that required medical documents is 2, one for the bill image, one for the medical report.
If they plan to submit multiple documents types and bill image as one PDF, then the minimum set of attachments is 1.

Sample Records:
AB1234567ABCD12345_123880009_20060113_1234567890000_1112223334_155684501_20303200223_01.PDF

***9. Accept/Reject Report File Naming Convention***

| Name | Type & Length | Description |
|---|---|---|
| Submitter ID | Char(9) | AB1234567 |
| Filler | Char(1) | _(underscore) |
| PayerID | Char(9) | ABCD12345 |
| Filler | Char(1) | _(underscore) |
| 6 Digit Date | Char(6) | MMDDYY - Date of creation of file |
| Filler | Char(1) | _(underscore) |
| File Number or Unique Number | Char(2) | Sequence number of file |
| Extension | Char | .TXT |

**Sample Record:**

AB1234567_ABCD12345_011306_01.txt
Note: Accept/Reject Report File Naming convention must include underscores noted in above example.

***Accept/Reject Report File Layout***

| Field Name | Type | Null | Description / Example |
|---|---|---|---|
| Provider EIN | Char(13) | Not null | Provider's Federal Tax ID as listed on the bill. Can be all zeros. |
| Bill Receipt Date | Char(10) | Not null | Date bill was received into NYSIF system from the vendor. Format: MM/DD/CCYY |
| Last Name | Char(20) | Nullable | NYSIF Claimant (patient) last name as listed on the bill. Can be all spaces. |
| First Name | Char(12) | Nullable | NYSIF Claimant (patient) first name as listed on the bill. Can be all spaces |
| SSN | Char(9) | Not null | Patient's social security number as listed on the bill. Can be all zeros. Format: 123456789. |
| Date of Service | Char(10) | Not null | First date of service listed on the bill. Can be all zeros. Format: MM/DD/CCYY. |
| Account Number | Char(17) | Nullable | NYSIF Claimant (patient) account number as listed on the bill. Can be all spaces. |
| Total Charges | Char(12) | Nullable | Total charges as listed on the bill. Can be all spaces. Format: 999999.90 |
| Claim Number | Char(12) | Not null | NYSIF Carrier Case Number (i.e. Claim number) as listed on the bill. Can be all zeros. |
| Accept / Reject Code | Char(1) | Not null | Accept / Reject code. A = accepted, R = rejected. |
| Rejection Reason | Char(80) | Not null if Accept/ Reject Code = 'R' | Reason bill was rejected from NYSIF system. e.g.. Invalid social security number. Descriptions to be provided by NYSIF. |
| Reject Sequence | Char(3) | Not null if Accept/ Reject Code = 'R' | This will document multiple rejection reasons for a single bill and a sequence reference of rejection. Multiple rejections per bill should be denoted by 1,2,3, etc. Will always be blank. |
| Bill Returned Date | Char(10) | Nullable | Date bill sent back from the NYSIF system to the vendor. Format: MM/DD/CCYY. Will always be blank. |
| Vendor Bill ID | Char(10) | Nullable | The vendor's unique numeric identifier that is assigned to each medical bill. Primary link to the bill. This is the Bill ID Number |

| Field Name | Type | Null | Description / Example |
|---|---|---|---|
| | | | that can be found in CA0 record column 290 on NSF form. Could be blank. |
| Status Date | Char(10) | Nullable | Status date representing a change in Bill status. Format: MM/DD/CCYY. Will always be blank. |
| Status Time | Char(8) | Nullable | Time representing a change in Bill status. Format: HHMMSSHS. Will always be blank. |
| NYSIF Bill Number | Char(10) | Nullable | Unique Billing number assigned by the NYSIF system. Will always be blank. |
| Status Code | Char(5) | Nullable | Up to 5 digit code associated with the description that is assigned to a bill when it is routed or returned to vendor. Will always be blank. |
| Pending Queue | Char(5) | Nullable | The queue code assigned to a bill that has not been reported as Accepted or Rejected and is being held for further review. Will always be blank. |

Sample records:
7701234540000;05/01/2000;JONES;RAY;988954749;04/18/2000;6784465;131.63;555738;A;;;06/12/2002;123456;06/11/2002;00:01:01;6543211478;98765;vendo
7701234540000;05/25/2000;WHEAT;ANN;123954749;04/18/2000;1234465;31.63;000738;A;;;06/12/2002;1347655;06/11/2002;;8521479632;;provi
7701234540000;05/31/2000;SMITH;JON;456954749;04/20/2000;3334465;231.63;999738;R;INVALID SSN;1;06/12/2002;654321;06/11/2002;01:01:01;123654;;pendi
7701234540000;05/31/2000;SMITH;JON;456954749;04/20/2000;3334465;231.63;999738;R;INVALID PROCEDURE CODE;2;06/12/2002;987654;;;456321789;;flagg;

Note: Semicolon should be on the end.

***Process:***
***Vendor must process all submissions by providers in accordance with NYSIF edits.***
**(*Numbers at left refer to labeled steps in the process diagram on page 11*)**

5a. Medical Provider contacts vendor to verify or obtain valid NYSIF claim number for bill submission
5b. Medical Provider submits medical billing file and corresponding attachments to vendor.
6a. Vendor processes medical billing file.
6b. Billing File passes edits?
6c. If the bills and attachments do not pass the edits, the vendor rejects them back to medical provider with reason for correction.
7. If the bills and attachments do pass the edits, vendor submits medical billing files to NYSIF via NSF file and submits corresponding and orphan attachments via a zip file.
8. NYSIF receives the files from vendor via ftp.

NYSIF e-Billing Process:
8a. Medical billing files enter NYSIF's e-billing system.
8b. Medical billing file processed by NYSIF e-billing system
8c. Pass edits? There are a several edits that a bill must pass in order for NYSIF to process a medical bill.
8d. If the bill does not pass an edit, the medical bill is rejected with reason to vendor.
8e. If the bill passes ALL the edits, the accepted bill is ready for bill processing.

NYSIF Accept/Reject Process:
8f. All medical bills and attachments processed results are stored in the NYSIF e-Billing Accept/Reject Tables
9. For every bill file sent to NYSIF from vendor, an Accept/Reject file is created and sent to vendor of the results of the file processed.

***Medical Billing and Attachment Submission Process Business Rules:***

5a. Medical provider must include the NYSIF claimant carrier case number

- Medical providers must validate NYSIF carrier case number by contacting the vendor and entering the NYSIF claimant SSN and date of injury.

**6a. Vendor Bill Edits:**

- Medical provider must include the NYSIF claimant date of injury
- Medical provider must include the NYSIF claimant SSN but can be zeros
- All electronic transactions require a Payer ID#
- Medical Provider must include a valid NYSIF carrier case number
- Medical Provider must only submit bills with valid, ICD9, ICD10, Revenue Codes, NDC, CPT Codes, Cat 3 codes, National Codes, and HCPCS. ICD9 and ICD10 codes cannot appear on the same bill.

***Vendor Claim Number Verification Process: See Appendix A for Diagram***

1. If provider sends claim number, DOI, and SSN:
   - Vendor will check all three elements to verify the claim.
     - If all three elements match, the bill is sent to NYSIF.
     - If one of those elements does not match, it will be rejected back to the provider.
2. If provider sends SSN and DOI, but not the cc#:
   - Vendor will verify SSN and DOI, and look for a cc# that matches.
     - If cc# is found, the cc# is added to the bill file.
     - If more than one cc# satisfies this condition, then vendor will take the lower claim number.
     - If cc# is NOT found, the bill is rejected to provider.
3. If the cc# and DOI match, but there is no SSN on claim record.
   - Vendor will match against patient name.
     - If patient name does not match, the bill will be rejected back to the provider.

NOTE: DOI can be +/- 5 days of the date the provider sends.
See Appendix for Visio of vendor Claim Verification.

- Bills with Date of Service less than the Date of Injury will be rejected by vendor.
- Bills with Date of Service greater than the Date of Physicians Signature will be rejected by vendor
- Bills must include valid ICD9 or ICD10 codes; otherwise vendor will reject the bill to the provider.
- Bills must have valid ICD9 or ICD10 codes, but not both within the same bill.
- Bills must include valid Procedure (CPT, HCPCS, and CAT III) codes; otherwise vendor will reject the bill to the provider.
- Bills with procedure codes 99070 and E1399 requires description on bill, otherwise vendor will reject the bill to the provider.
- Bill must include Valid CPT Code Modifiers
  - The following list contains the modifiers that a provider can add to the CPT code to more accurately describe the services provided.
  - If a bill is electronically submitted containing CPT codes, should a provider include a modifier with the CPT code then the modifier must be one of these listed.
  - If the modifier is not one of these listed the bill should be rejected back to the provider.

| **Medical Procedure** | **Modifiers** | |
|---|---|---|
| | | |
| **Category** | **CPT Codes** | **Modifiers** |
| Anesthesia | 00100 - 01999, 99100 - 99140 | 22, 23, 32 |
| Surgery | 10021 – 69990 | 22, 23, 24, 25, 26, 32, 47, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 62, 63, 66, 76, 77, 78, 79, 80, 81, 82, 83, 90, 99, TC, PA, NP, LT, RT |
| Radiology | 70010 – 79999 | 22, 26, 32, 52, 76, 77, 99, TC, LT, RT, 59 |
| Pathology & Laboratory | 80047 – 89398 | 22, 26, 32, 52, 90, 91, 92, 99, TC |
| Medicine | 90281 – 96999, 97802 - 98929, 98960 - 99091, 99143 - 99199, 99500 - 99607 | 22, 26, 32, 52, 76, 77, 79, 90, 91, 99, TC, 59, LT, RT |
| Physical Medicine | 97001 – 97800 | 22, 51, 59, 99 |

| | | |
|---|---|---|
| Evaluation & Management | 99201 – 99499 | 24, 25, 27, 32, 52, 57, 99, PA, NP |
| | | |
| | | |
| **Chiropractic Fee Schedule** | | |
| Radiology | 70100 – 76999 | 26, 50, 76, 77, TC, LT, RT, 59 |
| Medicine | 95860 - 99075 | 26, 50, 51, 59, 76, 77, 99, TC, LT, RT, |
| Evaluation & Management | 99201 - 99456 | 25, 26, 27, 50, 59, 76, 77, 99, |
| Physical Medicine | 97010 – 97762, 98940 - 98942 | 22, 51, 59, 99 |
| | | |
| HCPCS | 5 position codes that start with an alpha character and end with 4 digits. | A1, A2, A3, A4, A5, A6, A7, A8, A9, AA, AD, AE, AF, AG, AH, AJ, AK, AM,AP, AQ, AR, AS, AT, AU, AV, AW, AX, BA, BL,BO, CA, CB, CC, CD, CE, CF, CR, E2 ,E3, E4, EJ EM, ET, EY, F1, F2, F3, F4, F5, F6, F7, F8, F9, FA ,FB, G2, G3, G4, G5, G6 G8, G9, GA, GB, GC, GE GF, GK, GL, GN, GO, GP, GQ, GR, GS, GT, GV, GZ, GI, H9, HE, HF, HG, HH, HI,HJ, HK ,HL, HM, HN HO, HP, HQ, HR, HS, HT, JA, JB, K0, K1, K2, K3, K4, KA, KB, KC ,KD, KF, KH, KI, KJ, KM, KN, KO, KP, KQ, KR, KS, LC, LD, LL, LS, LT, MS, NR, NU, P1, P2, P3, P4, P5, P6, PL, Q3, QC, QD, QE, QF, QG, QH, QK, QL, QM, QN, QP, QS, QT, QV, QW, QX, QY, QZ, RC, RD, RP, RR, RT, SA, SC, SD, SF, SG, SH, SJ, SK, SL, SN, SS, ST, SU, SV, SW, SY, T1, T2, T3, T4, T5, T6, T7, T8, T9, TA, TC, TD, TE, TF, TG, TN, TP, TQ, TS, TU, TV, TW, U1 ,U2, U3, U4, U5, U6, U7, U8,UC, UD, UE, UF, UG, UH, UJ, UK,VP |

***Medical Billing and Attachment Submission Process Business Rules continued:***

- Vendor will reject any bill that have CPT Codes Which Require Attachments per NYSIF Requirements:

  Radiology codes:

  Although rule 8 states that C-4 reports are not acceptable, NYSIF will process radiological code with a unit value less that 2.5 without a narrative, if findings are put on the C-4. However, findings MUST be included on the C-4. All other Radiology codes require a narrative.

  Medical:
  - 90801 - 99087, 90918 - 90921, 90935 - 90989, 91011 - 91020, 91032 - 91033, 92018 - 92019, 92083, 92060, 92135, 92140, 92225 – 92275, 92284 - 92287, 92502, 92584 - 92585, 92950, 92960 - 92970, 92975 - 92977, 92980 - 93000, 93010, 93014 - 93015, 993018 - 93040, 93042, 93224 - 93268, 93271 - 93320, 93325 - 93562, 93720, 93722, 93724, 93740, 93784 - 93790, 93875 - 94010, 94060 - 94070, 94620 - 94621, 95805 - 95830, 95858 - 95920, 95925 - 95975, 96100 - 96117, 99183, 99500 - 99600

  Physical Medicine
  - 97545, 97546, 97800, 97750.

