



15 COMPUTER DRIVE WEST; ALBANY, NY 12205
518.437.4230|nysif.com

3/25/24

TO WHOM IT MAY CONCERN:

Attached is the Request for Proposals (RFP) for Custodial Banking Services (2024-55-INV) for the New York State Insurance Fund (NYSIF).

The due date for submission of proposals is 5/10/24.

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,

A handwritten signature in black ink that reads "Alexandria Romano".

Alexandria Romano
Contract Management Specialist 3

Attachments:

No Bid form
RFP



'NO BID' FORM

RFP # 2024-55-INV

DESCRIPTION: CUSTODIAL BANKING SERVICES

CONTRACT PERIOD: SEVEN (7) YEARS

<p>PROPOSALS DUE:</p> <p>DATE:</p> <p>TIME:</p>	<p>5/10/24</p> <p>2:00 p.m.</p>	<p>SUBMIT 'NO BIDS' TO:</p> <p>Email: contracts@nysif.com Subject Line: No Bid Form – Bid #2024-55-INV</p> <p>OR *mailed via UPS, FedEx, or DHL to:</p> <p>NYSIF - Procurement Unit Bid # 2024-55-INV 15 Computer Drive West Albany, NY 12205</p> <p>*Note, the use of the United States Postal Service (USPS) is PROHIBITED. See Section 4.3 for more information.</p>
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Bidders choosing not to bid are requested to complete and return only this page.

- 1. We do not provide the requested services.
- 2. We are unable to bid at this time because:

- 3. Please remove our firm from your mailing list.

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: _____



NYSIF

REQUEST FOR PROPOSALS

for

CUSTODIAL BANKING SERVICES

2024-55-INV

MARCH 25, 2024

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.

TABLE OF CONTENTS

	PAGE
TABLE OF CONTENTS	4
RFP CALENDAR	6
SECTION 1 – GENERAL INFORMATION	7
1.1 OVERVIEW OF THE NEW YORK STATE INSURANCE FUND	7
1.2 INQUIRIES/ISSUING OFFICE/DESIGNATED CONTACT	7
1.3 SUMMARY OF NYSIF’S POLICY AND PROHIBITIONS REGARDING PERMISSIBLE CONTACTS DURING A COVERED PROCUREMENT	8
1.4 PURPOSE OF THIS RFP	8
1.5 BIDDERS’ CONFERENCE / SITE VISIT	8
1.6 DUE DATE	8
1.7 METHOD OF AWARD / DISTRIBUTION OF WORK	9
1.8 INSURANCE REQUIREMENTS.....	9
1.9 PARTICIPATION OF NYS BUSINESS ENTERPRISES (MWBE).....	12
1.10 PARTICIPATION OF SERVICE-DISABLED VETERAN OWNED BUSINESSES (SDVOB).....	12
1.11 USE OF NYSIF TRADEMARK AND LOGO	13
SECTION 2 – TECHNICAL SPECIFICATIONS	14
2.1 MANDATORY REQUIREMENTS	14
2.2 ATTACHMENT #1 & #2 QUESTIONNAIRE.....	14
2.3 SERVICES TO BE PROVIDED.....	14
2.4 CUSTODIAL AND SECURITIES LENDING SERVICES.....	14
2.5 TERM.....	17
2.6 COST/INVOICING	17
2.7 SUBCONTRACTING	17
2.8 LOCATION AND TRAVEL.....	18
2.9 PENALTIES	14
SECTION 3 – METHOD OF EVALUATION & CRITERIA	19
3.1 EVALUATION CRITERIA	19
3.1.1 TECHNICAL.....	19
3.1.2 FINANCIAL EVALUATION.....	20
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	20
3.1.4 EVALUATION PREROGATIVES	20
3.2 PRESENTATION/INTERVIEW	21
3.3 APPENDIX T, VENDOR SECURITY SURVEY.....	21
3.4 CONTRACT APPROVAL	21
SECTION 4 – BID/PROPOSAL FORMAT	22
4.1 BID PREPARATION	22
4.2 BID FORMAT	23
4.2.1 TITLE PAGE AND TABLE OF CONTENTS	23
4.2.2 BIDDER CERTIFICATIONS.....	23
4.2.3 STATEMENT OF COMPETING COMMITMENTS	23
4.2.4 COMMENTS AND LIMITATIONS.....	24
4.2.5 APPENDICES	24
4.3 BID SUBMISSION & DELIVERY	25
4.4 BID OPENING	25
BIDDER CERTIFICATIONS	26

APPENDICES

Exhibit A.	Standard Clauses
Exhibit B.	General Specifications
Exhibit C.	Contract Provisions
Appendix D.	Questionnaire "Nondiscrimination In Employment In Northern Ireland: MacBride Fair Employment Principles"
Appendix E.	Vendor Responsibility Questionnaire
Appendix F.	NYS Certifications
Appendix G.	Encouraging Use of New York State Businesses in Contract Performance
Appendix H.	Procurement Lobbying Legislation
Appendix I.	Bidder References
Appendix J.	EO 16 Certification: Prohibiting State Agencies and Authorities from Contracting with Businesses Conducting Business in Russia
Appendix M.	Participation by Minority & Women-Owned Business Enterprises Requirements & Procedures (Form 102 Attached Separately)
Appendix N.	ST-220CA, ST-220TD
Appendix O.	Contract Consultant Law (Forms A & B)
Appendix S.	Use of Service-Disabled Veteran-Owned Business Enterprises in Contract Performance
Appendix T.	Vendor Security Survey
Appendix U.	Vendor Profile
Appendix V.	Vendor Assurance of No Conflict of Interest or Detrimental Effect
Appendix X.	EO 177 Certification: Prohibiting State Contracts With Entities That Support Discrimination
Appendix Y.	Subcontractor Utilization
Appendix Z.	Fee Schedule
Attachment 1	Mandatory Requirement Affirmation
Attachment 2	Custody Services Questionnaire
Attachment 3	Global Custody Network/Foreign Exchange Questionnaire
Attachment 4	Volume Transactions
Attachment 5	Custody and Related Services/Scope of Services
Attachment 6	Appendix M, Form 102, Work Force Employment Utilization (Excel)
Attachment 7	Question Submission Form (Excel)
Attachment 8	Non-Disclosure Agreement (NDA)

RFP CALENDAR

DATE	EVENT	COMMENTS
3/25/24	RFP Issued	
4/15/24	Final date for Bidder inquiries <u>Attachment 2 Question Submission Form</u>	Written inquiries only using " <u>Attachment 2 Question Submission Form</u> " by 12:00 p.m. (EST) to: Email: contracts@nysif.com Fax: 518-437-4209
4/26/24	Responses to Inquiries	Written responses will be posted on NYSIF's website
5/10/24	Final date for submission of bids	Deadline for response to this RFP. All sealed bids MUST be addressed to: Email: contracts@nysif.com Subject Line: Formal Proposal – Bid #2024-55-INV OR: Mail: NYSIF – Procurement Unit Bid # 2024-55-INV 15 Computer Drive West Albany, NY 12205 and received by 2:00 p.m. (EST)
TBD	Bidder Presentations/Interviews	Bidder presentations expected to begin
OCT 2025	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 marketplace 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 139,000 policyholders, with more than \$1.48 billion in in-force premium and approximately \$19 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 56,000 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	Allison Lund
Contract Management Specialist 3	Contract Management Specialist 1
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](#), 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](#). 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

Pursuant to Section 87 of the Workers' Compensation Law, NYSIF is accepting written proposals for the purpose of identifying the most qualified financial institution to provide: asset custody/safekeeping, securities processing/settlement, investment performance/analytics services, certain securities lending functions as well as other functions as defined in the scope of services.

Services are required for our Workers' Compensation Fund, Disability Fund and Aggregate Trust Fund as described herein and in the attached materials. These funds totaled approximately \$20 billion as of December 31, 2023.

In response to this RFP, the successful Bidder will need to demonstrate exceptional credentials, expertise in custody, high-quality and adaptive investment performance reporting, and securities lending expertise/program flexibility.

Proposals submitted in response to this solicitation must comply with the instructions and procedures contained herein. Bidders are responsible for checking [NYSIF's website](#) 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 5/10/24, 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 the [Workers' Compensation Coverage website](#) and the [Disability Benefits Coverage website](#) for further information.
 - a. Proof of Compliance with Workers' Compensation Coverage Requirements:
 - i. Form CE-200, *Certificate of Attestation for New York Entities With No Employees and Certain Out of State Entities*, That New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is Not Required, which is available on the [New York State Workers' Compensation Board's website](#);
 - ii. Form C-105.2 (9/17 or most current version), *Certificate of Workers' Compensation Insurance*, sent to NYSIF by the Contractor's insurance carrier upon request, or if coverage is provided by the New York State Insurance Fund, they will provide Form U-26.3 to NYSIF upon request from the Contractor; or
 - iii. Form SI-12, *Certificate of Workers' Compensation Self-Insurance*, available from the New York State Workers' Compensation Board's Self-Insurance Office, or Form GSI-105.2, *Certificate of Participation in Workers' Compensation Group Self-Insurance*, available from the Contractor's Group Self-Insurance Administrator.
 - b. Proof of Compliance with Disability Benefits Coverage Requirements:
 - i. Form CE-200, *Certificate of Attestation for New York Entities With No Employees and Certain Out of State Entities*, That New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is Not Required, which is available on the [New York State Workers' Compensation Board's website](#);
 - ii. Form DB-120.1, *Certificate of Disability Benefits Insurance*, sent to NYSIF by the Contractor's insurance carrier upon request; or
 - iii. Form DB-155, *Certificate of Disability Benefits Self-Insurance*, available from the New York State Workers' Compensation Board's Self-Insurance Office.
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 used in connection with performance under the Contract resulting from this RFP, including owned, leased, hired and non-owned automobiles bearing or, under the circumstances under which they are being used, required by the Motor Vehicle Laws of the State of New York to bear, license plates.

In the event that the Contractor does not own, lease or hire any automobiles used in connection with performance under the Contract resulting from this RFP, the Contractor does not need to obtain Business Automobile Liability Insurance, but must attest to the fact that the Contractor does not own, lease or hire any automobiles used in connection with performance under any Contract resulting from this RFP on a form provided by NYSIF. If, however, during the term of the Contract resulting from this RFP, the Contractor acquires, leases or hires any automobiles that will be used in connection with performance under the Contract resulting from this RFP, the Contractor must obtain Business Automobile Liability Insurance that meets all of the requirements of this section and provide proof of such coverage to NYSIF.

In the event that the Contractor does not own or lease any automobiles used in connection with performance under the Contract resulting from this RFP, but the Contractor does hire and/or utilize non-owned automobiles in connection with performance under the Contract resulting from this RFP, the Contractor must: (i) obtain Business Automobile Liability Insurance as required by this RFP, except that such insurance may be limited to liability arising out of hired and/or non-owned automobiles, as applicable; and (ii) attest to the fact that the Contractor does not own or lease any automobiles used in connection with performance under the Contract resulting from this RFP, on a form provided by NYSIF. If, however, during the term of the Contract resulting from this RFP, the Contractor acquires or leases any automobiles that will be used in connection with performance under the Contract resulting from this RFP, the Contractor must obtain Business Automobile Liability Insurance that meets all of the requirements of this section and provide proof of such coverage to NYSIF.

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.
5. Crime Insurance, including Fidelity Bond coverage in the amount not less than \$3,000,000 including employee dishonesty coverage on money, securities or property other than money and securities including contract and temporary, whether identified or not, acting alone or in collection with others.

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.

For purposes of this procurement, NYSIF conducted a comprehensive review of the services required under this procurement and determined that the Contract does not offer sufficient opportunities to set specific goals for participation by MWBEs 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 MWBEs on the Contract for the provision of services and materials. The directory can be viewed at the [New York State Certified MWBEs website](#).

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 can be viewed at the [New York State Certified SDVOBs website](#).

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 in any marketing, advertising or similar material without prior written approval from NYSIF. NYSIF will need to approve any website content with NYSIF's name, trademarks or logo and should be notified of any website content change with the aforementioned criteria. 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](#).

2.1 MANDATORY REQUIREMENTS

Bidders must complete Attachment 1, Mandatory Requirement Affirmation and submit with your proposal.

2.2 ATTACHMENT 2 & 3 QUESTIONNAIRES

Bidders must complete Attachment 2, Custodial Services Questionnaire and Attachment 3, Global Custody Network Foreign Exchange Questionnaire and submit with your proposal with the appropriate title. Should attachments be necessary, please provide these together in an additional book labeled: Additional Attached Materials – Custody Services Response and Global Custody Network/Foreign Exchange Response.

2.3 SERVICES TO BE PROVIDED

To facilitate the requirements, NYSIF is seeking proposals from qualified providers for custody and securities lending services.

The service functions required are:

- Safekeeping, Income Collection;
- Accurate and Timely Trade Settlement and Asset Custody;
- Collect information on all assets and all income pertaining to them;
- Certain Cash Management Services;
- Administer Voluntary and Involuntary Corporate Actions on Securities;
- Administer Class Actions;
- Provide Daily Pricing file;
- Technology/Systems Support;
- Securities Lending, including support of third-party & principal structures;
- Investment Performance Measurement and Analytics;
- Servicing for privately placed fixed income investments;
- Servicing for Investments in Syndicated (Bank) Loans;
- Portfolio Administration Services for Private Markets; and
- FINRA Rule 4210 Margin Requirement – Collateral Management Services (Note: This is only applicable once this rule becomes effective and subject to NYSIF's Investment Department's decision to start service).

NYSIF is seeking a cost-effective custodial solution that provides access to high-quality technology, seamless delivery of custody services, and client service/support. The successful Bidder must demonstrate the ability to deploy automated solutions.

Performance measurement and analytics capabilities are crucial to the assignment. Full adherence to NAIC SSAP and GAAP are required service characteristics when responding to this

RFP. The Bidder should demonstrate the ability to provide monthly and daily performance reports detailing the market values, cash flows, and returns of each portfolio.

NYSIF is a sophisticated consumer of securities lending services and intends to review the merits of securities lending from a custody-based and non-custodial based approach.

The successful Bidder’s client servicing philosophy is expected to be best in class and incorporate the industry’s best practices. NYSIF expects to be assigned a dedicated client servicing team consisting of knowledgeable, experienced, and responsive individuals.

2.4 CUSTODIAL AND SECURITIES LENDING SERVICES

1. Accounts/Assets 12/31/2023 (NYSIF will not be providing details on our holdings)

TOTAL ACCOUNTS	TOTAL ASSETS
47	\$20,774,500,000

Accounting Key Service Deliverables

Class Action Reporting Monthly

2. Current Performance Deliverables

Frequency Service Description of Deliverable Report Deadline:

- **Daily** Performance Small Cap Equity Report **Daily AM**
- **Daily** Performance International Equity Report **Daily AM**
- **Daily** Performance Large Cap Equity Report **Daily AM**
- **Daily** Performance External Fixed Income Report **Daily AM**
- **Daily** Performance Daily Performance Summary Report **Daily AM**
- **Daily** Performance Asset Weights for total plan and fixed income **Daily AM**
- **Daily** Performance Estimated total plan asset weighted returns **Daily AM**
- **Daily** Performance All Equity All Periods with preferred indices **Daily AM**
- **Monthly** Performance Index Report - includes standard and custom indices **5th Business Day**
- **Monthly** Performance Funds of Funds performance **5th Business Day**
- **Monthly** Performance Small Cap Equity Report (part of External Managers Report) **7th Business Day**
- **Monthly** Performance International Developed Equity Report (part of External) **7th Business Day**
- **Monthly** Performance Large Cap Equity Report (part of External Managers Report) **7th Business Day**
- **Monthly** Performance FI Minor Asset Class Level **7th Business Day**
- **Monthly** Performance Emerging Market Equity Report (part of External Managers Report) **8th Business Day**
- **Monthly** Performance Executive Summary Report - preliminary **10th Business Day**
- **Monthly** Performance Net Manager Performance - preliminary **10th Business Day**
- **Monthly** Performance GEP HIP and STIP plans **10th Business Day**
- **Monthly** Performance High Yield Performance (part of External Managers Report) **7th Business Day**
- **Monthly** Performance Hybrid Summary of Fund Performance **10th Business Day**

- **Monthly** Performance Executive Summary – Final. **2 Business Days after the receipt of absolute returns, usually on the 20th calendar day, for non-quarter end months; 3 Business Days after the receipt of reports for quarter end month.**
- **Monthly** Performance Gross Performance **10th Business Day**
- **Monthly** Performance Net All Performance **10th Business Day**
- **Monthly** Performance Net Manager Performance – Final. **2 Business Days after the receipt of absolute return, usually on the 20th day, for non-quarter end months; 3 Business Days after the receipt of reports for quarter end month.**
- **Monthly** Performance Summary of Private Equity Funds **10th Business Day**
- **Monthly** Performance Absolute Returns Non-lagged **1 Business Day after the receipt of non-lagged absolute return values, usually on the 20th calendar day**
- **Monthly** Analytics Multi Factor Fixed Income Attribution through Yield Book on 3 total fixed income composites **45 days after the calendar after month end**
- **Monthly** Class Action Reporting
- **Quarterly** Performance Universe Comparison reports on UCRP and GEP total plan and major composites **35 days after the calendar quarter end**
- **Quarterly** Analytics Characteristics reports on active developed and active domestic equity composites **45 days after the calendar quarter end**
- Preliminary equity performance – **2nd business day**
- Preliminary fixed income performance – **5th business day**
- Final equity and fixed income performance – **9th business day**
- Since inception performance history file (equity and fixed income) – **9th business day**
- Equity manager attribution – **12th business day**
- WCF Fixed income attribution – **15th business day**

3. Disposition of Securities Lending Assets

Status Quo Scenario 12/31/2023

VENDOR ASSET CLASS	ASSETS % of TOTAL
EQUITIES	19.53%
CORPORATE BONDS	67.23%
T BILLS	3.89%
T BONDS	9.35%

TOTAL Lending \$252,566,591.42

4. Daily and Monthly report deliverables through FTP in required Blackrock formats for ingestion and integration with Aladdin® Enterprise and Aladdin® Accounting including but not limited to:

Frequency Service Description of Deliverable Report **Deadline:**

- **Daily** Bank loan position report in Blackrock Aladdin® ingestible format **Daily AM**

- **Daily** non-bank loan position report in Blackrock Aladdin® ingestible format **Daily AM**
- **Daily** Net Asset value report in Blackrock Aladdin® ingestible format **Daily AM**
- **Daily** External Money Manager Trade report in Blackrock Aladdin® ingestible format **Daily PM**
- **Daily End of day** External Money Manager Trade report in Blackrock Aladdin® ingestible format **Daily PM**
- **Daily End of day** Trade position report in Blackrock Aladdin® ingestible format **Daily PM**
- **Monthly** Bank loan position summary report in Blackrock Aladdin® ingestible format **as soon as available after month end**
- **Monthly** non-Bank loan position summary report in Blackrock Aladdin® ingestible format **as soon as available after month end**
- **Monthly** Net Asset Value summary report in Blackrock Aladdin® ingestible format **as soon as available after month end**

2.5 TERM

NYSIF anticipates awarding a seven (7) 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.

2.6 COST/INVOICING

The Bidder will submit bills for services rendered to NYSIF on a monthly basis. These will include per unit charges and volumes for all daily, weekly, and monthly services along with any additional services rendered for that month.

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](#).

2.7 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.

2.8 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.

2.9 PENALTIES

Notwithstanding any other provisions, NYSIF reserves the right to penalize the successful Bidder, including termination of the contract, if the successful Bidder fails to live up to any or all of the requirements of the contract awarded pursuant to this RFP.

To gain a measure of assurance that the successful Bidder will comply with all of the requirements of the contract awarded pursuant to this RFP, NYSIF reserves the right to invoke penalties for successful Bidder's failure(s). NYSIF reserves the right to withhold payment, in whole or in part, at NYSIF's discretion, in any case where a question of non-performance arises.

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 (MWBs), 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 ensuring 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 90 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, Albany or virtually. 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 as a Prequalification Criteria 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's best interest.

3.4 CONTRACT APPROVAL

The contract between NYSIF and the successful Bidder will not be binding until it has been approved by the NYSIF's Board of Commissioners and the Department of Financial Services (DFS).

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.
- NYSIF can accept proposals in either of the following submission formats. Note, see Section 4.2 for details on the Bid Format.
 - Via email to the address included under Section 4.3 with digital files attached. **The maximum file size NYSIF can receive via email is 35 mb.** Note, it is acceptable to NYSIF for Bidders to send in proposals through multiple emails if the proposal file size is prohibitively large; however, it is the responsibility of the Bidder to ensure the proposal broken up into clearly labeled and well-organized parts, and the proposal is sent & received prior to the due date & time. The electronic copy of your proposal & fee schedule **may not be password protected.** Note, **NYSIF is unable to open ".Zip" files.**
 - A hard copy proposal can be mailed to the address found under Section 4.3. Should a Bidder choose to submit a hard copy proposal, the submission must also include one (1) exact electronic copy on a USB flash drive of both the proposal and fee schedule.
- Bidders must submit each of the complete Administrative, Technical, and Cost Proposals **as separate electronic files** on a single USB flash drive or *OR* within the email submission. One example of an acceptable format for the files is unlocked Adobe PDF. NYSIF prefers that such files be searchable. The files must be representative of the original documents, **including signatures/notaries.** Electronic signatures will be accepted in lieu of original signature on the electronic version.
- The Fee Schedule Proposal must be **a separate electronic file** on the USB flash drive or *OR* within the email submission. **No references to costs are to be included in the Administrative and Technical proposal files.**
- 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

- Bidders must submit each of the complete Administrative, Technical, and Cost Proposals **as separate electronic files** on a single USB flash drive *OR* within the email submission. One example of an acceptable format for the files is unlocked Adobe PDF. NYSIF prefers that such files be searchable. The files must be representative copies of the original documents, **including signatures/notaries**. Electronic signatures will be accepted in lieu of original signature on the electronic version. 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.
- The Fee Schedule Proposal must be **a separate electronic file** on the USB flash drive *OR* within the email submission. **No references to costs are to be included in the Administrative and Technical proposal files.**
- 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 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.

