NYSIF
New York State Insurance Fund
Procurement Unit

September 25, 2019

TO WHOM IT MAY CONCERN:

Attached is the Request for Proposals (RFP) for Utilization Review for the New York State Insurance Fund (NYSIF).

The due date for submission of proposals is 11/1/19.

The attached *No Bid* form should be completed and returned by those Bidders who choose not to bid on this RFP. Please email questions to contracts@nysif.com.

Sincerely,

Alexandria Romano

Alexandria Romano
Contract Management Specialist 2

Attachments:
No Bid form
RFP

15 Computer Drive West • Albany, New York 12205
Phone (518) 437-4360 • Fax (518) 437-4209

New York State Insurance Fund
Procurement Unit

NO BID FORM

RFP # 2019-59-INS

DESCRIPTION: Utilization Review

CONTRACT PERIOD: Five (5) Years

PROPOSALS DUE:		**SUBMIT BIDS TO:**
DATE:	**11/1/19**	NYSIF - Procurement Unit Bid # 2019-59-INS 15 Computer Drive West Albany, NY 12205-1690
TIME:	**2:00 p.m.**	

Bidders choosing not to bid are requested to complete and return only this page.

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

☐ 2. We are unable to bid at this time 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

REQUEST FOR PROPOSALS

for

UTILIZATION REVIEW

RFP # 2019-59-INS

September 25, 2019

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 Empire State Development for more information about the program and how to apply for certification.

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Attachment 1 Appendix M, Form 102, Work Force Employment Utilization (Excel)
Attachment 2 Question Submission Form (Excel)

RFP CALENDAR

DATE	EVENT	COMMENTS
9/25/19	RFP Issued	
10/17/19	Final date for Bidder inquiries **Attachment 2 Question Submission Form**	**Written inquiries only** using "**Attachment 2 Question Submission Form**" by 12:00 p.m. (EST) to: Email: contracts@nysif.com Fax: 518-437-4209
10/24/19	Responses to Inquiries	Written responses will be posted on NYSIF's website at: www.nysif.com/procurement
11/1/19	Final date for submission of bids	Deadline for response to this RFP. All sealed bids MUST be addressed to: Mail: NYSIF – Procurement Unit Bid # 2019-59-INS 15 Computer Drive West Albany, NY 12205-1690 and received by 2:00 p.m. (EST)
TBD	Bidder Presentations/Interviews	Bidder presentations expected to begin
TBD	Anticipated Start Date	Subject to the required approvals.

SECTION 1 – GENERAL INFORMATION

1.1 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 State Workers' Compensation Law. NYSIF's mission is to guarantee the availability of workers' compensation insurance at the lowest possible cost to New York employers and to provide timely, appropriate indemnity and medical payments to injured workers, while maintaining a solvent fund. Since inception, NYSIF has fulfilled the dual roles for which it was created: to compete with other carriers to ensure a fair market place and to be a guaranteed source of coverage for employers who cannot secure coverage elsewhere.

NYSIF is the largest workers' compensation carrier in New York State and among the top 10 largest workers' compensation carriers in the nation, insuring approximately 155,000 policyholders, with more than $2 billion in annual premium and $18 billion in assets. A self-supporting insurance carrier, NYSIF operates without taxpayer funding.

In addition to workers' compensation insurance, NYSIF provides disability benefits coverage for off-the-job injuries to more than 61,000 New York employers. In 2018, NYSIF added Paid Family leave as a component of its disability benefits product, providing New Yorkers with job-protected, paid time away from work to care for their families.

1.2 INQUIRIES/ISSUING OFFICE/DESIGNATED CONTACT

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

Alexandria Romano	Mara Angier
Contract Management Specialist	Contract Management Specialist
E-Mail: contracts@nysif.com	E-Mail: contracts@nysif.com

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

Damaris Torres
MWBE/SDVOB Oversight Officer
E-Mail: contracts@nysif.com

All questions related to this RFP or the contract process must be submitted in writing using "Attachment 2 Question Submission Form" to contracts@nysif.com by the date and time indicated in the RFP 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 RFP 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 RFP 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.

All amendments, clarifications and any announcements related to this procurement will be

posted on NYSIF's website at: www.nysif.com/procurement. It is the sole responsibility of the bidders to check the website for any amendments, clarifications or updates. All applicable amendment information must be incorporated into the firm's proposal. Failure to include this information in your proposal may result in the proposal being deemed non-responsive.

1.3 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 RFP 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 in section 1.2 of this RFP. 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 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).

1.4 PURPOSE OF THIS RFP

In December 2010, the Workers' Compensation Board (WCB) implemented a program of Medical Treatment Guidelines (MTG) that fundamentally changed the delivery of health care to injured workers. Pursuant to Chapter 59 of the Laws of 2017, the Workers' Compensation Board (WCB) was required to establish a comprehensive prescription drug formulary by December 31, 2017. To comply with this directive, the WCB is implementing a state-of-the-art drug formulary ("Formulary"), which is integrated into the MTGs, and will support the provision of high-quality, cost effective pharmaceutical care, and improved health outcomes. Upon implementation of the Formulary, there will be a process in place to request prior authorization for Non-Formulary drugs and any other drugs that require such prior authorization.

NYSIF is seeking proposals from experienced and qualified Independent Review Organizations (IROs), authorized to do business in New York State (NYS), to provide independent review services, including medical review, and to make recommendations to NYSIF. Given the uncertainty regarding the volume of requests that will be received by NYSIF, necessitating review, the Bidder will be utilized to support NYSIF in performing such reviews, as needed. The successful Bidder will enter into a contract with NYSIF for the provision of such requested review services.

This RFP, and the appendices and attachments referenced herein, provide specific service requirements, experience requirements, and other pertinent information. The specifications for the engagement and the terms and conditions set forth in this RFP will be incorporated into any resulting contract entered into between NYSIF and the selected bidder.

Proposals submitted in response to this solicitation must comply with the instructions and procedures contained herein. Bidders are responsible for checking NYSIF's website at www.nysif.com/procurement for any RFP amendments, addenda, and/or updates.

1.5 BIDDERS' CONFERENCE / SITE VISIT

No Bidder's Conference will be held regarding this RFP. Prospective Bidders may submit questions in an acceptable format (section 1.2 above) by the date listed in the RFP Calendar.

1.6 DUE DATE

The due date for submission of proposals is 11/1/19, 2:00 p.m. (Eastern).

1.7 METHOD OF AWARD / DISTRIBUTION OF WORK

Award will be made on the basis of "best value", as determined by the evaluation process. The ability to perform the services will be deemed most important when evaluating bids. A single award will be made for the procurement.

1.8 INSURANCE REQUIREMENTS

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 RFP. 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 RFP.

All insurance required by the RFP 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.

The Contractor shall cause to be included in each of the liability policies required below, here the Commercial General Liability, the Comprehensive Business Automobile Liability, coverage for on-going and completed operations naming as additional insured on a primary and non-contributory basis (via ISO coverage forms CG 20 10 11 85 or the combination of CG 20 10 04 13 or 20 38 04 13 and CG 20 37 04 13 and form CA 20 48 10 13, or a form or forms that provide equivalent coverage) NYSIF, its officers, agents, and employees. An Additional Insured Endorsement evidencing such coverage shall be provided to NYSIF after renewal and/or upon request. For Contractors who are self-insured, the Contractor shall be obligated to defend and indemnify the above-named additional insureds with respect to Commercial General Liability and Business Automobile Liability, in the same manner that the Contractor would have been required had the Contractor obtained such insurance policies.

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 RFP, and to remain in full force and effect throughout the term of the contract and as further required by this RFP. 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 the contract, or as otherwise required by this RFP, 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 RFP, or as required by law, whichever is greater (limits may be provided through a combination of primary and umbrella/excess policies):

1. 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.
2. Commercial General Liability Insurance with a limit of not less than $2,000,000 each occurrence, with a limit of not less than $2,000,000 aggregate. Such liability shall be written on the ISO occurrence form CG 00 01, or a substitute form providing equivalent coverages 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.
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. Professional Liability Insurance, covering actual or alleged negligent acts, errors or omissions committed by the Contractor, its agents or employees, arising out of the work performed under this Agreement. The policy coverage shall extend to include bodily injury and property damage from negligent performance of professional services and personal injury liability coverage for claims arising out of performance of services. The policy shall have limits of liability of not less than $2,000,000 each occurrence, with a limit not less than $2,000,000 aggregate. The Contractor shall be responsible for payment of all claim expenses and loss payments with the deductible.

Waiver of Subrogation. Bidder shall cause to be included in each of its policies insuring against loss, damage or destruction by fire or other insured casualty 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.

1.9 PARTICIPATION OF NYS BUSINESS ENTERPRISES (MWBE)

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 Appendix 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 Appendix 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 Appendix M for further information.

1.10 PARTICIPATION OF SERVICE DISABLED VETERAN OWNED BUSINESSES (SDVOB)

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses ("SDVOBs"), thereby further integrating such businesses into New York State's economy. NYSIF recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of NYSIF contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Bidders/Contractors are strongly encouraged and expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

For purposes of this procurement, NYSIF conducted a comprehensive search and determined that the Contract does not offer sufficient opportunities to set specific goals for participation by SDVOBs as subcontractors, service providers, and suppliers to Contractor. Nevertheless, Bidder/Contractor is encouraged to make good faith efforts to promote and assist in the participation of SDVOBs on the Contract for the provision of services and materials. The directory of New York State Certified SDVOBs can be viewed at: https://ogs.ny.gov/veterans/.

Bidder/Contractor is encouraged to contact the Office of General Services' Division of Service-Disabled Veteran's Business Development at 518-474-2015 or VeteransDevelopment@ogs.ny.gov to discuss methods of maximizing participation by SDVOBs on the Contract.

1.11 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 2 – TECHNICAL SPECIFICATIONS

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

2.1 MANDATORY REQUIREMENTS

Bidders proposals must demonstrate how each of the following mandatory requirements are met AND/OR attest to their ability to meet the mandatory requirement. Each proposal response should cite the particular RFP section and paragraph number being addressed.