  Pathology:
  - For all codes from 80048 - 89399 with a relative value of 30 or up, or a billed amount greater than or equal to $30.00

  E/M codes:
  - 99204, 99205, 99254, 99244, 99245, 99255, 99285, 99274, 99275, 99223, 92014, 99215, 92004

  Surgical codes:
  - For all codes from 10040 - 69990 with a relative value of 3.5 or up, or a billed amount greater than or equal to $800.00

  A bill containing one of these modifiers of a CPT code must have a corresponding attachment file.
  - 21, 22, 23, 25, 26, 62, 63, 66, 76, 77, 79, 80, 81, 82

  All Category III codes require an attachment

- Zero bills will be rejected by vendor to the provider, but the attachment should be sent to NYSIF
  - (C4s that are sent for report purposes only and do not have a charge for services. Typically, this occurs in the follow-up status reports required post surgery. These C4s will have a zero dollar amount in the “Total Charge” field and must have a Procedure code. )
- Vendor must validate all HCPCS codes on a bill before they are accepted and passed onto NYSIF. The HCPCS codes are 5 position codes that start with an alpha character and end with 4 digits.
- Bill must include Valid HCPCS Code Modifiers
  - The following list contains the modifiers that a provider can add to the HCPCS code to more accurately describe the services provided.
  - If a bill is electronically submitted containing HCPCS codes, should a provider include a modifier with the HCPCS code then the modifier must be one of these listed.
  - If the modifier is not one of these listed the bill should be rejected back to the provider.

**Valid HCPCS Code Modifiers List**

| | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| A1 | AP | CR | FA | GP | HN | KF | NU | QN | SG | T7 | U3 |
| A2 | AQ | E1 | FB | GQ | HO | KH | P1 | QP | SH | T8 | U4 |
| A3 | AR | E2 | G2 | GR | HP | KI | P2 | QS | SJ | T9 | U5 |
| A4 | AS | E3 | G3 | GS | HQ | KJ | P3 | QT | SK | TA | U6 |
| A5 | AT | E4 | G4 | GT | HR | KM | P4 | QV | SL | TC | U7 |
| A6 | AU | EJ | G5 | GV | HS | KN | P5 | QW | SN | TD | U8 |
| A7 | AV | EM | G6 | GZ | HT | KO | P6 | QX | SS | TE | UC |
| A8 | AW | ET | G8 | GI | JA | KP | PL | QY | ST | TF | UD |
| A9 | AX | EY | G9 | H9 | JB | KQ | Q3 | QZ | SU | TG | UE |
| AA | BA | F1 | GA | HE | K0 | KR | QC | RC | SV | TN | UF |
| AD | BL | F2 | GB | HF | K1 | KS | QD | RD | SW | TP | UG |
| AE | BO | F3 | GC | HG | K2 | LC | QE | RP | SY | TQ | UH |
| AF | CA | F4 | GE | HH | K3 | LD | QF | RR | T1 | TS | UJ |
| AG | CB | F5 | GF | HI | K4 | LL | QG | RT | T2 | TU | UK |
| AH | CC | F6 | GK | HJ | KA | LS | QH | SA | T3 | TV | VP |
| AJ | CD | F7 | GL | HK | KB | LT | QK | SC | T4 | TW | |
| AK | CE | F8 | GN | HL | KC | MS | QL | SD | T5 | U1 | |
| AM | CF | F9 | GO | HM | KD | NR | QM | SF | T6 | U2 | |

6c. Vendor will reject all medical bills back to the provider to correct and resubmit.

***Medical Billing and Attachment Submission Process Business Rules continued:***

**7. Vendor Submission of Billing File and Attachments Rules:**

- Vendor will send the billing data to NYSIF via a NSF 2.0 file
  *C4 to HCFA1500 to NSF Showing Standard WC Edits and NYSIF Edit*
  - The layout on the NSF file is the data elements of the C4 and HCFA1500 which will be included in the NSF file by vendor. (See Appendix C)
  - Missing from the C4 is sex and Type of Service.
  - Missing from the HCFA 1500 and NSF are WCB Rating Code, WCB Case Number and WCB Authorization Number (this last data element will be supplied by vendor as part of the Provider Registration file).

- Vendor NSF file and associated attachments will be received **together** by NYSIF.
- Vendor will generate C4 or HCFAs images from billing data received.
- Vendor will confirm that bill image file matches what is in the billing data file.
- Image attachments will include the billing form image as the first page, followed by the supporting documentation, all in one .pdf file.
- The attachments file will not include extraneous images unrelated to the bill or the bill's supporting documentation.

8. NYSIF does not allow an NSF file to be sent with a duplicate name previously sent. The entire file is rejected back to vendor.

**8i. *Additional Bill edits:***

***Vendor must edit provider bills according to the following criteria and reject any bills back to the provider that fail the following edits:***

| RejCode | Rejection Message |
|---|---|
| 1 | Zero Bill. |
| 2 | Bill was submitted with an invalid NYSIF Claim No. |
| 3 | Bill was sent with wrong Claim No. Resubmit bill with Claim No. ########. |
| 6 | Injury Date can not be greater than the date of the bill. |
| 7 | Treatment Location Zip Code is not valid. |
| 8 | Bill contains invalid Date(s) of Service. Correct dates and resubmit bill. |
| 10 | Bill contains Date(s) of Service prior to the Date of Injury. |
| 11 | Bill contains invalid procedure code modifiers. Correct and resubmit the bill. |
| 14 | Duplicate of NYSIF bill # <<SUB>>, your account # <<SUB>> |
| 15 | DX pointer pointing to more than 1 Diagnosis Codes or repeated DX pointer. |
| 16 | Diagnosis code using more than one DX pointer or repeated code. |

| RejCode | Rejection Message |
|---|---|
| 17 | Bill date before one or more service dates on the bill. |
| 18 | Invalid Days or Units. |
| 19 | To and From Service Dates must be the same. |
| 22 | Anesthesia procedure must have start/end time or duration. |
| 23 | Incorrect ICD9 Diagnostic code. |
| 24 | More than one Modifier. |
| 25 | Dx Pointer is invalid. |
| 26 | Invalid ICD Procedure Code |
| 27 | Invalid Admin Diag Code |
| 29 | Bill Date must not be after the Receipt Date. |
| 30 | Receipt Date must not be after the Entry Date. |
| 33 | Claim is retired |
| 34 | No Case Manager assigned |
| 35 | Invalid vendor Bill Num. |
| 36 | Invalid Amount Billed. |
| 37 | Invalid Receipt Date |
| 38 | Invalid Bill Date |
| 39 | Claim is a death claim, use base claim. |
| 40 | Invalid Bill Type |
| 41 | Invalid Value Code |
| 42 | Invalid Rate Code |
| 700 | The same service cannot be billed on Multiple claims for the same entity. |
| 800 | Invalid HCPCS Code. |
| 801 | CPT Code requires a Provider Type. |
| 802 | Invalid CPT Code. |
| 803 | CPT Code invalid for the Provider Type. |
| 804 | CPT Code not valid for all Dates of Service. |
| 805 | Procedure Code is blank. |

| RejCode | Rejection Message |
|---|---|
| 807 | The internal code used can only be billed by a Hospital or Health Care Practice. |
| 808 | The internal code used can only be billed by In State Providers. |
| 809 | NDC Code is invalid. |
| 810 | If bill was submitted by vendor: NDC code cannot be changed to an internal code. |
| 811 | DRG Code is invalid |
| 812 | PASRate Code is invalid. |
| 814 | Invalid Place of Service Code. |
| 900 | Billing Provider is not on file. |
| 901 | Billing Provider requires a Treating Provider to be entered. |
| 902 | Billing Provider is not valid for a service date. |
| 903 | No Billing Provider Address. |
| 904 | This provider bill cannot be submitted electronically. |
| 906 | Billing Provider is invalid for Ambulatory Surgery Bill. |
| 907 | Please verify address for payment. |
| 925 | Treating Provider is not on file. |
| 926 | Treating Provider is not a member of the Billing Provider. |
| 927 | Treating Provider is not valid for a service date. |
| 928 | Treating Provider is duplicated in NYSIF Provider System. |
| 929 | NYS tx zip & out of state prov license; Verify prov license & tx location |
| 950 | Billing/Treating Provider Association is not valid for a service date. |
| 908 | NPI is blank or zero. |

| RejCode | Rejection Message |
|---|---|
| 930 | Treating Provider address is required. |

**8j.** Vendor Provider Bill Inquiry System

- Vendor will make all current NYSIF Claims Unit Numbers and associated Claims Unit telephone number, as well as instructions to the provider on how to use the claim number to determine the unit number, available to the provider.
- NYSIF will provide vendor with a list of all valid NYSIF Claims Units via an excel spreadsheet.
- NYSIF will send updates to vendor as they are made available.

***Vendor Invoice Submission Process Technical Specifications (Process 10)***

The vendor Invoice submission consists of 2 parts – mailing of a hard copy of the vendor Invoice and electronic submission of the Vendor Invoice and the Vendor Invoice Details supporting the charges on the Vendor Invoice. The purpose of the electronic invoice is to provide NYSIF with the information needed to reconcile the Vendor Bill Invoice programmatically.

The vendor shall:

- submit their Vendor Invoice as hard copy to NYSIF via the USPS. Name and address to be provided when necessary,
- submit their Vendor Invoice electronically.
- Create a Vendor Invoice Details file in the form of an ASCII Text file. The ASCII text file will be comma delimited, CR LF (ASCII char(13) char(10) record terminator).
  **Note: Any field that might use the delimiter "," in the contents of the field, must be wrapped with double quotes to prevent the record from rejecting. (e.g.. 01;"ABC, a company")**
- create the ASCII Text file using the Vendor Invoice Details Layout defined below. All fields are required unless specified otherwise.
- name the ASCII Text file using the Vendor Invoice Details File Naming Convention defined below.
- encrypt the ASCII Text file and the Vendor Invoice using an agreed upon encryption methodology.
- transmit the ASCII Text file and the Vendor Invoice (.pdf) **together** via ftp. These files should not be zipped.
- transmit the ASCII Text file on a to be determined schedule.
- Decimal points are needed for all currency fields.
- Bill Amount should not be the bill amount on the paper bill. But should be the bill amount on the invoice. Example: Administration fee should be 1.00, additional fee should be 0.00 and bill amount should be 1.00.

***Vendor Invoice Details File Naming Convention***

| Name | Type & Length | Description |
|---|---|---|
| Submitter ID | Char(9) | AB1234567 |
| PayerID | Char(9) | ABCD12345 |
| 6 Digit Date | Char(6) | MMDDYY - Date of creation of file |
| File Number or Unique Number | Char(2) | 2 Digit Sequence number of file |
| File Type | Char(3) | INV |
| Extension | Char | .CSV |

Sample Record:
AB1234567ABCD1234501130601INV.CSV
Note: No underscores in the Vendor Invoice Details File Naming Convention.

***Vendor Invoice Details File Layout***

| 0 = Header Record | | |
|---|---|---|
| **Field Name** | **Type & Max Length** | **Description / Format** |
| Record Identifier | Char(1) | 0=Header Record |
| Processor Number | Char(10) | This number is assigned by NYSIF to identify the source of this invoice file. **Ex.) AB0000001** |
| Invoice Date | Number(8) | The date of the invoice file.<br>Format: CCYYMMDD |
| Vendor Name | Char(20) | Vendor Name |
| Vendor Address | Char(20) | Vendor Address |
| Vendor Location City | Char(18) | Vendor City |
| Vendor Location State | Char(2) | Vendor State |
| Vendor Zip Code | Char(5) | Vendor Zip Code |
| Vendor Zip Plus | Char(4) | Vendor Zip Plus. Optional. |
| Vendor Telephone Number | Char(14 | Telephone Number<br>Format: (999) 999-9999 |
| Invoice Number | AlphaNumeric(14) | Unique invoice number/ID. |
| Invoice Start Date | Number(8) | First date of receipt for bills included on this invoice file.<br>Format: CCYYMMDD |
| Invoice End Date | Number(8) | Last date of receipt for bills included on this invoice.<br>Format: CCYYMMDD |

| 1 = Bill Detail Record | | |
|---|---|---|
| **Field Name** | **Type & Max Length** | **Description / Format** |
| Record Identifier | Number(1) | 1= Bill Detail Record |
| Processor Number | Number(10) | This number is assigned by NYSIF to identify the source of this invoice. |
| Medical Bill Date | Number(8) | The bill date of the specific medical bill.<br>Format: CCYYMMDD |
| Date of Service | Number(8) | The last date of service on the medical bill.<br>Format: CCYYMMDD |
| EIN | Number(9) | Federal Tax ID number used on 1099 of the Billing provider. |
| License Number | Number(6) | State Medical License Number of treating provider. |
| Vendor Bill ID | Number(12) | Vendor Bill Number |
| Claim Number | Number(8) | NYSIF Carrier Case Number (i.e. Claim Number) associated with the medical bill record. |
| Administration Fee | Number(5).(2) | Administration fee for this bill record.<br>Format: 99999.00 |
| Additional Fee | Number(5).(2) | Any additional service fee for this bill record.<br>Format: 99999.00 |
| Bill Amount | Number(7).(2) | Total charges on this bill record. Bill Amount = Administration Fee + Additional Fee.<br>Format: 9999999.00 |
| Paper Bill Amount | Number(7).(2) | Total charges on paper bill.<br>Format: 9999999.00 |

| 2 = Footer Control Record | | |
|---|---|---|
| **Field Name** | **Type & Max Length** | **Description / Format** |
| Record Identifier | Char(1) | 2 = Footer Control Record |
| Processor Number | Char(10) | This number is assigned by NYSIF to identify the source of this invoice. |
| Invoice Date | Number(8) | The date of this invoice.<br>Format: CCYYMMDD |
| Invoice Number | AlphaNumeric(14) | Unique invoice number/ID. |
| Invoice Start Date | Number(8) | First date of receipt for bills included on this invoice.<br>Format: CCYYMMDD |
| Invoice End Date | Number(8) | Last date of receipt for bills included on this invoice.<br>Format: CCYYMMDD |
| Transaction Total | Number(8) | Total number of transactions being billed on this invoice. |
| Total Administration Fee | Number(8).(2) | Total Administration Fee for this invoice.<br>Format: 99999999.00 |
| Total Additional Fee | Charr(8).(2) | Sum of additional fees billed on this invoice.<br>Format: 99999999.00 |
| Current Amount Due | Number(10).(2) | Amount due for this invoice.<br>Current Amount Due = Total Administration Fee + Total Additional Fee<br>Format: 9999999999.00 |
| Outstanding Balance | Number(10).(2) | Any outstanding balance from previous invoices.<br>Format: 9999999999.00 |

# Sample Documents

# Doctor's Initial Report

**C-4**

*State of New York - Workers' Compensation Board*

Use this form to report the first time you treated the patient. (To report continued treatment, use Form C-4.2. To report permanent impairment, use Form C-4.3.)

