



**COMPETITIVE PROCUREMENT FOR:**

**RFP # C000540 IES SYSTEM INTEGRATOR MASTER SERVICE AGREEMENTS**

**Procurement Website:** <https://its.ny.gov/competitive-procurement-opportunities>

Firms that electronically access this RFP or receive it from a source other than the ITS should email [its.sm.bestvalue@its.ny.gov](mailto:its.sm.bestvalue@its.ny.gov) to provide contact information.

<b>DESIGNATED CONTACT FOR INQUIRIES AND SUBMISSIONS</b>
RFP related questions must be submitted via electronic mail using the Vendor Questions and Extraneous Terms Form (Attachment 4) to the designated contact for this RFP at <a href="mailto:its.sm.bestvalue@its.ny.gov">its.sm.bestvalue@its.ny.gov</a> <b>No other method of inquiries will be accepted. Administrative issues pertaining to sending/receiving email through the designated mailbox may be reported at (518) 473-9341.</b>
<b>ITS ADDRESS FOR PROPOSAL DELIVERIES</b>
<b>Address to:</b> NYS OFFICE OF INFORMATION TECHNOLOGY SERVICES PROCUREMENT AND CONTRACT SUPPORT UNIT  <b>If US Post Office standard and US Post Office overnight mail, use:</b> ATTENTION: BEST VALUE TEAM, PO BOX 2062, ALBANY, NY 12220  <b>If UPS and FedEx express delivery overnight and ground service, Hand Delivery to front desk use:</b> ATTENTION: BEST VALUE TEAM, EMPIRE STATE PLAZA, SWAN STREET BUILDING, CORE 4, ALBANY, NY 12223

The following is the estimated timetable of key events for this Procurement (Note: Dates are subject to change at the sole discretion of the State):

<b>RFP Calendar of Events</b>	
<b>Event</b>	<b>Date</b>
1. RFP Release Date	November 7, 2019
2. Deadline for Submission of Vendor Questions	December 5, 2019, at 2:00 pm EST
3. Issuance of ITS' Official Responses to Vendors' Questions	On or about December 12, 2019
4. <b>PROPOSAL DUE DATE AND TIME</b>	<b>February 6, 2020, at 2:00 pm EST</b>

# CONTENTS

<b>SECTION 1 - PROCUREMENT OVERVIEW</b> .....	<b>1</b>
1.1 PURPOSE OF REQUEST FOR PROPOSALS .....	1
1.2 BACKGROUND .....	2
1.3 MINIMUM BIDDER QUALIFICATIONS.....	2
1.3.1 Lot #1 - Eligibility, Enrollment, and Case Management Minimum Qualifications: .....	3
1.3.2 Lot #2 - Reports and Analytics Minimum Qualifications: .....	3
1.3.3 Lot #3 - Financial Management and Provider (Vendor) Management Minimum Qualifications: .....	3
1.3.4 Lot #4 - Fair Hearings Minimum Qualifications: .....	3
1.4 CONTRACT FORMATION .....	3
1.5 DEFINITIONS.....	4
<b>SECTION 2 - PROJECT SERVICES</b> .....	<b>5</b>
2.1 SCOPE OF WORK .....	5
2.2 WORK LOCATION .....	7
<b>SECTION 3 - ADMINISTRATIVE REQUIREMENTS AND INFORMATION</b> .....	<b>8</b>
3.1 INQUIRIES FROM BIDDERS .....	8
3.2 CONTRACT TERM .....	8
3.3 EXCEPTIONS/DEVIATIONS AND EXTRANEIOUS TERMS.....	8
3.4 COMMUNICATIONS FROM NYS TO VENDORS.....	8
3.5 BUILDING ACCESS PROCEDURES FOR VISITORS AND HAND DELIVERIES.....	8
3.6 LATE SUBMISSIONS .....	9
3.7 PROPOSAL PREPARATION COSTS.....	9
3.8 DISCLOSURE OF PROPOSAL CONTENTS – FREEDOM OF INFORMATION LAW (“FOIL”) .....	9
3.9 NOTIFICATION OF AWARD AND OPPORTUNITY FOR DEBRIEFING .....	9
3.10 ITS BID PROTEST POLICY .....	10
3.11 ITS RESERVATION OF RIGHTS.....	10
3.12 PERFORMANCE BOND.....	11
<b>SECTION 4 - PROPOSAL REQUIREMENTS</b> .....	<b>12</b>
4.1 PROPOSAL PREPARATION .....	12
4.2 PACKAGING OF RFP RESPONSE.....	12
4.3 GENERAL REQUIREMENTS FOR PROPOSALS.....	12
4.4 PROPOSAL CONTENT AND FORMATTING REQUIREMENTS .....	13
4.5 TECHNICAL PROPOSAL REQUIREMENTS .....	14
4.5.1 Proposal Submission Requirements Checklist (Attachment 1) .....	14
4.5.2 Firm Offer Letter & Conflict of Interest (Attachment 7).....	14
4.5.3 Organizational Overview (Executive Summary) (Attachment 16, Part 1) .....	14
4.5.4 Minimum Bidder Qualifications (Attachment 16, Part 2).....	15
4.5.5 Project Overview (Attachment 16, Part 3) .....	15
4.5.6 Contractor’s Engagement Executive (Attachment 16, Part 4).....	16
4.5.7 Bidder Experience (Attachment 16, part 5) .....	16
4.5.8 Project Staffing (Attachment 16, Part 6) .....	17
4.5.9 Key Subcontractor Information (Attachment 17).....	17
4.5.10 Bidder References (Attachment 18) .....	17
4.6 FINANCIAL PROPOSAL REQUIREMENTS.....	18
4.7 ADMINISTRATIVE PROPOSAL REQUIREMENTS .....	18

<b>SECTION 5 - EVALUATION METHODOLOGY.....</b>	<b>18</b>
5.1 TIER I EVALUATION/SELECTION PROCESS.....	19
5.1.1 Proposal Completeness Review.....	19
5.1.2 Minimum Qualifications Evaluation .....	19
5.1.3 Technical Proposal Evaluation .....	20
5.1.4 Financial Proposal Evaluation .....	20
5.1.5 Administrative Proposal Evaluation.....	20
5.1.6 Final Composite Score .....	20
5.2 TIER II EVALUATION/SELECTION PROCESS.....	21
5.2.1 Pass/Fail Screening .....	22
5.2.2 Technical Evaluation .....	22
5.2.3 Financial Evaluation .....	22
5.2.4 Final Ranking.....	22
5.2.5 Tier II Awards .....	23

**Appendices (require no action from Bidders prior to or at time of Proposal submission)**

**Appendix A – Standard Clauses for New York State Contracts**

**Appendix B – Reserved**

**Appendix C – ITS Standard Contract Clauses (revised per Q&A dated: 12.31.19)**

**Appendix C-1- Contractor's Insurance Requirement**

**Appendix D – Reserved**

**Appendix E – EEO 101, Workforce Employment Utilization/Diversity Compliance Report**

**Appendix F – MWBE 102, Quarterly MWBE Compliance Report**

**Appendix G – Primary Security and Privacy Mandates**

**Appendix H – Consultant Disclosure Forms A & B**

**Appendix I – Change Request Form**

**Appendix J – Glossary of Terms**

**Appendix K – Overview of IES**

**Appendix L – Job Titles/Positions**

**Appendix M – EO 162**

**Appendix N – Deliverable Acceptance Form**

**Appendix O- Consultant Confidentiality and Non-Disclosure**

**Attachments (must be completed by Bidder and submitted prior to or as components of the Bidder's Proposal)**

**Attachment 1 – Proposal Submission Requirements Checklist**

**Attachment 2 – Reserved**

**Attachment 3 – Non-Collusive Bidding Certification**

**Attachment 4 – Vendor Questions and Extraneous Terms Form (revised per Q&A dated: 12.31.19)**

**Attachment 5 – NYS Required Certification**

**Attachment 6 – Reserved**

**Attachment 7 – Firm Offer Letter and Conflict of Interest Disclosure**

**Attachment 8 – Procurement Lobbying Forms and EO 177**

**Attachment 9 – Equal Employment Opportunity Staffing Plan-EEO 100**

**Attachment 10 – Minority Women Owned Business Utilization Plan- MWBE 100**

**Attachment 11 – MWBE and EEO Policy Statement (Form 4)**

**Attachment 12 – Encouraging Use of NYS Business in Contract Performance**

**Attachment 13- Contractor Certification of Covered Agency, ST-220-CA**

**Attachment 14- Bidder Information Form**

**Attachment 15- Workers Compensation and Disability Insurance Requirements**

**Attachment 16 - Technical Proposal Forms (revised per Q&A dated: 12.31.19)**

**Attachment 17 – Key Subcontractor Information**

**Attachment 18 – Bidder References**

**Attachment 19 – Financial Proposal (revised per Q&A dated: 12.31.19)**

**Attachment 20 – Vendor Responsibility Questionnaire**

**Attachment 21 – Vendor Assurance No Conflict of Interest**

**Attachment 22 – Compliance with HIPAA and HITECH**

**Attachment 23 – SDVOB Utilization Plan**

**Attachment 24 – Affirmative Statements**

**Attachment 25 – FOIL & Litigation Disclosure**

**Attachment 26 - Sexual Harassment Prevention Certification**

### **Exhibits**

**Exhibit 1 – Reserved (removed per Q&A dated: 12.31.19)**

**Exhibit 2 – FNS System Integrity Review Tool**

**Exhibit 3 – FNS SNAP Eligibility System Go Live Requirements**

## SECTION 1 - PROCUREMENT OVERVIEW

### 1.1 PURPOSE OF REQUEST FOR PROPOSALS

The New York State Office of Information Technology Services (ITS) is issuing this Request for Proposals (RFP), Reference No. C000540, entitled "IES System Integrator Master Service Agreements," to seek qualified responsive and responsible systems integration vendors, on a per Lot basis, to provide systems integration services as described in Section 2 of this RFP (i.e., "Project Services"), on an as needed basis, in accordance with the provisions of the RFP and resultant contracts (i.e., "MSA Contract" or "Contract"). This RFP is being conducted for the benefit of the State's Integrated Eligibility System (IES) Program initiative as managed by the IES Program Office. This RFP is being issued and managed by ITS on behalf of itself, the Office of Temporary & Disability Assistance (OTDA), the Office of Children and Family Services (OCFS), and the Department of Health (DOH) to be available to the State for IES Program related projects.

ITS will execute a Contract with the Contractors on behalf of the State. Said Contracts will be awarded, on a per Lot basis, to those qualified Bidders whose Proposals are determined to provide the "Best Value" to the State. "Best Value" means the basis for award to those responsible and responsive Bidder(s) whose offer optimizes quality, cost and efficiency, and which is consistent with the best interests of the State of New York. To that end, Bidders should note that, to meet its needs, the State will undertake a two (2) tiered process to first select Contractors by Lot and thereafter secure Project Services, on an as needed basis.

There are four (4) distinct lots. The Lots are categorized by project type: Lot #1 - Eligibility, Enrollment and Case Management; Lot #2 - Reports and Analytics; Lot #3 - Financial Management and Provider Management; and Lot #4 - Fair Hearings. Bidders may bid on each, or any, of the described four (4) lots. However, Bidders may not condition their Bids or their pricing for one (1) lot upon receiving an award for their Proposal on another lot. For example, Bidders may not bid on only Lots #1 and #3, but state within their Proposals that if they only receive an award for Lot #1, then they are withdrawing or re-pricing their Proposal on Lot #3. There is no guarantee by the State that any Contractor will be required to provide any Project Services. Further, Bidders entering into a Contract with the ITS do so with the understanding that ITS may or may not engage the Contractor during the course of the Contract period.

#### **BEST VALUE PROCUREMENT – TIERED EVALUATION/SELECTION:**

##### **Tier I RFP**

ITS intends to make up to eight (8) Tier I contract awards for Lot #1 and up to five (5) Tier I contract awards for each of Lots #2, 3 and 4, as a result of this RFP. However, the State may, at its sole discretion and in the best interest of the State, award additional contracts to responsive and responsible vendors whose combined Technical and Financial scores are within 10% of the highest scoring awarded vendor.

##### **Tier II Assignment**

Once the pools of Contractors have been established, ITS will request services from Contractors on a per Lot project-by-project basis through the issuance of a Tier II Assignment (Assignment) to the applicable Lot pool. Contractors will bid on individual Assignments based on the information contained in the Assignment and awards will be made through a streamlined competitive process. Contractors, when engaged through the Tier II process, will be expected to work with ITS, State agencies and, as necessary, other contractors to facilitate planning and implementation services related to Assignment activities.

It is anticipated that select Assignments will involve ITS and one or more of OTDA, OCFS, and DOH. In developing Assignments, ITS will work with individual agencies to define the scope of projects, project schedule and evaluation criteria. ITS, after consultation with the IES Program Office and participating agency(ies), if any, will issue an Assignment request to all of the applicable Lot's Contractors, via e-mail, requesting Contractor Assignment-specific technical and financial proposals, in a format designated by the

State, (i.e., “Responses”) to perform the Project Services as defined in the Assignment. Any hourly rates proposed in Tier II Responses must not exceed the hourly rates established through the Tier I process.

ITS, after consultation with the IES Program Office and participating agency(ies), if any, will then make an award to that Contractor whose Response provides the Best Value to the State based on an evaluation, as described in Section 5 of this RFP, of Contractors’ Responses. [Note: For each Assignment, participating agencies, if any will be identified in the Assignment]. In each Assignment, the selected Contractor will agree with ITS on a Statement of Work (SOW) that details the required services, specific deliverables, and deliverable and overall project costs. The final SOW for such Assignments will be held by ITS, with any participating agency(ies) as co-signatories. ITS and the participating agency(ies) holding such a SOW shall be responsible for project management, deliverable acceptance, invoice processing, payments, and any SOW amendments.

The type of Tier II projects anticipated and approved by ITS under the Contract(s) will vary. While this will likely include both short and longer-term projects, it is expected that Contractor Responses to the Assignments will require a quick turn-around.

## 1.2 BACKGROUND

An overview of the IES Program and IES Solution is provided in Appendix K of this RFP, entitled “Overview of IES” and additional information is also available on ITS’ website at: <https://its.ny.gov/competitive-procurement-opportunities>.

The IES Program functional areas (Business, Technical, Project Management and Operations) will be tightly integrated, leveraging a system development lifecycle (SDLC) to support all components of the IES Program. Standards, policies, and processes will be developed and followed to ensure consistency across the workstreams, inclusive of any scope of work procured under the resultant Contract(s) and to ensure integration of all work products into the IES Solution. These standards, policies, and processes will be shared with the Contractors.

## 1.3 MINIMUM BIDDER QUALIFICATIONS

Bidders must meet all three (3) of the Minimum Bidder Qualifications set forth herein below and in Attachment 16 Part 2, to be deemed qualified to respond to this RFP. Bidders, depending on the Lot or Lots for which they are submitting Proposals, must additionally meet the Lot-specific Minimum Qualifications to be deemed qualified to respond to that/those particular Lot/Lots. Failure to meet the three (3) Minimum Bidder Qualifications set forth below and in Attachment 16 Part 2, **will** result in the Proposal being deemed non-responsive and eliminated from further consideration. Failure to meet a given Lot’s Minimum Qualifications will disqualify and eliminate the Bidder from further consideration for that Lot’s services.

If a Bidder meets the Lot-specific Minimum Qualifications associated with multiple Lots and the Bidder wishes to bid on those Lots, the Bidder must submit a single Proposal that applies to all of the Lots that is organized in such a manner that general submission requirements/information common to all Lots is submitted only once (e.g., the Bidder’s Administrative Proposal submissions, the information required per Section 4.5.3 “Organizational Overview” of the RFP). Lot specific information (e.g., Lot specific bidder qualifications / bidder experience) should be segregated by Lot.

- (a) The Bidder, at time of bid submission and throughout the term of the Contract, must be authorized to conduct business in New York State, or have filed an application for authority to do business in New York State with the New York State Secretary of State at the time of bid submission. Such application must be approved prior to Contract Award.
- (b) The Bidder must represent and warrant that it possesses at least three (3) years of experience as the prime contractor on a project(s) subject to and under the following conditions:
  - the project(s) included multiple prime contractors working simultaneously on software development in a shared system environment;

- the Bidder was responsible for providing software development services, which includes/included design, development, and implementation, inclusive of testing and defect resolution for the project(s); and
- in providing such software development services, the Bidder was required to adhere to the system development lifecycle (SDLC) as prescribed by the client using client defined tools, methodologies, and technologies and operating on a client-owned and operated platform.

**1.3.1 Lot #1 - Eligibility, Enrollment, and Case Management Minimum Qualifications:**

For vendors bidding on Lot #1 to perform system integration services on modules related to eligibility, enrollment, and case management.

- (a) The Bidder must represent and warrant that it possesses at least three (3) years of experience as the prime contractor on an eligibility, enrollment, and case management IT project(s) under which the Bidder was responsible for providing software development services, which includes/included design, development, and implementation, inclusive of testing and defect resolution, for the project and the software solution developed was used by and met both common and differing needs of multiple business units (e.g., finance department, agency policy office) or program areas (e.g., SNAP, HEAP).

**1.3.2 Lot #2 - Reports and Analytics Minimum Qualifications:**

For vendors bidding on Lot #2 to perform system integration services on modules related to reports and analytics.

- (a) The Bidder must represent and warrant that it possesses at least three (3) years of experience as the prime contractor on a reports and analytics IT project(s) under which the Bidder was responsible for providing software development services, which includes/included design, development, and implementation, inclusive of testing and defect resolution, for the project.

**1.3.3 Lot #3 - Financial Management and Provider (Vendor) Management Minimum Qualifications:**

For vendors bidding on Lot #3 to perform system integration services on modules related to financial management and provider management.

- (a) The Bidder must represent and warrant that it possesses at least three (3) years of experience as the prime contractor on a financial management IT project(s) under which the Bidder was responsible for providing software development services, which includes/included design, development, and implementation, inclusive of testing and defect resolution, for the project.

**1.3.4 Lot #4 - Fair Hearings Minimum Qualifications:**

For vendors bidding on Lot #4 to perform system integration services on modules related to fair hearings.

- (a) The Bidder must represent and warrant that it possesses at least three (3) years of experience as the prime contractor on a public sector fair hearings or appeals IT project(s) under which the Bidder was responsible for providing software development services, which includes/included design, development, and implementation, inclusive of testing and defect resolution, for the project.

**1.4 CONTRACT FORMATION**

The Contracts that results from this RFP shall contain the terms and conditions set forth in this RFP, Appendix A, and Appendix C. The Contract shall be subject to the approval of the NYS Attorney General's Office ("AG") and the NYS Office of the State Comptroller ("OSC"). Upon final approval by OSC, a fully-executed contract will be delivered to the Contractor.



## **1.5 DEFINITIONS**

Definitions for certain terms and a list of Acronyms used in this RFP, including its appendices and attachments, can be found in Appendix J – Glossary of Terms.

## SECTION 2 - PROJECT SERVICES

### 2.1 SCOPE OF WORK

The State is seeking qualified vendors to provide system integration services, on an as needed basis, in support of the IES Program. The State may require services at any point during the transformational process with the specific tasks and deliverables defined in the Assignment for each project. System integration services are inclusive of design, development, and implementation on projects defined by the State in an Assignment. All Tier II work requires the Contractor to provide a warranty period on the Contractor's work, up to 18 months as specified in the Assignment. The warranty is inclusive of adherence to SLAs, testing and defect resolution, tier 2-4 help desk support as defined in ITIL, implementing system changes needed to support legal, policy, and business priorities, and cross-training of State or, as applicable, local technical staff to operate the system. In support of system integration services, the Contractor must: report in to the State Program Management Office; have their activities incorporated into the State's master schedule; follow the State's defined defect resolution process; escalate risks within a State defined timeframe; use State defined tools for testing as part of a master test plan and the State's Quality Assurance process; adhere to the State defined scope, requirements, design, and architecture; provide any project artifacts at any time, when requested for State review; and follow the technical standards, policies, and processes identified by the State in a Assignment, including but not limited to prescribed software, tools and the logical and physical data models.

System integrator services may include, but not be limited to, the following activities:

- Developing system code
- Configuring COTS products
- Documenting system design and architecture
- Documenting requirements and maintaining traceability matrices
- Purchasing software licenses
- Installing and configuring hardware and software
- System testing and defect resolution
- Release and deployment management
- Tier 2-4 help desk support
- Knowledge transfer with State technical staff
- Data conversation and synchronization
- Project management
- Reporting
- Training
- Organizational change management and site readiness activities

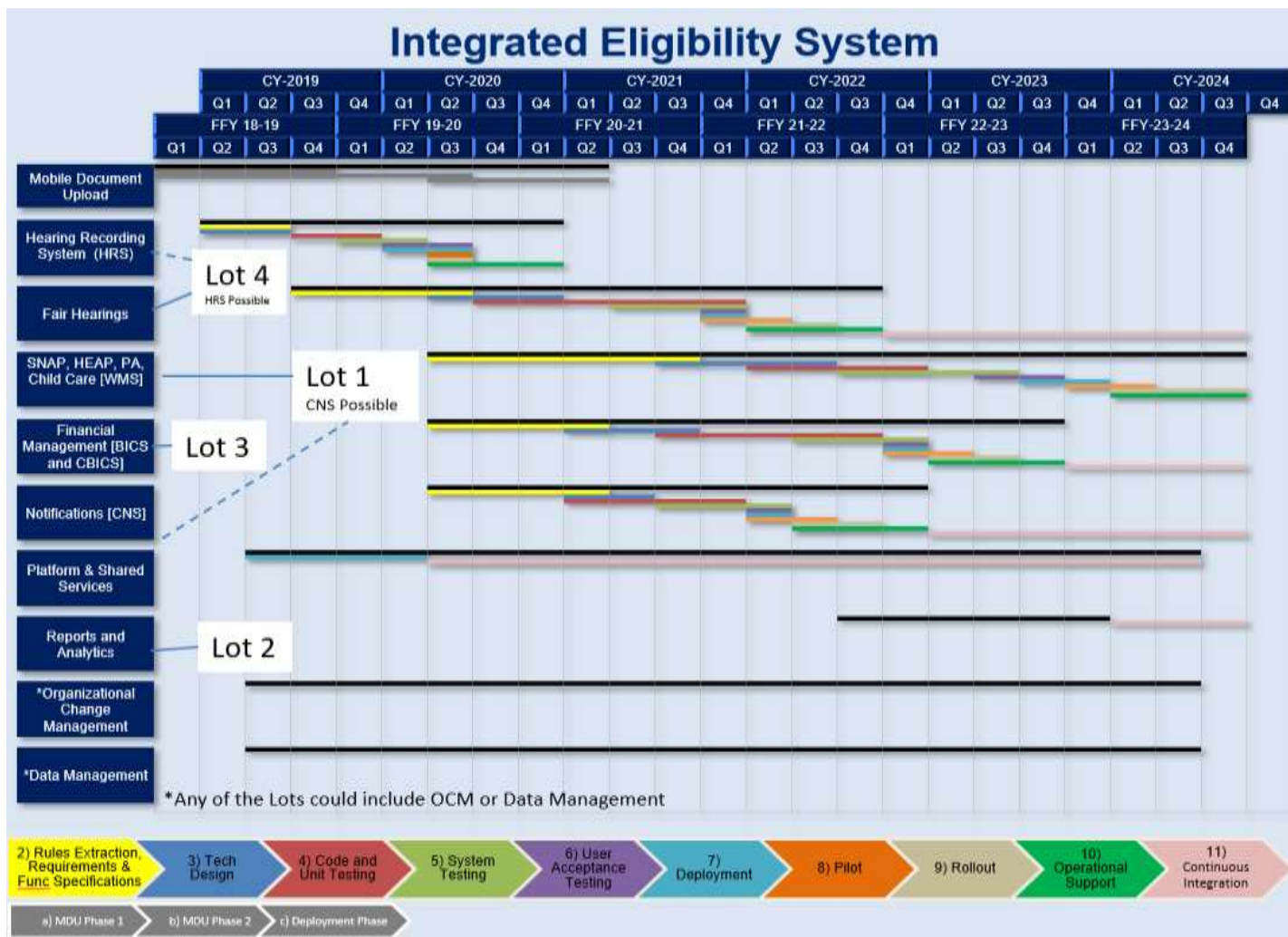
The following provides a general description of the Project Services the State may procure under each Lot in support of the IES Program.

- Lot #1 Eligibility, Enrollment, and Case Management: System Integration Services on the core functionality of the health and human services system(s) of record. Currently planned activities are

highlighted in the graphic below. Contractor support of Federal reviews is included in the scope(s) of work for this Lot.

- Lot #2: Reports and Analytics: System Integration Services for reports and analytics functionality. Currently planned activities are highlighted in the graphic below.
- Lot #3: Financial and Provider Management: System Integration Services for financial management and provider management functionality. Currently planned activities are highlighted in the graphic below.
- Lot #4: Fair Hearings: System Integration Services for fair hearings functionality. Currently planned activities are highlighted in the graphic below.

The workstreams outlined below are the IES Program’s current direction for developing the IES Solution; however, the State reserves the right to create new workstreams or split the workstreams, within the described Lots, as necessary to develop the IES Solution in the best interests of the State. In addition to the envisioned workstreams below, other work in the Lots may be required to accomplish the goals of the State. No new Lots will be created during the term of the contract(s) resulting from this RFP.



Bidders responding to this RFP must have the resources and capacity to be deployed, sometimes on short notice, and deal with diverse stakeholders. Additionally, in cases where a Contractor does not have sufficient resources available in-house to undertake a given Assignment, the Contractor may work with subcontractors to address all aspects of the requested Project Services. It should be noted that any Project Services provided under the Contract will be expected to meet tight timeframes, and to produce deliverables and other work products which will be subject to State review and approval. Documentation must be in an electronic format, to be designated by the State, and shall include, but not be limited to: analyses, tools, templates, presentations, process guides, methodologies, and implementation guidelines.

## **2.2 WORK LOCATION**

The primary work location for all Tier II SOWs will be Albany, NY. Remote work is not permitted unless expressly authorized by the State.

If available, vendor staff's primary work site shall be in State-provided space at 40 North Pearl Street, Albany, or other sites as provided by the State. If State-provided space is not available, a winning Tier II vendor shall, at its sole expense, provide a secure work site for its staff within 15 miles of 40 North Pearl Street, Albany, NY.

## SECTION 3 - ADMINISTRATIVE REQUIREMENTS AND INFORMATION

### 3.1 INQUIRIES FROM BIDDERS

NYS Finance Law §§139-j and 139-k imposes certain restrictions on communication between NYS and Proposers during a procurement. Proposers should submit all RFP inquiries, questions, or comments to [its.sm.bestvalue@its.ny.gov](mailto:its.sm.bestvalue@its.ny.gov) using the Proposer Questions and Extraneous Terms Form (Attachment 4) by the due date indicated on the Calendar of Events. **No other method of inquiries will be accepted.**

Additional information is available at: <https://ogs.ny.gov/ACPL/>

Administrative issues pertaining to sending or receiving email through the designated mailbox may be reported at (518) 473-9341.

### 3.2 CONTRACT TERM

The term of the contract(s) that result from this RFP (“Contract” or “Contracts”) shall be for five (5) years with three (3) one (1) year optional extension periods, which the State may exercise individually or collectively in its sole discretion. Notwithstanding the expiration of the Tier I Contract, individual Assignments may require the Contractor to work beyond that date through the completion of a specific project. In such event, the terms and conditions of the Contract and the associated SOW shall survive expiration of the Contract term and apply until acceptance or rejection by the State.

