



**Empire State
Development**

Andrew Cuomo
Governor

Howard Zensky
ESD President, CEO & Commissioner

New York State Department of Economic Development

REQUEST FOR PROPOSALS

*NYS Minority- and Women-owned Business Enterprise
(MWBE)
New York State Contract System*

RFP Number: 18-6132

**PROPOSALS DUE: September 7, 2018
BY 5:00 P.M.**

RFP Released: August 1, 2018

Request for Proposals (RFP) Response Form

RFP # 18-6132

Please review this RFP. Complete the following information and mail this form or if submitting a proposal, this form together with your entire proposal, to the address at the bottom of this page. Late proposals cannot be accepted.

/ / **Attached is our proposal**

/ / **We do not intend to submit a proposal for the following reason(s):**

Name of Organization: _____

Address: _____

- Is this address your company's principal place of business? Yes _____ No _____

The term "principal place of business" is defined as follows:

A company's principal place of business is generally considered to be the enterprise's main office, where the regular meetings of its board of directors occurs, and where a company's business is managed, conducted and directed, regardless of where the administrative departments or the physical property of the business are located. For purposes of determining the principal place of business, a foreign business enterprise's principal place of business is not necessarily the same as its state of incorporation. In sum, the determinate is where the actual "business" of the corporation takes place.

If the above address is not your principal place of business, please indicate the full address of your principal place of business on the following two lines:

- Will this product or service be substantially produced in NYS: Yes _____ No _____
- Subject to the "Conditions Governing Proposals" article stated in this RFP, proposals must be in agreement with all terms and conditions of this RFP.

Phone #: _____ **Fax #:** _____

Signature: _____ **Date:** _____

Type or Print Name and Title: _____

Mail this as the first page of your proposal.

****If not submitting a proposal, please e-mail this form to: rpfinfo@esd.ny.gov**

NEW YORK STATE
DEPARTMENT OF ECONOMIC DEVELOPMENT
REQUEST FOR PROPOSALS 18-6132
Table of Contents

SECTION I - ADMINISTRATIVE INFORMATION	1
1.0 Purpose	1
1.1 Inquiries	1
1.2 Schedule of Pertinent Dates.....	1
1.3 Submission of Proposals.....	1
1.4 Designated Contacts	2
1.5 Financial Resources	2
1.6 Personnel	2
SECTION II – PROGRAM BACKGROUND AND SCOPE OF SERVICES.....	3
2.0 Background.....	3
2.1 Scope of Services.....	5
2.2 Budget.....	27
2.3 Deliverables and Design Specifications	27
2.4 Mandatory Qualification Requirements	27
2.5 Selection Criteria/Evaluation.....	28
2.6 Evaluation Process.....	29
2.7 Contract Award.....	29
SECTION III - PROPOSAL CONTENT AND CONDITIONS	30
3.0 General Information	30
3.1 Complete Proposal Instructions.....	30
3.2 Conditions Governing Proposals	31
3.3 Iran Divestment Act.....	32
3.4 Freedom of Information Law (FOIL).....	32
3.5 Notification of Award.....	32
3.6 Debriefing	33
3.7 Protests and Appeals	33
3.8 Liability	34
3.9 Procurement Lobbying	34
SECTION IV - CONTRACTUAL INFORMATION	35
4.0 Contract Term.....	35
4.1 Cancellation	35
4.2 Subcontracting Requirement	36
4.3 Financial Terms/Payment Process.....	36
4.4 Administrative and Fiscal Requirements.....	36
4.5 Relationship.....	38
4.6 Intellectual Property/Personal Property Rights in Data Computer Software and Other Intellectual Property ..	39
4.7 Confidentiality	41
4.8 Right to Publish	43
4.9 Compliance with Applicable Law	43
4.10 Indemnification.....	43
4.11 Publicity.....	43
4.12 Non-Discrimination and Contractor & Supplier Diversity.....	43

APPENDIX A – Standard Clauses for All New York State Contracts
APPENDIX B – Budget
APPENDIX C – Non-Collusive Bidding Certification
APPENDIX D – MacBride Fair Employment Principles
APPENDIX E – Responsibility Questionnaire Information
APPENDIX F – Procurement Lobbying Disclosure
APPENDIX G - NYS Contractor Travel Reimbursement Guidelines
APPENDIX H - Mandatory Project and Non-Functional Requirements
APPENDIX I – Mandatory Requirements Checklist

EXHIBIT 1 – Workforce Utilization Report
EXHIBIT 2 – Certification Vendor Decision Tree
EXHIBIT 3 – DBE Application Criteria
EXHIBIT 4 – 8(a) Application Criteria
EXHIBIT 5 - NYS MWBE Certified Application Criteria
EXHIBIT 6 – Standard Application Criteria
EXHIBIT 7 – MWBE – Ethnicity Attestation
EXHIBIT 8 – Inquiry Tracking – Year 2
EXHIBIT 9 – Issues Report – Year 2
EXHIBIT 10 – Certification Reporting & Templated Letters – Year 2
EXHIBIT 11 – Business Development: Reporting Deliverables – Year 2
EXHIBIT 12 – Agency Services: Reporting Deliverables – Year 2
EXHIBIT 13 – Agency Services: Contract Compliance Deliverables – Year 2
EXHIBIT 14 – Agency Services: Utilization Plan Deliverables – Year 2
EXHIBIT 15 – Project Management Deliverables – Year 2
EXHIBIT 16 – Host Agency and User Agencies and Authorities
EXHIBIT 17 – Current New York State Contract System
EXHIBIT 18 – Proposed Timeline for Development of New York State Contract System
EXHIBIT 19 - Agency/Authority Goal Plans

Request for Proposals Response Form
Respondents Identifying Data

SECTION I - ADMINISTRATIVE INFORMATION

1.0 Purpose

The purpose of this Request for Proposals (RFP) is to secure the services of an eligible organization that can assist New York State Department of Economic Development (DED or ESD) by providing a proposal for the New York State Contract System (NYSCS). The successful Respondent will work with the DED's Division of Minority and Women's Business Development (DMWBD) to develop and deliver the NYSCS, inclusive of all requirements stated herein and continue to develop, support, maintain and upgrade the NYSCS for the duration of the contract. This RFP is being issued by the NYS Department of Economic Development ("the Department").

1.1 Inquiries

All questions must be submitted in writing via email to rpfpaq@esd.ny.gov with **"NYS MWBE New York State Contract System"** in the subject line. **Please do not contact the Department by telephone. Questions must be received by the Department no later than August 14, 5:00 PM.** All inquiries must cite the particular RFP section in the questions. Answers to all questions of a substantive nature will be provided to all known recipients of the RFP.

1.2 Schedule of Pertinent Dates

Release of RFP	August 1, 2018
Deadline for Receipt of Questions	August 14, 2018 by 5:00 PM EST
Submission of Proposals	September 7, 2018 by 5:00 PM EST

Late proposals cannot be accepted.

Oral Presentations/Interviews	Estimated to be between Sept. 24 th -28 th , 2018
Award of Contract	October 2018 (estimated)
Projected Contract Start Date	December 1, 2018

1.3 Submission of Proposals

Interested individuals or firms must submit their proposals no later than **5:00 P.M. U.S. Eastern Standard Time, on September 7, 2018**. Appendix B - Budget must be bound separately from the rest of your proposal.

Submit six (6) copies of the proposal to the following address:

NYS Department of Economic Development
Office of Fiscal Management
625 Broadway, 8th floor
Albany, NY 12245
Attention: Lisa Sutton

In addition to the hard copies, the respondent **must** submit an identical electronic version of their entire proposal, **including budget and completed forms**, to rpfinfo@esd.ny.gov with **"NYS MWBE New York State Contract System – your company name"** in the subject line.

Electronic copies are used for administrative purposes and DO NOT fulfill the requirement to submit the hard copies by the deadline.

** It is the responsibility of each individual or firm to ensure timely submission of its proposal. Proposals received after the scheduled date and time cannot be accepted.

1.4 Designated Contacts

For the purpose of the Procurement Lobbying requirements of this RFP (see section 3.9 and Appendix F), the Department's designated contact shall be Lisa Sutton and employees designated by the Department as part of the Department's Contract Management Unit and all staff designated by the Department to have responsibilities and duties in the Department's Administration and Counsel's Office.

1.5 Financial Resources

Prospective respondents must possess adequate property, plant, equipment, financial resources and organizational capacity to perform the services described in this RFP in an efficient and effective manner. You must have the financial resources to pay expenses in advance of the receipt of payment from the Department. The Department will accept your own certification that you have sufficient economic resources. However, the Department prefers a letter from a Certified Public Accountant (CPA), indicating that your company has sufficient working capital, positive net worth, and has or can obtain a line of credit. The Department will also accept a letter from a party other than a CPA (such as an attorney, or bank officer) familiar with your company, and attesting to your financial condition.

1.6 Personnel

The successful respondent must have adequate personnel to address all phases of delivery and administrative service. The successful respondent shall designate a contact for technical support and the Department contract and billing issues. The name, street address, e-mail address, telephone number and fax number of the contact persons must be provided in your proposal.

SECTION II – PROGRAM BACKGROUND AND SCOPE OF SERVICES

2.0 Background

Pursuant to Article 15-A of the New York State Executive Law, New York State agencies and authorities (“NYS Ag/Au” or “State Ag/Au”) are charged with establishing business participation goals for Minority- and Women-owned Business Enterprises (“MWBEs”) and promoting employment opportunities for minorities and women. This law was enacted to promote equality of economic opportunity for minority group members and women and to eradicate barriers that have unreasonably impeded access by MWBEs to State contracting activities. For additional info: <http://www.esd.ny.gov/MWBE.html>

Objectives

The development of the New York State Contract System (“NYSCS” or “system”) requires securing the services of a responsive, qualified, and responsible consultant to develop, host and manage a web-based program offering the following functions:

- processing of online MWBE certification applications;
- monitoring of state contracts with MWBE utilization goals;
- providing a publicly searchable directory of MWBE firms certified by New York State;
- facilitating electronic communications between and among internal and external stakeholders;
- providing for document storage and retrieval;
- providing for posting of utilization plans;
- creating reports in predefined formats as well as providing the flexibility to have users create their own from data stored in the system; and,
- customizing solutions for specialized needs.

Definitions

Definitions are for the purposes of clarification and information helpful in completing responses to this RFP.

Agency Goal Plan: The annual plan submitted by New York State agencies and authorities to the Department indicating agencies’ and authorities’ goals for the utilization of MWBEs on state contracts in the following year, providing documents related to agencies’ and authorities’ organization-specific MWBE programs, and describing agencies’ and authorities’ plans to communicate opportunities for participation on state contracts to MWBEs.

CSI Codes: A numerical classification system, published by the Construction Specifications Institute, for groups of construction activities.

Data integration: Involves combining data residing in different sources and providing users with a unified view of them.

Hosting: Hosted services are outsourced information technology (IT) systems and functions. A hosted service provider owns and oversees infrastructure, software and administrative tasks and makes the system available to clients, usually over the Internet.

Maintenance Fee: An annual software fee which covers bug fixes and new versions.

National Institute of Governmental Purchasing (NIGP) Commodity/Services Codes: Coding taxonomy used primarily to classify products and services procured by state and local governments in North America.

New-User Interface: The means by which a user and a technology system interact; including how users input, access, and navigate data and communications through the technology. In this case, it connects a user's internal financial record keeping system with the NYSCS.

North American Industry Classification System (NAICS): Standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy.

Onboarding: Process of bringing new entity users to the system. Onboarding may require creation of a New-User Interface with an individual Ag/Au's financial systems via the multi agency agreement process (see section 4.0).

OpenBook: A database of public contracting and expenditures maintained by the New York State Office of the State Comptroller. OpenBook may be accessed via - <http://www.openbooknewyork.com/>

PARIS: Public Authorities Reporting Information System (PARIS) is the online reporting system that allows public authorities to submit contracting information to the Office of the State Comptroller (OSC).

Stakeholder: a user of the system with performance requirements within the system. ESD (hosting agency staff), Agencies and Authorities (contract monitoring, utilization reporting, directory searches for appropriate certified firms for use on state contracts), vendors (non-certified, those applying for certification, and certified minority-and/or women-owned businesses), other users (the public, other organizations i.e., Small Business Administration, Small Business Development Corporation, Procurement Technical Assistant Centers, etc.).

Statewide Financial System (SFS): SFS is an online application that allows New York State agencies to manage accounting and financial records and functions.

Utilization Plan: A document submitted by a prime contractor or grantee to a New York State agency or authority describing the MWBEs the prime contractor or grantee intends to utilize as subcontractors and suppliers towards the achievement of an MWBE participation goal on a state contract.

Working Prototype: This is the system with at least 90% full functionality, including the interface with SFS, but not yet populated with useable data.

System Timeline

The system will encompass three distinct phases of completion:

- Prototype
- Full Production Environment for Existing Users of the System as of Contract Start Date
- Enhancements and Onboarding

Please refer to Exhibit 18 for proposed timeline.

2.1 Scope of Services

New York State Contract System (NYSCS) Technical Deliverables

To be completed for the Prototype at eight (8) months, and Full Production Environment for Existing Users of the System as of Contract Start Date in twelve (12) months from beginning of contract. (Year1)

1. Infrastructure Build and Configuration

The proposed solution must be “Cloud” based Software as a Solution (SaaS). The selected vendor will provide all infrastructure to include but not limited to all hardware, software, Security and communication platforms necessary to meet NYS requirements.

2. Technical Environments

The following environments must be created for the system and maintained throughout the duration of the contract:

- Development / Test Environments – dedicated to the development and testing of required system functionality.
- Staging Environment –used to perform User Acceptance of the system and new functionality prior to being deployed in production.
- Production Environment –containing the production version of all User Accepted functionality and is available to all authorized users of the system.
- Training Environment –containing all functionality dedicated to user training and available on a continuous basis.
- Integration Testing Environment –containing current data and functionality and integrated with the State Financial Management System (SFS) and other dedicated systems as required.
- Frequently Asked Questions (“FAQ”) – system must maintain two FAQ sections for NYS Ag/Au users and the public for on-line reference.

3. Project Approach

Respondent must define the project approach and process framework that they will employ for the implementation (for example: Waterfall (linear) or Agile (Iterative) project methodologies) and explain why the proposed approach is the best approach for managing the implementation of ESD’s MWBE solution.

4. Project Tracking

The project shall be tracked through a secure online “Project Management” tool that is available to all members of the project team 24x7 (with dedicated logins) and which shall provide a current snapshot of the project status to include but not limited to all functional features, user requirements, schedules, tasks, builds, testing and deployments associated with the project.

5. Interface development and implementation

The system will need to provide mechanisms to exchange information with a number of external systems utilized by NYS agencies, authorities and their clients.

- Interface Requirements – detailed technical and business requirements must be defined for each electronic interface as detailed in Appendix H – New York State Contract System (NYSCS) Technical Specifications.
- Interface Design – Design and documentation for each electronic interface as detailed in Appendix H – New York State Contract System (NYSCS) Technical Specifications.
- Data Initialization – technical, business and data cleansing requirements must be defined for each electronic interface as detailed in Appendix H – New York State Contract System (NYSCS) Technical Specifications.
- Implemented Interfaces – each interface as detailed in Appendix H – New York State Contract System (NYSCS) Technical Specifications, will be fully functional and implemented in production.
- Interface Application Development Guide – for each interface the following functionality and documentation must be provided:
 - Detailed technical and business requirements specifications
 - Data Field Definitions with data type and size
 - Data Mapping
 - Interface input/output processing specifications
 - Message definitions and handling protocols
 - Error handling
 - Data Duplication handling
 - Data Reconciliation handling with both automated and manual capability
- Integration Operational Reporting – for each interface the vendor shall provide reports that summarize the interface processing activity on a load or TBD schedule. Reports should include at a minimum:
 - Number of records processed
 - Number of records loaded
 - Number and identification of records in error
 - Transaction dollar amounts
- Operational Review Meetings – monthly meetings must be scheduled between the vendor, ESD and any integration partner (SFS and others) to review the interface activity. The meetings should be planned for and included within the proposed budget.
- Integration Strategy – proposals should include an integration strategy for interfacing with SFS and other integration partners. SFS produces standard extracts which include all transaction data from agencies utilizing the SFS system required to support MWBE reporting. Vendors can propose use of the standard SFS extract or propose a custom extract format if systems are not able to be modified to utilize the SFS format.
 - Costs for NYS resources to develop custom interfaces needs to be considered
 - Proposers should expect that standard interfaces contain large amounts of data and processing accurately will require expertise in the PeopleSoft data format
- Communication – The vendor will be responsible being aware of SFS (and other integrations) maintenance activities and business events that may affect data processing. The vendor must identify a primary contact to receive any data integration related communications including system status and alerts.

6. Testing

System integration testing will encompass end to end testing of full business functionality and lifecycles that span all mandatory components of the system to include all defined interfaces and 3rd party interaction. The following must be provided:

- Systems Integration (SIT) Plan – a documented plan to test all mandatory features and interaction with the system to include interfaces and information exchange functionality.
- Systems Integration (SIT) Results – provide thorough documentation of executed SIT plans and detailed reconciliation requirements.
- Working Prototype Review (WPR) – provide a timeline for launching a fully functioning baseline system for testing and review.
- User Training Plan (UTP) – provide a detailed training plan that will be executed by representatives of all user groups covering all mandatory components and functionality.
- User Acceptance (UAT) Plan – provide a detailed test plan that will be executed by representatives of all user groups covering all mandatory components and functionality.
- User Acceptance (UAT) – provide and support user Acceptance testing to achieve final sign-off for a fully functional system.

7. Implemented System

The selected vendor will be responsible for implementing a well-designed and complete system that includes all modules, integrations and functionality identified by NYS in the production environment. The implemented system will be accepted by NYS under the guidelines of the User Acceptance requirement.

8. Service Level Agreement Reporting (SLA)

After Implementation, the selected vendor is required to provide on-going support and maintenance for all production, test and staging environments. The vendor will provide a quarterly report or report upon demand to a designated NYS representative showing the system performance against criteria outlined in Appendix H – New York State Contract System (NYSCS) Technical Specifications.

9. Security Management Plan

The selected vendor must design a security strategy that protects the system from unauthorized access and inappropriate use of the NYSCS and any associated data or communications. In addition, the strategy must mitigate the liability of the Department and NYS for any disclosures obtained through an information security breach.

The selected vendor will provide a documented Security Plan outlining the policies and procedures necessary to ensure the security of NYSCS, its related infrastructure and all associated information. ISO Standards 27001, 27005 and 27035 must be adhered to at all times and can be referenced here: <https://www.iso.org>. The application must include the recommendations of the Americans with Disabilities Act standard for accessible design found at: <https://www.ada.gov>. The vendor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208), which can be referenced here: <https://its.ny.gov/breach-notification>. When applicable, the selected vendor must also adhere to the New York State Information Technology Standard New York State Universal Web Navigation, which can be referenced here: <https://its.ny.gov/sites/default/files/documents/nys-s16-001.pdf>.

The plan will include at a minimum but not limited to the following components:

- Infrastructure / System Security – Security of the system so that it is safeguarded against unauthorized access and intrusions.

- Data Security – Security of the data itself to ensure that information cannot be accessed or altered except through an appropriate interface and only by authorized individuals.
- Transaction Security – Security that ensures that individuals can only perform transactions for which they are authorized.
- Identity Management Security – Security that ensures the individual accessing the system is actually authorized and is the actual user that they are declaring to be.
- Physical Security – Security of the physical premises, equipment and documents.
- Activities and procedures necessary for security monitoring and incident response.
- Activities and procedures outlining data breach incident, response and reporting requirements.
- Backup and Restore policies and procedures.
- Disaster Recovery policies and procedures.
- If applicable, vendors should provide FedRamp certifications for cloud computing. In the case where it is not applicable, the vendor must document their solution for risk mitigation.

10. End of Contract Transition

- Documentation outlining procedures and timelines for returning all ESD owned systems, software, equipment, licenses, data and intellectual property back to ESD
- Agreed upon data format for returned information.
- Policy and timelines for the final purging of ESD data from all vendor and 3rd party systems, backups and disaster recovery sites.

Design Specifications

1. General Requirements:

- a. A user-friendly application that enables users, including, but not limited to, NYS Ag/Au, prime contractors, and MWBEs, to manage and report MWBE participation in contracting opportunities throughout the state. See Reporting section below.
- b. An application that allows for the submission of applications for MWBE certification, including both user-entered information and attachments, and the management of such applications by NYS.
- c. A single gateway in a centralized location for storing and displaying MWBE data that can be shared among NYS Ag/Au.
- d. Access for MWBE firms to find information pertaining to upcoming bidding opportunities, including self-service features where businesses can look for bidding opportunities; search for local grant and contracting opportunities; and report on payments to sub-contractors.
- e. A database of profiles of certified MWBEs for use by the public.
- f. Provide centralized tracking of payments made to MWBE vendors updated through the SFS interface and other interfaces as necessary.
- g. Provide a repository for utilization plans which are searchable and viewable by internal and external stakeholders upon key fields within the plan.
- h. Several types of procurement activities must be provided for in this solution. They include, but are not limited to, the following:
 - Blended contracts (Federal and state funding); commodities; construction projects; discretionary purchases, exclusions, exemptions, federal spend, grants, HBITS contracting, Human Services spend, in-year exclusions, not-for-profit, OGS centralized contracts, p-cards, preferred sources, purchase orders, sole source, zero goal and requirements contracts.

2. Specific Requirements

User Registration and Login

Vendors, MWBEs, and Grantees

- A. Users, other than NYS Ag/Au, must be able to self-register via the internet.
 1. The system must capture identifying information for the user to register and gain access to the System.
 - A system administrator must be able to use the user's identifying information to verify that a vendor record exists for the vendor in the master file, approved by the registering authority (Department of Economic Development (DED), or other trusted agents) prior to granting access to log into the on-line system.
 - Users must be able to update their identifying information as necessary.
 2. The system must have the ability to create delegated administrative users, and enable the delegated administrators to create user accounts for managing and updating the information within the New York State Contract System.
 3. The system must allow users to register as MWBEs, non-MWBE subcontractors, prime contractors, or grantees, and allow NYS to establish access rights for each class of user.
 4. Once registered, vendors must be required to login using a username and password.
 - Upon login, the system must display the vendor's master file.

Agency Staff

- A. NYS Ag/Au staff must be able to login using a username and password.
- B. The system must display an agency user's home page allowing them to navigate to and perform various tasks within the NYSCS.
- C. NYS Ag/Au staff must have privileges within the system based on login/role/agency.

3. MWBE Certification & Re-Certification Component

Provide a NYS-specific MWBE certification application process that integrates the MWBE certification and maintenance processes.

Application Content

- A. The system must include a variety of applications with varying questions based upon parameters including, but not limited to, the type of business entity, whether the entity is certified as an MWBE by a NYS certification partner, and whether the entity has previously been certified by NYS as an MWBE.
 1. Application questions must be customizable by NYS.
- B. The system must require users to answer pre-application questions to identify the appropriate application form for their use.

Application Submission

- A. Applicants for MWBE certification must be able to complete an MWBE Certification application on-line utilizing an easy to follow series of user interfaces.
 1. Submitted applications must be stored in a central database with all supporting documentation and legacy vendor data.
 2. Applicants must be able to electronically attach supporting documentation in pdf, .doc, .docx, xlsx and .xls format to certification applications.
 3. Applicants must be required to attest that the information provided on the application and supporting documentation is true.
 4. Each applicant must be assigned a unique identifier at the point of submission to take

the place of the Federal ID#, and which can be used by other Ag/Au/parties to identify the firm.

5. Applicants must be able to submit applications, and / or supporting documentation via fax directly into the system, and system must connect to a file with a unique identifier that can be printed from an online system and faxed in with the documentation.

B. The system must allow applicants to save incomplete applications to the online system and resume applications at a future date.

1. Applicants must not be able to submit applications for approval until the applications are complete.
2. The applicant must be able to view and download copies of their submitted application and all attachments on the system

C. Applicants must be able to see progress through the certification process and track application status online.

D. Every question must have yes/no boxes if it is not a required field for all applicants so that the applicant will need to address every question relevant to that type of firm. For example: licenses utilized by firm: Are licenses required for this type of firm? 'yes or no'. If no, the section of the application that would allow them to enter data into the licenses fields is not visible to applicant.

E. The system must capture NAICS/NIGP/CSI/DOT codes and other codes as necessary. A drop-down menu of product code choices intuitively organized and searchable via word description or numerical search must be available to complete this section.

F. The system must retain the ability to add new application records to system from vendors who have submitted paper applications, and to upload paper documents if/when needed.

G. The system must assign application numbers, consistent with the current numbering system utilized in the legacy vendor database and directory system.

Application Review and Approval

A. The system must route the application through a pre-defined workflow process for review and approval.

B. Department staff must be able to view submitted applications in order to determine eligibility for MWBE certification.

C. The system must display applications in a queue for Department staff.

D. Department staff must be able to check off areas of the application or documents which have been completed.

E. Department staff must be able to generate a letter through the system detailing the deficiencies in the application. Standard letter formats must be printable, printed on ESD letterhead, they must be editable, and must be sent from the system. They must be available for use by analysts in review, and upon making determinations.

- F. Department staff need to have a note field for each record
1. The note field must be date stamped and have an auto stamp of who made changes based on the agency staff login information.
 2. A secondary field must be available to indicate date of original receipt if different than date of upload.
 3. The note field must only be viewable by agency staff.
- G. Department staff must have the ability to modify records of existing vendors to add or change items in their profile.
- H. Department staff must be able to generate requests to applicant for additional documents and receive responses from applicants, including .pdf, .doc, .docx, .xlsx and .xls attachments, through the system.
- I. The changes must be logged as who made what changes. Example: Reviewer Scott M. made changes to product codes on 02/09/11 or Scott M. made changes to Net Worth on 01/15/11.
- J. A complete history must be kept for all changes made in the system. One modification cannot erase previous data, which must be available to staff for historic review of the record.
- K. Department staff must be able to indicate whether the application for certification is approved or denied.
- L. The system must be able to track firms which have been denied certification through the appeal and hearing process. Reports must be available at all points in the denial and appeal process.
- M. The system must have the ability for denial letters to be able to be generated based on criteria selected and entered into the system
1. The system must notify the applicant if they have been approved or denied certification.
 2. Certified companies must be added to the State's official Directory of Certified Minority- and Women-owned Business Enterprises.
- N. Department staff must be able to determine if there is an application pending for a specific MWBE, and must be able to flag an application for attention.
- O. The system must provide a means for revoking certifications after they have been approved and issued.
- P. The system must provide a snapshot view of the status of all MWBE applications in process, customizable for all applications with document requests pending.
- Q. The system must track vendors who are due for recertification.
- R. The system must alert via a vendor via email when a vendor is due for certification renewal.
- S. The system must alert Department staff when a vendor's renewal due date approaches.
- T. The system must provide Supervisory functions which must include, among other functions:
1. Supervisor's assignment of files

2. Transfer of file assignments between analysts
3. Tracking of individual analyst's productivity.

4. Database of NYS-Certified MWBEs

The system must include a publicly searchable database of NYS-certified MWBEs.