Please answer all questions completely, attaching extra pages if necessary, and submit promptly to the Board, the insurance carrier and to the patient's attorney or licensed representative, if he/she has one; if not, send a copy to the patient. Failure to do so may delay the payment of necessary treatment, prevent the timely payment of wage loss benefits to the injured worker, create the necessity for testimony, and jeopardize your Board authorization. You may also fill out this form online at www.wcb.ny.gov.

## A. Patient's Information

1. Name: _____ (Last / First / MI) 2. Social Security #: ___ - ___ - ___

3. Home phone #: (____)_____ 4. WCB Case # (if known):_____ 5. Carrier Case #:_____

6. Mailing address:_____ (Number and Street / City / State / Zip Code)

7. Date of injury/onset of illness: ____/____/____ 8. Date of Birth: ____/____/____ 9. Gender: ☐ Male ☐ Female

10. On the date of injury/illness what was the patient's job title or description: _____

11. On the date of injury/illness what were the patient's usual work activities:_____

_____

12. Patient's Account #:_____

## B. Employer Information

1. Employer when injury occurred: _____ (Company/Agency Name) 2. Phone #: (____)_____

3. Employer Address: _____ (Number and Street / City / State / Zip Code)

## C. Doctor's Information

1. Your name: _____ (Last / First / MI) 2. WCB Authorization #: _____

3. WCB Rating Code:_____ 4. Federal Tax ID #: _____ The Tax ID # is the (*check one*): ☐ SSN ☐ EIN

5. Office address: _____ (Number and Street / City / State / Zip Code)

6. Billing group or practice name:_____

7. Billing address: _____ (Number and Street / City / State / Zip Code)

8. Office phone #: (____)_____ 9. Billing phone #: (____)_____ 10. Treating Provider's NPI #:_____

11. You are a (*check one*): ☐ Physician ☐ Podiatrist ☐ Chiropractor

## D. Billing Information

1. Employer's insurance carrier: _____ 2. Carrier Code #: W_____

3. Insurance carrier's address:_____ (Number and Street / City / State / Zip Code)

4. Diagnosis or nature of disease or injury:

| | Enter ICD9 Code: | ICD9 Descriptor: |
|---|---|---|
| (1) | | |
| (2) | | |
| (3) | | |
| (4) | | |

Relate ICD9 codes in (1), (2), (3), or (4) to Diagnosis Code column on page 2 by line.



THE WORKERS' COMPENSATION BOARD EMPLOYS AND SERVES PEOPLE WITH DISABILITIES WITHOUT DISCRIMINATION

**CONTINUATION TO CARRIER/EMPLOYER BILLING PORTION OF FORMS C-4, C-4.2, C-4.3, C-5, PS-4 or OT/PT-4**

| Doctor's Name | WCB Case Number | Carrier Case Number | Date of Accident or Injury |
|---|---|---|---|
| | | | |

| Patient | Patient's Social Security Number: |
|---|---|
| | |

| | A Dates of Service From MM | DD | YY | To MM | DD | YY | B Place of Service | C Leave Blank | D (USE WCB CODE) Procedures, Services or Supplies CPT/HCPCS | MODIFIER | E Diagnosis Code | F $ Charges | G Days or Units | H COB | I Zip Code Where Service was Rendered |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 7. | | | | | | | | | | | | | | | |
| 8. | | | | | | | | | | | | | | | |
| 9. | | | | | | | | | | | | | | | |
| 10. | | | | | | | | | | | | | | | |
| 11. | | | | | | | | | | | | | | | |
| 12. | | | | | | | | | | | | | | | |
| 13. | | | | | | | | | | | | | | | |
| 14. | | | | | | | | | | | | | | | |
| 15. | | | | | | | | | | | | | | | |
| 16. | | | | | | | | | | | | | | | |
| 17. | | | | | | | | | | | | | | | |
| 18. | | | | | | | | | | | | | | | |
| 19. | | | | | | | | | | | | | | | |
| 20. | | | | | | | | | | | | | | | |
| 21. | | | | | | | | | | | | | | | |
| 22. | | | | | | | | | | | | | | | |
| 23. | | | | | | | | | | | | | | | |
| 24. | | | | | | | | | | | | | | | |
| 25. | | | | | | | | | | | | | | | |
| 26. | | | | | | | | | | | | | | | |
| 27. | | | | | | | | | | | | | | | |
| 28. | | | | | | | | | | | | | | | |
| 29. | | | | | | | | | | | | | | | |
| 30. | | | | | | | | | | | | | | | |
| 31. | | | | | | | | | | | | | | | |

C-4.1 (9-08) **THE INJURED WORKER SHOULD NOT PAY THIS BILL.** NY-WCB

# Doctor's Progress Report

**C-4.2**

***State of New York - Workers' Compensation Board***

Use this form to report *continuing* services. (To report the first time you treated the patient, use Form C-4. To report permanent impairment, use Form C-4.3.)

Please answer all questions completely, attaching extra pages if necessary, and submit promptly to the Board, the insurance carrier and to the patient's attorney or licensed representative, if he/she has one; if not, send a copy to the patient. Failure to do so may delay the payment of necessary treatment, prevent the timely payment of wage loss benefits to the injured worker, create the necessity for testimony, and jeopardize your Board authorization. You may also fill out this form online at www.wcb.ny.gov.

Date(s) of Examination: _____

WCB Case Number (if known): _____ Carrier Case Number (if known): _____

## A. Patient's Information

1. Name: _____ (Last / First / MI) 2. Date of injury/illness: ___/___/___ 3. Soc. Sec. #: ___-___-___

4. Address (if changed from previous report): _____ (Number and Street / City / State / Zip Code)

5. Patient's Account #: _____

## B. Doctor's Information

1. Your name: _____ (Last / First / MI) 2. WCB Authorization #: _____

3. WCB Rating Code: _____ 4. Federal Tax ID #: _____ The Tax ID # is the (*check one*): ☐ SSN ☐ EIN

5. Office address: _____ (Number and Street / City / State / Zip Code)

6. Billing Group or Practice Name: _____

7. Billing address: _____ (Number and Street / City / State / Zip Code)

8. Office phone #: (____)_____ 9. Billing phone #: (____)_____ 10. Treating Provider's NPI #: _____

## C. Billing Information

1. Employer's insurance carrier: _____ 2. Carrier Code #: **W** _____

3. Insurance carrier's address: _____ (Number and Street / City / State / Zip Code)

4. Diagnosis or nature of disease or injury:

Enter ICD9 Code: ICD9 Descriptor:

(1) _____ _____

(2) _____ _____

(3) _____ _____

(4) _____ _____

Relate ICD9 codes in (1), (2), (3), or (4) to Diagnosis Code column below by line.

| Dates of Service From MM | DD | YY | To MM | DD | YY | Place of Service | Leave Blank | Use WCB Codes Procedures, Services or Supplies CPT/HCPCS | MODIFIER | Diagnosis Code | $ Charges | Days/ Units | COB | Zip code where service was rendered |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | |

☐ Check here if services were provided by a WCB preferred provider organization (PPO).

| Total Charge | Amount Paid (Carrier Use Only) | Balance Due (Carrier Use Only) |
|---|---|---|
| $ | $ | $ |

## D. Examination and Treatment

1. Describe any diagnostic test(s) rendered at this visit: _____



THE WORKERS' COMPENSATION BOARD EMPLOYS AND SERVES PEOPLE WITH DISABILITIES WITHOUT DISCRIMINATION

1500

**HEALTH INSURANCE CLAIM FORM**

APPROVED BY NATIONAL UNIFORM CLAIM COMMITTEE 08/05

PICA

1. MEDICARE (Medicare #) MEDICAID (Medicaid #) TRICARE CHAMPUS (Sponsor's SSN) CHAMPVA (Member ID#) GROUP HEALTH PLAN (SSN or ID) FECA BLK LUNG (SSN) OTHER (ID)

1a. INSURED'S I.D. NUMBER (For Program in Item 1)

2. PATIENT'S NAME (Last Name, First Name, Middle Initial)

3. PATIENT'S BIRTH DATE MM DD YY SEX M F

4. INSURED'S NAME (Last Name, First Name, Middle Initial)

5. PATIENT'S ADDRESS (No., Street)

6. PATIENT RELATIONSHIP TO INSURED Self Spouse Child Other

7. INSURED'S ADDRESS (No., Street)

CITY STATE

8. PATIENT STATUS Single Married Other Employed Full-Time Student Part-Time Student

CITY STATE

ZIP CODE TELEPHONE (Include Area Code) ( )

ZIP CODE TELEPHONE (Include Area Code) ( )

9. OTHER INSURED'S NAME (Last Name, First Name, Middle Initial)

10. IS PATIENT'S CONDITION RELATED TO:

11. INSURED'S POLICY GROUP OR FECA NUMBER

a. OTHER INSURED'S POLICY OR GROUP NUMBER

a. EMPLOYMENT? (Current or Previous) YES NO

a. INSURED'S DATE OF BIRTH MM DD YY SEX M F

b. OTHER INSURED'S DATE OF BIRTH MM DD YY SEX M F

b. AUTO ACCIDENT? YES NO PLACE (State)

b. EMPLOYER'S NAME OR SCHOOL NAME

c. EMPLOYER'S NAME OR SCHOOL NAME

c. OTHER ACCIDENT? YES NO

c. INSURANCE PLAN NAME OR PROGRAM NAME

d. INSURANCE PLAN NAME OR PROGRAM NAME

10d. RESERVED FOR LOCAL USE

d. IS THERE ANOTHER HEALTH BENEFIT PLAN? YES NO *If yes*, return to and complete item 9 a-d.

**READ BACK OF FORM BEFORE COMPLETING & SIGNING THIS FORM.**

12. PATIENT'S OR AUTHORIZED PERSON'S SIGNATURE I authorize the release of any medical or other information necessary to process this claim. I also request payment of government benefits either to myself or to the party who accepts assignment below.

SIGNED DATE

13. INSURED'S OR AUTHORIZED PERSON'S SIGNATURE I authorize payment of medical benefits to the undersigned physician or supplier for services described below.

SIGNED

14. DATE OF CURRENT: MM DD YY ILLNESS (First symptom) OR INJURY (Accident) OR PREGNANCY(LMP)

15. IF PATIENT HAS HAD SAME OR SIMILAR ILLNESS, GIVE FIRST DATE MM DD YY

16. DATES PATIENT UNABLE TO WORK IN CURRENT OCCUPATION FROM MM DD YY TO MM DD YY

17. NAME OF REFERRING PROVIDER OR OTHER SOURCE

17a.

17b. NPI

18. HOSPITALIZATION DATES RELATED TO CURRENT SERVICES FROM MM DD YY TO MM DD YY

19. RESERVED FOR LOCAL USE

20. OUTSIDE LAB? YES NO $ CHARGES

21. DIAGNOSIS OR NATURE OF ILLNESS OR INJURY (Relate Items 1, 2, 3 or 4 to Item 24E by Line)

1. 3.

2. 4.

22. MEDICAID RESUBMISSION CODE ORIGINAL REF. NO.

23. PRIOR AUTHORIZATION NUMBER

| | 24. A. DATE(S) OF SERVICE From MM DD YY To MM DD YY | B. PLACE OF SERVICE | C. EMG | D. PROCEDURES, SERVICES, OR SUPPLIES (Explain Unusual Circumstances) CPT/HCPCS MODIFIER | E. DIAGNOSIS POINTER | F. $ CHARGES | G. DAYS OR UNITS | H. EPSDT Family Plan | I. ID. QUAL. | J. RENDERING PROVIDER ID. # |
|---|---|---|---|---|---|---|---|---|---|---|
| 1 | | | | | | | | | NPI | |
| 2 | | | | | | | | | NPI | |
| 3 | | | | | | | | | NPI | |
| 4 | | | | | | | | | NPI | |
| 5 | | | | | | | | | NPI | |
| 6 | | | | | | | | | NPI | |

25. FEDERAL TAX I.D. NUMBER SSN EIN

26. PATIENT'S ACCOUNT NO.

27. ACCEPT ASSIGNMENT? (For govt. claims, see back) YES NO

28. TOTAL CHARGE $

29. AMOUNT PAID $

30. BALANCE DUE $

31. SIGNATURE OF PHYSICIAN OR SUPPLIER INCLUDING DEGREES OR CREDENTIALS (I certify that the statements on the reverse apply to this bill and are made a part thereof.)