### 3.3 EXCEPTIONS/DEVIATIONS AND EXTRANEOUS TERMS

Proposals must conform to the terms set forth in the RFP. Extraneous terms or material deviations (including additional, inconsistent, conflicting or alternative terms) may render the Proposal non-responsive and may result in rejection of the Proposal. Extraneous terms submitted on standard, pre-printed forms (including but not limited to: product literature, order forms, license agreements, contracts or other documents) that are attached or referenced with submissions shall not be considered part of the Proposal or resulting Contract but shall be deemed included for informational or promotional purposes only.

Each proposed extraneous term must be specifically enumerated in writing and specify the particular RFP section that Proposer proposes to modify and the reasons why. Any extraneous terms must be submitted during the Question and Answer period as identified in this RFP’s Calendar of Events. Extraneous terms submitted after this time will not be considered.

No extraneous term shall be incorporated into the Contract unless expressly accepted by NYS ITS in writing. Acceptance and/or processing of a Proposal shall not constitute acceptance of extraneous terms.

ITS will not entertain any exceptions to Appendix A - Standard Clauses for New York State Contracts.

### 3.4 COMMUNICATIONS FROM NYS TO VENDORS

NYS ITS has established a procurement website for the purpose of disseminating information relating to this procurement at <https://its.ny.gov/competitive-procurement-opportunities>. Vendors are encouraged to monitor the site.

### 3.5 BUILDING ACCESS PROCEDURES FOR VISITORS AND HAND DELIVERIES

To access the ITS office building, all visitors must present photo identification at the Security Desk and comply with other requirements. Bidders who intend to hand-deliver Proposals or utilize independent courier services should allow extra time to comply with these procedures. Bidders hand-delivering their Proposals should ask the security personnel at the security desk to call the Designated Contact(s) indicated in this RFP or the Procurement and Contracts Support Unit. Building Access procedures may change or be modified at any time. Bidders assume all risks for timely, properly submitted hand deliveries.

### **3.6 LATE SUBMISSIONS**

**All Proposals must be submitted and received by the Proposal submission dates and times specified in this RFP. Proposals received after the Proposal Submission Deadline may be rejected.**

**Faxed and electronic submissions will not be accepted.** If Proposal packaging labels are not sufficient to identify the contents, NYS ITS reserves the right to open packages for the purpose of identifying the source and contents of the package. All materials submitted by the Vendor become the property of the State of New York Office of Information Technology Services and may be returned only at the sole discretion of NYS ITS.

### **3.7 PROPOSAL PREPARATION COSTS**

The State is not liable for any cost incurred by a Bidder in the preparation and production of a Proposal or for any work performed prior to the issuance of and OSC approval of the Contract. Additionally, no cost will be incurred by the State for any prospective Bidder or Bidder's participation in any procurement related activities. The Contractor shall not be reimbursed for the preparation of any Tier II Assignment response(s), invoice or billing statements, or for the correction of any error in previously submitted invoices or billing statements.

### **3.8 DISCLOSURE OF PROPOSAL CONTENTS – FREEDOM OF INFORMATION LAW (“FOIL”)**

#### **NOTICE TO BIDDER'S LEGAL COUNSEL**

All materials submitted by a Bidder in response to the RFP shall become the property of ITS and may be returned to the Bidder at the sole discretion of ITS.

Disclosure by ITS of items related to this RFP shall be permitted consistent with the laws of the State of New York and specifically the NYS Freedom of Information Law (FOIL) contained in Section 87 of the NYS Public Officers Law. ITS shall take reasonable steps to protect from public disclosure any records or portions thereof relating to this Contract that are otherwise exempt from disclosure under that statute. Information constituting trade secrets or critical infrastructure information, for purposes of FOIL, must be clearly marked and identified as such by the Contractor upon submission to ITS.

If the Contractor intends to request an exemption from disclosure under FOIL for trade secret materials or critical infrastructure information, the Contractor shall, at the time of submission, request the exemption in writing and provide an explanation of: (i) why the disclosure of the identified information would cause substantial injury to the competitive position of the Contractor; or (ii) why the information constitutes critical infrastructure information which should be exempted from disclosure pursuant to §87(2) of FOIL. Acceptance of the identified information by ITS does not constitute a determination that the information is exempt from disclosure under FOIL. Determinations as to whether the materials or information may be withheld from disclosure will be made in accordance with FOIL at the time a request for such information is received by ITS. Contractor represents and warrants that it understands that requests to exempt the entirety of Contractor's materials from disclosure under FOIL has generally not been found to be meritorious.

### **3.9 NOTIFICATION OF AWARD AND OPPORTUNITY FOR DEBRIEFING**

The tentative awardee(s) will be advised of selection by ITS through the issuance of a formal written correspondence indicating a proposed award. All Bidders will be notified of the selection, non-selection or rejection of their Proposals. Should ITS and a tentative awardee be unable to reach agreement as to the terms of the Contract within a reasonable time, as determined by ITS, ITS may withdraw the award and proceed to the next highest ranked Bidder.

Once an award has been made, Bidders may submit a written request for a debriefing as to why their Proposal did not result in an award. The written request must be received by the ITS Sole Designated Contact identified on the cover page of this RFP no later than fifteen (15) calendar days from the date of the award announcement. The purpose of the debriefing is to provide information to each Bidder about the scoring and evaluation of the requesting Bidder's Proposal. ITS will not provide Bidders with information about another Bidder's Proposal. This is also an opportunity for a Bidder to learn how to improve future bids.

### **3.10 ITS BID PROTEST POLICY**

The State of New York strives to assure a fair, open and competitive procurement process. To file a Bid Protest, vendors must timely follow the procedures for filing a bid protest set forth in the ITS Bid Protest Policy which can be found at: <https://its.ny.gov/document/bid-protest-policy>.

### **3.11 ITS RESERVATION OF RIGHTS**

In addition to any other rights articulated elsewhere in the RFP, ITS reserves the right to:

- a. Disqualify a Bidder from receiving the award if the Bidder has previously failed to perform satisfactorily in connection with public bidding or contracts.
- b. Correct Bidders' mathematical errors and waive or modify other minor irregularities in Proposals and Responses received, after prior notification to the Bidder.
- c. During the evaluation process, seek clarification information from a Bidder(s) for the purpose of assuring State's full understanding of the Bidder's responsiveness to the RFP and Assignment requirements. This clarification information, if required in writing by ITS, must be submitted in writing in accordance with formats as prescribed by ITS at the time said information is requested and, if received by the due date set forth in the ITS request for clarification, shall be included as a formal part of the Bidder's Proposal or Response, as applicable. Failure to provide required information by its associated due date may result in rejection of the Bidder's Proposal or Response. Bidder(s) may be required to participate in individual presentations to clarify its (their) Proposal(s) or Response(s), as applicable (e.g., Oral Presentation and Interview). Both oral and written clarifications, if any, will be considered in the proposal evaluation process. Nothing in the foregoing shall mean or imply that it is obligatory upon the State to seek or allow clarifications as provided for herein.
- d. Waive any non-material requirement not met by all Bidders or Contractors.
- e. Reject any or all Proposals received in response to this RFP or Responses received in response to Assignments.
- f. Prior to the bid opening, amend the RFP or Assignment specifications to correct errors or oversights, or to supply additional information, as it becomes available.
- g. Disqualify any Bidder or Contractor whose conduct and/or Proposal or Response fails to conform to the requirements of the RFP or Assignment.
- h. Withdraw the RFP or Assignment at any time, at ITS' sole discretion.
- i. Use the following in the course of evaluation and selection under the RFP and subsequent Assignments: (i) Proposals or Responses; (ii) information obtained through the State's investigation of Bidder(s) or Contractor(s), including the Bidder's or Contractor's qualifications, experience and ability; (iii) Bidder's or Contractor's financial standing; (iv) any information pertinent to the evaluation of Proposals or Responses which may be obtained or received by the State; (v) Oral Presentations; (vi) any material or information submitted by the Bidder(s) or Contractor(s) in response to any State requests for clarifying information, if any; and may include (vii) Management Interviews (viii) interviews of any or all of an Bidder's or Contractor's Key Staff; and (ix) Site Visits (Note: Any Site Visits conducted will be used to confirm information provided by the Bidder.).

- j. Modify, correct, and/or clarify stipulated requirements at any time prior to Proposal or Response opening and direct Bidders or Contractors to submit Proposal or Response modifications addressing subsequent RFP or Assignment amendments.
- k. Eliminate requirements unmet by all Bidders or Contractors.
- l. For the purpose of ensuring the completeness and comparability of Proposals or Responses, analyze submissions and make adjustments or normalize submissions in the Proposal(s) or Response(s), including underlying calculations to make level comparisons across Proposals or Responses and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of a Bidder's Proposal or Contractor's Response and/or to determine a Bidder's or Contractor's compliance with the requirements of the RFP or Assignment.
- m. Set aside the original selected Bidder or Contractor if it is subsequently determined by the State that the Bidder or Contractor is non-responsible or non-responsive. ITS may then invite the next highest ranked Bidder or Contractor to enter into negotiations for purposes of executing a Contract or SOW, respectively.
- n. Make an award under the RFP or Assignment in whole or in part.
- o. Change any of the scheduled dates.
- p. Utilize any and all ideas submitted in the RFP Proposals or Assignment Responses received.
- q. Reject illegible, incomplete, or vague Proposals or Responses in ITS' sole discretion.
- r. The State, at its sole discretion, may request Best and Final Offers {BAFO} during the Tier II process.
- s. Waive minor irregularities and/or omissions in Contractor Responses to an Assignment if the State determines the best interests of the State will be served.

### **3.12 PERFORMANCE BOND**

Without additional cost to the State, and as a material condition of the Contract, the Contractor may be required to furnish a written commitment as part of a Tier II Response from a surety company certified and licensed by the State of New York. The bonds required by this section shall be written by companies that have an A.M. Best Company rating of "A-" or better. The commitment must indicate that the Contractor is eligible for issuance of a Performance Bond in the amount as required by the Tier II Assignment of up to Twenty-Five (25) million U.S. dollars by the surety company and that if the Contractor is awarded an Assignment, the surety company will issue the bond in said amount. The written commitment must be valid at all times throughout the term of the SOW (including any extensions). Notice to terminate the commitment must be provided to the State at least ninety (90) days prior to the expiration date of the commitment. In the event of notice of termination or non-extension of the commitment, the Contractor must furnish a replacement written commitment providing the same terms or terms more favorable to the State within thirty (30) days of notice of termination/expiration. The form and the terms of any resulting performance bond shall be subject to review and acceptance by the State.

Within ten (10) business days of receipt of notice of approval by OSC of a Tier II award (i.e., a "SOW"), the awarded Contractor must provide a draft performance bond to the State. Failure to provide the draft performance bond to the State within ten (10) business days of such notice may constitute grounds for termination of the awarded Tier II award for cause. The executed performance bond must be provided to the State within ten (10) business days of the State's written acceptance of the draft performance bond. The State reserves the right to extend the due date for the draft performance bond or executed performance bond based on circumstances the State determines to be reasonable. Failure to provide the final performance bond to the State within the date set may constitute grounds for termination of the Tier II award for cause.



The performance bond must entitle the State to payment on the performance bond for any liability, loss, damage, or expense as a result of the Contractor's failure to perform fully and completely all requirements of the Contract. Such requirements include, but are not limited to, the Contractor's obligation to pay liquidated damages, indemnify the State under circumstances described in the Contract, and the Contractor's obligation to perform the services required by the Contract throughout the entire term of the Contract. The performance bond must provide the State with the right to demand payment on the bond for all or any portion(s) of the value of the performance bond to recover an equal amount for liabilities, losses, damages or expenses incurred by the State as a result of Contractor's nonperformance. The performance bond shall also provide that the financial institution where the drafts are drawn must be either located within New York State or must provide for electronic transfer of such drawings. Partial disbursements on the bond, pursuant to demand by the State, shall not terminate the performance bond, but the balance shall be diminished by any amounts disbursed and the performance bond shall otherwise remain in effect.

## **SECTION 4 - PROPOSAL REQUIREMENTS**

### **4.1 PROPOSAL PREPARATION**

All bids must be machine produced. Bids submitted handwritten in pencil or ink will be disqualified.

### **4.2 PACKAGING OF RFP RESPONSE**

Bidder must submit one (1) original and two (2) electronic copies on PC Compatible Windows USB Thumb-Drives saved as Microsoft Word, Excel and/or Adobe Acrobat formats of each of the Administrative Proposal, Financial Proposal, and Technical Proposal. Each proposal must be submitted in separate, sealed packaging and appropriately labeled. The Administrative and Technical Proposals must contain no information regarding Bidder's Financial Proposal. In the event of any discrepancies between the original and the electronic versions, the original shall govern.

The proposal documents must be submitted by mail, hand delivery, overnight carrier or certified mail in a package showing the following information on the outside:

- Proposer 's complete name and address
- RFP Number – C000540, IES System Integrator Master Service Agreement PROPOSAL ENCLOSED
- Proposal Due Date and Time: (as indicated on page ii- RFP Calendar of Events)

**Failure to complete all information on the proposal envelope and / or packages may necessitate the premature opening of the proposal and may compromise confidentiality.**

### **4.3 GENERAL REQUIREMENTS FOR PROPOSALS**

Each Bidder must hold its offer firm and binding for a period of at least one hundred and eighty (180) days from the Proposal Due Date and Time Deadline date as set forth in the RFP's Calendar of Events. In the event that the Contract is not approved by OSC within the one hundred and eighty (180) day period, the Bidder's offer shall remain firm and binding until the Contract is approved by OSC, unless the Bidder delivers to ITS written notice of withdrawal of its Proposal.

Bidders must submit a complete Proposal response to this RFP that satisfies the requirements set forth below. Failure to do so may render the Bidder's Proposal non-responsive. A Proposal Submission Requirements Checklist is included in this RFP as Attachment 1.

Proposals that make extensive use of color photographs or illustrations, or that include separate brochures or marketing materials and overly elaborate embellishments, are discouraged.

All Proposals submitted in response to this RFP, must be written in the English language with quantities expressed using Arabic numerals and prices/rates presented in United States Dollars (\$ USD).

#### **4.4 PROPOSAL CONTENT AND FORMATTING REQUIREMENTS**

To be considered responsive, the Bidder must submit a complete Proposal that satisfies and addresses all requirements stated in this RFP. (Failure to comply with the formatting requirements herein below may, at ITS' discretion, result in the Proposal being deemed non-responsive and removed from consideration.)

##### **a. Proposal Content**

The Proposal must be organized in three (3) separate parts: (1) Administrative Proposal, (2) Technical Proposal, and (3) Financial Proposal (collectively referred to herein as "Submissions"). A Table of Contents must clearly identify the location of all material within the Submissions by section and page number. All Proposals must be machine produced. Proposals submitted handwritten will be disqualified. Each part must contain the official name of the Bidder, its FEIN, and NYS Vendor ID number, if applicable.

Each part must indicate its content and be labeled, as applicable: ADMINISTRATIVE PROPOSAL, TECHNICAL PROPOSAL, or FINANCIAL PROPOSAL. Bidders must submit a complete response to this RFP in conformance with the format, content, and administrative requirements set forth below. The three (3) packages must contain the information contained in sections 4.5 – Technical Proposal Requirements, 4.6 – Financial Proposal Requirements, and 4.7 Administrative Proposal Requirements. Failure to submit all of the following information may render the Bidder's Proposal non-responsive. Minor omissions deemed not critical may be corrected at the sole discretion of the State.

In order for the State to evaluate Proposals fairly and completely, Bidders must follow the format set forth herein and must provide all of the information requested. Failure to conform to the stated requirements may necessitate rejection of the Proposal.

Proposers are encouraged to include all information that may be deemed pertinent to their proposal. Proposers may be requested to provide clarification based on the State's evaluation procedure. Any clarification will be considered a formal part of the Proposer's original proposal. If further clarification is needed during the evaluation period, ITS will contact the Proposer.

Note: ITS reserves the right to request any additional information deemed necessary to ensure that the Proposer is able to fulfill the requirements of the contract.

##### **b. Formatting Requirements**

The Administrative Proposal, Technical Proposal, and Financial Proposal each must comply with the following formatting requirements:

- 1 Binding of Proposal: The Administrative, Technical, and Financial Proposals must be separately bound. The official name of the organization(s) as well as the name and number of the RFP must appear on the outside front cover of each copy of the Bidder's Administrative, Technical, and Financial Proposal. If the Proposals are submitted in loose-leaf binders, the official name(s) of the organization(s) as well as the name and number of the RFP must appear on the spine of the binders;
- 2 Table of Contents: Each Proposal must include a table of contents;
- 3 Index Tabs: Each major section of the Proposal and each exhibit/attachment/appendix must be labeled with an index tab that completely identifies the title of the section, or exhibit, attachment, or appendix as named in the table of contents; and

- 4 Pagination: Each page of each of the three (3) parts of the Bidder's Proposal, must be numbered consecutively from its beginning through all appended material.

#### **4.5 TECHNICAL PROPOSAL REQUIREMENTS**

**\*\*DO NOT INCLUDE ANY COST DATA IN THE TECHNICAL PROPOSAL\*\***

The Bidder's Technical Proposal should contain responses to all of the following sections as set forth below (i.e., Section 4.5.1 through Section 4.5.10) in the formats as specified and, as applicable, using the forms set forth in RFP, Attachments 1, 7, 16, 17, and 18.

The Technical Proposal must contain the following information, in the order enumerated below:

##### **4.5.1 Proposal Submission Requirements Checklist (Attachment 1)**

The Proposal Submission Requirements Checklist (Attachment 1) shall be completed and signed and submitted with the technical proposal.

##### **4.5.2 Firm Offer Letter & Conflict of Interest (Attachment 7)**

The firm offer letter (Attachment 7) must confirm that the proposer understands all the terms and conditions contained in this RFP and will comply with all the provisions of this RFP. Further, should the contract be awarded to your company, you would be prepared to begin services upon OSC approval. The firm offer letter must include the full contact information of the person(s) ITS shall contact regarding the bid and must also include the name(s) of principal(s) of the company responsible for this contract, their function, and title. A Proposer Representative authorized to make contractual obligations must sign the cover letter

##### **4.5.3 Organizational Overview (Executive Summary) (Attachment 16, Part 1)**

The Bidder must possess the administrative and organizational capacity, experience and expertise to provide the required Project Services as set forth in the RFP and the administrative structure to oversee the billing, payment, and processing of invoices to ITS for work performed under the Contract. To demonstrate that it meets or exceeds these requirements, at this part of its Technical Proposal, the Bidder must submit Attachment 16, Part 1 – Organizational Overview (executive Summary), not to exceed five (5) pages that includes:

- (1) The name and address of the Bidder's main and branch offices and the name of the senior officer who will be responsible for this account;
- (2) A statement indicating for which Lot(s) the Bidder meets or exceeds the associated minimum bidder qualifications and for which Lot(s) it is submitting a Proposal for the State's consideration.
- (3) A concise description of the Bidder's understanding of the requirements presented in the RFP, ITS' needs, approach, and how the Bidder can assist ITS in accomplishing its objectives. The description provided should demonstrate the Bidder's understanding of (1) the scope of work included in the RFP, and (2) the effort, skills and processes necessary to successfully complete the software development services detailed in this RFP while adhering to the system development lifecycle (SDLC) prescribed by the State using State-defined tools, methodologies, and technologies and operating on a State-owned and operated platform.
- (4) A succinct statement outlining corporate/business history including a general mission statement, the overall number of employees per position, and other general information about the Bidder.
- (5) A description of the activities the Bidder is proposing to undertake to begin providing services to ITS if selected in response to a Tier II Assignment.
- (6) A statement specifying its agreement to and, as applicable, explain how it will:
  - a. Maintain an adequate organizational structure and resources sufficient to discharge its contractual responsibilities including monitoring Contract activities, deliverables, invoicing, billing, and personnel issues.

- b. Provide for normal day-to-day communications and maintain a Contractor Sole Point of Contact (Engagement Executive) for proper communication and performance of all contractual responsibilities.
- c. Substitute any employee whose continued presence would be detrimental to the success of the State's efforts with an employee of equal or better qualifications.
- d. Cooperate fully with the State's staff, advisors, and any other contractors and/or subcontractors who may be engaged by the State relative to the Project Services.

#### **4.5.4 Minimum Bidder Qualifications (Attachment 16, Part 2)**

Per RFP Section 1.3, Bidders must meet the general minimum qualifications and the Lot specific minimum qualification(s) of the Lot(s) for which they are submitting a Proposal. To evidence that the Bidder meets said qualifications, the Bidder must complete and submit Part 2 of Attachment 16 entitled, "Minimum Bidder Qualifications."

Failure to meet the Minimum Bidder Qualifications set forth in Attachment 16, Part 2 - Minimum Bidder Qualifications, will result in the Proposal being deemed non-responsive and eliminated from further consideration. The Minimum Bidder Qualifications section will be scored on a Pass/Fail basis.

Depending on the Lot or Lots for which they are submitting Proposals, Bidders must meet the Lot-specific Minimum Bidder Qualifications to be deemed qualified to respond to that/those particular Lot/Lots. Failure to meet a given Lot's Minimum Bidder Qualifications will disqualify and eliminate the Bidder from further consideration for that Lot's services. The Lot-specific Minimum Bidder Qualifications section will be scored on a Pass/Fail basis.

Bidders should list as many projects as needed to meet the Minimum Bidder Qualifications. Additional projects in excess of the Minimum Bidder Qualifications should not be listed under Part 2 of Attachment 16 but can be discussed in Part 5 of Attachment 16, entitled "Bidder Experience."

#### **4.5.5 Project Overview (Attachment 16, Part 3)**

In this section of the Attachment 16, Part 3 – Project Overview, Bidders should demonstrate their competence and capacity to provide systems integration services, inclusive of design, development, and implementation, testing and defect resolution, knowledge transfer and cross-training of State technical staff, and tier 2-4 help desk support for all Lots bid. The Project Overview should include a narrative describing the project approach and provide information regarding how the Bidder will fulfill the services set forth in Section 2.1 of the RFP

Specifically, the Bidder should outline the factors that it believes are critical to the success of system integration projects. Responses should indicate how the bidder will be able to have their work product (deliverables) and tasks incorporated into the state's overall deliverables and SDLC. The Bidder should describe its experience in successfully addressing the following critical factors in other similar engagements, highlighting unique experiences, skills, or abilities the Bidder would bring to the engagement that differentiate it from other Bidders and that would maximize the likelihood of a successful outcome for Assignments. At a minimum, the Bidder must address the following:

1. Bidder's ability to have their workplan and product for any award incorporated into the State's master plan;
2. Bidder's approach to adhering to a system development lifecycle (SDLC) as prescribed by the State using State-defined tools, methodologies, and technologies and operating on a State-owned and operated platform;
3. Bidder's ability to work in a multi-vendor environment with the State and with other vendors performing IES-related work on various modules awarded through the RFP, other solicitation instruments, or separate project teams being managed by State resources;

4. Bidder's ability to manage and mitigate Bidder, or client, identified risk(s); and
5. Bidder's approach to scope, schedule, cost, and quality management, including ability to maintain strict adherence to budget.

The Project Overview will be scored based on how the Bidder addresses both its approach to the project and the critical factors listed above. This part of the Bidder's Technical Proposal must not exceed twenty (20) pages.

#### **4.5.6 Contractor's Engagement Executive (Attachment 16, Part 4)**

Attachment 16, Part 4 – Contractor's Engagement Executive will be evaluated and scored in accordance with section 5.1.3 of the RFP. However, this part of Bidder's Technical Proposal will not be scored if the minimum thresholds/qualifications identified below are not met. The Bidder must specify the individual it is proposing to serve as the Contractor's Sole Point of Contact during the term of the Contract, i.e., the Engagement Executive. This Part 4, including the Profile Table and reference, is not to exceed five (5) pages. During the term of the Contract no substitute shall be appointed by the Contractor without the prior written approval of ITS. Such individual will not be reassigned for any reason without the express written approval of ITS. Should a replacement Engagement Executive be needed, Contractor shall replace such individual with an individual of comparable background and experience, subject to prior written approval of ITS. The Contractor's Engagement Executive shall not be a direct billable service.

To receive a score above zero for this section, the Engagement Executive must meet or exceed the following thresholds/qualifications: ten (10) years' experience in system integration projects, with five (5) of those years serving in a leading role in multiple system integration projects for governmental entities which includes a state, quasi-state, local, or Federal agency. An ideal Engagement Executive has:

- experience in the health and human services field;
- extensive development, design, and implementation (DDI) experience on large complex projects;
- experience on a leadership team of a large operational IT organization.

In addition to completing the Profile table, the Bidder should supply a letter of reference for the Engagement Executive. The reference letter should be one of the engagements listed in the profile and include the name, address, and contact information of the client for whom the proposed individual provided services on behalf of the Bidder similar to those expected of the Engagement Executive position. (Note: The reference letter will not be separately scored but will be used to confirm information in the Bidder's proposal.) Further, the Bidder should discuss the Engagement Executive's availability to meet with ITS staff in Albany, NY.

#### **4.5.7 Bidder Experience (Attachment 16, part 5)**

In Attachment 16, Part 5 – Bidder Experience, the Bidder should provide details on previous engagements that would demonstrate the Bidder's ability to complete projects within the scope of this RFP. Bidders should demonstrate this through a description of their prior experience highlighting their ability to take direction, incorporate client direction and checkpoints into their planning, responsiveness to project management and oversight and controls, familiarity working with an SDLC defined by a client, and experience working on or leading a subset of project activities without being responsible for overall delivery, among other experience that the Bidder believes relevant. Project Engagements should be used to describe the Bidder's experience being a prime contractor responsible for providing software development services, which includes/included design, development, and implementation, inclusive of testing and defect resolution, for an IT project. The table(s) may include projects used to meet the Minimum Bidder Qualifications but should include *all* projects that the Bidder believes are relevant to demonstrate its experience in providing the services requested in this RFP as it could relate to the IES program and differentiate Bidder from other bidders. Please note that public sector experience is preferred. If the Bidder's Proposal covers more than one Lot, the Bidder should indicate which Lot the experience is related to while providing the Lot-specific information indicated. Additionally, there should be experience/engagement details for each Lot the Bidder includes in its Proposal. Bidders should include a

discussion of how the Bidder's approach to engagements has been successful with clients in the past associated with the Lot(s) for which it is bidding. Bidders deemed qualified to bid on a Lot will be evaluated and scored based on its/their collective experience (each engagement will not be scored separately). Evaluations will examine Lot specific experience and other aspects of the engagement(s) as reflected in the table(s) from Attachment 16.

This part of the Bidder's Technical Proposal must not exceed five (5) pages per table.

#### **4.5.8 Project Staffing (Attachment 16, Part 6)**

ITS expects that Contractors will identify and propose staff with skill sets and experience specific to each Assignment. The names and qualifications of proposed staff members will be submitted and evaluated as part of any Response. Within its response to this RFP, the Bidder, in Attachment 16, Part 6 – Project Staffing, must address the following, not to exceed twenty (20) pages:

1. The Bidder's overall organizational capacity and skills development processes for ensuring success in general;
2. The Bidder's ability to manage appropriate levels of staffing on a project, including the removal and replacement of specific staff;
3. The Bidder's organizational capacity and skills development processes specifically regarding the job titles listed in Appendix L to fill, and as necessary replace, individuals on projects; and
4. An explanation of the how the Bidder handles knowledge transfer and transition continuously on a long-term project and indicate whether or not its proposed approach to handle knowledge transfer and/or transition will differ from how it currently handles those factors should the Bidder be awarded a contract resulting from this RFP.