1. Bidder must complete the attached Appendix T, Vendor Security Survey. Appendix T, and any substantiating documents, even if included or referenced elsewhere in a bidder's response, must be submitted as one file and labeled separately in the electronic copy.

2. Bidder must be authorized to do business in NYS.

3. Bidder must be accredited by the Utilization Review Accreditation Commission (URAC).

4. Bidder must not have any conflicts of interest with the Workers Compensation Board (WCB) in the performance of its utilization review of the services received by this contract.

5. Bidder confirms they meet all requirements outlined in Section 2.7. (Reviewers) and Section 2.9. (Quality Assurance).

2.2 TECHNICAL REQUIREMENTS

Bidders proposals must demonstrate how each of the following services to be provided are met. Each proposal response should cite the particular RFP section and paragraph number being addressed.

1. Provide a description of Bidder's business, including: ownership, history, client overview, organization, number of employees, including number of physicians, nurse practitioners, registered nurses and bill review specialists available for the provision of review services, business headquarters, and satellite locations. Include any client service promotional material. All work must be performed in the United States;

2. Describe your organization's experience providing review services, including a description of the level of experience of the physician, nurse practitioner, registered nurse and bill review specialist reviewers employed by your organization;

3. Describe the minimum level of qualifications that your organization's reviewers must meet, if any;

4. Describe the volume of reviews, by type of review, that your organization currently handles, as well as the volume of cases that your organization is capable of handling. Please

provide the number of cases handled by your organization in the past 5 years, categorized by year;

5. Provide a description of Bidder's training procedures, including a description of Bidder's process for training and educating staff about updated or newly enacted laws or policies which are relevant to the provision of services;

6. Provide a description of Bidder's quality assurance processes (i.e. supervisory reviews, key performance indicators, internal/external procedural audits, quality controls, etc.);

7. Provide examples of conflicts of interest which may arise, and explain how such conflicts will be identified and resolved by the Bidder;

8. Indicate whether your organization has provided review services for, or on behalf of, governmental entities, if so, please describe the nature of such cases and provide contact information;

9. Describe the technological capabilities of your organization, including your organization's electronic case management system (i.e. ability to accept documents electronically, security access measures, etc.);

10. Describe the proposed operational structure and oversight of your organization;

11. Describe your organization's process for auditing cases;

12. Describe your organization's ability to provide customer service to NYSIF.

2.3 SERVICES TO BE PROVIDED

Bidders proposals must demonstrate how each of the following services to be provided are met AND/OR attest to their ability to meet the requirement. Each proposal response should cite the particular RFP section and paragraph number being addressed.

At the request of NYSIF, Contractor shall be responsible for providing review services, as set forth herein, for:

- Requests for drug formulary prior authorization (Formulary PAs);

Upon completion of the review of Formulary PAs, Contractor shall provide NYSIF with a recommendation as to the medical necessity and appropriateness of the requested medication. All requests for review will be initiated by NYSIF, which will make the final determination regarding resolution of the request after review of Contractor's recommendation.

2.4 OPERATIONAL AND STAFFING REQUIREMENTS

Bidders proposals must demonstrate how each of the following services to be provided are met AND/OR attest to their ability to meet the requirement. Each proposal response should cite the particular RFP section and paragraph number being addressed.

1. Establish and provide sufficient administrative facilities and staff, organizational policies and procedures, necessary information technology capacity and capabilities, and available qualified reviewers including; physicians, nurse practitioners, nurses and bill review specialists;

2. Recruit and verify credentials of identified reviewers;

3. Perform conflicts of interests checks for identified reviewers;

4. Accept requests for review via email;

5. Create dedicated email addresses to receive requests, for which review is sought, from NYSIF. Each type of review shall have its own dedicated email address;

6. Manage the processing of reviews and drafting of proposed recommendations;

7. Ensure the confidentiality of medical records and other data provided by NYSIF;

8. Establish and provide written procedures which provide for timely and effective referral of cases to qualified reviewers, as specified below;

9. Establish training protocols and provide appropriate training to reviewers in using and applying the Reed Group New York State Drug Formulary criteria.

10. Establish training protocols and provide appropriate training to reviewers on how to review each type of request and make a recommendation for resolution of the particular request;

11. Submit training protocols and documentation of requisite training for reviewers to NYSIF, annually (or more frequently as may be requested by NYSIF);

12. Ensure the availability of a sufficient number of reviewers with the requisite knowledge of the Reed Group NYS Drug Formulary criteria and the Reed Group NYS MTGs recommendations, to satisfy the service requirements of this RFP. Contractor shall only assign reviewers with the requisite training and knowledge of the Reed Group NYS Drug Formulary criteria and the Reed Group NYS MTGs recommendations to perform reviews of Formulary PAs.

13. Assign cases to reviewers who are qualified to perform the review, based on the specifications set forth herein, and who are free of conflicting interests in any parties to the case or their agents or representatives;

14. Require reviewers to disclose to the Contractor any circumstances likely to affect impartiality, including bias, or any actual or apparent conflict of interest from financial or personal interest in the case; and

15. Provide documentation of quality assurance/quality control (QA/QC) procedures to ensure that high-quality medical necessity determinations are being made by reviewers.

2.5 REVIEW SERVICES

NYSIF shall review the performance of any reviewers assigned to review Formulary PAs, Should NYSIF determine that it is not satisfied with the performance of any assigned reviewer, NYSIF may direct that such reviewer no longer be assigned to review NYSIF cases.

The New York State Workers' Compensation Drug Formulary is a list of drugs which may be prescribed per the framework set forth in the Formulary. Drugs not listed on the Formulary are considered "non-Formulary." Formulary drugs do not require prior authorization; however, prior authorization is required for:

- Drugs not listed on the Formulary;
- A Formulary brand name drug, when a generic form is available;
- Combination products not specifically listed on the Formulary;
- A brand name drug when a generic version with the same active ingredient(s) is commercially available in a different strength/dosage; and
- Compound medications.

Upon implementation of the Formulary, there will be a process in place to request prior authorization for drugs that require such prior authorization. This process will be initiated by the authorized prescriber, and will provide up to three-levels of review:

- Level I reviews will typically be performed by NYSIF's prescription benefit manager (PBM). If the request is denied or partially approved, the prescriber may request a second level review.
- Level II reviews will be conducted by the contractor. If the level II review is denied or partially approved, the prescriber may request a level III review.
- Level III reviews will be performed by the WCB's Medical Director's Office (MDO).

NYSIF shall forward requests for Formulary PAs, for which review is sought to ensure timely response to the request, to Contractor via e-mail. Each request shall be designated for (1) Expedited Review; or (2) Standard Review. Contractor shall review requests designated for Expedited Review, and submit a written recommendation for resolution of the request to NYSIF, within 24 hours of receiving the request; such written recommendation shall be provided in the format prescribed by NYSIF. Contractor shall review requests designated for Standard Review, and submit a written recommendation for resolution of the requests to NYSIF, within four (4) business days; such written recommendation shall be provided in the format prescribed by NYSIF.

All documentation which is deemed, by NYSIF, to be relevant and necessary for conducting the review shall be enclosed or attached to the request for review. Specifically, the request for review shall include the Formulary Prior Authorization Request, documentation submitted by the provider and the Level I and Level II responses.

Upon receipt of a request for review, Contractor shall assign the request to a reviewer with the requisite knowledge and training regarding the NYS Drug Formulary criteria and the NYS MTG recommendations, and the appropriate medical expertise necessary to

competently review the case based on the medical issue(s) being considered, using the documentation provided and the relevant portions of the NYS Drug Formulary and the NYS MTGs, the reviewer shall:

- Review the Formulary PA Request;
- Review all documentation submitted with the Formulary PA Request, including the Level I and Level II responses; and
- Make a recommendation for resolution of the request, in the format designated by NYSIF.

In all cases, the reviewer shall provide an explanation for the recommendation, in a format designated by NYSIF.

If the recommendation for resolution is not received by NYSIF by the deadline for completion, performance penalties, as set forth in Section 2.10., may be imposed.

2.6 CASE INFORMATION

1. Tracking System
   For Formulary PAs, Contractor shall access, monitor and update the WCB's case work-flow tracking system. Contractor shall monitor the case work-flow tracking system to track the receipt, acceptance, assignment, and current status of requests for review.

2. Data and Monitoring
   All data acquired in the course of performance of the contract is the property of NYSIF and shall not be used by the Contractor without permission of NYSIF for any purpose other than the performance of this contract. "Data acquired in the course of performance of the contract" does not include the substantive content of medical treatment guidelines used in the course of reviews or individually identifiable information about reviewing physicians. Reviewers shall be identified by an anonymous identification number for each review and associated with the reviewer's specialty, board certification, state licensure, experience and expertise. That number shall be disclosed to NYSIF in each case but not specified in the determination itself.

   The Contractor shall continually provide all data acquired in the course of performance of the contract to NYSIF in a format that optimizes utility and cost for the following functions:

   a. Provide the determination for the parties;

   b. Enable complete workflow monitoring and individual case tracking from the date of receipt of a request for review through the date of submission of the recommended resolution of the request to NYSIF;

   c. Enable monitoring the quality assurance in the review process, including providing NYSIF with a means to sort the reviews conducted by each reviewer, such as a reviewer ID number; and

   d. Enable research into patterns of reviews and requests for review and review outcomes, including but not limited to diagnoses, proposed treatments, prescribing physicians, utilization review physicians/nurses and organizations, review requests,

and medical treatment guidelines relied upon by physicians/nurses.

3. Contractor shall enter all information collected on the review request and case-specific information in final determinations into an electronic database for reporting and tracking purposes. Contractor shall make the database accessible to select NYSIF staff in real time.

4. The database shall allow generation of reports, including charts and graphs to show trends. The data elements which must be contained in the database will be determined and mutually agreed upon by the parties after execution of the contract. Notwithstanding, NYSIF will have the final approval of the list of data elements to be captured.