SIGNED DATE

32. SERVICE FACILITY LOCATION INFORMATION

a. NPI b.

33. BILLING PROVIDER INFO & PH # ( )

a. NPI b.

CARRIER

PATIENT AND INSURED INFORMATION

PHYSICIAN OR SUPPLIER INFORMATION

NUCC Instruction Manual available at: www.nucc.org

APPROVED OMB-0938-0999 FORM CMS-1500 (08-05)

1 | 2 | 3a PAT. CNTL. # | 3b MED. REC. # | 4 TYPE OF BILL | 5 FED. TAX NO. | 6 STATEMENT COVERS PERIOD FROM THROUGH | 7

8 PATIENT NAME a b | 9 PATIENT ADDRESS a b c d e

10 BIRTHDATE | 11 SEX | 12 DATE | ADMISSION 13 HR 14 TYPE 15 SRC | 16 DHR | 17 STAT | CONDITION CODES 18 19 20 21 22 23 24 25 26 27 28 | 29 ACDT STATE | 30

31 OCCURRENCE CODE DATE | 32 OCCURRENCE CODE DATE | 33 OCCURRENCE CODE DATE | 34 OCCURRENCE CODE DATE | 35 OCCURRENCE SPAN CODE FROM THROUGH | 36 OCCURRENCE SPAN CODE FROM THROUGH | 37

38 | 39 VALUE CODES CODE AMOUNT | 40 VALUE CODES CODE AMOUNT | 41 VALUE CODES CODE AMOUNT

| 42 REV. CD. | 43 DESCRIPTION | 44 HCPCS / RATE / HIPPS CODE | 45 SERV. DATE | 46 SERV. UNITS | 47 TOTAL CHARGES | 48 NON-COVERED CHARGES | 49 |
|---|---|---|---|---|---|---|---|
| | PAGE ____ OF ____ | CREATION DATE | | TOTALS | | | |

50 PAYER NAME | 51 HEALTH PLAN ID | 52 REL. INFO | 53 ASG. BEN. | 54 PRIOR PAYMENTS | 55 EST. AMOUNT DUE | 56 NPI | 57 OTHER PRV ID

58 INSURED'S NAME | SEX | REL. | 60 INSURED'S UNIQUE ID | 61 GROUP NAME | 62 INSURANCE GROUP NO.

63 TREATMENT AUTHORIZATION CODES | 64 DOCUMENT CONTROL NUMBER | 65 EMPLOYER NAME

66 DX | 67 A B C D E F G H I | 68 J K L M N O P Q

69 ADMIT DX | 70 PATIENT REASON DX a b c | 71 PPS CODE | 72 ECI a b c

74 PRINCIPAL PROCEDURE CODE DATE | a. OTHER PROCEDURE CODE DATE | b. OTHER PROCEDURE CODE DATE | 75 | c. OTHER PROCEDURE CODE DATE | d. OTHER PROCEDURE CODE DATE | e. OTHER PROCEDURE CODE DATE

76 ATTENDING NPI QUAL LAST FIRST

77 OPERATING NPI QUAL LAST FIRST

78 OTHER NPI QUAL LAST FIRST

79 OTHER NPI QUAL LAST FIRST

80 REMARKS | ITCC a b c d

08-04 CMS-1450 | APPROVED OMB NO. 0938-0997 | NUBC | THE CERTIFICATIONS ON THE REVERSE APPLY TO THIS BILL AND ARE MADE A PART HEREOF.

***Specialty Classifications for the New York Workers' Compensation Fee Schedule***

The WC Specialty of the provider will be in the provider file, so NYSIF will have that information, however a provider is supposed to data enter same on the C4. Provider should enter data automatically, whether the bill is from vendor or not. Vendor should edit for it, because if bill is paid manually, case manager will see right away what kind of provider rendered service. NYSIF shouldn't have to do anything.

| | | | |
|---|---|---|---|
| AL | Allergy & Immunology | NEPH | Nephrology |
| DLI | Diagnostics Laboratory Immunology | NPER | Neonatal - Perinatal Medicine |
| AN | Anesthesiology | PHO | Hematology - Oncology |
| CCM | Critical Care Medicine | PUL | Pulmonology |
| PM | Pain Management | PA | Pathology |
| CRS | Colon & Rectal Surgery | AP | Anatomic Pathology |
| D | Dermatology | BB | Blood Banking/Transfusion Medicine |
| DP | Dermatopathology | CLP | Clinical Pathology |
| DI | Dermatological Immunity/Diagnostic Laboratory Immunology | CP | Chemical Pathology |
| EM | Emergency Medicine | CY | Cytopathology |
| FP | Family Practice | DP | Dermatopathology |
| GM | Geriatric Medicine | FOP | Forensic Pathology |
| GP | General Medicine | HEM | Hematology |
| IM | Internal Medicine | IP | Immunology |
| CD | Cardiology | MMB | Medical Microbiology |
| CE | Cardiac Electrophysiology | NP | Neuropathology |
| CVD | Cardiovascular Diseases | RP | Radioisotopic Pathology |
| CCM | Critical care Medicine | PM | Preventive Medicine |
| DLI | Diagnostic Laboratory Immunology | AM | Aerospace Medicine |
| END | Endocrinology & Metabolism | GPM | General Preventive Medicine |
| GE | Gastroenterology | OM | Occupational Medicine |
| GM | Geriatric Medicine | PH | Public Health |
| HEM | Hematology | PMR | Physical Medicine & Rehabilitation |
| ID | Infectious Diseases | PN | Psychiatry & Neurology |
| ONCL | Medical Oncology | CHN | Child Neurology |
| NEPH | Nephrology | CHP | Child Psychiatry |
| PD | Pulmonary Diseases | N | Neurology |
| RHE | Rheumatology | P | Psychiatry |
| NS | Neurological Surgery | PS | Plastic Surgery |
| CCM | Critical Care Medicine | HS | Hand Surgery |
| NUM | Nuclear Medicine | R | Radiology |
| NR | Nuclear Radiology | DRA | Diagnostic Radiology |
| RP | Radioisotopic Pathology | DRNA | Diagnostic Radiology with Special Competence in Nuclear Radiology |
| O | Ophthalmology | DRP | Diagnostic Radiological Physics |
| OG | Obstetrics & Gynecology | MNP | Medical Nuclear Physics |
| CCM | Critical Care Medicine | RAO | Radiation Oncology |
| MFM | Maternal & Fetal Medicine | RP | Radiological Physics |
| ONC | Gynecologic Oncology | RT | Radium Therapy |
| RE | Reproductive Endocrinology | TRA | Therapeutic Radiology |
| OL | Otolaryngolgy | TRP | Therapeutic Radiological Physics |
| OS | Orthopedic Surgery | S | Surgery |
| HS | Hand Surgery | GVS | General Vascular Surgery |
| P | Pediatrics | PDS | Pediatric Surgery |
| CD | Cardiology | SCC | Surgical Critical Care |
| DLI | Diagnostic Laboratory Immunology | TS | Thoracic Surgery |
| | | U | Urology |

NYSIF/Vendor Test Scenarios

| Scenrio# | Individual Requirement Component Description | Corresponding VENDOR/NYSIF Edits | Patient Acct# | Test Comments | Expected Results |
|---|---|---|---|---|---|
| G-1a | Duplicate Checking | 1 | G0001P | | Bill Accepted |
| G-1b | Duplicate Checking | 1 | G0001F | Duplicate Bill | Bill Rejected |
| G-2a | Payer ID | 2 | G0002P | | Bill Accepted |
| G-2b | Payer ID | 2 | G0002F | No Payer ID | Bill Rejected |
| G-3a | Claim Verify | 3,5 | G0003P | | Bill Accepted |
| G-3b | Claim Verify | 3,5 | G0003F | Missing SSN unable to match | Bill Rejected |
| G-4a | Date of Injury | 4 | G0004P | | Bill Accepted |
| G-4a | Date of Injury | 4 | G0004F | Missing DOI | Bill Rejected |
| G-5 | SSN | 5 | | Tested in G-3a, G-3b | |
| G-6a | Carrier Case Number | 6 | G0006P | | Bill Accepted |
| G-6a | Carrier Case Number | 6 | G0006F | Missing Carrier Case Number | Bill Rejected |
| G-7a | ICD DX Code Present | 7,8 | G0007P | | Bill Accepted |
| G-7b | ICD DX Code Valid | 7 | G0007F | Missing ICD9 DX | Bill Rejected |
| G-7c | ICD DX Code Valid | 8 | G0007F | ICD9 DX Invalid | Bill Rejected |
| G-8a | CPT/HCPCS Code Present | 9 | G0008P | | Bill Accepted |
| G-8b | CPT Code | 9 | G0008F | Missing CPT/HCPCS Code | Bill Rejected |
| G-9a | CPT Code | 10 | G0009F | CPT Code invalid | Bill Rejected |
| G-9b | HCPCS Code | 11 | G0009P | HCPCS Code Invalid | Bill Accepted? |
| G-9c | NYSIF Codes | 12 | G0009P | NYSIF Code | Bill Accepted |
| G-10a | Modifier present and valid | 13 | G0010P | | |
| G-10b | Modifier present and valid | 13 | G0010F | Modifier missing and invalid | Bill Rejected |
| G-11a | Code 99070, E1399 require description | 14,15 | G0011P | | Bill Accepted |
| G-11b | Code 99070, E1399 require description | 14,15 | G0011F | Code 99070 and E1399 missing description | Bill Rejected |
| G-12a | Required data elements:<br>- Patient First Name<br>- Patient Last Name<br>- Patient Address 1<br>- Patient City<br>- Patient State<br>- Patient Zip | 16,17 | G0012P | | Bill Accepted |
| G-12b | Required data elements:<br>- Patient First Name<br>- Patient Last Name<br>- Patient Address 1<br>- Patient City<br>- Patient State<br>- Patient Zip | 16,17 | G0012F | Missing required data elements | Bill Rejected |
| G-13a | Required element<br>- Service Date<br>- Units<br>- Charge Amount<br>- Total Charges | 18,21,22,25 | G0013P | | Bill Accepted |
| G-13b | Required element<br>- Service Date<br>- Units<br>- Charge Amount<br>- Total Charges | 18,21,22,25 | G0013P | Missing required data elements | Bill Rejected |
| G-14a | Date of Service vs DOI | 19 | G0014F | DOS is less than DOI | Bill Rejected |
| G-14b | Date of Service vs Signature Dt (Billing dt) | 20 | G0014F | DOS is greather than Sign Dt | Bill Rejected |
| G-15 | Zero charge bill | 23 | G0015F | Zero charge bill | Bill Rejected Attachment Accepted |

| | | | | | |
|---|---|---|---|---|---|
| G-16 | Anesthesia | 24 | G0016F | Anesthesia bill | Bill Rejected |
| G-17a | Required elements<br>- Doctor/Supplier Name<br>- Signature Date<br>- Address, City, State, Zip | 26,27,28,29 | G0017P | | Bill Accepted |
| G-17b | Required elements<br>- Doctor/Supplier Name<br>- Signature Date<br>- Address, City, State, Zip | 26,27,28,29 | G0017F | Missing required data elements | Bill Rejected |
| G-18a | Bill w/ 25+ service lines | 30 | G0018P | Service lines = 30<br>- split into 25 & 5 | Bill Accepted and split |
| G-18b | Bill w/ 25+ service lines many dates same | 30 | G0018P | Service lines = 30 but many dates the same, (can't split dates)<br>- split into xx and xx | Bill Accepted and split |
| G-18c | Bill w/ 25+ service lines | 30 | G0018F | Service lines = 30 and SSN is missing | Bill Rejected and not split |
| G-19a | Bill w/mulitple units | 31 | G0019P | Bill has CPT code with 5 units | Bill Accepted and split |
| G-19b | Bill w/mulitple units | 31 | G0019P | Bill has HCPCS code with 5 units | Bill Accepted and not split |
| G-20a | Attachments required | 32 | G0020P | Bill has code 99201 and no attachment | Bill Accepted |
| G-20b | Attachments required | 32 | G0020F | Bill has code 99205 and no attachment | Bill Rejected |

In addition to this we would like to see all bill types tested as well as one record that tests all the max lengths of the fields. Also need test bills contain NDC code, revenue code, anesthesia code- start/end time.