- A. The system must create a profile for each MWBE based upon data from the most recent approved application for MWBE certification.
 1. Profiles must include at minimum: Business Name, Business Description, Geographic and Work Location, MBE, WBE or MWBE certification, NAICS Code(s), NIGP Code(s), CSI Code(s), DOT Code(s), and Gross Sales (by range).
 2. A user of the publicly searchable database must be able to search the database by any combination of the categories identified in A.1 of this section.
- B. The system must provide the option to display search results in Excel and CSV spreadsheets as well as pdf format.

5. Business Development

- A. The system must have an outreach system to provide upcoming bid and event notifications.
- B. The system must be able to assign specific people to receive outreach notifications by purpose, i.e. upcoming bid notification, outreach event.
- C. The system must interface with the NYS Contract Reporter advertising information.
- D. The system must allow for non-text insertions into body of email (.jpg, png, gif, .pdf).

6. State Agency Compliance

The system must allow state agencies to submit annual goal plans and periodic reports to Department staff for review and approval.

Annual Goal Plans

- A. The system must allow agency and authority users to submit an annual goal plan, including both user-entered information and attachments, to Department staff.
 1. The format of agency goal plans must be customizable by the Department. An example of an agency goal plan format is included as Exhibit 19.
 2. Agency and authority users must be able to save goal plans prior to submittal.
 3. Submitted agency and authority goal plans must be assignable by a supervisor to Department staff.
 4. Submitted goal plans must be locked to agency and authority users unless returned by Department staff.
 5. In the goal plan documents section, create separate screens for the Master Goal Plan Update and Annual Goal Plan Update (separate) screens. The Master Goal Plan Update should have the 17 or 18 items (checklist) that are requested for submission. The Annual Goal Plan Update (see GP update 1718 final.docx) must reflect different information.

Agency Reporting

- A. The system must allow agencies and authorities to submit quarterly reports to Department staff in such formats as are prescribed by the Department, including, but not limited to, Excel and .csv.
- B. Department staff must be able to generate periodic reminders to agency and authority users to submit reports via the system.

7. Contract Monitoring and Agency MWBE Utilization

The system must create records for each contract entered into by each NYS agency and authority, allow agencies and authorities to establish and track MWBE and workforce participation goals on each state contract, allow agencies and authorities to upload utilization data from internal systems and allow agencies and authorities to generate reports related to MWBE and workforce participation on their contracts. System must provide a means of automatically identifying payments which have been made to an MWBE if not identified by SFS or other data uploads.

Contracts

- A. Each NYS Ag/Au expenditure must be assigned an entry in the system.
 - 1. The system must interface with external systems, including, but not limited to the Statewide Financial System, OpenBook, PARIS, and agency and authority-specific financial systems to capture records associated with contracts awarded to vendors.
 - a. Entries derived from data from external systems must include identifiers established in the external system including, but not limited to, contract number, contractor name, MWBE, region, and contract value.
 - 2. Entries recorded in the system must be accessible to the applicable agency or authority and authorized Department users.
- B. NYS Ag/Au must be able to modify each entry in the system applicable to their organization.
 - 1. All modifications to entries in the system must be recorded and identify the modifying user. Previous information must not be overwritten.
- C. NYS Ag/Au must be able to assign expenditures to pre-defined categories, including, but not limited to, procurement contract, grant, and agency personnel.
- D. NYS Ag/Au must be able to establish MWBE and workforce participation goals for each expenditure entry.
 - 1. NYS Ag/Au must be able to receive and manage requests for waivers of MWBE participation goals for each expenditure entry as described below under “Contractor Reporting.”
- E. The system must allow NYS Ag/Au to generate messages to prime contractors and grantees through the system on NYS Ag/Au letterhead.
 - 1. Expenditures must be searchable by agencies and authorities, as well as the Department.
- F. The system must allow agencies, authorities, and the Department to generate reports based upon parameters including, but not limited to, number of waivers granted, prime contractor and grantee progress towards achievement of MWBE participation goals on active contracts, and contract type.

1. Reports must be available in formats prescribed by the Department, including, but not limited to, Excel and .csv.

Contractor Reporting

A. Prime contractors and grantees that are party to state contracts, and have registered as users, must be able to electronically submit MWBE utilization plans for review and approval by state agencies and authorities.

1. MWBE utilization plans must include an identifying number corresponding to an expenditure record.
2. MWBE utilization plans must allow prime contractors and grantees to enter identifying information for each MWBE and non-MWBE subcontractor and supplier anticipated to perform work on the state contract, including, but not limited to, the name of the subcontractor or supplier, the NAICS, NIGP, DOT, CSI or other code as applicable to the work to be performed by the subcontractor or supplier, the anticipated timeframe for the performance of work by the subcontractor or supplier, and the anticipated payment to the subcontractor or supplier.
 - a. Utilization plans must allow prime contractors and grantees to submit identifying information for MWBE and non-MWBE contractors via PDF attachment with agency or authority approval.
 - b. In the case that a prime contractor or grantee submits contractor identifying information via attachment, the agency or authority must be able to enter such identifying information into the system.
3. Utilization plans must require a certification from a prime contractor or grantee, in a form to be provided by the Department, as to the accuracy of the information contained in such utilization plans prior to submittal.
4. Agencies must be able to electronically accept or reject a utilization plan submitted by a prime contractor or grantee, and provide comments via the system.
5. MWBE Utilization Plans must be searchable using, but not limited to, the following fields:
 - a. Organization (agency/authority)
 - b. Proposal Title
 - c. Prime Vendor
 - d. MWBE Subcontractor(s)
 - e. Scope of Work (keyword search field)

B. Prime contractors and grantees must be able to report payments to subcontractors and suppliers through the system.

1. Prime contractors must be required to attach proof of payment in PDF format in order to report payment of a subcontractor or supplier through the system.
2. Subcontractors and suppliers that have registered as users must be able to electronically acknowledge receipt of payments via the system.
3. The system must generate automatic notices to prime contractors and grantees to submit subcontractor and supplier payment information on a quarterly basis.

C. Prime contractors and grantees must be able to request waivers of MWBE participation goals through the system.

1. The system must require prime contractors or grantees to attach supporting documentation in PDF or Excel format in order to submit a request for a waiver.

D. Prime contractors and grantees that are party to state contracts must be able to submit workforce participation plans for review and approval by state agencies and authorities.

1. Workforce utilization plans must include an identifying number corresponding to an

expenditure record.

2. Workforce utilization plans must allow prime contractor and grantee users to select from a menu the title and six-digit Standard Occupational Classification job code for each type of employee who will perform work on the contract, and to assign a number of hours to be worked under each type of employee by persons identifying with gender and racial/ethnic categories defined by the Department.

a. Workforce utilization plans must allow prime contractors and grantees to submit workforce participation information via Excel attachment with agency or authority approval.

b. In the case that a prime contractor or grantee submits workforce participation information via attachment, the agency or authority must be able to enter such identifying information into the system.

3. Workforce utilization plans must require a certification from a prime contractor or grantee, in a form to be provided by the Department, as to the accuracy of the information contained in such utilization plans prior to submittal.

4. Agencies must be able to electronically accept or reject a workforce utilization plan submitted by a prime contractor or grantee, and provide comments via the system.

E. Prime contractors, grantees, and subcontractors and suppliers to such prime contractors and grantees must be able to report the workforce utilized on a state contract through the system.

F. MWBE Compliance Monitoring - *State Agency Compliance*

1. The system must have a data entry system and an automated upload system for State Ag/Au to electronically submit their detail, expenditure, utilization plan and annual goal plan data. An interface must exist to allow ESD staff to view State Ag/Au data.

2. The system must have the capability to house documentation supporting Good Faith Effort and other supporting documentation. A Utilization Plan document upload option must be available.

3. Utilization Plan records must allow the ability of Prime contractors and subcontractors at every tier to report payments made to lower tier subcontractors and confirmation of payment receipt.

5. Utilization Plan data should link to MWBE Certification Codes of selected MWBE's at all tiers of the contract and properly reflect payment details to each tier for MWBEs and non-MWBEs.

6. Waivers should be tracked by contract number and included with utilization reports.

7. System must ensure that contracts with full waivers are appropriately excluded from expenditure calculations, and are added to "excluded contracts" with additional approval explanation fields.

8. Contracts with full waivers should be flagged additionally as in year exclusions separately for reporting purposes.

9. The system must allow contracts with full waivers to be 'hidden' from view when requested, to allow focus on the contracts with MWBE participation goals.

10. Ensure that contracts with full waivers are appropriately excluded from expenditure calculations, and are added to "excluded contracts" with additional approval explanation fields.

11. Contracts with full waivers should be flagged additionally as in year exclusions separately for reporting purposes.

12. MWBEs and non-MWBEs subcontractor data must be tracked by the system and be searchable and reportable to the Division of Minority and Women's Business Development ("DMWBD") or specific agency. However, each agency will only be provided access only to their own data. The details must include contract payment, vendor, and other demographic detail to be described by DMWDB. This information must be searchable by specific agency, region, multiple Ag/Au or statewide.

13. The system must have a workflow tracking system for the state agency quarterly data submission process that includes a data entry system for DMWBD staff to enter key dates and notes about contacts with state Ag/Au. Included in the workflow tracking system must be an

automated tickler system to remind DMWBD staff of tasks or information that need their attention, and an automated e-mail and letter generation system to facilitate communication with State Ag/Au.

14. Each submission of Quarterly Utilization Reports should be time-stamped and logged and the chain of custody made available to DMWBD and State Ag/Au for review.

16. The system should prevent submission of utilization reports with errors or prohibited entries (Exempt Contracts, DBE spend, etc.)

17. If the contract status was changed from exempted/excluded to MWBE-eligible contract during the fiscal year, uncounted utilization and total expenditures should roll back to the beginning of the fiscal year assuming certification is active.

18. The system must have a workflow tracking system for the annual goal plan submission process that includes a data entry system for State Ag/Au staff to enter key dates and notes about contact with state Ag/Au. Included in the workflow tracking system must be an automated tickler system to remind Agency staff of tasks or information that needs their attention and an automated e-mail and letter generation system to facilitate communication with State Ag/Au. The current goal plan template must become an electronic fillable document that State Ag/Au can access online.

19. Goal plan submissions should be time stamped and logged. The time and date of each submission should be viewable by State Ag/Au and DMWBD

20. The system should allow the State Ag/Au to adjust the available budget for goals (e.g., NFP spending where excluded items should not be included in the available budget for MWBE goals).

21. The system must allow the Ag/Au to compare goal plan data with prior period(s), and require that they include an explanation (if necessary) before submission.

22. The system must allow DMWBD staff to adjust the designation of fields as required or optional (e.g., change contract date field from optional to mandatory).

23. The system should automatically reflect the final MWBE goal when changes occur

24. The system must have a workflow tracking system for the state Ag/Au audit process that includes a data entry system for Ag/Au staff to enter key dates, notes about contact with state Ag/Au and the audit findings. Included in the workflow tracking system must be an automated tickler system to remind Ag/Au staff of tasks or information that need their attention and an automated e-mail and letter generation system to facilitate communication with state Ag/Au.

25. The system must allow for form letters to be sent from the system, customized and on specific agency/authority letterhead. The letters must be editable prior to printing, e-mailing or saving.

26. The system must provide a means for agency staff to evaluate, on an ongoing basis, the commitment of vendors submitting bids or proposals to meet the MWBE percentage goals, including but not limited to the percent usage of MWBE subcontractors (Good Faith Effort).

27.1 Agency staff must be able to record the results of their analysis

27.2 The system must allow agency staff to change goal percentages.

28. The system must provide the ability for State Ag/Au to manually enter their annual procurement goal updates (goal plan evaluation form) and detail and expenditure reports data.

29. Contracts and utilization records should be searchable by all fields as designated by State Ag/Au and Department by the individual agency, individual vendor, or statewide.

30. The system must provide the ability for State Ag/Au to electronically transfer their annual procurement goals and expenditure and detail report data to the MWBD database

31. The system must provide the ability for State Ag/Au to electronically transfer their existing contract data into utilization reporting.

32. Utilization Plan details must be a part of the creation of the contract including listing all MWBE and non-MWBE subcontractors appropriately.

Reporting

1. The system must provide the capability for State Ag/Au to create in-house and/or obtain meaningful reports to analyze, monitor, and enforce contract compliance goals.

2. A Compliance reporting system and interface must allow the Ag/Au staff to choose from a set of parameters to filter data for each of the predefined reports. All report data must be exportable to Microsoft Office applications. Report specifications for reports must detail the name of the report, format, data elements, data presentation and summary data. A web-based compliance application must include an interface and navigation system, a data entry system, a workflow tracking system, a letter generation and e-mail system, a reporting system and an automated data upload system for state Ag/Au to submit all required documentation. It should also include a customer communications component to track historical communications between stakeholders (ESD, State Ag/Au and MWBE firms).
3. All reporting must be provided on any designated field and accessible state wide to DMWBD.
4. Certification Management Productivity report: for MWBE certification applications, showing the name of the agency staff person who is responsible for each application, submission date, decision date and the application status.

Agency MWBE Utilization

- A. The system must record the total expenditures of state agencies and authorities, the payments to MWBEs by agencies and authorities as prime contractors, and the payments to MWBEs as subcontractors and suppliers reported by non-MWBE prime contractors and grantees on state contracts.
- B. The system must allow users to generate reports on MWBE utilization by agencies and authorities, including, but not limited to, aggregate MWBE utilization by agency and authority, and MWBE utilization by each agency and authority as a percentage of such agency or authority's aggregate overall expenditures.
 1. Agencies and authorities must only be able to generate reports related to their own expenditure records.
 2. The Department must be able to generate reports related to each agency and authority, both by individual agency and authority, and for all agencies and authorities.
 3. The system must allow agencies and authorities to identify expenditures for exclusion from such agencies' and authorities' total expenditures on reports. Such exclusions must be subject to approval by authorized Department users.
 4. The system must provide for an overall contract dollar amount and a utilization dollar amount if different upon which actual utilization can be attained on contracts with Not for Profits and others as defined by ESD.

Quarterly Collection of Agency Reports

System must send email reminders to submit quarterly reports

- 36.1 X Days prior to deadline
- 36.2 Y Days prior to deadline
- 36.3 On Deadline
- 36.4 Z Days after deadline

Ag/Au must be able to review download/upload format

Ag/Au must be able to designate the quarter and upload their quarterly report

Ag/Au must be able to review the submitted data

- .1 Approve and submit the report
- .2 Deny, then re-upload their report

Ag/Au must be able to replace quarterly reports until report is "locked" by Agency staff

Agency staff Administrators must be able to view quarterly submission status for each agency

Agency staff Administrators must be able to view history of reporting for any agency

Agency staff Administrators must be able to review and "lock" an agency's quarterly report

Agency staff Administrators must be able to generate summary state-wide reports

The system must require detail be provided for all expenditures reported in quarterly utilization. Fields include source of funds, contract number, vendor, waiver, and other information.

The system must flag the Ag/Au when MWBE spending is higher than the total expenditures, and require an explanation before submission.

The system must flag potential duplicate payment records (to same vendor/date/amount) and require agency to enter detailed explanation before submission.

The system must require DMWBD staff to provide explanation when accepting flagged payments for credit.

The system must require Ag/Au to enter the work code (and other appropriate fields such as region for future disparity data collection) on payments for utilization credit (should provide link to Directory).

The system must allow the Ag/Au to export SFS/Pcard data to another editable format, i.e. Excel.

The system must allow the Ag/Au to compare each new quarterly report data with prior period(s), and require an explanation (if necessary) before submission.

The system must have the ability to generate a report by individual, total to date quarters and fiscal year.

The system should provide the option to recognize other dates in the certification file as a qualifying date for credit on a utilization payment.

Reporting System & Agency Reports

Writing report specifications that must identify for each report the parameters to apply to the report; the title, heading and footer; the data elements and labels; summary data; report breaks and sort order.

Programming approximately 35 reports. Examples of reports to be programmed are included, but not limited to, samples in the Appendices.

The system should be able to generate a report listing all state Ag/Au that utilized an OGS centralized contract during a particular period.

The system should be able to generate a list of Ag/Au and the sources of their data and reporting, The system should be able to generate reports that allow DMWBD to track agency usage (example: track agency utilization of CCM/SUMP) without having to link as that agency – obtain this information for all Ag/Au in one consolidated report).

8. Disadvantaged Business Enterprise (DBE) Program

The respondent must create a DBE component of the system. This component will provide the ability to designated agencies and authorities to use the system to comprehensively manage many aspects of their responsibilities under the DBE program.

The DBE program shares many of the same requirements as the MWBE portion of the NYSCS. Among them are:

- Contract Compliance
- Goal Setting
- Utilization Plan
- Certification Management
- Online Application
- Outreach and Event Management

A. System Integration/Data Sharing

1. The system must be able to integrate and store data from multiple systems, State Ag/Au, and vendors. Please refer to Appendix H – Mandatory Project and Non-Functional Requirements for a list of State Ag/Au and respective interfaces.
 - a. The system must link contract and payment information received from SFS with the vendor's master file.
 - b. The system must accept and store data for prime contractors, subcontractors, and not-for-profit businesses.
 - c. The system must share vendor data among State Ag/Au and allow agency staff to access the vendor data.
 - d. The system must link contract and payment information from other discreet feeds as necessary.

B. Department of Economic Development (DED/ESD) needs all the legacy vendor data, and all the information fields in the Standard Application Criteria (see EXHIBIT 6) for MWBE program purposes.

For Enhancement and Onboarding of New Users– Year 2

State Agency Compliance

Business Development

1. The system must provide a method of tracking types of business development inquiries (i.e., request by agency for finding suitable M/WBEs for utilization, M/WBE requests for specific business assistance) as well as provide reports of such inquiries on an on-demand basis, and provide statistical reports of such inquiries.
2. The system must track information pertaining to external events attended/hosted by BD staff (Panels, Conferences, Workshops).
3. The system must track referrals made to strategic partners/technical assistance programs.
4. The system must track results from internal webinars hosted by BD staff. See Exhibit 11 for requirements and examples.
5. The system must provide the ability to view existing and past contracts awarded to MWBEs. (i.e. listing of contracts a vendor may have secured, contract dollar value, contract length, awarding AG/AU, etc.)
6. A communications platform that tracks and maintains a history of communications between and among stakeholders in the system, including but not limited to, vendors, Ag/Au, and ESD staff, and from which several types of communications and outcomes can be tracked and be available in report form. See Exhibit 8 and Exhibit 9 for samples.
7. The system must be able to have a field for the date an appeal was received, in addition to the date the appeal was input into the system. Often these are two different dates and must be tracked separately.

Agency Goal Plans

1. The original goal plan submission date should not be overwritten if updates or changes occur during the year. The last resubmission date and the original goal plan submission date must be viewable, and all subsequent resubmission dates must be logged.

2. When goal plan is accepted, the information should be captured as originally submitted. However, there must be a mechanism to allow agency-authority staff to add updates/changes as they occur throughout the year and submit those changes for approval. Department staff should be able to track and generate reports on the updates as well as the original submission.
3. The agency must provide detailed explanation for each exemption/exclusion added. This can include the contract/PO number, value, contract date/term, vendor name, other pertinent data, and a detailed description of what is being procured and why it is being exempted. The details must be viewable in the exemption or exclusion area of the goal plan. These contracts must be stored in the database in a manner that allows for them to be referenced from other modules as explained below.
4. Flag the utilization report when primary payment summary data includes transactions on an exempted or excluded contract number noted in the goal plan.

(Flag any MWBE expenditure record added to a utilization report that has a contract number (or contract ID) matching a listed exemption or exclusion in the goal plan or goal plan update. Prompt agency staff to insert an explanation/correct the contract record if it now has utilization (confirm it is no longer exempt-excluded), or alert them to remove the record if added in error and confirm it is still exempt-excluded. This would apply to data that is either transferred into utilization from CCM, manually entered or bulk-loaded by the agency.)

5. Agency and authority users must be able to enter data and save goal plans prior to final submission. This feature should be available after any field is populated such that agency staff can stop working and save instead of having to re-enter data.
6. Submitted agency and authority goal plans must be assignable by a supervisor to Department staff. However, Agency Services, Compliance, and Business Dev. Staff should retain the ability to view all records when the “view only records assigned to you” box is unchecked.
7. Once goal plan has been submitted by the agency or authority and is pending review, it should be automatically locked, requiring the agency staff to contact the Department to return it for any adjustments.
8. The system should generate a pop-up window alerting the agency that the goal plan will automatically lock upon submission, and prompting Agency staff to contact the Department if they need to open it up.
9. In the goal details section of the goal plan, remove the dollar figures but keep the four industry goal percentage breakdowns. The dollar amount is not necessary as it is already listed in the Available Budget for Goals.
 - In the goal plan documents section, create separate screens for the Master Goal Plan Update and Annual Goal Plan Update (separate) screens. The Master Goal Plan Update should have the 17 or 18 items (checklist) that are requested for submission. The Annual Goal Plan Update (see GP update 1718 final.docx) must reflect different information.

10. Agencies must have flexibility to submit additional information/documents as necessary. The Department would like to investigate the feasibility of creating fillable PDF documents to capture some of the information.
11. If the overall committed goal percentage is less than the current Chamber-directed aspirational goal (which can be adjusted by the Department staff at any time), flag and request the agency provide a detailed explanation and justification of the lesser goal *prior to submission*.
12. If there is a significant variance (20% or more or percentage to be determined by the Department on periodic basis) between the prior year's Goal Plan budgetary entries (Budget, Exemptions, Exclusions, Budget Available for Goals), flag the agency to explain each significant variance prior to submission.
13. If the overall budget for goals in the Goal Plan varies significantly (20% or more or percentage to be determined by the Department on periodic basis) from the prior years reported expenditure (i.e., the ACTUAL denominator) the Agency would be prompted to explain the variance.
14. Add mechanism in Goal Plan for user to identify one or more contract numbers in relation to an exemption or exclusion. The contract numbers will be stored in the database in a manner that allows for them to be referenced from other modules.
15. When an MWBE expenditure record is added to a utilization report that has a contract number matching a listed exemption or exclusion, flag the record. This will apply to CCM transferred, manually entered, and bulk-loaded records.
16. When primary payment summary data included transactions on an exempted or excluded contract number noted in the goal plan, flag the utilization report. This would apply only the CCM transferred records (not available for manual entry or bulk load import).

Contractor Reporting

1. Waiver Reports: Track 'Utilization Waivers' submitted by State Ag/Au as part of their reporting, in general and by percentage. Generate reports from the database created from the agency waiver reporting. Generate a list of NAICS, NIGP and CSI categories, and other details. The system must be able to cross reference this list with pending applications, and existing firms in the database to identify firms with matching code categories. Generate a report from that analysis that shows categories where there are no certified firms, or no matching NAICS/NIGP/CSI codes.
2. Utilization Plan Report: Track "Utilization Plans" submitted by State Ag/Au as part of their reporting, in general and by percentage (MWBE participation). Generate reports from the database created from the agency utilization plan reporting. Generate a list of NAICS, NIGP and CSI categories, and other details. Be able to cross reference this list with pending applications, and existing firms in our database to identify firms with matching code categories. Generate a report from that analysis that shows categories where we have no certified firms, or no matching NAICS/NIGP/CSI codes. The report will detail a gaps analysis by industry/codes.
3. The system must also have the ability to generate an email/mail list to inform firms in the system there is an opportunity to bid.
4. Comparative Procurement Reports: Ability to import NAICS/NIGP/CSI reports of procurement

opportunities from Excel spreadsheets, identify firms in the database and identify where there are no firms. Staff must then have the ability to generate reports from that data comparison.

- Example: We must be able to take current contracting opportunities information listed in the NY Contract Reporter, conduct a weekly or monthly comparison of that data to the database based on the categories or NAICS/NIGP/CSI codes of the procurement opportunities identify the firms that match the requirements of the opportunities and generate an email/mail list to inform firms in the system of the contracting opportunity.
5. Bonding Reports: Identify firms in service industries that require bonding. The report must flag the firms which have no bonding or insufficient bonding. Create an email or mailing list for targeted business development of identified firms within this category.
 6. DMWBD must have the ability to generate reports of the information contained in the Standard Application Criteria and legacy vendor data; in addition to previously- configured reports, to the system needs to allow the generation of ad-hoc reports on various combinations of data elements, as needed. The system must provide the ability to view complete vendor profile snapshots at the time of certification and all re-certifications (past and future) including all fields in the standard application criteria and all updates to vendor profiles (additions and deletions).
 7. The system must be able to view/export/download utilization records for specific agency/authority, specific group of State Ag/Au, waivers, violations, authorities, vendor - statewide for any timeframe [specific quarter(s), specific FY(s)] and other relevant Compliance data.
 8. The system must list all contracts awarded and all utilization/credit/payments reported for a specific vendor/group of vendors.5.9 The system must be able to list all contracts within the system for the state as a whole.
 9. The system must be able to report exempted and excluded contracts for a specific State Ag/Au, specific groups of State Ag/Au and statewide; the report should include at minimum (contract ID, value, type (excluded or exempt), reason(s) for exclusion, exemption, and if any credit was awarded against the contract).
 10. Trend spend analysis reporting would provide State Ag/Au with a picture of target spend in each category (commodity, construction, construction –related service)
 11. Discretionary spend payments should be identified in quarterly utilization reports and entered for all amounts with transaction detail.

Certification

1. All data on application must be made searchable, exportable, and reportable.
2. All data on application can auto-fill to appropriate profile and certification audit forms.
3. All data entered must appear in consistent typeface, i.e. Upper case first letter, lower case rest of word, or all caps as determined by DMWBD.
4. Upon applying for re-certification, a record must pre-populate the re-certification forms to make it easier for businesses to re-certify.

Utilization Reporting

1. Allow the Department to generate detailed reports of (1) summary expenditure data, (2) MWBE transactions, and (3) all records of spending which will become part of the Utilization Report.
2. Add export mechanism to permit agency and authority staff and the Department users to download detailed MWBE utilization data.
3. Display link from MWBE transactions in utilization report back to source in the system module where it was entered/uploaded for instant reference and verification.
4. Update summary expenditure tracking to:
 - Replace with detailed tracking sufficient to determine data source and transaction details.
 - Track transaction detail that makes up expenditure summary data and maintain reference to transaction specifics; update summary data display.
 - Add new bulk load file type or update existing summary data file to support increased detailed tracking of total expenditures.
 - Add mechanism to transfer exempted/excluded contract information and track in more detail.
5. Add onscreen alerts and transaction blocks for agency/authority users to prevent submission of utilization reports that have defined issues without included reasons:
 - a. MWBE expenditures exceed total expenditures
 - b. Explanation required when quarterly MWBE utilization below set level (e.g. 20% or 30%)
6. Add mechanism to transfer contract waiver (or utilization plan waiver) information to utilization report and track in more detail than current process.
7. Add onscreen alerts and transaction blocks for agency/authority users to prevent submission of utilization reports when there are fully or partially federally funded contracts included in report.
8. Code system to not include payments on contracts identified as “excluded” or “exempted”.
9. Code system to not include excluded portion of contract based on contract-specific exclusions.
10. Add report of MWBE transaction details showing “exempt” and “excluded” fields from contract records so the Department can validate that no exempt/excluded records have been included in report. Report of detail behind Summary data will include “exempt” and “excluded” fields from contract records so the Department can validate that no exempt/excluded records have been included in report.
11. Add work code field to MWBE utilization record. Validate work code provided by reporting organization against certification record. Flag records that do not match and require update or reason to be entered prior to report submission.
12. Add onscreen alerts and transaction blocks for agency/authority users when duplicate MWBE transactions are identified.