4.2.4 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*.

4.2.5 APPENDICES

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

- ***MacBride Questionnaire, Appendix D***
- ***Vendor Responsibility Questionnaire, Appendix E:***
NYSIF recommends that vendors file the required Vendor Responsibility Questionnaire online via the New York State VendRep System. To enroll in and use the New York State VendRep System, see the VendRep System Instructions available at [Office of the State Comptroller's \(OSC\) website](#) or to enroll, go directly to the [VendRep System online](#).
OSC provides direct support for the VendRep System through user assistance, documents, online help, and a help desk. Visit the [OSC Help Desk webpage](#) for direct contact information. Proposers opting to complete the paper questionnaire are directed to the Appendix E Vendor Responsibility Questionnaire included within this RFP.
- ***NYS Certification, Appendix F***
- ***Encouraging Use of NYS Businesses in Contract Performance, Appendix G***
- ***Disclosure of Prior Non-Responsibility Determinations, Appendix H***
- ***EO 16 Certification: Prohibiting State Agencies and Authorities from Contracting with Businesses Conducting Business in Russia, Appendix J***
- ***MWBE/EEO Requirements and Procedures, Appendix M*** requires Bidders to submit (i) form 101; (ii) form 103 or a copy of bidders current NYSDDED 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 Proposal must be a separate electronic file on the USB flash drive *OR* within the email submission.
- **Non-Disclosure Agreement (NDA)**

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 SUBMISSION & 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.

- **Emailed Bids**

An email to contracts@nysif.com containing the bid must clearly outline the following information:

Email Subject line: Formal Proposal – Bid # 2024-55-INV

OR

- **Hand Deliveries / Parcel 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 # 2024-55-INV
15 Computer Drive West
Albany, NY 12205**

Bidders assume all risks for timely, properly submitted deliveries.

Hand Deliveries, Parcel Service, Courier, and/or Emailed bids must be received by 2:00 PM on 5/10/24. Bids received after the due date & time will be considered late and handled in accordance with Exhibit B, Clause 9.

Please be advised, the use of the United States Postal Service (USPS) for delivery of a proposal is PROHIBITED, as the bid will not be properly delivered to the Procurement Unit. Acceptable Parcel Services would include but are not limited to United Parcel Service (UPS), FedEx, and DHL. Hand Deliveries and the use of other Courier services are acceptable.

4.4 BID OPENING

All bids received by the due date and time established on the RFP calendar will be opened and recorded in accordance with NYSIF's procurement procedures. The results of the bid will be posted on the [NYSIF procurement page](#).

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.
- _____ 8. The Bidder assures that NYSIF's information or data is NOT transmitted outside of or accessed from outside the United States. *Any exceptions to these terms and conditions must be explicitly stated in a separate section of the proposal. NYSIF reserves the right to seek non-material clarifications to this provision if determined to be in NYSIF's best interest. Bidders who do not meet the minimum required data security levels will be disqualified.*
- _____ 9. The Bidder is in compliance with all laws, statutes, rules and regulations or any federal, state or local governmental authority in the United States of America applicable to Bidder and all beneficial owners of Bidder, including, without limitation, the requirements contained in the rules and regulations of the Office of Foreign Asset Control of the Department of the Treasury ("OFAC") and in any enabling legislation or other Executive Orders in respect thereof.

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.

BIDDER CERTIFICATIONS

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. The NYSIF will review the nature of any relationships and reserves the right to terminate any contract for any reason, or for cause, if, in the judgement of NYSIF, a real or potential conflict of interest cannot be cured.
- _____ 5. Bidder must disclose any existing or contemplated relationship with any other person or entity, including relationships with any of its members, shareholders of 5% or more, parents, subsidiary, or affiliated firm, which would constitute an actual or potential conflict of interest or appearance of impropriety, relating to other clients/customers of the Respondent or former officers and employees of the NYSIF, in connection with your rendering services enumerated in this 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 the NYSIF of, and resolve such conflicts.
- _____ 6. Bidder must disclose whether it, or any of its members, shareholders of 5% or more, parents, affiliates, or subsidiaries, have been the subject of any investigation or disciplinary action by the New York State Commission on Ethics and Lobbying in Government 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.

BIDDER CERTIFICATIONS

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 Commission on Ethics and Lobbying in Government, 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 Commission on Ethics and Lobbying in Government, and, if deemed appropriate by the State, instruct any such person to seek the opinion of the New York State Commission on Ethics and Lobbying in Government. 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

NYSIF Statement on Responsible Contracting

_____ 1. New York State Insurance Fund ("NYSIF") supports responsible contracting, fair wages, and fair benefits for workers who are employed by its contractors and subcontractors. In its real estate and infrastructure investments, NYSIF encourages the performance of investment managers, advisors, contractors, and subcontractors that upholds fiduciary principles related to the duty of loyalty and the duty of prudence. Performance of investment and services made and managed to achieve a competitive risk-adjusted return complies with these duties.

Responsible contracting includes contractors' demonstrated compliance with local, state, and federal laws and payment of prevailing wages. Furthermore, NYSIF supports labor unions and promotes the use of union labor in the development of its real estate and infrastructure investment objectives.

Sexual Harassment Prevention:

_____ 1.* By submission of this bid, pursuant to NY State Finance Law § 139-L, 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 of Officer

Sworn to before me this

Typed/Printed Name

_____ **Day of** _____, **20**_____

Title

Notary Public

Company Name

Registration No:
State:

Date Signed

Attachment 1 – MANDATORY REQUIREMENTS AFFIRMATION

Bidders must affirm that they meet the stated Mandatory Requirements (Yes / No Affirmation). In addition, please include Supporting Documentation that evidences Bidder ability to meet the Mandatory Requirements in the table directly or below table.

Firm Mandatory Requirements	Affirmation	Supporting Documentation
	Yes / No	Please detail how the qualification is met
Qualification 1		
Bidder must accept and enter into a written services contract as supplied by NYSIF and modified as mutually accepted.		
Qualification 2		
Bidder must agree to provide the services as detailed in the Technical Specifications and Scope of Services, as well as agree to all other requirements as stated in this RFP.		
Qualification 3		
Bidder's key professionals and the organization must not have, nor could they potentially have, a conflict of interest with NYSIF or members of its Board of Commissioners.		
Qualification 4		
As of 12/31/23, Bidders must have total assets under trust/custody for clients in excess of U.S. \$150 billion.		
Qualification 5		
As of 12/31/23, Bidders must be a U.S.-domiciled trust company or bank and a member of the Federal Reserve, or a U.S. subsidiary of a foreign bank subject to the jurisdiction of U.S. courts and have substantial unimpaired equity capital.		

Qualification 6		
As of 12/31/23, Bidders must have at least five (5) U.S.-based clients, each with U.S. marketable security trust assets having a market value in excess of U.S. \$10 billion.		
Qualification 7		
As of 12/31/23, Bidders must be providing and have done so for a minimum of five years, international custodial services for at least five (5) U.S.-based clients, each with international marketable security trust assets having a market value in excess of U.S. \$3 billion.		
Qualification 8		
As of 12/31/23, Bidders must be members of and have the ability to clear transactions or cash through, all major book entry or electronic securities depositories, such as the DTC system, and the Federal Reserve System.		
Qualification 9		
Bidder must agree that if the custodial agreement is terminated or if 100% of the account assets in any one custody account have been withdrawn, the custodian will provide written notification within three (3) business days of termination or withdrawal to the insurer's domiciliary commissioner.		

ATTACHMENT 2

CUSTODY SERVICES QUESTIONNAIRE

- I. Organizational Resources, Client Service Team, & Client Profile
- II. Core Custodial Services
- III. Cash Management
- IV. Technology/Systems Support
- V. Transition Planning & Support
- VI. Securities Lending – Custodial Lending
- VII. Third Party/Principal Securities Lending Program Support
- VIII. Investment Performance Measurement and Analytics.

I. Organizational Resources, Client Service Team, & Client Profile

1. Provide a brief description of the corporate history, primary locations of business, strategic partners and alliances, company structure, and ownership.
2. Provide a brief description of the history and development of your master trust/master custody services and capabilities, including dates of both implementation of key elements and enhancements to the service. Give a brief description of your organization’s overall philosophy. Please further comment on any joint ventures, strategic partners, and alliances.
3. What is the total of all assets held in custody for non-mutual fund clients at December 31, 2023? How many client relationships does this represent?
4. What is the total of all assets held in custody for mutual fund clients at December 31, 2023? How many client relationships does this represent?
5. What is the total revenue derived from master trust/master custody services? What percentage of the bank’s revenue comes from master trust/master custody services? What is the bank’s commitment to master trust/master custody relationships? Summarize your business plan for master trust/master custody services for the next three years. What role does service to the insurance and public fund sectors play in this business plan?
6. Please summarize your client base in the table included below:

Client Type & Size # of Relationships Aggregate Asset Size (\$MM)

Corporate ALL

Corporate <\$500MM

Corporate \$500MM+ - \$1BB

Corporate \$1BB+ - \$5BB

Corporate \$5BB+ - \$25BB

Corporate \$25BB+

Public Fund ALL

Public Fund <\$500MM

Public Fund \$500MM+ - \$1BB

Public Fund \$1BB+ - \$5BB

Public Fund \$5BB+ - \$25BB

Public Fund \$25BB+

Taft-Hartley/Union ALL

ATTACHMENT 2 CUSTODY SERVICES QUESTIONNAIRE

Taft-Hartley/Union <\$500MM
Taft-Hartley/Union \$500MM+ - \$1BB
Taft-Hartley/Union \$1BB+ - \$5BB
Taft-Hartley/Union \$5BB+ - \$25BB
Taft-Hartley/Union \$25BB+
Endowments/Foundations ALL
Endowments/Foundations <\$500MM
Endowments/Foundations \$500MM+ - \$1BB
Endowments/Foundations \$1BB+ - \$5BB
Endowments/Foundations \$5BB+ - \$25BB
Endowments/Foundations \$25BB+
Other (e.g. Mutual Funds) ALL
Other (e.g. Mutual Funds) <\$500MM
Other (e.g. Mutual Funds) \$500MM+ - \$1BB
Other (e.g. Mutual Funds) \$1BB+ - \$5BB
Other (e.g. Mutual Funds) \$5BB+ - \$25BB
Other (e.g. Mutual Funds) \$25BB+
TOTAL ALL

How many custodian clients have you gained and lost in each of the past three years for reasons other than mergers and acquisitions? For each account lost over \$5BB, indicate the reason for termination and provide a prior contact name and phone number.

7. Please provide the name, asset size, contact person, and phone number of three existing clients whom we may contact for references. The funds should be of similar size, complexity, and portfolio composition as our fund. Please ensure that two references have assets in excess of U.S. \$10 billion. Please refer to Section 4.2.6 of the RFP regarding Reference Information. References should be supplied on Appendix I.
8. Provide and discuss the most recent credit ratings received on your short-term and long-term debt.
9. Provide and discuss the most recent capital adequacy ratios available (Tier 1 and Tier 2).
10. List all relevant insurance coverage. Please indicate the type, coverage, limitations, expiration and deductible amounts.
11. Has your firm been the subject of any litigation regarding custodial trustee services or regulatory sanctions over the past five years? If so, please describe fully.
12. Please describe any actual or potential conflicts of interest your company would have in providing the services discussed in this RFP.
13. How many personnel are assigned directly to the business unit providing the services required by this RFP (hereinafter referred to as "Business Unit")?
 - a. Management/Administrative;
 - b. Relationship Management;

ATTACHMENT 2 CUSTODY SERVICES QUESTIONNAIRE

- c. Accounting/Service Delivery;
 - d. Technical/Analytical;
 - e. On-site personnel;
 - f. Other; and
 - g. Total
14. How do you propose to service our organization? What regular communications processes do you propose to support this structure?
15. NYSIF requires ongoing, on-site training of their staff on the custodian's on-line tools and systems. How do you propose to provide additional structured training sessions? (Please provide specifics on locations and format of sessions). How often would you conduct these training sessions?
16. What process is in place to ensure continuous coverage of our relationship in the absence of primary members of the service team and on-site personnel team (as provided)?
17. Comment on the personnel turnover your organization has experienced in the administration and client service area in the past three years. Please differentiate between individuals leaving the firm and those moving to other departments within the firm. Describe your efforts to attract and maintain qualified administrators and client service officers. Regarding personnel turnover either as a result of leaving the firm or moving to other departments, how does the firm handle the training of replacements for existing client relationships?
18. List the names of the key client service personnel who will be assigned to this account. Provide a professional biography for each person listed and each officer of the Business Unit reporting line. Include the names of other organizations for which they have performed related duties.
19. Describe the Business Unit and personnel who would service NYSIF's external and internal managers. Discuss how these individuals would interface with our client service personnel.
20. Describe the Business Unit and personnel who would provide NYSIF with regular accounting and reconciliation services. Discuss how these individuals would interface with our client service personnel. What are the general required qualifications of your client service accountants?
21. How do you propose to coordinate the delivery of service with staff located in different geographic locations?
22. Identify the number of accounts of the Business Unit for each line of business identified by the following column titles. Report aggregate values of their total assets in your custody in U.S.\$ millions as of December 31, 2023 and the preceding five years:

Business Unit ACCOUNTS AND ASSETS
Master Trust/Custody
Tax-Exempt
Year Accounts Value

ATTACHMENT 2 CUSTODY SERVICES QUESTIONNAIRE

2018
2019
2020
2021
2022

23. Provide the number of tax-exempt accounts gained or lost as specified for the periods listed below. Report corresponding market values in U.S.\$ millions as of initiation date for accounts gained and as of termination date for accounts lost. Describe the circumstances behind each lost account identified.

TAX-EXEMPT MASTER TRUST/CUSTODY ACCOUNTS

Gained

Lost

Year Accounts Value Accounts

Value

2019

2020

2021

2022

2023

24. Provide the following information for the five largest public fund and five largest insurance fund custody accounts of the Business Unit in descending order by total asset values as of December 31, 2023.

BUSINESS UNIT'S LARGEST FIVE PUBLIC FUND ACCOUNTS BY TOTAL ASSET VALUE AS OF December 31, 2023

Total Asset Value

(U.S.\$ Million)

Start Year

BUSINESS UNIT'S LARGEST FIVE INSURANCE FUND ACCOUNTS BY TOTAL ASSET VALUE AS OF December 31, 2023

Total Asset Value

(U.S.\$ Million)

Start Year

25. Please provide (in SAMPLE REPORTS/OTHER MATERIALS) a listing of all public fund and insurance clients currently retaining your institution for master trust/master custody services. Please identify the name, total assets (U.S.\$ Millions) at 12/31/2023, relationship start year, whether clients utilize your securities lending program, and whether clients utilize your performance analytics services.
26. List each country for which you are custodian of assets for clients of the Business Unit and provide the following information: The name of the depositories and agents, which your organization uses directly and with which you have a signed agreement.

ATTACHMENT 2

CUSTODY SERVICES QUESTIONNAIRE

27. If more than one is used in any market, list each of them. Please provide this information in SAMPLE REPORTS/OTHER MATERIALS.
28. Please provide summary data as of 12/31/2023 in the following format:
 - a. Total number of countries in which assets are custodied;
 - b. Total number of depositories, agents, or sub-custodian banks used directly (with a signed agreement); and
 - c. Total market values of foreign assets held for U.S. investors.
29. Describe how your firm will ensure compliance with applicable laws and regulations including the best practices coded into the Sarbanes-Oxley Act. Who in your organization is responsible for monitoring compliance and how does that individual and/or group communicate compliance-related information to your clients?
30. What services distinguish you from your competitors?

II. Core Custodial Services

31. What is/are the name(s) of the working unit(s) that process U.S. trades and settlements and provide investment accounting data? Describe their reporting relationship and level of responsibility to the Business Unit.
32. Discuss your settlement performance for processing trades, i.e. settlement rate, failed trades, average age of failed trades, etc. by country for the last three years. What is your current total fail rate for sales and purchases? Discuss your procedures for a daily proof of settlements of U.S. trades reported by your depositories, agents, and sub-custodians. Discuss your procedures for tracking failed U.S. trades, reporting failed trades to the client and to the investment manager, and how they are resolved.
33. Discuss your operational procedures for settling purchases and sales. Include in your discussion actual settlement date processing and contractual settlement date processing.
34. Discuss your policy and procedures for assuring that each client's assets are properly held in safekeeping and positions are accurately maintained in your accounting records. Include information on segregation of assets and distinctions between physical and book entry positions.
35. How do you determine your responsibility, as well as your agent's responsibility, for compensation for losses to client accounts due to errors in processing?
36. What are your primary and supplemental pricing sources? Please provide a full schedule of all primary and supplemental pricing sources by asset class in SAMPLE REPORTS/OTHER MATERIALS. Describe your method of receipt and input of prices for stocks, bonds, options, derivative products, convertibles, real estate, limited partnerships, syndicated loans (bank loans), private markets, privately placement investments and futures contracts including how frequently prices are updated. Are all procedures for all asset classes consistent with your accounting systems?

ATTACHMENT 2

CUSTODY SERVICES QUESTIONNAIRE

- a. Do asset valuations include accrued income and pending transactions?
 - b. How are valuation differences resolved between the investment manager and the master custodian? Please detail your materiality level or standards that prompt you to research pricing differences.
 - c. How do you price securities not available from a pricing service, such as private placements?
 - d. Can the client specify alternative pricing sources?
 - e. What procedures are in place, if any, to investigate unusual or significant pricing changes from the previous pricing period?
 - f. How do you resolve pricing discrepancies with your clients?
 - g. What is your policy on updating or changing prices?
 - h. Is daily pricing available?
37. Describe your systems and procedures for securing and providing clients with proxy information and facilitating voting.
38. Please describe your process of providing advanced record dates for proxy votes and cut-off dates for proxies.
39. Describe your procedures for ascertaining entitlements and accruals for corporate actions (stock splits, stock dividends, spin-offs, mergers/acquisitions, tenders, calls, warrants, maturities, etc.).
40. Describe in detail your process for providing notice to clients of corporate actions requiring their decisions and notification from then prior to processing, including:
- a. Methods of notifying clients;
 - b. Methods of receipt of instruction from clients; and
 - c. Procedures for implementing client elections.
41. Describe the services your firm provides for securities and bankruptcy litigation; can your firm file a proof of claim for such actions? Please detail your firm's procedure for ensuring timely delivery of class action and bankruptcy proof of claims to allow clients adequate time to process these claims.
42. Does your firm take in historical data from prior custodians to facilitate the continuous filing of proof of claim? What limitations and added costs (discuss all) does your process have?
43. Does your firm, if services are terminated, continue to file proofs of claim for class action activity covering periods for which your custodial services were retained? What limitations and added costs (discuss all) does this process have?
44. Describe your process and procedures for interfacing with the investment managers serving your custody clients, including the following:
- a. Dedicated staff positions and responsibilities;
 - b. Mode and means of trade instruction communication and validation;
 - c. Mode, timing, and content of daily and monthly reports;

ATTACHMENT 2

CUSTODY SERVICES QUESTIONNAIRE

- d. Inquiry and problem resolution processes;
 - e. Reconciliation and audit processes (please detail process and provide information on acceptable tolerance levels allowed); and
 - f. Ability to reflect daily transactions and holdings for external assets under custody, in reporting both ad-hoc and established report formats.
45. How does your service to your clients' internal investment managers differ from that provided to their external managers?
46. What are your standard cut-off times for receiving and processing booked trades into your pricing and accounting systems?
47. Describe your procedures for processing trade instructions. Provide a flow chart, which depicts:
- a. Inter-unit information and transactional process. This information should contain a summary of the following information elements which NYSIF would have access to in further detail upon request:
 - b. Name and reporting responsibilities of working units performing the processing;
 - c. Electronic receipt of securities trade instructions;
 - d. Other modes of receiving trade instructions and parties using them;
 - e. Trade validation procedures;
 - f. Degree of automation of each method of trade validation
 - g. Is manual intervention possible, if required;
 - h. Provisions for electronic trade instructions;
 - i. Asset transfers, pending trades, including details as to when you price the portfolio for performance measurement given the occurrence of asset transfers; and
 - j. Procedures utilized to ensure that client-imposed/specified authorization requirements are met.
48. Provide information regarding your procedures for establishing entitlements/accruals for dividends and interest for all asset types.
49. Describe the process by which you validate the information for entitlements/accruals from your primary sources. List the alternate sources and procedures used for enriching the accrual establishment database. Distinguish between automated, semi-automated, and manual steps.
50. Describe your procedures for payable date credit. Identify all exclusions in your response.
51. Provide information regarding the timing and procedures for posting income receipts to client accounts. What are your sources of information? How is it received?
52. Provide information regarding your procedures for establishing entitlements/accruals for capital changes.
53. Describe in detail your process for U.S. and non-U.S. capital changes, including:
- a. Sources of information on terms and elections;

ATTACHMENT 2 CUSTODY SERVICES QUESTIONNAIRE

- b. Methods of notifying clients;
 - c. Timing of notice (please note availability of same day notice);
 - d. Methods of receipt of instruction from clients;
 - e. Timing required;
 - f. Policy for posting capital change transactions;
 - g. Procedures for implementing client elections;
 - h. Method and mode of relaying instructions to sub-custodians;
 - i. Procedures for controlling sub-custodians' timely and appropriate action;
 - j. Describe your on-line reporting capabilities for capital changes; and
 - k. Discuss your procedures for posting capital changes to client accounts.
54. How will failed trades be reflected in your monthly reports? Please detail for the following:
- a. U. S. domiciled securities; and
 - b. Non-U.S. domiciled securities.
55. Describe your process for account overdrafts resulting from failed trades.
56. Describe the process you will follow to notify clients about trade discrepancies on settlement date.
57. Describe your process for Margin Requirements under FINRA Rule 4210. Please include a flowchart of the workflow.
58. Describe the security identifier or identifiers used in your system for domestic and international securities. Describe how Dummy security identifiers are used. Is there client-directed flexibility in their use, or lack thereof?
59. Discuss turn around time and flexibility in development of both new and revised monthly reports. Provide one or more samples (in SAMPLE REPORTS/OTHER MATERIALS) of customized reports developed for clients in the past and describe your flexibility in developing them.
60. Discuss your ability to deliver holdings and transaction reports sorted at the lowest level of security type detail.
61. Regarding custody services for syndicated bank loans:
- a. Describe whether your transaction reports include security identifiers for all transactions, including but not limited to cash transactions. If reports do not have security identifiers for all transactions, explain, in detail, the reason(s).
 - b. State:
 - i. In general, whether your reports break out line items by transaction and time period.
 - ii. As an example involving the following simultaneously reported group of transactions: [paydown, interest, restructure fee], whether your reports would contain one line item each for the paydown, interest and restructure fee.