2.7 REVIEWERS

1. **Number and Type of Reviewers:**

   a. For Formulary PAs, Contractor shall select reviewers based on clinical experience and expertise. At all times, Contractor shall attempt to recruit and maintain a preponderance of New York-licensed practitioners.

   b. For Formulary PAs, Contractor shall assign the request to a reviewer with the requisite knowledge and training regarding the NYS Drug Formulary criteria and the NYS MTG recommendations, and the appropriate medical expertise necessary to competently review the case based on the medical issue(s) being considered.

   c. Contractor shall select one reviewer to conduct each review.

   d. Overview of Review Type and Minimum Credentials

Review Type	Reviewer Credentials (Minimum)
Pharmacy Prior Authorization	Registered Nurse

2. **Content of Reviews**

   Formulary PAs

   a. Contractor shall ensure that reviewers promptly review all pertinent medical records and other appropriate information relevant to a case and that the determinations and analyses are conducted professionally, thoroughly and in a timely manner.

   b. Each reviewer shall provide an individual assessment of the case that sets forth the reviewer's professional analysis and determination on whether the requested medical treatment/medication is medically necessary. Reviews must be written in plain English to the extent practicable. As necessary, Contractor shall inform and confer with NYSIF regarding any proposed modifications to the template for medical determinations; no modifications shall be made without the approval of NYSIF.

2.8 CONFIDENTIALITY

1. Contractor shall ensure that any physical or electronic transfer and storage of medical records and confidential information are protected against unauthorized disclosure as required by federal and state law. Information about the diagnosis, treatment, health, and

personal identifying information of any injured employee shall be made available to reviewers and other personnel only to the extent necessary to ensure performance under the contract. Contractor shall maintain electronic case files, including all records, correspondence, reference materials and documents pertaining to the review for at least five years, or for three years after final payment under the contract, whichever is later.

2. Records and information provided to, obtained by, or prepared by Contractor in connection with any review performed under the contract are NYSIF records and may not be retained or used by Contractor for any purpose not specified in this RFP. Contractor must refer all requests for data and other case information to NYSIF and must not independently give out data without NYSIF's express agreement. Upon termination of the contract for any reason or upon NYSIF's demand at any other time, Contractor shall promptly and without delay forward all record and information for any review in progress or for any completed review to NYSIF or to such other person or entity as NYSIF may designate.

3. No unauthorized persons shall have access to any materials furnished by NYSIF to Contractor.

4. All financial, statistical, personal, technical, and other data and information relating to NYSIF's operations, that are designated confidential by NYSIF and made available to Contractor in order to perform the services set forth in this RFP, or which become available to Contractor during the course of such performance, shall be protected by Contractor from unauthorized use and disclosure. The methods and procedures employed by Contractor for the security of NYSIF's data and information may not be changed unless NYSIF has given its prior approval in writing. No information obtained by Contractor, its staff, its contractors or subcontractors under the contract, or from their performance hereunder, shall be used for marketing, solicitation, or other commercial purposes. Any disclosure or use of information developed, received, or maintained under the contract that is not directly related to the review, quality assurance, or accreditation activities of Contractor's or NYSIF's review process, requires written consent of NYSIF.

5. Contractor shall not be required under the provisions of this section to keep confidential any data or information that is or becomes publicly available, is already rightfully in Contractor's possession, is rightfully obtained from third parties, or is independently developed by Contractor outside the scope of this Agreement.

2.9 QUALITY ASSURANCE

Bidders proposals must demonstrate how each of the following are met AND/OR attest to their ability to meet the requirement. Each proposal response should cite the particular RFP section and paragraph number being addressed.

1. Contractor shall have in place, and follow, quality assurance/quality control (QA/QC) procedures to ensure that high-quality medical necessity determinations are being made by reviewers. Contractor shall provide a copy of such procedures for review by NYSIF.

2. Contractor and NYSIF will confer as necessary to review any complaints received about a particular review or to discuss issues relating to the overall review program. Contractor shall respond:
    a. Within 5 days after receiving a request from NYSIF concerning a case reviewed during the preceding 30 days; or
    b. Within 15 days after receiving a request concerning other matters, including any systemic issues or problems relating to performance under the contract or pursuant to NYSIF's general oversight of the review program.

3. Contractor shall prepare a summary report of the reviews on a weekly basis and shall submit the report to NYSIF. The data elements which must be contained in the report will be determined and mutually agreed upon by the parties after execution of the contract. Notwithstanding, NYSIF will have final approval of the list of data elements to be included.

4. Within 15 days of each month-end, Contractor shall prepare a summary report of the reviews completed during the previous month and shall submit the report to NYSIF. The data elements which must be contained in the report will be determined and mutually agreed upon by the parties after execution of the contract. Notwithstanding, NYSIF will have the final approval of the list of data elements to be included.

5. Within 45 days of each year-end, Contractor shall prepare a summary report of the work completed during the previous year and shall submit the report to NYSIF. The report shall include the information contained in the monthly reports, in a format specified by NYSIF, and any additional data elements requested by NYSIF.

6. Contractor and NYSIF shall confer as necessary on measures to ensure consistent and effective implementation of the review system, including but not limited to, instructions provided to reviewers on optimal methods to conduct reviews and issue decisions and identification of designated points of contact.

7. Contractor shall conduct quality assurance (QA) and quality control (QC) of determinations issued. When Contractor identifies instances where reviews are being completed in a manner that is not compliant with the NYS standards and requirements, Contractor shall provide corrective instruction to the individual reviewer(s), and shall take corrective action against individual reviewer(s), as needed. Contractor shall provide NYSIF with specific methods used to ensure QA /QC of determinations.

8. Contractor shall confer with and assist NYSIF in identifying important decisions that could be used as a learning tool for reviewers, NYSIF staff, providers and claims administrators.

9. Following at least one week's advance notice, NYSIF may conduct quality assurance review of Contractor's office procedures and record systems, as may be deemed necessary by NYSIF.

10. NYSIF may conduct random audits of cases to ensure that reviewers meet required professional qualifications, relevant documents and records are requested, written analyses

and determinations are complete and supported by the available documents and other records, medically appropriate decisions are made, and applicable deadlines are met. NYSIF may require Contractor to revise policies and procedures as needed to correct to any pattern of deficiencies in these areas and may direct Contractor to discontinue use of any reviewer whose decisions are determined to have been medically inappropriate.

2.10 TIMELINES

Contractor shall be required to maintain a 95 percent timeliness rate in the completion of reviews. If at any time Contractor requires an extension of time to complete a review separate and apart from any other extensions afforded, Contractor must request such extension in writing to NYSIF. Such request must contain good cause for NYSIF to grant the extension. The extension shall not be considered granted unless such extension is granted in writing, including via email, by NYSIF to Contractor. NYSIF, in its sole discretion, shall determine whether Contractor has provided good cause for the extension. The timeliness rate of 95 percent shall be calculated monthly based upon the percentage of open cases that have not been completed within the required timeframes for which an extension has not been granted by NYSIF.

If upon review of monthly timeliness data, the Contractor's performance falls below 95 percent, payment to the state shall apply, as follows:

1. A monthly timeliness rate below 95 percent shall result in a 10 percent reduction of all fees charged in the subject month;
2. A monthly timeliness rate below 90 percent shall result in a 20 percent reduction of all fees charged in the subject month;
3. A monthly timeliness below 85 percent shall result in a 30 percent reduction of all fees charged in the subject month;
4. A monthly timeliness below 80 percent shall result in a 40 percent reduction of all fees charged in the subject month; and
5. A monthly timeliness below 75 percent shall result in a 50 percent reduction of all fees charged in the subject month.

Notwithstanding the foregoing, no performance penalty shall be imposed against Contractor in any subject month wherein Contractor receives an increased volume of requests for review of 35 percent or greater than the previous month's volume.

NYSIF shall notify Contractor in writing of any performance penalty being imposed because of Contractor's untimely performance. The penalty shall be imposed in the form of a credit against the next month's bill. These penalties are in addition to any other legal rights or remedies the State has for unsatisfactory performance under the contract.

2.11 FRAUD AND QUALITY OF CARE REPORTING

In conducting reviews, Contractor and its consulting physicians shall be responsible for reporting any occurrences of suspected fraud or issues with quality or care. Contractor shall report such occurrences and issues to NYSIF when they are identified and shall summarize these occurrences and issues in Contractor' s Monthly Report provided to NYSIF.

2.12 TERM

NYSIF anticipates awarding a five (5) year contract covering the services detailed in this RFP.

Note: This contract may be terminated at any time by NYSIF for convenience upon sixty (60) days written notice or 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.

2.13 COST/INVOICING

The services shall be priced as follows: Flat fee per review with recommendation. Bidder shall propose a flat fee for each of the review types:

- Formulary Prior Authorization – Expedited Review;
- Formulary Prior Authorization – Standard Review;

NYSIF uses electronic funds transfer for payments to contractors and vendors, consistent with the NYS Taxpayer Accountability Office initiative to reduce payment processing costs. NYSIF's EFT policy and Vendor Authorization form are located on NYSIF's website at: www.nysif.com/procurement

2.14 SUBCONTRACTING

Bidders intending to subcontract portions of services under this procurement must complete and submit Appendix Y, "Subcontractor Utilization" with their bid. 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.

2.15 LOCATION AND TRAVEL

The rates provided in the Fee Schedule (Appendix Z) will be inclusive of all costs, including any and all travel expenses. For purposes of any contract resulting from this RFP, NYSIF will not be liable for any expense incurred by the Contractor for any parking fees or as a consequence of any traffic infraction or parking violations attributable to employees of the Contractor. It is understood that travel expenses are not allowed, and will not be billed to NYSIF.

SECTION 3 – METHOD OF EVALUATION & CRITERIA

As required by New York State Finance Law §163, the award will be made on the basis of best value (the proposal which optimizes quality, cost and efficiency) to the responsive and responsible Bidder, as determined in the evaluation process. The contract will not be awarded solely on the basis of low bid. However, the Bidder with the low bid may be awarded the contract if it provides the best value, as defined above.

All proposals received will be reviewed and evaluated by a committee of NYSIF personnel. The committee will recommend the award be made to the Bidder whose proposal receives the highest overall evaluation score based on the criteria stated herein.

NYSIF reserves the right to award the contract based solely on section 3.1 below. However, NYSIF may request, at its sole discretion, that evaluators interview the Bidder's staff, as stated in section 3.2 below.