13. Prevent submission of utilization report until user has deleted duplicate or entered written explanation that the second record is not a duplicate.
 - the Department to define rules for duplicate identification.
14. Flag all alerts onscreen to user and prevent submission of utilization report until all are cleared.
15. Create conditional questions for agencies/authorities to answer prior to report submission to provide clarifying information (e.g. MWBE participation percentage changed by $\pm X\%$).
16. Create onscreen calculations for quarter-to-quarter and year-to-year performance by agency.
17. Create buttons to “walk” from report to report by agency.
18. Include a field in payment record to require designation/selection of contract or non-contract payment. If contract payment, require entry/import of contract award date for use in certification validation. If non-contract payment, field remains optional.
19. Use payment date or contract/transaction date when verifying certification status.
20. Add mechanism for the Department analyst to bulk approve/not approve MWBE expenditure records.
21. Add onscreen alerts and transaction blocks for the Department analysts to prevent approval of utilization reports that have flagged issues.

Contract Compliance

1. Provide an onscreen “warning” if approved goal = “0” and either proposed or required goal fields are not “0”.
2. Program configuration of all organization accounts to capture single and sole source contract type information (import and manual entry).
3. Allow DMWBD to identify duplicate payments by different agencies on the same contract
4. Add province, postcode, and country fields for adding non-US vendors to the system.
5. Several types of procurement methods must be provided for in this solution. They include, but are not limited to, the following:
 - Blended contracts (Federal and state funding); commodities; construction projects; discretionary purchases, exclusions, exemptions, federal spend, grants, HBITS contracting, Human Services spend, in-year exclusions, not-for-profit, OGS centralized contracts, p-cards, preferred sources, purchase orders, sole source, zero goal and requirements contracts.

Utilization Plans

1. Add warnings for vendor when waiver request information has not been provided.
2. Add capability to reflect current policy on broker-supplier utilization credit as indicated below:
 - Type: Subcontractor/Sub-consultant; Percent credit: 100%
 - Type: Manufacturer; Percent credit: 100%
 - Type: Supplier – Commodities/Non-Construction; Percent credit: 100%
 - Type: Supplier – Construction Materials; Percent Credit: 60%

- Type: Broker – Construction Materials; Percent Credit: Prime contractor enters percent based on broker’s mark-up
 - Type: Broker - Package, Broker, Distrib., Manuf. Rep., Fees & Commission; Percent credit: 25%
 - Type: Joint Venture; Percent Credit: Prime contractor enters percent based on situation
Type: Trucking & Hauling; Percent Credit: 100%
 - Type: Trucking & Hauling Broker; Percent Credit: Prime contractor enters percent based on situation
3. Agency staff must be able to view or upload an approved Utilization Plan in the event the vendor refuses or is unable to do input/upload the plan themselves.
 4. The UPs must be searchable by the public, ensuring compliance with law requiring the posting of UPs on contracts with MWBE subcontracting opportunities.

Certification

1. Require all NAICS codes assigned to MWBEs to be at the six-digit level.
2. Certain information from an application must be automatically transferred to various sections of the certification record. They include but are not limited to:
 - Owners’ information
 - Date firm established
 - gross receipts
 - work codes
 - number of employees
 - Licenses information
 - Equipment information
 - Vehicle information
3. Option should be available to open any screen in a new window
4. Allow certification analysts to assign red flags as an overlay to documents or data entered into an application. Flags must only be viewable to Department users.

Reports

- List pending/approved vendors with timeline detail including when requests were created via App Q/A and answers provided. One line per vendor.
 - Program or cert type level report showing overall processing time with proper application of dates when records were 'on hold' and therefore the clock was stopped.
5. Add option for analyst to "link" specific docs in the app doc list to an audit so they appear on the audit page as direct links. This is not a copy of the document, but a "let's flag this one so it displays for faster reference". The action of the flagging/linking demonstrates that the analyst has gone through the necessary review actions.
 6. Provide preset "extra doc" list for quick add to doc list and Q&A to request files not included on the application but needed as part of the review. This standardizes process and labeling.

7. Provide preset "extra question" lists for quick add to audit checklist and Q&A to request information not included on the application but needed as part of the review. This standardizes process and content text.
8. Configure six Fast Track applications based on each of the Department's certification partners.
9. Program application module to add a new "sample" column on the document list which allows for images or scanned PDFs to be uploaded and made available to applicants.
10. The system must be able to support fillable forms such as Personal Net Worth affidavits which can be searched on specific fields.

Project Management

1. One central location for collecting all communications pertaining to a company in any phase of certification. Communications must be available among DMWBD staff, to outside stakeholders (agencies, authorities, elected officials, etc.) and to the vendor community both certified and non. See Exhibits 8 and 9 for examples.
 - Exhibit 8. The types of issues/inquiries, sources and urgency are tracked for appropriate handling and can be escalated to higher management as necessary. The log is in date order and contains all the discussions from among all stakeholders pertaining to a single company.
 - Exhibit 9. A report must be generated by .pdf, exportable to Excel, as a Word doc, and email enabled from the page itself. If an email, a copy must be saved noting the date/time sent, sender and recipient.
2. System must allow user logged-in to New York State account to search all contracts for all agency and authority users by Contract/Reference Number, Contract Title, Prime Contractor, and Subcontractor. User must be able to select any contract resulting from search and enter contract management screen for that contract.
3. Authorized users should be able to easily create their own reports within the system without the need for vendor intervention. All fields should be available for selection, and all reports should be exportable in the noted formats.
4. NYS should have sole authority over adding new users to the system. A process is currently in place for ag/au's to request new users. Any requests by ag/au's outside of NYS approval should be re-directed back to NYS.
5. System must be able to run all reports to completion, regardless of the amount of data being pulled. Large reports can be run in the background, broken into components, or any means vendor chooses to provide a complete report with all requested information.
6. Two accounts must be available at one time to authorized NYS users. Often support requests or messages require further investigation into a specific user's account, thus the ability to have both the NYS account and individual ag/au account open at the same time is required.
7. DMWBD staff must be able to 'see what the user sees' whether an Ag/Au or a vendor, in order to troubleshoot issues they may be having.

2.2 Budget

The budget format and forms are included in Appendix B.

In addition to the project deliverables for implementation of the go-live environment, the following must also be accounted for.

1. Training (Post Implementation): Respondent's hourly rate shall be the same for trainings for users of the system. The hourly rate shall include all costs associated with providing the trainings. The Department may, at its sole discretion, require the successful respondent to provide such training at such time as the Department reasonably requires.
2. Enhancements (Post Implementation): Respondent understands that hourly rates provided in the budget (Appendix B) will also apply for such enhancements as the Department shall reasonably require. The rate proposed must include all direct, indirect, and overhead costs related to enhancement and delivery.

2.3 Deliverables and Design Specifications

A key deliverable in this RFP is a working prototype due no later than eight (8) months from the start of the contract. The full production environment with 100% functionality and which encompasses all modules, integrations and functionality identified by ESD in the production environment per Section 2.1 Scope of Work **Year 1** will be due no later than twelve (12) months from the start of the contract for on-boarded agencies.

Approvals and Sign-Offs

For the full production environment, as work proceeds the winning bidder will submit documentation to the ESD Project Manager which details the work completed to date. Work will be deemed Approved when the documentation is signed off on by the ESD Project Manager. Additional sign-offs for specific technical interfaces will require the approval of the ESD Technical Lead on the project as well as the ESD Project Manager. Once the ESD Project Manager approves the work, invoices may be submitted by the winning bidder.

Agencies (Ag) and Authorities (Au) that will require onboarding services will work directly with the winning bidder to establish a Scope of Work ("SOW") and contract that details services and payment to winning bidder by Ag/Au via ESD's multi-agency contract. The Department will review and approve the SOW prior to contract execution. ESD reserves the right to sign off on each SOW as it is completed to ensure that such programming meets ESD's requirements of the system.

2.4 Mandatory Qualification Requirements

Respondents to this RFP must demonstrate that they meet the following requirements:

A. Experience

The Department's entire MWBE program depends upon the successful implementation of this system. Proven reliability is paramount. Therefore, prospective vendors must be able to demonstrate previous successful implementation of a similar web-based software solution, preferably for a federal, state, county or other governmental certification program, although verifiable success on similar commercial projects is allowed. Such implementation must have included integration of existing legacy databases providing dynamic database access and update capabilities. Particular attention will be given to prior experience in

the design, programming and implementation of comparable internet-based applications systems and the hosting of such systems.

Respondents must supply a minimum of three (3) references from representative projects (including name and address of the organization, contact name, telephone number, project type, and cost) that can substantiate the quality of the respondent's work to be considered for an award of this project. References must be provided with your proposal.

The evaluation will include the resumes and experience of your project team, including subcontractors you would utilize for this project.

B. Years in business

A minimum of five (5) years' experience (from the due date of proposals) in the development of internet software applications. All proposals must state the number of years of such experience.

C. Sub-contractors

Prospective vendors must disclose any subcontractors they will use in conjunction with this project. Business/corporate name(s), address(es), telephone number(s), key personnel and web sites for all sub-contractors must be provided, along with a complete description of the services they will provide.

2.5 Selection Criteria

Proposals that meet all the mandatory qualifications as outlined in Section 2.4 will be evaluated by the Department based on the Selection Criteria stated in this section. Proposals not meeting the mandatory qualifications will not be evaluated.

Proposals will be scored based on the following criteria:

Technical

A. Experience (30 points)

How well the respondent meets the qualification requirements addressed in Section 2.4 Experience of this RFP.

B. Ability to perform the required services (40 points)

The respondent must demonstrate the ability to perform the services required in Section 2.1 Scope of Services and 2.3 Design Specifications of this RFP.

C. Cost Evaluation (30 points)

Please complete Appendix B - Budget in full.

Please do not change the budget format and do not substitute your own budget format. Failure to complete the financial proposal or respondent changes to the format will result in the disqualification of your proposal. Any respondent failing to complete the budget pages will be disqualified.

Your budget must be separately bound from the rest of your proposal to allow for the cost evaluation to be completed independent of the technical evaluation (see Evaluation Process below).

2.6 Evaluation Process

Initial evaluation of proposals will be done in two parts – Technical Evaluation and Cost Evaluation. DED’s evaluation committee will review the technical portion of each proposal based on the technical criteria listed in section 2.5. Then cost scores, computed by DED’s Contract Management Unit based on a weighted average formula, will be added to the proposal’s average technical score resulting in the total score for the written proposal.

Interviews/Oral Presentation of finalists may be conducted at the discretion of the Department. The interview/oral presentation will allow finalists to elaborate on information included in their proposals. Key personnel directly responsible for the project will participate in the interview/oral presentation. Costs incurred by the finalists for preparation and participation in the interviews/oral presentations including but not limited to travel and staff time shall be the sole responsibility of each finalist.

NYSDDED reserves the right to determine whether oral presentations/interviews will be necessary. If NYSDDED decides to conduct oral presentations/interviews, such oral presentations/interviews will occur as follows:

1. Following the evaluation of proposals as provided above, the Evaluation Committee will determine the finalists to be interviewed as those having the highest total scores. NYSDDED anticipates that three (3) proposers will be selected as Finalists. The Department reserves the right to select any number of firms as finalists.
2. Each finalist will be notified of the date, and time of their oral presentation/interview which will be conducted via telephone/video conference. The oral presentation/interview should further document the proposer’s ability to provide the required services. Further information regarding the format of this stage of the evaluation may be provided to the finalists prior to their oral presentations/interview.
3. Following the oral presentation/interviews, if any, the Evaluation Committee members will re-score each proposer interviewed on the technical criteria listed above. NYSDDED anticipates that the Evaluation Committee will make an award recommendation of one proposer based upon its determination of the best value for NYSDDED as the highest total average scores (technical and cost). In the event of a tie for the highest total score, the proposal with the lower cost proposal will be selected as the awarded vendor.

2.7 Contract Award

The Department anticipates that the Evaluation Committee will make an award recommendation of one respondent based upon its determination of the best value for the Department as the highest total score.

Upon selection, negotiations will be commenced with the successful respondent to enter into a contract setting forth the general terms that would govern the contract for services contemplated by this RFP. If the successful respondent does not sign and return to the Department the proposed contract including any draft of the proposed contract, within thirty (30) calendar days of receipt by the Contractor, the Department reserves the right to declare the award of the project to the Contractor null (null award). The Department will not be responsible for any cost incurred by the Contractor as a result of a null award. An award will then be made to the next highest scoring Respondent.

SECTION III - PROPOSAL CONTENT AND CONDITIONS

3.0 General Information

In preparing proposals, individuals and firms should follow the guidelines within this RFP. Both hard copy and electronic copy of full proposal is required. (see section 1.3 Submission of Proposals)

3.1 Complete Proposal Instructions

Each participating respondent must submit a complete proposal with each element of Section 2.4 addressed. In addition, all proposals must include the following information. Respondents supplying incomplete responses may be deemed non-compliant. Please follow the format listed below:

A. Title page, indicating:

Name, address (both mail and email) phone number, contact person, and federal ID and NYS Vendor ID number (if assigned).

It must also include a signed statement that the offer shall be firm and not revocable for a period of 60 days unless withdrawn in writing.

B. Mandatory Requirements Checklist (Appendix I)

C. Table of contents and page numbers

D. Technical Proposal

1. Experience

- **Provide background information on your company**, per Section 2.4 of this RFP.
- **Specify the accreditations your company** has acquired since its inception, and give details of any company membership of professional or trade organization affiliations
- **Attach three (3) relevant letters of reference** per Section 2.4 of this RFP.
- **Attach a current client list. Include a summary of the project and total project cost.**

2. Proposed Approach

The Approach shall address:

- **Scope of work.** Describe in detail how your company will provide the Scope of Work described in Sections 2.1 and 2.3 of this RFP.

3. Organizational Capability

- **Demonstrate the company's organizational capability** to provide the Scope of Work described in Section 2.1 and 2.3 of this RFP.
- **Specify who would be the primary contacts** and dedicated staff for this contract. Identify how much time would each staff person devote to this account.
- **Certification of Financial Resources** per Section 1.5.

4. Other

Please complete and include Appendices C, D, E and, F (Non-Collusive Bidding Certification, MacBride Fair Employment Principles, Responsibility Questionnaire information, and Procurement Lobbying Disclosures Pursuant to Sections 139-j and 139-k of State Finance Law respectively).

Also include a completed form OCSD-1. Can be found at:

https://cdn.esd.ny.gov/CorporateInformation/Data/RFPs/OCSD_1MWBEEOPolicyStatement.pdf

The Successful Respondent must also complete the following but their inclusion is not required at the time of proposal:

- New York State tax forms ST-220-CA and ST-220-TD. The ST-220-CA may be found at: [ST-220-CA doc.](#). The ST-220-TD may be found at: [ST-220-TD doc.](#)
- A State Consultant Services *Contractor's Planned Employment From Contract Start Date Through the End of the Contract Term* (Form A) available at: [Form A doc.](#)
- The State Consultant Services *Contractor's Annual Employment Report* (Form B), **to be submitted annually**, available at: [Form B doc.](#) More information on the consultant services reporting can be found at: [OSC-GFO.](#)
- Businesses and other parties applying for a government permit, license or contract must prove compliance with New York State workers' compensation and disability benefits requirements. The vendor awarded the contract from this solicitation will be required to provide proof of NYS workers' compensation and disability insurance.

E. Budget Requirements.

Appendix B (Budget) of this RFP must be completed and submitted as part of your proposal, following the budget format provided. All discussion of proposed costs, rates or expenses must occur only with the budget form. Annual personnel cost shall include all employment-related expenses including payroll taxes, health insurance, employer liability insurance, etc. If any of the personnel duties will be filled with subcontractors, please include their costs under the Subcontractor lines of your budget proposal on the Appendix B (Budget) forms provided. Subcontractor services are performed by other organizations or individuals who are not employees of the Contractor. Use of subcontractors must be clearly explained in the proposal, and identified by name on Appendix B (Budget).

3.2 Conditions Governing Proposals

Only those individuals or firms who have supplied complete information will be considered. Any patented or proprietary information included in the proposal must be clearly identified in the proposal and in a cover letter submitted with the proposal.

The Department reserves the following prerogatives:

- to accept or reject any or all proposals;
- to waive or modify minor irregularities in proposals received;
- to eliminate mandatory qualifications unmet by all offerors;
- to disqualify proposed offers that fail to meet the mandatory qualifications;
- to require clarification from any respondent for the purposes of assuring a full understanding of responsiveness to the requirements of the RFP;
- to negotiate with any or all Respondents, within the proposal requirements, to best serve the interests of the State of New York;
- to amend the specifications after their release, with due notice given to all those solicited to modify their proposals to reflect the changed specifications;
- to utilize any or all ideas submitted in the proposals received unless those ideas are covered by legal patent or proprietary rights;
- to award contract(s) for any or all parts of a proposal; and
- to elect to award contract(s) to one or more responsive and responsible offerors, provided that the basis for the election among multiple contracts at the time of award shall be the most practical and economical alternative and shall be in the best interest of the State.

By submitting a proposal, an individual or firm agrees that it will not make any claim for or have any right to damages because of any lack of information or misinterpretation of the information provided in this RFP.

3.3 Iran Divestment Act

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a new provision has been added to the State Finance Law (SFL), § 165-a, effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) will be developing a list (prohibited entities list) of “persons” who are engaged in “investment activities in Iran” (both are defined terms in the law). Pursuant to SFL § 165-a(3)(b), the initial list is expected to be issued no later than 120 days after the Act’s effective date, at which time it will be posted on the OGS website.

By submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, Respondent/Contractor (or any assignee) certifies that once the prohibited entities list is posted on the OGS website, it will not utilize on such Contract any subcontractor that is identified on the prohibited entities list.

Additionally, Respondent/Contractor is advised that once the list is posted on the OGS website, any Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to the solicitation, must certify at the time the Contract is renewed, extended or assigned that it is not included on the prohibited entities list.

During the term of the Contract, should the Department receive information that a person is in violation of the above-referenced certification, the Department will offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then the Department shall take such action as may be appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The Department reserves the right to reject any bid or request for assignment for an entity that appears on the prohibited entities list prior to the award 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.

3.4 Freedom of Information Law (FOIL)

The Department is subject to the Freedom of Information Law, which governs the process for the public disclosure of certain records maintained by the Department. (See Public Officers Law, Sections 87 and 89).

Individuals or firms which submit proposals to the Department may request that the Department except all or part of such proposal from public disclosure, pursuant to Section 87(2)(d) of the Public Officers Law, on the ground that the proposal contains trade secrets, proprietary information, or that the information, if disclosed, would cause substantial injury to the competitive position of the firm submitting the information. Such exception may extend to information contained in the request itself, if public disclosure would defeat the purpose for which the exception is sought. The request for such an exception must be in writing and state the reasons for the requested exception. It must also specify the proposal or portions thereof, for which the exception is requested.

If the Department grants the firm's request for exception from disclosure, the Department shall keep such proposal in secure facilities and shall notify the firm of any request the Department receives for disclosure of the proposal.

3.5 Notification of Award

The Department will notify the successful Respondent by written confirmation.

A contract defining all terms and conditions of the parties will be drafted by the Department. The contract may incorporate all or portions of this RFP, the State's standard contracting provisions (attached hereto as APPENDIX A) and as much of the successful firm's final proposal as may be appropriate among its provisions. After the Department and the successful firm execute the contract, it must be submitted for approval to the Attorney General's Office and the Office of the State Comptroller.

3.6 Debriefing

A debriefing shall be requested by the unsuccessful applicant within 15 calendar days of receipt of notification by the NYSDED that the applicant's proposal is unsuccessful. Such notification shall be provided by NYSDED to all unsuccessful applicants for this procurement.

NYSDED, upon request made within 15 calendar days of such notice, shall schedule the debriefing to occur within a reasonable time of such request. Debriefings shall be conducted at the NYSDED's Albany or New York City office, or via telephone, video conference or other types of electronic communication. NYSDED personnel participating in the debriefing discussion shall have been involved with and knowledgeable about the procurement and the evaluation and selection of the successful applicant. Such debriefing shall include, but not be limited to: (A) the reasons the proposal submitted by the applicant was not selected for award; (B) the qualitative and quantitative analysis employed by NYSDED in assessing the relative merits of the proposal; (C) the application of the selection criteria to the unsuccessful applicant's proposal; and (D) when the debriefing is held after the award has been fully finalized and approved, the reason for the selection of the winning proposal. The debriefing shall also provide, to the extent practicable, general advice and guidance to the unsuccessful applicant concerning potential ways that their future proposals could be more responsive.

To request a debriefing please contact the Department via e-mail at tourismrfp@esd.ny.gov within fifteen (15) calendar days of receipt of the notice that your proposal was not selected for an award.

3.7 Protests and Appeals

1. Protests

Any interested party may file a protest, in writing, with the NYS Dept. of Economic Development DED, within ten (10) business days from the date of the notice of the contract award, except:

- where a protest concerns the terms and conditions of the solicitation (or other matters that would be apparent to an interested party prior to the date set in the solicitation for the receipt of bids), in which case that protest must be filed on or before the date set in the solicitation for the receipt of bids or proposals; or
 - where DED determines that sufficient circumstances exist and has set forth a different time period for filing protests.
- a) Once received by DED the protest shall refer either to an individual employee or group of employees of DED. No such employee will have been actively involved in the procurement process being protested. DED will provide a copy of any protest filed to the successful bidder.
 - b) DED may summarily deny a protest that fails to contain specific factual or legal allegations, or where the protest raises only issues of law that have already been decided.
 - c) DED shall issue a determination within fifteen (15) business days of the filing of the protest. The answer to the protest should address all the factual and legal allegations contained in the protest. A copy of the answer shall be simultaneously delivered to the protester and the successful bidder.
 - d) During the time period in which a protest may be filed, or during the resolution of a pending protest, DED may negotiate terms and conditions of the contract or grant award with the successful bidder. However, a contract or grant award will not be approved by the DED prior to the expiration of the time period for filing a protest, or, if a protest has been filed, before the DED issues a determination of the protest.
 - e) The person or persons designated by DED to consider the protest shall prepare a written recommendation addressing all of the issues that have been raised by the protest.

- f) DED may accept, modify or reject such recommendation.
- g) In making his or her determination with regard to the protest, the DED designee may, in his or her sole discretion, consider any additional information from any source relating to the allegations set forth in the protest.
- h) All parties that have participated in the protest, as well as the original successful bidder, shall be provided with a copy of the final determination of DED. The determination shall be made part of the procurement or grant award record.

2. Appeals

All parties receiving a copy of the ESD final determination will also receive a copy of the current “[Contract Award Protest Procedure For Contract Awards Subject To The Comptroller’s Approval.](#)” This document explains the time periods and procedure for filing a protest with the Office of the State Comptroller.

An interested party has ten (10) business days from the date it receives DED’s determination to file an appeal with the Bureau of Contracts in the Office of the State Comptroller.

https://www.osc.state.ny.us/agencies/guide/MyWebHelp/Content/files/XI_17_att1.pdf

3.8 Liability

The Department is not liable for any costs incurred by any individual or firm for work performed to prepare its proposal or for any travel or other expenses incurred in the preparation and/or submission of its proposal. Further, the Department is not liable for any costs incurred until the contract has been approved by the State Attorney General and the State Comptroller's Office.

3.9 Procurement Lobbying

Pursuant to State Finance Law §§139-j and 139-k, this Request for Proposal includes and imposes certain restrictions on communications between the Department and an Offeror/respondent during the procurement process. An Offeror/respondent is restricted from making contacts from the earliest notice of intent to solicit offers through final award and approval of the Procurement Contract by the Department and 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 this solicitation. To avoid conflicts and other issues concerning statutory exceptions, the Department requires that Offerors contact only Department staff identified in the aforementioned section of this solicitation. Department employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the Offeror/respondent 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 Offeror/respondent is debarred from obtaining governmental Procurement Contracts. Further information about these requirements can be found at

<http://www.ogs.state.ny.us/aboutOgs/regulations/defaultAdvisoryCouncil.html> or by calling the New York State Office of General Services; Ms. Anne Phillips, OGS Legal Services, Empire State Plaza, 41st Floor Tower Building, Empire State Plaza, Albany NY 12242. Telephone: (518) 474-5607. E-mail:

Anne.Phillips@OGS.State.NY.US. State Finance Law Sections 139-j and 139-k may be viewed at

<http://www.ogs.state.ny.us/aboutogs/regulations/advisoryCouncil/sf1139-j.htm> and at

<http://www.ogs.state.ny.us/aboutogs/regulations/advisoryCouncil/sf1139-k.htm>

SECTION IV - CONTRACTUAL INFORMATION

4.0 Contract Term

The successful respondent shall perform the work and provide the services set forth in this RFP as an independent contractor for a period of five (5) years. The Contract may be extended for up to five (5) additional years upon mutual agreement of the parties, formal amendment, and approval of the New York State Office of the State Comptroller. The total term of the contract shall not exceed ten (10) years. If the contract is extended for the additional 5 year term, personnel expenses itemized in the Budget may be adjusted in accordance with the Consumer Price Index Urban (CPIU), or at other rates as may be documented from authoritative sources at the Department's discretion, not to exceed 3% annually from the previous 5 (year) term. The Department reserves the right to exclude the NYS MWBE Certification and Re-Certification Component, MWBE Database, and/or the DBE Component, as described in sections 2.3.3, 2.3.4 and 2.3.8 of this RFP, from any renewal. In the event that the Department elects to exclude the NYS MWBE Certification and Re-Certification Component, MWBE Database, and/or the DBE Component from any renewal, the respective maintenance cost of such component(s), as stated in Appendix B of this RFP, shall be excluded from the total contract value of the renewal.

A multi-agency contract format will be used for this award. Each individual Ag/Au that requires an interface with their own individual financial systems will establish a separate contract under its respective Business Unit and Department ID using the same contract number specified by DED's contract. The Ag/Au will work directly with the vendor to establish the scope of work (SOW) and budget and will make payment directly to the awarded vendor. The Department will review and approve the SOW prior to each separate contract execution. DED reserves the right to sign off on each SOW as it is completed to ensure that such programming meets DED's requirements of the system.

During the term of the awarded Contract, the State may make changes, subtractions or additions in any of the Equipment, Software, Documentation, Services and/or other Deliverables within the general scope of work set forth in the Contract, consistent with pricing established under the terms of this agreement. All such changes shall be made using a Change Request Form executed by both Parties, and shall otherwise be in accordance with the terms and conditions of this Contract. If any such individual change order is in excess of \$50,000 it will be subject to the approval of the New York State Comptroller and any applicable control agency.

The Department reserves the right to cancel any contract resulting from this RFP as described in Section 4.1 – Cancellation below. Both parties agree that any contract resulting from this RFP shall end on the termination date unless terminated as described in Section 4.1 – Cancellation below.