ATTACHMENT 2

CUSTODY SERVICES QUESTIONNAIRE

- c. State whether data across reports, and types of reports, is expected to be consistent at all given points in time. If consistency at any given point in time cannot be expected, explain the reason(s).
 - d. Regarding resolving breaks in reconciliation reports your firm uses to ensure accuracy and consistency of bank loan data across your firm's systems and client reports:
 - i. State whether the reconciliation report can be provided to clients at least weekly.
 - ii. Describe your process for resolving breaks.
 - iii. List the types of breaks for which your ability to resolve such breaks is constrained by the responsiveness and/or actions of external non-client entities such as paying agents and the client's external investment managers.
 - e. State whether for each secondary event, all transactions for a particular event are booked, and thereby reflected in reports, at a single point in time. If it cannot be expected that all transactions for a particular event are booked at a single point in time, explain the reason(s).
 - f. State whether asset servicing, asset substantiation, cash reconciliation, and independent loan valuation services will be provided for bank loan assets?
 - g. State if there are any services offered for private market, such as managing capital call, tracking cash payments, distributions, and other transactions from the fund. Additionally, conducting periodic valuations of the fund taking into account past and future capital calls.
62. How long can you maintain data in a format readily available to be accessed by the client?
- a. Describe your client data archiving policy and procedures.
63. Do you offer global account services that facilitate international transactions?
64. What types of accounts do you provide for global clients, and what are the associated features and benefits?

III. Cash Management

65. What U.S. and non-U.S. investment vehicles are available for overnight investment? What alternatives are available in countries where short-term investments are not available? Which can be accessed automatically by a "sweep"? Provide a description of each vehicle in SAMPLE REPORTS/OTHER MATERIALS including: investment philosophy, objectives and guidelines, performance measurement techniques, investment performance, current and historic costs of investment management and fees. Describe your process of maintaining full investment (a daily "sweep") of U.S. currency balances for plans invested globally, including:
- a. Investment vehicles available to sweep (discussed in this section as STIF for "short-term investment funds");
 - b. How sweep ties into trust accounting and cash forecast;
 - c. Process and timing of notification of investment managers of available cash;

ATTACHMENT 2

CUSTODY SERVICES QUESTIONNAIRE

- d. Timing requirements for notification of cash needs;
 - e. Treatment of unexpected receipts after investment cut-off;
 - f. Identification of automated procedures and manual procedures;
 - g. Client and investment manager electronic access to information including: cash sweep (investment) transactions;
 - h. Details of the day's cash remittances and disbursements;
 - i. Detail supporting calculation of day's deposit to or withdrawal from STIF; and
 - j. Please explicitly describe all fees related to sweep and idle investment of funds.
66. Describe your cash forecast system.
- a. What information/reports are available to customers from this system?
 - b. How far into the future (number of days) is information available?
 - c. How do you measure accuracy/confidence of forecasts?
67. Does your Business Unit deliver electronic feeds for daily cash and transactions? When would feeds be available to our accounting office?
68. Discuss your capabilities for transmitting wires on behalf of our fund. Discuss your capabilities for receiving wires to our fund. Discuss any limitations on transmissions or receipts.
69. What processes are in place to authenticate wire transfers and maintain security over wire transfers? Please describe both standard levels of authentication (levels of approval and cash template creation, etc.) as well as the maximum capabilities of your automated system.
70. Please discuss all future and in-progress developments in this area.
71. Please discuss your ability to maintain separate wire accounts for individual portfolios to facilitate the tracking of cash movement. Is this a standard practice for you? If not, please describe how you would provide NYSIF with ready access to transactional information directly linked to specific portfolios.
72. Please discuss your capability to process USD payments and receipts to/from foreign banks for custody settlements.
73. Discuss your ability to issue an irrevocable standby Letter of Credit subject to and governed by the laws of the state of New York with automatic annual renewal.
74. Do you offer overseas wiring capability for international fund transfers or trading?
75. What measures do you take to ensure the security and confidentiality of overseas wire transfer transactions?
76. How do you ensure compliance with regulatory requirements for overseas wire transfers?

IV. Technology/Systems Support

ATTACHMENT 2

CUSTODY SERVICES QUESTIONNAIRE

77. Describe your technology support organization. Include in your description responsibilities, reporting lines and staffing.
78. How do you handle new and/or special projects? What will be the priority process? How do you plan to coordinate these types of requests?
79. Describe the major systems supporting the custody service, which includes accounting, settlement, safekeeping, reporting, performance, and securities lending. What is your current capacity (ability to process additional electronic instructions, etc.)? Describe any major system architecture changes and differentiators from competing institutions.
80. What has been your investment in systems development and technology for the Business Unit in the past five years? Specify the enhancements made and the dollars and percentage of Business Unit revenues committed. What is your planned investment in systems development for the Business Unit this year and each of the next five years? Specify the anticipated enhancements that will be made and percentage of Business Unit revenues that will be allocated.
81. Describe the ability of Business Unit to provide data feeds utilizing SFTP and PGP (Pretty Good Privacy) encryption. Recognizing NYSIF's requirement for a consolidated data extract, please discuss any major implementations of customized data extract delivery projects for current and prior clients.
82. Does your organization have the ability to provide data in SWIFT 15022 or 20022 format? If not, is your organization able and willing to conform to SWIFT messaging?
83. Please comment on your ability to receive, issue, and process data in SWIFT ETD (Electronic Trade Directions) format. Please clearly describe any and all limitations.
84. Describe the security measures taken for your systems, users and access points. Include remote access, application access, and software access. Discuss your ability to provide encrypted data feeds. Include in SAMPLE REPORTS/OTHER MATERIALS descriptions of your major systems' backup procedures and a synopsis of your contingency plan(s).
85. Describe the major components of the business continuity plan for the Business Unit and the firm. Provide the following information in SAMPLE REPORTS/OTHER MATERIALS:
 - a. Summaries of all pertinent plan documentation as an attachment.
 - b. Specific examples of continuity plan implementation.
 - c. Results of continuity plan testing.
86. Briefly describe the Business Unit's disaster recovery plan. Provide the following information in SAMPLE REPORTS/OTHER MATERIALS:
 - a. Summaries of all pertinent plan documentation as an attachment.
 - b. Specific examples of disaster plan implementation.
 - c. Results of disaster recovery plan testing.

ATTACHMENT 2

CUSTODY SERVICES QUESTIONNAIRE

87. Provide information on your systems that have the capability of securely interfacing with those of NYSIF wherever possible.
88. Describe your change management process and the environments available for integration testing with NYSIF.
89. Describe how your firm would implement an effective quality assurance methodology and quality control process for software interface that ensures there is a clear understanding between the software provider and the customer as to the precise requirements and the intended use of the software.
90. Provide an outline of how your firm would work with the NYSIF technical staff to develop an implementation strategy that will minimize the risk associated with implementing the systems of this size, scope and complexity.
91. Describe your firm's approach, methods, tools and techniques for the development process. Include a description of the testing strategies for unit, system, user acceptance, volume and regression testing.
92. Describe how your firm would identify the proposed system deployment and post deployment approach methods, specifically the tools and techniques for:
 - a. Monitoring and maintaining its operation.
 - b. Timely notification of all stakeholders in the event of failure within one hour of discovering failure.
 - c. Recreation of files in case of technical failure (required within twenty-four hours.)
93. Outline proposed SLA and escalation plan for software interface.

V. Transition Planning & Support

94. What group or unit will serve as the transition team in planning and implementing the transition of our account? Identify the individuals and specify the team leader and the roles each member will serve in the transition. Also, describe their experience and how they are related to the Business Unit. Include the team members' professional biographical information.
95. Explicitly describe your formal transition planning process. Provide (in SAMPLE REPORTS/OTHER MATERIALS) a sample of documentation and a proposed timeline/transition plan for the anticipated transition events. How would the transition of our account differ from a "typical" transition?
96. What planning and training would you need to conduct with?
 - a. NYSIF's staff;
 - b. relevant state agencies;
 - c. NYSIF's outside investment managers;
 - d. NYSIF's internal investment managers;
 - e. NYSIF's current master custodian;

ATTACHMENT 2 CUSTODY SERVICES QUESTIONNAIRE

- f. your depositories, agents and sub-custodians; and
 - g. NYSIF's third party securities lending providers.
97. Provide a detailed description of your last comparable conversion judging similarity by relative plan size and complexity. Include details of specific problems that occurred, and the solutions implemented, timeline, etc.
98. What resources are required of the client during the transition period? Include in your response both NYSIF personnel and time resources anticipated.
99. What lead-time is required for a typical large client transition and how might our transition be different?
100. What is the role of the transition team during implementation? Will our ongoing service team be involved in the transition? Will there be overlap with the transition team?
101. How would you prepare your accounting and performance measurement databases and systems for processing our investments? Discuss the following:
- a. What information would you load into your system in advance?
 - b. Can you back-load performance data for accounts, composites, and benchmarks? Clearly describe any and all limitations to your abilities in this area.
 - c. How could you receive that data and in what format?
 - d. For what period would you conduct parallel processing in order to develop history, test procedures, and establish entitlements/accruals?
 - e. How far in advance would you begin processing trades to prepare for live processing of settlements by the conversion date?
 - f. What is your policy for treatment of accruals earned before the conversion date?
102. How would you conduct the transfer of securities and cash from a prior custodian to control the risk of loss of assets and assure that all securities are received and accounted for properly?
103. Please describe your communications style, strategy and a detailed sense of the process by which assets would be transitioned with external managers, third party lenders, and NYSIF staff?

VI. Securities Lending – Custodial Lending

104. Describe your securities lending program, Include a brief history. Describe the organization and its structure, including:
- a. Number of employees;
 - b. Names of key staff and their experience;
 - c. Staff turnover in the last 3 years;
 - d. Size of program (total assets currently lent, clients in lending program);
 - e. Significant development over the past 3 years;
 - f. Client turnover for each of the last 3 years; and
 - g. Style/strategy of program (matched versus unmatched; philosophy on term loans).

ATTACHMENT 2 CUSTODY SERVICES QUESTIONNAIRE

105. On average over the last 3 years, what percent of eligible securities were on loan and what was the average spread earning for each of the following asset types?
- a. Domestic equities;
 - b. Government bonds;
 - c. Corporate bonds;
 - d. International equities;
 - e. Mortgage-backed securities; and
 - f. U.S. agencies.
106. Describe the asset categories and country locations in which you lend securities. Identify when you started in each category and what factors you consider before lending in a particular category. Provide a list (in SAMPLE REPORTS/OTHER MATERIALS) of markets and asset categories in which you currently perform securities lending functions as of 12/31/2023.
107. What are your procedures for recalling loaned securities, when they are sold from the portfolio?
108. How do you limit the number or incidence of failed trades?
109. Does the increased probability of settlement problems in certain markets enter into your decision to loan securities in those markets? Comment on failed trades, the expected frequency, how they are handled and any trade settlement protection or compensation that you provide, including your policy and procedures with respect to buy-ins.
110. Have you or your clients ever sustained a loss as the result of your lending activities? If yes, provide an explanation of the loss, loss mitigation efforts and the magnitude of the loss.
111. What are the terms of indemnification available to your clients? Describe in detail your indemnification policy against losses to lending participants.
112. Describe your errors and omissions insurance coverage and any other insurance coverage your firm carries for securities lending clients.
113. Describe how you apportion loans across multiple lending clients. Describe any and all instances where the queue may be "overridden".
114. Describe your initial and ongoing credit analysis program. How are credits monitored and what actions are taken after credit downgrades? How many brokers are authorized to borrow in your program? In SAMPLE REPORTS/OTHER MATERIALS, please provide a list of your current borrowers, and a copy of the company's standard securities lending agreement(s) or securities borrowing agreement(s) between the company and the borrowers under which the company lends securities on behalf of its customers. Please also provide a description of your credit review process and how often the names are reviewed. How are dealer, bank, or other lending limits determined and who makes those decisions?

ATTACHMENT 2

CUSTODY SERVICES QUESTIONNAIRE

115. Our fund requires that all loaned securities be collateralized at an agreed-upon margin and marked to market daily. Describe the monitoring procedures in place for ensuring the appropriate collateral levels are maintained, which pricing sources you use and how often portfolios are priced.
116. Discuss your standard and custom collateral portfolio guidelines for a separate collateral pool managed by your firm under this agreement. Who will be responsible for the management of that portfolio at your firm? Please provide biographies for these individuals.
117. Discuss your accounting for the loan and the collateral.
118. Describe your securities lending reporting capabilities. Provide (in SAMPLE REPORTS/OTHER MATERIALS) a sample of your standard daily, monthly, quarterly, and annual reports. Are these reports also available electronically? Please ensure that reports are provided that detail the following areas:
- a. Collateral;
 - b. Securities on loan;
 - c. Cash collateral reinvestment holdings; and
 - d. Consolidated asset/liability exposure.
119. Describe initial and ongoing credit analysis for assets purchased with cash collateral. How are credit limits set? Where do these credit analysts reside within your organizational structure and to whom do they report?
120. Describe and provide detailed information (in SAMPLE REPORTS/OTHER MATERIALS) on cash collateral reinvestment options for:
- a. Separately managed accounts;
 - b. Commingled funds;
 - c. Guidelines;
 - d. Size of fund; and
 - e. Number of participants.
121. Discuss the process of marking to market the reinvestment portfolio. How often is this performed? What pricing sources are utilized? How do you price securities that do not have a readily available price?
122. Discuss your firm's risk management tools/systems related to securities lending. Please provide sample reports/outputs of your system in SAMPLE REPORTS/OTHER MATERIALS.
123. Describe your compliance process related to your securities lending program. Please provide sample reports in SAMPLE REPORTS/OTHER MATERIALS.
124. Please discuss all fees related to your program.

ATTACHMENT 2

CUSTODY SERVICES QUESTIONNAIRE

VII. Third Party/Principal Securities Lending Program Support

125. Do you currently support third party or principal lending programs for any of your custody clients? If so, for how many clients? How long have you been supporting third party lending? Please provide a list (in SAMPLE REPORTS/OTHER MATERIALS) of all third-party lending agents and/or principal borrowers with whom you are currently working with or have worked with in the past.
126. Do you have a dedicated group responsible for third party lending support? If so, where does this group fall within your organization (custody, securities lending, other)?
127. Describe the method of coordination between your firm as custodian and third-party agents and/or borrowers. Please describe any and all resources and electronic tools made available to assist with lessening operational risks associated with third party lending. Will our lending agents and consultants have access to your on-line systems? Please describe any and all limitations in the support your firm can offer.
128. Are you willing to provide contractual settlement for securities/portfolios being loaned by a third-party agent or borrowed by a principal borrower? Do you make a distinction between domestic and international securities?
129. How are holdings information and transactions communicated between parties (SWIFT, ISITC, e-mail, fax, etc.)? What system(s) do you use to support your clients' third-party lending programs? Is it the same system that is used for your proprietary securities lending business?
130. Can you provide holdings data with all sells backed out with T+1 data? Please describe any limitations on providing this service.
131. How is operational risk minimized for your clients using third party agents? Please detail your daily reconciliation procedures.
132. How are recalls, corporate actions, and income collections handled for securities out on loan?
133. What is the timeframe for the recall of securities on loan? How does your firm reduce the likelihood of sell fail costs and overdraft charges through the prompt receipt of securities? Please describe your current process and any initiatives to improve this operational aspect of your support to our program.
134. Recognizing NYSIF's requirement for same day notification (within 24 hours) of corporate actions, how do you ensure that our third-party lenders receive this level of timeliness in the notification of corporate actions?
135. What systems, electronic or otherwise, are available to provide automated notifications to interested parties? Are corporate actions notifications handled on the same system? Are these notifications available to our lending agents?

ATTACHMENT 2 CUSTODY SERVICES QUESTIONNAIRE

136. How much time do you allow third party lenders to return securities from being on loan once the client or investment manager has communicated its response to the corporate action?
137. Discuss your policy and resolution procedure relative to failed trades. Who assumes responsibility for settlement failures?
138. Would you supply or build any required interfaces between your systems and third-party lending agents or principal borrowers? If so, how long will it take to establish all necessary interfaces? At what cost? Please comment on your ability to build and provide fully customized daily availability feeds to multiple lending agents.
139. Please discuss custodial fees, wire fees, systems development costs and any other fees or costs associated with third party lending, and which parties have responsibility for those fees.
140. Are the fees for third party lending transactions the same as those charged for the custodian-lent portfolio? If not, please detail the differences and explain why the fees would not be the same.
141. What safeguards do you have that prevent your internal securities lending area from lending securities designated for our third-party lenders? How does your firm ensure the confidentiality of our third-party lenders' data?
142. What are your standard Fed, DTC, and wire instruction deadlines to process trade activity for a third-party lender? (Please provide details for faxed, electronic, or other instructions).
143. Please comment on your ability to receive and process SWIFT ETD (Electronic Type Definitions) instructions from our lenders. Please clearly describe any and all limitations.
144. What procedures do you have in place for chasing DTC or late principal and interest payments as well as compensation on such funds?
145. Please comment on how you would coordinate the transition of the securities lending portfolio if a change in custodian occurred. Would securities need to be recalled? Explicitly describe any limitations you foresee in transitioning the lending program. Provide a detailed description of all support which would be offered to NYSIF's staff related to the lending program in the event of a transition.

VIII. Investment Performance Measurement and Analytics

146. Describe your performance measurement and analytics organization. What is the typical staff-to-client ratio? What are the average number of years of professional performance measurement and analytics experience? How do you propose to coordinate the delivery of service with staff located in different time zones and geographic locations?
147. Describe the resources available to support the staff analyzing the data.

ATTACHMENT 2

CUSTODY SERVICES QUESTIONNAIRE

148. Discuss your products in terms of content, timeliness and delivery method. Please comment on your abilities to report on the performance of alternative investments in addition to traditional asset classes.
149. Describe the method used to calculate performance.
150. In SAMPLE REPORTS/OTHER MATERIALS, please provide sample copies of performance measurement, performance attribution, and analytics reports for a domestic equity portfolio, an international equity portfolio, fixed income portfolio and a consolidation of all portfolios. For each sample report, identify the portfolio characteristics that are tracked. What is the earliest date after the end of the reporting period each is available?
151. In what delivery formats are reports available? (Hard copy, electronic, etc.) With what frequency do you produce each report and when does the client receive them? Identify which of the reports are the result of:
- a. Internal development; and
 - b. External development.
152. Are performance measurement and analytics available on an on-line system? If so:
- a. Can raw data be downloaded? (Raw data would include portfolio aggregate statistics as well as security-specific characteristics, such as rate of return, risk, P/E ratios, dividends, yields, and similar items.)
 - b. Can a report writer be used to customize reports?
 - c. How soon after the end of the reporting period will the data be available on-line?
 - d. What performance measurement, performance attribution, and analytical information is available on-line?
 - e. What additional external or internal performance measurement and analytical databases are accessible?
 - f. What historical period is available on-line?
153. Describe your ability to calculate, blend and monitor custom benchmarks.
154. Discuss the delivery mode and timing of your ability to provide raw data and rates of return to clients' performance measurement vendors.
155. Do you measure performance using trade date or settle date for cash and asset transfers?
156. Please discuss your rate-of-return reconciliation processes and tolerance levels.

Attachment 3

Global Custody Network/Foreign Exchange Questionnaire

I. GLOBAL CUSTODY

1. Comment on your ability to provide effective global safekeeping/custody of physical and dematerialized assets with your custody unit's domestic and global operations, domestic/global depositories, and with sub-custodial relationships?
2. Describe your global custody network, including details on all markets to which you provide clients access.
3. Discuss your policy and procedures for assuring that each client's assets are properly held in safekeeping and positions are accurately maintained in your accounting records. Include information on segregation of assets and distinctions between physical and book entry positions.
4. Please discuss your policies for ensuring that changes in security registration requirements in international markets are properly and promptly implemented in client accounts, e.g. the transition to omnibus security registration.
5. What support is provided to clients on obtaining global market access?
6. What standard of care do you take when selecting and maintaining global sub-custodian relationships and what information do you provide clients to support an independent review of such data.
7. Describe your process for managing your foreign sub-custodian network of depositories, sub-custodians, and agents, including:
 - a. Selection;
 - b. Negotiation of foreign exchange rates in restricted markets;
 - c. Oversight;
 - d. Problem resolution; and
 - e. Termination.
8. How do you determine your responsibility, as well as your agent's responsibility, for compensation for losses to client accounts due to errors in processing?
9. Discuss any key differentiators related to your global and domestic safekeeping offering including direct depository linkages, proprietary global operations, agent sub-custodian network structure, or others.