Bidder may be requested by NYSIF to clarify the contents of their 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.

The ability to perform the services is most important in evaluating proposals. The evaluation criteria are listed below in order of importance to NYSIF.

3.1 EVALUATION CRITERIA

The evaluation criteria will consist of three (3) separate parts: (1) a Technical Proposal, (2) a Financial Proposal, and (3) a Quantitative Factor for Business Certification as described below. Each component will be evaluated separately and independently in accordance with the RFP as further described below. The relative weights of each part of the Proposal are as follows:

1. Technical Proposal: 65%
2. Financial Proposal: 30%
3. Minority and Woman-Owned Business Enterprises (MWBE) Certification, Small Business Enterprise (SBE) status, Service Disabled Veteran Owned Business (SDVOB) Certification (per section 3.1.3): 5%

3.1.1 TECHNICAL

Capability of Bidder to perform the required services at the time of the bid, demonstrated ability to recruit and retain qualified staff for similar services, and the Bidder 's experience in providing services of a similar scope. Includes references for Bidder and Bidder's liaison to NYSIF. (65% of the overall score). This process consists of the following steps:

1. Pass / Fail Evaluation: the technical evaluation team will inspect each Technical Proposal to determine if it contains responses to all of the mandatory requirements as described in section 2.1 of the RFP. Additional information regarding Appendix T, Vendor Security Survey, is included below in Section 3.3.

Please Note: Should a Bidder fail to meet any of the mandatory requirements (section 2.1), the Bidder will be disqualified, and no further evaluation or scoring will be completed.

2. Qualifications and Technical Evaluation: This phase of the Technical evaluation reviews the Bidders capability to meet NYSIF's needs as described in this RFP.

3.1.2 FINANCIAL EVALUATION

The Financial evaluation will be based upon a review of the Grand Total Cost of the Bidders Fee Schedule Proposal (Appendix Z), which details the total cost to provide all services listed within this RFP. (30% of the overall score)

3.1.3 QUANTITATIVE FACTOR FOR NYS CERTIFIED MINORITY AND WOMEN OWNED BUSINESSES, SMALL BUSINESSES, AND SERVICE DISABLED VETERAN OWNED BUSINESSES AS DEFINED IN NYS EXECUTIVE LAW

State Finance Law section 163(1)(j) allows, when making a Best Value determination, for the inclusion of a quantitative factor for Bidders that are Small Businesses, certified Minority or Women-owned Business Enterprises (MWBEs), or Service Disabled Veteran Owned Businesses (SDVOBs) as defined in subdivisions 310(7), 310(15), 310(20), and 369-H of NYS Executive Law.

In accordance with such authority, five percent (5%) of the overall evaluation scale (referred to herein as the "quantitative factor") will be awarded to any responsive Bidder who meets one of the following criteria (NOTE: Although a Bidder may meet more than one of the criteria, credit is to be awarded for only one category, not multiple categories):

a. The bidder is a New York State Certified Minority- Owned Business Enterprise (MBE) as defined in Executive Law 310(7) ***or***
b. The bidder is a New York State Certified Woman- Owned Business Enterprise (WBE) as defined in Executive Law 310(15) ***or***
c. The bidder is a Small Business Enterprise as defined in Executive Law Section 310(20) ***or***
d. The bidder is a Service Disabled Veteran Owned Business Enterprise (SDVOB as defined in Executive Law Section 369-H

3.1.4 EVALUATION PREROGATIVES

In addition, proposals will be evaluated for existing or potential conflicts of interest, for financial and operational stability, for adequacy and completeness, and to determine that all requirements of the RFP have been met. NYSIF reserves the right to disqualify a Bidder if, in NYSIF's sole opinion, the proposal does not pass the evaluation for any or all of the evaluation criteria.

For the purpose of insuring the completeness and comparability of offers, NYSIF reserves the right to analyze submissions and make adjustments or normalize submissions in the bid proposal, including the Bidder's technical assumptions, and underlying

calculations and assumptions used to support the Bidder's computation of costs, or to apply such other methods, as it deems necessary to make level comparisons across bids.

3.2 PRESENTATION/INTERVIEW

NYSIF, at its own discretion, may require Bidders to attend an interview. NYSIF may select the top three (3) Bidders plus any vendors within 10% of the first-place Bidder, to attend an interview. The top Bidders will be determined by total score as outlined in section 3.1. NYSIF evaluators may use the information gathered during this process to revise the scores from the technical evaluation, based on the merits and clarifications provided.

NYSIF will provide a list of subjects to be covered in the presentation/interview and questions to be addressed. Presentations should include how the Bidder would perform the services required in the contract. Contributions of the proposed lead personnel should be included.

Presentations may be up to 45 minutes. Questions may be asked by the evaluation committee based on material covered in the presentation/interview and/or in the proposal.

Presentation/interviews will be conducted in New York City or Albany. It will be the responsibility of the Bidder to present the proposed staff at the scheduled time. Bidders will be responsible for any and all costs associated with the presentation. Appointments will be made at least one week prior to the scheduled presentation/interview date.

3.3 APPENDIX T, VENDOR SECURITY SURVEY

NYSIF will review and evaluate the bidder's response to Appendix T, NYSIF Vendor Security Survey on a pass/fail basis. The minimum required implementation levels are defined in Appendix T, NYSIF Vendor Security Survey. Bidders who do not meet the minimum required implementation levels will be disqualified.

a. **Pass:** Meets or exceeds minimum implementation levels
b. **Fail:** Does not meet minimum implementation levels

NYSIF reserves the right to seek non-material clarifications to the bidder's IT Data Security procedures if determined to be in NYSIF' best interest.

3.4 CONTRACT APPROVAL

The contract between NYSIF and the successful Bidder will not be binding until it has been approved in accordance with NYSIF's contract approval process.

SECTION 4 – BID/PROPOSAL FORMAT

IMPORTANT NOTICE TO POTENTIAL BIDDERS: Receipt of these bid documents does not indicate that NYSIF has pre-determined your company's qualifications to receive a contract award. Such determination will be made after the bid opening and will be based on our evaluation of your bid submission compared to the specific requirements and qualifications contained in these bid documents.

NOTICE TO BIDDERS: NYSIF will receive bids pursuant to the provisions of Article XI of the State Finance Law or the provisions of the State Printing and Public Documents Law. The following procedures shall be used for bid submissions:

4.1 BID PREPARATION

- Prepare your proposal on the forms provided.
- Proposals and other forms must be signed by an official of your firm authorized to sign contracts and bind the firm.
- The Fee Schedule Proposal must be bound and placed in a sealed envelope separately and enclosed with the Bid. **No references to costs are to be included in the detailed proposal.**
- Bidders must respond to each and every specification stated in this RFP. Moreover, Bidders must list and clearly explain any and all exceptions and/or alternatives and/or caveats to any item contained in this RFP in the *Comments and Limitations* section of their Proposal.

A proposal that does not comply with the requirements and that does not include all the information requested – in the format required – may be negatively affected in the overall evaluation and could be subject to rejection.

4.2 BID FORMAT

- Submission must include **one (1) hard copy** of the proposal, organized as outlined below. Submission must also include **one (1) *exact* electronic copy** (CD/DVD-rom or USB flash drive) of the proposal. The ***exact*** **electronic copy** must include a copy of the Bidders Fee Schedule in a separate file from the Bidders proposal. The electronic copy of your proposal & fee schedule may not be password protected.
- Bids/Proposals 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.
- 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.
- Appendix Z, the *Fee Schedule Proposal*, must be bound and placed in a sealed envelope separately and enclosed with the Bid. **No references to costs are to be included in the detailed proposal.**

- Use the following format as your Table of Contents.

PLEASE PROVIDE THE INFORMATION IN THE SAME ORDER IN WHICH IT IS REQUESTED.

4.2.1 TITLE PAGE AND TABLE OF CONTENTS

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

Please also include the name, title, address, telephone number, and e-mail 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, according to this proposal format.

4.2.2 BIDDER CERTIFICATIONS

Each Bidder is required to submit the Bidder Certifications form, found after Section 4 of the RFP.

4.2.3 COMPANY BACKGROUND

Provide a background description of the bidder's firm, 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. Briefly describe any prior experience in performing similar assignments and bidder's staffing capability and competency to complete the work within established deadlines. Include the following information for the Bidder:

a. Other city, state or federal government agencies *previously* under contract with the Bidder's firm within the last five (5) years.

b. Other city, state or federal government agencies *currently* under contract with the Bidder's firm.

c. A list of all staff being proposed by Bidder.

d. A copy of Bidder's certification to do business in New York State.

4.2.4 TECHNICAL EXPERIENCE / DESCRIPTION OF PROPOSED SERVICES

Submit as described in *Section 2.2, Technical Specification,* of this RFP.

Also include the following:

a. Provide information about the Bidder's organization, such as day-to-day operations and services, including the location of the office from which the assignments will be managed.

b. Provide escalation procedures NYSIF can use for reporting problems to higher levels of management within the Bidder's organization.
c. A Quality Assurance Plan.
d. Explain your organization's structure including a description of the reporting relationships of everyone involved in the contract and the home office of each staff member.

All technical publications cited in the Bidder's proposal should be included at the end of the proposal

4.2.5 STATEMENT OF COMPETING COMMITMENTS

Each Bidder must provide a *Statement of Competing Commitments*, a list of any contractual obligations they have entered into which requires effort on the part of their key personnel during the period in which these personnel will be working on the contract resulting from this RFP.

4.2.6 COMMENTS AND LIMITATIONS

Any exceptions, caveats or additional information to the Bidder's responses to specifications in this RFP must be listed, cross referenced to the response to which it applies and clearly explained.