4.1 Cancellation

Once a contract or other agreement resulting from this RFP is fully executed and approved, the Department has the right to cancel it early, in whole or in part, for cause or unavailability of State funds at any time or for convenience on thirty (30) calendar days written notice to the Contractor. If cancelled for cause, payment to the Contractor for charges incurred will be made at the Department's sole discretion. If cancelled for convenience, the Department agrees to pay the Contractor for charges incurred in the performance of the Contract up to the time of cancellation. If cancelled for unavailability of State funds, the Department will not be liable for payment but will use its best efforts to pay outstanding charges previously approved by the Department to the extent permitted by New York State Law.

Additionally, the Department also reserves the right to terminate this contract in the event it is found that the certification filed by the Contractor in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, the Department may exercise its termination right by

providing written notification to the Contractor in accordance with the written notification terms of the contract.

4.2 Subcontracting Requirement

The Respondent may subcontract elements of the program for which it lacks location or in-house capabilities. The firm's proposal must identify the subcontracting firm or firms and cite the proposal. The Department is an equal opportunity contractor and reserves the right to review and approve all subcontracting firms.

After the contract resulting from this RFP, if any, is awarded, any subcontractors or purchases in excess of \$100,000 that was not originally identified in the Contractor's proposal must adhere to the following:

- For subcontracts or purchases that are competitively bid the Contractor must request proposals from a minimum of three qualified firms, and the lowest responsible or best value Respondent, as appropriate, shall be accepted unless otherwise approved in writing by the Department.
- Subcontracts or purchases that are sole or single source must include a detailed justification and require the written approval of the Department prior to entering into the agreement.

The contractor may not, without written consent of the Department, assign to any party the Contract or any interest herein, or claim hereunder.

4.3 Financial Terms/Payment Process

Payment for services performed to the satisfaction of the Department shall be made quarterly in the ordinary course of State business upon receipt of duly authenticated invoices/vouchers and upon receipt of reports and/or deliverables, if required elsewhere in this RFP. Receipts (original copies preferred, the Department reserves the right to require original receipts) for all non-personal expenses must be attached as evidence of cost. A detailed accounting of the staff time and effort attributed to complete project tasks is required and must include personnel titles, hourly rates, dates of service, and deliverables. Vouchers or invoices shall detail expenses in a manner essentially similar to the Budget required as part of your proposal and subject to the terms and conditions discussed throughout this RFP. The Department shall withhold ten percent (10%) of the year one "Total All Costs Categories" which appears in the Contractors proposal as Appendix B Budget, Year 1 until such time as the Department's Project Manager certifies in writing that the Site is complete (see section 4.3.1. below)

1. Site Completion

As used in this RFP, the term "complete" shall mean that all programming, testing, documentation and installation of the site have been received and accepted in writing by the the Department's Project Manager. This includes all source and object code; all graphics, templates, auto-fill documents and screens; all compiled and un-compiled project files; all training materials and agreed-upon documentation. In addition, acceptance requires that the site operates as designed in the production environment for a period of seven consecutive days. The Contractor shall issue in duplicate a certification document and the Department's Project Manager shall sign said document upon his/her satisfaction that the site meets the definition of complete as the term is used herein.

4.4 Administrative and Fiscal Requirements

1. Work Estimates, advanced approval required.

The Contractor shall not incur any obligations or provide any services (hereafter, goods and services) for the Department's account, without first obtaining written approval from the Department's Project Manager or his/her designee. In order to obtain the Department's approval, the Contractor shall submit written cost estimates for work and other services to the Department. Each cost estimate will be specific to an individual

project and provide a cost breakdown detailing the personnel hours and administrative expenses. A unique job number shall be assigned to each project and shall be used on all estimates and invoices submitted to the Department.

2. Sole/Single Source Contracts.

For purposes of this agreement, sole source contracts are defined as where only one vendor is capable of supplying the required services or properties because such service or property offered is so unique that it cannot be duplicated or obtained elsewhere, or involves creative artistry of a similar nature.

Single source contracts are defined as where, although more than one vendor can supply the required services or properties, circumstances of a material and substantial nature make the awarding of the contract to one vendor over the others appropriate.

The requirement for competitive bidding may be waived upon prior written approval of the Project Manager provided that prior to the acceptance of such services or properties the Contractor provides a detailed written statement to the Department which describes the sole or single source determination, the alternatives considered, and the terms of the proposed contract. In addition, the Contractor must establish, to the satisfaction of the Department, the reasonableness of the proposed expenditure. In general, the price charged to the Department should be no greater than the price charged in the private sector. Sole/single source contracts are to be avoided whenever possible.

3. Administrative Expenses.

Administrative expenses charged up to the annual total proposed by the Contractor in response to Appendix B (Budget) of this RFP, shall be billed at actual cost with no mark-up due the Contractor. Said administrative expenses are deemed to be ordinary and necessary expenses associated with the maintenance of the Department's account by the Contractor

4. Payments and Documentation.

All payments shall be made in the "ordinary course of State business" for services performed upon receipt of duly authenticated invoices/vouchers and agreed upon project statements of work, financial and activity reports. Payment for necessary travel shall be made in full compliance with the terms and conditions discussed in Appendix G (NYS Contractor Travel Reimbursement Guidelines) of this RFP.

Payment in the "ordinary course of State business" may be barred by extraordinary events beyond the control of the Department. The Department shall take all steps necessary for payment to be made as reflected on a duly authenticated invoice with the understanding that payment not made within thirty (30) days receipt of such invoice shall be subject to payment of interest charges in accord with section 179F of the New York State Finance Law.

In addition to the provisions stated therein, said sections shall require the Contractor to submit estimates to be pre-approved by the Department's Project Manager or his/her designee, for any and all work regardless of type. The Department in its discretion reserves the right to issue written administrative guidelines and controls to supplement or make technical corrections to, the payment process described in this RFP. The Department will consult with the Contractor regarding administrative guidelines and controls, however, the Department reserves the right to implement administrative guidelines and controls at its sole discretion.

The release of this RFP by the the Department does not guarantee that a Contract will be entered into. Moreover, if a Contract is entered into (fully ratified) the right to assign work or all services described in this RFP is at the sole discretion of the Department.

5. Other Payment and Documentation Provisions

- a) Discounts allowed by suppliers of goods and services purchased by the Contractor on behalf of the Department must be fully disclosed and credited to the Department.
- b) Where Contractor on behalf of the Department makes purchases, all bills and invoices rendered to the Department shall omit any tax (particularly sales tax) from which the State of New York is exempt. Reimbursement of first party subcontractor tax payments will be reimbursed when unavoidable.
- c) Shipping Charges. The Contractor shall document such charges by submitting each individual shipping/messenger receipt, along with details determining reasonableness of charges.
- d) Travel expenses will be billed based upon the prevailing New York State per diem rates. All travel authorized by the Department will be billed as incurred. Contractor shall incur no expenditures for travel outside of New York State without the prior written approval of the Project Manager or his/her designee.
- e) Budget Reports

The Contractor shall provide monthly budget reports in a format prescribed by the Department. The Department may request that this report be prepared more frequently.

4.5 Relationship

(a) Independent Contractor Status. The relationship of the Contractor to the Department shall be that of an independent contractor, not an employee.

(b) No Control by Department. The parties acknowledge and agree that the Contractor shall use Contractor's own judgment as to time, place, details and means by which Contractor accomplishes the results of Contractor's Services under the contract; that Contractor is not subject to instructions by the Department as to when, where and how the Services should be performed; that Contractor is not required to work set hours of the day or week established by the Department; that Contractor is not required to perform Services in sequence determined by the Department; and that nothing contained herein shall be construed to create the relationship of employer and employee between the Department and the Contractor, provided, however, that Contractor is expected to provide the Services in a timely and competent manner in order to meet the needs and expectations of the Department.

(c) Transfer of Undertakings: Change of Service Provider at end of Contract Term

At the end of the Contract Term and, in the event that there is a transfer of services which falls within the definition of a Relevant Transfer for the purposes of the Transfer of Undertakings (Protection of Employment Regulations 1981 as amended, and related Enactments and for the purposes of re-tendering, then, upon request, the Contractor fully and accurately disclose all information relating to its employees who are principally engaged in providing the Services, that is, its employees who are engaged exclusively on providing the Services or who are engaged for more than 70% of their time in providing these Services, including the total number of employees whose employment with the Contractor is liable to be terminated at the expiry of this Agreement (but for operation of law) or liable to be transferred, their age and gender, their terms and conditions of their employment, including salary, bonus payments, pay settlements redundancy entitlement, pension entitlement and working arrangements) their job titles and the qualifications required for each position.

(d) Employees of Contractor. The Contractor may, at its sole expense, employ and retain such employees as may be necessary to conduct the Services in the Designated Area. All obligations relating to the compensation, benefits and taxes of such employees shall be the sole obligation and responsibility of the Contractor, who shall be deemed the employer of such employees. The Contractor shall direct the work of all employees and subcontractors.

(e) Other Activities of Contractor. The Parties agree that Contractor may be engaged as a consultant, employee or otherwise in non-profit, business or commercial activities for other parties during the term of this

contract, provided that such activities: (1) do not prevent Contractor from performing his obligations as set forth in the Contract; and (2) are not Competitive Activities (as defined below), detrimental to the Department or cause the Contractor to breach any of the provisions of the Contract. "Competitive Activities" are those activities which (i) are performed by the Contractor for another state, trade association, or trade group which represents interests or performs services which are competitive with the State or the Department and (ii) are similar to the Services.

(f) **Limitation on Authority.** The Contractor acknowledges that it is not an agent or legal representative of the Department and the Contractor shall not have nor represent that it does have any power or right to bind the Department. Neither the Department nor any employee or agent of the Contractor shall be deemed to be the legal representative or an employee of the Department by reason of the contract. During the term of the Contract, the Contractor shall not take any action inside or outside of the Designated Area which could: (1) confer on the State or Department "permanent establishment" or equivalent status, as defined in any applicable law or income tax treaty; (2) subject the State or the Department to income or other taxation in the Designated Area or any country or political subdivision thereof; (3) impair the treatment of the Representative Offices as representative offices or liaison representative offices. Nothing contained in the Contract shall in any way be construed to create an agency or employee relationship between the Contractor and the Department.

(g) **Insurance.** Contractor agrees to maintain such insurance necessary to fully protect both Contractor and Department from any and all claims under the Workers' Compensation Act, or any foreign country's equivalent, including maintaining insurance, through appropriate local government department or agency; or employers' liability laws, and from any and all other claims for damage to property or for personal injury, including death, made by any person whomsoever, that may arise from or relate to performance of the Services by Contractor, any subcontractor or any person directly or indirectly engaged or employed by Contractor or subcontractor. Contractor agrees to provide the Department with certificates evidencing the required insurance coverage within thirty (30) days after Contractor begins performance of the Services.

(h) **Department's Right of Inspection.** The actual performance and supervision of all the work hereunder shall be by Contractor, but the Department shall designate a representative or representatives who shall at all times have access to the Representative Offices for the purposes of observing or inspecting the work performed by Contractor, to judge whether such work is being performed by Contractor in accordance with the terms of the Contract. Such representative or representatives shall be empowered to act for the Department in all matters relating to Contractor's performance of the work undertaken hereunder.

(i) **Department Not a Joint Venturer or Partner.** In entering into and complying with the Contract, Contractor is at all times performing as an independent contractor. Nothing in the Contract shall constitute or be construed as a creation of a partnership or joint venture between Contractor and the Department, or their successors or assigns.

(j) **Title to Contractor's Materials.** Title to the materials to be furnished by Contractor in connection with the performance of the Services shall remain with the Contractor unless otherwise specified herein.

4.6 Intellectual Property/Personal Property Rights in Data Computer Software and Other Intellectual Property

(a) **Rights in Data.** All studies, reports, findings, sources, bibliographies, subscriber lists, mailing lists, working papers, files, input materials and output materials, the media upon which the same are located (including cards, tapes, discs. And other storage facilities), together with any drafts of same or other intermediate components thereof which may or may not be either confidential or proprietary, and all other materials, prepared for and delivered to the Department in the course of performance of the Agreement hereunder (hereinafter referred to as "Data"), shall be deemed to be "work made for hire" (as defined in Section 101 of Title 17 of the United States Code), and shall be provided to and become the exclusive property of the Department. Data shall be deemed and determined to not include computer software and related documentation. If it is determined that any Data

encompassed above does not fall within the definition of “work made for hire” (as defined in Section 101 of the Title 17 of the U.S.C), the Contractor hereby covenants and agrees to transfer all right, title and interest in any such Data to the Department, and cooperates with the Department, as is necessary, in the processing and execution of any and all documents needed to cause said transfer of all right, title and interest.

(b) Rights in COTS Computer Software. Any commercial “off-the-shelf” (COTS) computer software and its related documentation and licenses which were purchased by the Contractor to perform data collection, data dissemination and marketing as discussed in this Agreement shall be transferred to the Department to the extent permissible by the original license. The transfer of such COTS software shall be accomplished at no additional cost to the Department.

(c) Rights to Contractor Owned Pre-Existing Computer Software/Documentation. All computer software and related documentation, together with any versions of the same or other intermediate components thereof, which may or may not be either confidential or proprietary, which was owned by the Contractor and existed at the time of the effective date of this Agreement and which, during the Term of the Agreement is used by the Contractor in the conduct of the performance of this Agreement in such a fashion as to render such preexisting software to the state of being an integral and necessary operating component of the Contractor-Developed Computer Software developed under this Agreement (hereinafter referred to as “Contractor –Owned Pre-Existing Computer Software/Documentation), shall be deemed to remain the property of the Contractor and all right, title and interest therein to the same shall continue to vest in the Contractor, with the express understanding that the Contractor hereby licenses to the Department to use such Contractor Owned Pre-Existing Computer Software/Documentation as provided for in subparagraph (d) herein below.

(d) Rights to Contractor-Developed Computer Software and Software Documentation. The Contractor will design, develop and install computer software as may be required for the Department. The Department will have exclusive ownership of the software including all documentation, source and executable code. All computer software and related documentation, together with any versions of same or other intermediate components thereof which may or may not be either confidential or proprietary, developed by the Contractor in the direct course of performance of this Agreement (hereinafter “Contractor-Developed Computer Software and Software Documentation”), shall be deemed to be the property of the Department and all right, title and interest therein to the same shall vest in the Department.

(e) For Software License Agreements. For software license agreements regarding any and all pre-existing computer Software and Documentation including Software/ Documentation developed by the Contractor or purchased from outside sources, the Contractor hereby grants to the Department a nonexclusive, royalty-free, irrevocable, license to the Department, for:

1. All Software and Software Documentation (as herein above defined) developed or purchased in the course of performance of this Agreement; and
2. Only that Contractor-Owned Pre-Existing Computer Software/Documentation (as herein above defined) which forms an integral and necessary operating component of the Contractor-Developed Computer Software created under this Agreement;
3. This license shall include the right to reproduce for archival purposes only, and to use and make and permit others to use and make any modifications necessary to the Contractor-Developed Computer Software and Software Documentation, and the Contractor-Owned Pre-Existing Software/Documentation;

The rights granted by this license do not include any rights to derivative works, modifications, revisions, and upgrades to the Contractor-Developed Computer Software and Software Documentation which are developed by the Contractor after the term of this Agreement, or any extensions thereto, expires or is terminated.

(f) Other Intellectual Property Rights. Except for those intellectual property rights otherwise addressed in

sections (a) through (e) above the Contractor agrees that all other patentable or copyrightable ideas, writings, drawings, inventions, designs, parts, machines or processes, together with any drafts of same or other intermediate components thereof which may or may not be either confidential or proprietary, developed as a result of, or in the course of, this Agreement rendered to the Department by the Contractor or any of its employees or subcontractors during the term of this Agreement (hereinafter "Items") shall be deemed to be a "work made for hire"(as herein above defined), and shall be provided to and become the exclusive property of the Department. If it is determined that any Items encompassed above do not fall within the definition of "work made for hire" (as defined in Section 101 of Title 17 of the U.S.C.), the Contractor hereby covenants and agrees to transfer all right, title and interest in any such Items to the Department, and will cooperate with the Department, as is necessary, in the processing and execution of any and all documents needed to cause said transfer of all right, title and interest. The Contractor hereby assigns all rights in such intellectual property to the Department, shall, and will ensure that its employees and subcontractors shall, supply all assistance reasonably requested in securing for the Department's benefit any patent, copyright, trademark, service mark, license, right or other evidence of ownership of any such intellectual property, and will provide full information in regards to any such Item and execute all appropriate documentation prepared by the Department in applying or otherwise registering, in the Department's name, all rights to any such Items. The Department has the right to grant license to make, use, buy or sell any Items derived from the services performed under this Agreement. Provided however, upon mutual agreement of the Contractor and the Department, the Department may waive its property rights, in writing, to any and all patentable or copyrightable ideas, writings, drawings, inventions, designs, parts, machines or processes, together with any drafts of same or other intermediate components thereof which may or may not be either confidential or proprietary, developed as a result of, or in the course of, this Agreement.

(g) Additional rights. The Department reserves the right to include additional or revised intellectual/personal property provisions in the Contract in addition to or in place of those described herein, with regard to the ownership (exclusive and/or nonexclusive) of any property or work product created or purchased as a result of any agreement resulting from this RFP. The presumption is that, unless otherwise stated and agreed to in writing, all intellectual property is owned by the Department, including reports, surveys and all other works made or performed for hire. Specifically exempt from the provisions of this paragraph are property, plant and equipment provided by the Contractor to the Department, for the purpose of carrying out the provisions of this RFP. Property, plant, equipment may be subject to intellectual/personal property regulation when agreed to in writing by the parties.

4.7 Confidentiality

For and in consideration of the term of the Contract, Contractor agrees to the following for the ongoing protection of the Department:

(a) Obligations. The Contractor and the Department agree that Contractor shall have an affirmative duty to preserve the confidentiality and safekeeping of all Department documents and "Confidential Information" (as defined below). In particular, except to the extent that the use or disclosure of any Confidential Information is required to carry out Contractor's assigned duties as an independent contractor for the Department, during the term of the Contract and following the termination of the Contract (for whatever reason):

(1) Misappropriation; use for the purpose of competing with Department, either directly or indirectly; disclose to any third party, either directly or indirectly; or aid anyone else in disclosing to any third party, either directly or indirectly; all or any part of any Confidential Information; or

(2) Use, disclose, divulge or communicate directly or indirectly to any third party: (a) the names, addresses and other contact data regarding any customers of the Department; or (b) the details of any contracts, business transactions or negotiation to which the Department is party or of any tenders, offers or proposals submitted or to be submitted by the Department in connection with its business.

(b) Scope. For purposes of the Contract, “Confidential Information” shall mean confidential and proprietary business or technical information furnished to or obtained by Contractor during the course of his contracting arrangement with the Department (including, without limitation, information created, discovered, developed or made know by such Contractor as part of his engagement with the Department), whether such information is in the form of data, forecasts, records, reports or other documents prepared by or on behalf of the Department. Such Confidential Information includes, by way of illustration, but is not limited to: (1) any Department information regarding a Department Customer (as defined below), including but not limited to customer lists, contracts, business transactions, requirements, billing histories, needs, and products or services provided by the Department to such customers; or (2) all financial information concerning the Department, including but not limited to financial statements, balance sheets, profit and loss statements, earnings, commissions and salaries paid to employees, sales data and projections, forecasts, cost analyses, and similar information; or (3) all Department information regarding sources and methods of supply to the Department, including but not limited to supply agreements, supplier lists, supply terms, product discounts and similar information; or (4) all plans and projections for business opportunities for new or developing business of the Department, including but not limited to marketing concepts and business plans; or (5) all software, drawings, specifications, models, and marketing techniques developed by the Department; or (6) all information relating to the Department’s services, products, prices, costs, development activities, service performance, operating results, employee lists, personnel matters, and other confidential or proprietary information; or (7) any of the information described in subsections (1)-(6) of this Section 4.6(b) that the Department obtains from another party or entity and that the Department treats or designates as confidential or proprietary information, whether or not such information is owned or was developed by the Department. “Confidential Information” shall not include information that is generally known or available to the public.

For purposes of the Contract, “Department Customer” means any company or individual customer of the Department: (1) at the time of the end of the term of the Contract; (2) who contacted Contractor, whom Contractor contacted or served, or for whom Contractor assisted in contact or service during the term of the Contract; and/or (3) any company or individual customer of the Department who purchased products or services from the Department during term of the Contract.

(c) Return of Documents/Data. Contractor acknowledges and agrees that, with the exception of information that Contractor can demonstrate was possessed or owned by him prior to his engagement with the Department that has not otherwise been modified, updated, or improved by Contractor or the Department in connection with his engagement with the Department, all sales files, customer records, customer lists, supplier records, supplier lists, product information, letters, contracts, notes, notebooks, records, reports, memoranda, formulae, and all other Department materials, documents, and data used, prepared, or collected by Contractor as part of his engagement with the Department, in whatever form, are and will remain the property of the Department. Contractor also understands and agrees that all Confidential Information that comes into his possession while he is an independent contractor of the Department, whether prepared by him or others, is and will remain the property of the Department. Thus, Contractor agrees that he will return all documents, written material, information, products, devices, and other property belonging to the Department, as well as all documents and other materials of any kind that constitute or contain any Confidential Information, in his possession or control, regardless of how stored or maintained, including all originals, copies, and compilations and all information stored or maintained on computer, tapes, discs, or any other form of technology upon the earlier to occur of (i) five (5) business days after receipt of the Department’s written request to return such property or (ii) the last day of the Contractor’s engagement with the Department.

(d) Duration of Confidentiality Obligations. Contractor agrees that he will maintain and keep all Confidential Information strictly confidential throughout the term of the Contract and for a period of twelve (12) months after his engagement with the Department ends. In addition, Contractor agrees that the provisions of this Section 4.6 shall survive the termination or end of Contractor’s independent contractor relationship with the Department,

regardless of the date, reason or manner of such termination, and such termination shall not in any way impair or affect Contractor's continued obligation to observe the provisions of this Section 4.6.

4.8 Right to Publish

The Contractor shall not publish, circulate or disclose any articles, reports or other writing concerning their business or the subject matter of the Contract without the prior written consent of the Department.

4.9 Compliance with Applicable Law

The Contractor shall, at all times, comply with and observe all applicable laws, statutes, codes, ordinances and regulations which are in effect during the term of the Contract and which, in any manner govern or affect the Contractor's performance of the Services, including without limitation the laws of the United States, European country or political subdivision thereof.

4.10 Indemnification

(a) General. The Contractor hereby agrees to indemnify the State and the Department and each of their directors, officers, employees and agents, and hold the State and the Department, and each of their directors, officers, employees and agents, harmless from and against any and all claims, demands, and causes of action based on any violation of any laws, statutes, codes, ordinances, and regulations and the defense of any such claims, demands or causes of action, including, in each case, any such arising from actual or alleged action or omissions of the Contractor or any of its subcontractors or employees.

(b) Taxes. Contractor shall indemnify the Department and the State against all liability and loss in connection with, and shall assume full responsibility for payment of all European country or political subdivision thereof, United States, state and local taxes or contributions imposed or required under unemployment insurance, workers' compensation, social security, pension, and income tax laws, with respect to the Contractor and Contractors' employees and subcontractors.

4.11 Publicity

Any publication or news releases relating to the representation shall state that the services are supported by the New York State Department of Economic Development or Empire State Development as instructed by the Department.

4.12 Non-Discrimination and Contractor & Supplier Diversity

Pursuant to New York State Executive Law Article 15-A and Parts 140-145 of Title 5 of the New York Codes, Rules and Regulations ESD is required to promote opportunities for the maximum feasible participation of New York State-certified Minority and Women-owned Business Enterprises ("MWBEs") and the employment of minority group members and women in the performance of ESD's contracts.

Equal Employment Opportunity Requirements

By submission of a bid or proposal in response to this solicitation, the respondent agrees with all of the terms and conditions of Form OCSD-1, MWBE Participation/EEO Policy Statement. The respondent is required to ensure that it and any subcontractors awarded a subcontract 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 respondent, undertake or continue 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, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.

The respondent will be required to submit Form OCSD-1, MWBE Participation/EEO Policy Statement, to ESD with its bid or proposal.

If awarded a Contract, respondent shall submit a Workforce Utilization Report, as required by Executive Order 162, and shall require each of its Subcontractors to submit a Workforce Utilization Report, in such format as shall be required by ESD on a QUARTERLY basis during the term of the Contract.

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

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

APPENDIX A

STANDARD CLAUSES FOR ALL NEW YORK STATE 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, licensor, licensee, lessor, lessee or any other party):

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

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

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

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

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

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

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

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

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

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

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION. (a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the

payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

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

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

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

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

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

Contractor will include the provisions of "a", "b", and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

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

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

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

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

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

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

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

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

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

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

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

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development
Division of Minority and Women's Business Development
633 Third Avenue
New York, NY 10017
212-803-2414
email: mwbecertification@esd.ny.gov
<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>

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

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

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

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

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

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

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

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

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

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

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

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

January 2014

APPENDIX B

BUDGET

Do not change the budget format. Failure to complete the financial proposal in full or bidder changes to the format will result in the disqualification of your proposal. Any bidder failing to complete the budget pages will be disqualified.

***The Budget must be bound separately from the rest of your proposal.**

When completing the Budget forms, vendors should adhere to the following instructions:

The one-time and recurring costs the Respondent provides within the Cost Proposal must include ANY AND ALL one-time and recurring fees, charges or costs for the duration of the contract, including: All direct and indirect costs, as well as all overhead, fees, and profit, including, but not limited to:

- labor, parts, shipping, material and equipment cost;
- emergency work; maintenance services as specified herein;
- repairs and replacement of major or minor parts as necessary;
- administrative, reporting or other requirements, overhead costs, and profit;
- travel costs, parking fees, and any other ancillary fees and costs including permits, licenses, insurance, etc.; and
- services not explicitly stated in these specifications, but necessarily attendant thereto as applicable to the associated item for which the rate/fee is being quoted.

If a vendor indicates compliance with a requirement in the RFP, the costs related to that requirement must be included in the Budget.

Terminology used in the Budget for products and services must be consistent with the terminology used in the rest of the response.

All Budget sheets must be completed in order for the response to be considered complete.

Vendor Name: _____

BUDGET - YEAR 1
(See Section 2.1 - Year 1)

***Please Note: Personnel and Sub-Contractor rates listed below will be the same rates charged to onboarding Agencies that the vendor enters into a contract with for interfacing services (see section 2.3 Approvals and sign-offs)**

PERSONNEL - Provide a rate for each title (Do not add additional titles or lines)

<u>Title</u>	<u>Hourly Rate</u>	<u>Estimated # of Hours</u>	<u>Total Item</u>	<u>Total Cost</u>
Project Manager	\$ _____	_____	\$ _____	
Technical Lead	\$ _____	_____	\$ _____	
System Architect	\$ _____	_____	\$ _____	
Developer(s)	\$ _____	_____	\$ _____	
Database Developer(s)	\$ _____	_____	\$ _____	
Database Administrator	\$ _____	_____	\$ _____	
Business Analyst(s)	\$ _____	_____	\$ _____	
Integration Specialist	\$ _____	_____	\$ _____	
Reports Developer	\$ _____	_____	\$ _____	
QA Lead	\$ _____	_____	\$ _____	
Tester(s)	\$ _____	_____	\$ _____	
Trainer(s)	\$ _____	_____	\$ _____	
				\$ _____

SUBCONTRACTORS (Please list.)