The Bidder will be scored based upon its responses to the above criteria.

#### **4.5.9 Key Subcontractor Information (Attachment 17)**

- (1) Corporate/Business Background of Subcontractor - At this part of its Technical Proposal the Bidder must identify all Key Subcontractors, if any, that the Bidder will be subcontracting with to provide Project Services using Attachment 17- Key Subcontractor Information.

If the Bidder will not be subcontracting with any Key Subcontractor(s) to provide Project Services, the Bidder should provide a statement to that affect at this part of its Technical Proposal.

- (2) History Working with Proposed Subcontractor - If subcontractors are part of the Bidder's Proposal, engagement descriptions may include engagements conducted by the subcontractor(s). The description of Bidder's prior experience shall include information about its history working with the proposed subcontractors (e.g., nature of relationship, number of engagements worked together, duration of engagements, budget of engagement, percent split between the Bidder/subcontractor).

**(Note: Key Subcontractors proposed by a Bidder, if any, will not be separately scored)**

#### **4.5.10 Bidder References (Attachment 18)**

For each Lot covered by the Bidder's Proposal, the Bidder must provide at least one but not more than three (3) client experience(s) (i.e., active project or an engagement concluded within the past year) (hereinafter "Bidder Reference") in the format specified herein. Bidder References must be signed by the client and should reflect the Bidder's ability to provide services of similar scope, size, and complexity to the Lot for which the reference is being provided.

**(Note: bidder references will not be separately evaluated and scored but will be used to confirm information in Bidder's Proposal.)**

#### 4.6 FINANCIAL PROPOSAL REQUIREMENTS

The Bidder must respond to all sections of the Financial Proposal in the format specified in the Pricing Schedule as contained in Attachment 19 – Financial Proposal. The Financial Proposal must be furnished in hard copy, with electronic version in Microsoft Word, Microsoft Excel, Microsoft Project, Visio or Adobe Acrobat, as applicable. In the event of a discrepancy between the hard copy and electronic copy, the hard copy shall govern.

(Note: In Tier II, the awarded Contractors in a Lot will, as a component of their Responses, present a cost quotation that is deliverable-based that includes the: proposed hourly rates for the Assignment which are not to exceed the rates in Contractor's Financial Proposal (Attachment 19); estimated hours; and total Not-to-Exceed deliverable amounts for each deliverable component of an Assignment and the Assignment in total. The State will compensate the Contractor up to but not greater than that deliverable's Not to-Exceed deliverable amount, with fifteen percent (15%) of each deliverable withheld until State-defined acceptance threshold criteria of the entire Assignment are met. Invoices should be submitted as described in each Assignment and Appendix C.)

Attachment 19 – Financial Proposal must be completed in its entirety according to the following instructions:

- Bidders are instructed to utilize the job titles as listed and described in Appendix L even if they are not consistent with the Bidder's existing job titles.
- The Financial Proposal must include the hourly rate (U.S. dollars) for each title listed in Attachment 19. A dollar rate of zero is **not acceptable**.
- All hourly rates must be presented as a fixed dollar amount. Rates as quoted should be expressed in decimals, not to exceed two places for each item.
- Submit only one rate for each job title; a range of hourly rates is **not acceptable**. **Do not leave blanks or fail to provide a rate for each title in the given lot you are bidding on.**

The Bidder must certify that their proposed, not-to-exceed hourly rates cover all services required in this RFP. **The proposed rates must be inclusive of all direct and indirect costs, fees, profit and all overhead expenses, including, but not limited to, all training, travel costs, parking fees, and other ancillary fees and costs including permits, licenses, and insurance and any necessary office space within 15 miles of 40 North Pear Street, Albany, NY.**

#### 4.7 ADMINISTRATIVE PROPOSAL REQUIREMENTS

**\*\*DO NOT INCLUDE ANY COST DATA IN THE ADMINISTRATIVE PROPOSAL\*\***

The Bidder's Administrative Proposal must contain responses to all documents described in RFP, Attachment 1. The Bidder's Administrative Proposal must be furnished in hard copy, with electronic versions in Microsoft Word, Microsoft Excel, Microsoft Project, Visio or Adobe Acrobat, as applicable. In the event of a discrepancy, the hard copy shall govern. Failure to use the documents provided may result in the Bidder's Proposal being deemed non-responsive.

### SECTION 5 - EVALUATION METHODOLOGY

ITS will evaluate Bidders' Proposals (Tier I) and Contractors' Responses to Assignments using the evaluation methods, procedures, and criteria contained in this Section 5. Pursuant to Article XI of the State Finance Law, the basis for award, both for Tier I and Tier II, shall be on a Best Value basis. ITS, at its sole discretion, will determine which Proposals best satisfy its requirements. ITS reserves all rights with respect to the awards.

All Proposals deemed to be responsive to the requirements of this RFP will be evaluated and scored for technical qualities and cost. Proposals failing to meet the requirements of this RFP may be eliminated from consideration. All responsive and responsible Bidders' Proposals will be evaluated for all of the

requirements specified in this RFP, in accordance with the evaluation criteria set forth below. The evaluation process will include separate technical and financial evaluations. Upon review of Proposals submitted by Bidders, ITS may, at its discretion, submit to a Bidder(s) written questions and requests for clarification relating to its/their Technical, Administrative, and/or Financial Proposals. Bidders will be provided a reasonable period of time in which to submit written responses to ITS' requests for clarification. Other than to provide clarifying information as may be requested by ITS, no Bidder will be allowed to alter its Proposal or add information.

The Tier I award of the contract(s) resulting from this RFP will be made, on a per Lot basis, to those qualified Bidder(s) whose Proposal(s) is/are determined to provide the "Best Value" to the State as described in RFP, Section 5.1 below. Tier II awards of Contractors' responses to Assignments will also be made on the basis of Best Value as described in RFP, Section 5.2. In regard to Tier I contract award, **thirty percent (30%)** of the overall award will be based on the Bidder's Financial Proposal and **seventy percent (70%)** of the overall award will be based on the Bidder's Technical Proposal. In regard to Assignment awards, **thirty percent (30%)** of the overall award will be based on the Bidder's Financial Proposal and **seventy percent (70%)** of the overall award will be based on the Bidder's Technical Proposal. "Best Value" means the basis for awarding Contracts/Assignments to a responsible and responsive Bidder(s)/Contractor(s) whose offer optimizes quality, cost and efficiency, and which is consistent with the best interests of NYS.

## 5.1 TIER I EVALUATION/SELECTION PROCESS

Initially, Contractors will be selected as a result of the Tier I evaluation/selection processes described below. All Proposals will be evaluated based on the criteria listed in this Section 5.1. ITS evaluates Proposals for goods and services in an objective, comprehensive manner designed to benefit both the State and participating Bidders. Through this process ITS identifies vendors who will best meet its needs and will be cost-effective. ITS further intends that all Proposals will be evaluated uniformly and consistently, ensuring Bidders that each has an equal opportunity to be considered. The Technical and Financial evaluations referenced herein will be conducted separately from one another to ensure that the Bidders' Technical Proposals are evaluated on their merits before consideration of financial data.

ITS intends to make up to eight (8) Tier I contract awards for Lot #1 and up to five (5) Tier I contract awards for each of Lots #2, 3 and 4, as a result of this RFP. However, the State may, at its sole discretion and in the best interest of the State, award additional contracts to responsive and responsible vendors whose combined Technical and Financial scores are within 10% of the highest scoring awarded vendor.

Proposals received in response to this RFP will be subject to the following evaluation process:

### 5.1.1 Proposal Completeness Review

After the Proposal opening, each Proposal will be screened for completeness and conformance with the RFP submission requirements. Proposals that are materially deficient in meeting the RFP submission requirements or have omitted material documents, may be deemed, in the sole opinion of ITS, non-responsive and removed from further consideration, and the Bidder notified accordingly. Proposals that pass will proceed to the Technical Evaluation.

### 5.1.2 Minimum Qualifications Evaluation

Proposals submitted by Bidders will be evaluated, on a per Lot Pass/Fail basis to determine whether they satisfy the RFP's Minimum Bidder Qualifications. Proposals that fail to meet these minimum qualifications will be deemed non-responsive, will not be further evaluated, and the Bidder will be notified accordingly. Passing Proposals next proceed to the Technical and Financial Evaluations. Bidders may still be disqualified if it is later determined that the Bidder did not meet all of the RFP minimum qualifications and should not have qualified to move on to the Technical and Financial Evaluations stage. Please see Attachment 16, Part 2- Minimum Bidder Qualifications.



### 5.1.3 Technical Proposal Evaluation

The Technical Proposals of those Bidders who pass the above Pass/Fail screenings will be evaluated and scored on a per Lot basis, based on their content, responsiveness to the requirements, including the Bidder's organizational overview, project overview, contractor's Engagement Executive, Bidder's experience, and project staffing. Please note the Technical Proposal consists of the submissions required in Section 4.5 of this RFP, including Attachment 1, Attachment 7, Attachment 16 (parts 1, 3, 4, 5, and 6), Attachment 17, and Attachment 18. Attachment 16 (parts 1, 3, 4, 5, and 6) will be scored during the technical evaluation. For each Lot, the Technical Proposal will be weighted at **70%** of the overall total. A Technical Evaluation Team will independently score each Technical Proposal. Evaluation team members will score Technical Proposals, on a per Lot basis, to identify Bidders with the highest probability of satisfactorily providing the Project Services as described in this RFP. Individual member scores will be averaged to calculate a technical score for each responsive Bidder. Evaluations will be based on the Bidder's demonstration of its ability to provide the services required through its Technical Proposal. Considering the above criteria, ITS may review and check Bidder and/or staff references provided in Attachment 18. Evaluation team members may re-evaluate any technical scores as a result of these reference checks.

### 5.1.4 Financial Proposal Evaluation

The Financial Proposals (Attachment 19 - Financial Proposal) of those Bidders who pass the above Pass/Fail screenings will be evaluated by ITS. ITS will examine the Financial Proposal documents and review them for responsiveness to the financial requirements. If a Financial Proposal is found to be non-responsive, that Proposal will be eliminated from consideration. All complete, responsive Financial Proposals will receive a financial score on a per Lot basis.

Financial Proposals will be evaluated on a pre-determined formula using the Bidders' proposed Not-to-Exceed hourly rates. The maximum score (30 points) per Lot will be allocated to the Proposal with the lowest cost and all other Proposals will receive a proportionate score to the Proposal with the lowest cost, according to the following formula:

Financial Proposal points awarded for each Lot = 30 potential points x (Lowest Calculated Bid Amount/ Calculated Bid Amount of Proposal being Scored)

### 5.1.5 Administrative Proposal Evaluation

No points awarded to the Administrative Proposal.

### 5.1.6 Final Composite Score

On a per Lot basis, a final composite score will be calculated by adding the Technical Proposal score to the Financial Proposal score. For each Lot, the Proposals will be ranked based on the combined scores. ITS intends to make up to eight (8) Tier I contract awards for Lot #1 and up to five (5) Tier I contract awards for each of Lots #2, 3 and 4, as a result of this RFP. However, the State may, at its sole discretion and in the best interest of the State, award additional contracts to responsive and responsible vendors whose combined Technical and Financial scores are within 10% of the highest scoring awarded vendor these awards will be tentative, subject to successful contract negotiations and approval by the AG and OSC. If it is subsequently determined by the State that one or more of the successful Bidders is non-responsible, ITS may then invite the next highest ranked, qualified Bidder to enter into negotiations for purposes of executing a Contract.

Those Bidders receiving the same final composite score will receive the same initial ranking. In the event of ties among the Bidders, the Financial Proposals of the tied Bidders will be ranked and the rank order will be revised to include those Bidders consistent with the rank of their Financial Proposals. If the Financial Proposal ranking does not resolve the tie(s), ITS reserves the right to select the winner at its sole discretion or make award to all of the tied Bidders pursuant to State Finance Law Section 163 (10)(a).

## 5.2 TIER II EVALUATION/SELECTION PROCESS

The process described herein this Section 5.2 of this RFP will be used by ITS after Bidders receive awards through the Tier I evaluation process (Contractors), and ITS determines that Project Services are required for a given Lot. Through the Tier II process, ITS will send an Assignment to all of the Contractors in the applicable Lot.

The Assignment is the process by which the State will select a Contractor from a Lot to perform actual work assignments/projects. The specific scope, schedule and cost of individual projects will be determined on a project-by-project basis. In Assignments, the State will work to define the scope of projects as well as the evaluation criteria. Any hourly costs proposed in Responses must not exceed the hourly rates established through the Tier I process.

In the unlikely event the State requires the Contractor to provide software licenses for COTS components of the IES Solution for instances where a COTS component is necessary to address unforeseen integration issues, those licenses will be requested in the individual Assignment(s) and their cost must be included in the Contractor's Tier II Financial Proposal. Contractor's will not be permitted to charge the State more than a 5% markup on their cost for software licenses.

The Tier II process will require quick turnaround from the pool of Contractors. To expedite any such procurement, the State will utilize electronic means to the fullest extent. The following steps will be taken:

1. All Contractors selected during Tier I will be notified of proposed Assignments through the issuance of an Assignment for the Lot(s) in which they were awarded a Contract.
2. The Assignment will define the particulars of the project: its scope, duration, and deliverables requested.
3. The specifics of the Tier II evaluation will be outlined in the Assignment. For all Assignment awards, 70% of the overall award will be based on the technical proposal and 30% of the overall award will be based on the financial proposal.
4. Responses will be emailed to the Designated Contacts, as identified in the Assignment. Hard copy follow-up is required with originally signed financial proposal pages and other applicable documentation.
5. Contractors susceptible to award may be invited for interviews prior to final selection.
6. The successful Contractor for an Assignment will be notified by email, as will those Contractors not selected.

The Assignment document will include:

- Background information
- Scope of work including required (and possibly optional additional) tasks and deliverables
- Restrictions on Contractors (if any)
- Project Term
- Format of the technical proposal component of the Response which may include, but not be limited to:
  - Approach, Work plan, and Timeline
  - Firm Experience
  - Staff Qualifications
- Format of the financial proposal component of the Response
- Format of the administrative proposal component of the Response which may include but not be limited to:
  - Procurement Lobbying Form

- Vendor Responsibility Questionnaire
- General evaluation criteria consisting of a technical component and cost component.
- Instructions on submitting inquiries
- Response Submission Instructions
- Contractual Requirements

### **5.2.1 Pass/Fail Screening**

Responses will be screened on a pass/fail basis for timeliness, completeness, and conformance with the Assignment's submission requirements stated in the Assignment. Responses that do not pass this Pass/Fail screening may be deemed non-responsive and removed from further consideration. Responses that do pass this Pass/Fail screening will then proceed to technical and financial evaluations described below. However, should ITS later determine that the Response should not have qualified to move on to the technical and financial evaluations stage, the Response will be deemed non-responsive and removed from consideration; the Contractor will be notified accordingly.

### **5.2.2 Technical Evaluation**

The technical proposal will be evaluated based on the information provided by the Contractor in its Response and will be weighted at 70% of the overall total. A Technical Evaluation Team will independently score each Response's Technical Proposal. Evaluation team members will score Technical Proposals to identify Contractors with the highest probability of satisfactorily providing the Project Services as described in the Assignment. Individual member scores will be averaged to calculate a technical score for each responsive Contractor. Evaluations will be based on the Contractor's demonstration of its ability to provide the Project Services as described in the Assignment.

### **5.2.3 Financial Evaluation**

Contractors, when responding to an Assignment will not be permitted to quote or charge rates higher than the "Not to Exceed" hourly rates as quoted in the Contractor's Tier I Proposal. On a Tier II project-by-project basis, Contractors may, however, propose hourly rates for a position(s) that are lower than the "Not to Exceed" hourly rates for the position as quoted in the Contractor's Tier I Proposal. As with the "Not-to-Exceed" hourly rates, quoted hourly rates must cover all Project Services required of an Assignment and must be inclusive of all direct and indirect costs, fees, profit and all overhead expenses, including, but not limited to, all training, travel costs, parking fees, and other ancillary fees and costs including permits, licenses, insurance necessary office space within 15 miles of 40 North Pearl Street, Albany, NY. The State reserves the right to request Best and Final pricing from any and all Contractors.

The rates quoted by the Contractor in its Response to an Assignment shall be the sole and exclusive rates chargeable to and payable by the State for the associated Project Services. Invoicing for Project Services must be in accordance with Contractor's Response quoted hourly rates and for actual hours worked.

The Financial Proposal component of Responses will be evaluated based on a pre-determined formula. The maximum score (30 points) will be allocated to the Response with the lowest cost and all other Responses will receive a proportionate score to the Response with the lowest cost, according to the following formula:

Cost Score points awarded = 30 potential points x (Lowest Assignment Response Quoted Amount / Assignment Response Quoted Amount of Contractor Response being Scored)

### **5.2.4 Final Ranking**

The results of the Technical and Financial Evaluations will be combined to calculate a Total Combined Score for each Response. Contractors' Responses will then be placed in rank order and award will be made to that Contractor whose Response ranks highest. In the instance of a tie, the financial proposal

ranking shall determine the winner. If the financial proposal ranking does not resolve the tie(s), ITS reserves to right to select the winner at its sole discretion pursuant to State Finance Law Section 163(10)(a).

**5.2.5 Tier II Awards**

1. The anticipated award date for an Assignment shall be included in each Assignment. A letter of intent to award will be emailed to the successful Contractor. Unsuccessful Contractors will also be notified upon the selection of the Contractor. Consistent with the New York State Procurement Guidelines, Contractors not selected for award may, after notice of non-selection, request a debriefing to discuss the evaluation of their Response.
2. The selected Contractor for each Assignment will execute a Statement of Work (SOW) containing elements of the Assignment, selected Response, and any negotiated modifications that do not constitute a material change as determined by ITS. All SOWs will be subject to the same terms and conditions of the Tier I Contract. Any Response that attempts to alter the terms or conditions of the Contractor's Contract will be rejected.
3. A SOW resulting from any Tier II Assignment will be held by ITS, with participating agency(ies) as co-signatories.
4. In the event an agreed upon SOW cannot be made with the highest rated qualified Contractor for any Assignment, ITS has the right to negotiate with the next highest rated qualified Contractor.
5. Tier II Assignment awards are subject to approval from the Office of the State Comptroller. The selections will not be final until approved by the Office of the State Comptroller.

APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

PLEASE RETAIN THIS DOCUMENT  
FOR FUTURE REFERENCE.

TABLE OF CONTENTS

	<b>Page</b>
<b>1. Executory Clause</b>	<b>3</b>
<b>2. Non-Assignment Clause</b>	<b>3</b>
<b>3. Comptroller's Approval</b>	<b>3</b>
<b>4. Workers' Compensation Benefits</b>	<b>3</b>
<b>5. Non-Discrimination Requirements</b>	<b>3</b>
<b>6. Wage and Hours Provisions</b>	<b>3-4</b>
<b>7. Non-Collusive Bidding Certification</b>	<b>4</b>
<b>8. International Boycott Prohibition</b>	<b>4</b>
<b>9. Set-Off Rights</b>	<b>4</b>
<b>10. Records</b>	<b>4</b>
<b>11. Identifying Information and Privacy Notification</b>	<b>4</b>
<b>12. Equal Employment Opportunities For Minorities and Women</b>	<b>4-5</b>
<b>13. Conflicting Terms</b>	<b>5</b>
<b>14. Governing Law</b>	<b>5</b>
<b>15. Late Payment</b>	<b>5</b>
<b>16. No Arbitration</b>	<b>5</b>
<b>17. Service of Process</b>	<b>5</b>
<b>18. Prohibition on Purchase of Tropical Hardwoods</b>	<b>5-6</b>
<b>19. MacBride Fair Employment Principles</b>	<b>6</b>
<b>20. Omnibus Procurement Act of 1992</b>	<b>6</b>
<b>21. Reciprocity and Sanctions Provisions</b>	<b>6</b>
<b>22. Compliance with Breach Notification and Data Security Laws</b>	<b>6</b>
<b>23. Compliance with Consultant Disclosure Law</b>	<b>6</b>
<b>24. Procurement Lobbying</b>	<b>7</b>
<b>25. Certification of Registration to Collect Sales and Compensating Use Tax by Certain State Contractors, Affiliates and Subcontractors</b>	<b>7</b>
<b>26. Iran Divestment Act</b>	<b>7</b>
<b>27. Admissibility of Contract</b>	<b>7</b>

## STANDARD CLAUSES FOR NYS CONTRACTS

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

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

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

**3. COMPTROLLER'S APPROVAL.** In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$25,000, 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 § 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, nor subject any individual to harassment, because of age, race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status or because the individual has opposed any practices forbidden under the Human Rights Law or has filed a complaint, testified, or assisted in any proceeding under the Human Rights Law. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

**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 (2 NYCRR § 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 Part 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of



\$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

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

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

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

Contractor will include the provisions of "a," "b," and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this clause. The

contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

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

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

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

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

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

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

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by

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

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

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

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

NYS Department of Economic Development  
Division for Small Business  
Albany, New York 12245  
Telephone: 518-292-5100  
Fax: 518-292-5884  
email: [opa@esd.ny.gov](mailto: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](mailto:mwbecertification@esd.ny.gov)  
<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>

The Omnibus Procurement Act of 1992 (Chapter 844 of the Laws of 1992, codified in State Finance Law § 139-i and Public Authorities Law § 2879(3)(n)-(p)) requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority- and

women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

**21. RECIPROCITY AND SANCTIONS PROVISIONS.** Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively, codified in State Finance Law § 165(6) and Public Authorities Law § 2879(5)) require that they be denied contracts which they would otherwise obtain. NOTE: As of October 2019, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii.

**22. COMPLIANCE WITH BREACH NOTIFICATION AND DATA SECURITY LAWS.** Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law § 899-aa and State Technology Law § 208) and commencing March 21, 2020 shall also comply with General Business Law § 899-bb.

**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 §§ 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law §§ 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

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

**26. IRAN DIVESTMENT ACT.** By entering into this Agreement, Contractor certifies in accordance with State Finance Law § 165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at: <https://ogs.ny.gov/list-entities-determined-be-non-responsive-biddersofferers-pursuant-nys-iran-divestment-act-2012>

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

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

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

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

Appendix C – ITS Terms and Conditions

**TABLE OF CONTENTS**

**CONTENTS**

**TERMS AND CONDITIONS ..... 3**

1. MODIFICATION OF CONTRACT ..... 3

2. EXECUTORY PROVISION/CONTRACT FORMATION ..... 3

3. INTEGRATION, MERGER, AND ORDER OF PRECEDENCE ..... 3

4. CONTRACTOR RESPONSIBILITIES, QUALIFICATIONS, AND CHANGE IN STATUS ..... 3

5. INDEPENDENT CONTRACTOR..... 5

6. CONTRACTOR PERSONNEL..... 5

7. BACKGROUND CHECKS ..... 6

8. EMPLOYMENT REPORTING REQUIREMENTS ..... 6

9. COOPERATION WITH THIRD PARTIES ..... 6

10. COOPERATION WITH INVESTIGATIONS, AUDITS, AND LEGAL PROCEEDINGS ..... 7

11. WORK OUTSIDE THE SCOPE OF THE CONTRACT ..... 7

12. PERFORMANCE MONITORING /NOTICE OF CIRCUMSTANCES EXPECTED TO ADVERSELY AFFECT CONTRACTOR’S PERFORMANCE..... 7

13. NOTICE ..... 7

14. COMPENSATION/PAYMENT FOR SERVICES, BILLING, AND PRICING ..... 7

15. ELECTRONIC PAYMENT REQUIREMENT ..... 9

16. WARRANTIES AND GUARANTEES ..... 9

17. INDEMNIFICATION AND LIMITATION OF LIABILITY ..... 10

18. FEDERAL FUNDING AND OPERATING CLAUSES ..... 12

19. SUSPENSION OF WORK ..... 15

20. TERMINATION ..... 15

21. TRANSITION..... 16

22. CONTRACTOR RESPONSIBILITY IN THE EVENT OF AN EMERGENCY ..... 17

23. FORCE MAJEURE ..... 18

24. DISPUTE RESOLUTION ..... 18

25. GENERAL PROVISION AS TO REMEDIES ..... 18

26. RESERVED, PLEASE SEE SECTION 18.8

27. INSURANCE ..... 18

28. TAXES ..... 18

29. OUTSTANDING TAX LIABILITIES ..... 19

30. CONTRACTOR REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED MINORITY AND WOMEN OWNED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN..... 19

31. ETHICS COMPLIANCE ..... 24

32. CONFLICTS OF INTEREST ..... 24

33. MOST FAVORABLE TERMS ..... 25

34. TRANSFER OF CONTRACT..... 25

35. SUBCONTRACTORS ..... 25

36. WAIVER ..... 25

**Appendix C – ITS Terms and Conditions**

---

37.	ACCESSIBILITY.....	26
38.	SEVERABILITY .....	26
39.	PIGGYBACKING & USE BY OTHER STATE AGENCIES.....	26
40.	BID LIABILITY AND LATE SUBMISSIONS.....	27
41.	BID VALIDITY .....	27
42.	ACCURACY OF BIDS .....	27
43.	PRIME BIDDERS, SUB CONTRACTORS AND CONTRACTOR OBLIGATIONS .....	27
44.	STATE FINANCE LAW SECTION 139-I REQUIREMENT FOR CONTRACTS OF \$1,000,000 OR MORE .....	28
45.	SUMMARY OF POLICY AND PROHIBITIONS ON PROCUREMENT LOBBYING .....	28
46.	NEW YORK STATE VENDOR FILE REGISTRATION.....	28
47.	NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE FOR PROFIT BUSINESS ENTITY .	29
48.	USE OF SERVICE-DISABLED VETERAN-OWNED BUSINESS ENTERPRISES IN CONTRACT PERFORMANCE .....	29
49.	EMPLOYEE INFORMATION REQUIRED TO BE REPORTED FOR CERTAIN CONSULTANT CONTRACTORS AND SERVICE CONTRACTORS .....	32
50.	OWNERSHIP/TITLE TO DELIVERABLES .....	34
51.	NONDISCLOSURE & CONFIDENTIALITY .....	34
52.	INFORMATION RELEASES.....	38
53.	BREACHES OF NYS CONFIDENTIAL INFORMATION .....	40
54.	DATA TRANSPARENCY, ACCESSIBILITY, MIGRATION, AND DESTRUCTION AT END OF CONTRACT .....	43
55.	AUDITS OF CONTRACTOR’S SECURITY CONTROLS.....	44
56.	ACCEPTANCE OF DELIVERABLES/MILESTONE .....	45
57.	SUPPLEMENTAL TERMS SPECIFIC TO THE USE OF ANY CLOUD SERVICES .....	45
58.	SERVICE LEVEL AGREEMENT .....	56

Appendix C – ITS Terms and Conditions

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## **TERMS AND CONDITIONS**

The Procurement, the Bidder's Proposal, and the contract award that results from this Requests for Proposals ("RFP") are subject to and incorporate the following terms and conditions.

### **1. MODIFICATION OF CONTRACT**

The State reserves the right to renegotiate the terms and conditions of the Contract in the event that applicable New York State or federal laws, statutes, rules, regulations, policies, and/or guidelines are altered from those existing at the time the Contract is approved by the Comptroller in order to ensure continuous compliance therewith. The Contract is subject to amendment only upon mutual consent of the parties, reduced to writing and, if applicable, approved by the State's Attorney General and Comptroller. Contractor warrants that it will comply with all laws, ordinances, rules, and regulations.