Note well: No comments, limitations or changes are permitted with respect to any of the terms and conditions contained in Exhibit A, *Standard Clauses.*

4.2.7 APPENDICES

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

- ***MacBride Questionnaire,*** **Appendix D**
- ***Vendor Responsibility Questionnaire,*** **Appendix E**
- ***NYS Certification,*** **Appendix F**
- ***Encouraging Use of NYS Businesses in Contract Performance,*** **Appendix G**
- ***Disclosure of Prior Non-Responsibility Determinations,*** **Appendix H**
- ***MWBE/EEO Requirements and Procedures,*** **Appendix M** requires Bidders to submit (i) form 101; (ii) form 103 or a copy of bidders current NYSDED MWBE certification; and (iii) form 106 or a copy of bidders EEO policy
- ***Use of Service-Disabled Veteran-Owned Business Enterprises in Contract Performance,*** **Appendix S** requires Bidders to submit form S-100, Utilization Plan and/or a copy of bidders current SDVOB certification.
- ***Vendor Security Survey,*** **Appendix T**
- ***Vendor Profile,*** **Appendix U**
- ***Vendor Assurance of No Conflict of Interest or Detrimental Effect, Appendix V***
- ***EO 177 Certification: Prohibiting State Contracts With Entities That Support Discrimination,*** **Appendix X**
- ***Subcontractor Utilization,*** **Appendix Y (if applicable)**

- ***Fee Schedule,* Appendix Z** The *Fee Schedule* must be bound and placed in a sealed envelope separately and **enclosed** with the Bid.

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 referenced in this RFP 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.

4.3 BID DELIVERY

Bidders assume all risks for timely, properly submitted deliveries. Bidders are strongly encouraged to arrange for delivery of bids to NYSIF prior to the date of the bid opening. E-mail and faxed bid submissions are NOT acceptable. LATE BIDS will be handled in accordance with Exhibit B, Clause 9.

- **Hand Deliveries / US Postal Service / Courier**
  An envelope and/or package containing a bid should be clearly marked as follows, and shall be delivered to:

NYSIF – Procurement Unit
Bid # 2019-59-INS
15 Computer Drive West
Albany, NY 12205

Bidders assume all risks for timely, properly submitted deliveries.

BIDDER CERTIFICATIONS

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

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 RFP. *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 Exhibit A, Standard Clauses.

_____4. The Bidder is in compliance with or meets all Bidder Certification Requirements (Exhibit 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.

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 Exhibit B, clause 15 for additional information):

☐ No ☐ Yes

BIDDER CERTIFICATIONS

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 RFP 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 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.

_____4. NYSIF and Bidder recognize that conflicts may occur in the future because the Bidder may have existing, or may establish new relationships. 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 NYSIF, in connection with your rendering services enumerated in this RFP. 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 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 Joint Commission on Public Ethics 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 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 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.

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 CERTIFICATIONS

Sexual Harassment Prevention:

_____1.* By submission of this bid, pursuant to NY State Finance Law § 139-I, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid and/or subcontracting each party thereto certifies as to its own organization, under penalty of perjury, that the bidder has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of section two hundred one-g of the NYS Labor Law.

Further information is set forth in NYSIF's Exhibit B, General Specifications, Clause 39.aa.

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

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STANDARD CLAUSES FOR NYS CONTRACTS

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

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

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

3. 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

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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 Exhibit 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.

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.

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 benefits (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. 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. 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. Furthermore:

- Contractor agrees to disclose information and provide affirmations and certifications to comply with Sections 139-j and 139-k of the State Finance Law.
- Contractor agrees to cooperate with NYSIF's periodic risk assessment of Contractor and the continued adequacy of its cybersecurity practices, in accordance with 23 NYCRR 500.11(a)(4) of the *Cybersecurity Requirements for Financial Services Companies*, as promulgated by the Department of Financial Services.

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 Section 139-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.

aa. By submission of this bid, pursuant to NY State Finance Law § 139-I, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid and/or subcontracting each party thereto certifies as to its own organization, under penalty of perjury, that the bidder has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of section two hundred one-g of the NYS Labor Law.

N.Y. State Labor Law § 201-g provides requirements for such policy and training and directs the Department of Labor, in

consultation with the Division of Human Rights, to create and publish a model sexual harassment prevention guidance document, sexual harassment prevention policy and sexual harassment prevention training program that employers may utilize to meet the requirements of N.Y. State Labor Law § 201-g. The model sexual harassment prevention policy, model sexual harassment training materials, and further guidance for employers, can be found online at the following URL: https://www.ny.gov/combating-sexual-harassment-workplace/employers.

Pursuant to N.Y. State Finance Law§ 139-I, any bid by a corporate bidder containing the certification required above shall be deemed to have been authorized by the board of directors of such bidder, and such authorization shall be deemed to include the signing and submission of such bid and the inclusion therein of such statement as the act and deed of the bidder.

If the Bidder cannot make the required certification, such Bidder shall so state and shall furnish with the bid a signed statement that sets forth in detail the reasons that the Bidder cannot make the certification. After review and consideration of such statement, NYSIF may reject the bid or may decide that there are sufficient reasons to accept the bid without such certification.

The certification required above can be found on NYSIF's Bidder Certification Form, which Bidder must submit with its bid.

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

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

iii. ONLY FOR CONTRACTS WITH A TOTAL EXPENDITURE IN EXCESS OF $250,000: 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.

iv. The Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. The 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.

v. The Contractor will include the provisions of Subdivisions (i) through (iv) of this Subsection c, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will

be binding upon each Subcontractor as to work in connection with the Contract.

vi. 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

Pursuant to Section 163(9)(c) of the State Finance Law, any unsuccessful Bidder may request a debriefing regarding the reasons that the Bid submitted by the Bidder was not selected for award. Requests for a debriefing must be made within 15 calendar days of notification by NYSIF that the Bid submitted by the Bidder was not selected for award. Requests should be submitted in writing to contracts@nysif.com to a designated contact identified in the Solicitation.

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.

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 or designee, 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 or designee, 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 or designee 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 or designee 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 or designee'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.

NYSIF EXHIBIT C

CONTRACT PROVISIONS

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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 notice or 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.

SSAE 18 Reports:

If Contractor utilizes a Statement on Standards for Attestation Engagements (SSAE) No. 16, or Statement on Standards for Attestation Engagements (SSAE) No. 18, 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 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 SSAE 16 or 18 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's expense 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 with certification of such insurance upon request. The Contractor remains responsible for all applicable federal, state and local taxes, and all FICA 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 training qualifications, quality of work or change in security status or non-compliance with NYSIF's security or other requirements. Such approval 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, without limitation; 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.

For Public Works Agreements, Contractor must provide notice to NYSIF within 15 calendar days of the date that the contractor

knew or should have known of the facts that form the basis of the claim, unless a different time frame is provided elsewhere in this Agreement. Notice should be as factually complete as possible. Further, Contractor has a continuing duty to promptly provide NYSIF with information about the condition and the claim. NYSIF shall provide Contractor with written acknowledgement of its receipt of notice, but NYSIF's failure to provide written acknowledgement shall not be a breach of contract or in any way alter the Contractor's obligation to provide timely notice.

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.

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).

Signature: _____

Typed Name: _____

Company Position: _____

Company Name: _____

Date Signed: _____

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 _____

APPENDIX M

PARTICIPATION BY MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES: REQUIREMENTS AND PROCEDURES

I. General Provisions

A. The NYS Insurance Fund (NYSIF) is required to implement the provisions of New York State Executive Law Article 15-A and Parts 140-145 of Title 5 of the New York Codes, Rules and Regulations ("NYCRR") for all State contracts, as defined therein, with a value (1) in excess of $25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of $100,000 for real property renovations and construction.

B. The contractor to the subject contract (the "Contractor" and the "Contract," respectively) agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to NYSIF, to fully comply and cooperate with NYSIF in the implementation of New York State Executive Law Article 15-A and the regulations promulgated thereunder. These requirements include equal employment opportunities for minority group members and women ("EEO") and contracting opportunities for New York State-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") and other applicable federal, state, and local laws.

C. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the assessment of liquidated damages pursuant to Section VII of this Appendix and such other remedies are available to NYSIF pursuant to the Contract and applicable law.

II. Contract Goals

A. For purposes of this Contract, NYSIF hereby establishes an overall goal of 30% for MWBE participation, 18% for New York State-certified minority-owned business enterprise ("MBE") participation and 12% for New York State-certified women-owned business enterprise ("WBE") participation (collectively, "MWBE Contract Goals") based on the current availability of MBEs and WBEs.

B. For purposes of providing meaningful participation by MWBEs on the Contract and achieving the MWBE Contract Goals established in Section II-A hereof, the Contractor should reference the directory of MWBEs at the following internet address: https://ny.newnycontracts.com.

Additionally, the Contractor is encouraged to contact the Division of Minority and Women's Business Development at (212) 803-2414 to discuss additional methods of maximizing participation by MWBEs on the Contract.

C. The Contractor understands that only sums paid to MWBEs for the performance of a commercially useful function, as that term is defined in 5 NYCRR § 140.1, may be applied towards the achievement of the applicable MWBE participation goal. [FOR CONSTRUCTION CONTRACTS – The portion of a contract with an MWBE serving as a supplier that shall be deemed to represent the commercially useful function performed by the MWBE shall be 60% of the total value of the contract. The portion of a contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be the monetary value for fees, or the markup percentage, charged by the MWBE]. [FOR ALL OTHER CONTRACTS - The portion of a contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be 25% of the total value of the contract]

D. The Contractor must document "good faith efforts," pursuant to 5 NYCRR § 142.8, to provide meaningful participation by MWBEs as subcontractors and suppliers in the performance of the Contract. Such documentation shall include, but not necessarily be limited to:

1. Evidence of outreach to MWBEs;
2. Any responses by MWBEs to the Contractor's outreach;
3. Copies of advertisements for participation by MWBEs in appropriate general circulation, trade, and minority or women-oriented publications;
4. The dates of attendance at any pre-bid, pre-award, or other meetings, if any, scheduled by NYSIF with MWBEs; and,
5. Information describing specific steps undertaken by the Contractor to reasonably structure the Contract scope of work to maximize opportunities for MWBE participation.

III. Equal Employment Opportunity ("EEO")

A. The provisions of Article 15-A of the Executive Law and the rules and regulations promulgated thereunder pertaining to equal employment opportunities for minority group members and women shall apply to the Contract.