<u>Subcontractor Name</u>	<u>Hourly Rate</u>	<u>Estimated # of Hours</u>	<u>Total Item</u>
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____

Total Subcontract Costs \$ _____

HOSTING - Annual Cost (see Section 2.0 Definitions) *Sub-contracting for hosting is NOT allowed \$ _____

MAINTENANCE/SUPPORT (see Section 2.0 Definitions) \$ _____

ADMINISTRATIVE/OTHER EXPENSES (i.e. supplies, travel, postage/shipping, telecommunications, etc.) Please list.

_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

Total Admin./Other Expenses \$ _____

TOTAL COST ALL CATEGORIES - YEAR ONE \$ _____

NOTE: Ten percent (10%) of the year one budget represented by the "TOTAL ALL COST CATEGORIES" line above shall be withheld pending formal written acceptance by NYSDed which shall not be given prior to the re-launch of the <https://ny.newnycontracts.com/> website.

Vendor Name: _____

BUDGET - YEAR 2
(See Section 2.1 - Year 2)

***Please Note: Personnel and Sub-Contractor rates listed below will be the same rates charged to onboarding agencies that the vendor enters into an contract with for interfacing services (see section 2.3 Approvals and sign-offs)**

PERSONNEL - Provide a rate for each title (Do not add additional titles or lines)

<u>Title</u>	<u>Hourly Rate</u>	<u>Estimated # of Hours</u>	<u>Total Item</u>	<u>Total Cost</u>
Project Manager	\$ _____	_____	\$ _____	
Technical Lead	\$ _____	_____	\$ _____	
System Architect	\$ _____	_____	\$ _____	
Developer(s)	\$ _____	_____	\$ _____	
Database Developer(s)	\$ _____	_____	\$ _____	
Database Administrator	\$ _____	_____	\$ _____	
Business Analyst(s)	\$ _____	_____	\$ _____	
Integration Specialist	\$ _____	_____	\$ _____	
Reports Developer	\$ _____	_____	\$ _____	
QA Lead	\$ _____	_____	\$ _____	
Tester(s)	\$ _____	_____	\$ _____	
Trainer(s)	\$ _____	_____	\$ _____	
				\$ _____

SUBCONTRACTORS (Please list.)

<u>Subcontractor Name</u>	<u>Hourly Rate</u>	<u>Estimated # of Hours</u>	<u>Total Item</u>
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____

Total Subcontract Costs \$ _____

HOSTING -Annual Cost (see Section 2.0 Definitions) ***Sub-contracting for hosting is NOT allowed** \$ _____

MAINTENANCE/SUPPORT (see Section 2.0 Definitions) \$ _____

ADMINISTRATIVE/OTHER EXPENSES (i.e. supplies, travel, postage/shipping, telecommunications, etc.) Please list.

_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

Total Admin./Other Expenses \$ _____

TOTAL COST ALL CATEGORIES - YEAR TWO \$ _____

Vendor Name: _____

BUDGET - YEAR 3

HOSTING -Annual Cost (see Section 2.0 Definitions) \$ _____

*Sub-contracting for hosting is NOT allowed

MAINTENANCE/SUPPORT (see Section 2.0 Definitions) \$ _____

TOTAL YEAR 3 \$ _____

BUDGET - YEAR 4

HOSTING -Annual Cost (see Section 2.0 Definitions) \$ _____

*Sub-contracting for hosting is NOT allowed

MAINTENANCE/SUPPORT (see Section 2.0 Definitions) \$ _____

TOTAL YEAR 4 \$ _____

BUDGET - YEAR 5

HOSTING -Annual Cost (see Section 2.0 Definitions) \$ _____

*Sub-contracting for hosting is NOT allowed

MAINTENANCE/SUPPORT (see Section 2.0 Definitions) \$ _____

TOTAL YEAR 5 \$ _____

Vendor Name: _____

TOTAL BUDGET PROPOSAL SUMMARY

Year 1 Total for all Categories \$ _____

Year 2 Total for all Categories \$ _____

Year 3 Total for all Categories \$ _____

Year 4 Total for all Categories \$ _____

Year 5 Total for all Categories \$ _____

TOTAL 5 YEAR PROPOSAL AMOUNT \$ _____
=====

APPENDIX C

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

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

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

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

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

[RESPONDENTS AFFIX ADDENDUM TO THIS PAGE IF SPACE IS REQUIRED FOR STATEMENT]

Subscribed to under penalty of perjury under the laws of the State of New York, this _____ day of _____, 20_____ as the act and deed of said individual, corporation or partnership.

Person Legally Responsible for Binding Respondent

Name _____ Title _____
Signature _____

Joint or combined bids must be certified on behalf of each participant

Legal name of person, firm or corporation Legal name of person, firm or corporation

Person(s) Legally Responsible for Binding Participant

Name _____ Name _____
Title _____ Title _____
Business Address _____ Business Address _____
City _____ State _____ City _____ State _____

Respondent's Identifying Data

Respondent's Name _____

Business Address _____
Street

City State Zip

Telephone _____ Fax _____ E-mail _____

Federal ID Number _____

If Respondent is a Partnership complete the following:

Name of Partners or Principals	Business Address
_____	_____
_____	_____
_____	_____
_____	_____

If Respondent is a Corporation complete the following:

<i>Name</i>	<i>Business Address</i>
_____ President	_____
_____ Secretary	_____
_____ <i>Treasurer</i>	_____

APPENDIX D

NONDISCRIMINATION IN EMPLOYMENT IN NORTHERN IRELAND: MACBRIDE FAIR EMPLOYMENT PRINCIPLES

In accordance with section 165 of the State Finance Law, the respondent, by submission of this bid certifies that it or any individual or legal entity in which the respondent holds a 10% or greater ownership interest, or any individual or legal entity that holds a 10% or greater ownership in the respondent, either: (answer yes or no to one or both of the following, as applicable),

- (1) has business operations in Northern Ireland;

Yes ____ or No ____

if yes:

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

Yes ____ or No ____

Signature

Date

Appendix E Vendor Responsibility Information

Applicant Business Name: _____

NYS Vendor ID # (if one has been assigned) _____

Vendor Responsibility Information

Effective January 1, 2005, the Office of the State Comptroller has conveyed that all requests for NYS contract approval must include information regarding Vendor Responsibility for the Contractor. **In addition any subcontractor on a state contract receiving over \$100,000 must also complete a Vendor Responsibility Questionnaire.** The NYS Department of Economic Development recommends that vendors file the required questionnaire online via the NYS VendRep System. To enroll in and use the system, see the instructions available at http://www.osc.state.ny.us/vendrep/vendor_index.htm or go directly to the VendRep System online at <http://portal.osc.state.ny.us>.

Failure to submit a completed questionnaire may result in either a grant or designation being rescinded or delayed. In addition, the NYS Department of Economic Development reserves the right to rescind upon a finding that the recipient is deemed not responsible to receive funds.

Please check one of the following:

- A Vendor Responsibility Questionnaire has been filed online and has been certified/updated within the last six months. Date Certified: _____

- A Vendor Responsibility Questionnaire **is attached hereto**. Paper version can be found at: <http://www.osc.state.ny.us/vendrep/documents/questionnaire/ac3290s.pdf>.

APPENDIX F

PROCUREMENT LOBBYING DISCLOSURE PURSUANT TO SECTIONS 139-J AND 139-K OF STATE FINANCE LAW

(For Agreements of \$15,000 or more please complete this form.)

Statutory Summary

Changes to the New York State Finance Law (referred to as the “new State Finance Law”) effective January 1, 2006, significantly alter the administrative process for the development of State procurement contracts¹. The procedures discussed herein are put in place to address the new State Finance Law. The New York State Department of Economic Development recognizes the considerable additional responsibility that the new State Finance Law places on potential respondents (“Offerers”) as well as on the Department and we regret any inconvenience. The Department assures you that we are interested in receiving a proposal from your company. Among other things, the new law:

- Makes the States lobbying law applicable to attempts to influence procurement contracts once the procurement process has been commenced by the Department.
- Requires the Department to record all contacts made by lobbyists and contractors (you) about a governmental procurement so that the public knows who is contacting the Department about procurements.
- Requires the Department to designate persons who generally may be the only staff contacted relative to the Department’s procurement in a restricted period.
- Authorizes the imposition of fines and penalties against persons/organizations engaging in impermissible contacts about a Department procurement and provides for the debarment of repeat violators.
- Directs the Office of General Services to disclose and maintain a list of non-responsible respondents pursuant to this new law and those who have been debarred and publish such list on its website.
- Expands the definition of lobbying to include procurement contracts.

Generally speaking, two related aspects of procurements were affected: (i) activities by the business and lobbying community seeking procurement contracts and (ii) activities involving governmental agencies establishing procurement contracts. The obligations imposed by State Finance Law Sections 139-j and 139-k are collectively referred to as the “new State Finance Law”. State Finance Law Sections 139-j and 139-k may be viewed at <http://www.ogs.state.ny.us/aboutogs/regulations/advisoryCouncil/sf1139-j.htm> and at <http://www.ogs.state.ny.us/aboutogs/regulations/advisoryCouncil/sf1139-k.htm>

The following contains language and forms (these forms must be completed and returned as part of your proposal, and when indicated at other times during this procurement process) to be reviewed and completed by you the respondent (“Offerer”), in compliance with sections 139-J and 139-k of the State Finance Law.

NYS Department of Economic Development Policy Language

Pursuant to State Finance Law §§139-j and 139-k, this Invitation for Bid includes and imposes certain restrictions on communications between the Department and an Offerer/respondent during the procurement process. An Offerer/respondent is restricted from making contacts from the earliest notice of intent to solicit offers through final award and approval of the Procurement Contract by the Department and 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, are any member of the Department’s Contract Management or Publications Unit. To avoid conflicts and other issues concerning statutory exceptions, the Department requires that Offerers contact only Department staff identified in the aforementioned section of this solicitation. Department employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the Offerer/respondent 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 Offerer/respondent is debarred from obtaining governmental Procurement Contracts. Further information about these requirements can be found at <http://www.ogs.state.ny.us/aboutOgs/regulations/defaultAdvisoryCouncil.html> or by calling the New York State Office of General Services; Ms. Anne Phillips, OGS Legal Services, Empire State Plaza, 41st Floor Tower Building, Empire State Plaza, Albany NY 12242. Telephone: (518) 474-5607. E-mail: Anne.Phillips@OGS.State.NY.US.

Termination Provisions

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

¹ “Procurement contract” shall mean any contract or other agreement for an article of procurement involving an estimated annualized expenditure in excess of fifteen thousand dollars. Grants, article eleven-B state finance law contracts, program contracts between not-for-profit organizations, as defined in article X1-B of the state finance law, and the unified court system, intergovernmental agreements, railroad and utility force accounts, utility relocation project agreements or orders and eminent domain transactions shall not be deemed procurement contracts.

Form 1 - Offerer's Affirmation of Understanding of and Agreement pursuant to State Finance Law §139-j (3) and §139-j (6) (b)

State Finance Law §139-j(6)(b) provides that: Every Governmental Entity shall seek written affirmations from all Offerers as to the Offerer's understanding of and agreement to comply with the Governmental Entity's procedures relating to permissible contacts during a Governmental Procurement pursuant to subdivision three of this section.

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

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

By: _____ Date: _____

Name: _____ Title: _____

Contractor Name: _____

Contractor Address: _____

Form 2 - Offerer's Certification of Compliance with State Finance Law §139-k(5)

New York State Finance Law §139-k(5) requires that every Procurement Contract award subject to the provisions of State Finance Law §§139-k or 139-j shall contain a certification by the Offerer that all information provided to the procuring Governmental Entity with respect to State Finance Law §139-k is complete, true and accurate.

The Department must obtain the required certification that the information is complete, true and accurate regarding any prior findings of non-responsibility, such as non-responsibility pursuant to State Finance Law §139-j. The Offerer must agree to the certification and provide it to the procuring Governmental Entity.

Offerer Certification:

I certify that all information provided to the Department with respect to State Finance Law §139-k is complete, true and accurate.

By: _____ Date: _____

Name: _____ Title: _____

Contractor Name: _____

Contractor Address: _____

Form 3 - Offerer Disclosure of Prior Non-Responsibility Determinations

New York State Finance Law §139-k(2) obligates a Governmental Entity to obtain specific information regarding prior non-responsibility determinations with respect to State Finance Law §139-j. This information must be collected in addition to the information that is separately obtained pursuant to State Finance Law §163(9). In accordance with State Finance Law §139-k, an Offerer must be asked to disclose whether there has been a finding of non-responsibility made within the previous four (4) years by any Governmental Entity due to: (a) a violation of State Finance Law §139-j or (b) the intentional provision of false or incomplete information to a Governmental Entity. The terms "Offerer" and "Governmental Entity" are defined in State Finance Law § 139-k(1). State Finance Law §139-j sets forth detailed requirements about the restrictions on Contacts during the procurement process. A violation of State Finance Law §139-j includes, but is not limited to, an impermissible Contact during the restricted period (for example, contacting a person or entity other than the designated contact person, when such contact does not fall within one of the exemptions).

As part of its responsibility determination, State Finance Law §139-k(3) mandates consideration of whether an Offerer fails to timely disclose accurate or complete information regarding the above non-responsibility determination. In accordance with law, no Procurement Contract shall be awarded to any Offerer that fails to timely disclose accurate or complete information under this section, unless a finding is made that the award of the Procurement Contract to the Offerer is necessary to protect public property or public health safety, and that the Offerer is the only source capable of supplying the required Article of Procurement within the necessary timeframe. See State Finance Law §§139-j (10)(b) and 139-k(3).

The Department must include a disclosure request regarding prior non-responsibility determinations in accordance with State Finance Law

§139-k in its solicitation of proposals or bid documents or specifications or contract documents, as applicable, for procurement contracts. The attached form is to be completed and submitted by the individual or entity seeking to enter into a Procurement Contract. It shall be submitted to the Governmental Entity conducting the Governmental Procurement.

Offerer 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: _____ Date: _____

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

No Yes

If yes, please answer the next questions:

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

No Yes

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

No Yes

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

Governmental Entity: _____

Date of Finding of Non-responsibility: _____

Basis of Finding of Non-Responsibility: _____

(Add additional pages as necessary)

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

No Yes

6. If yes, please provide details below.

Governmental Entity: _____

Date of Termination or Withholding of Contract: _____

Basis of Termination or Withholding: _____

(Add additional pages as necessary)

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

By: _____ Date: _____

Signature: _____

Form 4 - Report of Contact under State Finance Law §139-k(4)

THIS FORM TO BE COMPLETED AND RETURNED TO THE DEPARTMENT WHENEVER YOU CONTACT US DURING THE DESIGNATED PERIOD. ATTEMPTS TO CONTACT THE DEPARTMENT WILL NOT BE ACKNOWLEDGED UNLESS YOU PROVIDE THIS FORM. THIS INCLUDES THE SUBMISSION OF QUESTIONS REGARDING THIS IFB.

New York State Finance Law §139-k(4) obligates every Governmental Entity during the Restricted Period of a Procurement Contract to make a written record of any Contacts made. The term "Contact" is defined by statute and refers to those oral, written or electronic communications that a reasonable person would infer are attempts to influence the Governmental Procurement. In addition to obtaining the required identifying information, the Governmental Entity must inquire and record whether the person or organization that made the Contact was the Offerer or was retained, employed or designated on behalf of the Offerer to appear before or Contact the Governmental Entity.

It should be noted that State Finance Law §139-k(6) provides: [a]ny communications received by a governmental entity from members of the state legislature, or legislative staffs, when acting in their official capacity, shall not be considered to be a “contact” within the meaning of this section and shall not be recorded by a governmental entity pursuant to this section.

Offerers and those designated, employed or retained by Offerers are hereby advised of the Department’s intention to record all Contacts.

Record of Contact Under State Finance Law §139-k(4)

To: The New York state Department of Economic Development

Regarding Procurement Project No.: _____ (See first page of this document) Date: _____

From: _____
(Name and title of Offerer)

Subject: Record of Contact under State Finance Law §139-k(4). In accordance with State Finance Law §139-k(4), the following information is provided).

Address of Offerer: _____

_____ Telephone Number: _____

Offerer’s Place of Principal Employment (Name and Address of your Employer, may be different from the Offerer’s name and address, if not state same as above).

Your Occupation: _____

1. Is the above named person or organization the “Offerer” in this governmental procurement? Please circle Yes or No
2. If no, was the above named person or organization retained, employed or designated by the “Offerer” to:
 - Appear before the governmental entity about the governmental procurement? Please circle – Yes or No
 - Contact the governmental entity about the governmental procurement? Please circle – Yes or No

APPENDIX G

NYS CONTRACTOR TRAVEL REIMBURSEMENT GUIDELINES

If travel is allowable for this program/services expenses will be reimbursed as outlined in this appendix. Allowance for lodging and meals have been set at the Federal Government allowances for their employees. The State allowance will change when the Federal allowances change. This usually occurs on an annual basis. Reimbursements will be made at the current published rates.

Receipts for lodging are mandatory. Receipts are not required for meals when the traveler is in overnight travel status. The Schedule which lists rates currently in effect for all destinations within the State is available at the New York State Office of the State Comptroller's website:
<http://www.osc.state.ny.us/agencies/travel/travel.htm>.

1. The per diem allowances are based on the county of assignment, therefore, the traveler's destination, as noted on the claim for reimbursement, must include the county, as well as the city. The Schedule ends with the rate for all locations (counties) not listed on the Schedule.

Please note that all applicable taxes are included in the maximum lodging allowances. No reimbursement for taxes will be made separately.

Rates for areas outside of New York, the continental United States and foreign areas, are also available at the New York State Office of the State Comptroller's Website:
<http://www.osc.state.ny.us/agencies/travel/travel.htm>

The maximum reimbursement for lodging and meal expenses may not exceed the lodging and meal allowances for the area of travel. If the cost of lodging exceeds the maximum allowance for lodging in the area of travel, the traveler's meal allowance must be used to offset the higher lodging rate.

3. No reimbursement will be allowed for lunch.
4. To be entitled to full meal allowances, traveler must be in travel status overnight and eligible for reimbursement for breakfast and dinner.
5. Meal Allowance for Non-Overnight Travel

When a traveler is in travel status for less than a day and lodging charges are not incurred, reimbursement will be made for breakfast and dinner with receipts, at the following maximum rates:

	Breakfast	Dinner
\$71 Meal Allowance	\$14	\$57
\$66 Meal Allowance	\$13	\$53
\$61 Meal Allowance	\$12	\$49
\$56 Meal Allowance	\$11	\$45
\$51 Meal Allowance	\$10	\$41
\$46 Meal Allowance	\$9	\$37

Note: Incidental expenses such as tips to bellmen, porters, hotel maids, etc., continue to be included in the allowances.

APPENDIX H

MANDATORY PROJECT AND NON-FUNCTIONAL REQUIREMENTS

New York State Contract System (NYSCS) Technical Specifications

Infrastructure

1. In support of a SaaS solution the selected vendor must provide managed application and infrastructure services that include, but are not limited to the following:
 - 1.1 Deployment within Secure facilities located in a United States based Internet Data Center. Physical access to the facilities must be properly controlled and tracked.
 - 1.2 Data stored within the system must be secured with access rights appropriately limited to authorized users. Access to the data by employees of the vendor or any other authorized 3rd parties must be logged and auditable.
 - 1.3 The data center must have redundant power.
 - 1.4 The data center must have redundant internet connections with sufficient bandwidth to provide full application functionality in the event that a connection is down or diminished.
 - 1.5 The vendor must have a comprehensive disaster recovery plan that is tested on an annual basis and which provides access to the SaaS solution at backup facilities with no additional cost to ESD.
 - 1.6 The vendor must guarantee a service uptime of 99.5% during the hours of 6 a.m. and 9 p.m. Monday to Saturday EST. System maintenance must be performed outside of this window.
 - 1.7 The system must be backed up daily. Daily backups must be kept for a period of one month and the last backup of each month must be kept for a period of 1 year.
 - 1.8 The vendor must provide data recovery services from backups as requested by ESD at no additional cost.
 - 1.9 The vendor must operate a “Help Desk” during regular business hours of 8 a.m. to 6 p.m. EST for the purpose of incident management.
 - 1.10 The vendor will notify ESD of planned infrastructure or system updates that will impact access to or functionality within the SaaS application at least 72 hours prior to the update.
 - 1.11 The SaaS application, databases, backups and interfaces must adhere to ISO Standards 27001, 27005 and 27035, which can be referenced here: <https://www.iso.org>.
 - 1.12 The vendor must have annual vulnerability assessments performed by an independent party against the SaaS application. The results of which must be provided to ESD along with a documented plan to mitigate identified vulnerabilities.

Technical System

2. The SaaS solution must include the following technical items:
 - 2.1 The SaaS application must include the recommendations of the Americans with Disabilities Act standard for accessible design found at: <https://www.ada.gov>.
 - 2.2 When applicable, the SaaS application must also adhere to the New York State Information Technology Standard New York State Universal Web Navigation, which can be referenced here: <https://its.ny.gov/sites/default/files/documents/nys-s16-001.pdf>.
 - 2.3 All major browsers must be supported, including Internet Explorer, Safari, Mozilla, Firefox and Chrome in current versions.

- 2.4 The SaaS solution must be scalable and maintained on a secure high availability platform to ensure efficient access to the application, processes, data and reporting. Servers must be of the latest generation with sufficient memory, CPU and I.O. capacity to maintain the desired level of performance. The SaaS application must be load balanced and redundant within the primary datacenter in addition to being replicated to redundant backup datacenters.
- 2.5 Downloadable manuals, training videos and inline help documentation must be made available directly in the SaaS application.
- 2.6 Upgrades, new features or other changes to the Production SaaS application must have ESD approval prior to being implemented.

System Interfaces

3. Legacy data from NYS agency users of the SaaS application must be formatted and imported to the SaaS solution. The vendor must provide the ability for bidirectional interfaces and integration functionality between any agencies currently integrating or in the process of integrating with the New York State Contract System (NYSCS). These include but are not limited to:
 - State-Wide Financial System (SFS)
 - Department of Economic Development (DED)
 - Empire State Development (ESDC)
 - Office for General Services (OGS)
 - New York Power Authority (NYPA)
 - New York State Thruway Authority (NYSTA)
 - State University Construction Fund (SUCF)
 - Metropolitan Transportation Authority (MTA)
 - New York State Insurance Fund (NYSIF)
 - City University of New York (CUNY)
 - New York State Department of Transportation (DOT)
 - State University of New York (SUNY)
 - Niagara Frontier Transportation Authority (NFTA)
 - City University Construction Fund (CUCF)
 - Long Island Power Authority (LIPA)
 - Erie County Medical Center (ECMC)
 - Environmental Facilities Corporation (EFC)
 - Roswell Park Cancer Institute (RPCI)
 - Regional Transit Service (RGRTA)

In addition, the selected vendor must demonstrate the capacity for onboarding up to 102 NYS agencies and authorities and any number of NY municipalities that may be required to utilize the system. All costs to onboard future agencies, authorities and/or municipalities cannot exceed the rates provided in respondent's budget.

4. Additionally, the SaaS application must provide multiple secured methods for state agencies to establish electronic interfaces including exposing bidirectional transactions via web API functionality. NYS Ag/Au must be able to download, at no additional cost, the exact data they entered to allow for comparisons against what they submitted versus what is reported in the system.

System Initialization

5. The vendor must seed the SaaS application with data from the current system as well as any legacy systems identified in the previous section (System Interfaces). NYS resources will work with vendor resources to scope and map the legacy data import. NYS resources will work with the vendor to extract, cleanse and format legacy data according to the agreed upon requirements and specifications. Vendor resources will develop all data load routines.
6. The vendor must finalize all non-functional system requirements.
7. The SaaS solution must be sized and scalable to handle an unlimited number of NYS agency and general web visitors.
8. Implementation of the base SaaS application must be completed within 9 months from contract start date.

Enterprise-wide License

9. The vendor awarded the contract(s) must provide New York State with an enterprise-wide license to the SaaS solution. Such license shall allow unlimited use by an unlimited number of users (at unlimited locations) of the SaaS solution, and any associated functionality for all licensing related matters with an unlimited number of installs. For the purposes of this proposal and license, the term “enterprise” is defined as any and all New York State Agencies, Authorities, Corporations, Colleges, Universities and all vendors doing or planning to do business in NYS as well as any other entity that NYS determines needs access to the system. The enterprise is to be considered as one customer.

Technical Environments

10. The following environments must be created for the system and maintained throughout the duration of the contract:
 - Development / Test Environments – environments dedicated to the development and testing of required system functionality.
 - Staging Environment – environment used to perform User Acceptance of the system and new functionality prior to being deployed in production.
 - Production Environment – environment containing the production version of all User Accepted functionality and is available to all authorized users of the system.
 - Training Environment – environment containing all functionality dedicated to user training. Such training environment must include the agency view as well as the vendor view of the system, and the training environment must be an exact match to the live system.
 - Best Practices / FAQ sections available on the system site to Agency/Authority, ESD, and Vendors by login credentials/entity type.
 - Integration Testing Environment – environment containing current data and functionality and integrated with the State Financial Management System (SFS) and other dedicated systems as required. The vendor will be required to perform regression tests on a bi-annual basis in coordination with SFS and other integrated system upgrades.
 - Additional sandbox environments containing current functionality and data must be made available at the request of ESD.

Service Level Agreement (SLA)

11. Respondent must provide an SLA containing a description of the products or services to be delivered.
12. Respondent must provide an SLA containing a description of the business processes covered under the service.
13. Respondent must provide an SLA containing a description of the availability of the service to the user.

14. Respondent must provide an SLA containing a description of the system performance including response time of the application or page refresh times.
15. Respondent must provide an SLA containing a description of the Production Support levels.
16. Respondent must provide an SLA containing a description of the incident problem resolution.
17. Respondent must provide an SLA containing a description of the change requests process.
18. Respondent must provide an SLA containing a description of the security of the service.
19. Respondent must provide an SLA containing a description of their Backup and recovery.
20. Respondent must provide an SLA containing a description of the Response and Resolution times.
21. Respondent must provide an SLA containing a description of the Penalties for nonperformance.

APPENDIX I

MANDATORY REQUIREMENTS CHECKLIST
(items to be submitted with your proposal)

Please submit checklist with your proposal

Company Name: _____

- _____ Request for Proposals Response Form
- _____ Bidder's Identifying Data
- _____ Full Proposal (see section 3.1 of the RFP for details)
- _____ Appendix B – Budget Forms (**Bound Separately**)
- _____ Appendix C – Non-Collusive Bidding Certificate
- _____ Appendix D – Nondiscrimination: MacBride Fair Employment Principals
- _____ Appendix E – Vendor Responsibility Information (also paper questionnaire if not completed online)
- _____ Appendix F – Procurement Lobbying Disclosure
- _____ Form OCSD-1, MWBE Participation/EEO Policy Statement
- _____ Financial Resources Letter (section 1.5)
- _____ 3 References (section 2.4)

Signature: _____

EXHIBIT 2

Certification Vendor Decision Tree

What is the firm seeking?