***Example Vendor Paper Invoice***

For Invoice illustration purposes only

Tax id: 99-0000000

| | |
|---|---|
| Date: | June 18, 2004 |
| Invoice: | 104 |
| Account: | ABCD12345 |

New York State Insurance Fund
199 Church Street
New York, NY 10007

Att: Marilyn Carretta Claims
Administration, Fourth Floor

May-04

| **DESCRIPTION** | | **RATE** | **SERVICE FEE** |
|---|---|---|---|
| EDI transactions | Transation Total 10000 | x.xx | xx,xxx.xx |
| Monthly Database Fee | | | xxx.xx |
| Current amount due: | | | $ - |
| Sales Tax ( applicable to Connecticut and Texas only) | | | |
| Outstanding balance from prior month: | | | |
| **TOTAL AMOUNT DUE:** | | | **$ -** |

For questions regarding this invoice, please call: 1-800-555-5555

*All Fees are due 45 days upon receipt of invoice.*

***< Please return bottom portion with your payment payable to Vendor LLC >***

| | |
|---|---|
| Invoice: | 104 |
| Account: | WCNY13401 |
| Total Due: | |
| Amount Enclosed: | **xx,xxx.xx** |

**MAIL PAYMENT TO:**

**Vendor's Name**
**Vendor's Street Address**
**Vendor's City, State and Zip**

| Field | NSF REC | NSF FLD | COL | LEN | Data Type | CMS-1500 | C-4 Form | UB-04 | Vender Required |
|---|---|---|---|---|---|---|---|---|---|
| Processor Name | AA0 | 6 | 41 | 33 | A/N | | | | T |
| Identifier | First 3 digits of each line | | | | A/N | | | | T |
| Receipt Date | AA0 | 15 | 213 | 8 | Date-YYYYMMDD | N/A | N/A | N/A | T |
| Type of Bill | BA1 | 19 | 237 | 4 | N | None | None | 4 | |
| Claim Number | DA0 | 28 | 236 | 8 | N | 10D,1a,11 | Carrier Case Number | 60 | T |
| Patient SSN | DA0 | 18 | 157 | 9 | N | 1A | Inj Pers SSN | Inj Pers SSN | T, Can be zeros |
| Admission Date | EA0 | 26 | 155 | 8 | Date-YYYYMMDD | All zeros | All zeros | Box 6 (Left) | F |
| Discharge Date | EA0 | 27 | 163 | 8 | Date-YYYYMMDD | All zeros | All zeros | Box 6 (right) | F |
| Diagnosis Code 1 (ICD9 and ICD10) | EA0 | 30 | 179 | 7 | A/N – Implied decimal | 21 | D #4 (1-4) | 67 | T(At least 1 Diag Code) |
| Diagnosis Code 2 (ICD9 and ICD10) | EA0 | 31 | 186 | 7 | A/N – Implied decimal | 21 | D #4 (1-4) | 67A | T(At least 1 Diag Code) |
| Diagnosis Code 3 (ICD9 and ICD10) | EA0 | 32 | 193 | 7 | A/N – Implied decimal | 21 | D #4 (1-4) | 67B | T(At least 1 Diag Code) |
| Diagnosis Code 4 (ICD9 and ICD10) | EA0 | 33 | 284 | 7 | A/N – Implied decimal | 21 | D #4 (1-4) | 67C | T(At least 1 Diag Code) |
| Bill Date | EA0 | 36 | 201 | 8 | Date-YYYYMMDD | 31 | 21 | Creation Dt | F |
| Diagnosis Code 5 (ICD 9 and ICD 10) | EA0 | 49 | 291 | 7 | A/N - Implied decimal | None - should be blank | None - should be blank | 67D | F |
| Diagnosis Code 6 (ICD 9 and ICD 10) | EA0 | 49 | 298 | 7 | A/N - Implied decimal | None - should be blank | None - should be blank | 67E | F |
| Diagnosis Code 7 (ICD 9 and ICD 10) | EA0 | 50 | 305 | 7 | A/N - Implied decimal | None - should be blank | None - should be blank | 67F | F |
| Diagnosis Code 8 (ICD 9 and ICD 10) | EA0 | 50 | 312 | 7 | A/N - Implied decimal | None - should be blank | None - should be blank | 67G | F |

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Diagnosis Code 9 (ICD 9 and ICD 10) | EA2 | 50 | 230 | 7 | A/N - Implied decimal | None - should be blank | None - should be blank | 67H | F |
| Admin Diagnosis code (ICD 9 and ICD 10) | EA2 | 50 | 279 | 7 | A/N - Implied decimal | None - should be blank | None - should be blank | 69 | F |
| Treating Zip Code | EA1 | 10 | 135 | 5 | N | 32 | 22,12I | Box 1 (if blank then box 2) | T(if different than billing address box) |
| Procedure 1 (ICD9 and ICD10) | EA1 | 25 | 291 | 7 | A/N - Implied decimal | None - should be blank | None - should be blank | 74 | F |
| Procedure 2 (ICD9 and ICD10) | EA1 | 25 | 298 | 7 | A/N - Implied decimal | None - should be blank | None - should be blank | 74A | F |
| Procedure 3 (ICD9 and ICD10) | EA1 | 25 | 305 | 7 | A/N - Implied decimal | None - should be blank | None - should be blank | 74B | F |
| Procedure 4 (ICD9 and ICD10) | EA1 | 25 | 312 | 7 | A/N - Implied decimal | None - should be blank | None - should be blank | 74C | F |
| Procedure 5 (ICD9 and ICD10) | EA2 | 26 | 307 | 7 | A/N - Implied decimal | None - should be blank | None - should be blank | 74D | F |
| Procedure 6 (ICD9 and ICD10) | EA2 | 26 | 314 | 7 | A/N - Implied decimal | None - should be blank | None - should be blank | 74E | F |
| DRG Code | EA2 | 94 | 225 | 3 | N | None - should be zeros | None - should be zeros | 71 | F |
| PASRate Code | EA2 | 94 | 228 | 2 | N | None - should be zeros | None - should be zeros | can be anywhere | F |
| Diagnosis Code 10 (ICD 9 and ICD10) | EA2 | 94 | 237 | 7 | A/N - Implied decimal | None - should be blank | None - should be blank | 67I | F |
| Diagnosis Code 11 (ICD 9 and ICD10) | EA2 | 95 | 244 | 7 | A/N - Implied decimal | None - should be blank | None - should be blank | 67J | F |
| Diagnosis Code 12 (ICD 9 and ICD10) | EA2 | 95 | 251 | 7 | A/N - Implied decimal | None - should be blank | None - should be blank | 67K | F |
| Diagnosis Code 13 (ICD 9 and ICD10) | EA2 | 95 | 258 | 7 | A/N - Implied decimal | None - should be blank | None - should be blank | 67L | F |

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Diagnosis Code 14 (ICD 9 and ICD10) | EA2 | 95 | 265 | 7 | A/N - Implied decimal | None - should be blank | None - should be blank | 67M | F |
| Diagnosis Code 15 (ICD 9 and ICD10) | EA2 | 95 | 272 | 7 | A/N - Implied decimal | None - should be blank | None - should be blank | 67N | F |
| Diagnosis Code 16 (ICD 9 and ICD10) | EA2 | 95 | 279 | 7 | A/N - Implied decimal | None - should be blank | None - should be blank | 67O | F |
| Diagnosis Code 17 (ICD 9 and ICD10) | EA2 | 95 | 286 | 7 | A/N - Implied decimal | None - should be blank | None - should be blank | 67P | F |
| Diagnosis Code 18 (ICD 9 and ICD10) | EA2 | 95 | 293 | 7 | A/N - Implied decimal | None - should be blank | None - should be blank | 67Q | F |
| Date Service From | FA0 | 5 | 40 | 8 | Date-YYYYMMDD | 24A | 13A | 45 | T(minimum 1 required) |
| Date Service To | FA0 | 6 | 48 | 8 | Date-YYYYMMDD | 24A | 13A | | F |
| Place of Service | FA0 | 7 | 56 | 2 | N | 24B | | | T |
| Procedure Code | FA0 | 9 | 60 | 5 | A/N | 24D | 13D | 44 | T |
| Modifier 1 | FA0 | 10 | 65 | 2 | A/N | 24D | 13D | | T(Required for some Procedure codes) |
| Modifier 2 | FA0 | 11 | 67 | 2 | A/N | 24D | 13D | | T(Required for some Procedure codes) |
| Modifier 3 | FA0 | 12 | 69 | 2 | A/N | 24D | 13D | | T(Required for some Procedure codes) |
| DX Pointer 1 | FA0 | 14 | 78 | 1 | A/N | 24E | 13E | | T(minimum 1 required) |
| DX Pointer 2 | FA0 | 15 | 79 | 1 | A/N | 24E | 13E | | T(minimum 1 required) |
| DX Pointer 3 | FA0 | 16 | 80 | 1 | A/N | 24E | 13E | | T(minimum 1 required) |
| DX Pointer 4 | FA0 | 17 | 81 | 1 | A/N | 24E | 13E | | T(minimum 1 required) |
| Billed Amount | FA0 | 13 | 250 | 9 | N -Implied decimal | 24F | 13F | 47 | T |
| Days | FA0 | 18 | 82 | 4 | N | 24G | 13G | 46 | T |
| Revenue Code | FA0 | 50 | 246 | 4 | N | None - should be zeros | None - should be zeros | 42 | F |
| NDC | FB0 | 15 | 110 | 11 | N | 24D | | | T(pharmacy bills only) |

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| NDC Quantity | FB0 | 16 | 121 | 7 | N | 24G | | | T (pharmacy bills only) |
| Billing Taxid (Payee) | BA0 | 6 | 32 | 9 | N | 25 | 14 | 5 | T |
| Billing Zip Code | BA1 | 17 | 218 | 5 | N | 33 | 23 | | T |
| Bill Reference (Patient Acct #) | CA0 | 3 | 6 | 17 | A/N | 26 | 15 | 3A | T |
| Treating License (Provider) | CA0 | 28 | 213 | 6 | A/N | 33 | 20 | N/A | T (if Health Care Practice) |
| Submitter Bill Number | CA0 | 30 | 290 | 12 | N | N/A | N/A | N/A | T, must be unique |
| Anesthesia Duration | FA0 | 19 | 86 | 4 | N | | | None-Zeros | |
| Anesthesia Start Time | FA0 | 50 | 238 | 4 | N | | | None-Zeros | |
| Anesthesia End Time | FA0 | 50 | 242 | 4 | N | | | None-Zeros | |
| NPI | BA0 | | 135 | 15 | N | | | Billing Provider | T(EAPG) |
| Modifier4 | FA0 | | 278 | 2 | A/N | | | | |
| Modifier5 | FA0 | | 280 | 2 | A/N | | | | |
| Value_Code_1 | EA0 | | 95 | 2 | N | | | Should be 24 | T(EAPG) |
| ValueAmt_1 | EA0 | | 97 | 4 | N | | | Should be a valid rate code | T(When there is a treating provider license) |
| Treating_Addr1 | EA1 | | 53 | 30 | A/N | | | | T |
| Treating_Addr2 | EA1 | | 83 | 30 | A/N | | | | T |
| Treating_City | EA1 | | 113 | 20 | A/N | | | | T |
| Treating_State | EA1 | | 133 | 2 | A/N | | | | T |
| Treating_zipplus | EA1 | | 140 | 4 | N | | | | T |
| | | | | | | | | | |

APPENDIX D

# MacBRIDE QUESTIONNAIRE

**YOU ARE REQUIRED TO ANSWER THE QUESTIONS BELOW IN ORDER TO BE CONSIDERED FOR SELECTION IN THE AWARD OF A CONTRACT WITH AN AGENCY OF THE STATE OF NEW YORK:**

"NONDISCRIMINATION IN EMPLOYMENT IN NORTHERN IRELAND:
MacBRIDE FAIR EMPLOYMENT PRINCIPLES"

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) have business operations in Northern Ireland:

☐ YES ☐ NO

If yes,

(2) shall take lawful steps in good faith to conduct any business operations they have 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

This questionnaire should be signed by a person authorized to enter into contracts on behalf of the bidder.

_____
**Signature**

_____
**Typed Name**

_____
**Company Position**

_____
**Company Name**

_____
**Date Signed**

# APPENDIX E

# VENDOR RESPONSIBILITY QUESTIONNAIRE

Each Contracting Agency conducts a review of prospective contractors ("vendors") to provide reasonable assurances that the vendor is responsible. This questionnaire is used for all non-construction contracts with a contract value of $100,000.00 or more and is designed to provide information to assess a vendor's authorization to do business in New York State, as well as your business integrity, financial and organizational capacity, and performance history. (Review of construction contractors will be based upon the Uniform Contracting Questionnaire developed by the Council of Contracting Agencies.)

Each vendor must answer every question contained in this questionnaire. Where a response requires additional information, the vendor must attach a written response that adequately details the requested information. Please number each response to match the question number. The completed questionnaire and attached responses will become part of the procurement record.

In order to expedite the required review, when providing additional information for a "YES" answer to Questions 14 a-s, or any other response which requires additional explanation, your information and responses should address the relationship of the issue to the proposed contract. Be brief, concise and to the point. Discuss as appropriate the following:

- Provide a description of the issue and identify the actions taken or currently being implemented to ensure that the issue will not occur again.

- State whether the staff and/or organizational component involved in the identified issue(s) will work on the proposed contract. If so, provide information to assure the agency that the issue will not be repeated.

- Identify the relationship (or lack thereof) between the product/services involved in the issue and the type of product/services proposed for this contract.

- State whether the issue will affect your financial or organizational ability to perform under the proposed contract.

- Provide copies of relevant documents or any other information that would assist the agency in its vendor responsibility evaluation.

It is imperative that the person completing the vendor responsibility questionnaire be knowledgeable about the proposing vendor's business and operations, as an owner or officer of the vendor must attest to the questionnaire information. Please be advised that at the end of this questionnaire, you must certify, under oath, all responses given.

New York State
Standard Vendor Responsibility Questionnaire

**VENDOR FEIN: _____**

1. Legal Business Name: _____

2. Federal Employer ID # (FEIN): _____

3. D/B/A — Doing Business As (if applicable): _____

   County filed: _____

4. Website Address (if applicable): _____

5. Principal Place of Business Address: _____

6. Telephone Number: _____ 7. Fax Number: _____

8. Authorized Contact for this Questionnaire:

   Name: _____

   Title: _____

   Telephone Number: _____ Fax Number: _____

   E-mail: _____

9. Type of Business: (please check appropriate box and provide additional information)

   - ☐ Corporation. State of Incorporation: _____
   - ☐ Sole Proprietor. State/County filed in: _____
   - ☐ General Partnership. State/County filed in: _____
   - ☐ Not-for-Profit Corporation. Charities Registration Number: _____
   - ☐ Limited Liability Company (LLC). Jurisdiction filed: _____
   - ☐ Limited Partnership. State/County filed in _____
   - ☐ Other - Specify: _____ Jurisdiction filed (if applicable) _____

10. If not incorporated or formed in New York State, please provide a current Certificate of Good Standing from your state or applicable local jurisdiction.