B. In performing the Contract, the Contractor shall:

1. Ensure that each contractor and subcontractor performing work on the Contract shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.
2. The Contractor shall submit an EEO policy statement to NYSIF within seventy-two (72) hours after the date of the notice by NYSIF to award the Contract to the Contractor.

3. If the Contractor, or any of its subcontractors, does not have an existing EEO policy statement, NYSIF may require the Contractor or subcontractor to adopt a model statement (see Form 106 – Equal Employment Opportunity Policy Statement).
4. The Contractor's EEO policy statement shall include the following language:

    a. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability, or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.
    b. The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
    c. ONLY FOR CONTRACTS WITH A TOTAL EXPENDITURE IN EXCESS OF $250,000: The Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.
    d. The Contractor will include the provisions of Subdivisions (a) through (c) of this Subsection 4 and Paragraph "E" of this Section III, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Contract.

C. Form 101 - Staffing Plan

To ensure compliance with this Section, the Contractor shall submit a staffing plan to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. The Contractor shall complete the staffing plan form and submit it as part of their bid or proposal or within a reasonable time, as directed by NYSIF.

D. Form 102 - Workforce Utilization Report

1. The Contractor shall submit a Workforce Utilization Report, and shall require each of its subcontractors to submit a Workforce Utilization Report, in such form as shall be required by NYSIF on a Quarterly basis during the term of the Contract, with the exception of Construction Contracts. For Construction Contracts, the Contractor is required to submit a Workforce Utilization Report on a Monthly basis.
2. Separate forms shall be completed by the Contractor and any subcontractors.

3. Pursuant to Executive Order #162, contractors and subcontractors are also required to report the gross wages paid to each of their employees for the work performed by such employees on the contract on a quarterly basis.

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

IV. MWBE Utilization Plan

A. The Contractor represents and warrants that the Contractor has submitted an MWBE Utilization Plan, or shall submit an MWBE Utilization Plan at such time as shall be required by NYSIF, to the designated contacts at mwbeinfo@nysif.com, provided, however, that the Contractor may arrange to provide such evidence via a non-electronic method to NYSIF, either prior to, or at the time of, the execution of the contract.

B. The Contractor agrees to adhere to such MWBE Utilization Plan in the performance of the Contract.

C. The Contractor further agrees that failure to submit and/or adhere to such MWBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, NYSIF shall be entitled to any remedy provided herein, including but not limited to, a finding that the Contractor is non-responsive.

V. Waivers

A. If the Contractor, after making good faith efforts, is unable to achieve the MWBE Contract Goals stated herein, the Contractor may submit a request for a waiver to contracts@nysif.com, or a non-electronic method provided by NYSIF. Such waiver request must be supported by evidence of the Contractor's good faith efforts to achieve the maximum feasible MWBE participation towards the applicable MWBE Contract Goals. If the documentation included with the waiver request is complete, NYSIF shall evaluate the request and issue a written notice of approval or denial within twenty (20) business days of receipt.

B. If NYSIF, upon review of the MWBE Utilization Plan, quarterly MWBE Contractor Compliance Reports described in Section VI, or any other relevant information, determines that the Contractor is failing or refusing to comply with the MWBE Contract Goals, and no waiver has been issued in regard to such non-compliance, NYSIF may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency

within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

VI. Quarterly MWBE Contractor Compliance Report

The Contractor is required to submit a quarterly MWBE Contractor Compliance Report to mwbeinfo@nysif.com, provided, however, that the Contractor may arrange to provide such report via a non-electronic method to NYSIF by the 10th day following the end of each quarter during the term of the Contract.

VII. Liquidated Damages - MWBE Participation

A. Where NYSIF determines that the Contractor is not in compliance with the requirements of this Appendix and the Contractor refuses to comply with such requirements, or if the Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, the Contractor shall be obligated to pay to NYSIF liquidated damages.

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

C. In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by NYSIF, the Contractor shall pay such liquidated damages to NYSIF within sixty (60) days after they are assessed. Provided, however, that if the Contractor has filed a complaint with the Director of the Division of Minority and Women's Business Development pursuant to 5 NYCRR § 142.12, liquidated damages shall be payable only in the event of a determination adverse to the Contractor following the complaint process.

APPENDIX M

Form 101 - Instructions

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
5. of this guide can be found on NYSIF's website at: www.nysif.com/procurement
6. 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.
7. 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.
8. 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 communityrecognition.

Form 101

STAFFING PLAN

Submit with Bid or Proposal-Instructions in Appendix M

Reporting Entity

☐ Contractor ☐ 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:

APPENDIX M

Form 102 - Instructions for Submitting the Workforce Utilization Report

The Workforce Utilization Report ("Report") is to be submitted on a monthly basis for construction contracts[1], and a quarterly basis for all other contracts, during the life of the contract to report the actual workforce utilized in the performance of the contract broken down by job title. When the workforce utilized in the performance of the contract can be separated out from the contractor's and/or subcontractor's total workforce, the contractor and/or subcontractor shall submit a Report of the workforce utilized on the contract. When the workforce to be utilized on the contract cannot be separated out from the contractor's and/or subcontractor's total workforce, information on the contractor's and/or subcontractor's total workforce may be included in the Report.

Reports are to be submitted electronically, using the provided Report worksheet, to mwbeinfo@nysif.com within ten (10) days following the end of each month or quarter, whichever is applicable.

Instructions for Completing the Workforce Utilization Report

1. REPORTING ENTITY: Check off the appropriate box to indicate if the entity completing the Report is the contractor or a subcontractor.
2. FEDERAL EMPLOYER IDENTIFICATION NUMBER: Enter the Federal Employer Identification Number (FEIN) assigned by the IRS. Contractors utilizing their social security number in lieu of an FEIN should leave this field blank.
3. CONTRACTOR NAME and CONTRACTOR ADDRESS: Enter the primary business address for the entity completing the Report.
4. CONTRACT NUMBER: Enter the number of the contract to which the Report applies.
5. REPORTING PERIOD: Check off the box that corresponds to the applicable quarterly or monthly reporting period for this Report. Only select one box.
6. WORKFORCE IDENTIFIED IN REPORT: 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.
7. OCCUPATION CLASSIFICATIONS and SOC JOB TITLE: Select the occupation classification and job title that best describes each group of employees performing work on the state contract under columns A and B.
8. EEO JOB TITLE and SOC CODE: These fields will populate automatically based upon the Occupation Classifications and SOC Job Titles selected. Do not modify the results generated in these fields.
9. NUMBER OF EMPLOYEES and NUMBER OF HOURS: Enter the number of employees and total number of hours worked by such employees for each job title under the columns corresponding to the gender and racial/ethnic groups with which the employees most closely identify.
10. TOTAL GROSS WAGES: [**TO BE REPORTED QUARTERLY]** Enter the total gross wages paid to all employees for each job code, and each gender and racial/ethnic group, identified in the Report. Contractors and subcontractors should report only gross wages for work on the contract paid to employees during the period covered by the Report. "Gross wages" are those reported by employers to employees on their wage statements. Gross wages are defined more specifically by 20 NYCRR §2380.4 and typically include every form of compensation for employment paid by an employer to his, her or its employees, whether paid directly or indirectly by the employer, including salaries, commissions, bonuses, tips and the reasonable value of board, rent, housing, lodging or similar advantage received.
11. PREPARER'S INFORMATION: 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.

[1] The Gross Wages column is only required to be completed on a quarterly basis commencing 1/1/2018.

APPENDIX M

Race/Ethnic Identification

Race/ethnic designations do not denote scientific definitions of anthropological origins. For the purposes of this Report, an employee must be included in the group with which he or she most closely identifies. No person may be counted in more than one race/ethnic group. In determining an employee's race or ethnicity, a contractor may rely upon an employee's self-identification, employment records, or, in cases where an employee refuses to identify his or her race or identity, observer identification. 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 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 through tribal affiliation or community recognition.

Resources

If you have questions regarding these requirements, are unsure of the appropriate job titles to include in your Report, or otherwise require assistance in preparing or submitting the Report, please contact MWBEinfo@nysif.com or contact Mary Rumberg at (212) 312-7178 or Carrell Clarke-Europe at (212) 312-0089.

Form 103
M/WBE UTILIZATION PLAN

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

Offeror's Name:
Address:
City, State, Zip Code:
Telephone No.:
Region/Location of Work:

Federal Identification No.:
Solicitation No.:
Project No.:
M/WBE Goals in the Contract: MBE _____ % WBE _____ %

1. Certified M/WBE Subcontractors/Suppliers Name, Address, Email Address, Telephone No.	2. Classification	3. Federal ID No.	4. Detailed Description of Work (Attach additional sheets, if necessary)	5. Dollar Value of Subcontracts/ Supplies/Services and intended performance dates of each component of the contract.
A.	NYS ESD CERTIFIED ☐ MBE ☐ WBE			
B.	NYS ESD CERTIFIED ☐ MBE ☐ WBE			

6. IF UNABLE TO FULLY MEET THE MBE AND WBE GOALS SET FORTH IN THE CONTRACT, OFFEROR MUST SUBMIT A REQUEST FOR WAIVER FORM (M/WBE 104).

PREPARED BY (Signature):

DATE:

NAME AND TITLE OF PREPARER (Print or Type):

SUBMISSION OF THIS FORM CONSTITUTES THE OFFEROR'S ACKNOWLEDGEMENT AND AGREEMENT TO COMPLY WITH THE M/WBE REQUIREMENTS SET FORTH UNDER NYS EXECUTIVE LAW, ARTICLE 15-A, 5 NYCRR PART 143, AND THE ABOVE-REFERENCED SOLICITATION. FAILUR E TO SUBMIT COMPLETE AND ACCURATE INFORMATION MAY RESULT IN A FINDING OF NONCOMPLIANCE AND POSSIBLE TERMINATION OF YOUR CONTRACT.