II. FOREIGN EXCHANGE

10. Please diagram your foreign exchange operations. Information items to be summarized:
 - a. Principal foreign exchange desk;
 - b. Agency foreign exchange offerings, if any;
 - c. Location within the organization; and
 - d. Relationship to custodial unit;
11. Please comment on the rationale for offering a custodial foreign exchange service and the competitiveness of your rates.

Attachment 3

Global Custody Network/Foreign Exchange Questionnaire

12. Do you ensure that a custodial client or their managers who opt to use your execution desk achieve the best execution? Is another standard applied?
13. What percentage of your overall foreign exchange execution is represented by current clients of your custodial unit (both notional volume and currency unit volume)?
14. Will you offer custodial indirect/standing instructions under an agency model where executions in all markets for which regulatory controls permit such execution? Describe your firm's philosophy and ability (or lack thereof) to provide such services.
15. Fully describe your ability to support individual contracted third-party foreign exchange executions on a spot or forward basis. Include in your discussion the markets in which you are unable to provide such support due to market restrictions – clearly distinguish between markets for which there are operational hurdles and regulatory hurdles.
16. Fully describe your ability to support an agent or principal third-party foreign exchange program where all eligible foreign exchange transactions would be directed away from the custodial venue.
17. Fully describe your ability to support a manager directed third-party foreign exchange execution and the charges (if any) that might apply to settle such a transaction.
18. Discuss in detail your current indirect/custodial/standing instructions process. Explicitly define the process by which a transaction to be settled under your standing instructions are:
 - a. Sequenced – Executed at what time of day/date relative to trade date instructions being affirmed.
 - b. Netted – clearly define if transactions are netted by fund manager, account, relationship, globally across your client base, etc.
 - c. Priced – clearly define reference rate used (and corresponding time or times of day) and the application of and levels of risk-based spreads by currency.
 - d. Re-rated – if netting is applied, document how, if re-rated, the rates applied to net transactions are transparently applied (i.e. if a larger buy transaction is netted with a smaller sell transaction, how is the blended net buy rate applied to both trades and is it adjusted)?
 - e. Other details on your current processes.
19. Do you anticipate offering any new features within your custodial/indirect foreign exchange suite of services? If so, fully describe.
20. Please discuss what information you would provide regarding an indirect/non-negotiated/standing instruction FX execution to staff or the investment manager. Will you time-stamp executions and maintain and provide such records?
21. Please discuss what information you would provide regarding a direct FX execution with your principal exchange desk to staff or the investment manager. Will you time-stamp executions and maintain and provide such records?
22. Please discuss what information you would maintain regarding a third-party FX execution to staff or the investment manager.
23. Will your firm provide customized reports showing the daily level of execution compared to benchmark levels (defined time fixing rates, range of day, etc.) identified by the client?

Attachment 3

Global Custody Network/Foreign Exchange Questionnaire

24. Please discuss the process for repatriating foreign exchange balances. Provide information that clearly specifies how rates are determined and documenting the process used to perform the repatriation. Are clients/investment managers free to opt out of repatriation processes?
25. Please discuss the process for supporting the execution of a foreign exchange transaction (both with your execution desk and with a third-party broker) to settle a trade once a trade is received.
26. Does your firm have the ability to net the foreign exchange needed across a client's accounts (thus mitigating the need to execute in the market)? Describe fully.

ATTACHMENT 4 Volume Transactions

The following is the volume of transactions for a three-month selected time period that is representative of typical NYSIF activity:

Transactions from 09/01/22 to 12/31/22 (Approximated)			
		# of Transactions	Amount
Equities	Buy/Sell	5958 / 1467	\$97,565,129.00 / \$62,935,729.00
	Income	3622	\$11,828,286.00
	Total	11047	\$172,329,144.00
Fixed Income	Buy/Sell	900 / 103	\$987,204,657.00 / \$101,058,709.00
	Income/Maturities	4523	\$491,011,844.00
	Total	5526	\$1,579,275,210.00
Short-term Bonds	Buy/Sell	24 / 3	\$149,595,229.00 / \$7,708,515.00
	Income/Maturities	2782	\$3,491,980.00
	Total	2809	\$160,795,724.00

The following are delivery timelines for accounting and performance information:

- By 7:30 A.M. daily (New York Time):
 - o Outstanding Trades
 - o Outstanding Transactions
 - o Settled Trades for the prior day
 - o Settled Transactions Detail – Money Market Funds, for the prior day
 - o Cash Projection Report
 - o Posted Cash

- By 8:00 A.M. daily (New York Time):
 - o A file containing Cash Transactions in the required format for uploading to NYSIF's Investment Accounting System.

- Posted Cash Activity for the prior day
 - Posted Transactions for the prior day
 - Corporate Actions – Mandatory & Informational
 - Corporate Actions – Requiring Response
 - Corporate Actions – Response Received
 - Current positions, including a differentiation between “Available” securities and “Owned” securities, where Available Securities are Owned Securities less Securities on Loan.
- By 10:00 A.M. daily (New York Time):
 - All Trade Activity for the prior day
 - Online access to the custodian accounts is necessary to run the above and other reports on an ad-hoc basis.
 - Reports required monthly – by 1st business day after month-end:
 - TMPG claims
 - Reports required monthly, as early as possible (as they are required to make payments):
 - Custody invoices (by fund, including a total for all three funds)
 - Custody invoices (by portfolio)
 - Required monthly – by 10th business day after month-end:
 - Performance analytics and attribution data for equities

ATTACHMENT 5: CUSTODY AND RELATED SERVICES/SCOPE OF SERVICES

NYSIF is seeking proposals from qualified providers for trust, custody and securities lending support services. The service functions required include:

Organizational Resources, Client Service Team, & Client Profile

1. The custodian will have a significant industry presence with numerous complex client relationships – experience servicing large public and insurance funds;
2. The organization must have a demonstrated commitment to the custodial and asset-servicing business indicative of a philosophy of client service and dedication to industry excellence;
3. Client turnover (including both new and terminated client relationships) rates will be reviewed as there is a strong preference for a stable account base;
4. An experienced and dedicated client service team will be provided commensurate with the complexity of NYSIF's portfolio and associated requirements;
5. A coherent relationship management protocol will be implemented and maintained which provides for the appropriate escalation of issues and special projects within the context of the overall NYSIF relationship;
6. Professional staff turnover rates will be reviewed;
7. Broad and comprehensive global market coverage will be provided either through proprietary custody networks or a regularly maintained and appropriately documented network of qualified sub-custodians in local markets; and
8. The custodian will implement a communications tracking system to monitor all service delivery components, formal requests, associated agreements, and measure the performance of contractual obligations.

Core Custodial Services

1. Establish and maintain accounts in the name of NYSIF for Financial Assets, for any and all cash received for NYSIF;
2. Fully accrued, trade-date accounting will be provided for all assets;
3. Segregation of Assets – All assets credited to the accounts shall be segregated at all times from the custodian;
4. Access to vault facilities will be provided for the safekeeping and physical delivery of all securities not eligible for depositories;
5. Securities will be cleared on-line at the DTC, Federal Reserve, and via other clearing agents;

ATTACHMENT 5: CUSTODY AND RELATED SERVICES/SCOPE OF SERVICES

6. Settlement will be performed on a delivery versus payment basis;
7. The custodian is expected to process trades in a straight-through-processing (STP) environment to the greatest extent possible, inclusive of providing enabling linkages and technologies to eliminate manual settlement process;
8. Collect information and income from assets (dividends, interests, etc.) and administer related tax withholding documents and foreign tax reclamation;
9. Provide daily positions with ability to post both accrued trades and settled trades and cash equivalents;
10. A comprehensive pricing protocol and system will be in place to independently ensure the accuracy of the prices received from various external sources on a daily basis. This system will employ procedures to verify the primary price to a secondary pricing source, compare prior day's prices to current day's prices, and investigate changes outside established tolerances as well as changes from prior month that appear unreasonable in relation to current market trends;
11. All indicated daily-priced portfolios (where daily information is available) will be priced daily and have daily accounting for the purpose of computing daily net asset values. Where daily pricing is not available, pricing direction will be provided by NYSIF;
12. In all markets, the custodian will use multiple and/or reliable sources/vendors for corporate action information collection and class action litigation. Notification of corporate action and class action litigation of the security will be provided within a 24-hour period. A system to retrieve corporate action letters and submit responses electronically must be provided;
13. Reports must be provided under the following schedule:
 - Certain accounting and performance information will be delivered on a daily basis in formats and timing to be specified in greater detail in the contract entered into with the successful vendor;
 - Attachment 4 contains the current volume of daily accounts and delivery timelines for accounting and performance information;
 - Monthly audited accounting reports (hard copy, electronic, and on-line at the discretion of NYSIF) will be provided no later than 3 business days after month-end for all accounts custodied at the custodian; and
 - Daily, monthly, and yearly accounting and performance reports will be available.
14. An accurate report of all holdings, yearly transactions, and other pertinent investment data, will be provided no later than thirty (30) days after the end of each fiscal year in a format to be agreed upon by both parties;

ATTACHMENT 5: CUSTODY AND RELATED SERVICES/SCOPE OF SERVICES

15. Custodian's automated systems will be able to interface with NYSIF's vendor-provided accounting systems and/or services to provide data required for such systems and/or services in required formats/layouts, and to fully comply with requirements for reconciliations, pricing, tolerance audits, data quality, research of unpriced securities, and for variance resolution;
16. Custodian will provide technical expertise and assistance to NYSIF investment accounting and portfolio administration personnel including, but not limited to:
 - Providing direct access to designated individuals to assist with technical questions; and
 - Providing an account administrator(s) available by telephone between the hours of 6 AM and 6 PM Eastern Standard Time.
17. Electronic access to trade data will be provided to NYSIF, consultants, investment managers, and any other third party approved in advance by NYSIF;
18. Assurances will be provided through a third-party letter that internal controls reviews are being conducted in compliance with SSAE 18 and any successor disclosures; and
19. Custodian shall provide ongoing on-site training to NYSIF's staff of their online tools and systems in addition to periodic structured educational sessions regarding relevant issues to members of NYSIF's staff. NYSIF's staff will be invited to any and all general client conferences and education sessions.
20. Custodian's automated systems will be able to interface with NYSIF's vendor-provided trading and portfolio management system to provide data in formats/layouts required.

Cash Management

1. Daily cash flow projections and other cash management reports will be provided;
2. Overnight investment management services for funds left in account at the end of the day must be provided. Any fees or costs associated with these services must be disclosed;
3. Provide for same day settlement of cash trades, such as physical, DTC, and FED purchases;
4. Client-directed fund transfers (in U.S. \$ and foreign currencies) will be provided – these transfers will also occur within our various investment accounts. Any fees or costs associated with these services must be disclosed; and
5. Custodian can transmit foreign and domestic wires on behalf of our fund as well as receive foreign and domestic wires. Processes for authenticating wire transfers and maintaining security over wire transfers are in place.

ATTACHMENT 5: CUSTODY AND RELATED SERVICES/SCOPE OF SERVICES

Investment Accounting

1. Report that captures all investment activity by portfolio, including but not limited to the following, using a clear and transparent methodology.
 - a. Principal payments
 - b. Income payments
 - c. Trades and trade cancels/corrections
 - d. Corporate Actions
 - e. Miscellaneous

Fields for each transaction would include but not be limited to the following:

- a. Transaction type
- b. Security identifier
- c. Original face
- d. Factor
- e. Quantity
- f. Trade Date
- g. Contract Settlement Date
- h. Actual Settlement Date
- i. Commission
- j. Other charges
- k. Net amount
- l. Account number
- m. Posted Date
- n. Prices
- o. Ex Date
- p. Record Date
- q. Payable Date
- r. Principal amount
- s. Income amount

It is important for this report that unless absolutely unavoidable, cash associated with a securities transaction/action/event is not put into "miscellaneous" buckets, e.g., "miscellaneous cash received" or "miscellaneous cash disbursed." If the cash is associated with a security, the security identifier should be present.

2. Daily settlement file, in the format NYSIF's vendor-provided accounting systems or services accept.
3. Daily market prices file, in the format NYSIF's vendor-provided accounting systems or services accept.
4. Holdings (positions) file, in the format NYSIF's vendor-provided accounting systems or services accept.
5. Daily cash balances and details to support daily cash movements.
6. Daily cash projection report, including factors if possible.

ATTACHMENT 5: CUSTODY AND RELATED SERVICES/SCOPE OF SERVICES

7. Provide access to all historical reports.

Technology/Systems Support

1. Systems in use can interface with NYSIF's Local Area Network (LAN) for the purposes of downloading reports and extracting data for analysis using software products such as Microsoft Excel, and support "inquiry only" access by various internal and external users;
2. Interfaces will be provided for NYSIF's internal and external managers as well as other authorized parties at NYSIF's direction;
3. Custodian must be able to interface with (i) all current and future third party alternative asset class management systems, (ii) investment trading and portfolio management systems, and (iii) investment accounting software systems and/or service providers;
4. A monthly file of all transactions in all NYSIF accounts will be provided to NYSIF's investment and accounting systems for the purpose of custodial reconciliation and verification by the 4th business day of the month for all accounts maintained by the custodian;
5. Complete histories of investment activities of all NYSIF holdings shall be maintained throughout the term of the custodial relationship and as subject to NYSIF Records Retention Requirements which require at least 8 years of retention.
6. Standard reports will be provided as requested by NYSIF and included in the fixed core custodial fee;
7. Ad hoc query and reporting functions will be available and the custodian shall, by mutual agreement, and in a timely manner, be provided at no additional charge;
8. Additional custom reports that require creation from sources other than currently available, online data (to comply with industry-standard report formats developed in the future) as requested by NYSIF will be negotiated at the time of the request;
9. On-site training will be provided to NYSIF staff during the initial conversion process and is expected to be provided on an ongoing basis with an annual periodicity;
10. Adequate protection will be provided against unauthorized access to NYSIF records under the custodian's control;
11. NYSIF expects that the custodian employs information-security best practices in maintaining the confidentiality, integrity, and availability of its information technology infrastructure and information entrusted to it by NYSIF against compromise or misuse by internal or external malicious users. The custodian shall use encryption on all links that are routed through public networks – current practice requires PGP (Pretty Good Privacy) encryption and SFTP (Secure File Transfer Protocol). Under no circumstances

ATTACHMENT 5: CUSTODY AND RELATED SERVICES/SCOPE OF SERVICES

will secure information be sent via electronic mail. The Bidder shall perform periodic information-security system checks/tests and generate activity reports, as requested by NYSIF.

12. Records will be safeguarded against potential loss or destruction by fire, theft, vandalism, storm, earthquake, or any other hazard, by retaining backup data in a secure location so that records (current at least to the prior month-end and the end of the preceding day) can be re-created within a 24-hour period;
13. An established and proven business continuity plan for emergency situations is in place which provides for record re-creation and operations resumption within twenty-four (24) hours of any occurrence of any major disaster or other cause which destroys records and/or disrupts normal operation of the custodian's systems (the continuation of such service is furthermore guaranteed within twenty-four (24) hours);
14. Computer records of all audited investment transactions and month-end positions will be maintained on electronically readable storage media for eight (8) years (these records will be checked for viability on an annual basis and migrated, if necessary, to more current technology in order to maintain accessibility during the entire retention period); and
15. The custodian's on-line systems must report the same information as their audited accounting systems once audited values are available.
16. The custodian must provide any technical training and involve the NYSIF technical staff in development discussions as needed.
17. At the end of contract, the custodian will fully cooperate with successor firm to ensure transition of services, including but not limited to providing any required:
 - A. Testing;
 - B. Data Transfer;
 - C. Reporting; and
 - D. Audit Compliance.

Transition Planning & Support (if applicable)

All non-incumbent institutions have prepared a detailed transition plan that includes: timing of transition phases, staffing levels (including those of client), resource commitments (including those of client), and other considerations.

Securities Lending Custodial Lending

1. Custodian will provide a qualified and high-quality risk-managed securities lending program with indemnification provided for borrower default;
2. A clear marking-to-market policy shall be in place and collateralization levels for all securities and currencies will be actively monitored;

ATTACHMENT 5: CUSTODY AND RELATED SERVICES/SCOPE OF SERVICES

3. A daily report of collateral, identifying daily collateral required and pledged, and a monthly report on securities lending activity and outstanding loans, including amounts by borrowers can be provided;
4. A breakdown of securities lending income between income accruing to lending activities and reinvestment activities can be provided;
5. A wide range of detailed reporting for both assets and liabilities will be provided, to include on-line reporting in an accessible format suitable for more detailed analysis; and
6. A risk management reporting system is utilized and ideally offered directly or via output reports to clients.

● Third-Party/Principal Securities Lending Program Support

1. Third-party lender activities will be reported and the overall custodial operational relationship managed in the presence or absence of such relationships;
2. Custodian will supply customized daily availability feeds in a mutually agreeable electronic format to multiple agents;
3. The custodian will abide by a third-party lending operational support agreement and terms contained therein.

● Investment Performance Measurement and Analytics

1. Monthly flat files will be provided containing daily and monthly performance data and attribution, including returns by country and industry, and value-added information, for all accounts, composites and benchmarks in a format prescribed by NYSIF to populate a risk measurement system;
2. An updated listing of all NYSIF's accounts/composites and their assigned benchmarks will be provided in a centralized location and will be updated monthly as necessary;
3. Reports will be provided in the following terms: gross of fees, net of management fees, and net of all fees (to include fees reported to custodian by NYSIF) using CFA Institute-compliant calculation methods;
4. Raw performance data, transactions data, rates of return, and/or any other information concerning NYSIF's accounts will be submitted on a monthly and daily basis to vendor(s) selected by NYSIF;
5. Performance analytics and attribution data will be provided for NYSIF accounts versus relevant agreed-upon benchmarks according to timelines detailed in Attachment 4 of this RFP (a schedule to be incorporated in and potentially subsequently revised in the service contract);

ATTACHMENT 5: CUSTODY AND RELATED SERVICES/SCOPE OF SERVICES

6. Monthly performance reports detailing market performance and portfolio performance, at any level of detail or any aggregate deemed necessary by NYSIF, will be provided including both current and historical data;
7. If a transition of plan providers occurs, successful non-incumbent Bidder will back-load performance data for all accounts (both open and closed), composites (both open and closed), and benchmarks (both standard and custom);
8. Monthly analytic reports will be prepared in formats acceptable to NYSIF;
9. Daily rates of return will be delivered on the next business day for all public market investments, asset classes, and other composites at the direction of NYSIF; and
10. Monthly performance rate of return tolerances for public market manager reconciliations will be performed based on contract terms in effect with each manager.

**MUTUAL NONDISCLOSURE AGREEMENT BETWEEN
NEW YORK STATE INSURANCE FUND AND _____
FOR EXCHANGE OF CONFIDENTIAL INFORMATION**

THIS AGREEMENT is between the New York State Insurance Fund ("AGENCY"), having its principal place of business at 199 Church St, New York, New York 10007, and _____, with offices at _____, a Contractor to Agency ("CONTRACTOR"). For the purposes of this agreement, either AGENCY or CONTRACTOR may be a "Receiving Party" or a "Disclosing Party" with respect to Confidential Information.

NOW THEREFORE, for and in consideration of the engagement of CONTRACTOR to perform services set forth in Custodial Banking Services Contract ("Agreement" or "Contract"), the parties agree to the following:

1. Background

- a. AGENCY and CONTRACTOR agree that information shared as necessary for the purposes of this Agreement is "Confidential Information." Confidential Information shall include all non-public information (whether in verbal, written, visual, graphic or machine-readable form) of the Disclosing Party which the Receiving Party has had access to (including prior to effective date), will have access to, or will create or prepare, that includes, incorporates, makes reference to or utilizes in any way, without limitation, the Data and all other proprietary information related to the Disclosing Party's business. Confidential Information shall include all information of a third party to which each Party has access or will have access. Confidential Information shall also include any information and data protected by applicable privacy laws and regulations, including but not limited to Federal, State, and local laws as well as those of territories and dependencies.
- b. The party that discloses Confidential Information hereunder is referred to as the "Disclosing Party" and the party receiving Confidential Information hereunder is referred to as the "Receiving Party."
- c. The Receiving Party and Disclosing Party each agree to comply with Federal, State, and local privacy laws and regulations as well as privacy laws and regulations of territories and dependencies as applicable to the Confidential Information.

2. Confidentiality and Non-Disclosure

- a. Each party agrees that Confidential Information is the valuable property of the Disclosing Party notwithstanding any public disclosure by any source and will be protected by civil and criminal law and, where appropriate, by the law of copyright. The Receiving Party shall protect the Confidential Information of the Disclosing Party using procedures no less rigorous than those used to protect its own Confidential Information but not less than a reasonable degree of care. The Receiving Party shall not transfer or disclose any of the Confidential Information to any third party without the Disclosing Party's prior written permission except for the terms listed in Section 4. The Receiving Party further agrees not to divulge information or methods of accessing the Disclosing Party data to any person not authorized to obtain such information and/or data.

- b. Each party agrees to implement and maintain an appropriate security program for Confidential Information to (1) ensure the security and confidentiality of Confidential Information, (2) protect against any threats or hazards to the security or integrity of Confidential Information, and (3) prevent unauthorized access to or use of Confidential Information. Confidential Information shall be stored and maintained in a place and manner that is physically secure from access by unauthorized persons. AGENCY reserves the right to review CONTRACTOR's policies and procedures used to maintain the security for Confidential Information.
- c. CONTRACTOR shall maintain a commercially reasonable Disaster Recovery and Business Continuity Plan and a copy of said plan shall be provided to AGENCY upon request.
- d. The Receiving Party shall use the Disclosing Party's Confidential Information solely for the performance of agreed upon services and shall not take any action inconsistent with the confidential and proprietary nature of such information.