Seeking Re-certification? Yes or **No**

If firm is seeking recertification, firm should be given the option to enter a file ID, Fed ID or other identifier and brought to a screen to verify existing data, update data, and submit supporting documentation electronically for review.

Seeking to update a firm profile? Yes or **No**

If firm is seeking to update their profile, firm should be given the option to enter a file ID, Fed ID or other identifier and brought to a screen to verify existing data, update data, and submit supporting documentation electronically for review. Instructions and data fields will vary depending upon the type of changes the firm wishes to make.

Seeking Certification? Yes or **No**

If firm is seeking certification:

Is the firm NYS based? Yes or **No**

If the firm is not NYS based: **Does the firm have authority to do business in NYS?**

Yes or **No** If no, applicant is stopped, and sent to obtain authority to do business online

Does the firm have Federal DBE Certification? Yes or **No**

If yes: Are you certified by any of the following (check all that apply)

Yes or **No** Port Authority of New York and New Jersey

Yes or **No** Metropolitan Transportation Authority

Yes or **No** Niagara Frontier Transportation Authority

Yes or **No** New York State Department of Transportation

Yes or **No** Out of State Federal DBE Program?

If firm says 'yes' ; send to **DBE Application Criteria** and **Agency Release of Information Form**

If the firm is NYS based, present the following additional options:

Are you certified as an MBE or WBE by any of the following (check all that apply)?

NYC SCA: Yes or **No**

NYC Small Business Services: Yes or **No**

Upstate New York Minority Supplier Development Council Yes or **No**

Women President's Educational Organization Yes or **No**

NY & NJ Minority Supplier Development Council Yes or **No**

(need ability to add other certification programs here)

If yes, send to **NYS MWBE Certified Application Criteria** and **Attachments A and B**

Is the firm currently part of the Federal 8(a) Program? Yes or **No**

If yes, send to **8(a) Application Criteria** and **Attachment A PNW Affidavit** and **Attachment B PNW Worksheet**

If firm replies no to all certification questions, send firm to **Standard Application Criteria** and **Attachment A PNW Affidavit** and **Attachment B PNW Worksheet**

EXHIBIT 3

DBE Application Criteria

Please read before completing this form:

Is this firm “not for profit”? <input type="checkbox"/> Yes <input type="checkbox"/> No	If Yes, STOP! If this firm is not-for-profit, then it does NOT qualify for this program and should NOT fill out this application.
Is this firm “publicly owned”? <input type="checkbox"/> Yes <input type="checkbox"/> No	If Yes, STOP! If this firm is publicly-traded, it does NOT qualify for this program and should not fill out this application.
Is this firm “owned wholly or in part by another company”? <input type="checkbox"/> Yes <input type="checkbox"/> No	If Yes, STOP! The other company may need to be certified first before this firm can submit an application. (Contact us for further information)
Does this firm employ more than 300 full time employees? <input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, STOP! This firm does not qualify for our program.
Is this firm incorporated in New York State or does it have the Authority to do Business in New York State? <input type="checkbox"/> Yes <input type="checkbox"/> No	If no to both, STOP! You will need to get the Authority to do Business from the New York State Department of State before applying to our program

Instructions:

Please type or print clearly. Do not leave any spaces blank on the application. Please sign, complete and return this form, accompanied by the required supporting documents listed in this application.

You may make photocopies of the completed application as necessary. Whenever the space is insufficient to answer a question completely, attach additional sheets as necessary. Use the question number to identify any answer continued on an additional sheet. Keep a copy of your entire application package for your records. **For questions call (212) 803-2414**

This firm is applying for certification as: *(Please refer to the cover of this application to determine the appropriate designation for your company. One or more categories may be designated.)*

- Minority Business Enterprise (MBE) Women-Owned Business Enterprise (WBE)

Company Profile:

Company Name _____

“Doing Business As” (DBA) Name: _____

Street Address _____

City: _____ State: _____ Zip: _____

Business Phone: (_____) _____ Fax: (_____) _____

Secondary Contact Number (cell/home/other) (_____) _____

Email: _____ Website: _____

Twitter: _____

Facebook: _____

LinkedIn: _____

Contact Name: _____ Title: _____

Phone: (_____) _____ Number of Employees: _____

Federal Employer Identification Number or Social Security Number (A Federal Employer Identification Number is required for most business activities. For an application and/or additional information, go to the U.S. Internal Revenue Service website <http://www.irs.gov>. Sole Proprietorships may submit the social security number of the owner in lieu of the federal identification number.)

In what regions of New York State are you willing and able to conduct your business activity? All
 NYC Southern Tier Western NY Long Island Mohawk Valley Finger Lakes
 Mid-Hudson Capitol Region Central NY North Country

Gross Receipts (Sales): Please provide your firm's gross receipts for each of the last 3 years. (If in business for less than 3 years, complete as applicable.)

\$ _____ \$ _____ \$ _____
Current Year (20____) Last Year (20____) Previous Year (20____)

Owner(s) and Principal(s):

Identify all individuals or companies with any ownership interest in your firm, providing the information requested below (attach additional sheets if necessary):

Name	Position	Group	% Code*	US Citizen or owned	Resident Alien
Gender				<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> M <input type="checkbox"/> F
_____	_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> M <input type="checkbox"/> F
_____	_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> M <input type="checkbox"/> F

* Group Code Key (Please refer to Page 1 for Definitions and Race/Gender document)

01 – Black 02 – Hispanic 03a – Asian-Pacific 03b – Asian-Indian 04 – Native American 05 – Non-Minority

Relationship with other Businesses:

At present, or at any time in the Past, has your firm:

- (a) Been a subsidiary of any other firm? Yes No
 - (b) Consisted of a partnership in which one or more of the partners are other firms? Yes No
 - (c) Owned any percentage of any other firm? Yes No
 - (d) Had any subsidiaries? Yes No
- Do any of your immediate family members own or manage another company? Yes No

If Yes, please list (*attach extra sheets, if needed*):

Name	Relationship	Company	Type of Business	Own or Manage?
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Does your firm rely on any other firm for management functions or employee payroll? Yes No

If Yes,

explain: _____

Goods and Services:

Briefly describe your firm's business. Include any special skills or services that are required or provided:

Check the one box that best describes your firm's business operation:

- Construction-Related Consumer Service Broker Professional Service
- Franchise Manufacturer Supplier Technical Service Retail Financial Services
- Other (explain) _____

Please provide the business's NAICS number
(*This information can be found online: <http://www.census.gov>*)

NAICS _____

By signing this Application, Applicant understands that the New York State Division of Minority and Women Business Development ("DMWBD"), may require proof of eligibility in addition to the information disclosed in the Application. The Applicant agrees to submit additional proof if it is requested by DMWBD and acknowledges that DMWBD may determine not to certify the Applicant as an MBE or as a WBE if the additional proof is not submitted within 20 business days after the date it is requested by DMWBD, or the application may be rejected by the DMWBD.

By signing this application, Applicant also consents to: i) inquiries by DMWBD of the Applicant's bonding companies, banking institutions, credit agencies, contractors, affiliates, clients, and other certifying

agencies to ascertain the applicant's eligibility for certification; (ii) inspection by DMWBD of Applicant's place of business, books and records; and (iii) interviews of Applicant's principals and employees. The Applicant acknowledges that refusal to permit such inquires shall be grounds for denial or revocation of certification.

Company Name: _____

By: _____

Signature

Print Name: _____

Print Title: _____

Date: _____

(The affidavit below must be signed by the majority owner of the firm upon which certification is based.)

CERTIFICATION AFFIDAVIT

The undersigned, _____, being the _____ (Name) of _____

(the "Applicant")

(Title)

(Firm Name)

requests Certification of the Applicant as a Minority-owned Business Enterprise (MBE) and/or as a Women-owned Business Enterprise (WBE) with the New York State Division of Minority and Women Business Development ("DMWBD"), and for that purpose does hereby certify, under penalty of perjury that:

1. He or she has read this Application and knows its contents;
2. He or she is duly authorized by the Applicant to act on the behalf of the Applicant;
3. The information and representations contained in this Application are true to the best of his or her knowledge;
4. The information and representations contained in the Applicant's application for federal DBE status are true to the best of his or her knowledge;
5. The Applicant shall provide notice to DMWBD of any material change in the information contained in this Application or the Applicant's application submitted for DBE status within 30 days of such change;
6. The minority or women owners upon which certification is based verify that their net worth does not exceed \$3.5 million and the applicant business does not employ more than 300 employees; and
- 7. By signing below I am attesting that I am providing this as part of the application for certification or re-certification, and acknowledge any false statement made by the applicant will result in the denial of certification and is punishable as a Class E Felony under Section 175.35 of the Penal Law.**

(Signature)

(Print)

State of New York, County of _____. On this _____ day of _____, 20____, before me appeared

(Name) _____ to me personally known, who being duly sworn, properly did execute the foregoing affidavit and did state that s/he was properly authorized by

(Name of Firm) _____ to execute the affidavit and did so as his or her free act and deed.

Notary Public _____

Commission Expires _____

Please submit the following along with this signed, notarized application and affidavit:

For all applicants

- A signed release authorizing the entity that certified your firm under the federal DBE program to share the information contained in your application, including that entity's site visit report, with the New York State Division of Minority & Women Business Development;
- Copy of original application submitted to the DBE certification entity (no supporting documents)
- Completed, signed and notarized copy of this supplemental application and affidavit;

For all MBE applicants

- A signed and notarized copy of the MWBE – Ethnicity Attestation (Exhibit 7)

For all WBE applicants

- Proof of gender (copy of passport, birth certificate, or any other official document);

For all out-of-state applicants

- Certificate of Authority to do Business in New York State issued by the NYS Department of State.

Please mail the completed package to:

Empire State Development
Division of Minority & Women Business Development
633 Third Avenue
New York, NY 10017

EXHIBIT 4

8(a) Application Criteria

Please read before completing this form:

Is this firm “ not for profit ”? <input type="checkbox"/> Yes <input type="checkbox"/> No	If Yes, STOP! If this firm is not-for-profit, then you do NOT qualify for this program and should NOT fill out this application.
Is this firm “ publicly owned ”? <input type="checkbox"/> Yes <input type="checkbox"/> No	If Yes, STOP! If this firm is publicly-traded, then you do NOT qualify for this program and should not fill out this application.
Is this firm “ owned wholly or in part by another company ”? <input type="checkbox"/> Yes <input type="checkbox"/> No	If Yes, STOP! The other company may need to be certified first before this firm can complete this application. (Contact us for further information)
Do you employ more than 300 full time employees? <input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, STOP! You do not qualify for our program.
Is this firm incorporated in New York State or do you have the Authority to do Business in New York State ? <input type="checkbox"/> Yes <input type="checkbox"/> No	If no to both, STOP! This firm will need to get the Authority to do Business from the New York State Department of State before applying to this program.
Does each minority or woman owner upon which certification is based for this firm have a personal net worth which does not exceed 3.5 million dollars ? <input type="checkbox"/> Yes <input type="checkbox"/> No	If no, STOP! This firm does not qualify for our program.

Instructions:

Please type or print clearly. Do not leave any spaces blank on the application. Please sign, notarize, and complete this form, accompanied by the required supporting documents listed in this application.

You should make photocopies of the required supporting documents, do not send originals. Whenever the space is insufficient to answer a question completely, attach additional sheets as necessary. Use the question number to identify any answer continued on an additional sheet. Keep a copy of your entire application package for your records.

For questions call (212) 803-2414.

This firm is applying for certification as: *(Please refer to the cover of this application to determine the appropriate designation for your company. One or more categories may be designated.)*

- Minority Business Enterprise (MBE) Women-Owned Business Enterprise (WBE)

Company Profile:

Company Name _____

“Doing Business As” (DBA) Name: _____

Street Address _____

City: _____ State: _____ Zip: _____

Business Phone: (_____) _____ Fax: (_____) _____

Secondary Contact Number (cell/home/other) (_____) _____

Email: _____ Website: _____

Twitter: _____

Facebook: _____

LinkedIn: _____

Contact Name: _____ Title: _____

Phone: (_____) _____ Employees: _____

Federal Employer Identification Number or Social Security Number *(A Federal Employer Identification Number is required for most business activities. For an application and/or additional information, go to the U.S. Internal Revenue Service website <http://www.irs.gov>. Sole Proprietorships may submit the social security number of the owner in lieu of the federal identification number.)*

In what regions of New York State are you willing and able to conduct your business activity? All
 NYC Southern Tier Western NY Long Island Mohawk Valley Finger Lakes
 Mid-Hudson Capitol Region Central NY North Country

Gross Receipts (Sales): Please provide your firm’s gross receipts for each of the last 3 years. ***(If in business for less than 3 years, complete as applicable.)***

\$ _____ \$ _____ \$ _____
Current Year (20____) *Last Year (20____)* *Previous Year*
(20____)

Owner(s) and Principal(s):

Identify all individuals or companies with any ownership interest in your firm, providing the information requested below *(attach additional sheets if necessary)*:

Name	Position	Group	% Code*	US Citizen or owned Resident Alien
Gender				

Yes No M F
 Yes No M F
 Yes No M F

*** Group Code Key (Please refer to Page 1 for Definitions and Race/Gender document)**

01 – Black 02 – Hispanic 03a – Asian - Pacific 03b – Asian – Indian 04 – Native American 05 – Non-Minority

Relationship with other Businesses:

At present, or at any time in the _____ Past, has your firm:

- (a) been a subsidiary of any other firm? Yes No
- (b) consisted of a partnership in which one or more of the partners are other firms? Yes No
- (c) owned any percentage of any other firm? Yes No
- (d) had any subsidiaries? Yes No

Do any of your immediate family members own or manage another company? Yes No

If Yes, the list (*attach extra sheets, if needed*):

Name	Relationship	Company	Type of Business	Own or Manage?
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Does your firm rely on any other firm for management functions or employee payroll? Yes No

If Yes, explain: _____

Goods and Services:

Briefly describe your firm’s business. Include any special skills or services that are required or provided.

Check the one box that best describes your firm’s business operation.

- Construction-Related
- Consumer Service
- Broker
- Professional Service
- Franchise
- Manufacturer
- Supplier
- Technical Service
- Retail
- Financial Services
- Other (explain) _____

Please provide the business’s NAICS number
 (This information can be found online: <http://www.census.gov>)

NAICS _____

By signing this Application, Applicant understands that the New York State Division of Minority and Women Business Development (“DMWBD”) may require proof of eligibility in addition to the information disclosed in the Application. The Applicant agrees to submit additional proof if it is requested by DMWBD and acknowledges that DMWBD may determine not to certify the Applicant as an MBE or as a WBE if the additional proof is not submitted within 20 business days after the date it is requested by DMWBD, or the application may be rejected by the DMWBD.

By signing this application, Applicant also consents to: i) inquiries by DMWBD of the Applicant’s bonding companies, banking institutions, credit agencies, contractors, affiliates, clients, and other certifying agencies to ascertain the applicant’s eligibility for certification; (ii) inspection by DMWBD of Applicant’s place of business, books and records; and (iii) interviews of Applicant’s principals and employees. The Applicant acknowledges that refusal to permit such inquires shall be grounds for denial or revocation of certification.

Company Name: _____

By: _____

Signature

Print Name: _____

Print Title: _____

Date: _____

(The affidavit below must be signed by the majority owner of the firm upon which certification is based.)

CERTIFICATION AFFIDAVIT

The undersigned, _____,
being the

(Name)

of

_____ (the “Applicant”)

(Title)

(Firm Name)

requests Certification of the Applicant as a Minority-owned Business Enterprise (MBE) and/or as a Women-owned Business Enterprise (WBE) with the New York State Division of Minority and Women Business Development (“DMWBD”), and for that purpose does hereby certify, under penalty of perjury that:

- 4. He or she has read this Application and knows its contents;
- 5. He or she is duly authorized by the Applicant to act on the behalf of the Applicant;
- 6. The information and representations contained in this Application are true to the best of his or her knowledge;
- 4. The information and representations contained in the Applicant’s application for federal 8(a) Business Development Program status are true to the best of his or her knowledge;
- 5. The Applicant shall provide notice to DMWBD of any material change in the information contained in this Application or the Applicant’s application submitted application for federal 8(a) Business Development Program status within 30 days of such change;
- 6. The minority and/or women owners upon which certification is based verify that their net worth does not exceed \$3.5 million and the applicant business does not employ more than 300 employees; and
- 7. By signing below I am attesting that I am providing this as part of the application for certification or re-certification,**

and acknowledge any false statement made by the applicant will result in the denial of certification and is punishable as a Class E Felony under Section 175.35 of the Penal Law.

Signature _____ Print _____

State of New York, County of _____. On this _____ day of _____ 20____,
before me appeared

(Name) _____ to me personally
known, who being duly sworn, properly did execute the foregoing affidavit and did state that s/he was
properly authorized by

(Name of Firm) _____ to execute
the affidavit and did so as his or her free act and deed.

Notary Public _____ Commission Expires _____

Please submit the following along with this signed, notarized application and affidavit:

For all applicants

- Copy of original application submitted to the federal 8(a) Business Development Program (no supporting documents);
- Copy of the current letter from the federal 8(a) Business Development Program showing the applicant firm is currently part of the program;
- Completed, signed and notarized copy of this supplemental application and affidavit;

For all MBE applicants

- A signed and notarized copy of the MWBE – Ethnicity Attestation (Exhibit 7)

For all WBE applicants

- Proof of gender (for WBE – copy of passport, birth certificate, or any other official document);

For all out-of-state applicants

- Certificate of Authority to do Business in New York State issued by the NYS Department of State

Please mail the completed package to:

Empire State Development
Division of Minority & Women Business Development
633 Third Avenue
New York, NY 10017

EXHIBIT 5

NYS MWBE Certified Application Criteria

Please read before completing this form:

Is this firm “not for profit”? <input type="checkbox"/> Yes <input type="checkbox"/> No	If Yes, STOP! If this firm is not-for-profit, then you do NOT qualify for this program and should NOT fill out this application.
Is this firm “publicly owned”? <input type="checkbox"/> Yes <input type="checkbox"/> No	If Yes, STOP! If this firm is publicly-traded, then you do NOT qualify for this program and should not fill out this application.
Is this firm “owned wholly or in part by another company”? <input type="checkbox"/> Yes <input type="checkbox"/> No	If Yes, STOP! The other company may need to be certified first before this firm can complete this application. (Contact us for further information)
Do you employ more than 300 full time employees? <input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, STOP! You do not qualify for our program.
Does each minority or woman owner upon which certification is based for this firm have a personal net worth which does not exceed 3.5 million dollars? <input type="checkbox"/> Yes <input type="checkbox"/> No	If no, STOP! This firm does not qualify for our program.

Instructions:

Please type or print clearly. Do not leave any spaces blank on the application. Please sign, complete and return this form, accompanied by the required supporting documents listed in this application.

You may make photocopies of the completed application as necessary. Whenever the space is insufficient to answer a question completely, attach additional sheets as necessary. Use the question number to identify any answer continued on an additional sheet. Keep a copy of your entire application package for your records. **For questions call (212) 803-2414.**

This firm is applying for certification as: *(Please refer to the first page of this application to determine the appropriate designation for your company. One or more categories may be designated.)*

- Minority Business Enterprise (MBE) Women-Owned Business Enterprise (WBE)

Company Profile:

Company Name _____

“Doing Business As” DBA Name _____

Street Address _____

City: _____ State: _____ Zip: _____

Mailing Address if different from above: _____

Business Phone: (_____) _____ Fax: (_____) _____

Secondary Contact Number (cell/home/other) (_____) _____

Email: _____ Website: _____

Twitter: _____

Facebook: _____

LinkedIn: _____

Contact Name: _____ Title: _____

Phone: (_____) _____ Number of Employees: _____

Date Business was established: _____ State of Incorporation: _____

Federal Employer Identification Number or Social Security Number *(A Federal Employer Identification Number is required for most business activities. For an application and/or additional information, go to the U.S. Internal Revenue Service website <http://www.irs.gov>. Sole Proprietorships may submit social security number of the owner in lieu of the federal identification number.)*

In what regions of New York are you willing and able to conduct your business activity? All
 NYC Southern Tier Western NY Long Island Mohawk Valley Finger Lakes
 Mid-Hudson Capitol Region Central NY North Country

Gross Receipts (sales): Please provide your firm’s gross receipts for each of the last 3 years. *(If in business for less than 3 years but at least one, complete as applicable)*

\$ _____ \$ _____ \$ _____
Current Year (20____) Last Year (20____) Previous Year (20____)

Owner(s) and Principal(s):

Identify all individuals or companies with any ownership interest in your firm, providing the information requested below [if more than three owners, attach spate sheet for additional owner(s)];

Name	Position	Group % Code *	US Citizen or owned	Resident Alien
_____	_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____	_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____	_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No

* Group Code Key *(Please refer to Page 1 for Definitions)*

01 – Black 02a – Hispanic 03a – Asian - Pacific 03b – Asian – Indian 04 – Native American 05 – Non-Minority

Has ownership changed since business was created? Yes No

If yes, describe changes: _____

Family relationship to other owners or principals with this business: Yes No

If yes, explain: _____

Relationship with other Businesses:

At present, or at any time in the Past, has your firm:

(a) Been a subsidiary of any other firm? Yes No

(b) Consisted of a partnership in which one or more of the partners are other firms? Yes No

(c) Owned any percentage of any other firm? Yes No

(d) Had any subsidiaries? Yes No

Do any of your immediate family members own or manage another company? Yes No

If Yes, please list (*attach extra sheets, if needed*):

Name	Relationship	Company	Type of Business	Own or Manage?
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Does your firm rely on any other firm for management functions or employee payroll? Yes No

If Yes, explain: _____

Goods and Services:

Briefly describe your Business, include any special skills or a-typical services.

Check the one box that best describes the business operation

- Construction-Related
 Consumer Service
 Broker
 Professional Service
 Franchise
 Manufacturer
 Supplier
 Technical Service
 Retail
 Financial Services
 Other (explain) _____

Please provide the business' NAICS number (*This information can be found online: <http://www.census.gov>*)

NAICS _____

By signing this Application, Applicant understands that the New York State Division of Minority and Women Business Development (“DMWBD”), may require proof of eligibility in addition to the information disclosed in the Application. The Applicant agrees to submit additional proof if it is requested by DMWBD

and acknowledges that DMWBD may determine not to certify the Applicant as an MBE or as a WBE if the additional proof is not submitted within 20 business days after the date it is requested by DMWBD, or the application may be rejected by the DMWBD.

By signing this Application, Applicant also consent to (i) inquiries by DMWBD of the Applicant's bonding companies, banking institutions, credit agencies, contractors, affiliates, clients, and other certifying agencies to ascertain the applicant's eligibility for certification; (ii) inspection by DMWBD of Applicant's place of business, books and records; and (iii) interviews of Applicant's principals and employees (iv) access to all documents submitted in support of the firm's certification with another entity (the "original certifying entity"). The Applicant acknowledges that refusal to permit such inquires shall be grounds for denial or revocation of certification.

Company Name: _____

By: _____

Signature

Print Name: _____

Print Title: _____

Date: _____

(The affidavit below must be signed by the majority owner of the firm upon which certification is based.)

CERTIFICATION AFFIDAVIT

The undersigned, _____, being the

(Name)

_____ of _____

request

(Title)

(Firm Name)

Certification of the Applicant as a Minority-owned Business Enterprise (MBE) and/or as a Women-owned Business Enterprise (WBE) with the New York State Division of Minority and Women Business Development ("DMWBD"), and for that purpose does hereby verify, under penalties of perjury:

7. He or she has read this Application and knows its contents;
8. He or she is duly authorized by the Applicant to act on the behalf of the Applicant;
9. The information and representations contained in this Application are true to the best of his or her knowledge;
4. The information and representations contained in the Applicant's application submitted to the certifying partner for certification is true to the best of his or her knowledge;
5. The Applicant shall provide notice to DMWBD of any material change in the information contained in this Application or the Applicant's application submitted to the certifying partner for certification status within 30 days of such change;

6. The minority and/or women owners upon which certification is based verify that their net worth does not exceed \$3.5 million and the applicant business does not employ more than 300 employees; and

7. By signing below I am attesting that I am providing this as part of the application for certification or re-certification, and acknowledge any false statement made by the applicant will result in the denial of certification and is punishable as a Class E Felony under Section 175.35 of the Penal Law.

(Signature) _____ (Print)
State of New York, County of _____. On this _____ day of _____ 20____, before me
appeared
(Name) _____ to me personally known,
who being duly sworn, properly did
execute the foregoing affidavit and did state that s/he was properly authorized by
(Name of Firm) _____ to execute the
affidavit and did so as his or her free act
and deed.
Notary Public _____ Commission
Expires _____

Please submit the following along with this signed, notarized application and affidavit:

For all applicants

- Copy of original application submitted to the certifying partner (no supporting documents);
- Copy of the current letter from the certifying partner showing the applicant firm is currently certified;
- Completed, signed and notarized copy of this supplemental application and affidavit;
- Completed, signed and notarized Attachment A: Personal Net Worth Affidavit for each minority or woman owner upon which certification is based;
- Copy of most recently filed personal federal and state taxes, including all schedules, statements and amendments for each minority or woman owner upon which certification is based;

**Please mail the completed package to:
Empire State Development
Division of Minority & Women Business Development
633 Third Avenue
New York, NY 10017**

EXHIBIT 6

Standard Application Criteria

Is this firm “not for profit”? <input type="checkbox"/> Yes <input type="checkbox"/> No	If Yes, STOP! If this firm is not-for-profit, then you do NOT qualify for this program and should NOT fill out this application.
Is this firm “publicly owned”? <input type="checkbox"/> Yes <input type="checkbox"/> No	If Yes, STOP! If this firm is publicly-traded, then you do NOT qualify for this program and should not fill out this application.
Is this firm “owned wholly or in part by another company”? Yes <input type="checkbox"/> No	If Yes, STOP! The other company may need to be certified first before this firm can complete this application. (Contact us for further information)
Does this firm employ more than 300 full time equivalent employees? <input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, STOP! You do not qualify for our program.
Is this firm incorporated in New York State or does this firm have the Authority to do Business in New York State ? <input type="checkbox"/> Yes <input type="checkbox"/> No	If no to both, STOP! This firm will need to get the Authority to do Business from the New York State Department of State before applying to this program.
Does each minority or woman owner, upon which certification is based for this firm have a personal net worth which does not exceed 3.5 million dollars? <input type="checkbox"/> Yes <input type="checkbox"/> No	If no, STOP! This firm does not qualify for our program.
Has this firm been operational and active for at least one year? Yes <input type="checkbox"/> No	If no, STOP! Generally, a business has to be established and active for at least one year.

Standard Application Criteria

Please read before completing this firm:

Instructions:

Please type or print clearly. Do not leave any spaces blank on the application. Please sign, notarize, and complete this form, accompanied by the required supporting documents listed in this application.