### **2. EXECUTORY PROVISION/CONTRACT FORMATION**

The State Finance Law of the State of New York ("SFL"), Section 112, requires that certain contracts entered into by a State Agency must first be approved by OSC before becoming effective. If applicable, the Parties recognize that the Contract is wholly executory until approved by OSC.

### **3. INTEGRATION, MERGER, AND ORDER OF PRECEDENCE**

The Contract shall be comprised solely of the following documents. In the event of an inconsistency or conflict in terms, precedence shall be given in the order indicated:

- i. Appendix A -Standard Clauses for New York State Contracts;
- ii. The Tier II Statement of Work ("SOW"), setting forth the final terms between the selected Contractor and the State for Tier II Assignments, inclusive of the Tier II Assignments and the Contractor's Response to said Assignments;
- iii. Any Amendments to the Contract;
- iv. The Contract and clarifying documents, if any, setting forth the final agreements, clarifications, and terms between the Request for Proposal and Contractor's Proposal;
- v. This Appendix C;
- vi. ITS Request for Proposals, RFP No. C000540, entitled "IES System Integrator Master Services Agreements" and all its appendices, attachments, exhibits, and any and all modifications and/or clarifications thereto; and
- vii. The Contractor's Proposal in response to the RFP

Only those documents expressly indicated above shall be deemed a part of the Contract, and references contained in those documents to additional Contractor documents not referenced above, shall be of no force and effect.

All prior agreements, representations, statements, negotiations, and undertakings between the parties are superseded.

The terms, provisions, representations, and warranties contained in the Contract shall survive performance hereunder.

### **4. CONTRACTOR RESPONSIBILITIES, QUALIFICATIONS, AND CHANGE IN STATUS**

#### **4.1 Responsibilities**

## Appendix C – ITS Terms and Conditions

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The Contractor is responsible for providing Project Services in accordance with the specifications set forth in the SOW and for meeting all Contract obligations set forth therein and in the Contract and any subsequent amendments mutually agreed to in writing by the Parties. Contractor is also responsible for all services, functions, processes and responsibilities, whether or not specifically described in the SOW/Contract, which are required, implied, or inherent for all services provided therein the SOW and hereunder in the Contract to be performed in a workmanlike manner.

### **4.2 Qualifications**

Contractor acknowledges that the Contract is being entered into by the State in reliance on Contractor's Proposal and its representations concerning the particular qualifications, experience, management, and technical expertise of the Contractor and its personnel, and the pricing for same.

### **4.3 Substantial Change in Contractor Status**

Throughout the Contract term and any extensions, in addition to the requirements of SFL § 138 (requiring the State's approval of subcontractors and assignments and/or conveyances), the Contractor shall notify the State of any substantial change, as defined below, in the ownership or financial viability of the Contractor, its Affiliates, subsidiaries or divisions, or partners. Such notice, and details of any such change, shall be provided in writing immediately when such is first known by Contractor, its Affiliates, subsidiaries or divisions, or subcontractors.

"Substantial change" shall refer to sales, acquisitions, mergers or takeovers involving the Contractor, its Affiliates, subsidiaries or divisions, or partners that result in a change in the controlling ownership or assets of such entity after the submission of the Proposal; entry of an order for relief under Title 11 of the United States Code; the making of a general assignment for the benefit of creditors; the appointment of a receiver of Contractor's business or property or that of its Affiliates, subsidiaries or divisions, or partners; or action by Contractor, its Affiliates, subsidiaries or divisions, or partners under any State insolvency or similar law for the purposes of its bankruptcy, reorganization, or liquidation; or court ordered liquidation against Contractor, its Affiliates, subsidiaries or divisions, or partners.

Upon the State's receipt of such notice, the State shall have thirty (30) business days from the date of notice to review the information. The Contractor may not transfer the Contract to or among Affiliates, subsidiaries or divisions, or partners, or to any other person or entity, without the express written consent of the State. In addition to any other remedies available at law or equity, the State shall have the right to cancel the Contract, in whole or in part, for cause if it finds, in its sole judgment, that such substantial change adversely affects the delivery of engagement Project Services or is otherwise not in the best interests of the State.

### **4.4 Vendor Responsibility - General**

Contractor shall continue to be a responsible Bidder, within the meaning of the SFL, relevant case law and applicable guidelines, throughout the term of the Contract and any extensions. The Contractor agrees to present evidence of its continuing legal authority to do business in the State, integrity, experience, ability, prior performance, and organizational and financial capacity, if requested by the State. Upon request by the State, Contractor shall update the information provided in the Vendor Responsibility Questionnaire submitted with its Proposal within ten (10) business days of such request.

### **4.5 Suspension of Work for Non-Responsibility**

The State reserves the right to suspend any or all activities under the Contract, at any time, when it discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the State issues a written notice authorizing a resumption of performance under the Contract.

### **4.6 Termination for Non-Responsibility**

Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate ITS officials or staff, the Contract may be terminated by the State, at the Contractor's expense, where the

**Appendix C – ITS Terms and Conditions**

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Contractor is determined by the State to be Non-Responsible. In such event, the State may complete the contractual requirements in any manner the State may deem advisable and pursue available legal or equitable remedies for breach.

**5. INDEPENDENT CONTRACTOR**

Contractor is an Independent Contractor, and its officers, employees, subcontractors and agents shall act in such an independent capacity and not as officers or employees of the State in the performance of the Contract. They are not employees of the State and are not entitled to any of the benefits associated with such employment. The Contractor agrees, during the term of the Contract, to maintain at Contractor's expense those benefits to which its employees would otherwise be entitled by law, including health benefits, and all necessary insurance for its employees, including worker's compensation, disability and unemployment insurance, and to provide the State with certification of such insurance upon request. Contractor remains liable and solely responsible without exemption for social security, unemployment insurance, workers' compensation and other taxes and obligations to which Contractor may be subject to by law.

**6. CONTRACTOR PERSONNEL**

Contractor staff assigned to work on a Tier II Assignment shall be subject to approval by ITS, after consultation with the IES Program Office. It is highly desirable that staff assigned to work on a particular Tier II Assignment continue to work on the Assignment until its completion.

All Contractor's officers and employees, subcontractors, or agents performing work under the Contract/SOW must meet or exceed the technical and training qualifications set forth in the RFP or the Proposal, whichever is higher, and must comply with all security and administrative requirements of ITS. All employees of the Contractor, or of its subcontractors, who shall perform Project Services under the Contract, shall possess the necessary qualifications, training, licenses, and permits as may be required within the jurisdiction where the Project Services specified are to be provided or performed, and shall be legally entitled to work in such jurisdiction. The Contractor shall be fully responsible for performance of work by and conduct of its staff and subcontractor's staff. ITS may refuse access to or require replacement of any Contractor employee that ITS determines poses a security risk, has a work performance that ITS finds inadequate or unacceptable, or otherwise fails to meet ITS business requirements or expectations.

For reasons of safety and public policy, the use of illegal drugs and/or alcoholic beverages by the Contractor or its agents, employees, partners or subcontractors shall not be permitted while performing any phase of the work herein specified.

The State shall not be liable for any expense incurred by the Contractor or its agents, employees, partners or subcontractors for any parking or towing fees or as a consequence of any traffic infraction or parking violations attributable to Contractor or its agents, employees, partners or subcontractors.

The Contractor shall notify ITS immediately of any proposed changes in staff assigned to work on a Tier II Assignment. ITS has the sole discretion to approve or disapprove any proposed changes in staff. The State, in each instance, will be provided with a summary of experience of the proposed substitute and an opportunity to interview that person, prior to giving its approval or disapproval; approval shall not be unreasonably withheld. The substitute must have the skills, experience and expertise which is comparable to or better than that of the person they will replace, and will be provided at the same or a lower hourly rate.

Notwithstanding the provision of Section 14 of this Appendix C and as required by this RFP, the Contractor shall assign an Engagement Executive to serve as the Contractor's Sole Point of Contact during the term of the Contract. The Engagement Executive shall serve as the Contractor's representative and the State's prime contact with regard to all provisions of the Contract/SOW, including certifying the accuracy of all Contractor invoices prior to their submission to the State, including Consultant travel reimbursement related invoices, if any. During the term of the Contract/SOW no substitute shall be appointed by the Contractor



**Appendix C – ITS Terms and Conditions**

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without the prior written approval of the State. The Engagement Executive will not be reassigned for any reason without the express written approval of ITS. Should a replacement Engagement Executive be needed, Contractor shall replace such individual with an individual of comparable background and experience, subject to prior written approval of ITS. The Contractor's Engagement Executive position shall not be a direct billable service when the individual performing the services associated with that role is acting in that capacity.

**7. BACKGROUND CHECKS**

All Contractor Staff shall, prior to the commencement of any Project Services, whether on or off-site, comply with all State onboarding and security clearance requirements, including training, required for access to State Data or required for access to State facilities. This includes requirements related to the access of Regulated Data (See Appendix G), including any requirements of the Public Safety agencies, and those related to the Federal Bureau of Investigation Criminal Justice Information Services (CJIS) Security Policy (<http://www.fbi.gov/about-us/cjis/cjis-security-policy-resource-center>).

Contractor agrees that its workers performing services on-site at State Facilities or those with logical access to State Data (i.e. log-in access) shall be required to undergo the same security clearances as those required of ITS employees. If not physically or virtually escorted, each prospective and current worker of Contractor designated to work under the Contract/SOW with ITS shall submit identifying information to the State and be fingerprinted. ITS shall arrange for the scheduling of fingerprinting.

Such fingerprints shall be submitted to the NYS Division of Criminal Justice Services for a state criminal history record check and, where authorized, to the Federal Bureau of Investigation for a national criminal history record check.

All expenses, including travel and lodging, associated with the onboarding and security clearance process including fingerprinting of Contractor Staff are the responsibility of the Contractor and are not reimbursable.

The State shall make all suitability determinations on Contractor staff. For purposes of this Section, a "suitability determination" is a determination that there are reasonable grounds to believe that an individual will likely be able to perform the Contract requirements without undue risk to the interests of the State. Failure of a security clearance or non-compliance with this Section will disqualify any Contractor staff, from performing any Project Services on the Contract. If any Contractor staff are removed from providing Project Services under the resulting Contract, they may be subject to all onboarding and security clearance requirements if they are returned to performing Project Services under the Contract.

**8. EMPLOYMENT REPORTING REQUIREMENTS**

To the extent that this is a consulting services contract as described in §163(14)(d) of the SFL, Contractor shall comply with all ITS requests and requirements related to reporting under §163(4)(g) of the SFL. Furthermore, all subcontracts entered into by Contractor for purposes of performing the Contract shall contain a provision whereby subcontractors agree to comply with ITS requests and requirements related to reporting under §163(4)(g) of the SFL. Reports and forms filed by Contractor pursuant to this section shall be available for public inspection and copying under the provisions of the Freedom of Information Law ("FOIL").

**9. COOPERATION WITH THIRD PARTIES**

ITS reserves the right to employ other consultants and contractors in connection with its responsibilities and functions. Upon the request of the State, the Contractor shall be responsible for fully cooperating with any third party, including but not limited to other contractors or subcontractors of the State, relating to the delivery or coordination of Project Services.

Appendix C – ITS Terms and Conditions

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**10. COOPERATION WITH INVESTIGATIONS, AUDITS, AND LEGAL PROCEEDINGS**

Upon the request of ITS, the Contractor shall cooperate with the State in any investigation, audit, or other inquiry related to the Procurement or the Contract or any litigation relating thereto, at no cost to ITS or the State. This provision shall survive the termination of the Contract.

**11. WORK OUTSIDE THE SCOPE OF THE CONTRACT**

The Contractor must not perform work outside the scope of the Contract, unless such work is authorized by a properly executed written amendment to the Contract, and, if applicable, such amendment is approved by the Comptroller. Any work not so authorized will not be compensated.

**12. PERFORMANCE MONITORING /NOTICE OF CIRCUMSTANCES EXPECTED TO ADVERSELY AFFECT CONTRACTOR’S PERFORMANCE**

The Contractor’s performance will be assessed by ITS according to the achievement of Contractor’s contractual obligations in a timely and professional manner, as set forth herein. ITS will utilize progress reports and periodic meetings to ensure that Tier II Assignments are carried out on a timely basis and results in effective work products.

The Contractor shall immediately notify ITS upon learning of any situation that can reasonably be expected to adversely affect the delivery of Project Services under the Contract. If such notification is verbal, the Contractor shall follow such initial verbal notice with a written notice to ITS which shall include a description of the situation and a recommendation of a resolution within three (3) calendar days of Contractor’s becoming aware of the situation.

**13. NOTICE**

All notices given pursuant to this Contract shall be in writing and shall be validly given when mailed by registered or certified mail, or hand delivered. Such notices shall be addressed as set forth below, or to such different addresses as the parties may from time-to-time specify by written notice to the other Party. The Parties agree to mutually designate individuals as their respective representatives for purposes of this Contract.

For the NYS Office of Information Technology Services:

Procurement and Contract Support Unit  
NYS Office of Information Technology Services  
Empire State Plaza, PO Box 2062  
Albany, NY 12220-0062

For Contractor:

[Name]  
[Title]  
[Street Address]  
[City, State, Zip code]  
Telephone Number: ( )

Additional individuals may be designated, in writing, by the Parties for purposes of communications related to administration/billing, problem resolution, and/or for dispute resolution.

**14. COMPENSATION/PAYMENT FOR SERVICES, BILLING, AND PRICING**

The Contractor’s rates for Project Services rendered under the Contract shall not exceed the “Not-to-Exceed” Hourly Rates as contained in the Contractor’s Financial Proposal.

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**Appendix C – ITS Terms and Conditions**

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It is important to note, any “Best-and-Final” Hourly Rates proposed by the Contractor in a Tier II Assignment response must not exceed the “Not-to-Exceed” Hourly Rates established through the Tier I process. The Contractor may, however, propose rates lower than those contained in its Financial Proposal in response to a Tier II Assignment. Should the Contractor respond with “Best-and-Final” Hourly Rates that are lower than the associated “Not-to-Exceed” Hourly Rates for the associated job title(s), the proposed lower rates will prevail for that specific Tier II Assignment and become the billable rates that the Contractor must submit on an invoice if awarded that Tier II Assignment.

In accordance with the provisions set forth in the Tier II Assignment solicitation request and the resultant SOW, Project Services will be billable upon the completion and the State’s acceptance of the Deliverable(s)/Milestone(s), defined in a Tier II Assignment. The State will withhold fifteen percent (15%) of each invoice submitted upon acceptance of a Deliverable/Milestone. The State will release the withheld payments along the following schedule:

- 1) Release of thirty percent (30%) of the withheld payment for resolution of all critical defects prior to Go-Live, if applicable, FNS Go Decision, and CMS approval of the Operational Milestone;
- 2) Release of twenty percent (20%) of the withheld payment for resolution of all new critical defects within a timeframe established in the Tier II Assignment, but up to within six (6) months, of Go-Live;
- 3) Release of twenty-five percent (25%) of the withheld payment for State approval and, if applicable, CMS approval of Post-Operational Milestone;
- 4) Release of fifteen percent (15%) of the withheld payment for resolution of all new critical defects within a timeframe established in the Tier II Assignment, but up to within twelve (12) months, of Go-Live; and
- 5) Release of ten percent (10%) of the withheld payment for resolution of all new critical defects within a timeframe established in the Tier II Assignment, but up to within eighteen (18) months, of Go-Live.

The Contractor shall not be reimbursed for the preparation of any Tier II response, invoices or billing statements, or for the correction of any error in previously submitted invoices or billing statements.

This Contract establishes the Contractor as one firm in a pool of qualified systems integration firms. This Contract does not represent a commitment by the ITS that the Contractor will be subsequently selected at the Tier II stage to provide any Project services.

OSC shall render payment for invoices under the Contract in accordance with ordinary State procedures and practices. The Contractor’s Engagement Executive shall certify the accuracy of all Contractor invoices prior to their submission to the State including Consultant travel reimbursement related invoices, if any. Timeliness of payment and any interest to be paid to Contractor for late payment are governed by Article XI-A of the State Finance Law.

Submission of an invoice and payment thereof shall not preclude ITS from reimbursement or demanding a price adjustment in any case where the Project Services, as delivered, are found to deviate from the terms and conditions of the Contract/SOW.

The Contractor’s “Not-to- Exceed” Hourly Rates and each individual Consultant’s “Best and Final” Hourly Rates shall remain fixed during the first year of the Contract Term. The Contractor’s “Not-to-Exceed” Hourly Rates” and a Consultant’s “Best and Final” Hourly Rates may be adjusted once annually thereafter in accordance with the methodology outlined below. The Contractor may be granted an increase in their hourly rates, dependent upon fluctuations in CPI-U (Consumer Price Index – All Urban Consumers), as published by the U.S. Department of Labor, Bureau of Labor Statistics, Washington, D.C. 20212. Any annual increase in hourly rates shall be the lesser of (a) a cap at 3%; or (b) a cap at the CPI-U (Consumer Price Index – All Urban Consumers) for the preceding twelve-month period that is published by the U.S. Department of Labor’s Bureau of Labor Statistics on or about 90 days prior to the anniversary date of OSC’s approval of the Contract.

**Appendix C – ITS Terms and Conditions**

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The Contractor has the sole responsibility to request, in writing, hourly rate(s) adjustment. This request must be received at the below address within three months of the “base month”. The ‘base’ month for determining adjustments will be the third month prior to the start date of the Contract. For example, if the Contract is awarded in September 2018, the ‘base’ month will be June. The base month is fixed and will not be adjusted year to year. The adjustments will be based on the difference in the base month CPI for each applicable year and will become effective in the anniversary month. As long as the request is submitted and received within the required time frame, the adjustment will be processed using the base month CPI. Once approved or rejected, the Contractor will be notified in writing. Contractor shall not submit revised invoices until such notification, at which point an invoice may be submitted for any retroactive difference owed.

Requests must be sent to:

NYS Office of Information Technology Services  
Procurement and Contract Support Unit  
Empire State Plaza  
P.O. Box 2062  
Albany, NY 12220-2062

Should the Contractor fail to submit their request, to the proper location, within three months of the applicable base month date, Contractor shall be deemed to have waived their right to any increase in hourly rates.

**15. ELECTRONIC PAYMENT REQUIREMENT**

Contractor shall provide complete and accurate billing invoices to ITS in order to be eligible for payment. Billing invoices submitted to ITS must contain all information and supporting documentation required by the Contract/SOW, ITS, and the Comptroller. Payment for invoices submitted by the Contractor shall be rendered electronically, unless payment by paper check is expressly authorized by ITS, in its sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. The Contractor shall comply with the Comptroller’s procedures to authorize electronic payments. Authorization forms are available at the Comptroller’s website at [www.osc.state.ny.us/epay/index.htm](http://www.osc.state.ny.us/epay/index.htm), by e-mail at [ePayments@osc.state.ny.us](mailto:ePayments@osc.state.ny.us), or by telephone at 518-474-4032. Contractor acknowledges that it will not be eligible for payment on any invoices submitted under this Contract if it does not comply with the Comptroller’s electronic payment procedures, except where ITS has expressly authorized payment by paper checks as set forth above.

**16. WARRANTIES AND GUARANTEES**

Where Contractor generally offers additional or more advantageous warranties than set forth in the Contract, Contractor shall offer or pass through any such warranties to the State.

**16.1 Contract Deliverables**

Contractor warrants and represents that the Project Services required by the RFP and the Contract/SOW shall be performed or provided in accordance with all the terms and conditions, covenants, statements, and representations contained in the Contract/SOW. The Contractor warrants that it will perform Project Services in good faith, in a professional manner in accordance with applicable professional standards, and that the Project Services will conform in all material respects to the description of such Project Services set forth herein and in the SOW. The Contractor warrants that it will correct, at no charge to ITS or the State, Project Services which fail to meet applicable professional standards and which result in obvious or patent errors in the progression of its work during the applicable warranty period.

**16.2 Compliance with laws**

**Appendix C – ITS Terms and Conditions**

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Contractor warrants and represents that, throughout the term of the Contract and any extensions, Contractor shall meet or exceed all requirements of the Contract and any applicable laws, including but not limited to those related to insurance, and agrees to provide such proof as required by ITS.

Contractor warrants and represents that, throughout the term of the Contract and any extensions, and in the performance of obligations under the Contract, it will: (i) comply with all applicable laws, ordinances, rules and regulations of any governmental entity; (ii) pay, at its sole expense, all applicable permits, licenses, tariffs, tolls and fees; and (iii) give all notices required by any laws, ordinances, rules, and regulations of any governmental entity. Failure to do so may constitute grounds for ITS to terminate or suspend the Contract, in whole or in part, or to take any other action deemed necessary by ITS.

**16.3 Workmanship Warranty**

Contractor warrants and represents that all components or Deliverables specified and furnished by or through Contractor under the Contract shall meet or substantially conform to the acceptance criteria set forth in the Contract/SOW and that Project Services will be provided in a professional and workmanlike manner in accordance with the highest applicable industry standards. Substantial conformance criteria shall be as set forth in a specific SOW. Failure to do so may result in the State finding that Contractor is in default of its Contract obligations. For purposes of this Contract, "highest applicable industry standards" shall be defined as the degree of care, skill, efficiency, and diligence that a prudent person possessing technical expertise in the subject area and acting in a like capacity would exercise in similar circumstances.

**16.4 Personnel Eligible for Employment**

Contractor warrants and represents that all personnel performing Project Services under this Contract are eligible for employment in the United States and shall remain so throughout the term of the Contract and any extensions. Contractor shall provide such proof of compliance as is required by ITS.

**16.5 Service Guarantee**

Contractor's failure to satisfy performance standards or requirements set forth herein may result in a credit or chargeback in an amount pre-determined by the Parties. The Chargeback shall be paid to ITS in the form of a credit to ITS against the Contractor's invoice submitted to ITS immediately following the month in which the Contractor failed to satisfy the standard or requirement.

**16.6 Survival of Warranties**

All warranties contained in the Contract shall survive the termination of the Contract.

**16.7 Limitations**

THE WARRANTIES SET FORTH IN THE CONTRACT ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

**17. INDEMNIFICATION AND LIMITATION OF LIABILITY**

**17.1 Indemnification**

Neither Party shall be liable for any delay or failure in performance resulting from a force majeure event. The Parties shall use all reasonable efforts to eliminate or minimize the effect of such events upon performance of their respective duties under the Contract.

Contractor shall be fully liable for the actions of its agents, employees, partners, or subcontractors, if any, and shall fully indemnify and save harmless the State and ITS from suits, actions, damages, and costs of every name and description relating to personal injury and damage to real or personal property caused by Contractor, its agents, employees, partners, or subcontractors, if any, without

## Appendix C – ITS Terms and Conditions

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limitation; provided however, that the Contractor shall not indemnify for that portion of any claim, loss, or damage arising hereunder due to the negligent act or negligent failure to act of the State.

Contractor shall indemnify and hold the State harmless from any loss or damage to the State resulting from the violation by the Contractor, its agents, officers, employees, partners and subcontractors of State and ITS security procedures or policies resulting from any criminal acts committed by Contractor's officers, agents, employees, and subcontractors while providing Project Services under the Contract.

The State shall give Contractor: (i) prompt written notice of any action, claim, or threat of suit, (ii) the opportunity to take over, settle or defend such action, claim or suit at Contractor's sole expense; and (iii) assistance in the defense of any such action at the expense of Contractor.

This section is not subject to the limitation of liability provisions of the Contract.

### **17.2 Indemnification for Intellectual Property Infringement**

Contractor shall indemnify, defend, and hold the State harmless, without limitation, from and against any and all damages, expenses (including reasonable attorneys' fees), claims, judgments, liabilities, and costs which may be finally assessed against the State in any action for infringement of a United States Letter Patent with respect to the Products furnished, or of any copyright, trademark, trade secret, or other third-party proprietary right in relation to the Products furnished or utilized, provided that the State shall give Contractor: (i) prompt written notice of any action, claim, or threat of infringement suit, or other suit, (ii) the opportunity to take over, settle or defend such action, claim or suit at Contractor's sole expense; and (iii) assistance in the defense of any such action at the expense of Contractor. Where a dispute or claim arises relative to a real or anticipated infringement, the State may require Contractor, at its sole expense, to submit such information and documentation, including formal patent attorney opinions, as the State or ITS shall require. This paragraph shall not apply to that portion of any infringement claim which: (i) results from a material modification by ITS, without Contractor's approval, of any Product provided by Contractor pursuant to the Contract; (ii) ITS' failure to use corrections or enhancements to an infringing Product made available by Contractor that resolves the infringement; or (iii) information, direction, specification, or materials created by ITS and provided to a third-party.

If a Product is determined to be infringing, or Contractor suspects a Product may be infringing, Contractor will, at its expense, and with the State's prior written approval, either: (i) procure the right for the State to continue using the Product; (ii) replace the Product with a non-infringing equivalent; (iii) modify the Product to make it non-infringing; or (iv) direct the return of the Product and refund any monies paid by the State for the Product. These remedies shall be in addition to, not exclusive, of any other rights or remedies the State may have at law or equity.

### **17.3 Limitation of Liability**

For all other claims against the Contractor where liability is not otherwise set forth in the Contract as being "without limitation," and regardless of the basis on which the claim is made, Contractor's liability under the Contract for direct damages shall be limited to the greater of the following: (i) \$1,000,000 (One Million Dollars); or (ii) two (2) times the amounts paid to the Contractor under the Contract during the twelve (12) months of the contract term which precedes the giving of notice of the claim by the State. For this purpose, amounts paid shall include, but not be limited to, payments made electronically, by check, by offset, or by the application of credits from the Contractor to the State. Unless otherwise specifically enumerated herein, neither Party shall be liable to the other for special, indirect, or consequential damages, including lost data or records (unless the Contractor is required to back-up the data or records as part of the work), even if the Party has been advised of the possibility of such damages. Neither Party shall be liable for lost profits, lost revenue, or lost institutional operating savings.

### **17.4 Additional Remedies**

**Appendix C – ITS Terms and Conditions**

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The State may, in addition to other remedies at law or equity, and upon notice to the Contractor, retain such monies from amounts due Contractor as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against the State.

**17.5 No Indemnification by the State**

The State does not agree to any indemnification provisions that require the State to indemnify or save harmless Contractor or third parties.

**18. FEDERAL FUNDING AND OPERATING CLAUSES**

**18.1 Federal Funding**

To the extent that any of the goods or services provided under this Contract may be funded in whole or in part by federal funds, Contractor agrees to comply with all applicable federal laws, rules and regulations required for the receipt and/or expenditure of such funds, including, but not limited to 2 CFR Part 200, relating to procurements by States and any federal laws, rules and regulations specifying federal government intellectual property rights.

**18.2 IES Governing Laws, Rules, and Regulations**

The Project Services rendered by the Contractor must comply with the applicable provisions of Title IV-D of the Social Security Act and Farm Bill, the implementing regulations at 42 CFR 433, 7 CFR 277.18(h), and those laws, rules, and regulations set forth in Table 53 of the FNS Handbook 901, dated January 2019, as amended from time to time by the applicable Federal Agency. The regulations, as amended, and guidelines to these regulations applicable to implementing and operating eligibility and enrollment systems are to be considered part of the Contract.

Systems and modules developed, installed, or improved with 90 percent match must include documentation of components and procedures such that the systems could be operated by a variety of contractors or other users.