**VENDOR FEIN: _____**

11. List Name and Title of each principle, owner, officer, major stockholder (10% or more of the voting shares for publicly traded companies, 25% or more of the shares for all other companies), director, and member, as applicable:

    a) _____

    b) _____

    c) _____

    d) _____

    e) _____

    f) _____

    g) _____

    h) _____

12. Authorized Contact for the Proposed Contract:

    Name: _____

    Title: _____

    Telephone Number: _____ Fax Number: _____

    E-mail: _____

13. Does the vendor use, or has it used in the past five (5) years, any other business name, FEIN, or D/B/A other than what is listed in Questions 1-3 above?

    ☐ Yes ☐ No

    **If yes**, provide the name(s), FEIN(s) and D/B/A(s) and the address for each such company and D/B/A on a separate piece of paper and attach to this response.

**VENDOR FEIN: _____**

14. Within the past five (5) years, has the vendor, any principal, owner, officer, major stockholder (10% or more of the voting shares for publicly traded companies, 25% or more of the shares for all other companies), affiliate[1] or any person involved in the bidding, contracting or leasing process been the subject of any of the following:

| | | |
|---|---|---|
| (a) a judgment or conviction for any business-related conduct constituting a crime under federal, state or local government law including, but not limited to, fraud, extortion, bribery, racketeering, price-fixing or bid collusion or any crime related to truthfulness and/or business conduct? | ☐ Yes | ☐ No |
| (b) a criminal investigation or indictment for any business-related conduct constituting a crime under federal, state or local government law including, but not limited to, fraud, extortion, bribery, racketeering, price-fixing or bid collusion or any crime related to truthfulness and/or business conduct? | ☐ Yes | ☐ No |
| (c) an unsatisfied judgment, injunction or lien for any business-related conduct obtained by any federal, state or local government agency including, but not limited to, judgments based on taxes owed and fines and penalties assessed by any federal, state or local government agency? | ☐ Yes | ☐ No |
| (d) an investigation for a civil or criminal violation for any business-related conduct by any federal, state or local agency? | ☐ Yes | ☐ No |
| (e) a grant of immunity for any business-related conduct constituting a crime under federal, state or local governmental law including, but not limited to, fraud, extortion, bribery, racketeering, price-fixing, bid collusion or any crime related to truthfulness and/or business conduct? | ☐ Yes | ☐ No |
| (f) a federal, state or local government suspension or debarment from the contracting process? | ☐ Yes | ☐ No |
| (g) a federal, state or local government contract suspension or termination for cause prior to the completion of the term of a contract? | ☐ Yes | ☐ No |
| (h) a federal, state or local government denial of a lease or contract award for non-responsibility? | ☐ Yes | ☐ No |
| (i) an administrative proceeding or civil action seeking specific performance or restitution in connection with any federal, state or local contract or lease? | ☐ Yes | ☐ No |

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

**VENDOR FEIN: _____**

| | | |
|---|---|---|
| (j) a federal, state or local determination of a willful violation of any public works or labor law or regulation? | ☐ Yes | ☐ No |
| (k) a sanction imposed as a result of judicial or administrative proceedings relative to any business or professional license? | ☐ Yes | ☐ No |
| (l) a consent order with the New York State Department of Environmental Conservation, or a federal, state or local government enforcement determination involving a violation of federal, state or local environmental laws? | ☐ Yes | ☐ No |
| (m) an Occupational Safety and Health Act citation and Notification of Penalty containing a violation classified as serious or willful? | ☐ Yes | ☐ No |
| (n) a rejection of a bid on a New York State contract or a lease with the State for failure to comply with the MacBride Fair Employment Principles? | ☐ Yes | ☐ No |
| (o) a citation, violation order, pending administrative hearing or proceeding or determination issued by a federal, state or local government for violations of | | |
| - health laws, rules or regulations | ☐ Yes | ☐ No |
| - unemployment insurance or workers' compensation coverage or claim requirements | ☐ Yes | ☐ No |
| - ERISA (Employee Retirement Income Security Act) | ☐ Yes | ☐ No |
| - human rights laws | ☐ Yes | ☐ No |
| - federal U.S. Citizenship and Immigration Services laws | ☐ Yes | ☐ No |
| - Sherman Act or other federal anti-trust laws | ☐ Yes | ☐ No |
| (p) entered into an agreement to a voluntary exclusion from contracting with a federal, state or local governmental entity | ☐ Yes | ☐ No |
| (q) a denial, decertification, revocation or forfeiture of Women's Business Enterprise, Minority Business Enterprise or Disadvantaged Business Enterprise status? | ☐ Yes | ☐ No |
| (r) a rejection of a low bid on a federal, state or local contract for failure to meet statutory affirmative action or Minority or Women's Business Enterprise or Disadvantaged Business Enterprise status requirements on a previously held contract? | ☐ Yes | ☐ No |
| (s) a finding of non-responsibility by an agency or authority due to a violation of State Finance Law §139-j? | ☐ Yes | ☐ No |

**For each YES answer to Question 14, items a-s**, provide details on additional sheets regarding the finding, including but not limited to Cause, Current Status, Resolution, etc.

**VENDOR FEIN: _____**

15. During the past three (3) years, has the vendor failed to:

(a) File returns or pay any applicable Federal, State, or Local Government Taxes ☐ Yes ☐ No

**If yes**, identify the taxing jurisdiction, type of tax, liability year(s) and tax liability amount the company failed to file/pay and the current status of the liability:

_____

(b) FILE RETURNS OR PAY NEW YORK STATE UNEMPLOYMENT INSURANCE? ☐ Yes ☐ No

**If yes**, indicate the years the company failed to file/pay the insurance and the current status of the liability:

_____

16. Have any bankruptcy proceedings been initiated by or against the vendor or its affiliates within the past seven (7) years (whether or not closed) or is any bankruptcy proceeding pending by or against the vendor or its affiliates, regardless of the date of filing? ☐ Yes ☐ No

**If yes**, indicate if this is applicable to the submitting vendor or one of its affiliates: _____

If it is an affiliate, include the affiliate's name and FEIN: _____

Provide the court name, address and docket number: _____

Indicate if the proceedings have been initiated, remain pending or have been closed: _____

If closed, provide the date closed: _____

17. Does vendor have the financial resources necessary to fulfill the requirements of the proposed contract? ☐ Yes ☐ No

New York State
Standard Vendor Responsibility Questionnaire

**VENDOR FEIN: _____**

**State of )**
**) ss:**
**County of )**

**CERTIFICATION:**

The undersigned, personally and on behalf of the vendor identified in questions 1-3 above, does hereby state and certify to the New York State Insurance Fund (NYSIF) that the information given above is true, accurate and complete. It is further acknowledged that the State of New York and NYSIF will rely upon the information contained herein and in any attached pages for purposes of evaluating our company for vendor's responsibility for contract award and the State may, in its discretion, by means which it may choose, verify the truth and accuracy of all statements made herein. It is further acknowledged that intentional submission of false or misleading information may constitute a felony under Penal Law Section 175.35 or may constitute a misdemeanor under Penal Law Sections 175.30, 210.35 or 210.45, and may also be punishable by a fine and/or imprisonment of up to five years under 18 USC Section 1001 and may result in contract termination.

_____
**Signature of Officer**

_____
**Typed/Printed Name**

_____
**Title**

_____
**Company Name**

_____
**Address**

_____
**City, State, Zip**

**Sworn to before me this**

**_____ Day of _____, 20____**

_____
**Notary Public**

**Registration No: _____**

**State: _____**

APPENDIX F
NYS CERTIFICATIONS

**Company Name:** _____

**Is your firm a New York resident business?**

☐ Yes ☐ No

**Total number of people employed by your firm:**

company-wide: _____

in New York City: _____

**Is your firm a NYSESD certified MINORITY ENTERPRISE as defined in Executive Law Article 15-A?**

☐ Yes ☐ No

*(If yes, attach a copy of your current New York State certification letter.)*

**Is your firm a NYSESD certified WOMEN-OWNED ENTERPRISE as defined in Executive Law Article 15-A**?

☐ Yes ☐ No

*(If yes, attach a copy of your current New York State certification letter.)*

**Does your firm purchase goods or services or subcontract with any New York State certified minority or women-owned enterprises?**

☐ Yes ☐ No

**Is your firm a NYSOGS certified SERVICE DISABLED VETERAN OWNED BUSINESS as defined in Executive Law Article 17-B?**

☐ Yes ☐ No

*(If yes, attach a copy of your current New York State certification letter.)*

APPENDIX F
NYS CERTIFICATIONS

## Is your firm a SMALL BUSINESS as defined in Executive Law Section Article 15-A?

"Small Business" shall be defined as a business which:

A. Has a significant business presence in New York demonstrated through one of the following;
   1. Pays taxes in New York State
   2. Purchases New York State products or materials, or
   3. Has any payroll in New York State
B. Is independently owned and operated;
C. Not dominant in its field; and,
D. Employs less than three hundred persons

In accordance with New York State Finance Law, Section 165, the contractor certifies that it:

☐ IS a Small Business as defined in New York State Executive Law Section 310(20).

☐ IS NOT a Small Business as defined in New York State Executive Law Section 310(20).

## ACKNOWLEDGEMENT

STATE OF _____ )
) ss.:
COUNTY OF_____ )

On this _____ day of _____, 201____, before me personally came _____, to me known and known to me to be the person who executed the above instrument, who, being duly sworn by me, did for himself/herself depose and say that he/she is a member of the firm of _____ and that he/she executed the foregoing instrument in the firm name of _____, and that he/she had authority to sign same, and he/she did duly acknowledge to me that he/she executed the same as the act and deed of said firm of _____, for the uses and purposes mentioned therein.

_____
Notary Public

# APPENDIX G

## 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 the 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 it 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, indentify New York State businesses that will be used and enter identifying information below. Include the name, FEIN, and estimated expenditures.

| Business Name | FEIN | Dollar Value | Description of Work |
|---|---|---|---|

APPENDIX H

## 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: _____

_____

Bid 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 questions 2-4; otherwise, proceed to 5**:

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

APPENDIX H

## Disclosure of Prior Non-Responsibility Determinations

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)

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

By _____

Name _____

Title _____

Date _____

New York State Department of Taxation and Finance

# Contractor Certification to Covered Agency

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

**ST-220-CA**

(6/06)

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

| | | | | |
|---|---|---|---|---|
| Contractor name | | | | *For covered agency use only*<br>*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)*<br>$ |
| Contractor's federal employer identification number (EIN) | Contractor's sales tax ID number (if different from contractor's EIN) | | | |
| Contractor's telephone number | Covered agency name | | | |
| Covered agency address | | | | *Covered agency telephone number* |

I, _____ , hereby affirm, under penalty of perjury, that I am _____
*(name)* *(title)*

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

*(Mark an* **X** *in only one box)*

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

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

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

Sworn to this ____ day of _____, 20 _____

_____ _____
*(sign before a notary public)* *(title)*

## Instructions

### General information

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

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

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

### When to complete this form

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

i. The procuring entity is a *covered agency* within the meaning of the statute (see Publication 223, Q&A 5);

ii. The contractor is a *contractor* within the meaning of the statute (see Publication 223, Q&A 6); and

iii. The contract is a *contract* within the meaning of the statute. This is the case when it (a) has a value in excess of $100,000 and (b) is a contract for *commodities* or *services*, as such terms are defined for purposes of the statute (see Publication 223, Q&A 8 and 9).

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

## Individual, Corporation, Partnership, or LLC Acknowledgment

STATE OF }
: SS.:
COUNTY OF }

On the ____ day of _____ in the year 20___ , before me personally appeared_____ ,

known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that

_he resides at _____ ,

Town of _____ ,

County of _____ ,

State of _____; and further that:

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

☐ (If an individual): _he executed the foregoing instrument in his/her name and on his/her own behalf.

☐ (If a corporation): _he is the_____

of_____ , the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, _he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.

☐ (If a partnership): _he is a _____

of_____ , the partnership described in said instrument; that, by the terms of said partnership, _he is authorized to execute the foregoing instrument on behalf of the partnership for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said partnership as the act and deed of said partnership.

☐ (If a limited liability company): _he is a duly authorized member of _____ , LLC, the limited liability company described in said instrument; that _he is authorized to execute the foregoing instrument on behalf of the limited liability company for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said limited liability company as the act and deed of said limited liability company.

_____
Notary Public

Registration No.
_____

### Privacy notification

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

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

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

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

This information is maintained by the Director of Records Management and Data Entry, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the United States and outside Canada, call (518) 485-6800.

### Need help?

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

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

**Telephone assistance** is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday. 1 800 698-2931

To order forms and publications: 1 800 462-8100

From areas outside the U.S. and outside Canada: (518) 485-6800

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

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

New York State Department of Taxation and Finance

# Contractor Certification

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

**ST-220-TD**

(5/07)

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

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

## General information

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

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

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

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

Mail completed form to:

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

## Privacy notification

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

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

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

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

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

## Need help?

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

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

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

| | |
|---|---|
| To order forms and publications: | 1 800 462-8100 |
| **Sales Tax** Information Center: | 1 800 698-2909 |
| From areas outside the U.S. and outside Canada: | (518) 485-6800 |
| **Hearing and speech impaired** (telecommunications device for the deaf (TDD) callers only): | 1 800 634-2110 |

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

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

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

## Section 1 — Contractor registration status

☐ The contractor has made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of $300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made. The contractor is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law, and is listed on Schedule A of this certification.