3. Confidentiality Exceptions

Confidential Information shall not include information that (a) is in the public domain at the time of its use or disclosure through no fault of the Receiving Party or its Contractors, (b) was lawfully in the possession of or demonstrably known by the Receiving Party prior to its receipt from the Disclosing Party, (c) is independently developed by the Receiving Party without use of or reference to the Disclosing Party's Confidential Information, or (d) becomes known by the Receiving Party from a third party and, to the Receiving Party's knowledge, is not subject to an obligation of confidentiality to the Disclosing Party.

4. Third-Party Disclosure

- a. The terms of this Agreement shall apply to any agents, employees, subcontractors, representatives, consultants, affiliates, and advisors of AGENCY and CONTRACTOR who need to know the Confidential Information and who are informed of the confidential nature of the information and agree to keep it confidential. It is understood that CONTRACTOR shall be and will remain liable for any breach of Confidentiality and Nondisclosure obligations by any of the Persons set forth above.
- b. CONTRACTOR shall require the Persons set forth in this Section 4 to implement and maintain an appropriate security program for Confidential Information to (1) ensure the security and confidentiality of Confidential Information, (2) protect against any threats or hazards to the security or integrity of Confidential Information, and (3) prevent unauthorized access to or use of Confidential Information. CONTRACTOR shall be responsible for all individuals, including employees of CONTRACTOR and employees of all Persons set forth in this Section 4 authorized to have access to the Confidential Information, adherence to the Confidentiality and Nondisclosure requirements set forth in this Agreement.

5. No Transmission Outside the United States

CONTRACTOR shall take appropriate measures to assure that AGENCY's Confidential Information is NOT transmitted outside of the United States. Such prohibition against

transmission shall not apply to satellite transmission or other similar digital communication methods used by CONTRACTOR or its Contractors in the ordinary course of business and in conformance with this Agreement.

6. Compelled Disclosure

- a. If the Receiving Party is requested or required to disclose any of the Disclosing Party's Confidential Information pursuant to a subpoena, court order, statute, law, rule, regulation or other similar requirement (a "*Legal Requirement*"), the Receiving Party shall, unless prohibited by law, provide prompt notice of such Legal Requirement to the Disclosing Party so the Disclosing Party may seek an appropriate protective order or other appropriate remedy or waive compliance with the provisions of this Agreement. If the Disclosing Party is not successful in obtaining a protective order or other appropriate remedy and the Receiving Party is, in the opinion of its counsel, compelled to disclose such Confidential Information under pain of liability for contempt of court or other censure or liability, the Receiving Party shall be permitted to disclose such Confidential Information solely to the extent necessary, in the opinion of its counsel, to comply with the Legal Requirement.
- b. Information that would otherwise be considered AGENCY's Confidential Information within the meaning of this Agreement shall not be deemed otherwise because such information may be available to third parties pursuant to the New York State Freedom of Information Law (FOIL). In the event that an independent third-party has or shall obtain from AGENCY information pursuant to FOIL that would otherwise be considered AGENCY's Confidential Information and has publicly disclosed such information, then such information shall be considered public information from the time of such disclosure and no longer Confidential Information.
- c. CONTRACTOR trade secrets and/or proprietary materials as defined by the laws of the State of New York must be clearly marked and identified as such with specific justification setting forth the reasons for the claimed exemption. Acceptance of the claimed materials does not constitute a determination on the exemption request; such determination will be made in accordance with statutory procedures. In the event such information is requested pursuant to FOIL or other legal process, AGENCY will give CONTRACTOR notice as soon as practicable for the purposes of affording it the opportunity to interpose objections to its disclosure. Properly identified information that has been designated trade secret or proprietary by CONTRACTOR will not be disclosed except as required by FOIL or other applicable State and federal laws.

7. Return of Confidential Information

- a. Following a request of the Disclosing Party or upon the termination of this Agreement, the Receiving Party shall promptly but in no event more than five (5) business days following such request or the termination of this Agreement, return to the Disclosing Party all or any portion of the Confidential Information or, at the Disclosing Party's election, destroy all or any part of the Confidential Information and provide certification thereof upon request by the Disclosing Party. In lieu of returning Confidential Information that has been included in the Receiving Party's notes, analyses, and studies, the Receiving Party may destroy the portions of such notes, analyses, or studies containing Confidential Information and provide certification thereof.

- b. Notwithstanding the foregoing, Receiving Party may (1) retain copies of Confidential Information that is required to be retained by law or regulation and (2) in accordance with legal records retention requirements, store such copies and derivative works in an archival format which cannot be returned or destroyed.

8. Right to Audit

- a. If CONTRACTOR utilizes a Statement on Standards for Attestation Engagements (SSAE) No. 16 or a Standards for Attestation Engagements 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 Auditor's Report(s) for either Type I or Type II (Reports) or Service Organization Control (SOC) Report types 1, 2, or 3 on an annual basis. Such Report(s) shall be used for information purposes only. NYSIF reserves the right to request a copy of the Report(s) during the Agreement duration (including option periods). Production of CONTRACTOR 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. The documentation, reports, or information received by AGENCY in relation to this section shall be deemed CONTRACTOR Confidential Information. For regulatory and compliance purposes, AGENCY may be required to produce such documentation, reports, or information received to the proper regulatory authority or independent auditors. AGENCY shall take all necessary steps to protect and preserve the confidential nature of any documentation, reports, or information shared for regulatory and compliance purposes.
- b. 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 required in the event of a security breach and/or to substantiate any expenditure or report to AGENCY, or as may be necessary for auditing purposes or to verify that expenditures were made and/or proper non-disclosure procedures were implemented as instructed by this Agreement. Such records, accounts and all supportive documentation shall be kept for at least six (6) years subsequent to the termination date of this Agreement.

9. Information Security Breach

- a. In the event of a Breach of Security involving AGENCY supplied Nonpublic Information from systems owned, operated, sub-contracted or otherwise routed through CONTRACTOR's systems or networks, CONTRACTOR shall notify AGENCY immediately, without unreasonable delay. "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. "Nonpublic Information" shall mean all electronic information that is not publicly available information and is: (1) business related information of AGENCY the tampering with which, or unauthorized disclosure, access, or use of which, would cause a material adverse impact to the business, operations or security of AGENCY; (2) any information concerning an individual which because of name, number, personal mark, or other identifier can be used to identify such individual, in combination with any one or more of the following data elements: (i) social security number; (ii)

13. No Assignment

- a. This Agreement and the parties' respective rights, duties and obligations under this Agreement are not transferable or assignable by either party. Any attempt to transfer or assign this Agreement or any of its rights, duties or obligations under this Agreement is void unless (i) consented to in writing by AGENCY and (ii) the transferee or resultant surviving entity explicitly agrees to the terms of this Agreement. For purposes of this section, a transfer of more than fifty percent (50%) ownership interest in CONTRACTOR or a consolidation or merger of CONTRACTOR into another entity, including an affiliate of CONTRACTOR, shall be considered an assignment of this Agreement.

14. Modifications

This Agreement can only be modified by a written agreement signed by the persons authorized to sign agreements on behalf of CONTRACTOR and AGENCY. Without limiting the foregoing, terms and conditions which are displayed or conveyed electronically or responded to by any action other than a signed written agreement as set forth above will not be effective and will not amend or modify this Agreement.

15. 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.

16. Governing Law

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.

17. Complete Agreement

This Agreement is the complete and exclusive statement of the agreement between the parties as to the subject matter hereof and supersedes all communications between the parties related to the subject matter of this Agreement. Each party represents and warrants to the other that it has full power and authority to enter into and adhere to this Agreement.

18. No Waiver

A waiver of a breach or default under this Agreement shall not be a waiver of any other or subsequent breach or default. The failure or delay in enforcing compliance with any term or condition of this Agreement shall not constitute a waiver of such term or condition unless such term or condition is expressly waived in writing.

19. Remedies

Each party understands that if there is a breach of the obligations under this Agreement, in addition to the termination rights and remedies provided for under the Contract, the injured party shall have the right to obtain injunctive relief to prevent further injury. Each party acknowledges that compensation for damages may not be sufficient and that

injunctive relief to prevent or limit any breach of confidentiality may be the only viable remedy to fully protect the Confidential Information identified in this Agreement.

20. Counterparts

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. Such counterparts together will constitute one agreement. Electronic transmission of an executed counterpart to this Agreement will be deemed due and sufficient delivery.

21. Standard Clauses for NYS Contracts

The parties agree that the Standard Clauses attached as Exhibit A to this Agreement shall be incorporated by reference into this Agreement. In the event of a conflict between any term or condition in the text of this Agreement and Exhibit A, the parties agree that the terms of Exhibit A shall govern and control.

22. Binding Agreement

This Agreement shall be binding upon the parties hereto and inure to the benefit of the parties hereto, their respective successors and permitted assigns.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be effective as of the Effective Date below.

NEW YORK STATE INSURANCE FUND

By _____

By _____

Name _____

Name _____

Title _____

Title _____

Date _____

Date _____

ACKNOWLEDGEMENT BY CORPORATION

STATE OF _____)

ss.:

COUNTY OF _____)

On this _____ day of _____, 20____, 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 depose and say that he is a member of the firm of _____, and that he executed the foregoing instrument in the firm name of _____, and that he had authority to sign same, and he did duly acknowledge to me that he executed the same as the act and deed of said firm of _____, for the uses and purposes mentioned therein.

Notary Public



NYSIF EXHIBIT A

STANDARD CLAUSES

**PLEASE RETAIN THIS DOCUMENT
FOR FUTURE REFERENCE.**

TABLE OF CONTENTS

	Page
1. EXECUTORY CLAUSE.	3
2. NON-ASSIGNMENT CLAUSE.	3
3. WORKERS' COMPENSATION BENEFITS.....	3
4. NON-DISCRIMINATION REQUIREMENTS.	3
5. WAGE AND HOURS PROVISIONS.	3
6. NON-COLLUSIVE BIDDING CERTIFICATION.....	4
7. INTERNATIONAL BOYCOTT PROHIBITION.....	4
8. SET-OFF RIGHTS.	4
9. RECORDS.....	4
10. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.	5
11. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.....	5
12. CONFLICTING TERMS.....	6
13. GOVERNING LAW.	6
14. LATE PAYMENT.....	6
15. NO ARBITRATION.	6
16. SERVICE OF PROCESS.	6
17. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.	6
18. MACBRIDE FAIR EMPLOYMENT PRINCIPLES.....	7
19. OMNIBUS PROCUREMENT ACT OF 1992.	7
20. RECIPROCITY AND SANCTIONS PROVISIONS.....	8
21. COMPLIANCE WITH BREACH NOTIFICATION AND DATA SECURITY LAWS.....	8
22. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW.....	8
23. PROCUREMENT LOBBYING.	8
24. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.	8
25. IRAN DIVESTMENT ACT.	8
26. ADMISSIBILITY OF REPRODUCTION OF CONTRACT.	8

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, nor subject any individual to harassment, because of age, race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status or because the individual has opposed any practices forbidden under the Human Rights Law or has filed a complaint, testified, or assisted in any proceeding under the Human Rights Law. 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 (2 NYCRR § 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 Part 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 clause. 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 and Technology Development
625 Broadway
Albany, New York 12245
Telephone: 518-292-5100

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 33rd Floor
New York, NY 10017
Telephone: 646-846-7364
email: mwbebusinessdev@esd.ny.gov
<https://ny.newnycontracts.com/FrontEnd/searchcertifieddirectory.asp>

The Omnibus Procurement Act of 1992 (Chapter 844 of the Laws of 1992, codified in State Finance Law § 139-i and Public Authorities Law § 2879(3)(n)-(p)) 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, codified in State Finance Law § 165(6) and Public Authorities Law § 2879(5))) require that they be denied contracts which they would otherwise obtain. NOTE: As of October 2019, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii.

21. COMPLIANCE WITH BREACH NOTIFICATION AND DATA SECURITY LAWS.

Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law § 899-aa and State Technology Law § 208) and commencing March 21, 2020 shall also comply with General Business Law § 899-bb.

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 §§ 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law §§ 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 § 5-a, if the contractor fails to make the certification required by Tax Law § 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: <https://ogs.ny.gov/iran-divestment-act-2012>

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.

26. ADMISSIBILITY OF REPRODUCTION OF CONTRACT.

Notwithstanding the best evidence rule or any other legal principle or rule of evidence to the contrary, the Contractor acknowledges and agrees that it waives any and all objections to the admissibility into evidence at any court proceeding or to the use at any examination before trial of an electronic reproduction of this contract, in the form approved by the State Comptroller, if such approval was required, regardless of whether the original of said contract is in existence.



NYSIF EXHIBIT B

GENERAL SPECIFICATIONS

PLEASE RETAIN THIS DOCUMENT FOR FUTURE REFERENCE

TABLE OF CONTENTS

	Page
GENERAL.....	3
1. APPLICABILITY	3
2. GOVERNING LAW	3
3. ETHICS COMPLIANCE	3
4. CONFLICT OF TERMS.....	3
BID SUBMISSION	3
5. NOTIFICATION TO ALL BIDDERS.....	3
6. INTERNATIONAL BIDDING	3
7. BID OPENING	4
8. BID SUBMISSION	4
9. LATE BIDS.....	4
10. BID CONTENTS	4
11. ERRORS AND OMISSIONS	4
12. EXTRANEOUS TERMS.....	5
13. CONFIDENTIAL/TRADE SECRET MATERIALS	5
14. RELEASE OF BID EVALUATION MATERIALS.....	6
15. FREEDOM OF INFORMATION LAW	6
16. PREVAILING WAGE RATES - PUBLIC WORKS AND BUILDING SERVICES CONTRACTS	6
17. TAXES.....	7
18. EXPENSES PRIOR TO CONTRACT EXECUTION	7
19. ADVERTISING RESULTS	7
20. PRODUCT REFERENCES	8
21. REMANUFACTURED, RECYCLED, RECYCLABLE OR RECOVERED MATERIALS	8
22. WARRANTIES.....	8
23. PRODUCTS MANUFACTURED IN PUBLIC INSTITUTIONS.....	10
24. PRICING.....	10
25. DRAWINGS.....	11
26. SITE INSPECTION	11
27. SAMPLES.....	11
BID EVALUATION.....	12
28. BID EVALUATION	12
29. CONDITIONAL BID	12
30. CLARIFICATIONS / REVISIONS.....	12
31. PROMPT PAYMENT DISCOUNTS	12
32. EQUIVALENT OR IDENTICAL BIDS	12
33. PERFORMANCE AND RESPONSIBILITY QUALIFICATIONS.....	12
34. DISQUALIFICATION FOR PAST PERFORMANCE AND FINDINGS OF NON-RESPONSIBILITY	13
35. QUANTITY CHANGES PRIOR TO AWARD	13
36. TIMEFRAME FOR OFFERS	13
ADMINISTRATIVE.....	13
37. NYSIF PREROGATIVES	13
38. NEW YORK STATE PROCUREMENT RIGHTS	16
39. BIDDER CERTIFICATION REQUIREMENTS	16
40. PARTICIPATION OF NYS BUSINESS ENTERPRISES.....	20
41. DEBRIEFING	21
42. NYSIF'S VENDOR PROTEST PROCEDURE	21

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 §§ 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. The Bid Opening procedure will be outlined and handled in accordance with the Bid Specifications. 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 in accordance with 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. For the purposes of Bid Submission, "sealed bids" shall include bids submitted in an electronic format only if electronic format is listed as an acceptable means of bid submittal in the Bid Specifications. The timely submission of an electronic bid or offer must be in compliance with instructions provided within the Bid Specifications and shall be the sole responsibility of each Bidder.

In the event that a Bidder fails to provide such information on the electronic bid, 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 or electronic signatures; however, where necessary documents must be notarized. 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, counteroffer, 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.

For additional information please see NYSIF's Freedom of Information Law [website](#). Freedom of Information Law requests must be submitted in accordance with the procedure established on the aforementioned website.

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

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

- a. **PREVAILING WAGE RATE APPLICABLE TO BIDS** A copy of the applicable prevailing wage rate schedule is incorporated into the Solicitation and may also be obtained by visiting www.labor.ny.gov and typing in the search box: Prevailing Wage Schedule Request. Bidders must submit Bids which are based upon the prevailing hourly wages, and supplements in cash or equivalent benefits (e.g., 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 rates 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.
- b. **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 for its employees as required by law and is responsible for ensuring any Subcontractors utilized on the Contract also comply with the prevailing wage provisions of the New York State Labor Law.
- c. **ARTICLE 8 CONSTRUCTION/PUBLIC WORKS CONTRACTS** 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 the 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 Contracts must submit monthly payroll transcripts to the Authorized User issuing the Purchase Order for the work. This provision does not apply to Article 9 of the Labor Law building services contracts.
- iv. Day's Labor** 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.
- d. ARTICLE 9 BUILDING SERVICES CONTRACTS** In compliance with Article 9, Section 230 of the New York State Labor Law:
 - i. 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. Where the Contractor or Subcontractor maintains no regular place of business in New York State, such records must be kept at the work Site while work is being performed.
 - ii. Overtime** Employees of Contractors and Subcontractors who work in excess of eight hours in a day or forty hours in a week shall be paid at the overtime rate identified by the New York State Department of Labor.

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

ADMINISTRATIVE

37. NYSIF PREROGATIVES

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

NYSIF reserves the right to exercise the following:

- a. Withdraw the IFB/RFP at any time, at NYSIF's sole discretion;
- b. Make an award under the IFB/RFP in whole or in part;
- c. Reject any or all bids received in response to the solicitation;
- d. Cancel or limit the scope of the contract for any reason;
- e. To not award a contract;
- f. Seek clarifications and revisions of proposals;
- g. Accept a bid for the contract other than the lowest cost;
- h. Make multiple contract awards pursuant to the solicitation;
- i. Waive any requirements that are not material;

- j.** Eliminate mandatory requirements unmet by all Bidders;
- k.** Change any of the scheduled dates;
- l.** Waive or modify minor irregularities in bids received after prior notification to the Bidder;
- m.** Consider modifications to bids at any time before the award is made, if such action is in the best interest of NYSIF;
- n.** Amend and modify the specifications after their release and post to NYSIF's procurement website (www.nysif.com/procurement);
- o.** Disqualify any Bidder whose conduct and/or proposal fails to conform to the requirements of the IFB/RFP;
- p.** Reject/disqualify a bid if, in NYSIF's sole opinion, the bid price is determined to be excessive;
- q.** Require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of a Bidder's proposal and/or to determine a Bidder's compliance with the requirements of the solicitation;
- r.** Use proposal information obtained through site visits, management interviews and the state's investigation of a Bidder's qualifications, experience, ability or financial standing, and any material or information submitted by the Bidder in response to the agency's request for clarifying information in the course of evaluation and/or selection under the IFB/RFP;
- s.** Review Bidder's records used in determining bid;
- t.** Require the Bidder to demonstrate to the satisfaction of NYSIF any feature(s) presented as a part of its bid;
- u.** Investigate or make any inquiry into the capabilities of any Bidder to properly perform under any resultant contract;
- v.** Make inquiries, at NYSIF's discretion and by means which it may choose, into the Bidder's background or statements made in the bid to determine the truth and accuracy of all statements made therein;
- w.** Adjust or correct Bidders' mathematical errors and waive or modify other minor irregularities in proposals received, after prior notification to the Bidder;
- x.** Request any additional information deemed necessary for proper evaluation of bids;
- y.** Adopt as NYSIF property all submitted bids and to use any portions thereafter which are not specifically noted as proprietary by the submitting firms;
- z.** Utilize any and all ideas submitted in the proposals received;
- aa.** Adopt all or any part of a Bidder's proposal in selecting the optimum configuration;
- bb.** In any case where a question of non-performance of a contract arises, payment may be withheld in whole or in part at the discretion of NYSIF. Should the amount withheld be finally paid, a cash discount originally offered may be taken by NYSIF as if no delay in payment had occurred;
- cc.** Submission of an invoice and payment, or electronic transmission, thereof by NYSIF shall not preclude NYSIF from obtaining reimbursement or demanding a price adjustment in any case where the service delivered is found to deviate from the terms and conditions of the bid and award documents. Any delivery made which does not meet such terms and conditions may be rejected, or accepted on an adjusted price basis as may be determined by NYSIF;
- dd.** Reject an obviously unbalanced bid or to make "NO AWARD" on individual listings or sub-items if individual bid prices are deemed to be unbalanced or excessive or if an error in the solicitation becomes evident. In such case, ranking and evaluation of bids may be made on remaining items. Award would be made on the remaining items. The determination of an unbalanced bid shall be at the sole discretion of NYSIF. Options contained in this paragraph shall also be at NYSIF's sole discretion;

- ee.** Terminate the contract(s) if it deems the price adjustment pursuant to the solicitation or contract is not in the best interests of NYSIF or the State;
- ff.** Implement changes in price based on unforeseen factors such as dramatic changes in availability, delivery, costs, etc., for product, supplies, etc., that substantively affect the contractor's business processes or that may impact contract pricing. Such changes may be based on information from the U.S. Bureau of Labor Statistics, industry data, or other sources;
- gg.** After an unsuccessful attempt to speak with the contact person noted on the reference form, survey another person knowledgeable and familiar with the Bidder from the submitted reference due to time constraints;
- hh.** Review and consider other known clients of the Bidder in addition to those provided, including NYSIF, and to disqualify based on unsatisfactory reports and/or records of services provided;
- ii.** Reject all bids which do not comply with the bid specifications. However, NYSIF may elect to award to the Bidder who receives the highest overall combined evaluation score providing that the Bidder's non-compliance is deemed by NYSIF to be non-material to overall performance of the services;
- jj.** Invalidate a Bidder's scores at any time during the evaluation process if the Bidder's bid is deemed non-responsive or is disqualified;
- kk.** Evaluate, accept and/or reject any and all bids, in whole or in part, and waive technicalities, irregularities and omissions if, in NYSIF's considered judgment, the best interests of NYSIF will be served. Separable portions of offers may also be accepted or rejected. In the event compliant bids are not received, NYSIF reserves the right to consider late or non-conforming bids as offers;
- ll.** Stop the work covered by this solicitation and any contract(s) resulting there from at any time that it is deemed the successful Bidder is unable or incapable of performing the work to NYSIF's satisfaction;
- mm.** Disqualify a Bidder from receiving the award if the Bidder, or anyone in the Bidder's employ, has previously failed to perform satisfactorily in connection with public bidding or contracts;
- nn.** Negotiate with Bidders to serve the best interests of the State and NYSIF;
- oo.** Begin contract negotiations with another Bidder in order to serve the best interests of NYSIF in the event that NYSIF is unsuccessful in negotiating a contract with the selected Bidder;
- pp.** Split the contract between several Bidders;
- qq.** If a contract is not approved by the State Comptroller or the Department of Financial Services, where applicable, or if a contract is awarded but terminated within 120 days, NYSIF reserves the right to contract with the next lowest Bidder (IFB)/next highest ranking offer (RFP);
- rr.** If two or more bids are found to be substantially equivalent, NYSIF, at its sole discretion, will determine award;
- ss.** Unless otherwise specified in the solicitation, every offer is firm and not revocable for a period of 180 days from the bid opening;
- tt.** Accept or reject any of the Bidder's employees assigned to this contract and to require their replacement at any time;
- uu.** Consider amendments which are not specifically covered by the terms of the contract but are judged to be in the best interest of NYSIF and/or the State;
- vv.** Have any service completed via separate competitive bid or other means, as determined to be in the best interest of NYSIF;
- ww.** Adjust any Bidder's expected costs of the bid price based on a determination of the evaluation committee that the selection of the said Bidder will cause the State to incur additional costs.