**18.3 Debarment and Suspension**

The Contractor agrees to comply with the provisions of this Section as set forth below:

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110.

The applicant (i.e., "Offeror") certifies that, as of the date of its Proposal submission, it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
2. Have not within a three-year period preceding the date of its Proposal submission been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
4. Have not within a three-year period preceding the date of its Proposal submission had one or more public transactions (federal, state, or local) terminated for cause or default.

Where the Offeror is unable to certify to any of the statements in this certification, he or she shall attach an explanation to its Proposal.

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**Appendix C – ITS Terms and Conditions**

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**18.4 Anti-Lobbying Act**

The Contractor agrees to comply with the provisions of this section as set forth below:

The Anti-Lobbying Act prohibits the recipients of federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative branches of the federal government in connection with a specific contract, grant, or loan. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the applicant (i.e., "Offeror") certifies that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement;
2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form – LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-grants, contracts under grants and cooperative agreements, and subcontracts) and that all sub-recipients shall certify and disclose accordingly.

**18.5 Clean Air Act**

The Contractor agrees to comply with the provisions of this section, stipulations contained in The Clean Air Act, Section 306, as set forth below:

1. No federal agency may enter into any contract with any person who is convicted of any offense under section 113(c) for the procurement of goods, materials, and services to perform such contract at any facility at which the violation which gave rise to such conviction occurred if such facility is owned, leased, or supervised by such person. The prohibition in the preceding sentence shall continue until the Administrator certifies that the condition giving rise to such a conviction has been corrected. For convictions arising under section 113(c)(2), the condition giving rise to the conviction also shall be considered to include any substantive violation of this Act associated with the violation of 113(c)(2). The Administrator may extend this prohibition to other facilities owned or operated by the convicted person.
2. The Administrator shall establish procedures to provide all federal agencies with the notification necessary for the purposes of subsection (a).
3. In order to implement the purposes and policy of this Act to protect and enhance the quality of the Nation's air, the President shall, not more than 180 days after enactment of the Clean Air Act Amendments of 1970 cause to be issued an order (1) requiring each federal agency authorized to enter into contracts and each federal agency which is empowered to extend federal assistance by way of grant, loan, or contract to effectuate the purpose and policy of this Act in such contracting or assistance activities, and (2) setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement.
4. The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States and he shall notify the Congress of such exemption.



Appendix C – ITS Terms and Conditions

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5. The President shall annually report to the Congress on measures taken toward implementing the purpose and intent of this section, including but not limited to the progress and problems associated with implementation of this section. [42 U.S.C. 7606]

**18.6 Clean Water Act**

The Contractor agrees to comply with the provisions of this section, stipulations contained in The Clean Water Act, Section 508, as set forth below:

- a. No federal agency may enter into any contract with any person who has been convicted of any offense under Section 309(c) of this Act for the procurement of goods, materials, and services if such contract is to be performed at any facility at which the violation which gave rise to such conviction occurred, and if such facility is owned, leased, or supervised by such person. The prohibition in preceding sentence shall continue until the Administrator certifies that the condition giving rise to such conviction has been corrected.

The Administrator shall establish procedures to provide all federal agencies with the notification necessary for the purposes of subsection (a) of this section.

In order to implement the purposes and policy of this Act to protect and enhance the quality of the Nation's water, the President shall, not more than 180 days after the enactment of this Act, cause to be issued an order:

1. requiring each federal agency authorized to enter into contracts and each federal agency which is empowered to extend federal assistance by way of grant, loan, or contract to effectuate the purpose and policy of this Act in such contracting or assistance activities, and
2. setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement.

The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States and he shall notify the Congress of such exemption.

The President shall annually report to the Congress on measures taken in compliance with the purpose and intent of this section, including, but not limited to, the progress and problems associated with such compliance.

- (1) No certification by a contractor, and no contract clause, may be required in the case of a contract for the acquisition of commercial items in order to implement a prohibition or requirement of this section or a prohibition or requirement issued in the implementation of this section.
- (2) In paragraph (1), the term "commercial item" has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).

**18.7 Americans with Disabilities Act and Rehabilitation Act**

The Contractor agrees to comply with the provisions of this section as set forth below:

Regulations implementing Title II of the Americans with Disabilities Act (42 U.S.C. 12131 et seq) prohibits discrimination on the basis of disability in all services, programs, and activities provided to the public by State and local governments, except public transportation services (28 CFR Part 35, Title II, Subtitle A).

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**Appendix C – ITS Terms and Conditions**

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Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794) mandates that no otherwise qualified individual with a disability shall, solely by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance (45 CFR Part 84). Federally funded programs and activities may not, in providing aids, benefits or services provide qualified handicapped individuals with an aid, benefit or service that is not as effective as that provided to others 45 CFR Part 84.4(b).

**19. SUSPENSION OF WORK**

The State reserves the right to suspend any or all activities under the Contract, at any time, in the best interests of the State or ITS. In the event of such suspension, the Contractor will be given a formal written notice outlining the particulars of such suspension. Examples of the reason for such suspension include, but are not limited to, a budget freeze on State spending, declaration of emergency, or other such circumstances. Upon issuance of such notice, the Contractor shall comply with the suspension order. Contractor shall be paid for services performed prior to suspension in accordance with the Contract. Activity may resume at such time as the State issues a formal written notice authorizing a resumption of work. Should such suspension last for a period exceeding thirty (30) days, the Contractor may begin reassigning Contractor staff with no penalty. Contractor must secure the services of the key personnel proposed in its Tier II Response or provide ITS with replacement individuals of equal or greater qualifications. Contractor shall remain liable for completing Project Services once such suspension has ceased.

**20. TERMINATION****20.1 For Convenience**

The State retains the right to cancel the Contract without cause, provided that Contractor is given at least thirty (30) calendar days' notice of the State's intent to cancel without penalty to the State or imposition of other early termination charges. This provision should not be understood as waiving the State's right to terminate the Contract for cause or stop work immediately for unsatisfactory work, but is supplementary to that provision. In the event of cancellation without cause by the State, the State agrees to negotiate a payment for Project Services performed by the Contractor prior to termination.

**20.2 For Cause**

For any material breach or failure of performance of the Contract by the Contractor, the State may provide written notice of such breach or failure. The State may terminate the Contract if the Contractor does not cure such breach or failure within thirty (30) calendar days after the giving of written notice to cure.

No delay or omission to exercise any right, power, or remedy accruing to the State or ITS upon breach or default by the Contractor under the Contract shall impair any such right, power or remedy, or shall be construed as a waiver of any such breach or default, or any similar breach or default thereafter occurring nor shall any waiver of a single breach or default be deemed a waiver of any subsequent breach or default. All waivers must be in writing.

If, due to default that remains uncured for the period provided herein, a third party shall commence to perform Contractor's obligations under the Contract, the State shall thereafter be released from all obligations to Contractor hereunder, including any obligation to make payment to Contractor, provided however that the State, at its sole discretion, may pay for any and all Project Services provided prior to any such date. If the State employs a third party to perform Contractor's obligations under the Contract, Contractor shall be liable for the payment of any cost differential that the State incurs as a result of having to employ such third party to cure or resolve the issue.

**20.3 For Suspension or Delisting of Contractor's Securities**

**Appendix C – ITS Terms and Conditions**

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If the Contractor's securities are suspended or delisted by the New York Stock Exchange, the American Stock Exchange, or the NASDAQ, as applicable, if the Contractor ceases conducting business in the normal course, becomes insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets or avails itself of or becomes subject to any proceeding under the Federal Bankruptcy Act or any statute of any state relating to insolvency or the protection of rights of creditors, the State, in its sole discretion, may terminate the Contract in accordance with the Contract or exercise such other remedies as shall be available under the Contract, at law and/or equity.

**20.4 For Vendor Responsibility Related Findings**

ITS may, in its sole discretion, terminate the Contract if it finds at any time during the term of the Contract that the Contractor is non-responsible, or that any information provided in the Vendor Responsibility Questionnaire submitted with Contractor's Proposal was materially false or incomplete, or if the Contractor fails to timely or truthfully comply with ITS's request to update its Vendor Responsibility Questionnaire.

**20.5 Termination Notice**

Notices required by this section shall be delivered to the other party in writing, pursuant to the Notice provisions of the Contract.

**20.6 Termination Date**

In the event a notice of termination is issued for convenience, the Contract termination date shall be thirty (30) calendar days from the date notice is given in accordance with the Notice provisions of the Contract. The termination date for material breach or failure of performance shall be the date notice is given in accordance with the Notice provisions of the Contract.

**20.7 Mitigation of Costs**

The Contractor shall not undertake any additional or new contractual obligations on or after the receipt of notice of termination without the prior written approval of the State. On or after the receipt of notice of termination and during the termination notice period, the Contractor shall take all commercially reasonable and prudent actions to close out unnecessary outstanding, existing obligations as economically as possible for the State.

**20.8 Additional Remedies**

In addition to any other remedies available to the State under the Contract and state and federal law for Contractor's default, the State may choose to exercise some or all of the following:

- Suspend, in whole or in part, payments due to Contractor under the Contract;
- Pursue equitable remedies to compel Contractor to perform;
- Apply Service Credits against amounts due and owing by ITS under the Contract;
- Require Contractor to cure deficient performance or failure to meet any requirements of the Contract/SOW at no charge to the State.

**21. TRANSITION**

The State may require the Contractor to provide uninterrupted Project Services after Contract termination/expiration ("Transition Services") as permitted and approved by OSC for the State to comply with all legal requirements for establishing a new contract and transition to the use of a replacement Contractor or otherwise continue the provision of Project Services.

**21.1 Transition Period**

The Transition Period shall be determined by the State, and Contractor will be notified of the period in writing. The State shall consult with the Contractor prior to making such determination. The

**Appendix C – ITS Terms and Conditions**

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State reserves the right to amend the Transition Period subsequently, upon thirty (30) days' advance written notice to the Contractor.

**21.2 No Interruption in Service**

At all times during the Transition Period, and unless directed otherwise in writing by the State, the Contractor shall continue all contractual obligations set forth in the Contract until such time as the State: (i) has approved the Contractor's proposed Transition Plan; and (ii) an orderly transition to the State, a third party, or the successor contractor has been completed pursuant to the approved Transition Plan. The Contractor shall be required to meet its contractual obligations pursuant to this paragraph notwithstanding the issuance of a termination for cause or convenience by the State.

**21.3 Transition Plan**

Within fifteen (15) days of receipt of a notice of termination or three (3) months prior to the end of the term of the Contract, whichever event occurs first, the Contractor shall submit to the State for approval a detailed written plan for Transition (Transition Plan) that outlines, at a minimum, the tasks, milestones, and deliverables associated with the smooth transition of Project Services to the State, a third party or a successor contractor. The format for metadata and/or information included with the transition materials will be determined solely by the State. Contractor agrees to amend the Transition Plan to include all other information deemed necessary by the State.

**21.4 Contractor Transition Services**

Transition Services shall include the performance of Contractor's responsibilities as outlined in the Contract, and also the transferring of those responsibilities to the State, a third party or the successor contractor in accordance with the Transition Plan agreed upon by the Parties. Contractor shall maintain the same level of service during the Transition Period as is set forth in the Contract, provided, however, that as tasks or services are transitioned to or assumed by the State, a third party or the successor contractor, Contractor shall not be held responsible for the negligent acts or negligent omissions of the State, a third party or the successor contractor or for service degradation resulting from the negligent acts or negligent omissions of the State, a third party or the successor contractor with respect to the transitioned tasks or services.

**21.5 Compensation for Transition Services**

Contractor shall be reimbursed for Transition Services performed during the Transition Period at the rates set forth in the Contract/SOW.

**21.6 State Responsibilities for Transition**

The State shall assume responsibility for transition project management.

**21.7 Cooperation**

Contractor shall cooperate with the State to facilitate a smooth and orderly transition. Periodic project review meetings shall be held with representatives of the Contractor, the State, and the third party or the successor contractor.

**22. CONTRACTOR RESPONSIBILITY IN THE EVENT OF AN EMERGENCY**

For purposes of this section, the following definitions of an Emergency shall apply: "state disaster emergency" shall have the same meaning as set forth in section 20(2)(b) of the Executive Law and "other emergency situation" shall refer to a situation or occurrence which ITS, in its sole discretion, has determined poses a risk to health and public safety or the conservation of public resources.

In the event of a state disaster emergency or other emergency situation, the Contractor shall be notified that ITS is invoking this provision.

Unless the Contractor's performance would be excused pursuant to the Force Majeure provisions of the Contract during a state disaster emergency or other emergency situation the Contractor shall provide the

**Appendix C – ITS Terms and Conditions**

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necessary services to the State on a time is of the essence basis, working on a 24x7x365 basis, to restore and/or recover operation and services, which are critical to the health, safety and welfare of the State, to be determined at the sole discretion of the State.

Except as provided in this section, all other provisions of the Contract remain in full force and effect during a state disaster emergency or other emergency situation.

**23. FORCE MAJEURE**

In the event that either Party is unable to perform any of its obligations under the Contract because of natural disaster, any acts of God, war, public enemies, terrorism, strikes, fires, explosions, the elements, floods, civil disturbance, court order, or labor dispute, or any other acts beyond the reasonable control of either Party (hereinafter referred to as a "Force Majeure Event"), the Party that has been so affected shall immediately give notice to the other Party, and shall exercise every commercially reasonable effort to resume performance, and an extension of the time for performance shall be granted for a period to be agreed to in writing by the State and Contractor. Any delay in performance by either Party resulting from a Force Majeure Event shall not be considered a breach or default under the Contract.

**24. DISPUTE RESOLUTION**

The Contractor and the State agree to resolve any disputes regarding the performance of Project Services, or otherwise arising under the Contract, expeditiously through an escalation process to be agreed upon by the Parties. Dispute resolution meetings between the Parties shall be held within three (3) business days in the event a dispute threatens the performance of a material portion of the Service, with senior management engagement, as needed. During the course of a dispute, Contractor shall continue to provide Project Services according to the Contract until such dispute is resolved.

Nothing in this paragraph shall diminish the State's right to terminate the Contract as provided in the Contract.

**25. GENERAL PROVISION AS TO REMEDIES**

The Parties may exercise their respective rights and remedies at any time, in any order, to any extent, and as often as deemed advisable, without regard to whether the exercise of one right or remedy precedes, concurs with or succeeds the exercise of another. A single or partial exercise of a remedy shall not preclude a further exercise of the right or remedy or the exercise of another right or remedy from time to time. No delay or omission in exercising a right or remedy, or delay, inaction, or waiver of any event of default, shall exhaust or impair the right or remedy or constitute a waiver of, or acquiescence to, an event otherwise constituting a breach or default under the Contract.

**26. RESERVED, PLEASE SEE SECTION 20.8**

**27. INSURANCE**

The Contractor shall comply with the requirements set forth in Appendix C-1 – Contractor's Insurance Requirements.

**28. TAXES**

ITS represents that the purchases on behalf of the State of New York are not subject to any state or local sales or use taxes, or to federal excise taxes.

Section 5-a of the New York Tax Law requires that any contract valued at more than \$100,000 entered into by a State Agency shall not be valid, effective, or binding against the Agency unless the Contractor certifies

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**Appendix C – ITS Terms and Conditions**

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to the Department of Taxation and Finance that it is registered to collect New York State and local sales and compensating use taxes, if the Contractor made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000, measured over a specified period. In addition, the Contractor must certify to the Department of Taxation and Finance that each affiliate and subcontractor of such Contractor exceeding such sales threshold during a specified period is registered to collect New York State and local sales and compensating use taxes. For the purpose of this requirement, "affiliate" means a person or organization which, through stock ownership or any other affiliation, directly, indirectly, or constructively controls another person or organization, is controlled by another person or organization, or is, along with another person or organization, under the control of a common parent. The Contractor also must certify to the procuring state entity that it filed the certification with the Department of Taxation and Finance and that the certification is correct and complete. Accordingly, in the event the value of this Contract exceeds \$100,000 and Contractor's sales delivered by any means to locations within New York State of tangible personal property or taxable services have a cumulative value in excess of \$300,000, measured over a specific period, the Contractor must file a properly completed Form ST-220-CA with ITS and a properly completed Form ST-220-TD with the Department of Taxation and Finance before the Contract may take effect. In addition, after the Contract has taken effect, the Contractor must file a properly completed Form ST-220-CA with ITS if the Contract's term is renewed. Further, a new Form ST-220-TD must be filed with the Department of Taxation and Finance if no ST-220-TD has been filed by the Contractor or if a previously filed Form ST-220-TD is no longer correct and complete. Further information about this requirement is available at <https://www.tax.ny.gov/pdf/publications/sales/pub223.pdf>. Contractor agrees to cooperate fully with the State in administering these requirements.

**29. OUTSTANDING TAX LIABILITIES**

Contractor warrants that there are no outstanding tax liabilities against the Contractor in favor of the State of New York, or in the event that such liabilities exist, a payment schedule has been arranged for their speedy satisfaction.

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

Portions of the following provisions may not apply where the MWBE participation goals are set at 0%.

**30.1. New York State Law.** ITS is obligated under New York State Executive Law Article 15-A and 5 NYCRR 140-145 to promote opportunities for maximum feasible participation of certified minority-and women-owned business enterprises ("MWBEs") and the employment of minority group members and women in the performance of its contracts. Furthermore, Contractors are reminded that they must continue to utilize small, minority and women owned businesses consistent with current New York State law.

In 2006, the State of New York commissioned a disparity study to evaluate whether minority and women-owned business enterprises had a full and fair opportunity to participate in state contracting. The findings of the study were published on April 29, 2010, under the title "The State of Minority and Women-Owned Business Enterprises: Evidence from New York" ("Disparity Study". An updated report entitled "2016 MWBE Disparity Study" was published on June 30, 2017). The reports found evidence of statistically significant disparities between the level of participation of minority-and women-owned business enterprises in state procurement contracting versus the number of minority-and women-owned business enterprises that were ready, willing and able to participate in state procurements.

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**Appendix C – ITS Terms and Conditions**

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As a result of these findings, the Disparity Studies made recommendations concerning the implementation and operation of the statewide certified minority- and women-owned business enterprises program. The recommendations from the Disparity Studies culminated in the enactment and the implementation of New York State Executive Law Article 15-A, which requires, among other things, that ITS establishes goals for maximum feasible participation of New York State Certified MWBEs and the employment of minority groups members and women in the performance of New York State contracts.

**30.2 MWBE and EEO: General Provisions.** ITS is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 142-144 (“MWBE Regulations”) for all State contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.

Contractor agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to ITS, to fully comply and cooperate with ITS in the implementation of New York State Executive Law Article 15-A. These requirements include equal employment opportunities for minority group members and women (“EEO”) and contracting opportunities for certified minority and women-owned business enterprises (“MWBEs”). Contractor’s demonstration of “good faith efforts” pursuant to 5 NYCRR §142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the “Human Rights Law”) or other applicable federal, state or local laws.

Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the withholding of funds or such other actions, liquidated damages pursuant to the terms of this section of the Contract, or enforcement proceedings as allowed by the Contract.

**30.3 MWBE: Participation by Minority Group Members and Women with Respect to State Contracts: Requirements and Procedures.**

**31.3.1. MWBE Participation Goals**

For purposes of this Contract, ITS has established an overall goal of 30% for Minority and Women-Owned Business Enterprises participation, 15% for Minority-Owned Business Enterprises (“MBE”) participation and 15% for Women-Owned Business Enterprises (“WBE”) participation (based on the current availability of qualified MBEs and WBEs).

For purposes of providing meaningful participation by MWBEs on the Contract by achieving the MWBE participation goals established herein, Contractor should reference the directory of New York State Certified MBWEs found at the following internet address: <http://www.esd.ny.gov/mwbe.html>.

Additionally, Contractor is encouraged to consult ITS using the contact information listed below, or the NYS Division of Minority and Woman Business Development, to discuss additional methods of maximizing participation by MWBEs on the Contract.

Where MWBE goals have been established herein, pursuant to 5 NYCRR §142.8 Contractor must document “good faith efforts” to provide meaningful participation by MWBEs as Subcontractors or suppliers in the performance of the Contract. In accordance with Section 316-a of Article 15-A and 5 NYCRR §142.13, the Contractor acknowledges that if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such a

Appendix C – ITS Terms and Conditions

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finding constitutes a breach of contract and the Contractor shall be liable to ITS for liquidated or other appropriate damages, as set forth herein.

**30.3.2. MWBE Utilization Plan (ITS Form MWBE-100)**

Contractor represents and warrants that Contractor has submitted an MWBE Utilization Plan ITS Form MWBE-100 either prior to, or at the time of, the execution of this Contract. Contractor agrees to use such MWBE Utilization Plan for the performance of MWBEs on the Contract pursuant to the prescribed MWBE goals set forth in this section. Any modifications or changes to the MWBE Utilization Plan after the Contract award and during the term of the Contract must be reported on a revised MWBE Utilization Plan submitted to ITS for approval.

**30.3.3. MWBE Quarterly Contractor Compliance Report (ITS Form MWBE-102)**

Contractor is also required to submit to ITS a Quarterly MWBE Contractor Compliance Report ITS Form MWBE-102 by the 10th day following each end of quarter over the term of the Contract documenting the progress made towards achievement of the MWBE goals of the Contract.

**30.3.4. MWBE Request for Waiver/Certification of Good Faith Efforts (ITS Form MWBE-104)**

If the Contractor, after making good faith efforts, is unable to comply with MWBE goals, the Contractor may submit a Request for Waiver ITS Form MWBE-104 documenting good faith efforts by the Contractor to meet such goals. If the documentation included with the waiver request is complete, ITS shall evaluate the request and issue a written notice of acceptance or denial within twenty (20) days of receipt.

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

Contractor agrees it is bound by certain provisions of NYS Executive Law Article 15-A and the MWBE Regulations promulgated by the Division of Minority and Women's Business Development of the Department of Economic Development (the "Division"). If any of the terms or provisions in this section conflict with applicable law or regulations, such laws and regulations shall supersede these requirements.

In relation to this Contract, Contractor shall specifically comply with the following EEO provisions of Article 15-A:

- Contractor and Subcontractors shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.
- The Contractor shall submit an EEO policy statement to ITS within seventy-two (72) hours after the date of the notice by ITS to award this Contract to the Contractor. If Contractor or Subcontractor does not have an existing EEO policy statement, Contractor or Subcontractor may use the two-



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**Appendix C – ITS Terms and Conditions**

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page model MWBE and EEO Policy Statement form that was provided as an attachment to the RFP. The Contractor's EEO policy statement shall include at minimum language, indicating that:

- The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.
  - The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the Contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
  - 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.
- The Contractor will include the above three provisions in every Subcontract under this Contract in such a manner that the requirements of the subdivisions will be binding upon each Subcontractor as to work in connection with the Contract.

**30.4.1. EEO Staffing Plan (ITS Form EEO-100)**

To ensure compliance with this Section, the Contractor shall submit to ITS a staffing plan to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. Contractors shall complete the EEO Staffing Plan ITS Form EEO-100 and submit it as part of their bid or proposal or within a reasonable time, but no later than the time of award of this Contract.

**30.4.2. EEO Workforce Employment Utilization Report/Workforce Report (ITS Form EEO-101)**

Once a contract has been awarded and during the term of Contract, Contractor is responsible for updating and providing notice to ITS on the Workforce Report ITS Form EEO-101 of any changes to its previously submitted Staffing Plan. This information is to be submitted on a quarterly basis during the term of the Contract to report the actual workforce utilized in the performance of the Contract by the specified categories listed including ethnic background, gender, and Federal occupational categories. Separate forms shall be completed by Contractor and any Subcontractor performing work on the Contract.

In limited instances, Contractor may not be able to separate out the workforce utilized in the performance of the Contract from Contractor's and/or Subcontractor's total workforce. When a separation can be made, Contractor shall submit the Workforce Report ITS Form EEO-101 and indicate that the information provided is related to the actual workforce utilized on the Contract. When the workforce to be utilized on the Contract *cannot* be separated out from Contractor's and/or Subcontractor's total workforce, Contractor shall submit the Workforce Report ITS Form EEO-101 and

Appendix C – ITS Terms and Conditions

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indicate that the information provided is Contractor's total workforce during the subject time frame, not limited to work specifically under the contract.

**30.5. MWBE and EEO Compliance.**

**30.5.1. Notice of Deficiency.**

If ITS, upon review of the MWBE Utilization Plan and updated Quarterly MWBE Contractor Compliance Reports determines that Contractor is failing or refusing to comply with the participation goals and no waiver has been issued in regards to such non-compliance, ITS may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE participation goals.

**30.5.2. Disqualification as Non-Responsive.**

ITS may disqualify a Bidder or Contractor as being non-responsive under the following circumstances:

- a) If such Bidder or Contractor fails to submit a MWBE Utilization Plan;
- b) If such Bidder or Contractor fails to submit a written remedy to a notice of deficiency;
- c) If such Bidder or Contractor fails to submit a request for waiver; or
- d) If ITS determines that such Bidder or Contractor has failed to document good faith efforts.

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

**30.5.3. Liquidated Damages Related to MWBE Participation**

In accordance with 5 NYCRR §142.13, Contractor acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such finding constitutes a breach of Contract and ITS may withhold payment from the Contractor as liquidated damages. Such liquidated damages shall be calculated as an amount equaling the difference between:

- All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and
- All sums actually paid to MWBEs for work performed or materials supplied under the Contract.

In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by ITS, Contractor shall pay such liquidated damages to ITS within sixty (60) days after they are assessed by ITS unless prior to the expiration of such sixtieth day, the Contractor has filed a complaint with the Director of the NYS Division of Minority and Woman Business Development pursuant to Subdivision 8 of Section 313 of the Executive Law, in which event the liquidated damages shall be payable if the Director renders a decision in favor of ITS.

Appendix C – ITS Terms and Conditions

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**30.6 Obtaining the Required ITS MWBE and EEO Forms.** All forms described herein can be located on ITS' website listed below. Contractor is responsible for obtaining all required forms referenced in this section, and, to the extent that Contractor is unable to locate such forms for reasons including that ITS might have updated its URL locations, for reaching out to an ITS contact using the contact information below to obtain copies of the forms. As of the time of execution of this Contract the website where Contractor can obtain the requisite ITS forms is: <https://its.ny.gov/minority-and-womens-business-enterprise-mwbe-supplier-diversity-program>. The addresses to which questions regarding this section's requirements, or the requirements of Article 15-A of the Executive Law and 5 NYCRR Parts 140 et. seq., may be addressed is:

**NYS Office of Information Technology Services - Procurement and Contract Services**  
**State Capitol, Empire State Plaza, PO Box 2062**  
**Albany, New York 12220-0062**  
**Telephone Number: (518) 486-4319**  
[supplierdiversity@its.ny.gov](mailto:supplierdiversity@its.ny.gov)

**30.7 NYS Executive Order 162 Requirements.** In compliance with NYS Executive Order 162 dated January 9, 2017 for state contracts with a value in excess of \$25,000 where any of the services are performed by individuals who are located in New York State, Contractor agrees to:

- (a) supplement the equal employment opportunity information it provides to ITS under the Contract on a quarterly basis by reporting the job title and salary in gross wages of each employee of the Contractor who is performing work on the Contract, or, if the Contractor cannot identify the individuals working directly on the Contract, of each employee in the Contractor's entire workforce; and
- (b) extend this quarterly reporting requirement to the Contractor's Subcontractors who work on the Contract with ITS, for the Subcontractor's employees.

Salaries must be provided in United States Dollars (\$ USD).

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.