☐ The contractor has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of $300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

## Section 2 — Affiliate registration status

☐ The contractor does not have any affiliates.

☐ To the best of the contractor's knowledge, the contractor has one or more affiliates having made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of $300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made, and each affiliate exceeding the $300,000 cumulative sales threshold during such quarters is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law. The contractor has listed each affiliate exceeding the $300,000 cumulative sales threshold during such quarters on Schedule A of this certification.

☐ To the best of the contractor's knowledge, the contractor has one or more affiliates, and each affiliate has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of $300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

## Section 3 — Subcontractor registration status

☐ The contractor does not have any subcontractors.

☐ To the best of the contractor's knowledge, the contractor has one or more subcontractors having made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of $300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made, and each subcontractor exceeding the $300,000 cumulative sales threshold during such quarters is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law. The contractor has listed each subcontractor exceeding the $300,000 cumulative sales threshold during such quarters on Schedule A of this certification.

☐ To the best of the contractor's knowledge, the contractor has one or more subcontractors, and each subcontractor has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of $300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Sworn to this____ day of _____ , 20 _____

_____ _____
*(sign before a notary public)* *(title)*

## Schedule A — Listing of each entity (contractor, affiliate, or subcontractor) exceeding $300,000 cumulative sales threshold

List the contractor, or affiliate, or subcontractor in Schedule A only if such entity exceeded the $300,000 cumulative sales threshold during the specified sales tax quarters. See directions below. For more information, see Publication 223.

| A<br>Relationship to Contractor | B<br>Name | C<br>Address | D<br>Federal ID Number | E<br>Sales Tax ID Number | F<br>Registration in progress |
|---|---|---|---|---|---|
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

Column A – Enter ***C*** in column A if the contractor; ***A*** if an affiliate of the contractor; or ***S*** if a subcontractor.

Column B – Name - If the entity is a corporation or limited liability company, enter the exact legal name as registered with the NY Department of State, if applicable. If the entity is a partnership or sole proprietor, enter the name of the partnership and each partner's given name, or the given name(s) of the owner(s), as applicable. If the entity has a different DBA (doing business as) name, enter that name as well.

Column C – Address - Enter the street address of the entity's principal place of business. Do not enter a PO box.

Column D – ID number - Enter the federal employer identification number (EIN) assigned to the entity. If the entity is an individual, enter the social security number of that person.

Column E – Sales tax ID number - Enter only if different from federal EIN in column D.

Column F – If applicable, enter an X if the entity has submitted Form DTF-17 to the Tax Department but has not received its certificate of authority as of the date of this certification.

## 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. _____

APPENDIX O

# CONTRACTOR CONSULTANT LAW

**Form A**

Effective June 19, 2006, Chapter 10 of the Laws of 2006 amended the Civil Service and State Finance Laws, relative to maintaining certain information on contract employees working under State agency service and consulting contracts. State agency consultant contracts are defined as "contracts entered into by a state agency for *analysis, evaluation, research, training, data processing, computer programming, engineering, environmental health and mental health services, accounting, auditing, paralegal, legal, or similar services*". The amendments require that certain contract employee information be provided to the state agency awarding such contracts, the Office of the State Comptroller (OSC), the Division of the Budget (DOB) and the Department of Civil Service (CS).

To meet these new requirements, the Contractor agrees to complete Form A - Contractor's Planned Employment Form.

A listing of employment categories, which is a required column on the form, can be found at the following link:

http://www.onetonline.org/

| OSC Use Only: |
|---|
| Reporting Code: |
| Category Code: |
| Date Contract Approved: |

**FORM A**

# State Consultant Services - Contractor's Planned Employment From Contract Start Date Through The End Of The Contract Term

State Agency Name: NYS Insurance Fund
Agency Code: 7010204
Contractor Name:
Contract Number:
Contract Start Date:
Contract End Date: / /

| Employment Category | Number of Employees | Number of hours to be worked | Amount Payable Under the Contract |
|---|---|---|---|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| Total this page | 0 | 0 | 0 |
| Grand Total | 0 | 0 | 0 |

| | | | | | |
|---|---|---|---|---|---|
| Name of person who prepared this report: | | | | | |
| Title: | | | Phone #: | | |
| Preparer's Signature: | | | | | |
| Date Prepared: / / | | | | | |
| (Use additional pages, if necessary) | | | | Page of | |

# Contractor Consultant Law

**Form B**

*Form B - Contractor's Annual Employment Report*. By May 15th of each year of the contract, the contractor agrees to report the following information to the State agency awarding the contract, or, if the contractor has provided contract employees pursuant to an OGS centralized contract, such report must be made to the State agency purchasing from such contract:

1. Total number of employees employed to provide the consultant services, by employment category.
2. Total number of hours worked by such employees.
3. Total compensation paid to all employees that performed consultant services under such Contract.*

Form B is required for each covered consultant contract in effect at any time between the preceding April 1st through March 31st fiscal year or for the period of time such contract was in effect during such prior State fiscal year.

For more information on this requirement, please see the NYS Office of the State Comptroller's Guide to Financial Operations Section XI.18.C Consultant Disclosure Legislation.

To determine employment categories, you may access the U.S. Department of Labor Employment and Training Administration's O*NET database - www.online.**onet**center.org – and select "Find Occupations".

**NOTE: The information to be reported is applicable only to those employees who are directly providing services or directly performing covered consultant services. However, such information shall also be provided relative to employees of Subcontractors who perform any part of the service contract or any part of the covered consultant contract. This information does not have to be collected and reported in circumstances where there is ancillary involvement of an employee in a clerical, support, organizational or other administrative capacity.*

Contractor agrees to simultaneously report such information to the Department of Civil Service and the Office of the State Comptroller as designated below:

| **NYSIF** | **Department of Civil Service** | **OSC-Bureau of Contracts** |
|---|---|---|
| contracts@nysif.com | Alfred E. Smith Office Building | 110 State St., 11th Floor |
| | Albany, NY 12239 | Albany, New York 12236 |
| | Attn: Counsel's Office | Attn: Consultant Reporting |

Contractor is advised herein and understands that this information is available for public inspection and copying pursuant to §87 of the New York State Public Officers Law (Freedom of Information Law). In the event individual employee names or social security numbers are set forth on a document, the State agency making such disclosure is obligated to redact both the name and social security number prior to disclosure.

Should you have any questions, please contact the NYSIF Procurement Unit at 518-437-4360 (phone), 518-437-4209 (fax), or contracts@nysif.com (email).

**FORM B**

**OSC Use Only:**
Reporting Code:
Category Code:

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

Contracting State Agency Name: Agency Code:
Contract Number:
Contract Term: / / to / /
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 |
|---|---|---|---|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| Total this page | | | |
| Grand Total | | | |

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

Use additional pages if necessary) Page of

# APPENDIX S

## Use of Service-Disabled Veteran-Owned Business Enterprises in Contract Performance

Article 17-B of the Executive Law enacted in 2014 acknowledges that Service-Disabled Veteran-Owned Businesses (SDVOBs) strongly contribute to the economies of the State and the nation. As defenders of our nation and in recognition of their economic activity in doing business in New York State, bidders/proposers for this contract for commodities, services or technology are strongly encouraged and expected to consider SDVOBs in the fulfillment of the requirements of the contract. Such partnering may be as subcontractors, suppliers, protégés or other supporting roles. SDVOBs can be readily identified on the directory of certified businesses at:

http://ogs.ny.gov/Core/docs/CertifiedNYS_SDVOB.pdf

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 of the State Finance Law and the Executive Law to use responsible and responsive SDVOBs in purchasing and utilizing commodities, services and technology that are of equal quality and functionality to those that may be obtained from non-SDVOBs. Furthermore, bidders/proposers are reminded that they must continue to utilize small, minority and women-owned businesses consistent with current State law.

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

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

---

**Bidders/proposers can demonstrate their commitment to the use of SDVOBs by responding to the questions below:**

**Are you a bidder/proposer that is a NYS-certified SDVOB?** ☐ **Yes** ☐ **No** **If yes, what is your DSDVBD Control #?** _____

**Will NYS-certified SDVOBs be used in the performance of this contract?** ☐ **Yes** ☐ **No**

**If yes, identify the NYS-certified SDVOBs that will be used below (if more than 4 identified, please attach an additional form):**

### NYS-Certified SDVOB 1:

**Name**

**Address**

| Control # | Contract # | Total % Work Performed | $ Amount |
|---|---|---|---|
| | | | |

**Nature of Participation**

### NYS-Certified SDVOB 2:

**Name**

**Address**

| Control # | Contract # | Total % Work Performed | $ Amount |
|---|---|---|---|
| | | | |

**Nature of Participation**

### NYS-Certified SDVOB 3:

**Name**

**Address**

| Control # | Contract # | Total % Work Performed | $ Amount |
|---|---|---|---|
| | | | |

**Nature of Participation**

### NYS-Certified SDVOB 4:

**Name**

**Address**

| Control # | Contract # | Total % Work Performed | $ Amount |
|---|---|---|---|
| | | | |

**Nature of Participation**

Contractor will report on actual participation by each SDVOB during the term of the contract on a semi-annual basis to the Office of General Services Division of Service-Disabled Veterans' Business Development. See http://ogs.ny.gov

NOTE: Information about set asides for SDVOB participation in public procurement can be found at: http://www.ogs.ny.gov/Core/SDVOBA.asp, which provides guidance for State agencies in making determinations and administering set asides for procurements from SDVOBs.

# APPENDIX T

# NYSIF VENDOR SECURITY SURVEY

## REQUIREMENTS

The vendor security survey (Appendix T) is to be submitted as part of the bid or proposal package. Bidders are required to answer all of the questions in order to be considered for an award of a contract with the New York State Insurance Fund (NYSIF).

The completed Vendor Security Survey will be reviewed and evaluated by NYSIF personnel on a pass/fail basis. The minimum required implementation levels are included in the survey and defined below. Bidders who do not meet the minimum required implementation levels will be disqualified.

## INSTRUCTIONS FOR COMPLETION

Within the *"**RESPONSE"*** column all questions must be answered by selecting the appropriate answer from the drop down list and defined as follows:

1. **Fully** (Implemented) = The control is in place, functioning effectively, and is optimized.
2. **Partially** (Implemented) = The control is in place, effectiveness may not be rated, and the control is not optimized.
3. **Non-Existent** = The control is not in place.

Within the ***"EXPLANATION OF CONTROLS"*** column, comments must be provided to support a bidder's' selected "***RESPONSE".*** Comments must clarify the controls implemented, describe mitigating factors, such as alternative controls or exposure limits, and specify the date when the control will be operational.

Within the ***"SUBSTANTIATING DOCUMENT(S)"*** column, supporting documentation is optional. Documentation should support a bidder's response, such as written policy, audits, screenshots, etc.

**All questions related to this Vendor Security Survey must be submitted in writing to contracts@nysif.com by the date and time indicated in the solicitation calendar, citing the particular question and bid number.**

# APPENDIX T
# VENDOR SECURITY SURVEY

| VENDOR COMPANY INFORMATION | | VENDOR RESOURCE COMPLETING QUESTIONNAIRE | |
|---|---|---|---|
| NAME | | ASSIGNEE NAME | |
| WEBSITE | | ROLE OR TITLE | |
| ADDRESS | | PHONE + EXT | |
| CITY/STATE/ZIP | | EMAIL ADDRESS | |

| 1 | INVENTORY OF AUTHORIZED AND UNAUTHORIZED DEVICES | RESPONSE | EXPLANATION OF CONTROLS | SUBSTANTIATING DOCUMENT(S) |
|---|---|---|---|---|
| | Actively manage (inventory, track, and correct) all hardware devices on the network so that only authorized devices are given access, and unauthorized and unmanaged devices are found and prevented from gaining access. | PLEASE RESPOND (Using Dropdown) | | |
| | MINIMUM REQUIRED LEVEL = PARTIALLY | | | |
| 2 | INVENTORY OF AUTHORIZED AND UNAUTHORIZED SOFTWARE | RESPONSE | EXPLANATION OF CONTROLS | SUBSTANTIATING DOCUMENT(S) |
| | Actively manage (inventory, track, and correct) all software on the network so that only authorized software is installed and can execute, and that unauthorized and unmanaged software is found and prevented from installation or execution. | PLEASE RESPOND (Using Dropdown) | | |
| | MINIMUM REQUIRED LEVEL = PARTIALLY | | | |
| 3 | SECURE CONFIGURATIONS FOR HARDWARE AND SOFTWARE | RESPONSE | EXPLANATION OF CONTROLS | SUBSTANTIATING DOCUMENT(S) |
| | Establish, implement, and actively manage (track, report on, correct) the security configuration of laptops, servers, and workstations using a rigorous configuration management and change control process in order to prevent attackers from exploiting vulnerable services and settings. | PLEASE RESPOND (Using Dropdown) | | |
| | MINIMUM REQUIRED LEVEL = PARTIALLY | | | |
| 4 | CONTINUOUS VULNERABILITY ASSESSMENT AND REMEDIATION | RESPONSE | EXPLANATION OF CONTROLS | SUBSTANTIATING DOCUMENT(S) |
| | Continuously acquire, assess, and take action on new information in order to identify vulnerabilities, remediate, and minimize the window of opportunity for attackers. | PLEASE RESPOND (Using Dropdown) | | |
| | MINIMUM REQUIRED LEVEL = PARTIALLY | | | |
| 5 | CONTROLLED USE OF ADMINISTRATIVE PRIVILEGES | RESPONSE | EXPLANATION OF CONTROLS | SUBSTANTIATING DOCUMENT(S) |
| | The processes and tools used to track/control/prevent/correct the use, assignment, and configuration of administrative privileges on computers, networks, and applications. | PLEASE RESPOND (Using Dropdown) | | |
| | MINIMUM REQUIRED LEVEL = PARTIALLY | | | |