TELEPHONE NO.: **EMAIL ADDRESS:**

FOR M/WBE USE ONLY

REVIEWED BY: **DATE:**

UTILIZATION PLAN APPROVED: ☐ **YES** ☐ **NO** **DATE:**
Contract No.:
Project No. (if applicable):
Contract Award Date:
Estimated Date of Completion:
Amount Obligated Under the Contract:
Description of Work
NOTICE OF DEFICIENCY ISSUED: ☐ **YES** ☐ **NO** **DATE:**
NOTICE OF ACCEPTANCE ISSUED: ☐ **YES** ☐ **NO** **DATE:**

APPENDIX M

Form 104 - Instructions

REQUIREMENTS AND DOCUMENT SUBMISSION INSTRUCTIONS

When completing the Request for Waiver Form please check all boxes that apply. To be considered, the Request for Waiver Form must be accompanied by documentation for items 1 – 11, as listed below. If box # 3 has been checked above, please see item 11. Copies of the following information and all relevant supporting documentation must be submitted along with the request:

1. A statement setting forth your basis for requesting a partial or total waiver.

2. The names of general circulation, trade association, and M/WBE-oriented publications in which you solicited certified M/WBEs for the purposes of complying with your participation goals.

3. A list identifying the date(s) that all solicitations for certified M/WBE participation were published in any of the above publications.

4. A list of all certified M/WBEs appearing in the NYS Directory of Certified Firms that were solicited for purposes of complying with your certified M/WBE participation levels.

5. Copies of notices, dates of contact, letters, and other correspondence as proof that solicitations were made in writing and copies of such solicitations, or a sample copy of the solicitation if an identical solicitation was made to all certified M/WBEs.

6. Provide copies of responses made by certified M/WBEs to your solicitations.

7. Provide a description of any contract documents, plans, or specifications made available to certified M/WBEs for purposes of soliciting their bids and the date and manner in which these documents were made available.

8. Provide documentation of any negotiations between you, the Offeror/Contractor, and the M/WBEs undertaken for purposes of complying with the certified M/WBE participation goals.

9. Provide any other information you deem relevant which may help us in evaluating your request for a waiver.

10. Provide the name, title, address, telephone number, and email address of offeror/contractor's representative authorized to discuss and negotiate this waiver request.

11. Copy of notice of application receipt issued by Empire State Development (ESD).

Note: Unless a Total Waiver has been granted, the Offeror/Contractor will be required to submit all reports and documents pursuant to the provisions set forth in the Contract, as deemed appropriate by NYSIF, to determine M/WBE compliance.

M/WBE 104 Instructions (11/08)

Form 104

REQUEST FOR WAIVER FORM

INSTRUCTIONS: SEE APPENDIX M FOR REQUIREMENTS AND DOCUMENT SUBMISSION INSTRUCTIONS.	
Offeror/Contractor Name:	**Federal Identification No.:**
Address:	**Solicitation/Contract No.:**
City, State, Zip Code:	**M/WBE Goals:**
	MBE % **WBE** %

By submitting this form and the required information, the offeror/contractor certifies that every Good Faith Effort has been taken to promote M/WBE participation pursuant to the M/WBE requirements set forth under the contract.

Contractor is requesting a:

1. ☐ **MBE Waiver – A waiver of the MBE Goal for this procurement is requested.** ☐ **Total** ☐ **Partial**
2. ☐ **WBE Waiver – A waiver of the WBE Goal for this procurement is requested.** ☐ **Total** ☐ **Partial**
3. ☐ **Waiver Pending ESD Certification – (Check here if subcontractors or suppliers of Contractor are not certified M/WBE, but an application for certification has been filed with Empire State Development). Date of such filing with Empire State Development:**

PREPARED BY (Signature):	**Date:**
SUBMISSION OF THIS FORM CONSTITUTES THE OFFEROR/CONTRACTOR'S ACKNOWLEDGEMENT AND AGREEMENT TO COMPLY WITH THE M/WBE REQUIREMENTS SET FORTH UNDER NYS EXECUTIVE LAW, ARTICLE 15-A AND 5 NYCRR PART 143. FAILURE TO SUBMIT COMPLETE AND ACCURATE INFORMATION MAY RESULT IN A FINDING OF NONCOMPLIANCE AND/OR TERMINATION OF THE CONTRACT.	
Name and Title of Preparer (Printed or Typed):	**Telephone Number:** **Email Address:**
Submit with the bid or proposal or if submitting after award submit to: New York State Insurance Fund Attn: Procurement Unit 15 Computer Dr. W. Albany, NY 12205 Email: contracts@nysif.com	**********FOR M/WBE USE ONLY ********** REVIEWED BY: DATE: Waiver Granted: ☐ Yes ☐ MBE ☐ WBE ☐ Total Waiver ☐ Partial Waiver ☐ ESD Certification Waiver ☐ *Conditional ☐ Notice of Deficiency Issued *Comments:

APPENDIX M

Form 105 - Instructions

PRODUCT KEY CODE

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

Form 105

M/WBE Quarterly Report of

Is this the final report? Check one:	
Yes: ☐	No: ☐

NYS AGENCY Contract No. _____ Project No. _____

The following information indicates the payment amounts made by the grantee/contractor to the NYS Certified M/WBE subcontractor on this project. The payments as shown made are in compliance with contract documents for the above referenced project.

Contractors Name and Address	Federal ID#	Goals/$ Amt.		Contract Type:	
		MBE	% =	Paid to Contractor This Quarter:	
		WBE	% =	Total Paid to Contractor To Date:	
			-		
	Project Completion Date	**Work Location**		**Reporting Period (Check One):**	
				☐ 1st Quarter (4/1-6/30) ☐ 3rd Quarter (10/1-12/31)	
				☐ 2nd Quarter (7/1-9/30) ☐ 4th Quarter (1/1-3/31)	

M/WBE Subcontractor/Vendor	Product Code*	Work Status This Report	Total Subcontractor Contract Amount		Payments this Quarter		Previous Payments		Total Payment Made to Date	
			MBE	WBE	MBE	WBE	MBE	WBE	MBE	WBE
Name: FED ID#		☐ Active ☐ Inactive ☐ Complete								
Name: FED ID#		☐ Active ☐ Inactive ☐ Complete								
Name: FED ID#		☐ Active ☐ Inactive ☐ Complete								
Name: FED ID#		☐ Active ☐ Inactive ☐ Complete								
Total										

*See BELOW for Product Codes

Date: _____ Name: _____ Title: _____ Signature: _____

APPENDIX M

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. The 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) The Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. The 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

Agreed to this _____ day of _____, 2_____

By _____

Print: _____ Title: _____

APPENDIX M

Form 106 (continued)

_____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

_____
(Authorized Representative)

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
(12/11)

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

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

I, _____ , hereby affirm, under penalty of perjury, that I am _____
(name) *(title)*

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

(Mark an **X** *in only one box)*

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

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

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

Sworn to this ___ day of _____, 20 ____

_____ _____
(sign before a notary public) *(title)*

Instructions

General information

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

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

When to complete this form

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

i. The procuring entity is a *covered agency* within the meaning of the statute (see Publication 223, Q&A 5);

ii. The contractor is a *contractor* within the meaning of the statute (see Publication 223, Q&A 6); and

iii. The contract is a *contract* within the meaning of the statute. This is the case when it (a) has a value in excess of $100,000 and (b) is a contract for *commodities* or *services*, as such terms are defined for purposes of the statute (see Publication 223, Q&A 8 and 9).

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

Individual, Corporation, Partnership, or LLC Acknowledgment

STATE OF }
: SS.:
COUNTY OF }

On the ___ day of _____ in the year 20__ , before me personally appeared _____ ,

known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that

_he resides at _____ ,

Town of _____ ,

County of _____ ,

State of _____; and further that:

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

☐ (If an individual): _he executed the foregoing instrument in his/her name and on his/her own behalf.

☐ (If a corporation): _he is the _____

of _____ , the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, _he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.

☐ (If a partnership): _he is a _____

of _____ , the partnership described in said instrument; that, by the terms of said partnership, _he is authorized to execute the foregoing instrument on behalf of the partnership for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said partnership as the act and deed of said partnership.

☐ (If a limited liability company): _he is a duly authorized member of _____ , LLC, the limited liability company described in said instrument; that _he is authorized to execute the foregoing instrument on behalf of the limited liability company for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said limited liability company as the act and deed of said limited liability company.

_____
Notary Public

Registration No. _____

Privacy notification

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

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

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

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

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

Need help?

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

Telephone assistance

Sales Tax Information Center: (518) 485-2889

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

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

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

Department of Taxation and Finance

Contractor Certification

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

ST-220-TD

(4/15)

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)*	City	State	ZIP code

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	Covered agency telephone number ( )
Covered agency address	City State	ZIP code

Is the estimated contract value over the full term of the contract (but not including renewals) more than $100,000?

Yes ☐ No ☐ Unknown at this time ☐

General information

Tax Law section 5-a, 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 Form ST-220-CA, *Contractor Certification to Covered Agency,* 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 Tax Law section 5-a, see Publication 223, *Questions and Answers Concerning Tax Law Section 5-a, (as amended, effective April 26, 2006)*. See *Need help?* for more information on how to obtain this publication.

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

Mail completed form to:

NYS TAX DEPARTMENT
DATA ENTRY SECTION
W A HARRIMAN CAMPUS
ALBANY NY 12227-0826

Privacy notification

New York State Law requires all government agencies that maintain a system of records to provide notification of the legal authority for any request, the principal purpose(s) for which the information is to be collected, and where it will be maintained. To view this information, visit our Web site, or, if you do not have Internet access, call and request Publication 54, *Privacy Notification*. See *Need help?* for the Web address and telephone number.

Need help?

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

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

Telephone assistance

Sales Tax Information Center: (518) 485-2889

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

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

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

I, _____ , hereby affirm, under penalty of perjury, that I am _____
(name) *(title)*

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

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

Section 1 – Contractor registration status

☐ The contractor has made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of $300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made. The contractor is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to Tax Law sections 1134 and 1253, 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 Tax Law sections 1134 and 1253. 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 Tax Law sections 1134 and 1253. 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 Relationship to contractor	B Name	C Address	D Federal ID number	E Sales tax ID number	F 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 S

CONTRACTOR REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED SERVICE DISABLED VETERAN OWNED BUSINESSES (SDVOB)

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses ("SDVOB"), thereby further integrating such businesses into New York State's economy. NYSIF recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of NYSIF contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Bidders are expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

CONTRACT GOALS

For purposes of this procurement, NYSIF conducted a comprehensive search and determined that the Contract does not offer sufficient opportunities to set specific goals for participation by SDVOBs as subcontractors, service providers, and suppliers to Contractor. Nevertheless, Bidder/Contractor is encouraged to make good faith efforts to promote and assist in the participation of SDVOBs on the Contract for the provision of services and materials. The directory of New York State Certified SDVOBs can be viewed at: https://ogs.ny.gov/veterans/.