### **31. ETHICS COMPLIANCE**

Contractor, its officers, employees, agents and subcontractors (if any) shall comply with the requirements of Public Officers Law § 73 and § 74, and other State codes, rules and regulations establishing ethical standards for the conduct of business with New York State. Failure to comply with these provisions may result in termination of the Contract and/or other civil or criminal proceedings as required by law.

### **32. CONFLICTS OF INTEREST**

Contractor, by entering into the Contract, certifies that by performance under the Contract does not and will not create a conflict of interest. A conflict of interest is any situation that may have or appear to impair Contractor's ability to provide objective and impartial information, advice, or counsel, or create an unfair competitive advantage for the Contractor or its subcontractors. Contractor further acknowledges that by entering into the Contract that it may be precluded from bidding on other IES Program solicitations where Contractor prepares and furnishes specifications to be used in a competitive solicitation pursuant to SFL § 163-a and any applicable Federal laws, rules, and regulations.

Appendix C – ITS Terms and Conditions

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**33. MOST FAVORABLE TERMS**

Contractor agrees that all fees, pricing, terms, and warranties provided by the Contractor under the Contract are substantially similar to the best equivalent terms being offered by the Contractor to any entity similarly situated. If during the term of the Contract, the Contractor enters into an arrangement with any similarly situated entity, Contractor hereby agrees to amend the Contract to provide the same to ITS.

**34. TRANSFER OF CONTRACT**

ITS may transfer/assign the Contract to another State Agency or entity at its sole discretion by informing Contractor in writing of such a transfer. Contractor shall execute any documents required to accomplish the transfer/assignment of the Contract. Contractor shall comply with any instructions from ITS to accomplish the transfer/assignment of the Contract at no additional cost to the State.

**35. SUBCONTRACTORS**

Contractor may not subcontract the Project Services procured under the Contract without ITS' prior written approval. During the term of the Contract, the Contractor may propose the use of subcontractors in response to a given Tier II Assignment solicitation as set forth in Section 44 of this Appendix C. ITS reserves the right to reject any proposed Subcontractor or supplier if it determines that the company is not qualified or is not responsible. All such subcontracting relationships between the Contractor and its subcontractors to perform Project Services must be memorialized by written agreement.

Contractor shall include in all agreements with its subcontractors, in such a manner that they will be binding upon each subcontractor with respect to work performed in connection with the Contract/SOW, provisions specifying:

- 1 That the work performed by the subcontractor must be in accordance with the terms and conditions of the Contract/SOW
- 2 That nothing contained in such subcontract shall impair the rights of ITS or the State
- 3 That nothing contained in the subcontract shall create any contractual relationship between the subcontractor and ITS or the State
- 4 That the State and ITS shall have the same authority to audit the records of all subcontractors as it does those of the Contractor
- 5 That subcontractor shall cooperate with any investigation, audit, litigation or other inquiry related to the Procurement or the resulting Contract/SOW

Unless waived in writing by ITS, all subcontracts between the Contractor and subcontractors shall expressly name the State, through ITS, as the sole intended third party beneficiary of such subcontract. ITS reserves the right to review and approve or reject any subcontract, as well as any amendment to said subcontract(s), and this right shall not make ITS or the State a party to any subcontract or create any right, claim, or interest in the subcontractor or proposed subcontractor against ITS. ITS reserves the right, at any time during the term of the Contract, to verify that the written subcontract between the Contractor and subcontractors is in compliance with all of the provisions of this Section 44 of Appendix C and any subcontract provisions contained in the Contract. The Contractor shall give ITS immediate notice in writing of the initiation of any legal action or suit which relates in any way to a subcontract with a subcontractor or which may affect the performance of the Contractor's duties under the Contract/SOW. Any subcontract shall not relieve the Contractor in any way of any responsibility, duty and/or obligation of the Contract.

**36. WAIVER**

No term or provision of the Contract shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the Party claimed to have waived or consented. No consent by a Party to, or waiver of, a breach under the Contract shall constitute consent to, a waiver of, or excuse

Appendix C – ITS Terms and Conditions

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for any other, different or subsequent breach. The rights, duties and remedies set forth in the Contract shall be in addition to, and not in limitation of, rights and obligations otherwise available at law or equity.

### **37. ACCESSIBILITY**

**37.1. Web Accessibility, Branding, and Universal Web Navigation.** Any web-based information and applications development, or programming delivered pursuant to the Contract will conform and comply with New York State Enterprise IT Policy NYS-P08-005 ("*Accessibility of Web-Based Information and Applications*" - see <https://its.ny.gov/tables/technologypolicyindex>) as such policy may be amended, modified or superseded, which requires that State Agency web-based information and applications are accessible to persons with disabilities. Web-based information and applications must conform to New York State Enterprise IT Policy NYS-P08-005 as determined by quality assurance testing. Such quality assurance testing will be conducted by Contractor and the results of such testing must be satisfactory to ITS before web-based information and applications will be considered a qualified Deliverable under the Contract or relevant Transaction Document.

Any public facing web-based information and applications development, or programming delivered pursuant to the Contract will comply with New York State Information Technology Standard, NYS-S16-001 ("*New York Universal Web Navigation*" - see: see <https://its.ny.gov/tables/technologypolicyindex>) and NYS Branding Guidelines as such policy and standard may be amended, modified or superseded, which requires that State Agency web-based information and applications are accessible to persons with disabilities.

**37.2. Language Access for Individuals with Limited English Proficiency.** NYS Executive Order 26 (EO-26), directs executive New York State agencies that provide direct public services to offer language assistance services (translation and interpretation) to people of Limited English Proficiency (LEP).

Each State agency provides interpretation services between the agency and an individual in his or her primary language with respect to the provision of services or benefits.

Each State agency must also provide translation services in the six most common non-English languages spoken by LEP individuals in the State of New York, based on the United States census data and relevant to services offered by each of such agencies. Currently Spanish, traditional Chinese, Russian, Haitian-Creole, Korean and Italian are the top six languages. Some agencies may also choose to add additional languages based on their experience and other federal requirements.

If applicable, any solution being procured under the Contract which is deemed to provide a "direct public service" must comply with EO-26.

### **38. SEVERABILITY**

In the event that one or more of the provisions of the Contract shall for any reason be declared unenforceable by a court of competent jurisdiction under the laws or regulations in force, such provision(s) shall have no effect on the validity of the remainder of the Contract, which shall then be construed as if such unenforceable provision(s) was never contained in the Contract.

### **39. PIGGYBACKING & USE BY OTHER STATE AGENCIES**

Contractor acknowledges and agrees that, pursuant to State Finance Law § 163(10)(e), the New York State Office of General Services may authorize and approve purchases from contracts let by ITS to other New York State agencies, the United States Government or any other state, with the concurrence of the Office of the State Comptroller and under appropriate circumstances. Notwithstanding the preceding, ITS shall have the option to extend the terms and conditions related to the scope of services covered by the Contract

Appendix C – ITS Terms and Conditions

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to any other State agency to the extent that the performance of such services are for IES related projects, services or systems.

**40. BID LIABILITY AND LATE SUBMISSIONS**

The State of New York will not be held liable for any cost incurred by the Bidder for work performed in the preparation and production of a Proposal or for any work performed prior to the formal execution of a Contract. Proposals must be received by ITS on or before the Proposal Due Date and Time indicated in the RFP Calendar of Events table. LATE PROPOSALS SHALL BE REJECTED. The received time of Proposals will be determined by ITS by consulting the United States Official Time Clock at <http://time.gov/HTML5/>. NO CONSIDERATION WILL BE GIVEN TO PROPOSALS RECEIVED AFTER THE STATED DATE AND TIME.

**41. BID VALIDITY**

Proposals must remain open and valid for at least 365 days from the Proposal Due Date and Time indicated in the RFP Calendar of Events table, unless the time for awarding the Contract is extended by mutual consent of ITS and the Bidder. A Proposal shall continue to remain an effective offer, firm and irrevocable, subsequent to such 365-day period until ITS makes a tentative award of the Contract or the Bidder withdraws the Proposal in writing.

**42. ACCURACY OF BIDS**

Bidders are responsible for the accuracy of their Proposals. All Bidders are directed to take extreme care in developing their Proposals. Bidders are cautioned to review their Proposal carefully prior to Proposal submittal, as requests for Proposal withdrawals of any type are not likely to be granted. All exceptions and deviations must be noted in Proposals and no adjustments may be made after award is issued. If a Bidder submits its Proposal ahead of the submission deadline, it may submit an amended Proposal any time prior to the Proposal Due Date and Time indicated in the RFP Calendar of Events table.

**43. PRIME BIDDERS, SUB CONTRACTORS AND CONTRACTOR OBLIGATIONS**

Bidders may not submit Proposals that include subcontractors in order to meet the RFP's minimum bidder qualifications or to demonstrate Bidder's abilities and prior experience. Upon award, the Bidder shall be the Contractor. Notwithstanding the preceding, during the term of the Contract, the Contractor may propose the use of subcontractors in response to a given Tier II Assignment solicitation. In such cases, the Contractor shall be responsible for meeting all obligations set forth in the SOW resultant from the Tier II Assignment solicitation and the Contract, including all Appendices, Attachments, and any subsequent amendments mutually agreed to in writing between the Parties. All subcontractors proposed by the Contractor must be identified in the Contractor's Tier II Assignment response and must be acceptable to ITS. The Contractor shall remain the single point of contact for ITS. ITS will contract with only the Contractor. Where applicable, in the specific subcontractor proposed to perform Contractor obligations must be identified in the Contractor's Tier II Assignment solicitation response, but such identification does not relieve the Contractor of any responsibility for performance under the Contract/SOW.

ITS may require Contractor to execute contracts with all subcontractors identified in its Tier II Assignment solicitation response prior to the start of Project Services under the SOW, and may withhold or withdraw approval of the proposed Tier II award in the event that such agreements have not been entered into. If ITS so requires, Contractor shall furnish a written copy of all subcontracts, and subsequent amendments thereto, to the State and/or certify the completeness of all executed subcontracts or third-party agreements which support the Contractor's ability to furnish the products and services for the Assignment, at ITS' option.

Any waiver of Contractor's failure to furnish information as required in this paragraph shall not be deemed a waiver of any subsequent breach resulting from Contractor's failure to furnish information under this paragraph.

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**Appendix C – ITS Terms and Conditions**

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**44. STATE FINANCE LAW SECTION 139-I REQUIREMENT FOR CONTRACTS OF \$1,000,000 OR MORE**

It is the policy of ITS to promote the participation by New York state business enterprises and residents in procurement contracts estimated to be \$1,000,000 or more in compliance with State Finance Law § 139-i. After the Contract is awarded, for procurement contracts in the amount of \$1,000,000 or more, Contractor will be required to notify New York State business enterprises and residents of subcontracting and employment opportunities in compliance with New York State Finance Law Section 139-i. Contractor must document its efforts by showing that it has (i) solicited bids in a timely and adequate manner from New York State Business Enterprises including certified minority and women-owned businesses, (ii) contacted the New York State Department of Economic Development to obtain listings of New York State Business Enterprises, (iii) placed notices for subcontractors and suppliers in newspapers, journals or other trade publications distributed in New York State, or (iv) participated in Bidder outreach conferences. If the Contractor determines that New York State Business Enterprises are not available to participate on the contract as subcontractors or suppliers, the Contractor shall provide a statement indicating the method by which such determination was made. If the Contractor does not intend to use subcontractors, the Contractor shall provide a statement verifying such. Contractor shall also provide notification to New York state residents of employment opportunities through listing any such positions with the community services division of the State's Department of Labor, or providing for such notification in such manner as is consistent with existing collective bargaining contracts or agreements.

Bidders located in a foreign country are notified that the State may assign or otherwise transfer offset credits created by any procurement contract of \$1,000,000 or more, directly or indirectly, to third parties located in New York State, and that Bidders shall be obligated to cooperate with the State in any and all respects in making such assignment or transfer, including, but not limited to, executing any and all documents deemed by the State to be necessary or desirable to effectuate such assignment or transfer, and using their best efforts to obtain the recognition and accession to such assignment or transfer by any applicable foreign government.

**45. SUMMARY OF POLICY AND PROHIBITIONS ON PROCUREMENT LOBBYING**

Pursuant to State Finance Law §§139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between the procuring agency and bidders during the procurement process. Bidders are restricted from making contact, from the earliest notice of intent to solicit offers/bids through final award and approval of the procurement contract by ITS and, if applicable, the 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). Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four-year period, the Bidder shall be debarred from obtaining governmental Procurement Contracts. Further information about these requirements can be found on the OGS website: [http://www.ogs.ny.gov/aboutOgs/regulations/defaultSFL\\_139j-k.asp](http://www.ogs.ny.gov/aboutOgs/regulations/defaultSFL_139j-k.asp).

**46. NEW YORK STATE VENDOR FILE REGISTRATION**

Prior to being awarded a contract, Contractor must be registered in the New York State Vendor File (Vendor File) administered by the OSC. This is a central registry for all vendors who do business with New York State Agencies and the registration must be initiated by a State Agency. Following the initial registration, a unique New York State ten-digit vendor identification number (Vendor ID) will be assigned to Contractor for use on all future transactions with New York State. Additionally, the Vendor File enables vendors to use the Vendor Self-Service application to manage certain vendor information in one central location for all transactions related to the State of New York. For more information on the Vendor File please visit the following website: [http://www.osc.state.ny.us/vendor\\_management/](http://www.osc.state.ny.us/vendor_management/).

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**Appendix C – ITS Terms and Conditions**

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**47. NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE FOR PROFIT BUSINESS ENTITY**

The State conducts a review of prospective contractors (“Bidders”) and Subcontractors with anticipated expenditures at \$100K or more to provide reasonable assurances that the Bidder is responsive and responsible. A For-Profit Business Entity Questionnaire (hereinafter “Questionnaire”) is used for non-construction contracts and is designed to provide information to assess a Bidder’s responsibility to conduct business in New York based upon financial and organizational capacity, legal authority, business integrity, and past performance history. By submitting a bid (“Proposal”), Bidder agrees to fully and accurately complete the Questionnaire. The Bidder acknowledges that the State’s execution of the Contract will be contingent upon the State’s determination that the Bidder is responsible and that the State will be relying upon the Bidder’s responses to the Questionnaire, in addition to all other information the State may obtain from other sources, when making its responsibility determination.

The State recommends each Bidder file the required Questionnaire online via the New York State VendRep System. To enroll in and use the VendRep System, please refer to the VendRep System Instructions and User Support for Vendors available at the Office of the State Comptroller’s (OSC) website, [http://www.osc.state.ny.us/vendrep/vendor\\_index.htm](http://www.osc.state.ny.us/vendrep/vendor_index.htm) or to enroll, go directly to the VendRep System online at <https://portal.osc.state.ny.us>. Bidders opting to complete the paper questionnaire can access this form and associated definitions via the OSC website at: [http://www.osc.state.ny.us/vendrep/forms\\_vendor.htm](http://www.osc.state.ny.us/vendrep/forms_vendor.htm).

**48. USE OF SERVICE-DISABLED VETERAN-OWNED BUSINESS ENTERPRISES IN CONTRACT PERFORMANCE**

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

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

**48.1 Contract Goals**

- A. ITS hereby establishes an overall goal of 6% for SDVOB participation, based on the current availability of qualified SDVOBs. For purposes of providing meaningful participation by SDVOBs, the Bidder/Contractor should reference the directory of New York State Certified SDVOBs found at: <https://ogs.ny.gov/veterans/>. Questions regarding compliance with SDVOB participation goals should be directed to the ITS Designated Contacts. Additionally, following Contract execution, Contractor is encouraged to contact the Office of General Services’ Division of Service-Disabled Veterans’ Business Development at 518-474-2015 or [VeteransDevelopment@ogs.ny.gov](mailto:VeteransDevelopment@ogs.ny.gov) to discuss additional methods of maximizing participation by SDVOBs on the Contract.
- B. Contractor must document “good faith efforts” to provide meaningful participation by SDVOBs as subcontractors or suppliers in the performance of the Contract (see clause 49.4 below).

**48.2 SDVOB Utilization Plan**

- A. In accordance with 9 NYCRR § 252.2(i), Bidders are required to submit a completed SDVOB Utilization Plan on Form SDVOB 100 with their bid.



Appendix C – ITS Terms and Conditions

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- B. The Utilization Plan shall list the SDVOBs that the Bidder intends to use to perform the Contract, a description of the work that the Bidder intends the SDVOB to perform to meet the goals on the Contract, the estimated dollar amounts to be paid to an SDVOB, or, if not known, an estimate of the percentage of Contract work the SDVOB will perform. By signing the Utilization Plan, the Bidder acknowledges that making false representations or providing information that shows a lack of good faith as part of, or in conjunction with, the submission of a Utilization Plan is prohibited by law and may result in penalties including, but not limited to, termination of a contract for cause, loss of eligibility to submit future bids, and/or withholding of payments. Any modifications or changes to the agreed participation by SDVOBs after the Contract award and during the term of the Contract must be reported on a revised SDVOB Utilization Plan and submitted to ITS.
- C. ITS will review the submitted SDVOB Utilization Plan and advise the Bidder/Contractor of ITS acceptance or issue a notice of deficiency within twenty (20) days of receipt.
- D. If a notice of deficiency is issued, Bidder/Contractor agrees that it shall respond to the notice of deficiency, within seven (7) business days of receipt, by submitting to ITS a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by ITS to be inadequate, ITS shall notify the Bidder/Contractor and direct the Bidder/Contractor to submit, within five (5) business days of notification by ITS, a request for a partial or total waiver of SDVOB participation goals on SDVOB 200. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.
- E. ITS may disqualify a Bidder's bid or proposal as being non-responsive under the following circumstances:
  - (a) If a Bidder fails to submit an SDVOB Utilization Plan;
  - (b) If a Bidder fails to submit a written remedy to a notice of deficiency;
  - (c) If a Bidder fails to submit a request for waiver; or
  - (d) If ITS determines that the Bidder has failed to document good faith efforts.
- F. If awarded a Contract, Contractor certifies that it will follow the submitted SDVOB Utilization Plan for the performance of SDVOBs on the Contract pursuant to the prescribed SDVOB contract goals set forth above.
- G. Contractor further agrees that a failure to use SDVOBs as agreed in the Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, ITS shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsibility.

**48.3 Request for Waiver**

- A. Prior to submission of a request for a partial or total waiver, Bidder/Contractor shall speak to the Designated Contacts at ITS for guidance.
- B. In accordance with 9 NYCRR § 252.2(m), a Bidder/Contractor that is able to document good faith efforts to meet the goal requirements, as set forth in clause 49.4 below, may submit a request for a partial or total waiver on Form SDVOB 200, accompanied by supporting documentation. A Bidder may submit the request for waiver at the same time it submits its SDVOB Utilization Plan. If a request for waiver is submitted with the SDVOB Utilization Plan and is not accepted by ITS at that time, the provisions of clauses 49.2 (C), (D) & (E) will apply. If the documentation included with the Bidder's/Contractor's waiver request is complete, ITS shall evaluate the request and issue a written notice of acceptance or denial within twenty (20) days of receipt.
- C. Contractor shall attempt to utilize, in good faith, the SDVOBs identified within its SDVOB Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of

Appendix C – ITS Terms and Conditions

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established goal requirements made subsequent to Contract award may be made at any time during the term of the Contract to ITS, but must be made no later than prior to the submission of a request for final payment on the Contract.

- D. If ITS, upon review of the SDVOB Utilization Plan and Monthly SDVOB Compliance Report (SDVOB 101) determines that Contractor is failing or refusing to comply with the contract goals and no waiver has been issued in regards to such non-compliance, ITS may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of SDVOB contract goals.

Waiver requests should be sent to ITS.

**48.4 Required Good Faith Efforts**

In accordance with 9 NYCRR § 252.2(n), Contractors must document their good faith efforts toward utilizing SDVOBs on the Contract. Evidence of required good faith efforts shall include, but not be limited to, the following:

- (1) Copies of solicitations to SDVOBs and any responses thereto.
- (2) Explanation of the specific reasons each SDVOB that responded to Bidders/Contractors' solicitation was not selected.
- (3) Dates of any pre-bid, pre-award or other meetings attended by Contractor, if any, scheduled by ITS with certified SDVOBs whom ITS determined were capable of fulfilling the SDVOB goals set in the Contract.
- (4) Information describing the specific steps undertaken to reasonably structure the Contract scope of work for the purpose of subcontracting with, or obtaining supplies from, certified SDVOBs.
- (5) Other information deemed relevant to the waiver request.

**48.5 Quarterly SDVOB Contractor Compliance Report**

In accordance with 9 NYCRR § 252.2(q), Contractor is required to report quarterly SDVOB Contractor Compliance to ITS during the term of the Contract for the preceding quarter's activity, documenting progress made towards achieving the Contract SDVOB goals. This information must be submitted using form SDVOB 101 available on the ITS website and should be completed by the Contractor and submitted to ITS, by the 10th day of each quarter during the term of the Contract, for the preceding quarter's activity to:

**NYS Office of Information Technology Services - Procurement and Contract Support**  
**State Capitol, Empire State Plaza, PO Box 2062**  
**Albany, New York 12220-0062**  
**Telephone Number: (518) 486-4319**  
[supplierdiversity@its.ny.gov](mailto:supplierdiversity@its.ny.gov)

**48.6 Breach of Contract and Damages**

Contractor's failure to comply with this section of the Contract or the regulations at 9 NYCRR 252.2 may be deemed a material breach of this Contract. Upon such an occurrence, ITS shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsibility, and, if Contractor is found to have willfully and intentionally failed to comply with the SDVOB participation goals set forth in the Contract, then in accordance with 9 NYCRR § 252.2(s), Contractor shall pay damages to ITS calculated based on ITS' actual cost incurred relative to ITS'

Appendix C – ITS Terms and Conditions

expenses for personnel, supplies, and overhead related to establishing, monitoring, and reviewing certified SDVOB enterprise programmatic goals.

**49. EMPLOYEE INFORMATION REQUIRED TO BE REPORTED FOR CERTAIN CONSULTANT CONTRACTORS AND SERVICE CONTRACTORS**

Chapter 10 of the Laws of 2006 amended the Civil Service Law and the State Finance Law, relative to maintaining certain information concerning Contract Employees working under State Agency service and consulting Contracts. New York State agency consultant Contracts are defined at State Finance Law §163(14)(d) as contracts "*entered into by a state agency for analysis, evaluation, research, training, data processing, computer programming, engineering, environmental health and mental health services, accounting, auditing, paralegal, legal, or similar services*" ("covered consultant Contract" or "covered consultant services"). The amendments also require that certain Contract employee information be provided to the New York State agency awarding such Contracts, OSC, NYS Division of the Budget (DOB), and NYS Department of Civil Service (CS).

Contractor shall comply with all ITS requests and requirements related to reporting under §163(4)(g) of the New York State Finance Law. Furthermore, all Subcontracts entered into by Contractor for purposes of performing the Contract shall contain a provision whereby its Subcontractors agree to comply with ITS requests and requirements related to reporting under §163(4)(g) of the New York State Finance Law. Reports and forms filed by Contractor pursuant to this section shall be available for public inspection and copying under the provisions of the Freedom of Information Law (FOIL).

To meet these new requirements, the Contractor agrees to complete:

- **Form A - Contractor's Planned Employment Form, if required.** Note: State Agencies are required to furnish this information but may require a Contractor to submit the information as part of its bid response.
- **Form B - Contractor's Annual Employment Report.** Throughout the term of the Contract by May 15<sup>th</sup> of each year the Contractor agrees to report the following information to the State Agency awarding the Contract, or if the Contractor has provided Contract employees pursuant to an OGS centralized Contract, such report must be made to the State Agency purchasing from such Contract. For each covered consultant Contract in effect at any time between the preceding April 1<sup>st</sup> through March 31<sup>st</sup> fiscal year or for the period of time such Contract was in effect during such prior State fiscal year, the Contractor reports the:
  - Total number of employees employed to provide the consultant services, by employment category.
  - Total number of hours worked by such employees.
  - Total compensation paid to all employees that performed consultant services under such Contract.\*

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

Contractor agrees to simultaneously report such information to ITS, CS and OSC as designated below:

Appendix C – ITS Terms and Conditions

<p><b>NYS Office of Information Technology Services - Procurement &amp; Contract Services</b> Attn: Consultant Reporting ESP, Swan Street Building - Core 4 Albany, NY 12220</p>	<p><b>NYS Department of Civil Service</b> Attn: Consultant Reporting Alfred E. Smith State Office Building Albany, New York 12239</p>	<p><b>NYS Office of the State Comptroller</b> Attn: Consultant Reporting 110 State Street - 11th Floor Albany, New York 12236</p>
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Contractor is advised herein and understands that this information is available for public inspection and copying pursuant to §87 of the New York State Public Officers Law (Freedom of Information Law). In the event individual Employee names or social security numbers are set forth on a document, the State Agency making such disclosure is obligated to redact both the name and social security number prior to disclosure.

Contractor may find further information in OSC's Guide to Financial Operations section concerning "*Consultant Disclosure Legislation*", regarding the Contractor Consultant Law requirements and report Forms A and B at: <http://osc.state.ny.us/agencies/guide/MyWebHelp/>

**INSTRUCTIONS FOR COMPLETING FORM A AND B:**

Form A and Form B should be completed for Contracts for consulting services in accordance with OSC's policy and the following:

**Form A** - Contractor's Planned Employment Form (available from and submitted to the using Agency, if necessary.)

**Form B** - Contractor's Annual Employment Report (to be completed by May 15th of each year for each consultant Contract in effect at any time between the preceding April 1st through March 31st fiscal year and submitted to the CS, OSC and procuring Agency.)

**Scope of Contract:** choose a general classification of the single category that best fits the predominate nature of the services provided under the Contract.

**Employment Category:** enter the specific occupation(s), as listed in the O\*NET occupational classification system, which best describes the Employees providing services under the Contract.

(Note: Access the O\*NET database, which is available through the US Department of Labor's Employment and Training Administration, on-line at [online.onetcenter.org](http://online.onetcenter.org) to find a list of occupations.)

**Number of Employees:** enter the total number of Contractor's or Subcontractor's employees in the employment category employed to provide services under the Contract during the report period, including part-time employees and employees of Subcontractors.

**Number of Hours:** enter the total number of hours worked during the report period by these employees in the employment category.

**Amount Payable under the Contract:** enter the total amount paid by the State to the Contractor under the Contract, for work by the employees in the employment category, for services provided during the report period.

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**Appendix C – ITS Terms and Conditions**

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**50. OWNERSHIP/TITLE TO DELIVERABLES**

Contractor acknowledges that it is commissioned by the State to perform the Project Services detailed in the RFP, the Contract and SOWs which may include the development of intellectual property by Contractor, its Subcontractors, partners, employees, consultants, or agents for the State (“Custom Products”). Unless otherwise specified in writing in the RFP, SOWs, or any resulting contractual document, upon the creation of such Custom Products, Contractor hereby conveys, assigns and transfers to the State the sole and exclusive rights, title and interest in the Custom Products, whether preliminary, final or otherwise, including all trademark and copyrights. Contractor hereby agrees to take all necessary and appropriate steps to ensure that the Custom Products are protected against unauthorized copying, reproduction and marketing by or through Contractor, its agents, employees, or Subcontractors. Nothing herein shall preclude the Contractor from otherwise using the related or underlying general knowledge, skills, ideas, concepts, techniques and experience developed in performing services under the Contract in the course of Contractor’s business. The State may, by providing written notice thereof to the Contractor, elect in the alternative to take a non-exclusive perpetual license to Custom Products in lieu of taking exclusive ownership and title to such products. In such case, the State shall be granted a non-exclusive perpetual license to use, execute, reproduce, display, perform, adapt and distribute Custom Product as necessary to fully effect the general business purpose(s) as stated in the Contract. Any property or material furnished or provided by the State to the Contractor hereunder is and will remain the property of the State.