38. NEW YORK STATE PROCUREMENT RIGHTS

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

- a. Define requirements to meet Agency needs and to modify, correct and clarify requirements at any time during the process provided the changes are justified and maintain fairness in contracting with the business community;
- b. Accept and/or reject any or all bids, and waive technicalities or portions of the bids in the best interest of the State;
- c. Establish terms and conditions which must be met by all Bidders and/or, where permitted by the solicitation, eliminate mandatory requirements that are not met by any Bidder;
- d. Establish, where permitted by solicitation, conditions under which the scope of the contract can be expanded and criteria for price increases or decreases during the contract period;
- e. Award contracts for any or all parts of the bid solicitation in accordance with the Method of Award;
- f. Consider every bid as firm and not revocable for a period of up to one hundred eighty (180) days from the bid opening or such other period of time specified in the solicitation. Subsequent to such one hundred eighty (180) day or other specified period, a bid may be withdrawn in writing.
- g. Have the option to require a bond or other guarantee of performance, and to approve the amount, form and sufficiency thereof.

39. BIDDER CERTIFICATION REQUIREMENTS

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

- a. NYSIF reserves the sole right of judgment and acceptance of a company's written bid.
- b. The submitted bid must remain in effect for one hundred-eighty (180) days from the bidding deadline. However, a non-successful Bidder may withdraw its bid any time after the selection of the successful Bidder, upon written notice to NYSIF. Bidders whose bids have been rejected by NYSIF shall be notified of such rejection.
- c. Compensation shall be paid by the State of New York, in accordance with its standard payment practices.
- d. The Bidder certifies that, if selected, all services described in the bid document can and will be provided.
- e. The successful Bidder agrees to submit an Equal Employment Opportunity Policy Statement and Staffing Plan to NYSIF, upon request, as outlined under Participation of New York State Business Enterprises.
- f. The Bidder warrants that, if selected, it will not delegate, assign, encumber or subcontract, in whole or in part, its agreement and/or its responsibilities under the contract without prior written approval from NYSIF.

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

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

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

- g.** The Bidder warrants that all information provided by it in connection with this bid is true and accurate.
- h.** The Bidder agrees not to make any claims for or have any right to damages because of any misinterpretation or misunderstanding of the specifications or because of any lack of information.
- i.** The Bidder warrants that the prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other Bidder or with any competitor. Unless otherwise required by law, the Bidder certifies that the prices which have been quoted in this bid have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder prior to the opening, directly or indirectly, to any Bidder or competitor and no attempt has been made or will be made by the Bidder to induce any other person, partnership, or corporation to submit or not submit a bid for the purpose of restricting competition. In addition, a Bidder is prohibited from making multiple bids in a different form (e.g., as prime Bidder and as a subcontractor to another prime Bidder).

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

- j.** Disclose any existing or contemplated relationship with any other person or entity, including relationships with any member, shareholders of 5% or more, parent, subsidiary, or affiliated firm, which would constitute an actual or potential conflict of interest or appearance of impropriety, relating to other clients/customers of the Respondent or former officers and employees of the Agencies and their Affiliates, in connection with your rendering services enumerated in this RFP. If a conflict does or might exist, please describe how your Staffing Firm would eliminate or prevent it. Indicate what procedures will be followed to detect, notify the Agencies of, and resolve any such conflicts.
- k.** The Bidder must disclose whether it, or any of its members, shareholders of 5% or more, parents, affiliates, or subsidiaries, have been the subject of any investigation or disciplinary action by the New York State Commission on Public Integrity or its predecessor State entities (collectively, "Commission"), and if so, a brief description must be included indicating how any matter before the Commission was resolved or whether it remains unresolved.

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

- l.** The Bidder will conform to all provisions of NYSIF Exhibit A, *Standard Clauses*.
- m.** The Bidder agrees that no New York State or local sales tax, transportation tax or Federal excise tax will be charged on any part of this project since NYSIF is an agency of the State of New York and tax exempt by statute.
- n.** The Bidder will save and hold harmless NYSIF and its management from all claims, suits, litigation and legal liability from any acts or omissions committed by the Bidder during the course of the contract.
- o.** The contractor is an independent contractor of the State and may not hold itself out nor claim to be an officer, employee or subdivision of the State nor may contractor make any claim, demand or application to or for any right based upon any different status.
- p.** Contractor represents and warrants that it shall secure all notices and comply with all laws, ordinances, rules and regulations of any governmental entity in conjunction with the performance of obligations under the Contract, at the contractor's expense. Prior to award and during the Contract term and any renewals thereof, Contractor must establish to the satisfaction of NYSIF that it meets or exceeds all requirements of the Bid and Contract and any applicable laws, including but not limited to, permits, licensing, and shall provide such proof as required by NYSIF. Failure to comply or failure to

provide proof may constitute grounds for NYSIF to cancel or suspend the Contract, in whole or in part, or to take any other action deemed necessary by NYSIF. Furthermore:

- Contractor agrees to disclose information and provide affirmations and certifications to comply with §§ 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.
 - Contractor agrees to comply with Executive Law § 170-f, *Website accessibility; contractors and vendors*. Each contractor, subcontractor, vendor, consultant, or other person providing services pursuant to a state contract shall be required to conform any website provided by such contractor, subcontractor, vendor, consultant, or person in relation to and for the purpose of the provision of such services to the most current version of the Web Content Accessibility Guidelines adopted by the World Wide Web Consortium for accessibility, or any successor standards.
- 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 Commission on Ethics and Lobbying in Government, 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 Commission on Ethics and Lobbying in Government, and, if deemed appropriate by the State, instruct any such person to seek the opinion of the New York State Commission on Ethics and Lobbying in Government s. 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 §§ 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 § 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-L, 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 N.Y. State Labor Law § 201-g.

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-L, 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 § 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 must 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 PhasesSolicitation 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 email, 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:

Email: contracts@nysif.com

Subject Line: Attn Vendor Protest – NYSIF Bid # ____ – [*Bid Title*]

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 email, 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:

Email: contracts@nysif.com

Subject Line: Director of Administration Attn Vendor Protest – NYSIF Bid # ____ – [*Bid Title*]

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 email 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:

Email: contracts@nysif.com

Subject Line: General Attorney Attn Vendor Protest – NYSIF Bid # _____ – [*Bid Title*]

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.

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

TABLE OF CONTENTS

	Page
1. CONTRACT DOCUMENTS.....	3
2. TERM.....	3
3. TERMINATION OF CONTRACT	3
4. SUSPENSION OF WORK.....	4
5. VENDOR RESPONSIBILITY	4
6. SAVINGS/FORCE MAJEURE	4
7. DISASTER RECOVERY PLAN	5
8. PRODUCT DELIVERY.....	6
9. WEEKEND AND HOLIDAY DELIVERY	6
10. SHIPPING / RECEIPT OF PRODUCT.....	6
11. PRODUCT SUBSTITUTION	6
12. REJECTED PRODUCT.....	6
13. INSPECTION AND ACCEPTANCE OF THE WORK	6
14. TITLE AND RISK OF LOSS.....	7
15. EMERGENCY CONTRACTS	7
16. ASSIGNMENT	7
17. ASSIGNMENT OF CLAIM	7
18. RIGHT TO AUDIT	7
19. POLICY COMPLIANCE.....	8
20. SUBCONTRACTORS / SUPPLIERS.....	8
21. CONTRACT BILLINGS.....	8
22. REMEDIES FOR BREACH.....	9
23. INSTALLATION	9
24. PRODUCT ACCEPTANCE – HARDWARE AND SOFTWARE.....	10
25. TOXIC SUBSTANCES	10
26. COOPERATION WITH THIRD PARTIES	10
27. INDEPENDENT CONTRACTOR.....	10
28. EMPLOYEES, SUBCONTRACTORS AND AGENTS.....	10
29. OWNERSHIP OF DOCUMENTS	10
30. INFORMATION SECURITY CLAUSE.....	11
31. CONFIDENTIALITY CLAUSE	11
32. INDEMNIFICATION	12
33. INDEMNIFICATION RELATING TO THIRD PARTY RIGHTS.....	12
34. LIMITATION OF LIABILITY	12
35. NON-SOLICITATION.....	12
36. CONTRACTOR CONSULTANT LAW	13
37. INSURANCE	13
38. PERFORMANCE / BID BOND.....	13
39. NOTICE.....	13
40. MODIFICATIONS TO THE AGREEMENT.....	14
41. SEVERABILITY.....	14
42. CHOICE OF LAW: VENUE.....	15
43. COUNTERPARTS / SIGNATURES.....	15

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 the contracted services. 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 in any other applicable statute, 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 access to or unauthorized acquisition of, or access to or acquisition without valid authorization of computerized data that compromises the security, confidentiality, or integrity of Personal Information or Private Information maintained by a business. "Personal Information" shall mean any NYSIF supplied information concerning a person which, because of name, number, mark or other identifier, can be used to identify such person. "Private Information" shall mean any NYSIF provided information that is either (a) personal information in combination with any one or more of the following data elements, when either the data element or the combination of personal information plus the data element is not encrypted or encrypted with an encryption key that has also been accessed or 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; (iv) account number, credit or debit card number, if circumstances exist wherein such number could be used to access an individual's financial account without additional identifying information, security code, access code, or password; or (v) biometric information, meaning data generated by electronic measurements of an individual's unique physical characteristics, such as a fingerprint, voice print, retina or iris image, or other unique physical representation or digital representation of biometric data which are used to authenticate or ascertain the individual's identity; or (b) a user name or e-mail address in combination with a password or security question and answer that would permit access to an online account. Notwithstanding the foregoing, Private Information does not include publicly available information which is lawfully made available to the general public from federal, state, or local government records. Additionally, Contractor 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.

For information security incidents, please email infosec@nysif.com

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 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. UPS (United Parcel Service), FedEx, or DHL
- b. e-mail
- c. facsimile transmission
- d. personal delivery

- e. expedited delivery service
- f. United States Postal Service (USPS)*

**Use of United States Postal Service (USPS) is not recommended as the notice will not be directly delivered to NYSIF's Procurement Unit. If USPS is used, it must be sent via certified or registered United States mail with return receipt requested.*

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

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

You have selected the For-Profit Non-Construction questionnaire which may be printed and completed in this format or, for your convenience, may be completed online using the New York State VendRep System.

COMPLETION & CERTIFICATION

The person(s) completing the questionnaire must be knowledgeable about the vendor's business and operations. An owner or owner's official representative authorized to legally bind the Reporting Entity must certify the truth of the questionnaire answers.

NEW YORK STATE VENDOR IDENTIFICATION NUMBER (VENDOR ID)

The Vendor ID is a ten-digit identifier issued by New York State when the vendor is registered on the Statewide Vendor File. This number must now be included on the questionnaire. If the business entity has not obtained a Vendor ID, contact the IT Service Desk at ITServiceDesk@osc.state.ny.us or call 866-370-4672.

DEFINITIONS

All underlined terms are defined in the "New York State Vendor Responsibility Definitions List," found at <https://www.osc.state.ny.us/files/vendors/2017-11/vendor-questionnaire-definitions.pdf>. These terms may not have their ordinary, common or traditional meanings. Each vendor must read the respective definitions for any and all underlined terms. By submitting this questionnaire, the vendor agrees to be bound by the terms as defined in the "New York State Vendor Responsibility Definitions List" existing at the time of certification.

RESPONSES

Every question must be answered fully. Each response must provide **all** relevant information to appropriately explain the answer. If you have concerns as to the legal requirements behind your answers, please seek clarification from your counsel. However, information regarding a determination or finding made in error which was subsequently corrected or overturned, and/or was withdrawn by the issuing government entity is not required to be identified. Individuals and Sole Proprietors may use a Social Security Number but are encouraged to obtain and use a federal Employer Identification Number (EIN).

REPORTING ENTITY

Each vendor must indicate if the questionnaire is filed on behalf of the entire Legal Business Entity or an Organizational Unit within or operating under the authority of the Legal Business Entity and having the same EIN. Generally, the Organizational Unit option may be appropriate for a vendor that meets the definition of "Reporting Entity" but due to the size and complexity of the Legal Business Entity, is best able to provide the required information for the Organizational Unit, while providing more limited information for other parts of the Legal Business Entity and Associated Entities.

ASSOCIATED ENTITY

An Associated Entity is one that owns or controls the Reporting Entity, or any entity owned or controlled by the Reporting Entity. However, the term Associated Entity does **not** include "sibling organizations" (i.e., entities owned or controlled by a parent company that owns or controls the Reporting Entity), unless such sibling entity has a direct relationship with or impact on the Reporting Entity. Please refer to the Definitions List for the complete definition.

STRUCTURE OF THE QUESTIONNAIRE

The questionnaire is organized into eleven sections. Section I is to be completed for the Legal Business Entity. Section II requires the vendor to specify the Reporting Entity for the questionnaire. Section III refers to the individuals of the Reporting Entity, while Sections IV-VIII require information about the Reporting Entity. Section IX pertains to any Associated Entities, with one question about their Officials/Owners. Section X relates to disclosure under the Freedom of Information Law (FOIL). Section XI requires an authorized contact for the questionnaire information.

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

I. LEGAL BUSINESS ENTITY INFORMATION			
<u>Legal Business Entity Name*</u>		<u>EIN</u>	
Address of the <u>Principal Place of Business</u> (street, city, state, zip code)		<u>New York State Vendor Identification Number</u>	
		Telephone Ext.	Fax
Email		Website	
Additional <u>Legal Business Entity</u> Identities: If applicable, list any other <u>DBA</u> , <u>Trade Name</u> , <u>Former Name</u> , Other Identity, or <u>EIN</u> used in the last five (5) years and the status (active or inactive).			
Type	Name	EIN	Status
1.0 <u>Legal Business Entity</u> Type – Check appropriate box and provide additional information:			
<input type="checkbox"/> <u>Corporation</u> (including <u>PC</u>)		Date of Incorporation	
<input type="checkbox"/> <u>Limited Liability Company (LLC or PLLC)</u>		Date of Organization	
<input type="checkbox"/> <u>Partnership</u> (including <u>LLP</u> , <u>LP</u> or <u>General</u>)		Date of Registration or Establishment	
<input type="checkbox"/> <u>Sole Proprietor</u>		How many years in business?	
<input type="checkbox"/> Other		Date Established	
If Other, explain:			
1.1 Was the <u>Legal Business Entity</u> formed or incorporated in New York State?			<input type="checkbox"/> Yes <input type="checkbox"/> No
If ‘No,’ indicate jurisdiction where <u>Legal Business Entity</u> was formed or incorporated and attach a <u>Certificate of Good Standing</u> from the applicable jurisdiction or provide an explanation if a <u>Certificate of Good Standing</u> is not available.			
<input type="checkbox"/> United States State _____			
<input type="checkbox"/> Other Country _____			
Explain, if not available:			
1.2 Is the <u>Legal Business Entity</u> publicly traded?			<input type="checkbox"/> Yes <input type="checkbox"/> No
If “Yes,” provide <u>CIK Code</u> or Ticker Symbol			
1.3 Does the <u>Legal Business Entity</u> have a <u>DUNS</u> Number?			<input type="checkbox"/> Yes <input type="checkbox"/> No
If “Yes,” Enter <u>DUNS</u> Number			

*All underlined terms are defined in the “New York State Vendor Responsibility Definitions List,” which can be found at <https://www.osc.state.ny.us/files/vendors/2017-11/vendor-questionnaire-definitions.pdf>

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

I. LEGAL BUSINESS ENTITY INFORMATION

1.4 If the <u>Legal Business Entity</u> 's <u>Principal Place of Business</u> is not in New York State, does the <u>Legal Business Entity</u> maintain an office in New York State? (Select "N/A," if <u>Principal Place of Business</u> is in New York State.)	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
--	--

If "Yes," provide the address and telephone number for one office located in New York State.

1.5 Is the <u>Legal Business Entity</u> a New York State certified <u>Minority-Owned Business Enterprise</u> (MBE), <u>Women-Owned Business Enterprise</u> (WBE), <u>Service-Disabled Veteran-Owned Business</u> (SDVOB), <u>New York State Small Business</u> (SB) or a federally certified <u>Disadvantaged Business Enterprise</u> (DBE)? If "Yes," check all that apply: <input type="checkbox"/> New York State certified <u>Minority-Owned Business Enterprise</u> (MBE) <input type="checkbox"/> New York State certified <u>Women-Owned Business Enterprise</u> (WBE) <input type="checkbox"/> New York State certified <u>Service-Disabled Veteran-Owned Business</u> (SDVOB) <input type="checkbox"/> <u>New York State Small Business</u> (SB) <input type="checkbox"/> Federally certified <u>Disadvantaged Business Enterprise</u> (DBE)	<input type="checkbox"/> Yes <input type="checkbox"/> No
---	--

1.6 Identify Officials and Principal Owners of the Reporting Entity, if applicable. For each person, include name, title, date of birth, and percentage of ownership. For each Business Entity that is a Principal Owner, include name, address, EIN, and percentage ownership. Identify all Business Entities owning 25% or more of the Reporting Entity and include name, address, EIN and percentage of ownership. Attach additional pages if necessary. If applicable, reference to relevant SEC filing(s) containing the required information is optional. Each Business Entity identified as a Principal Owner must also submit a vendor responsibility questionnaire.

If there is no person or Business Entity that owns 25% or more of the Reporting Entity (or 10% or more if the Reporting Entity is publicly traded), check here.

Name of Officials and Principal Owners (for each person, please include a middle initial)	Title	Date of Birth	Percentage Ownership <i>(Enter 0% if not applicable)</i>
Name of each Business Entity owning 25% or more of Reporting Entity	Address	EIN	Percentage Ownership

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

II. REPORTING ENTITY INFORMATION

2.0 The Reporting Entity for this questionnaire is:

Note: Select only one.

Legal Business Entity

Note: If selecting this option, “Reporting Entity” refers to the entire Legal Business Entity for the remainder of the questionnaire. (SKIP THE REMAINDER OF SECTION II AND PROCEED WITH SECTION III.)

Organizational Unit within and operating under the authority of the Legal Business Entity

SEE DEFINITIONS OF “REPORTING ENTITY” AND “ORGANIZATIONAL UNIT” FOR ADDITIONAL INFORMATION ON CRITERIA TO QUALIFY FOR THIS SELECTION.

Note: If selecting this option, “Reporting Entity” refers to the Organizational Unit within the Legal Business Entity for the remainder of the questionnaire. (COMPLETE THE REMAINDER OF SECTION II AND ALL REMAINING SECTIONS OF THIS QUESTIONNAIRE.)

IDENTIFYING INFORMATION

a) Reporting Entity Name

Address of the Primary Place of Business (street, city, state, zip code)

Telephone

ext.

b) Describe the relationship of the Reporting Entity to the Legal Business Entity

c) Attach an organizational chart

d) Does the Reporting Entity have a DUNS Number?

Yes No

If “Yes,” enter DUNS Number

e) Identify the designated manager(s) responsible for the business of the Reporting Entity.
For each person, include name and title. Attach additional pages if necessary.

Name	Title

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

INSTRUCTIONS FOR SECTIONS III THROUGH VII

For each “Yes,” provide an explanation of the issue(s), relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s). For each “Other,” provide an explanation which provides the basis for not definitively responding “Yes” or “No.” Provide the explanation at the end of the section or attach additional sheets with numbered responses, including the Reporting Entity name at the top of any attached pages.