You should make photocopies of the required supporting documents, do not send originals. Whenever the space is insufficient to answer a question completely, attach additional sheets as necessary. Use the question number to identify any answer continued on an additional sheet. Keep a copy of your entire application package for your records. **For questions call (212) 803-2414**

This firm is applying for certification as: *(Please refer to second page of this application to determine the appropriate designation for your company. One or more categories may be designated.)*

- Minority Business Enterprise (MBE) Women-Owned Business Enterprise (WBE)

Company Profile:

1a. Name of applicant firm: *(Enter the full legal name of the enterprise. For example, a corporation named ABC Construction, Inc. should be identified as “ABC Construction, Inc.”, not as “ABC Construction”)*

1b. "Doing Business As" (DBA) Name: *(Complete if firm does business under an assumed or trade name that is different from its legal name.)*

1c. Business Address *(must represent a physical location: No PO Box allowed):*

1d. Mailing Address *(Complete if different from physical location):*

2a. Business Phone Number: () _____ --- _____
Alternate Business Number: () _____ --- _____
FAX Number: () _____ --- _____

2b. Email Address: _____
Twitter: _____
Facebook: _____
LinkedIn: _____

3. Federal Employer Identification Number or Social Security Number *(A Federal Employer Identification Number is required for most business activities. For an application and/or additional information, go to the U.S. Internal Revenue Service website <http://www.irs.gov>. Sole Proprietorships may submit social security number of the owner in lieu of the federal identification number but we strongly advise you to apply for an EIN.)*

4a. Name of Company President/Chief Executive Officer/Owner

President Chief Executive Officer Owner

Contact Person: _____
Name of officer Title of officer

5a. Type of ownership *(Please specify current ownership)*
 Sole Proprietorship Partnership Limited Liability Partnership (LLP)
 Corporation (including S-Corp) Limited Liability Company (LLC)

Date firm was established _____ / _____ / _____
Month Day Year

If this firm has NOT been in business for at least one year, contact the Division at 518-292-5250 or 212-803-2414 to see if you should complete the application. We generally require that the business has been in operation for at least one year and filed its first tax returns.

5b. Did the business exist under a different type of business ownership prior to the date indicated in question 5a? No Yes *If yes, please explain.*

5c. Method of Acquisition (check all applicable)

- Started New Business
 Secured Franchise
 Bought Existing Business
 Secured Concession
 Inherited Business
 Merger or Consolidation
 Other _____

Date of acquisition _____/_____/_____ Month Day Year

5d. Name & Position of all person(s) with ownership interest in this firm.

(If no positions are held, state "none". Circle appropriate gender M F for each person, indicate percentage owned, and check yes or no for US Citizen or Permanent Resident status)

Name	Position	Group Code* (circle one)	% Owned	Gender	US Citizen or Permanent Resident Alien
_____	_____	1 2 3a 3b 4 5	_____%	M / F	<input type="checkbox"/> No <input type="checkbox"/> Yes
_____	_____	1 2 3a 3b 4 5	_____%	M / F	<input type="checkbox"/> No <input type="checkbox"/> Yes
_____	_____	1 2 3a 3b 4 5	_____%	M / F	<input type="checkbox"/> No <input type="checkbox"/> Yes
_____	_____	1 2 3a 3b 4 5	_____%	M / F	<input type="checkbox"/> No <input type="checkbox"/> Yes

* Group Code Key (Please refer to Race/Gender Definitions on the second page of the application)

01 Black 02 Hispanic 03a Asian/Pacific 03b Asian /Indian 04 Native American 05 Non-Minority

5e. If this firm is owned in full or in part by another firm, please identify the firm and the percentage of ownership interest. Include venture capitalists and other similar investors.

Firm Name	Address	% Owned
_____	_____	_____%
_____	_____	_____%
_____	_____	_____%

6. Please identify the cash and capital contributions to this firm by those identified in 5d.; Please include gifts, equipment, loans, and expertise.

Contributor/Source	Amount/Value	Type/Date of Contribution
_____	\$ _____	_____
_____	\$ _____	_____
_____	\$ _____	_____

7a. If this firm is a partnership, please complete for all partners.

Partner	Total Amount/ Value of Contributions	Date of Ownership
_____	\$ _____	_____
_____	\$ _____	_____
_____	\$ _____	_____

7b. If this firm is a corporation, please complete for all shareholders.

Name	No. of Shares	Common or Preferred	Amount paid when purchased	Date of Ownership
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

7c. If a corporation, number of shares:

Common Authorized _____ Common Issued _____
 Preferred Authorized _____ Preferred Issued _____

7d. If a Limited Liability Corporation, % of interest for all Members

Name	Position	% Interest
_____	_____	_____ %
_____	_____	_____ %
_____	_____	_____ %

8. Gross Receipts (Sales.) Please provide gross receipts for the last 3 years.

(If this firm has been in business for less than 3 years, complete as applicable but you should have at least one-year tax return.)

\$ _____ \$ _____ \$ _____
 Current Year (20____) Last Year (20____) Previous Year (20____)

9. Number of employees *(Please average over the past year.)*

Permanent _____ Temporary/Seasonal _____
 Full Time _____ Full Time _____
 Part Time _____ Part Time _____

Please Note: *If the business has more than 300 full time equivalent employees, it is not eligible for our program.*

Goods and Services:

10. If licensing, permits or accreditation is required to conduct the business, please identify:

Type of License/Permit	Issued by	Issue Date	Exp. Date	Holder/Registrant
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

11a. Check the one box that best describes the business operation.

- Construction-Related
 Consumer Service
 Broker
 Professional Service
 Manufacturer
 /Supplier
 Franchise
 Technical Service
 Retail
 Financial
 Services
 Other (explain) _____

11b. Describe principal products/commodities sold, specialties or services offered

(Being very specific about what commodities or services your firm provides. Please note, your firm will only receive product code designations that have been verified during the review of your application.)

11c. Please provide the business's North American Industry Classification System (NAICS) number *(This information can be found online: <http://www.census.gov>)*

NAICS _____

Business Operations:

12. Identify those individuals responsible for managerial operations *(State if owner or non-owner.)*

* For Group Codes, see page 3 and for definitions refer to Race/Gender document.

<i>Name & Title</i>	<i>Gender</i>	<i>Group* Code</i>	<i>Owner</i>
A. Financial Decisions			
_____	M F	_____	Y N
_____	M F	_____	Y N
B. Estimating			
_____	M F	_____	Y N
_____	M F	_____	Y N
C. Preparing Bids			
_____	M F	_____	Y N
_____	M F	_____	Y N
D. Negotiating Bonding			
_____	M F	_____	Y N
_____	M F	_____	Y N
E. Negotiating Insurance			
_____	M F	_____	Y N
_____	M F	_____	Y N
F. Marketing & Sales			
_____	M F	_____	Y N
_____	M F	_____	Y N
G. Hiring & Firing			
_____	M F	_____	Y N
_____	M F	_____	Y N
H. Supervising Field Operations			
_____	M F	_____	Y N
_____	M F	_____	Y N
I. Purchasing Equipment/Supplies			
_____	M F	_____	Y N
_____	M F	_____	Y N
J. Managing & Signing Payroll			
_____	M F	_____	Y N
_____	M F	_____	Y N
K. Negotiating Contracts			
_____	M F	_____	Y N
_____	M F	_____	Y N
L. Signatories for Business Accounts			
_____	M F	_____	Y N
_____	M F	_____	Y N

13a. Do any of the persons listed in question 13. Sections A through L above perform a management or supervisory function for any other business? Yes No

If yes, identify for each:

Person: _____

Title: _____

Business: _____

Function: _____

(Attach additional sheets as necessary)

13b. Please identify any staff working for your firm that works for another firm. persons.

(If any individual also works for another firm, please check yes and provide the person's name, his/her position, other firm's name, address and telephone number.)

Name & Position	Other firm's Name, Address	Phone
1. Office staff		
<input type="checkbox"/> No <input type="checkbox"/> Yes _____	_____	(____) ____ -- ____
<input type="checkbox"/> No <input type="checkbox"/> Yes _____	_____	(____) ____ -- ____
2. Field/supervisory staff		
<input type="checkbox"/> No <input type="checkbox"/> Yes _____	_____	(____) ____ -- ____
<input type="checkbox"/> No <input type="checkbox"/> Yes _____	_____	(____) ____ -- ____
3. Estimator		
<input type="checkbox"/> No <input type="checkbox"/> Yes _____	_____	(____) ____ -- ____
<input type="checkbox"/> No <input type="checkbox"/> Yes _____	_____	(____) ____ -- ____
4. Controller		
<input type="checkbox"/> No <input type="checkbox"/> Yes _____	_____	(____) ____ -- ____
<input type="checkbox"/> No <input type="checkbox"/> Yes _____	_____	(____) ____ -- ____
5. Consultant (For firms involved in providing consultant/technical service or advisory service.)		
<input type="checkbox"/> No <input type="checkbox"/> Yes _____	_____	(____) ____ -- ____
<input type="checkbox"/> No <input type="checkbox"/> Yes _____	_____	(____) ____ -- ____

13c. If this firm shares the following with any other firm, please provide the other firm's name, address & telephone number.

Other Firm Name	Address	Phone
1. Office space		
_____	_____	(____) ____ -- ____
_____	_____	(____) ____ -- ____
2. Yard Space/Warehouse		
_____	_____	(____) ____ -- ____
_____	_____	(____) ____ -- ____
3. Equipment (include rentals)		
_____	_____	(____) ____ -- ____
_____	_____	(____) ____ -- ____

14a. List rented, leased, or owned warehouse, plant, yard, and office facilities.

Facility Type	Owner or name of Lessor and/or rental agent	If rented or leased, Amount of yearly rent payment
_____	_____	_____
_____	_____	_____

14b. List major equipment or machinery that is owned or leased by the firm.

Type Make and Model	Depreciated dollar value	Acquisition terms	Payment date
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

15. Do any principals, officers and/or owners of the firm have an affiliation (i.e. business interest or employment) with any other firm? Yes No If yes, complete the following:

Name of Person	Firm name & address	Nature of business	Nature of affiliation
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

16a. At present, or at any time in the past, has your firm:

- (a) been a subsidiary of any other firm? Yes No
- (b) consisted of a partnership in which one or more of the partners are other firms? Yes No
- (c) owned any percentage of any other firm? Yes No
- (d) had any subsidiaries? Yes No

16b. Has any other firm had an ownership interest in your firm at present or at any time in the past?

Yes No

17. If you answered yes to any question in 16a or 16b identify the following for each:

Name	Address	Type of Business	Question #
_____	_____	_____	_____
_____	_____	_____	_____

18. Do any of your immediate family members own or manage another company? Yes No

If yes, the list:

Name	Relationship	Company	Type of Business	Own or manage?
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

19. Attorney for firm.

Name _____
Street Address _____
City _____ State _____ Zip Code _____ Phone _____

20. C.P.A. or Accountant for firm.

Name _____
Street Address _____
City _____ State _____ Zip Code _____ Phone _____

21. Is this firm currently involved in the bidding process or other contract/purchase order negotiations with any governmental agency, department or authority? No Yes

If yes, please identify agency, and include the name and contact person.

22. List the three largest completed accounts for which the applicant has provided goods or services within the last three years:

<i>Firm Name & Phone</i>	<i>Account Dollar Amount</i>	<i>Location of Performance</i>	<i>Duration</i>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

23. List the three largest active projects on which your firm is currently working, if applicable:

<i>Firm Name & Phone</i>	<i>Account Dollar Amount</i>	<i>Location of Performance</i>	<i>Duration</i>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

24. Identify Bank(s) where all firm's accounts are maintained (checking, savings, CDs, etc.)

<i>Bank Name</i>	<i>Address</i>	<i>Contact</i>	<i>Type of Account</i>	<i>Account No.</i>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

25. Do you have a line of credit? Yes No *If yes, identify.*

<i>Source</i>	<i>Limit</i>	<i>Name of Guarantor(s)</i>
_____	_____	_____
_____	_____	_____
_____	_____	_____

26. List major current creditors and/or lenders and types of investments and/or loans in the firm.

<i>Name of Creditor/Lender</i>	<i>Type of investment credit/loan</i>	<i>Dollar value of investment/terms/credit/loan</i>	<i>Guarantor(s)</i>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

27. Is the firm bonded? Yes No *If yes, specify type and limit:*

Bonding Company: _____
 Address: _____
 Telephone () _____ Contact Person _____
 Type: _____
 Limit: Aggregate limit: _____ Project Limit: _____ Binder No: _____

28. Are you a Union Shop? Yes No *(If yes, name and local)*

_____ *Names of Unions* _____ *Local Number(s)*

Other Certifications:

29. Has the firm applied for certification as an M/WBE with another governmental agency, department or authority. Yes No *If yes, complete the following:*

Agency	Date	Contact Person	Phone	Specify DBE, MBE or WBE
1. Pending with				
_____	_____	_____	_____	_____
2. Certified by				
_____	_____	_____	_____	_____
3. Registered by				
_____	_____	_____	_____	_____
4. Withdrawn/Closed out				
_____	_____	_____	_____	_____
5. Rejected by				
_____	_____	_____	_____	_____
6. Denied by				
_____	_____	_____	_____	_____
7. Decertified by				
_____	_____	_____	_____	_____

30. Are there appeals pending on any of the above applications or certifications? Yes No

Agency	Date of Appeal	Contact Person	Phone
_____	_____	_____	(____) ____ -- _____
_____	_____	_____	(____) ____ -- _____

UNIFORM CERTIFICATION APPLICATION

This application must be verified under oath in the following manner:

- (A) if the enterprise is a sole proprietorship, by owner; or if the enterprise is a partnership, by a partner, or
- (B) if the enterprise is a corporation, by the principal officer designated by the Board of Directors. All applicants MUST read and review all items preceding the verification before signing. These items contain responsibilities of the applicant, rights retained by the State of New York and penalties that may be applied for false statements.

FIRST, this Application form, the supporting documents, and any other information provided in support of the Application are considered part of the Application. It is recognized and acknowledged that the information contained in the Application is given under oath and that any misrepresentation may be grounds for denial of certification, revocation of certification, not awarding or terminating any contracts which may be awarded the Applicant by the State of New York. In addition, the Applicant further understands that any misrepresentation made in this Application is subject to both the civil and criminal laws of the State of New York. **By signing below I am attesting that I am providing this as part of this application for certification or re-certification, and acknowledge any false statement made by the applicant will result in the denial of certification and is punishable as a Class E Felony under Section 175.35 of the Penal Law.**

SECOND, New York State Division of Minority and Women Business Development (“DMWBD”), is subject to the Freedom of Information Law, At the time of application, the applicant may request that DMWBD except all or part of Contractor's proposal, reports or other information submitted to DMWBD from public disclosure, pursuant to Section 87(2)(d) of the Public Officers Law, on the ground that said specified item(s) contain trade secrets or that the information, if disclosed, would cause substantial injury to the competitive position of the applicant. The request for an exception must be in writing and must state the reasons why the information should be excepted from disclosure. It must also specify the items or portions thereof for which the exception is requested. DMWBD reserves the right to determine whether the information submitted by the applicant may be withheld from disclosure under FOIL. An applicant's submission of the above referenced letter triggers the DMWBD's obligation to notify the applicant of any request for disclosure of their information. An applicant will then have the opportunity to write to DMWBD and request that the previously identified information continue to be excepted from disclosure. DMWBD will then notify the applicant of the DMWBD's decision to grant or deny such request for exception from disclosure in accordance with the provisions of Section 89(5) of the Public Officers Law. Any information submitted by the applicant, for which the applicant requests exception from disclosure, shall be temporarily excepted

Signature Date

Sworn to before me this _____ Day of _____, 20____

Notary Public

Person assisting in completing the Application: _____
Print Name

Telephone number Signature

Organization

EXHIBIT 7

MWBE – Ethnicity Attestation



I, the undersigned, do hereby attest to the following:

1. I have read and understand the definition of “minority group member,” as that term is defined pursuant to § 310(8) of the New York State Executive Law and the rules and regulations promulgated thereunder.
2. I am a member of, and have held myself out as a member of, the following group(s) (initial one or more):
 - (a) Black persons having origins in any of the Black African racial groups_____.
 - (b) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American of either Indian or Hispanic origin, regardless of race_____.
 - (c) Native American or Alaskan native persons having origins in any of the original peoples of North America_____.
 - (d) Asian and Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or the Pacific Islands_____.
3. I understand and agree that the Division of Minority and Women’s Business Development of the New York State Department of Economic Development may contact me for additional information and documents related to my statements herein in connection with my application to certify _____ as a Minority-owned Business Enterprise.
(name of business)

STATE OF NEW YORK

SS.:

COUNTY

OF

On this _____ day of _____, 20____, before me personally came

_____, to me known, who being by me duly sworn, executed the foregoing instrument and he/she acknowledged to me that he/she executed the same.

Notary Public

NOTARY PUBLIC (Please affix stamp here)

EXHIBIT 8

Inquiry Tracking – Year 2

The system must be able to track individual DMWBD communications to other DMWBD staff, Primes, MWBEs, and Ag/Au in order to efficiently manage issues among multiple sources and concerning multiple topics. A copy of a screen shot from our current Customer Relations Information System (“CRIS”) provides an overview of issues we currently track. System must be able to track by Agency/Authority, Vendor, Type of inquiry, and DMWBD user. System must not allow for edits in the communications log once it has been completed. Attachments must be uploadable and downloadable/printable. Not all in the screenshot will become integrated with the NYSCS.

Inquiry Tracking

Buttons: Certification Subject Matter Experts, ESD Subject Matter Experts, Set Follow Up Reminder in Outlook, Add / View Attachments, Save Record, Close Form

Caller Information

Region: [Dropdown] **FRAUD** **Add New Record**

TrackingNo: 5817 (Auto Fill) **Search Inquiries**

Business Name: Macan Deve Engineers, DPC
 If MWBE, Choose Type: [Dropdown]

First Name: Donna Last Name: Hager
 Telephone: 914-261-4141 Email: donna@macandeve.com

Internal Routing of Inquiry

Original Receipt Date: 6/29/2015
 Originator: Dolores O'Connor
 Method of Inquiry: Email

Inquiry Forwarded on: [Field]
 Forwarded To: [Field]

ELEVATE INQUIRY

Elevate to Management Elevate to Senior Management

Inquiry Completed and Closed on: [Field] **Delete Record** **Click to Forward Inquiry**

--- Certification Assistance Details (check all that apply) ---

CERTIFICATION

- Online Application Assistance
- Paper Application Assistance
- Recertification, Expansion, Updates
- PNW and Taxes
- Taxes, Employee Capacity, 300 Employee Worksheet
- Trusts, Holding Companies, Ownership Structure
- Business Class/Codes
- Foreign Corporations, Discriminatory Jurisdictions, Out of State Business
- Franchises, Publicly Traded, Not For-Profit, One Year Requirement
- Business Structure/Domestic Business, List of Publications for LLCs
- Trusts, Ethnicity/Eligibility
- Ethnicity/Eligibility, Rejections and Returns
- SFS Registration, Database Migration Issues
- FOILS
- EXPEDITE
- Expedite Inquiry Closed

SOURCE

- Elected Official
- Executive Chamber
- 37th Fl / Leg Affairs
- Company
- Agency
- Authority
- Certification Partner (EAP etc)
- Regional Office
- Other

COMPLAINTS

- Rejected/Returned
- Denied/Revoked (Including Intent)
- Re-Application Requested
- Excessive Documentation Request
- Can't find firm in Directory
- Analyst Unresponsive
- Taking Too Long
- Application Status
- Appeals

Other Than Certification Assistance

- Access to Capital / Bonding / etc.
- Doing Business with NY State
- Contracting Opportunities
- Advocacy Groups
- Estimating and Bidding
- RFP RFQ RFI preparation
- Help finding Primes/Subs
- Entrepreneurial Assistance Program (EAP)
- Loans and Grants
- Business Development
- Translation Request
- Other

Communications Log **Preview/Print Communications**

Date of C. i.	ESD Staff	Subject	Call ID
6/29/2015	Dolores O'Connor	Received email from firm asking for status of application. I met them at the Albany Matchmaker in June 2015. Forwarded to Bette Yee and certifications for a response.	12655
6/30/2015		From: O'Connor, Dolores (ESD) Sent: Monday, June 29, 2015 1:32 PM To: Yee, Bette (ESD); ead; sm; mubsecertification	(New)

Send Economic Program Materials

EAP BROCHURE BONDING PROGRAM BROCHURE

Send Certification Related Materials

ATTACHMENT A: PNW AFFIDAVIT ATTACHMENT B: PNW WORKSHEET ATTACHMENT B: PNW WORKSHEET INSTRUCTIONS

ATTACHMENT C: SMALL BUSINESS AFFIDAVIT EXPEDITE FORM

Record: 4 of 5455 of 5455 Unfiltered Search

EXHIBIT 9

Issues Report – Year 2

This report prints from the Inquiry Tracking log in CRIS (Exhibit 7). The system must track certain demographic and inquiry source information for producing the report management uses to assess critical issues and those that can be handled in the normal course of daily business.

The following report uses the information pulled from those fields. Call Date/time field must be able to sort from earliest to latest and vice versa.

Issues Report								
Inquiry No	First Name	Last Name	Business Name	Tel	Email	Original Receipt Date	Assigned to (Department)	Staff Handling Inquiry
5903	Jane	Doe	ABC DEFGH	555-555-1212	Jane@doe.com	11/7/2016		Certification Unit
Inquiry #	Call ID	Call Date	ESDStaff	Details				
5903	12775	11/7/2016	Carol Mead	Applicant called asking for status. I'm forwarding this first inquiry to certification for response.				
5903	12777	11/7/2016	Carol Mead	Applicant has a possible job with an authority, who called to check on status. Applicant may lose the job if they are not certified. Elevated this second contact to Management.				
5903	12778	11/7/2016	Carol Mead	Received a call from my Exec Director - who was contacted by the Chamber. They are very concerned about this applicant losing out on a great project - please expedite this request for review. This third request is being elevated to Senior Management.				

EXHIBIT 10

Certification: Reporting and Templated Letters

TEMPLATE LETTERS

Ability to Add /modify / swap out templates for letters at will for any of the following:

1. Template Certification Notification Letter
2. Template Recertification Notification Letter
3. Template – Recert Information Request with Instructions
4. Template Intent to Revoke
5. Template Supplier Status Rejection Letter
6. Template DBE In-State ROI Letter
7. Template DBE Out-of-State Letter
8. Template – Rejection of Product Code additions
9. Template – Email Requesting Interview
10. Template – Email Acknowledgement of Application submission
11. Template – First Request for Additional Documents
12. Template – REJECT Letter for non-response
13. Template – RETURN –No Activity
14. Template – RETURN – Not Eligible
15. Template – RETURN – Not sufficient information
16. Template – Withdraw Letter
17. Template – DENIED certification Letter
18. Template – Letter of Appeal Acknowledgment

REPORTS

Must be able to generate follow data sets

Pipeline Reports –

- Business Name
- Application status (ineligible; Unresponsive; Deleted due to past deadline; pending receipt)
- Application #
- Type of Certification Record (MBE, WBE, MWBE, and possible others to add like SBE, VBE, LGBE, etc.
- Application Action (New, Recert, Fast Track, Expansion, Addendum, Change)
- Date application started
- Date application submitted
- Calculation of Days: from start to submission; from submission to receipt
- Owner or Contact Name
- Mode of application (electronic, e-paper, paper)
- Name of person receiving application
- Date Received
- Calculation of date ranges (days from submission, from receipt)

Application Pending Receipt –

- Business Name
- Application #
- Type of Certification Record (MBE, WBE, MWBE, and possible others to add like SBE, VBE, LGBE, etc.
- Application Action (New, Recert, Fast Track, Expansion, Addendum, Change)
- Date application started
- Date application submitted
- Calculation of Days: from start to submission; from submission to receipt

Applications Received

- Business Name
- Application #
- Minority Status
- Gender Status
- Type of Certification Record (MBE, WBE, MWBE, and possible others to add like SBE, VBE, LGBE, etc.)
- Option to choose records by firm (one firm/many records; or by record type)
- Application Action (New, Recert, Fast Track, Expansion, Addendum, Change)
- Source of Fast Track Certification (NYC, NJNYPA, SBA, NYSDOT, MTA, WBENC, JCC, SCA, NYNJNSD, NFTA, etc. w ability to add other sources)
- Application Date
- Application Received Date
- Application Status (pending, document screening, audit review, field review, decision, etc.)
- Assigned Analyst

Applications in Pending Processing – (not complete)

- Business name,
- Vendor ID,
- Application #
- Type of Certification Record (MBE, WBE, MWBE, and possible others to add like SBE, VBE, LGBE, etc.)
- Option to choose records by firm (one firm/many records; or by record type)
- Application Action (New, Recert, Fast Track, Expansion, Addendum, Change)
- Source of Fast Track Certification (NYC, NJNYPA, SBA, NYSDOT, MTA, WBENC, JCC, SCA, NYNJNSD, NFTA, etc. w ability to add other sources)
- Application Date
- Application Status (document screening, audit review, field review, decision, etc.)
- Application Received by Certification Date
- Application Assigned to Intake Date
- Application Assigned to Analyst Date
- First Document Request Date
- Second Document Request Date

- Name of Analyst
- Application Status (active, pending, denied, rejected, returned, withdrawn, removed, revoked)
- Calculation of Days (choice of range Dates: from Submission to - Application Intake, application assigned, first letter request, second letter request, any point in processing stage)

Applications Processed – Decision Made & Complete

- Business Name
- Type of Certification Record (MBE, WBE, MWBE, and possible others to add like SBE, VBE, LGBE, etc.)
- Option to choose records by firm (one firm/many records; or by record type)
- Application Action (New, Recert, Fast Track, Expansion, Addendum, Change)
- Source of Fast Track Certification (NYC, NJNYPA, SBA, NYSDOT, MTA, WBENC, JCC, SCA,
- Application Date
- Assigned to Intake received date
- Assigned to Analyst Date
- Application Decision (Approved, Deactivated, Denied, Rejected, Returned, Removed, Revoked, Withdrawn)
- Decision Date
- Analyst name
- Owner's Name
- Owner's Fax #
- Owner's email
- Owner's Phone #
- Calculation of date ranges

ANALYST PRODUCTIVITY REPORTS – Year 2

- By Analyst
- By Application Type
 - Type of Certification Record (MBE, WBE, MWBE, and possible others to add like SBE, VBE, LGBE, etc.)
 - Option to choose records by firm (one firm/many records; or by record type)
 - Application Action (New, Recert, Fast Track, Expansion, Addendum, Change)
 - Source of Fast Track Certification (NYC, NJNYPA, SBA, NYSDOT, MTA, WBENC, JCC, SCA)
- By Decision action (certified, denied, Rejected, Returned, Removed, Withdrawn, Revoked)
- Counts by Decision action
 - For each analyst
 - By action type
- Calculation of time (by days) from receipt date to decision date; from assigned date to decision date)
 - Note – this data should be available in the Applications Decisions report
- Calculation of time (by days) in process (by stage of process)
 - Note – this data should be available in the Applications Pending report
- Report accumulated by month (fiscal year, calendar year)

APPLICATIONS AGING REPORTS

- Aged by Date (with choice of date ranges)
- Sorted by application type
- # Applications by status (pending, assigned)
- # Applications by stage (not received, screening, audit, decision)
- Comparison of aging previous period (month, year, etc.)