Contractor reserves all rights in intellectual property developed prior to or outside of its work for the State. However, the Contractor must provide all necessary perpetual, non-exclusive rights, license or otherwise, for the State to use the intellectual property.

Nothing herein shall preclude the State from entering into an agreement with the Contractor to jointly own a specific work developed under the Contract.

**50.1. Federal Ownership Rights**

CMS and FNS each reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use for Federal Government purposes, such software, modifications, and documentation designed, developed, or installed with Federal funds pursuant to 7 CFR 277.18(l)(ii), 42 CFR 495.360, 45 CFR 95.617, and any successor or amended regulations.

**51. NONDISCLOSURE & CONFIDENTIALITY**

Contractor shall maintain the security, nondisclosure, and confidentiality of all information in accordance with the following clauses in the performance of its activities under the Contract. Contractor shall ensure that its officers, agents, employees, partners, and subcontractors, if any, are fully aware of the obligations arising under this Contract and shall take all commercially reasonable steps to ensure their compliance to prevent unauthorized use, access or disclosure of NYS Confidential Information. Failure by Contractor or its officers, agents, employees, partners or subcontractors to fully comply with these requirements shall be deemed a failure to meet Contractor's obligations under this Contract and may result in the State suspending, canceling and/or terminating the Contract for cause or to pursue any other legal or equitable remedies available.

**51.1. Definitions.**

*"New York State ('NYS') Facilities"*: As used in this Contract, the term *"NYS Facilities"* shall mean any real property, tangible personal property, or electronic or virtual systems, or any part(s) or component(s) thereof, used in the conduct of New York State's business operations, including, but not limited to, physical office or

Appendix C – ITS Terms and Conditions

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computing space, computer(s) or computer systems, telecommunications or network infrastructure (e.g., utility closet(s), conduits, hubs, switches, routers), and supporting NYS Facilities and systems (e.g., mechanical, power, cooling, security, fire protection, water), regardless of owner.

*"New York State ('NYS') Confidential Information"*: For purposes of this Contract, any information that ITS or the State, regardless of form or medium of disclosure (e.g., verbal, hard copy, or electronic) or source of information (e.g., ITS, other state agencies, electronic systems, federal government, or third-party contractors) provides to the Contractor, its officers, agents, employees, and subcontractors or which Contractor, its officer, agents, employees, and subcontractors obtains, discovers, derives, or otherwise becomes aware of solely as a result of Contractor's performance other than:

- (a) information that is previously rightfully known to the receiving Party without restriction on disclosure;
- (b) information that is or becomes, from no act or failure to act on the part of the receiving Party, generally known in the relevant industry or is in the public domain; and
- (c) information that is independently developed by Contractor without use of NYS Confidential Information.

*"Contractor"*: For purposes of this Contract, obligations of the Contractor who is a Party to this Contract with ITS and refers to collectively, as well, Contractor's officers, agents, employees, partners or subcontractors.

*"State."* For purposes of this Contract shall be interpreted to include New York State Agencies (e.g., ITS, OTDA, OCFS, DOH) and SSDs.

*"Information Security Incident."* For purposes of this Contract, shall mean any allegation or suspicion held by or brought to the attention of a State employee or Contractor involving inappropriate or unauthorized access to, or disclosure of, NYS Confidential Information or NYS Facilities.

**51.2. Data Ownership, Non-Disclosure, and Confidentiality.** NYS Confidential Information is information or data not owned by the Contractor that will remain the property of the State throughout its use under this Contract and shall not be released to any third-party by Contractor unless as required by applicable law or a court of competent jurisdiction, or unless Contractor has first obtained explicit written permission from a duly authorized individual employed by the State. Contractor is permitted to use NYS Confidential Information solely for the purposes set forth in this solicitation and the Contract and any resultant SOWs, and for no other purpose. At no time shall the Contractor access, use, or disclose any NYS Confidential Information (including, but not limited to, personal, financial, health, or criminal history record information or other sensitive criminal justice information) for any other purpose.

The Contractor is strictly prohibited from releasing or using NYS Confidential Information for any purposes other than those purposes defined herein or authorized in writing by the State. Contractor agrees that NYS Confidential Information shall not be distributed, used, repurposed, transmitted, exchanged or shared across other applications, environments, or business units of the Contractor or otherwise passed to other contractors, agents, subcontractors or any other interested parties, except as expressly and specifically agreed to in writing by the State. Contractor shall indemnify and hold the State harmless from any loss or damage to the State resulting from the disclosure by the Contractor of such NYS Confidential Information, in accordance with the terms and conditions of this Contract. Contractor will be required to execute all nondisclosure agreements identified in this solicitation, either before or upon arrival at NYS Facilities or, if in the State's sole discretion, the employee(s) will otherwise have access to critical State networks, equipment or NYS Confidential Information.

**51.3. Compliance with NYS Information Security Policies and Procedures.** Contractor warrants, covenants and represents that it shall comply fully with all security procedures of the State communicated

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**Appendix C – ITS Terms and Conditions**

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to it in the performance of this Contract, including ITS Information Security policies and procedures located at <https://its.ny.gov/eiso/policies/security>. At the State's discretion, it may, at any time during the term of the Contract, request that Contractor provide documentation validating its adherence to these security policies and procedures. Contractor must deliver such documentation within thirty (30) days of a request by the State or as mutually agreed to, in writing, by the Parties.

The State shall have the right at any time to require that the Contractor remove from interaction with the State any Contractor representative who the State believes is detrimental to its working relationship with the Contractor. The State will provide the Contractor with notice of its determination, and the reasons it requests the removal. If the State signifies that a potential security violation exists with respect to the request, the Contractor shall immediately remove such individual. Contractor shall not assign the person to any aspect of the Contract or future work orders without the State's consent.

Contractor, to the extent the following meets or exceeds ITS Information Security policies described above, shall use industry standard security measures, including standard encryption protocols, to protect and guard the availability and security of all NYS Confidential Information, and adhere to all the State's security policies. Contractor shall be strictly prohibited from using NYS Confidential Information in any fashion other than that defined herein. There may be instances whereby the State will communicate security procedures necessitated by the State's operations. Contractor will use reasonable efforts to implement same. In the event Contractor does not implement or communicates that it cannot or will not implement such security procedures, the Parties will reasonably work to resolve such dispute pursuant to the Contract's Dispute Resolution process to the extent such dispute does not adversely impact the State's legal obligations.

Contractor affirms that it will be properly informed and trained regarding security standards and is prohibited from disclosing NYS Confidential Information to any persons without a need to know. Contractor will work cooperatively with the State so that software applications accessed by members of the public or others are accessed by the single sign-on service provided by New York State Directory Services or such other service chosen by ITS.

**51.4. Accessing NYS Facilities.** Contractor may access State information technology system(s) and NYS Facilities solely at the State's request, and for any work associated with this Contract. In the event Contractor accesses NYS Facilities, Contractor will comply fully with all security procedures of the State concerning such access communicated to it in the performance of this Contract or any amendments hereof. Contractor agrees that it will adopt procedures to ensure the integrity and security of any NYS Confidential Information which is known to Contractor. Those procedures include, for each prospective and current officers, agents, employees, partners, and subcontractors of Contractor designated to work under this Contract or under any amendments hereof, that they are required:

(a) if entering enter NYS Facilities through physical means, to be required to undergo the same security clearances as are required of those workforce members of ITS who physically access NYS Facilities including, upon request by ITS, submitting identifying information and being fingerprinted on-site at Contractor's expense. ITS shall arrange for the scheduling of such fingerprinting activities on State premises; or

(b) if using or entering NYS Facilities through electronic, telecommunications, information technology, or any other virtual means to be required to undergo the same security clearances as are required of those workforce members of ITS who access NYS Facilities including, upon request by the State, submitting identifying information and being fingerprinted at Contractor's location at Contractor's expense. Contractor shall arrange for the scheduling of such fingerprinting activities at a law enforcement agency in Contractor's locale, and in accordance with the law in the jurisdiction in which such fingerprinting takes place, either

Appendix C – ITS Terms and Conditions

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- i. submit those fingerprints to a local law enforcement or criminal justice agency for the purpose of obtaining a criminal history record report, and, at ITS' discretion, to the Federal Bureau of Investigation for a national criminal history record check, and report to ITS the substance of the criminal record of any of the fingerprinted individuals; or,
- ii. mail those fingerprints to ITS for ITS to submit them for the purpose of obtaining a criminal history record report(s).

**51.5. Protection and Transmission of NYS Confidential Information.** Contractor shall use appropriate means to preserve and protect NYS Confidential Information. This includes, but is not limited to, use of stable storage media, regular data backups and archiving, password protection of volumes, and data encryption. Consistent with the NYS Encryption Standard at: <https://its.ny.gov/tables/technologypolicyindex>, to the extent doing so is applicable based on the specific services provided by Contractor to the State under this Contract, the Contractor must encrypt NYS Confidential Information at rest, on file storage, database storage, or on back-up media, and in transit in accordance with Local, State and Federal laws, rules, regulations, ordinances, policies, standards, and guidelines. The Contractor must provide the ability to encrypt data in motion and at rest in compliance with Local, State or Federal laws, rules, regulations, ordinances, policies, standards, and guidelines. Contractor must use secure means (HTTPS) for all electronic transmission or exchange of system, user and application data with the State, with encryption at rest specifically using, at minimum, FIPS 140.2 approved cryptographic modules, and the secure means used for electronic transmission or exchange of system, user and application data with the State shall be HTTPS, TLS version 1.2 or higher.

Contractor agrees that to the extent it has been authorized to use such storage, any and all NYS Confidential Information will only be stored, processed and maintained solely on designated target devices, and that no NYS Confidential Information at any time will be processed on or transferred to any portable computing device or any portable storage medium.

Contractor shall also comply fully with all requirements of this Contract pertaining to security requirements specific to the services Contractor is providing to the State under this Contract. In addition to the specific security provisions required herein, Contractor shall also use, to the extent the following meets or exceeds ITS Information Security policies described above, commercially reasonable best efforts to address and remediate any vulnerabilities associated with the types of application development or configuration services it is providing under this Contract which appear on the CWE/SANS list of the "TOP 25 Most Dangerous Programming Errors" (<http://www.sans.org/top25errors/>). When a vulnerability scan is being conducted as required by the State's Secure Coding and Vulnerability Scanning Standard, as revised from time to time at the sole discretion of the State, that reveals software application vulnerabilities or any other security risks attendant to a provided solution, Contractor is responsible for ensuring those vulnerabilities and risks are remediated to the State's reasonable satisfaction.

**51.6. Physical Transport of NYS Confidential Information.** To the extent the State agrees under this Contract that Contractor may physically transport any NYS Confidential Information, such physical transport may only occur upon the written direction and approval of the State and must comply with all applicable Local, State, and Federal laws, rules, regulations, ordinances, policies, standards, and guidelines. This includes but is not limited to transport between the Contractor's offices, to and from Subcontractors, and to the State.

**51.7. Data Storage, Access, and Location - Off Shore Restrictions.** Contractor agrees that: (a) all NYS Confidential Information shall remain within and may not be stored, or accessed from, outside of the Continental United States (CONUS); and (b) unless expressly agreed to in writing approved by an State authorized signatory adhering to established State practices, Contractor shall not have remote access into the State's information technology systems.



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**Appendix C – ITS Terms and Conditions**

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All access to NYS Confidential Information and NYS Facilities, physical or virtual, must be conducted within CONUS and have adequate security systems in place to protect against the unauthorized access to NYS Facilities and Confidential Information stored therein. The Contractor shall not send or permit to be sent to any location outside of the CONUS any NYS Confidential Information related to this Contract.

To the extent support by Contractor requires replication of a set of conditions such as a software crash event, Contractor shall replicate that set of conditions in its own environment when providing support, while communicating with New York State technical personnel. For software development activities, such as patches, updates, or adding new functionality, Contractor shall conduct that software development within its own Development, Quality Assurance, and Production Environments, and, when ready, shall package and provide it through an agreed-to Internet-based location or secure software escrow service, as designated by the State, from which State technical personnel will download such software, and install and test it in New York State's information technology environment. Contractor must provide the results of vulnerability scans conducted on the code prior to the State accepting changes in the code.

Upon prior written approval of the State, to the extent Contractor requires access to State system or application audit logs for support and troubleshooting, Contractor or such Subcontractors will maintain such logs only within CONUS, will take the strictest measures to ensure such logs do not contain NYS Confidential Information including production data, and will maintain such logs in a secure environment subject to audits by the State.

**51.8. Separation of Duties / Access Controls.** The Contractor must ensure that all NYS Confidential Information that it holds under this Contract is stored in a controlled access environment to ensure data security and integrity that adheres to all applicable Local, State, and Federal laws, rules, regulations, ordinances, policies, standards, and guidelines. Contractor will provide the State a list of the physical locations where Contractor has stored any NYS Confidential Information at any given time and will update that list if the physical location changes. All Contractor facilities must have adequate security systems in place to protect against the unauthorized access to such facilities and data stored therein. Access into and within such facilities must be restricted by Contractor through an access control system that requires positive identification of authorized individuals as well as maintains a log of all accesses (e.g., date and time of the event, type of event, user identity, component of the information system, outcome of the event). The Contractor shall have a formal procedure in place for granting and terminating computer system access to NYS Confidential Information and to track access. Contractor access to NYS Confidential Information for any types of projects outside of those approved by the State are prohibited.

The State requires the Contractor to follow the principle of least privilege by adhering to separation of job duties, and limiting Contractor staff knowledge of NYS Confidential Information to that which is absolutely needed to perform job duties. Upon request, Contractor will provide documentation to the State clearly defining the security roles and access levels for each of its staff working with NYS Confidential Information with a level of specificity objectively reasonable to and approved by the State. Only those individuals who have successfully completed all security clearance and background check requirements, including training, shall have access to NYS Confidential Information.

## **52. INFORMATION RELEASES**

**52.1. Press Releases.** Contractor agrees that no brochure, news/media/press release, public announcement, memorandum or other information of any kind regarding the Contract, or relating to its activities under the Contract, shall be disseminated in any way to the public, nor shall any presentation be given regarding the Contract or those Contractor activities without the prior written approval of the State, which written approval shall not be unreasonably withheld or delayed provided, however, that Contractor shall be authorized to provide copies of the Contract and answer any questions relating thereto

Appendix C – ITS Terms and Conditions

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to any Local, State or Federal regulators or, in connection with its financial activities, to financial institutions for any private or public offering.

**52.2. Public Information, and the NYS Freedom of Information Law (FOIL).** Disclosure by the State of items related to this Contract shall be permitted consistent with the laws of the State of New York and specifically the NYS Freedom of Information Law (FOIL) contained in Section 87 of the NYS Public Officers Law. The State shall take reasonable steps to protect from public disclosure any records or portions thereof relating to this Contract that are otherwise exempt from disclosure under that statute. Information constituting trade secrets or critical infrastructure information, for purposes of FOIL, must be clearly marked and identified as such by the Contractor upon submission to the State.

If the Contractor intends to request an exemption from disclosure under FOIL for trade secret materials or critical infrastructure information, the Contractor shall, at the time of submission, request the exemption in writing and provide an explanation of: (i) why the disclosure of the identified information would cause substantial injury to the competitive position of the Contractor; or (ii) why the information constitutes critical infrastructure information which should be exempted from disclosure pursuant to §87(2) of FOIL. Acceptance of the identified information by the State does not constitute a determination that the information is exempt from disclosure under FOIL.

Determinations as to whether the materials or information may be withheld from disclosure will be made in accordance with FOIL at the time a request for such information is received by the State. Contractor represents and warrants that it understands that requests to exempt the entirety of Contractor's materials from disclosure under FOIL have generally not been found to be meritorious.

**52.3. Requests to Release NYS Confidential Information to Third Parties.** Except where expressly prohibited by law, Contractor shall immediately notify and provide to ITS and OTDA a copy of any request, subpoena, warrant, judicial or court order, administrative order, or arbitral order of an executive or administrative agency or other governmental authority of competent jurisdiction (a "Demand") that it receives and which relates to or requires production of NYS Confidential Information that Contractor is processing or storing on the State's behalf. If Contractor is required to produce NYS Confidential Information in response to a Demand, Contractor will provide ITS and OTDA with the NYS Confidential Information in its possession that it plans to produce in response to the Demand prior to production of such NYS Confidential Information. Where the Contractor is not required by law to produce or release the requested information, the written approval of the state is required prior to any such disclosure being made. Notice of such request will be sent to:

**OTDA:**

OTDA General Counsel  
40 North Pearl Street 16C  
Albany, New York 12243  
(518) 474-9502  
Otda.sm.iso@otda.ny.gov

**ITS:**

ITS General Counsel  
Empire State Plaza  
Swan Street Building, Core 4  
Albany, New York 12210  
(518) 473-5115  
Its.sm.dla@its.ny.gov

Appendix C – ITS Terms and Conditions

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Except as otherwise required by law, Contractor shall provide ITS and OTDA reasonable time to assert its rights with respect to the withholding of such NYS Confidential Information from production. If the State is required to produce NYS Confidential Information in response to a Demand, Contractor will, at the State's request and unless expressly prohibited by law, produce to the State any NYS Confidential Information in its possession that may be responsive to the Demand and shall provide assistance as is reasonably required for the State to respond to the Demand in a timely manner. This assistance may include Contractor upon request disclosing to the State Contractor's processes for responding to subpoenas, service of process, and other legal requests and a description of Contractor Staff roles and responsibilities related to electronic discovery, litigation holds, discovery searches, and expert testimonies.

The State acknowledges that Contractor has no responsibility under this Contract to interact directly with the entity making the Demand. The Parties agree that ITS' execution of this Contract does not constitute consent to the release or production of NYS Confidential Information.

### **53. BREACHES OF NYS CONFIDENTIAL INFORMATION**

**53.1. Compliance with the NYS Information Security Breach and Notification Act (ISBNA).** In accordance with the Information Security Breach and Notification Act (ISBNA) (NYS General Business Law, §899-aa; NYS Technology Law, §208), Contractor shall be responsible for complying with the provisions of the ISBNA and the following terms contained herein with respect to any private information (as defined in ISBNA) received by Contractor under this Contract (Private Information) that is within the control of the Contractor either on the State's information security systems or the Contractor's information security systems (System). In the event of a breach of the security of the System (as defined by ISBNA) Contractor shall immediately commence an investigation, in cooperation with the State, to determine the scope of the breach and restore the security of the System to prevent any further breaches. Contractor shall also notify ITS and OTDA of any breach of the security of the System immediately following discovery of such breach. Notice of such breach will be sent to:

**OTDA:**

OTDA General Counsel  
40 North Pearl Street 16C  
Albany, New York 12243  
(518) 474-9502  
Otda.sm.iso@otda.ny.gov

**ITS:**

ITS General Counsel  
Empire State Plaza  
Swan Street Building, Core 4  
Albany, New York 12210  
(518) 473-5115  
Its.sm.dla@its.ny.gov

Except as otherwise instructed by the State, Contractor shall, to the fullest extent possible, first consult with and receive authorization from ITS and OTDA prior to notifying any individuals, the Department of State (DOS), the NYS Division of State Police, the NYS Office of the Attorney General (OAG), or any consumer reporting agencies of a breach of the security of the System or concerning any determination to delay notification due to law enforcement investigations.

Nothing herein shall in any way impair the authority of the OAG to bring an action against Contractor to enforce the provisions of ISBNA or limit Contractor's liability for any violations of the ISBNA or any other applicable statutes, rules or regulations. In the event that the Contractor is advised by a law enforcement

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**Appendix C – ITS Terms and Conditions**

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agency pursuant to GBL §899-aa(4) to delay the notice under GBL §899-aa(3), the Contractor shall provide the notice under GBL §899-aa(3) to the State not more than twenty-four hours after the Contractor has been advised by the law enforcement agency that notice under GBL §899-aa(3) can be provided.

In accordance with ISBNA, Contractor is responsible for complying with the following terms with respect to any Private Information (as defined in the ISBNA) received by or on behalf of the State under this Contract. Contractor:

- Shall supply the State with a copy of its breach notification policy, which shall be modified to be in compliance with this provision.
- Must encrypt any database fields and backup tapes that contain Private Information, as set forth in the ISBNA.
- Must ensure that the State's Private Information is encrypted in transit to/from Contractor's systems.
- In general, Contractor must ensure that Private Information is not displayed to users on computer screens or in printed reports; however, specific users who are authorized to view the private data elements and who have been properly authenticated may view/receive such data.
- Must monitor for breaches of security to any of its systems that store or process the State's Private Information.
- Shall take all steps as set forth in ISBNA to ensure Private Information shall not be released without authorization from the State.
- In the event a security breach occurs as defined by ISBNA, notify the ITS Chief Information Security Officer (CISO) by telephone within four (4) hours of becoming aware of the breach and commence an investigation in cooperation with the State to determine the scope and cause of the breach, and to prevent the future recurrence of such security breaches.
- Coordinate all communication regarding the data breach with the ITS CISO and the State.
- Take immediate and necessary steps needed to restore the information security system to prevent further breaches and take corrective action in the timeframe required by the State. If Contractor is unable to complete the corrective action within the required timeframe, in addition to any other remedies available, the State may contract with a third-party to provide the required services until corrective actions and services resume in a manner acceptable to the State, or until the State has completed a new procurement for a replacement service system. The Contractor will be responsible for the cost of these services during this period.
- Contractor shall be responsible for providing all notices required by the ISBNA and for all costs associated with providing said notices.

The State reserves the right to require commercially standard credit monitoring for any and all individuals affected by the data breach at the sole expense of the Contractor for a period to be determined by the State, but not less than twelve (12) months, which shall begin thirty (30) days following the notice of offer from the Contractor of such credit monitoring to those affected individuals, which shall be within a reasonable time following the identification of such affected individuals. The State reserves the right to require notice by regular or electronic mail.

**53.2. Non-ISBNA Breaches.** In addition to any responsibilities of Contractor under the Contract for reporting breaches of Private Information under ISBNA, Contractor must immediately report to ITS and

Appendix C – ITS Terms and Conditions

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OTDA *any* breaches or Information Security Incidents of any NYS Confidential Information whether it consists of Personal Information or otherwise. Notice of such incident will be sent to:

**OTDA:**

OTDA General Counsel  
40 North Pearl Street 16C  
Albany, New York 12243  
(518) 474-9502  
[Otda.sm.iso@otda.ny.gov](mailto:Otda.sm.iso@otda.ny.gov)

**ITS:**

ITS General Counsel  
Empire State Plaza  
Swan Street Building, Core 4  
Albany, New York 12210  
(518) 473-5115  
[Its.sm.dla@its.ny.gov](mailto:Its.sm.dla@its.ny.gov)

Contractor shall ensure that the personnel charged with carrying out services under this Contract are aware of Contractor's obligations to the State hereunder. Contractor's staff browsing, viewing, altering, appending or modifying the NYS Confidential Information in violation of Contractor's own security policies shall be deemed to have breached the security of the system for the purposes of this Contract. Contractor represents and warrants that the NYS Confidential Information which it hosts for the State remains at all times the property of the State and must be fully accessible to the State during the term of the Contract and at the Contract's conclusion. Included among its responsibilities under this Contract, Contractor will take all reasonable measures at no additional cost to the State to ensure that the State is able to extract or receive any and all of NYS Confidential Information out of Contractor's hosted solution, including metadata and attachments, in a format which is reasonably accessible to the State and capable of being used in technical solutions which compete with Contractor's hosted solution, as further described below.

**53.3. Preventing Unfair Advantage - Contractor Internal Breaches.** Contractor further represents and warrants that it is aware that New York State procurement laws require a "level playing field" prohibiting an unfair advantage to any particular vendors on State IT procurements. Contractor acknowledges that to the extent it performs any configuration services under this Contract, Contractor's personnel may become aware of NYS Confidential Information consisting of data elements that are collected from government agencies regarding IT planning and potential future purchasing, and that even without actual government agencies' data, knowing exactly what is collected could give the impression of an unfair advantage to Contractor for future State IT procurements. Contractor shall use its most stringent commercially reasonable best efforts to create a "firewall" between those of its personnel and its business units which are permitted to perform services under this Contract and all other personnel and business units of Contractor including those involved in seeking State IT procurements to ensure NYS Confidential Information is not divulged to any of Contractor's personnel who are not strictly needed to perform services under this Contract and approved by the State to do so. Any divulging of such NYS Confidential Information to Contractor's personnel who are not strictly needed to perform services under this Contract and approved by the State to do so shall be deemed a security breach under this Contract. In addition to any other remedies available to the State for such security breach, Contractor understands that if such security breaches occur Contractor may be deemed a non-responsible vendor under the State's procurement laws and forbidden from contracting on any New York State procurements related to any of the NYS Confidential Information which was breached.

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**Appendix C – ITS Terms and Conditions**

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**54. DATA TRANSPARENCY, ACCESSIBILITY, MIGRATION, AND DESTRUCTION AT END OF CONTRACT**

**54.1. Data Migration.** Contractor shall ensure that the services it performs and the solutions it designs under this Contract are performed in such a way so as to ensure easy migration of any NYS Confidential Information held by Contractor as required by the State. This may include:

- Contractor keeping NYS Confidential Information, including State policy and profile information, separate from processes of any software itself and maintaining that information in a format that allows the State to easily transfer it to an alternative application platform;
- Contractor making its Application Programming Interfaces (APIs) available to the State; and
- Contractor reformatting data and/or applications at Contractor's own expense in order to easily allow the State to switch to alternative software providers or move the NYS Confidential Information back in-house at the State.

**54.2. Data Return and Destruction - In General.** During any period of suspension of services or of the Contract, the Contractor will not take any action to intentionally erase any NYS Confidential Information.

At the expiration or termination of the Contract, the Contractor shall implement an orderly return of State assets and the subsequent secure disposal of State assets. The State shall be entitled to any post-termination assistance generally made available by Contractor with respect to the services it provides unless a unique alternative data retrieval arrangement has been established between the Parties as part of a Service Level Agreement.

At the State's option, the Contractor must provide the State with a copy of the NYS Confidential Information, including metadata and attachments, in a mutually agreed upon, commercially standard format at no additional charges to the State, and give the State continued access to NYS Confidential Information for no less than ninety (90) days beyond the expiration or termination of the Contract. Thereafter, except for data required to be maintained by Local, State, and Federal laws, rules, regulations, ordinances, policies, standards, and guidelines or this Contract, Contractor shall destroy NYS Confidential Information from its systems and wipe all its data storage devices to eliminate any and all NYS Confidential Information from Contractor's systems. The sanitization process must be in compliance NYS Security Policy NYS-S13-003, <https://www.its.ny.gov/document/sanitizationsecure-disposal-standard>, and, where required, CJIS sanitization and disposal standards. If immediate purging of all data storage components is not possible, the Contractor will certify that any NYS Confidential Information remaining in any storage component will be safeguarded to prevent unauthorized disclosures until such purging is possible. Contractor must then certify to the State, in writing, that it has complied with the provisions of this paragraph including any supporting documentation as requested. The State may withhold payment to Contractor if NYS Confidential Information is not released to the State in accordance with the preceding sections.