III. LEADERSHIP INTEGRITY

Within the past five (5) years, has any current or former reporting entity official or any individual currently or formerly having the authority to sign, execute or approve bids, proposals, contracts or supporting documentation on behalf of the reporting entity with any government entity been:

3.0 <u>Sanctioned</u> relative to any business or professional permit and/or license?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other
3.1 <u>Suspended, debarred, or disqualified</u> from any <u>government contracting process</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other
3.2 The subject of an <u>investigation</u> , whether open or closed, by any <u>government entity</u> for a civil or criminal violation for any business-related conduct?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other
3.3 Charged with a misdemeanor or felony, indicted, granted immunity, convicted of a crime or subject to a <u>judgment</u> for: a) Any business-related activity; or b) Any crime, whether or not business-related, the underlying conduct of which was related to truthfulness?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other

For each “Yes” or “Other” provide an explanation for the response and attach additional sheets with numbered responses if necessary:

IV. INTEGRITY – CONTRACT BIDDING

Within the past five (5) years, has the reporting entity:

4.0 Been <u>suspended or debarred</u> from any <u>government contracting process</u> or been <u>disqualified</u> on any government procurement, permit, license, concession, franchise or lease, including, but not limited to, <u>debarment</u> for a violation of New York State Workers’ Compensation or Prevailing Wage laws or New York State Procurement Lobbying Law?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.1 Been subject to a denial or revocation of a government prequalification?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.2 Been denied a contract award or had a bid rejected based upon a <u>non-responsibility finding</u> by a <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.3 Had a bid rejected on a <u>government contract</u> for failure to <u>make good faith efforts</u> on any <u>Minority-Owned Business Enterprise, Women-Owned Business Enterprise, Service-Disabled Veteran-Owned Business or Disadvantaged Business Enterprise</u> goal or <u>statutory affirmative action requirements</u> on a previously held contract?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.4 Agreed to a voluntary exclusion from bidding/contracting with a <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.5 Initiated a request to withdraw a bid submitted to a <u>government entity</u> in lieu of responding to an information request or subsequent to a formal request to appear before the <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No

For each “Yes,” provide an explanation for the response and attach additional sheets with numbered responses if necessary:

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

V. INTEGRITY – CONTRACT AWARD

Within the past five (5) years, has the reporting entity:

5.0 Been suspended, cancelled or terminated for cause on any government contract including, but not limited to, a non-responsibility finding? Yes No

5.1 Been subject to an administrative proceeding or civil action seeking specific performance or restitution in connection with any government contract? Yes No

5.2 Entered into a formal monitoring agreement as a condition of a contract award from a government entity? Yes No

For each “Yes,” provide an explanation for the response and attach additional sheets with numbered responses if necessary:

VI. CERTIFICATIONS/LICENSES

Within the past five (5) years, has the reporting entity:

6.0 Had a revocation, suspension or disbarment of any business or professional permit and/or license? Yes No

6.1 Had a denial, decertification, revocation or forfeiture of New York State certification of Minority-Owned Business Enterprise, Women-Owned Business Enterprise, Service-Disabled Veteran-Owned Business or federal certification of Disadvantaged Business Enterprise status for other than a change of ownership? Yes No

For each “Yes,” provide an explanation for the response and attach additional sheets with numbered responses if necessary:

VII. LEGAL PROCEEDINGS

Within the past five (5) years, has the reporting entity:

7.0 Been the subject of an investigation, whether open or closed, by any government entity for a civil or criminal violation? Yes No

7.1 Been the subject of an indictment, grant of immunity, judgment or conviction (including entering into a plea bargain) for conduct constituting a crime? Yes No

7.2 Received any OSHA citation and Notification of Penalty containing a violation classified as serious or willful? Yes No

7.3 Had a government entity find a willful prevailing wage or supplemental payment violation or any other willful violation of New York State Labor Law? Yes No

7.4 Entered into a consent order with the New York State Department of Environmental Conservation, or received an enforcement determination by any government entity involving a violation of federal, state or local environmental laws? Yes No

7.5 Other than previously disclosed:
 a) Been subject to fines or penalties imposed by government entities which in the aggregate total \$25,000 or more; or
 b) Been convicted of a criminal offense pursuant to any administrative and/or regulatory action taken by any government entity? Yes No

For each “Yes,” provide an explanation for the response and attach additional sheets with numbered response if necessary:

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

VIII. FINANCIAL AND ORGANIZATIONAL CAPACITY	
8.0 Within the past five (5) years, has the <u>Reporting Entity</u> received any <u>formal unsatisfactory performance assessment(s)</u> from any <u>government entity</u> on any contract?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide an explanation of the issue(s), relevant dates, the <u>government entity</u> involved, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
8.1 Within the past five (5) years, has the <u>Reporting Entity</u> had any <u>liquidated damages</u> assessed over \$25,000 for any reason, including failure to meet <u>Minority-Owned Business Enterprise, Women-Owned Business Enterprise, Service-Disabled Veteran-Owned Business, or Disadvantaged Business Enterprise goals</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide an explanation of the issue(s), relevant dates, contracting party involved, the amount assessed and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
8.2 Within the past five (5) years, have any <u>liens, claims or judgments</u> (not including UCC filings) over \$25,000 been filed against the <u>Reporting Entity</u> which remain undischarged?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide an explanation of the issue(s), relevant dates, the Lien holder or Claimant's name(s), the amount of the <u>lien(s)</u> , the current status of the issue(s), and the balance of the <u>lien or judgment</u> not yet paid. Provide answer below or attach additional sheets with numbered responses.	
8.3 In the last seven (7) years, has the <u>Reporting Entity</u> initiated or been the subject of any bankruptcy proceedings, whether or not closed, or is any bankruptcy proceeding pending?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide the bankruptcy chapter number, the court name and the docket number. Indicate the current status of the proceedings as "Initiated," "Pending" or "Closed." Provide answer below or attach additional sheets with numbered responses.	
8.4 During the past three (3) years, has the <u>Reporting Entity</u> failed to file or pay any tax returns required by <u>federal, state or local tax laws</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide the taxing jurisdiction, the type of tax, the liability year(s), the tax liability amount the <u>Reporting Entity</u> failed to file/pay and the current status of the tax liability. Provide answer below or attach additional sheets with numbered responses.	
8.5 During the past three (3) years, has the <u>Reporting Entity</u> failed to file or pay any New York State unemployment insurance returns?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide the years the <u>Reporting Entity</u> failed to file/pay the insurance, explain the situation and any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
8.6 During the past three (3) years, has the <u>Reporting Entity</u> had any <u>government audit(s)</u> completed?	<input type="checkbox"/> Yes <input type="checkbox"/> No
a) If "Yes," did any audit of the <u>Reporting Entity</u> identify any reported significant deficiencies in internal control, fraud, illegal acts, significant violations of provisions of contract or grant agreements, significant abuse or any <u>material disallowance</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes" to 8.6 a), provide an explanation of the issue(s), relevant dates, the <u>government entity</u> involved, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

IX. ASSOCIATED ENTITIES

*This section pertains to any entity(ies) that either controls or is controlled by the reporting entity.
(See definition of "associated entity" for additional information to complete this section.)*

<p>9.0 Does the <u>Reporting Entity</u> have any <u>Associated Entities</u>?</p> <p>Note: All questions in this section must be answered if the <u>Reporting Entity</u> is either:</p> <ul style="list-style-type: none"> - An <u>Organizational Unit</u>; or - The entire <u>Legal Business Entity</u> which controls, or is controlled by, any other entity(ies). <p>If "No," SKIP THE REMAINDER OF SECTION IX AND PROCEED WITH SECTION X. If "Yes," provide the name, address and EIN of each <u>Associated Entity</u> and its relationship to the <u>Reporting Entity</u>.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>9.1 Within the past five (5) years, has any <u>Associated Entity Official</u> or <u>Principal Owner</u> been charged with a misdemeanor or felony, indicted, granted immunity, convicted of a crime or subject to a <u>judgment</u> for:</p> <p>a) Any business-related activity; or b) Any crime, whether or not business-related, the underlying conduct of which was related to truthfulness?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>If "Yes," provide an explanation of the issue(s), the individual involved, their title and role in the <u>Associated Entity</u>, identify the <u>Associated Entity</u>'s name(s), <u>EIN</u>(s), primary business activity, the individual's relationship to the <u>Reporting Entity</u>, relevant dates, the <u>government entity</u> involved, any remedial or corrective action(s) taken and the current status of the issue(s).</p>	
<p>9.2 Does any <u>Associated Entity</u> have any currently undischarged <u>federal</u>, New York State, New York City or New York local government <u>liens</u> or <u>judgments</u> (not including UCC filings) over \$50,000?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>If "Yes," provide an explanation of the issue(s), identify the <u>Associated Entity</u>'s name(s), <u>EIN</u>(s), primary business activity, relationship to the <u>Reporting Entity</u>, relevant dates, the Lien holder or Claimant's name(s), the amount of the <u>lien</u>(s) and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.</p>	
<p>9.3 Within the past five (5) years, has any <u>Associated Entity</u>:</p>	
<p>a) Been <u>disqualified</u>, <u>suspended</u> or <u>debarred</u> from any <u>federal</u>, New York State, New York City or other New York local <u>government contracting process</u>?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>b) Been denied a contract award or had a bid rejected based upon a <u>non-responsibility finding</u> by any <u>federal</u>, New York State, New York City, or New York local <u>government entity</u>?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>c) Been <u>suspended</u>, <u>cancelled</u> or <u>terminated for cause</u> (including for <u>non-responsibility</u>) on any <u>federal</u>, New York State, New York City or New York local <u>government contract</u>?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>d) Been the subject of an <u>investigation</u>, whether open or closed, by any <u>federal</u>, New York State, New York City, or New York local <u>government entity</u> for a civil or criminal violation with a penalty in excess of \$500,000?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>e) Been the subject of an indictment, grant of immunity, <u>judgment</u>, or conviction (including entering into a plea bargain) for conduct constituting a crime?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>f) Been convicted of a criminal offense pursuant to any administrative and/or regulatory action taken by any <u>federal</u>, New York State, New York City, or New York local <u>government entity</u>?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>g) Initiated or been the subject of any bankruptcy proceedings, whether or not closed, or is any bankruptcy proceeding pending?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

IX. ASSOCIATED ENTITIES

*This section pertains to any entity(ies) that either controls or is controlled by the reporting entity.
(See definition of "associated entity" for additional information to complete this section.)*

For each "Yes," provide an explanation of the issue(s), identify the Associated Entity's name(s), EIN(s), primary business activity, relationship to the Reporting Entity, relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.

X. FREEDOM OF INFORMATION LAW (FOIL)

10. Indicate whether any information supplied herein is believed to be exempt from disclosure under the Freedom of Information Law (FOIL). Note: A determination of whether such information is exempt from FOIL will be made at the time of any request for disclosure under FOIL.	<input type="checkbox"/> Yes <input type="checkbox"/> No
--	--

If "Yes," indicate the question number(s) and explain the basis for the claim.

XI. AUTHORIZED CONTACT FOR THIS QUESTIONNAIRE

Name	Telephone	Fax
	ext.	
Title	Email	

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

Certification

The undersigned: (1) recognizes that this questionnaire is submitted for the express purpose of assisting New York State government entities (including the Office of the State Comptroller (OSC)) in making responsibility determinations regarding award or approval of a contract or subcontract and that such government entities will rely on information disclosed in the questionnaire in making responsibility determinations; (2) acknowledges that the New York State government entities and OSC may, in their discretion, by means which they may choose, verify the truth and accuracy of all statements made herein; and (3) acknowledges that intentional submission of false or misleading information may result in criminal penalties under State and/or federal law, as well as a finding of non-responsibility, contract suspension or contract termination.

It being acknowledged and agreed that all responses included in this questionnaire are to the knowledge, information and belief of the Business Entity, the undersigned certifies under penalties of perjury that they:

The undersigned certifies that he/she:

- are knowledgeable about the submitting Business Entity's business and operations;
- have legal authority to bind the Business Entity;
- have read and understand all of the questions contained in the questionnaire, including all definitions;
- have not altered the content of the questionnaire in any manner;
- have reviewed and/or supplied full and complete responses to each question;
- have provided true, accurate and complete responses, including all attachments, if applicable;
- understand that New York State government entities will rely on the information disclosed in the questionnaire when entering into a contract with the Business Entity; and
- are under an obligation to update the information provided herein to include any material changes to the Business Entity's responses at the time of bid/proposal submission through the contract award notification, and may be required to update the information at the request of the New York State government entities or OSC prior to the award and/or approval of a contract, or during the term of the contract.

Signature of Owner/Official _____

Printed Name of Signatory _____

Title _____

Name of Business _____

Address _____

City, State, Zip _____



APPENDIX E
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.)

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, identify New York State businesses that will be used and enter identifying information below. Include the name, FEIN, and estimated expenditures.

<u>Business Name</u>	<u>FEIN</u>	<u>Dollar Value</u>	<u>Description of Work</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____



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

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 I

BIDDER REFERENCES

Bidder / Subcontractor Name _____

Bid # _____

List three (3) verifiable references receiving service similar in scope to the services required.

Company Name _____

Address _____

Contact Name _____

Contact Title _____

Phone Number _____

Date Services Provided _____

Type of Services Provided _____

Company Name _____

Address _____

Contact Name _____

Contact Title _____

Phone Number _____

Date Services Provided _____

Type of Services Provided _____

Company Name _____

Address _____

Contact Name _____

Contact Title _____

Phone Number _____

Date Services Provided _____

Type of Services Provided _____

APPENDIX J
Certification Under Executive Order No. 16
Prohibiting State Agencies and Authorities from Contracting with
Businesses Conducting Business in Russia

Executive Order No. 16 provides that “all Affected State Entities are directed to refrain from entering into any new contract or renewing any existing contract with an entity conducting business operations in Russia.” The complete text of Executive Order No. 16 can be found [here](#).

The Executive Order remains in effect while sanctions imposed by the federal government are in effect. Accordingly, vendors who may be excluded from award because of current business operations in Russia are nevertheless encouraged to respond to solicitations to preserve their contracting opportunities in case the sanctions are lifted during a solicitation or even after award in the case of some solicitations.

As defined in Executive Order No. 16, an “entity conducting business operations in Russia” means an institution or company, wherever located, conducting any commercial activity in Russia or transacting business with the Russian Government or with commercial entities headquartered in Russia or with their principal place of business in Russia in the form of contracting, sales, purchasing, investment, or any business partnership.

Is Vendor an entity conducting business operations in Russia, as defined above? Please answer by checking one of the following boxes:

1. No, Vendor does not conduct business operations in Russia within the meaning of Executive Order No. 16.

- 2.a. Yes, Vendor conducts business operations in Russia within the meaning of Executive Order No. 16 but has taken steps to wind down business operations in Russia or is in the process of winding down business operations in Russia. (Please provide a detailed description of the wind down process and a schedule for completion.)

- 2.b. Yes, Vendor conducts business operations in Russia within the meaning of Executive Order No. 16 but only to the extent necessary to provide vital health and safety services within Russia or to comply with federal law, regulations, executive orders, or directives. (Please provide a detailed description of the services being provided or the relevant laws, regulations, etc.)

3. Yes, Vendor conducts business operations in Russia within the meaning of Executive Order No. 16.

The undersigned certifies under penalties of perjury that they are knowledgeable about the Vendor’s business and operations and that the answer provided herein is true to the best of their knowledge and belief.

Vendor Name: _____
(legal entity)

By: _____
(signature)

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 IV 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 conducted a comprehensive search and determined that the Contract does not offer sufficient opportunities to set goals for participation by MWBE's as subcontractors, service providers and suppliers to Contractor. Contractor is however, encouraged to make every good faith effort to promote and assist the participation of MWBE's on this Contract for the provision of service and materials. The directory of New York State Certified MWBE's can be viewed at: <https://ny.newnycontracts.com>. 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.
- B. 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]

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. 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.

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

Instructions for completing:

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

RACE/ETHNIC IDENTIFICATION

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

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

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: _____

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	Hours worked by Race/Ethnic Identification During Reporting Period										
			White		Black/African American		Hispanic/Latino		Asian/Native Hawaiian or Other Pacific Islander		White		
			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: _____

The Workforce Utilization Report ("Report") is to be submitted on a monthly basis for construction contracts¹, 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 MWBE_SDOVB@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.

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 MWBE_SDVOB@nysif.com or contact Carrell Clarke-Europe at (212) 312-0089.

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 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: _____

_____ 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: _____



Contractor Certification to Covered Agency

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

ST-220-CA

(12/11)

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

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

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

(name)

(title)

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

(Mark an X in only one box)

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

The contractor has previously filed Form ST-220-TD with the Tax Department in connection with _____

(insert contract number or description)

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

Sworn to this ____ day of _____, 20 ____

(sign before a notary public)

(title)

Instructions

General information

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

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

When to complete this form

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

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

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

Individual, Corporation, Partnership, or LLC Acknowledgment

STATE OF }
: SS.:
COUNTY OF }

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

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

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

Notary Public

Registration No.

Privacy notification

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

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

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

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

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

Need help?



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



Telephone assistance

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

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



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



Contractor Certification

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

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 <input type="checkbox"/> No <input type="checkbox"/> Unknown at this time <input type="checkbox"/>				

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 O
CONTRACTOR CONSULTANT LAW

Form A

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

To meet these new requirements, the Contractor agrees to complete Form A - Contractor's Planned Employment Form.

A listing of employment categories, which is a required column on the form, can be found at the following link:

<http://www.onetonline.org/>

OSC Use Only:
 Reporting Code:
 Category Code:
 Date Contract Approved:

FORM A

State Consultant Services - Contractor's Planned Employment
 From Contract Start Date Through The End Of The Contract Term

State Agency Name: NYS Insurance Fund	Agency Code: 7010204
---------------------------------------	----------------------

Contractor Name: _____ Contract Number: _____

Contract Start Date: _____ Contract End Date: _____

Employment Category	Number of Employees	Number of hours to be worked	Amount Payable Under the Contract
Total this page			
Grand Total			

Name of person who prepared this report: _____

Title: _____	Phone #: _____
Preparer's Signature: _____	
Date Prepared: _____	

(Use additional pages, if necessary)

Page ____ of ____

Contractor Consultant Law Form B

Form B - Contractor's Annual Employment Report. By May 15th of each year of the contract, the contractor agrees to report the following information to the State agency awarding the contract, or, if the contractor has provided contract employees pursuant to an OGS centralized contract, such report must be made to the State agency purchasing from such contract:

1. Total number of employees employed to provide the consultant services, by employment category.
2. Total number of hours worked by such employees.
3. Total compensation paid to all employees that performed consultant services under such Contract.*

Form B is required for each covered consultant contract in effect at any time between the preceding April 1st through March 31st fiscal year or for the period of time such contract was in effect during such prior State fiscal year.

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

To determine employment categories, you may access the U.S. Department of Labor Employment and Training Administration's O*NET database - www.onetonline.org and select "Find Occupations".

**NOTE: The information to be reported is applicable only to those employees who are directly providing services or directly performing covered consultant services. However, such information shall also be provided relative to employees of Subcontractors who perform any part of the service contract or any part of the covered consultant contract. This information does not have to be collected and reported in circumstances where there is ancillary involvement of an employee in a clerical, support, organizational or other administrative capacity.*

Contractor agrees to simultaneously report such information to the Department of Civil Service and the Office of the State Comptroller as designated below:

NYSIF	Department of Civil Service	OSC-Bureau of Contracts
contracts@nysif.com	Alfred E. Smith Office Building	110 State St, 11 th Floor
	Albany, NY 12239	Albany, New York 12236
	Attn: Executive Office	Attn: Consultant Reporting

email: SubmitformB@cs.ny.gov

email: CDMOST@osc.ny.gov

Contractor is advised herein and understands that this information is available for public inspection and copying pursuant to §87 of the New York State Public Officers Law (Freedom of Information Law). In the event individual employee names or social security numbers are set forth on a document, the State agency making such disclosure is obligated to redact both the name and social security number prior to disclosure.

Should you have any questions, please contact the NYSIF Procurement Unit at 518-437-4230 (phone), 518-437-4209 (fax), or contracts@nysif.com (email).

APPENDIX O

FORM B

OSC Use Only: Reporting Code: Category Code:

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

Contracting State Agency Name: NYSIF	Agency Code: 7010204
Contract Number:	
Contract Term: to	
Contractor Name:	
Contractor Address:	
Description of Services Being Provided:	

Scope of Contract (Choose one that best fits):

Analysis Evaluation Research Training

Data Processing Computer Programming Other IT consulting

Engineering Architect Services Surveying Environmental Services

Health Services Mental Health Services

Accounting Auditing Paralegal Legal Other Consulting

Employment Category	Number of Employees	Number of Hours Worked	Amount Payable Under the Contract
Total this page			
Grand Total			

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



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.

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:	<input type="checkbox"/> Accepted	<input type="checkbox"/> Accepted as Noted	<input type="checkbox"/> 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.

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 &
VENDOR PROFILE**

REQUIREMENTS

The Vendor Security Survey & Vendor Profile (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 section of Appendix T 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

For purposes of this Appendix T and notwithstanding any other definition in the Agreement to which this Appendix T is attached and incorporated, the following terms have special meanings:

"NYSIF's Information or Data" shall have the same meaning as the term "Nonpublic Information," as defined in the New York State Department of Financial Services Cybersecurity Regulation at 23 N.Y.C.R.R. § 500.1, and shall include NYSIF information for which disclosure is prohibited or restricted pursuant to Workers' Compensation Law §§ 98 or 110-a. This term is used in Questions A and B.

Personal Information means "record" information, including "Individually Identifiable Information," as the terms are defined in the Worker's Compensation Law § 110-a, non-public "Individually Identifiable Health Information," as such term is defined in 42 U.S.C. § 1320d, and individual financial information that would be confidential pursuant to 12 U.S.C. § 3403 if held by a financial institution.

Within the "**RESPONSE**" column all questions must be answered by selecting the appropriate answer from the drop-down list, providing an explanation of the controls, and providing substantiating document(s). The drop-down list is 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, Questions A, B, C and D 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 & Vendor Profile must be submitted in writing to contracts@nysif.com by the date and time indicated in the solicitation calendar, citing the question and bid number.

EMERGENCY CONTACT REQUIREMENTS

NYSIF must have the ability to immediately contact a vendor when a question or issue arises. Primary and secondary emergency contact information must be provided below. Vendor must respond to NYSIF based on the priority levels outlined below. It is the vendors responsibility to notify NYSIF if the provided emergency contacts change during the term of the contract. Should a vendor breach the emergency contact and/or response requirements, NYSIF reserves the right to suspend or terminate work in accordance with the terms and conditions of the contract.