Bidder/Contractor is encouraged to contact the Office of General Services' Division of Service-Disabled Veteran's Business Development at 518-474-2015 or VeteransDevelopment@ogs.ny.gov to discuss methods of maximizing participation by SDVOBs on the Contract.

APPENDIX S
FORM S-100: SDVOB UTILIZATION PLAN

SDVOB UTILIZATION PLAN

☐ Initial Plan ☐ Revised plan Contract/Solicitation # _____

INSTRUCTIONS: This Utilization Plan must contain a detailed description of the supplies and/or services to be provided by each NYS Certified Service-Disabled Veteran-Owned Business (SDVOB) under the contract. By submission of this Plan, the Bidder/Contractor commits to making good faith efforts in the utilization of SDVOB subcontractors and suppliers as required by the SDVOB goals contained in the Solicitation/Contract. Making false representations or providing information that shows a lack of good faith as part of, or in conjunction with, the submission of a Utilization Plan is prohibited by law and may result in penalties including, but not limited to, termination of a contract for cause, loss of eligibility to submit future bids, and/or withholding of payments. Firms that do not perform commercially useful functions may not be counted toward SDVOB utilization. Attach additional sheets if necessary.

BIDDER/CONTRACTOR INFORMATION		SDVOB Goals In Contract
Bidder/Contractor Name:	Federal Identification No.:	%
Bidder/Contractor Address (Street, City, State and Zip Code):		
Bidder/Contractor Telephone Number:	Contract Work Location/Region:	
Contract Description/Title:		

CONTRACTOR INFORMATION			
Prepared by (Signature):	Name and Title of Preparer:	Telephone Number:	Date:
Email Address:			

If unable to meet the SDVOB goals set forth in the solicitation/contract, bidder/contractor must submit a request for waiver on the SDVOB Waiver Form (S-200).

SDVOB Subcontractor/Supplier Name:		
Please identify the person you contacted:	Federal Identification No.:	Telephone No.:
Address:	Email Address:	
Detailed description of work to be provided by subcontractor/supplier:		
Dollar Value of subcontracts/supplies/services (When $ value cannot be estimated, provide the estimated % of contract work the SDVOB will perform): $_____ or _____%		

SDVOB Subcontractor/Supplier Name:		
Please identify the person you contacted:	Federal Identification No.:	Telephone No.:
Address:	Email Address:	
Detailed Description of work to be provided by subcontractor/supplier:		
Dollar Value of subcontracts/supplies/services (When $ value cannot be estimated, provide the estimated % of contract work the SDVOB will perform): $_____ or _____%		

FOR NYSIF USE ONLY			
NYSIF Authorized Signature:	☐ Accepted	☐ Accepted as Noted	☐ Notice of Deficiency
NAME (Please Print):	SDVOB %/$	Date Received:	Date Processed:
Comments:			

NYS CERTIFIED SDVOB SUBCONTRACTOR/SUPPLIER INFORMATION: The directory of New York State Certified SDVOBs can be viewed at: https://ogs.ny.gov/Veterans/Docs/CertifiedNYS_SDVOB.pdf

Note: All listed Subcontractors/Suppliers will be contacted and verified by NYSIF.

APPENDIX S
FORM S-100: SDVOB UTILIZATION PLAN

ADDITIONAL SHEET

Bidder/Contractor Name:	Contract/Solicitation # _____

SDVOB Subcontractor/Supplier Name:		
Please identify the person you contacted:	Federal Identification No.:	Telephone No.:
Address:	Email Address:	
Detailed Description of work to be provided by subcontractor/supplier:		
Dollar Value of subcontracts/supplies/services (When $ value cannot be estimated, provide the estimated % of contract work the SDVOB will perform): $_____ or _____%		
SDVOB Subcontractor/Supplier Name:		
Please identify the person you contacted:	Federal Identification No.:	Telephone No.:
Address:	Email Address:	
Detailed Description of work to be provided by subcontractor/supplier:		
Dollar Value of subcontracts/supplies/services (When $ value cannot be estimated, provide the estimated % of contract work the SDVOB will perform): $_____ or _____%		
SDVOB Subcontractor/Supplier Name:		
Please identify the person you contacted:	Federal Identification No.:	Telephone No.:
Address:	Email Address:	
Detailed Description of work to be provided by subcontractor/supplier:		
Dollar Value of subcontracts/supplies/services (When $ value cannot be estimated, provide the estimated % of contract work the SDVOB will perform): $_____ or _____%		
SDVOB Subcontractor/Supplier Name:		
Please identify the person you contacted:	Federal Identification No.:	Telephone No.:
Address:	Email Address:	
Detailed Description of work to be provided by subcontractor/supplier:		
Dollar Value of subcontracts/supplies/services (When $ value cannot be estimated, provide the estimated % of contract work the SDVOB will perform)): $_____ or _____%		

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.

*Note: Section 1, Data Privacy, Question B & C have a different drop down of 'yes' or 'no', with a request to further explain in the "Explanation of Controls" Section.

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	

	DATA PRIVACY	RESPONSE	EXPLANATION OF CONTROLS	SUBSTANTIATING DOCUMENT(S)
A	Bidder asserts NYSIF's information or data is NOT transmitted outside of or accessed from outside of the United States.	PLEASE RESPOND (Using Dropdown)		
B	Do you use one or more cloud service providers to store NYSIF's data? Describe how you secure it in the Explanation of Controls box.	PLEASE RESPOND (Using Dropdown)		
C	Do you have a Cybersecurity Vendor Risk Management program or process in place for your third party vendors? Describe in the Explanation of Controls box.	PLEASE RESPOND (Using Dropdown)		

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? 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 Utilization Review RFP (2019-59-INS), 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 X

EO 177 CERTIFICATION
PROHIBITING STATE CONTRACTS WITH ENTITIES THAT SUPPORT DISCRIMINATION

The New York State Human Rights Law, Article 15 of the Executive Law, prohibits discrimination and harassment based on age, race, creed, color, national origin, sex, pregnancy or pregnancy-related conditions, sexual orientation, gender identity, disability, marital status, familial status, domestic violence victim status, prior arrest or conviction record, military status or predisposing genetic characteristics.

The Human Rights Law may also require reasonable accommodation for persons with disabilities and pregnancy-related conditions. A reasonable accommodation is an adjustment to a job or work environment that enables a person with a disability to perform the essential functions of a job in a reasonable manner. The Human Rights Law may also require reasonable accommodation in employment on the basis of Sabbath observance or religious practices.

Generally, the Human Rights Law applies to:

- all employers of four or more people, employment agencies, labor organizations and apprenticeship training programs in all instances of discrimination or harassment;
- employers with fewer than four employees in all cases involving sexual harassment; and,
- any employer of domestic workers in cases involving sexual harassment or harassment based on gender, race, religion or national origin.

In accordance with Executive Order No. 177, the Bidder hereby certifies that it does not have institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sex, sexual orientation, gender identity, disability, marital status, military status, or other protected status under the Human Rights Law.

Executive Order No. 177 and this certification do not affect institutional policies or practices that are protected by existing law, including but not limited to the First Amendment of the United States Constitution, Article 1, Section 3 of the New York State Constitution, and Section 296(11) of the New York State Human Rights Law.

Contractor:_____

By: _____

Name: _____

Title: _____

Date: _____ ____, 20____

APPENDIX Y
LISTING OF PROPOSED SUBCONTRACTORS

Legal Business Name:_____

D/B/A — Doing Business As (if applicable):_____

Federal ID No.:_____

Address:_____

Contact Name:_____

Contact Title:_____

Email Address:_____

Phone Number:_____

Detailed description of work to be provided by subcontractor:_____

_____

Dollar Value:_____

Certification (if applicable): ☐ MBE ☐ WBE ☐ SDVOB

Attachments: ☐ Appendix V – Vendor Assurance of No Conflict of Interest or Detrimental Effect

☐ Appendix E – Vendor Responsibility Questionnaire (if value exceeds $100,000)

Legal Business Name:_____

D/B/A — Doing Business As (if applicable):_____

Federal ID No.:_____

Address:_____

Contact Name:_____

Contact Title:_____

Email Address:_____

Phone Number:_____

Detailed description of work to be provided by subcontractor:_____

_____

Dollar Value:_____

Certification (if applicable): ☐ MBE ☐ WBE ☐ SDVOB

Attachments: ☐ Appendix V – Vendor Assurance of No Conflict of Interest or Detrimental Effect

☐ Appendix E – Vendor Responsibility Questionnaire (if value exceeds $100,000)

Attach additional sheets if necessary

APPENDIX Z
FEE SCHEDULE PROPOSAL

UTILIZATION REVIEW
BID #2019-59-INS

Bidder		Contact	
DBA, if any		Title	
Federal ID #		Email Address	
Type of Firm		Telephone #	
Address		Fax #	
		Web Address	

Bid prices shall be "all inclusive". All 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, system maintenance, system trouble shooting and modifications, all documents, reports, forms, reproduction and any other costs.

Bidders are not to change, delete, or make any additions to this form, and are to supply only the bid information that is required. If any changes, deletions, or additions are made by the bidder, or if all of the required bid information is not provided, then at NYSIF's discretion, the bid may be disqualified.

Component	***Cost Per Review with Recommendation**					
	Contract Year 1	**Contract Year 2**	**Contract Year 3**	**Contract Year 4**	**Contract Year 5**	**Total 5 Year Cost**
Formulary Prior Authorization (Level II) Review- Standard Response Time						
Formulary Prior Authorization (Level II) Review- Expedited Response Time						

*Cost shall be proposed as a flat-fee dollar amount per completed recommendation returned to the requester.

Signature: _____ Title: _____

Typed Name: _____ Date:_____