CERTIFICATION STATISTICS REPORTS

- Applications processed (ability to choose date parameters) and ability to choose grouping of following data points:
 - # firms certified, by application type
 - # firms recertified, by application type
 - # firms denied, by application type
 - # firms approved profile changes, by application type
 - # firms rejected, by application type
 - # firms returned, by application type
 - # firms removed, by application type
 - # firms revoked, by application type
 - # firms Deactivated, by application type
 - # of firms Withdrawn, by application type
 - Subtotal and Grand totals
 - Report accumulated by month (fiscal year, calendar year)
 - Comparison with previous periods
- Applications Pending (ability to choose date parameters) and ability to choose grouping of following data points:
 - # Applications in Pipeline, by Application Action
 - # Applications Received but not assigned, by Application Action
 - # Applications Pending Assignment, by Application Action
 - # Application in Assign and in process, by Application Action
 - Subtotals by application stage (Pipeline, Received not Assigned, Pending Assignment, Assigned)
 - Grant totals by Application Action
 - Report accumulated by month (fiscal year, calendar year)
 - Comparison with previous periods

CERTIFICATION INPUT/OUTPUT REPORT

- # Applications submitted, by Application Action
- # Applications certified, by Application Action
- # Applications Denied, by Application Action
- # Applications Returned, Rejected, Removed, Revoked, Deactivated, Withdrawn by Application Action
- Subtotals by Applications Submitted, Certified, Denied, All other Decisions
- Report accumulated by month (fiscal year, calendar year)
- Comparison with previous totals

EXHIBIT 11

Business Development: Reporting – Year 2

Must be able to generate the following data sets:

Contract Award & Payment Concentration

- Specific Commodity/ Service
- Region
- Commodity/service
- Contract Date
- Total app
- Tally
- Issuing Agency
- Choose # of procurements

Certified Firms 30/90/120/Annually

- Product Codes
- Region
- M, W, M/W
- Ethnicity
- # of Employees
- Annual Sales
- Business Description

Prime Contractor Data

- Name
- Region
- Industry
- Contact Person
- Specific Contracts
 - Specific Goals within Contract
- Waiver Requests
- Waivers Granted
- Total value of Contract
- Contract Start Date
- Utilization plan data
- Specific areas of utilization
- All subcontractors assigned to project
- Contract duration

Grants

- Total amount exempted per contract
- Total amount excluded per contract
- Dollar Amount Available for Goals
- Contract Goal per Contract

MWBE

- Region
- Industry
- Prime Contract versus Subcontractor
- # of employees
- Annual sales
- Ethnicity
- M, W, M/W
- Contract Value
- Product Codes
- Date of certification
- Telephone number
- Email address
- Total # of contracts by issuing agencies
- Contract duration
- All contracts by
 - Issuing Agency
 - Prime/Sub
 - Listed in utilization plan

Agency utilization

- Name of vendor
- Value of contract
- Discretionary or non-discretionary spend
- M, W, M/W
- Ethnicity
- Region
- Industry
- Utilization plan data
- Contract duration
- Waiver Requests
- Waivers Granted

- Product codes
- Total # of contracts issued
- Preferred source contracts
- Contracts below \$50k
- Contracts between \$50k-\$200k, etc.

Waivers

- a. By agency
- b. By industry
- c. By quarter
- d. By fiscal year
- e. By M or W
- f. By region

Utilization

- g. By industry
- h. By region
- i. By M or W
- j. By ethnicity
- k. By product code
- l. By agency/authority
- m. By gender
 - i. Should all be exportable in excel

Vendor Profile (Internal view)

- n. Allow certified firms to report on secured/awarded contracts as Prime and/or Sub contractor
 - i. Should provide contacts by dollar value, length of contract, fiscal year, AG/AU

Vendor Profile (external view)

- o. Largest contract awarded
- p. If contractor, ability to include bonding capacity and union affiliation
- q. Capabilities Statement public access (firms can upload Capabilities Statement, which would be accessible to public to download)
- r. Firm revenue range should be a range of *50K until 250K*; then range of *100K until 1Mil*; then follow current revenue range of *1Mil-4.9Mil & Over 5 Mil*

Outreach system

- s. Specific person to be receive outreach notifications
- t. Instructions on opt out that give a basis for the opt out
- u. Interface with NYS Contract Reporter ad information
- v. Ping the MWBE to determine when there are bad email addresses
- w. Secure alternative way to reach out
- x. Integration of social media into communications

- y. Ability to insert jpeg file directly into “content” parameters for outreach notifications
- z. Create ability to insert pdf’s and other image-based files into content

Reports that show the "Top 100" or the "Top 10". To include:

- 2. 1) Top 100 MWBE firms by agency,
- 3. 2) Top 100 Primes for the State,
- 4. 3) Top 10 Primes by Agency, MWBE firms award vs payments over 5-year period
- 5. 4) MBE vs WBE activity by industry or ethnic group
- 6. 5) other field sorts based on utilization data.

Miscellaneous

- a. Agencies should have the ability to append to the system specifications unique to them at their expense (i.e. OGS Centralized contract purchase tracking when goals are on centralized contract)

Business Development Metrics Report

Report Period From 01/01/2012 Through 7/14/2018

Number of Inquiries Received by Business Development
During the Reporting Period

[Print Report](#)

Business Development	Doing Business with	Training Tuesday	Help finding	Contracting Opportunities	Events	RFP RFI	Estimating / Bidding / Pricing	Access to	Surety Bonds	Bridge to	Specific NYS Agency / Authority	Other
258	228	228	258	141	1	6	0	7	3	3	1	12

Monday, July 23, 2018

Page 1 of 1

Business Development Assistance

Get Follow Up
Reminder in Outlook

Add / View
Attachments

Add
Record

Save
Record

Close
Form

Caller Information

Delete

Search for a
Company

Send Email to
Business
Development

Business Development ID: (New)

Certified

Original Receipt Date 7/23/2018

Region: [Dropdown]

Business Name [Text Box]

If MWBE, Choose Type: [Dropdown] Industry [Dropdown]

First Name [Text Box] Last Name* [Text Box]

Telephone [Text Box] Email* [Text Box]

Inquiry Summary

| ----- Assistance Details ----- |

- Business Development
- Doing Business with NY State
- Training Tuesdays
- Help finding Primes / Subs
- Contracting Opportunities
- Events
- RFP / RFQ / RFI Preparation
- Estimating / Bidding / Pricing
- Access to Capital
- Surety Bonds
- Bridge To Success
- Specific NYS Agency / Authority Assista
- Other (describe below) [Text Box]

| -- Referrals Made By DMWBD -- |

- Regional Office
- DBE Certifying Agency
- NYC Small Business Services
- NYS Agency Authority
- SBA
- SBDC
- PTAC
- EAP
- GSA

Business Development Notes

Communications History

Date of Contac	ESD Staff	Subject	Call
* 7/23/2018			

MWBE Success Story Input Form

Search for Firm

Add New Success Story

Print Success Story

Save Record

Close Form

Company Information

Keep as Success Story?

Business Development Staff
 Brian Ansari
 Yvette Hall

Certification Date:
Certification Type:
Expiration Date:

Business Name:
DBA Name:
Address:
City: State:
Phone: Zip:
Email:

Logo:
BioPic:

State Agency(ies) with whom they have contracts:

Primary Owner:
Owner Title:
of Employees: Annual Sales:

Region:
Industry/Primary Services:
Description Tag Line (for Success Profile):
website:

Description of Services:

Success Details

ESD DMWBD Assistance Provided:

Work Locales:

Recent Notable Growth:

Corhort Work Plan
Print Plan Add Record Save Record Close Form

MWBE Cohort Work Plan

Contact Information

Business Name:

DBA Name:

Address:

City: State:

Phone: County:

Email: Zip:

Primary Owner:

OwnerTitle:

of Employees: Annual Sales:

website:

Overall Business Goals

Company Notes

Referred to us by:

ESD DMWBD Assistance Provided:

Financial Concerns:

Search for a Cohort
 Cohort Work Plan

Delete

ESD Business Development Staff:

Region:

Industry/Primary Services:

Description of Services:

Description Tag Line (for Success Profile):

State Agency(ies) with whom they have contracts:

Work Locales:

Recent Notable Growth:

Special Notes Box (Will be highlighted on the MWBE Cohort Training Plan Report):

Counseling Began: ID: New

Certification Type	Certification Date	Expiration Date
<input type="text"/>	<input type="text"/>	<input type="text"/>

Largest Agency Contract:

Utilization was as (choose one) Prime Sub

Record: 14 of 57 Unfiltered Search

DMWBD Trainings
DMWBD Trainings
Close

DMWBD Trainings
Add Record
Copy This Information to a New Training Record
Save Record
Close Form

Training Month/Year (ex: January 2014)

Training Date

Start Time

End Time:

Training Status

Pending

Scheduled

Completed

Cancelled

Date Entered

Entered BY

ESD Staff

Division

ESD Role

Format

Check if a Webex AND it was Recorded

Location of recorded program:

Number of Registrants (or N/A)

Number of Attendees

Notifications via: Outreach Module, Event Module, ESD Website, etc.

Topics and Presenter Information

Training Title

Presenter:

Presenter Organization

Unit

Phone

Email

Additional Presenters

Notes

Attachments:

IMPORTANT: Attachments MUST be saved to the following location (on the Share drive):
 \CRIS\Attachments for Training Programs

Record: 14 | 190 of 190 | No Filter | Search

EXHIBIT 12

Agency Services: Reporting Deliverables – Year 2

Must be able to generate follow reports by Individual Agency/Authority AND from the NYS Administrative Account

Detailed Expenditure (Utilization) Report

- Fiscal Year
- Fiscal Quarter
- Transaction Type
- Contract/PO Number
- Payment Date
- Transaction Date
- Participation Type (Prime, Subcontractor)
- Industry
- Product Code
- Business Name
- Goal Type
- Ethnicity
- Gender
- City
- State
- Zip
- County
- Region
- Work location
- Department
- MBW Goal
- WBE Goal
- Contract Start Date
- Contract End Date
- Exempt
- Excluded
- Grant Non-Profit
- Statewide Contract
- Preferred Source Contract

Utilization Reporting – General

- **Utilization Reporting** Allow agencies and authorities to submit quarterly reports to Department staff in such formats as prescribed by the Department, including but not limited to, Excel and .csv.
- Department staff must be able to generate periodic reminders to agency-authority users to submit reports via the system.
- Allow the Department to generate detailed reports of (1) summary expenditure data, (2) MWBE transactions, and (3) records eligible for inclusion in a utilization report.
- Add export mechanism to permit agency and authority staff and the Department users to download detailed MWBE utilization data.
- Display link from MWBE transactions in utilization report back to source data for instant reference and verification.
- Add onscreen alerts and transaction blocks for agency/authority users to prevent submission of utilization reports that have defined issues without included reasons:
 - a. MWBE expenditures exceed total of all expenditures
 - b. Explanation required when quarterly MWBE utilization below set level (e.g. 30%)
- Provide detail data transfer queries to not include payments on contracts identified as “exempted” or “excluded”.
- Provide data transfer query to not include excluded portion of contract based on contract-specific exclusions.
- Add report of MWBE transaction details showing “exempt” and “excluded” fields from contract records so the Department can validate that no exempt/excluded records have been included in report. Report of detail behind Summary data will include “exempt” and “excluded” fields from contract records so the Department can validate that no exempt/excluded records have been included in report.
- Add work code field to MWBE utilization record. Validate work code provided by reporting organization against certification record. Flag records that do not match and require update or reason to be entered prior to report submission. Will require agencies to assign codes in CCM, update PO payment & Pcard records to assign certified work codes, and all add a field with this information to bulk load files.
- Add onscreen alerts and transaction blocks for agency/authority users when duplicate MWBE transactions are identified.
- Prevent submission of utilization report until user has deleted duplicate or entered written explanation that the second record is not a duplicate.
- Add conditional questions for agencies/authorities to answer prior to report submission to provide clarifying information (e.g. MWBE participation percentage changed by $\pm X\%$).
- Add onscreen calculations for quarter-to-quarter and year-to-year performance by agency.
- Add buttons to “walk” from report to report by agency.
- Add field to payment record to require designation/selection of contract or non-contract payment. If contract payment, require entry/import of contract award date for use in certification validation. If non-contract payment, field remains optional.
- Use payment date or contract/transaction date when verifying certification status.

Federally Funded items

- Provide for data transfer query to properly facilitate federally funded contracts based on program rules.
- Add onscreen alerts and transaction blocks for agency/authority users to prevent submission of utilization reports when there are fully or partially federally funded contracts included in report.

Bulkload scope items:

- Develop algorithm to identify potential duplicate expenditure records in imported detail expenditure file.
- Add validation/flag to module for detailed expenditure import to look for duplicate expenditure records.

- Flag all alerts onscreen to user and prevent submission of utilization report until all are cleared.
- Make contract award date a required field in bulkload file (bulkload entities will be required to populate with date of payment for situations where they do not have a contract date)
- Add mechanism for the Department analyst to bulk approve/not approve MWBE expenditure records.
- Add “optional comments” field to the approve function for detailed expenditure records.
- Add onscreen alerts and transaction blocks for the Department analysts to prevent approval of utilization reports that have flagged issues.
- Develop algorithm to match uploaded expenditures to contracts in the system.

EXHIBIT 13

Agency Services: Contract Compliance Deliverables - Year 2

The system must create records for each contract entered into by each NYS Agency and Authority, allow agencies and authorities to establish and track MWBE and workforce participation goals on each state contract, and generate reports related to MWBE and workforce participation on their contracts.

- Create contract reports that include all agencies and authorities in the entire state in addition to each individual agency for the Department.
- Department must have access to all data in order to run utilization reports outside of pre-formatted reports.
- Add “warning” if approved goal = “0” and either proposed or required goal fields are not “0”.
- Configure of all organization accounts to capture single and sole source contract type information (import and manual entry).
- Provide a mechanism to allow Department to identify duplicate payments by different agencies on the same contract

EXHIBIT 14

Agency Services: Utilization Plan Deliverables – Year 2

- Add capability to reflect current policy on broker-supplier utilization credit as indicated below:

Type: Subcontractor/Sub-consultant; Percent credit: 100%

Type: Manufacturer; Percent credit: 100%

Type: Supplier – Commodities/Non-Construction; Percent credit: 100%

Type: Supplier – Construction Materials; Percent Credit: 60%

Type: Broker – Construction Materials; Percent Credit: Prime contractor enters percent based on broker's mark-up

Type: Broker - Package, Broker, Distrib., Manuf. Rep., Fees & Commission; Percent credit: 25%

Type: Joint Venture; Percent Credit: Prime contractor enters percent based on situation

Type: Trucking & Hauling; Percent Credit: 100%

Type: Trucking & Hauling Broker; Percent Credit: Prime contractor enters percent based on situation

POSTING OF UTILIZATION PLANS –

- Agency staff **MUST** have ability to access the Utilization Plan on behalf of the vendor to:
 - (a) View any vendor's screen in order to troubleshoot issues or problems the vendor is experiencing;
 - (b) Attach an approved UP into the system (in the event that the vendor refuses or is unable to).
- The UPs must be searchable by the public, ensuring compliance with law requiring the posting of UPs on contracts with MWBE subcontracting opportunities.

QA

- Allow non-MWBE subcontractor users to verify payments through the module.

EXHIBIT 15

Project Management Deliverables – Year 2

Facilitating electronic communications between and among internal and external stakeholders.

- One central location for collecting all communications pertaining to a company in any phase of certification. Communications must be available among Department staff, to outside stakeholders (agencies, authorities, elected officials, etc.) and to the vendor community both certified and non, but viewable only by Department staff.

The system must be able to track individual Department communications to other Department staff, Primes, MWBEs, and Ag/Au in order to efficiently manage issues among multiple sources and concerning multiple topics.

- The types of issues/inquiries, sources and urgency are tracked for appropriate handling and can be escalated to higher management as necessary. The log is in date order and contains all the discussions from among all stakeholders pertaining to a single company.
The system must track certain demographic and inquiry source information for producing the report management uses to assess critical issues and those that can be handled in the normal course of daily business
- Reports must be generated by .pdf, exportable to Excel, as a Word doc, and email enabled from the page itself. If an email, a copy must be saved noting the date/time sent, sender and recipient.
- Allow NYS to search statewide contracts from the NYS login by the following categories:
 - Contract Number
 - Reference Number
 - Contract Title
 - Prime Contractor
 - Subcontractor
- Department should have sole authority over adding new users to the system, or selecting/approving individual agencies and authorities to do so.
- A current statewide User List must be available to Department Project Manager in real time, which shows for each Agency/Authority and Department Staff:
 - Active or Deactivated
 - Date added to system
 - Who added them to the system
 - Title
 - Phone
 - Email
 - Fax
 - Office location
 - User role
 - All permissions provided in that user role
 - Staff User ID
 - If an agency/authority has sub-entities identified within their account, which sub-entities and their permissions in each
- User Roles and Permissions must be individually assignable in cases where staff need view only on certain items (i.e. certification status) but more control in others (i.e. Outreach).

EXHIBIT 16

Host Agency and User Agencies and Authorities

Host Agency

Empire State Development

User Agencies

Adirondack Park Agency

Agriculture and Markets

Alcohol Beverage Control Board

Alcoholism and Substance Abuse Services

Council on the Arts

Department of Civil Service

Department of Corrections and Community Supervisions

Department of Economic Development

Department of Environmental Conservation

Department of Financial Services

Department of Health

Department of Labor

Department of Motor Vehicles

Department of Public Service

Department of State

Department of Taxation and Finance

Department of Transportation

Division of Criminal Justice Services

Division of Homeland Security

Division of Housing & Community Renewal

Division of Human Rights

Division of Military and Naval Affairs

Division of State Police

Division of the Budget

Division of Veterans Affairs

Executive Chamber

Gaming Commission (Racing & Wagering Board/The Division of Lottery)

Governor's Office of Employee Relations

Housing Finance Agency

Joint Commission on Public Ethics

Justice Center for the Protection of Persons with Special Needs (Quality Of Care For The Mentally Disabled)
New York State Education Department
New York State Insurance Fund
Office for the Prevention of Domestic Violence
Office for Victim Services
Office of Aging
Office of Children & Family Services
Office of General Services
Office of Information Technology Services
Office of Mental Health
Office of Parks, Recreation & Historic Preservation
Office of People with Developmental Disabilities
Office of Temporary and Disability Assistance
Office of the Inspector General
Office of the Medicaid Inspector General
Office of the Welfare Inspector General
Public Employee Relations Board
State Board of Elections
State Commission on Correction
Workers Compensation Board

User Authorities

Agriculture and New York State Horsebreeding Development
Albany County Airport Authority
Albany Port District Commission
Battery Park City Authority
Bridge Authority
Buffalo Fiscal Stability Authority
Capital District Transportation Authority
Cayuga County Water & Sewer Authority
City University Construction Fund
City University of New York
CNY Regional Transportation
Development Authority of North Country
Dormitory Authority of the State
Empire Center at the Egg
Empire State Development
Energy Research and Development Authority, New York
Environmental Facilities Corporation
Erie County Fiscal Stability Authority
Erie County Medical Center
Health and Hospitals Corporation

Higher Education Services Corporation
Hudson River Black River Regulating District
Hudson River Park Trust
Jacob K. Javits Convention Center
Livingston County Water & Sewer Authority
Long Island Power Authority
Metropolitan Transportation Authority
Nassau County Interim Finance Authority
Nassau Health Care Corporation
Natural Heritage Trust
New York Power Authority
New York State Thoroughbred Breeding and Development Fund
Niagara Falls Water Board
Niagara Frontier Transportation Authority
Ogdensburg Bridge and Port Authority
Olympic Regional Development Authority
Port of Oswego Authority
Regional Transit Service
Roosevelt Island Operating Corporation
Roswell Park Cancer Institute
Schenectady Metroplex Development Authority
State University Construction Fund
State University of New York Central
Syracuse Regional Airport Authority
Thruway Authority/Canal Corp
United Nations Development Corporation
Upper Mohawk Valley Water Authority
Westchester County Health Care Corporation

EXHIBIT 17

Current New York State Contract System

The current system hosted by AskReply/B2GNow, Inc. can be found at the following url:
<https://ny.newnycontracts.com>

EXHIBIT 18

Proposed Timeline for Development of New York State Contract System

Proposed New York State Contract System Development Timeline														
Milestone	YEAR 1												Year 2	Years 3 - 5
	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19	Jul-19	Aug-19	Sep-19	Oct-19	Nov-19	Dec-19	Jan-20
Contract Start Date: December 1, 2018	X													
Prototype							X							
Full Production Environment for Current Users of the New York State Contract System (includes individual agency/authority feeds in place at contract start date)												X		
Remaining requirements identified in this RFP													X	
Additional Enhancements as requested by Department														X
Onboarding of 8 - 10 Agencies and Authorities that may require individual data feeds	Scheduled per individual meetings with winning bidder, onboarding Ag/Au, and ESD Technical Lead													

EXHIBIT 19

AGENCY/AUTHORITY GOAL PLANS

There are two types of goal plans that are submitted to DMWBD:

- Annual Goal Plan
- Master Goal Plan

Master Goal Plans

The following is a checklist of the basic information required for an agency's or authority's **Master Goal Plan**, as described above. The agency or authority **must attach** this to their completed plan with each item checked off and submit to the DMWBD.

Agency Overview
Policy Statement / MWBE Goals for Contracts
Description of Procurement Strategy
Agency Specific Goals
Self Determination Statement
Copy of Agency Related Legislation
Boilerplate Language
MWBE Program Responsibilities
Administrative Unit's Responsibilities
Contract Compliance Unit's Responsibilities
Outreach Efforts
Flow Chart
Procedures for Resolution of Contractor Issues
Standardized Forms
Internal Reporting Mechanisms
Agency Initiatives / Determination for Areas of Business Development
Definitions
Previously Excluded Contracts
Attachments Section

Annual Goal Plans are updates to the master goal plan, and must contain the following content for each agency and authority:

Organization Overview
Description of their Procurement
Boilerplate language for the specific Ag/Au
Description of Ag/Au MWBE operations
Ag/Au Organizational Chart
Outreach Efforts undertaken on an ongoing basis
Standardized forms

I. MBE AND WBE GOALS

Agencies must declare a *separate* goal for MBE and WBE participation. Include an explanation in support of the declared agency goals. The evaluation of such goals may be based on budget information for the coming fiscal year, available funds for contracting and purchasing, the availability of certified MWBEs in relation to the types of contracts the agency contract, program contracts which are determined to be exempt from the applicability of the Law, and statistical reports. Goals shall be set by individual industry, i.e., commodities, consultant services, construction, and professional construction services. However, an *overall agency goal* for MBE and for WBE must be determined. The analysis must be outlined as noted below:

a. Projected Total Budget: \$ _____

To the extent possible, a break-down of all funding sources should be provided (include the breakdown as a separate document in the Goal Plan Document section). If you do not have any other funding sources, other than State, please confirm this in the Notes in the "Additional Information Section". (All funding sources i.e. Federal, Local, State, Others, should be included in the Agency's total projected budget. Those that are Exemptible such as salaries/fringe, 100% Federal, DBE contracts, etc. should be included in the projected total budget, and listed in the goal plan as exemptions).

b. Projected Exempt Program Contracts: \$ _____

c. Overall MBE/WBE Goal _____%

MBE _____%

WBE _____%

II. PROGRAM CHANGES

- (i) Staff changes -- list *name of the Executive person, name of staff, name of the bureau, telephone & fax number and e-mail address* of personnel involved in the administration of the agency's MWBE program and what their role is with respect to the program.
- (ii) Provide copies of any *updated* forms, and *revised* boilerplate documents that are used to administer the program in the agency.

III. AGENCY SPECIFIC PROGRAM ACCOMPLISHMENTS

- (i) Highlight special MWBE outreach efforts in contracting and purchasing areas which have proven successful.
- (ii) Highlight what initiatives you are planning or have planned to outreach to the MWBE community for the following fiscal year.
- (iii) Highlight what initiatives you are planning or have planned to increase the utilization of certified MWBE

IV. UPCOMING CONFERENCES, WORKSHOPS AND/OR SEMINARS

- (i) Highlight information from **your** agency on upcoming events that are geared toward the MWBE community.

V. NEW INITIATIVES

- (i) Pursuant to the request from ESD and the Governor's Office, include any **new initiatives** and/or **additional efforts** which your agency may have considered or developed in its efforts to increase its

outreach and for the awarding of MWBE contracts.

Definitions:

When providing us with your agency listing of Exemptions and Exclusions, be as descriptive and detailed as possible. For example: “Personal Services” – please indicated what will the monies be used for as well as what are the types of opportunities, i.e. Salary, Fringe Benefits, Operating Expenses, etc.

Exemptions: Expenditures such as: personal services , debt service, travel reimbursements, utilities, OGS centralized services, sole source contracts, postage, telephones, staff benefits, operating transfers, certain rental and repairs (such as OGS space chargebacks and real estate rentals), and special departmental charges (such as unemployment insurance and tuition reimbursement).

Preferred source and OGS statewide centralized contract (formerly p-contract) purchases are also considered exemptions with the exception of those contracts that have utilization from certified M WBE’s

*With regards to the Exclusions, please provide a **detail** listing of contracts that were prior to 2010 Diversification Act. List the contract – beginning date, dollar amount and end date. If list is too large, please add to the attachment category.*

Exclusions: The exemption of specific classifications of goods materials or services from all M WBE requirements. The classifications have been identified by procurement management and DMWBD as offering no procurement opportunities for M WBEs. DMWBD allows state agencies and authorities to reasonably exclude, from their annual M WBE Goal Plan, goods materials or services that have been determined to offer no M WBE prime or subcontracting opportunities. The determination or selection of such items by the agencies or authorities must be based on current industry knowledge that absolutely no M WBE firms exist that are capable of providing the particular goods materials or services included on the list. This list must be approved by DMWBD, as M WBE vendors are identified that can provide the particular goods materials or services, said goods materials or services will be removed from the list. This list will be updated annually by agencies.

In-Year Exclusions: are contracts or expenditures that during the contracting year an agency or authority discovers are appropriate for exclusion. The agency or authority should submit their In-year Exclusions to the Division, but if timing does not permit the submission to the Division prior to deadlines for execution of contracts, then the exclusion request should be submitted to the Executive Chamber for written approval. In-Year Exclusions must be submitted on a contract-by-contract basis. Groups or classes of contracts may only be submitted for exclusion approval during the annual exclusion process. The annual exclusion process is a part of the annual Goal Plan submission process or Master Goal Plan submission (which occurs once every 4 years).

*If you have an **in-year exclusion** that was approved by ESD since submission of the Master Goal Plan, please include it as exclusion in this annual goal plan update.*

With regards to the attachments, if any of those submitted in the prior FY has undergone any changes (even minimal), please create a document and insert in the appropriate category. For those with no changes, please create a new document indicating “No Changes to (name the document)” and insert it in the appropriate category.