- **Priority 1:** An incident where vendor believes NYSIF data may have been compromised. Vendor needs to inform NYSIF within ***4 hours***.
- **Priority 2:** An incident where functionality to a service provided to NYSIF has been impacted. Vendor needs to inform NYSIF within ***1 business day***.
- **Priority 3:** An incident where there was a compromise of systems at the vendor’s business, but NYSIF data was not affected. Vendor needs to inform NYSIF within ***2 business days***.

Primary Emergency Contact

Name: _____
Phone Number: _____
Contact Email: _____

Secondary Emergency Contact

Name: _____
Phone Number: _____
Contact Email: _____

**APPENDIX T
NYSIF VENDOR SECURITY SURVEY & VENDOR PROFILE**

VENDOR COMPANY INFORMATION	VENDOR RESOURCE COMPLETING QUESTIONNAIRE
NAME	
ADDRESS	
CITY/STATE/ZIP	

General Instructions: The following questions are divided by Critical Security Control topic. Details entered within the "Explanation of Controls" should clarify and explain the response to the data request as well as explain exposure limits that may apply. Provide references to any supporting documentation included along with the survey within "Substantiating Document(s)". For example, "See attached documentation - <filename1.pdf>, <filename2.docx>."

Bidder Affirmation: Bidder affirms understanding and agreeing to the mandatory technical requirements described in the Bid Documents and inquired about in this Appendix T, and provides its responses to the inquiries in this Appendix T and signature of its authorized representative who completed this Appendix T certifying that Contractor meets such mandatory technical requirements. Bidder further affirms and agrees that if Bidder is awarded the contract for which this Appendix T is submitted that the responses to this Appendix T, as well as any and all responses to Data Requests from NYSIF for supplemental information completed and submitted by Bidder, will be incorporated in and attached to the Agreement between NYSIF and Bidder.

INSTRUCTIONS FOR "EXPLANATION OF CONTROLS"	INSTRUCTIONS FOR "SUBSTANTIATING DOCUMENT(S)"
<p>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.</p> <p>Appendix T WILL NOT be accepted if "EXPLANATION OF CONTROLS" is left blank for ANY of the questions below.</p> <p>The MINIMUM Required Level for Controls 1-20 is PARTIALLY.</p>	<p>Within the "SUBSTANTIATING DOCUMENT(S)" column, supporting documentation is not required if the "EXPLANATION OF CONTROLS" provides sufficient detail.</p>

	DATA PRIVACY	RESPONSE	EXPLANATION OF CONTROLS	SUBSTANTIATING
A	Bidder asserts NYSIF's Information or Data is NOT transmitted outside of or accessed from outside of the United States. Please explain how this is accomplished in the Explanation of Controls box.			
B	Do you use one or more cloud service providers to store NYSIF's Information or Data? Please describe how you secure it in the Explanation of Controls box.			
C	Do you use Multi-Factor Authentication (MFA) for users to connect to your systems (internal/external/cloud etc)? Please describe the MFA used (FIDO/WebAuthn, Authenticator App, etc.). Multi-Factor Authentication (MFA) is a requirement.			
D	Do you have a Cybersecurity Vendor Risk Management program or process in place for your third party vendors? Please describe in the Explanation of Controls box.			

**APPENDIX T
NYSIF VENDOR SECURITY SURVEY & VENDOR PROFILE**

	INVENTORY OF AUTHORIZED AND UNAUTHORIZED DEVICES	RESPONSE	EXPLANATION OF CONTROLS	SUBSTANTIATING DOCUMENT(S)
1	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.			
	INVENTORY OF AUTHORIZED AND UNAUTHORIZED SOFTWARE	RESPONSE	EXPLANATION OF CONTROLS	SUBSTANTIATING DOCUMENT(S)
2	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.			
	SECURE CONFIGURATIONS FOR HARDWARE AND SOFTWARE	RESPONSE	EXPLANATION OF CONTROLS	SUBSTANTIATING DOCUMENT(S)
3	<p>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.</p> <p>Additional Information for Vendors: Since many systems don't come out-of-the-box secured, the purpose of this control is to maintain documented, standard security configuration standards for all authorized operating systems and software. Your organization should among others 1) create security baselines for every system using established resource; 2) use a rigorous configuration management and change control process; 3) use a compliant configuration monitoring system to verify all security configuration elements, catalog approved exceptions, and alert when unauthorized changes occur.</p>			
	CONTINUOUS VULNERABILITY ASSESSMENT AND REMEDIATION	RESPONSE	EXPLANATION OF CONTROLS	SUBSTANTIATING DOCUMENT(S)
4	<p>Continuously acquire, assess, and take action on new information in order to identify vulnerabilities, remediate, and minimize the window of opportunity for attackers.</p> <p>Additional Information for Vendors: Organizations that do not scan for vulnerabilities and proactively address discovered flaws face a significant likelihood of having their computer systems compromised. To achieve compliance with this control, you will need to show your organization has 1) implemented automated vulnerability scanning tools (not to be confused with Anti-Virus scanning tools or a Penetration test) against all systems on a weekly or more frequent basis, 2) deployed automated patch management & software update tools 3) routinely monitor event logs.</p>			

APPENDIX T
NYSIF VENDOR SECURITY SURVEY & VENDOR PROFILE

CONTROLLED USE OF ADMINISTRATIVE PRIVILEGES		RESPONSE	EXPLANATION OF CONTROLS	SUBSTANTIATING DOCUMENT(S)
5	<p>The processes and tools used to track/control/prevent/correct the use, assignment, and configuration of administrative privileges on computers, networks, and applications.</p> <p>Additional Information for Vendors: The misuse of administrative privileges is a primary method for attackers to spread inside a target enterprise. Controls should be implemented by job role and follow the principles of least privilege to accomplish the job, change default passwords, use dedicated accounts with multi-factor authentication for elevated access and activities, logging and monitoring such access etc.</p>			
MAINTENANCE, MONITORING, AND ANALYSIS OF AUDIT LOGS		RESPONSE	EXPLANATION OF CONTROLS	SUBSTANTIATING DOCUMENT(S)
6	<p>Collect, manage, and analyze audit logs of events that could help detect, understand, or recover from an attack.</p>			
EMAIL AND WEB BROWSER PROTECTIONS		RESPONSE	EXPLANATION OF CONTROLS	SUBSTANTIATING DOCUMENT(S)
7	<p>Minimize the attack surface and the opportunities for attackers to manipulate human behavior through their interaction with web browsers and email systems.</p> <p>Additional Information for Vendors: Web browsers and email are easy entry points for attackers. Please: 1) demonstrate that only fully supported web browsers and email clients are allowed to execute in the organization; 2) implement Domain-based Message Authentication, Reporting and Conformance (DMARC) policy and verification, starting by implementing the Sender Policy Framework (SPF) and the Domain Keys Identified Mail (DKIM) standards for email security.</p>			
MALWARE DEFENSES		RESPONSE	EXPLANATION OF CONTROLS	SUBSTANTIATING DOCUMENT(S)
8	<p>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.</p>			

**APPENDIX T
NYSIF VENDOR SECURITY SURVEY & VENDOR PROFILE**

LIMITATION AND CONTROL OF NETWORK PORTS		RESPONSE	EXPLANATION OF CONTROLS	SUBSTANTIATING DOCUMENT(S)
9	<p>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.</p>			
DATA RECOVERY CAPABILITY		RESPONSE	EXPLANATION OF CONTROLS	SUBSTANTIATING DOCUMENT(S)
10	<p>The processes and tools used to properly back up critical information with a proven methodology for timely recovery of it.</p> <p>Additional Information for Vendors: When systems get compromised, it can be extremely difficult for organizations without a trustworthy data recovery capability to remove all aspects of the attacker's presence on the machine. Please show 1) that all system data is automatically backed up on regular basis; 2) that each of the organization's key systems are backed up as a complete system, through processes such as imaging, to enable the quick recovery of an entire system.</p>			
SECURE CONFIGURATIONS FOR NETWORK DEVICES		RESPONSE	EXPLANATION OF CONTROLS	SUBSTANTIATING DOCUMENT(S)
11	<p>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.</p> <p>Additional Information for Vendors: By default network infrastructure devices are not secured adequately. They are generally delivered with default configurations, open services and ports, default accounts or passwords, support for vulnerable protocols. Detail how you: 1) Compare all network device configuration against approved security configurations defined for each network device in use and alert when any deviations are discovered; 2) Manage all network devices using multi-factor authentication and encrypted sessions.</p>			
BOUNDARY DEFENSE		RESPONSE	EXPLANATION OF CONTROLS	SUBSTANTIATING DOCUMENT(S)
12	<p>Detect/prevent/correct the flow of information transferring networks of different trust levels with a focus on security-damaging data.</p> <p>Additional Information for Vendors: Traffic through network borders should be controlled and monitored for attacks and evidence of compromised machines. Boundary defenses should be multi-layered, relying on firewalls, proxies, Demilitarized Zone (DMZ) perimeter networks, and network-based intrusion detection and prevention systems. It is critical to filter both inbound and outbound traffic and require all remote login access to the organization's network to encrypt data and use multi-factor authentication.</p>			

APPENDIX T
NYSIF VENDOR SECURITY SURVEY & VENDOR PROFILE

DATA PROTECTION		RESPONSE	EXPLANATION OF CONTROLS	SUBSTANTIATING DOCUMENT(S)
13	<p>The processes and tools used to prevent data exfiltration, mitigate the effects of exfiltrated data, and ensure the privacy and integrity of sensitive information, including Personal Information received from NYSIF.</p> <p>Additional Information for Vendors: Ensuring that data is protected and not compromised can be achieved through data encryption, integrity protection and data loss prevention. Encrypt hard drives and if there is no business need, disable removable media such as USB, CD, DVDs etc... If removable media is required, all data stored on such devices must be encrypted while at rest.</p>			
CONTROLLED ACCESS BASED ON THE NEED TO KNOW		RESPONSE	EXPLANATION OF CONTROLS	SUBSTANTIATING DOCUMENT(S)
14	<p>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.</p>			
WIRELESS ACCESS CONTROL		RESPONSE	EXPLANATION OF CONTROLS	SUBSTANTIATING DOCUMENT(S)
15	<p>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.</p>			
ACCOUNT MONITORING AND CONTROL		RESPONSE	EXPLANATION OF CONTROLS	SUBSTANTIATING DOCUMENT(S)
16	<p>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.</p>			

APPENDIX T
NYSIF VENDOR SECURITY SURVEY & VENDOR PROFILE

SECURITY SKILLS ASSESSMENT AND TRAINING		RESPONSE	EXPLANATION OF CONTROLS	SUBSTANTIATING DOCUMENT(S)
17	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.			
APPLICATION SOFTWARE SECURITY		RESPONSE	EXPLANATION OF CONTROLS	SUBSTANTIATING DOCUMENT(S)
18	Manage the security life cycle of all in-house developed and acquired software in order to prevent, detect, and correct security weaknesses. Additional Information for Vendors: Please include information on controls around your acquired or purchased software also (including commercial off the shelf software, for example, Microsoft Office, Adobe etc...) such as using supported or latest versions, installing patches and applying security recommendations.			
INCIDENT RESPONSE AND MANAGEMENT		RESPONSE	EXPLANATION OF CONTROLS	SUBSTANTIATING DOCUMENT(S)
19	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. Additional Information for Vendors: Without an incident response plan, an organization may not discover an attack in the first place, or, if the attack is detected, the organization may not follow good procedures to contain damage, eradicate the attacker's presence, and recover in a secure fashion. An effective incident response plan is a written document that defines roles of personnel as well as phases of incident handling/management. It also assembles and maintains information on third-party contact information to be used to report a security incident, such as Law Enforcement, relevant government departments, vendors etc. Provide details about your organization's Incident Response Plan.			

**APPENDIX T
NYSIF VENDOR SECURITY SURVEY & VENDOR PROFILE**

PENETRATION TESTS	RESPONSE	EXPLANATION OF CONTROLS	SUBSTANTIATING DOCUMENT(S)
<p>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. NOTE: An annual Penetration Test is a requirement for doing business with NYSIF. (A Statement of Work may be used to continue through the contract execution process.) Upon award Firm(s) will be required to provide Penetration Test documentation of test performed within the last 12-months. No work will be provided under the contract until this requirement has been satisfied.</p> <p>Additional Information for Vendors:</p> <p>1. What is a Penetration Test – A penetration test is an authorized security attack where certified skilled cyber security experts attempt to find and exploit vulnerabilities in your organization's computer systems or network. The test identifies any loopholes or weaknesses you may have. This should not be confused with vulnerability assessments which may be part of a penetration test but not a substitute for it.</p> <p>2. The Importance of a Penetration Test - The test is a simulated attack to identify any weaknesses in a system's defenses that attackers could take advantage of. This is so any information, especially sensitive information is not stolen by a hacker. Penetration testing leverages many of the previous controls and provides feedback to help remediate vulnerabilities discovered during the test.</p> <p>3. Why NYSIF requires the test - NYSIF requires a penetration test as it helps vendors uncover any hidden vulnerabilities which help identify and validate any security loopholes in their systems.</p> <p>4. What is acceptable Penetration Test Documentation VS. Not acceptable - A penetration test is done by a certified skilled professional. Documentation should provide evidence of a completed penetration test such as: A report with findings and remediations, or an Executive Summary, or an Attestation letter from the testing company. The primary components of a Penetration Test are: a) Network Testing. b) Cloud, Web and Mobile Application Testing (Where Applicable). c) Vulnerability Scanning. d) Exploitation. e) Remediation Plan.</p> <p>5. Additional information: a) The length of the penetration testing engagement depends on the type of testing and can take an average of 1 - 4 weeks not including the planning stages which could extend out to months depending on the activities the pen tester needs to perform. b) Getting a comprehensive risk picture of your company gives you an opportunity to map the identified vulnerabilities and exploits and give a summary of those risks that would have any threats materialize. c) Effectively finding and fixing any security issues should include collaboration and communication with product, security, and development teams to leverage the vulnerabilities found on the external assets.</p>			

**APPENDIX T
NYSIF VENDOR SECURITY SURVEY & VENDOR PROFILE**

VENDOR PROFILE	
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? 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?	
6-a If yes, by what means is NYSIF data exchanged and in what direction; from NYSIF to your organization or both directions?	
7 Are any of the following types of data transmitted, stored, and/or processed by your organization during the course of providing services to NYSIF?	
7-a Protected Health Information ("PHI") or Individually Identifiable Health Information, as 42 U.S.C. § 1320d?	
7-b Payment Card Information ("PCI")?	
7-c Individually Identifiable Information as defined in Worker's Compensation Law § 110-a ?	
7-d Social Security Number ("SSN")	
7-e Financial information, or information that could be covered under SOX?	
7-f Other type of personally identifiable information, not listed 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.	

By signing this form you agree that the information provided is both accurate and complete. Signature of affirming authorized representative of Bidder:

Bidder's Name: _____
Authorized Representative Signature: _____
Printed or Typed Name: _____
Title of Signatory: _____
Date: _____



APPENDIX V

Vendor Assurance of No Conflict of Interest or Detrimental Effect

The Firm offering to provide services pursuant to this Custodial Banking RFP (2024-55-INV, 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)

**APPENDIX Z
FEE SCHEDULE PROPOSAL**

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

Pertinent information necessary to answer Fee Structure questions is provided in the Exhibits and the Technical Proposal of the RFP. The following information is also provided for your review.

Market Value of Total Assets at 12/31/22
\$18,625,000,000.00

Transactions from 01/01/22 to 12/31/22 (Approximated)			
		# of Transactions	Amount
Equities	Sales	4912	\$354,139,807.00
	Buys	11688	\$464,261,615.00
	Dividends	9103	\$28,906,242.00
Fixed Income	Sales	464	\$532,871,544.00
	Buys	2226	\$3,160,040,297.00
	P&I Payments/Maturities	13083	\$1,568,004,605.00
Short-term Bonds	Sales	11	\$50,706,491.00
	Buys	80	\$503,361,583.00
	P&I Payments/Maturities	8016	\$6,599,159.00

A. Provide asset based fee for services required excluding Securities Lending.

7 Years

	Custody Only	3 rd Party Lending (one agent)	3 rd Party Lending (one additional agent)
First: Equities Bonds			
Second: Equities			

**APPENDIX Z
FEE SCHEDULE PROPOSAL**

Bonds			
Third: Equities Bonds			
Fourth: Equities Bonds			
Five: Equities Bonds			
Six: Equities Bonds			
Seven: Equities Bonds			

B. If the function of lending securities is included, what is the US\$ impact on the asset based fee stated in Item A. (above)? Please also provide your proposed revenue share for securities lending income as well as all specific detail on fees charged for cash collateral reinvestment activities (if any).

7 Years: Custody and Lending support fees as combined provider.

First: Equities Bonds	
Second: Equities Bonds	
Third: Equities Bonds	
Fourth: Equities Bonds	
Five: Equities Bonds	
Six: Equities Bonds	

APPENDIX Z FEE SCHEDULE PROPOSAL

Seven: Equities Bonds	
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C. To verify cost proposals, please provide the following calculations:

Custody Fees	December 31, 2022 Market Values	Fees	Pro-Forma Cost
Fixed Income:	\$16,000,000,000.00		
Equity:	\$3,000,000,000.00		
Transactions	Annual Volume	Fees	Pro-Forma Cost
Equities:			
Sales	5000 / \$360,000,000.00		
Buy	11700 / \$470,000,000.00		
Dividends	9150 / \$29,000,000.00		
Fixed Income:			
Sales	470 / \$540,000,000.00		
Buy	2250 / \$3,200,000,000.00		
P&I Payments / Maturities	13100 / \$1,600,000,000.00		
Short Term Bonds:			
Sales	15 / \$51,000,000.00		
Buy	85 / \$510,000,000.00		
P&I Payments / Maturities	8050 / \$7,000,000.00		
Wire Transfers			
Others: (Enumerate)			
On-line or Internet Access	50 users		
Out of Pocket			
Transition & Conversion			
Etc.			

- D.** Please identify all other services that are included in a standard custody arrangement for a Public Fund the size of NYSIF and what services are available on an additional fee basis.
- E.** What are the short-term investment vehicles you propose as applicable to NYSIF to sweep idle cash balances? What is the total expense ratio, including management fees?
- F.** What are the overdraft charges?
- G.** You are required to provide all information requested in this section. Provide the following data in order for NYSIF to verify and identify the associated costs of domestic investments and other asset classes.

1. Transition and Conversion charge: _____ / account pool
 - Domestic: (please specify) _____
 - Exit fees: _____
 - Transfer of physical assets _____

**APPENDIX Z
FEE SCHEDULE PROPOSAL**

2. Asset based/holdings fee:
 Domestic _____ / bp
3. Consolidated reporting _____ / account
 Special reporting (plan, account, asset class, _____ / account
 etc.) _____
 Securities Lending Reports (standard) _____
 Securities Lending Reports (as required and _____
 specified in the securities lending section of _____
 the Technical Proposal)
4. Transaction charges:

CUSTODY ACCOUNT	Unit Price
Maintenance	
Deposit Insurance Fee	
Depository Bond Issues	
Vault Bond Issues	
Depository Stock Issues	
Vault Stock Issues	
Federal Book Entry - Automated	
PTC Automated	
DTC Automated	
DTC Manual	
DTC SDFS Surcharge	
DTC ID	
Physical Automated	
Physical Manual	
Private Placement Income	
U S Government Income	
P & I Payments	
Maturities	
Reorganization	
Client Access Reporting	
Global Investor Services - Manual/Non-STP Transaction Surcharge, Manual Corporate Action Response, Overdraft fee for DDA/non-DDA accounts	
Performance Administration	
DDA ACCOUNT	Unit Price
Fed Wire Payment	
Draw Down Request	
Fed Wire Receipt	
Monthly Maintenance Fee	
Statements	
Debit Postings	
Credit Postings	

**APPENDIX Z
FEE SCHEDULE PROPOSAL**

Repetitive Instruction Storage	
All other expenses, if any (Itemized list):	
DOWNLOAD CHARGES	Unit Price
Monthly Maintenance (Custody & Checking Systems)	
Statements	
Pending Items	
Prior Day's Trades	
Prior Day's Cash	
Assets	
DTC Confirmations	
All other expenses, if any (Itemized list):	

5. On-line system charges:
 - Standard reports (assets and transactions) _____
 - Customized reports _____
 - Performance reports _____
 - Securities lending _____
 - Electronic Corporate Action Response _____
 - Interfund Transfers _____
 - Fedwire Transfers _____

6. Proxy Notification - Please enumerate any charges:
 - _____
 - _____
 - _____

7. Class Action Support – Please enumerate any charges
 - _____
 - _____
 - _____

8. Third Party Lending Support – Please enumerate any charges:
 - _____
 - _____
 - _____

9. Servicing for Investments in Syndicated (Bank) Loans – Please enumerate any charges:
 - _____
 - _____
 - _____

**APPENDIX Z
FEE SCHEDULE PROPOSAL**

10. Private Markets – Portfolio Administration Services
Capital Call/Distribution Processing _____
Roll-forward Valuations (Monthly) _____

11. FINRA Rule 4210 Margin Requirement – Collateral Management Services
(Note: This fee is only applicable once this rule becomes effective and
subject to NYSIF’s Investment Department’s decision to start service.)
Please enumerate any charges: _____

12. Miscellaneous: (itemize)
Training _____
Performance/Universe Comparisons _____
Letter of Credits _____
Others (Please itemize) _____

H. Do you offer other fee arrangements that NYSIF should consider? Please describe and provide appropriate calculations and structure, including benefits to NYSIF.

Please note. Any other mandatory service required by this RFP must be included in the above cost schedule. No additional billing categories will be permitted during the term of any contract that may result from this RFP without prior written authorization by NYSIF.

Signature: _____ Title: _____

Print Name: _____ Date: _____