| 6 | MAINTENANCE, MONITORING, AND ANALYSIS OF AUDIT LOGS | RESPONSE | EXPLANATION OF CONTROLS | SUBSTANTIATING DOCUMENT(S) |
|---|---|---|---|---|
| | Collect, manage, and analyze audit logs of events that could help detect, understand, or recover from an attack. | PLEASE RESPOND (Using Dropdown) | | |
| | MINIMUM REQUIRED LEVEL = PARTIALLY | | | |
| 7 | EMAIL AND WEB BROWSER PROTECTIONS | RESPONSE | EXPLANATION OF CONTROLS | SUBSTANTIATING DOCUMENT(S) |
| | Minimize the attack surface and the opportunities for attackers to manipulate human behavior though their interaction with web browsers and email systems. | PLEASE RESPOND (Using Dropdown) | | |
| | MINIMUM REQUIRED LEVEL = PARTIALLY | | | |
| 8 | MALWARE DEFENSES | RESPONSE | EXPLANATION OF CONTROLS | SUBSTANTIATING DOCUMENT(S) |
| | Control the installation, spread, and execution of malicious code at multiple points in the enterprise, while optimizing the use of automation to enable rapid updating of defense, data gathering, and corrective action. | PLEASE RESPOND (Using Dropdown) | | |
| | MINIMUM REQUIRED LEVEL = PARTIALLY | | | |
| 9 | LIMITATION AND CONTROL OF NETWORK PORTS | RESPONSE | EXPLANATION OF CONTROLS | SUBSTANTIATING DOCUMENT(S) |
| | Manage (track/control/correct) the ongoing operational use of ports, protocols, and services on networked devices in order to minimize windows of vulnerability available to attackers. | PLEASE RESPOND (Using Dropdown) | | |
| | MINIMUM REQUIRED LEVEL = PARTIALLY | | | |
| 10 | DATA RECOVERY CAPABILITY | RESPONSE | EXPLANATION OF CONTROLS | SUBSTANTIATING DOCUMENT(S) |
| | The processes and tools used to properly back up critical information with a proven methodology for timely recovery of it. | PLEASE RESPOND (Using Dropdown) | | |
| | MINIMUM REQUIRED LEVEL = PARTIALLY | | | |
| 11 | SECURE CONFIGURATIONS FOR NETWORK DEVICES | RESPONSE | EXPLANATION OF CONTROLS | SUBSTANTIATING DOCUMENT(S) |
| | Establish, implement, and actively manage (track, report on, correct) the security configuration of network infrastructure devices using a rigorous configuration management and change control process in order to prevent attackers from exploiting vulnerable services and settings. | PLEASE RESPOND (Using Dropdown) | | |
| | MINIMUM REQUIRED LEVEL = PARTIALLY | | | |

| 12 | BOUNDARY DEFENSE | RESPONSE | EXPLANATION OF CONTROLS | SUBSTANTIATING DOCUMENT(S) |
|---|---|---|---|---|
| | Detect/prevent/correct the flow of information transferring networks of different trust levels with a focus on security-damaging data. | PLEASE RESPOND (Using Dropdown) | | |
| | MINIMUM REQUIRED LEVEL = PARTIALLY | | | |
| 13 | DATA PROTECTION | RESPONSE | EXPLANATION OF CONTROLS | SUBSTANTIATING DOCUMENT(S) |
| | The processes and tools used to prevent data exfiltration, mitigate the effects of exfiltrated data, and ensure the privacy and integrity of sensitive information. | PLEASE RESPOND (Using Dropdown) | | |
| | MINIMUM REQUIRED LEVEL = PARTIALLY | | | |
| 14 | CONTROLLED ACCESS BASED ON THE NEED TO KNOW | RESPONSE | EXPLANATION OF CONTROLS | SUBSTANTIATING DOCUMENT(S) |
| | The processes and tools used to track/control/prevent/correct secure access to critical assets (e.g., information, resources, systems) according to the formal determination of which persons, computers, and applications have a need and right to access these critical assets based on an approved classification. | PLEASE RESPOND (Using Dropdown) | | |
| | MINIMUM REQUIRED LEVEL = PARTIALLY | | | |
| 15 | WIRELESS ACCESS CONTROL | RESPONSE | EXPLANATION OF CONTROLS | SUBSTANTIATING DOCUMENT(S) |
| | The processes and tools used to track/control/prevent/correct the security use of wireless local area networks (LANS), access points, and wireless client systems. | PLEASE RESPOND (Using Dropdown) | | |
| | MINIMUM REQUIRED LEVEL = PARTIALLY | | | |
| 16 | ACCOUNT MONITORING AND CONTROL | RESPONSE | EXPLANATION OF CONTROLS | SUBSTANTIATING DOCUMENT(S) |
| | Actively manage the life cycle of system and application accounts -their creation, use, dormancy, deletion - in order to minimize opportunities for attackers to leverage them. | PLEASE RESPOND (Using Dropdown) | | |
| | MINIMUM REQUIRED LEVEL = PARTIALLY | | | |
| 17 | SECURITY SKILLS ASSESSMENT AND TRAINING | RESPONSE | EXPLANATION OF CONTROLS | SUBSTANTIATING DOCUMENT(S) |
| | For all functional roles in the organization (prioritizing those mission-critical to the business and its security), identify the specific knowledge, skills, and abilities needed to support defense of the enterprise; develop and execute an integrated plan to assess, identify gaps, and remediate through policy, organizational planning, training, and awareness programs. | PLEASE RESPOND (Using Dropdown) | | |
| | MINIMUM REQUIRED LEVEL = PARTIALLY | | | |

| 18 | APPLICATION SOFTWARE SECURITY | RESPONSE | EXPLANATION OF CONTROLS | SUBSTANTIATING DOCUMENT(S) |
|---|---|---|---|---|
| | Manage the security life cycle of all in-house developed and acquired software in order to prevent, detect, and correct security weaknesses. | PLEASE RESPOND (Using Dropdown) | | |
| | MINIMUM REQUIRED LEVEL = PARTIALLY | | | |
| 19 | INCIDENT RESPONSE AND MANAGEMENT | RESPONSE | EXPLANATION OF CONTROLS | SUBSTANTIATING DOCUMENT(S) |
| | Protect the organization's information, as well as its reputation, by developing and implementing an incident response infrastructure (e.g., plans, defined roles, training, communications, management oversight) for quickly discovering an attack and then effectively containing the damage, eradicating the attacker's presence, and restoring the integrity of the network and systems. | PLEASE RESPOND (Using Dropdown) | | |
| | MINIMUM REQUIRED LEVEL = PARTIALLY | | | |
| 20 | PENETRATION TESTS | RESPONSE | EXPLANATION OF CONTROLS | SUBSTANTIATING DOCUMENT(S) |
| | Test the overall strength of an organization's defenses (the technology, the processes, and the people) by simulating the objectives and actions of an attacker. | PLEASE RESPOND (Using Dropdown) | | |
| | MINIMUM REQUIRED LEVEL = PARTIALLY | | | |

# APPENDIX U
# VENDOR PROFILE

| VENDOR COMPANY INFORMATION | | | | | |
|---|---|---|---|---|---|
| Vendor Name: | | | | | |
| Vendor Website: | | | | | |
| Vendor Address: | | | | | |
| City: | | State: | | Zip: | |

| VENDOR RESOURCE COMPLETING QUESTIONNAIRE | | | |
|---|---|---|---|
| Name Of Vendor Assignee: | | | |
| Role Or Title: | | | |
| Phone Number: | | EXT: | |
| Email Address: | | | |

**Instructions:** *Please answer the questions making entries in the Response area.*

| | VENDOR SERVICE STATUS | RESPONSE |
|---|---|---|
| 1 | Is your organization currently providing services to NY State Insurance Fund (NYSIF), either actively or on an intermittent (ad-hoc) basis?<br>Note: If no longer providing services in any capacity, please provide details of service termination, dates, etc. for review and consideration. | |

| | SERVICE OVERVIEW | RESPONSE |
|---|---|---|
| 2 | Is there an executed contract between NYSIF and your organization? | |
| 3 | What is the current business relationship? (I.e. What services does your organization currently provide to NYSIF? (*Please be detailed*) | |
| 4 | Will the business relationship between NYSIF and your organization change within the next year? If so, please describe the changes. | |
| 5 | From what physical location(s) does your organization provide services to NYSIF? (Please include all locations providing services.) | |
| | **DATA EXCHANGE** | **RESPONSE** |
| 6 | Does your organization receive data from NYSIF? | |
| (6a) | By what means is NYSIF data exchanged and in what direction; from NYSIF to your organization or both directions? | |
| 7 | Of the following, what types of data are transmitted/stored/processed by your organization during the course of providing services to NYSIF? | |
| (7a) | Protected Health Information ("PHI")? | |
| (7b) | Payment Card Information ("PCI")? | |
| (7c) | Personally Identifiable Information ("PII")? | |
| (7d) | Social Security Number ("SSN")? | |
| (7e) | Financial information, or information that could be covered under SOX? | |
| (7f) | Other, not included above? | |
| 8 | On average, what is the volume of NYSIF data transmitted, processed, received, etc. per month by your organization? | |
| 9 | On average, what is the volume of NYSIF data stored by your organization? | |
| 10 | In the past 12 months has your organization, or any of your sub-contractors, experienced a material breach or unauthorized disclosure of any data? If yes, please describe situation, data exposed and timing in detail. | |

## Vendor Assurance of No Conflict of Interest or Detrimental Effect

The Firm offering to provide services pursuant to this (*add procurement*), as a contractor, joint venture contractor, subcontractor, or consultant, attests that its performance of the services outlined in this Contract does not and will not create a conflict of interest with nor position the Firm to breach any other contract currently in force with the State of New York.

Furthermore, the Firm attests that it will not act in any manner that is detrimental to any State project on which the Firm is rendering services. Specifically, the Firm attests that:

1. The fulfillment of obligations by the Firm, as proposed in the response, does not violate any existing contracts or agreements between the Firm and the State;

2. The fulfillment of obligations by the Firm, as proposed in the response, does not and will not create any conflict of interest, or perception thereof, with any current role or responsibility that the Firm has with regard to any existing contracts or agreements between the Firm and the State;

3. The fulfillment of obligations by the Firm, as proposed in the response, does not and will not compromise the Firm's ability to carry out its obligations under any existing contracts between the Firm and the State;

4. The fulfillment of any other contractual obligations that the Firm has with the State will not affect or influence its ability to perform under any contract with the State resulting from this Contract;

5. During the negotiation this Contract, the Firm will not knowingly take any action or make any decision which creates a potential for conflict of interest or might cause a detrimental impact to the State as a whole including, but not limited to, any action or decision to divert resources from one State project to another;

6. In fulfilling obligations under each of its State contracts, including any contract which results from this Contract, the Firm will act in accordance with the terms of each of its State contracts and will not knowingly take any action or make any decision which might cause a detrimental impact to the State as a whole including, but not limited to, any action or decision to divert resources from one State project to another;

7. No former officer or employee of the State who is now employed by the Firm, nor any former officer or employee of the Firm who is now employed by the State, has played a role with regard to the administration of this contract procurement in a manner that may violate section 73(8)(a) of the State Ethics Law; and

8. The Firm has not and shall not offer to any employee, member or director of the State any gift, whether in the form of money, service, loan, travel, entertainment,

hospitality, thing or promise, or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence said employee, member or director, or could reasonably be expected to influence said employee, member or director, in the performance of the official duty of said employee, member or director or was intended as a reward for any official action on the part of said employee, member or director.

Firms engaged under this RFP should note that the State recognizes that conflicts may occur in the future because a Firm may have existing or new relationships. The State will review the nature of any such new relationship and reserves the right to terminate the contract for cause if, in its judgment, a real or potential conflict of interest cannot be cured.

Name, Title:

Signature: Date:

This form must be signed by an authorized executive or legal representative.

# APPENDIX Z

## FEE SCHEDULE PROPOSAL

| | | | |
|---|---|---|---|
| Bidder | _____ | Contact | _____ |
| DBA, if any | _____ | Title | _____ |
| Federal ID # | _____ | Email Address | _____ |
| Type of Firm | _____ | Telephone # | _____ |
| Address | _____ | Fax # | _____ |
| | _____ | Web Address | _____ |

Please provide pricing for your highest level of service. Prices shall include all direct and indirect costs, including, but not limited to, direct labor costs, overhead, fee or profit, clerical support, equipment, materials, supplies, managerial (administrative) support, all documents, reports, forms, reproduction and any other costs needed to provide services as described in the IFB. **No fees will be chargeable to medical providers.**

Price Per Accepted Bill Transaction* $_____

* Please note: NYSIF will not be responsible for payment of rejected bills submitted.
NYSIF reserves the right to not award due to a Bidder's pricing.

Signature: _____ Title: _____

Typed Name: _____ Date:_____