**54.3. Data Return and Destruction - Regulated Data.** New York State considers the protection of sensitive and NYS Confidential Information and business systems to be of the utmost importance. The NYS Confidential Information collected and maintained by State and local government agencies is protected by a myriad of Federal, State, and local laws, rules, regulations, ordinances, policies, standards, and guidelines. Access to and use of NYS Confidential Information is limited to authorized government employees and legally designated agents, for authorized purposes only.

The "PRIMARY SECURITY AND PRIVACY MANDATES" appendix to this solicitation reflects several significant Federal and State laws, rules, regulations, ordinances, policies, standards, and guidelines that providers doing business with the State must be aware of and comply with if applicable to the services

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**Appendix C – ITS Terms and Conditions**

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being provided. Links to further guidance are included in that appendix. The list is intentionally US-centric and is not intended to be all-inclusive. Further, since Local, State and Federal laws, rules, regulations, ordinances, policies, standards, and guidelines and industry guidelines change, consulting definitive sources to assure a clear understanding of compliance requirements is critical. Many NYS agencies may have additional program compliance requirements that must be considered in addressing compliance. (e.g., DMV Privacy Act, Public Service Law, etc.).

To the extent that Contractor has access to Federal, State or local government regulated data pursuant to their responsibilities under the Contract, Contractor agrees that it will abide by the requirements of those Federal, State and local laws, rules, regulations, ordinances, policies, standards, and guidelines, and will require in writing its officers, agents, employees, partners or subcontractors to similarly abide by any such requirements including the execution of any documents or agreements required to be executed, certifying their compliance with same.

Contractor must, in accordance with applicable law and the instructions of the State: maintain such regulated data for the time period required by applicable laws, rules, regulations, ordinances, policies, standards, and guidelines; exercise due care for the protection of data; and maintain appropriate data integrity safeguards against the deletion or alteration of such data. In the event that any regulated data is lost or destroyed because of any act or omission of the Contractor or any non-compliance with the obligations of this Contract, then Contractor shall, at its own expense, use its best efforts in accordance with industry standards to reconstruct such data as soon as feasible. In such event, Contractor shall reimburse the State for any costs incurred by the State in correcting, recreating, restoring or reprocessing such data or in providing assistance therewith.

In the event that it becomes necessary for Contractor to receive NYS Confidential Information which Federal, State, or local laws, rules, regulations, ordinances, policies, standards, and guidelines prohibits from disclosure, Contractor hereby agrees to return or destroy all such NYS Confidential Information that has been received from the State when the purpose that necessitated its receipt by Contractor has been completed. In addition, Contractor agrees, after termination of the Contract, not to retain any NYS Confidential Information which Federal, State, or local laws, rules, regulations, ordinances, policies, standards, and guidelines prohibits from disclosure.

Notwithstanding the foregoing, if the return or destruction of the NYS Confidential Information is not feasible, Contractor agrees to extend the protections of the Contract for as long as necessary to protect the NYS Confidential Information and to limit any further use or disclosure of that NYS Confidential Information. If Contractor elects to destroy NYS Confidential Information, it shall use reasonable efforts to achieve the same and notify the State accordingly. Contractor agrees that it will use all appropriate safeguards to prevent any unauthorized use or unauthorized disclosure of NYS Confidential Information which Federal, State, or local laws, rules, regulations, ordinances, policies, standards, and guidelines prohibits from disclosure.

## **55. AUDITS OF CONTRACTOR'S SECURITY CONTROLS**

Contractor may be asked to provide recent independent audit reports on its security and compliance controls before and during the term of this Contract. The State and any regulatory authority having jurisdiction over the State shall have the right to send its officers and employees into the offices and plants of the Contractor for inspection and audit of the facilities and operations used by Contractor in the performance of any work under this Contract. On the basis of such inspection, Contractor may be required by the State to implement specific additional security and compliance measures in cases where the Contractor is found to be noncompliant with Contract safeguards. The State shall provide at least two (2) weeks' notice of its intention to exercise this audit right and will not use an independent third-party that is a competitor of Contractor. Such audit shall be conducted to ensure compliance with the requirements of the Contract.

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**Appendix C – ITS Terms and Conditions**

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**56. ACCEPTANCE OF DELIVERABLES/MILESTONE**

The Contractor will complete and submit to ITS/State each of the SOW Deliverables/Milestone (as defined in any Tier II Assignment for which the Contractor is selected for award) in accordance with the Acceptance Criteria as set forth in the SOW. The acceptance criteria for each Deliverable shall be its substantial conformance to the requirements and descriptions set forth in any Tier II Assignment for which the Contractor is selected for award and any additional specifications mutually agreed upon by the Parties and documented by the Parties in writing in the SOW (“Acceptance Criteria”).

**57. SUPPLEMENTAL TERMS SPECIFIC TO THE USE OF ANY CLOUD SERVICES**

To the extent any of the purchases or Project Services by the State from Contractor under the Contract/SOW entails the use of cloud support services wherein Contractor provides to ITS hosted services where NYS Confidential Information or technology that is used by the State are being hosted by, acted on, transmitted through, or stored on Contractor's or its Subcontractor(s)' equipment, including but not limited to Software as a Service (SaaS); Platform as a Service (PaaS); Infrastructure as a Service (IaaS); Storage as a Service (StaaS); Database as a Service (DBaaS); Network as a Service (NaaS); Communications as a Service (CaaS); or security processes as a service including Disaster Recovery as a Service (DRaaS), Contractor agrees to meet the earlier-stated security provisions of this Contract, the following cloud-specific terms and conditions, any additional terms contained within an Tier II Assignment/SOW, and all State security requirements including but not limited to:

- the hosting provider holding and maintaining industry recognized security certifications acceptable to the State such as FedRamp;
- adherence by Contractor and the hosting provider to any information security policies of NYS, compliance with applicable Federal, State, or local laws, ordinances, regulations and requirements, and adherence to federal security requirements for high risk data described in, inter alia, the federal government's NIST, FISMA, FERPA, IRS Publication 1075, CJIS, and/or HIPAA regulations and policies; and
- the general security terms and conditions contained above in the Contract.

The Parties may agree to any additional specific terms and conditions associated with any particular hosting Project Service provided to the State by Contractor via a separate Tier II Assignment/SOW mutually agreed to in writing by the Parties.

The Parties agree that any technical and professional activities required for establishing, managing, and maintaining the environment used to provide cloud services under the Contract/SOW to the State are the responsibilities of the Contractor. As specified in a Tier II Assignment, Contractor may be responsible for the acquisition and operation of all hardware, software, and network support related to the cloud services being provided.

**57.1. CLOUD SERVICES AUDIT AND INSPECTIONS**

**57.1.1. Consensus Assessment Initiative Questionnaire (CAIQ).** To the extent that any services provided by Contractor to the State under the Contract/SOW are mutually determined by the Parties to constitute cloud services, within thirty (30) days of the State's request, Contractor will provide to ITS a Consensus Assessment Initiative Questionnaire (CAIQ), or other documents as required by the CISO as specified in a Tier II Assignment, for ITS' review. Thereafter on an annual basis Contractor will provide a current Consensus Assessment Initiative Questionnaire (CAIQ) for ITS' review. The form is available at Cloud Security Alliance (<https://cloudsecurityalliance.org/>). The completion of this requirement is at the Contractor's expense with no additional cost to the State.



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**Appendix C – ITS Terms and Conditions**

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Within 30 days of Contract approval, Contractor will also provide for ITS' review, at the Contractor's expense with no additional cost to the State, an independent third-party audit of controls related to the security, availability, or processing integrity of a system or the confidentiality or privacy of the information processed by that system for all systems used to perform the cloud services under the Contract/SOW, showing no deficiencies. A Service Organization Control (SOC) 2 Type 2 audit report or approved equivalent sets the minimum level of a third-party audit. Any deficiencies identified in the audit report, or where the Contractor or its Subcontractor(s) is found to be noncompliant with Contract/SOW safeguards, must be remedied within ninety (90) days of the issue date of the audit report with Contractor providing proof of remediation to ITS.

**57.1.2. Audit Logs / Scanning.** The State's audit and inspection rights, breach notification, and migration and data destruction rights described above in this Contract apply equally to any Contractor or Subcontractor location that is hosting NYS Confidential Information.

Contractor and its Subcontractor(s) must retain a minimum of ninety-two (92) days of audit logs, as per the New York State Security Logging Standard (<https://its.ny.gov/document/security-logging-standard>) or as required by the applicable record retention requirements set forth in applicable Local, State and Federal laws, rules, regulations, ordinances, policies, standards, and guidelines, and make those audit logs available to ITS upon request. Audit logs must capture all access to NYS Confidential Information to write-once media only (with log information required to include username, event type, event operation, event details, successful/unsuccessful authentication events, system start/stop, hardware attachment/detachment, system alerts and error messages and other security events, and unsuccessful attempts to access/modify/delete NYS Confidential Information being logged to or retained in the event table).

Contractor must allow ITS to audit conformance to the Contract/SOW terms and to perform application scanning, web server scanning, and monthly environment vulnerability scanning to test for vulnerabilities. ITS may perform this scanning with a third-party at its discretion, or alternatively if the Parties agree, the Contractor must have a third-party perform such scanning and provide results directly to ITS.

Contractor must address all high and medium vulnerabilities found during scanning in a reasonable timeframe as agreed upon with ITS.

## **57.2. CLOUD SERVICES OFFSHORE AND OTHER RESTRICTIONS**

**57.2.1. Cloud Services Offshore Restrictions.** NYS Confidential Information may not be hosted by Contractor or its Subcontractor(s) outside of the Continental United States (CONUS). Contractor acknowledges that NYS Confidential Information under the Contract/SOW may fall under contractual obligations or legal constraints on sharing the NYS Confidential Information with third parties or moving it to certain geographical locations, and that violating those legal constraints may constitute violation of civil or criminal laws by Contractor, including but not limited to provisions of the United States and New York State constitutions, the NYS Public Officers' Code of Ethics, the federal Privacy Act of 1974, IRS Publication 1075, and the federal Health Information Portability and Accountability Act of 1996.

Contractor and its Subcontractor(s) if any will disclose to the State at the State's request a list of the physical locations where Contractor has stored any NYS Confidential Information at any given time and will update that list if the physical location changes.

**57.2.2. Cloud Services Multi-Tenancy.** The Parties shall agree in written Transaction Documents, signed by authorized signatories of the Parties, concerning whether any specific cloud support services are to be provided on a private platform, or a government-only or other type of multi-tenant platform, and the methods that will be deployed to mitigate any risks attendant to such multi-tenancy.

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**Appendix C – ITS Terms and Conditions**

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**57.2.3. Cloud Services Data Isolation.** To the extent required by Federal, State, or local law, rule, or regulation, software, data, and services that receive, transmit, process, or store NYS Confidential Information, FTI, or any other forms of regulated data identified in Appendix G to the RFP must be isolated within the cloud environment so that other cloud customers sharing physical or virtual space cannot access other customer data or applications. Additionally, pursuant to IRS Publication 1075, to the maximum extent possible, FTI must be segregated from other data and information.

**57.2.4. Cloud Services Testing by ITS.** For any specific Tier II Assignment/SOW for cloud support services from Contractor, the State may require that the Contractor create, at no charge to the State, a sandbox or testing environment where the State can, for a reasonable period of time mutually agreed to by the Parties in that Tier II Assignment/SOW, test and become familiar with Contractor's offering as a proof-of-concept to ensure it meets the needs of the State prior to the State finalizing its purchase of such services. The State shall provide notice of such a requirement in the Tier II Assignment.

**57.2.5. Cloud Services Pricing Specificity.** The Parties shall reasonably work to ensure that any specific cloud services Tier II Assignment/SOW is specific concerning the Contractor's licensing terms and pricing associated with that service. For example, pricing in the Tier II Assignment/SOW shall reflect:

- the complete costs for the services specified therein with no hidden fees;
- for user-based/seat-based pricing, whether and the extent to which the pricing applies to per unique seat users, concurrent users, active users, technical support users not using the application but accessing it only for technical support services, and other types of metrics; and
- all optional or additional fees such as fees for custom reports by Contractor or storage costs.

Contractor may invoice and the State will be responsible for payment on any cloud services ordered when the cloud service is operational. When cloud services are ordered or terminated by the State in between the Contractor's billing cycle, the State will only be responsible for the pro rata share for that cloud service for the applicable calendar month. If a cloud service is terminated in between Contractor's billing cycle, Contractor will issue the State a credit for the pro rata share of any unused cloud services to be included in the next billing cycle.

**57.2.6. Cloud Services Discontinuance.** Unless required by law, Contractor may not withdraw availability of Cloud Support Services already being provided to the State pursuant to the terms of a Tier II Assignment/SOW without first providing the State with at least ninety (90) days advance written notice, and may only do so if Contractor is withdrawing availability from all of its customers.

Contractor may not degrade or discontinue any features or functionality of its Cloud Support Services already being provided to the State pursuant to the terms of a Tier II Assignment/SOW, and/or require the State to migrate its usage to a replacement cloud service, including in a manner that might necessitate replacement or upgrades on the State's part, without providing the State with at least twenty-four (24) months' prior written notice. The Parties shall reasonably work to ensure that any specific cloud services Tier II Assignment/SOW contains screenshots, a functionality matrix, or other items specifically identifying the functionality the State is receiving under that Tier II Assignment/SOW.

**57.2.7. Cloud Services Data Ownership and Backup.** Along with NYS Confidential Information as defined in the Contract being owned exclusively by New York State, the State retains ownership of any and all information derived from NYS Confidential Information or processed by Contractor's cloud services systems using NYS Confidential Information.

The "*Data Migration*" and "*Data Return and Destruction*" provisions above apply to Contractor's cloud services at any time, not just at the termination of the Contract. Contractor shall ensure that the cloud

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**Appendix C – ITS Terms and Conditions**

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services it performs and the cloud solutions it designs under the Contract/SOW are performed in such a way so as to ensure easy migration of any NYS Confidential Information held by Contractor as required by the State, at no additional cost to the State. For any specific cloud services provided by Contractor to the State, Contractor must provide a mechanism allowing backup of NYS Confidential Information from Contractor's cloud-based systems to ITS' on-premises own systems. The Parties shall describe any detailed specific additional requirements for accomplishing this capability in a Tier II Assignment/SOW relevant to that specific provision by Contractor to the State of cloud services.

Contractor bears the risk of loss for any NYS Confidential Information in transit once said NYS Confidential Information has left the technology networks of ITS.

**57.2.8. Cloud Services Subcontractor(s).** The provisions above concerning "*Subcontractors*" apply equally to any of Contractor's Subcontractor(s) providing cloud services under the Contract/SOW. As described therein, Contractor remains directly responsible for complying with the terms of the Contract, and for identifying any cloud services functionality that it is outsourcing to Subcontractor(s) and first obtaining the State's written agreement that Contractor may do so.

**57.2.9. Cloud Services Exclusivity / Add-ons.** ITS is New York State's primary technology services State agency. Neither Contractor nor its Subcontractor(s) shall market to nor sign contracts with ITS' sister State agencies to whom ITS provides technology services for any cloud services that are designed to interact with or build onto the cloud services that Contractor and/or its Subcontractor(s) are already providing to ITS under this Contract. Instead, should any of ITS' such sister State agencies solicit such cloud services from Contractor or its Subcontractor(s), Contractor will immediately notify ITS of such request so that ITS may itself decide whether to procure the desired cloud services from Contractor.

### **57.3. CLOUD SERVICES-SPECIFIC SECURITY REQUIREMENTS**

Contractor's and its Subcontractor(s)' cloud services environment and/or applications must be available on a 24-hours per day, 365 days per year basis, providing around-the-clock service to New York State users of such systems. Contractor and its Subcontractor(s) must provide the State with reasonable advance notice of any major upgrades or system changes that they are performing. The State reserves the right to defer these changes if desired.

Contractor will provide the State a profile of its and its Subcontractor(s)' data center facilities, networking infrastructure, security provisions, backup and recovery procedures, and disaster recovery plans to ensure NYS Confidential Information is protected and is recoverable in case of a system failure.

The following requirements are applicable to Contractor's and its Subcontractor(s)' development, testing and live production environments, for the cloud services provided to the State under the Contract/SOW:

- Contractor must comply with all applicable NYS Information Security Policies and Standards located at <https://its.ny.gov/eiso/policies/security>.
- Contractor and its Subcontractor(s) shall establish and maintain appropriate environmental, safety, and facility procedures, data security procedures, and other safeguards against the destruction, corruption, loss or alteration of the cloud services and any NYS Confidential Information to prevent unauthorized access, alteration or interference by third parties of the same.
- Contractor and its Subcontractor(s) shall utilize industry best practices and technology (including appropriate firewall protection, intrusion prevention tools, and intrusion detection tools) to protect, safeguard, and secure their cloud services systems and NYS Confidential Information against unauthorized access, use, and disclosure. Contractor and its Subcontractor(s) shall constantly monitor for any attempted unauthorized access to, or use or disclosure of, any of such materials and shall immediately take all necessary and appropriate action in the event any such attempt is

Appendix C – ITS Terms and Conditions

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discovered, promptly notifying the State of any material or significant breach of security with respect to any such materials.

- When software vulnerabilities are revealed and addressed by a Contractor patch, Contractor will obtain the patch from the applicable entity and categorizes the urgency of application of the patch as either “critical” or “non-critical” in nature. The determination of the critical versus non-critical nature of patches is solely at the reasonable discretion of Contractor in consultation with ITS. Contractor will apply all critical security patches, hot fixes, or service packs as they are tested and determined safe for installation.
- The cloud services live production environment must be physically separate from the other environments. Contractor and its Subcontractor(s) shall maintain and implement procedures to physically and logically segregate NYS Confidential Information from Contractor’s data and data belonging to Contractor’s other customers.
- Security for any NYS Confidential Information hosted by Contractor or its Subcontractors is the responsibility of Contractor and will not require customization by ITS.
- Contractor shall ensure that a sufficient number of personnel of suitable experience, training and skills are assigned in accordance with the cloud services. Contractor shall have general control and discretion to determine the methods by which Contractor performs and maintains its hosting or other cloud services, provided, however, that Contractor shall comply with all terms and conditions herein and that Contractor shall be fully responsive regarding all State requests regarding all operational methods regarding Contractor's and its Subcontractor(s)' cloud services as they relate to the State.
- Contractor and its Subcontractor(s) providing cloud services to the State under the Contract/SOW must document their security policies, practices, and procedures related to the cloud services provided to the State and make such information available to the State upon request.
- Contractor warrants that the data centers and systems it or its Subcontractor(s) use to provide cloud services to the State under the Contract/SOW comply with the ISO 27001 and ISO 27002 information security standards or their successors, and shall provide the State evidence of such certification or pursuit of certification.
- Contractor shall also provide the State evidence that its and its Subcontractor(s) business continuity program is certified and mapped to the international BS 25999 standard or its successor, and shall modify such plan to enhance its provisions at the reasonable request of the State.
- At the State’s request, Contractor shall provide complete network connectivity diagrams for its cloud services to ITS for review and approval prior to cloud services implementation.
- Contractor and its Subcontractor(s) must track and control all access entering and exiting its facilities used to provide the State with cloud services under the Contract/SOW, with physical security systems and video surveillance in place 24/7/365 days a year.
- Contractor and its Subcontractor(s) must apply standard software and hardware maintenance to its equipment as needed to address anomalies and security concerns, including software hot-fixes and service packs, including to third-party software used by Contractor and its Subcontractor(s) including operating system, backups, antivirus software, and any application software, and to hardware firmware and BIOS updates with updates tested internally prior to install.
- Contractor and its Subcontractor(s) must deploy reliable industry best practice standard firewalls and anti-virus technologies to their cloud services systems that house NYS Confidential

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**Appendix C – ITS Terms and Conditions**

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Information, with regular updates to virus definitions and logs monitored and maintained to ensure reliability and security.

- Contractor and its Subcontractor(s) must maintain toll free telephone lines for help desk support calls from State users of their cloud services systems.

#### **57.4. CLOUD SERVICES POWER SYSTEMS, INFRASTRUCTURE, AND BACKUP**

**57.4.1. Power Systems and Infrastructure.** An Uninterruptible Power Supply must protect the Contractor's or its Subcontractor(s)' equipment providing cloud services to the State, with a specific number of hours of uninterrupted backup power specified in the Tier II Assignment/SOW between the Parties. Contractor's and its Subcontractor(s)' facilities must meet or exceed the Uptime Institute Tier 3 Data Facility standards. (<https://uptimeinstitute.com>) Contractor's and its Subcontractor(s)' primary infrastructure systems must be monitored and redundant, with battery and generator backup power, with circuit load checked regularly to ensure reliable power to systems.

The Contractor's and its Subcontractor(s)' site infrastructure must:

- have the capacity to add additional equipment and electrical power to meet growing needs;
- be connected to public utilities via redundant power grid connections for primary power requirements;
- after 15 seconds of consecutive downtime, use a generator to supply it with power, with sufficient fuel on-site for an extended run-time of greater than 1 week;
- use twist lock receptacles to guard against accidental power loss;
- for Internet connectivity: use redundant connections with burstable bandwidth support that can automatically adjust to handle increased load; encrypt all Internet traffic from Contractor's and its Subcontractor(s)' cloud services system to New York State systems; and, register and maintain domain names for their primary and alternate sites.
- include 24 x 7 performance, capacity monitoring and managed escalation services to address system issues, including:
  - monitoring, collecting, and analyzing equipment utilization data for CPU, memory, and disk space;
  - compiling configuration data and usage patterns;
  - monitoring equipment performance;
  - establishing thresholds and exception reporting procedures;
  - performing tuning based on available performance data; and
  - reviewing equipment capacity trends;
- include fire detection and suppression system for early detection of fires and suppression in a manner designed to protect NYS Confidential Information;
- include air conditioning monitored facilities to control for temperature and humidity;

Appendix C – ITS Terms and Conditions

- include facility monitoring for electrical and mechanical failures, fire detection, and leak detection;
- include system and network monitoring of backbone routers, WAN interfaces, routers, switches, and servers; and
- include network problem detection, tracking, and resolution processes.

**57.4.2. Data Backup and Storage Management Services.** Contractor shall do daily incremental backup of all NYS Confidential Information and full weekly NYS Confidential Information backups from the cloud services system's production server(s) to a storage device at Contractor's production data center for data recovery purposes.

Contractor shall back up all NYS Confidential Information to a storage server at a separate and distinct datacenter for disaster recovery purposes. Failover to an alternate site is to be available at all times with little or no notice. In order to maintain uptime, critical services must be transferred in the event of a prolonged outage at the primary site. The alternate site must be located geographically separated from the primary site. Contractor's production facility and disaster recovery facility shall be located within the contiguous 48 states of the United States and no NYS Confidential Information shall be hosted outside of this geographic area. NYS Confidential Information shall be stored at the Contractor's or its Subcontractor(s)' production facility and at the disaster recovery facility for a number of specific days mutually agreed to by the Parties in a specific Tier II Assignment/SOW.

Contractor will assist the State in the restoration of NYS Confidential Information that has been deleted or corrupted.

**57.5. CLOUD SERVICES - HOSTED SYSTEM AVAILABILITY, RESPONSE TIME, AND SERVICE CREDITS**

**57.5.1. Cloud Services Outages/Incidents Definitions.** Cloud services outages/incidents are defined as follows:

- **S1– Cloud Services Emergency Outage Incident:** An S1 incident is applicable when the issue requires immediate action to minimize risk to the State. The issue may be considered an emergency by the State, in that it results in an inability for cloud services users to connect to the production instance of the cloud services, or a critical function within the cloud services ceases to operate, or, if not a complete outage, impacts more than 20% of the users in the cloud services production instance.
- **S2 – Cloud Services Critical, High Priority Incident:** An S2 incident is applicable when the issue involves possible high-risk attacks or compromises and immediate action is necessary to mitigate impacts, or affects a function within the cloud services production instance in which the application affected is mission critical. One or more of the following may be the case: Severe impact to a critical function that materially impacts the State's ability to conduct routine business or to meet its customer's own service levels; or a subset of users is negatively impacted causing an extreme degradation in productivity.
- **S3 – Cloud Services Warning, Medium Priority Incident:** An S3 incident is applicable when the issue involves suspicious events which may require additional investigation by the State, and while not high-risk and not requiring immediate action to mitigate, affects any State business process or function that does not qualify as an Emergency or Critical Outage/High Priority Incident. This may include issues within either production and non-production cloud services instances.

Appendix C – ITS Terms and Conditions

- **S4 – Low Priority, Informational Incident:** An S4 incident is applicable when the issue involves routine events identified for informational/reporting purposes with minor or no known impact to the State. This may include issues that do not adversely impact any process or function that may be seen more as an inconvenience requiring a minor workaround to restore functionality.

**57.5.2. Cloud Services Incident Response Times.** Contractor shall provide general customer support and technical guidance to the State as part of the Contract/SOW. Prioritized means of customer support shall be:

- Online documentation found at a website identified to the State by Contractor;
- Submission of incidents and service requests online at a website and/or by telephone at a number identified to the State by Contractor serving as the Contractor's Customer Support Portal; and
- in the case of S1 - Emergency Outages, Contractor availability twenty-four (24) hours a day, three hundred and sixty-five (365) days a year (24 x 365).
- in all other cases, during US Business Day hours where US Business Day means 5:00 AM to 6:00 PM prevailing Eastern Time, Monday through Friday inclusive with the exception of New York State holidays, which generally include:
  - New Year's Day
  - Dr. Martin Luther King, Jr. Day
  - Washington's Birthday
  - Memorial Day
  - Independence Day
  - Labor Day
  - Columbus Day
  - Veterans' Day
  - Thanksgiving Day; and
  - Christmas Day

**57.5.3. Cloud Services Outage/Incident Response Times.** Contractor shall provide support response to the State's cloud services system inquiries as set forth below. Contractor shall use all reasonable efforts to resolve incidents due to technical difficulties with the cloud services managed by Contractor and/or its Subcontractor(s) according to the target resolution times set forth below.

INCIDENT SEVERITY LEVEL	RESPONSE TIME	TARGET RESOLUTION TIME
S1– Emergency Outage/Incident	Thirty (30) minutes	One (1) hour
S2– Critical, High Priority Outage/Incident	Two (2) Business Day hours	Eight (8) Business Day hours
S3–Warning, Medium Priority Outage/Incident	Eight (8) Business Day hours	Within three (3) Business days
S4–Low Priority, Informational Outage/Incident	Within three (3) Business days	Within two (2) weeks

Appendix C – ITS Terms and Conditions

**57.5.4. Cloud Services Incident Notification and Device Activity Notification Requirements.** The State shall be entitled to the service credits listed in the tables below for failure by Contractor to notify the State of Incidents or device reporting lapses:

Incident Severity Level Notification Requirements*				
Severity Level	Title	Description	Initial Notification Timeframe	Service Credit
1	Emergency	Issue requiring immediate action to minimize risk to the State	10 minutes	1/30th of the Contractor's total monthly invoice at the time of the event that gave rise to the Service Credit
2	Critical	High-risk attacks or possible compromises. Immediate action is necessary to mitigate.	15 minutes	
3	Warning	Suspicious Events which may require additional investigation by the State. Not high-risk and do not require immediate action to mitigate.	1 hour	
4	Low/ Informational	Routine Events with minor or no known impact to the State. Provided for informational/reporting purposes.	2 hours	

\*Notification methods are based on approved escalation procedures. If a dispute arises as to the severity level of an Incident, the State will consult with the Contractor to determine the appropriate level. If no agreement can be reached, the State will be the final determiner of the level assigned to a particular Event.

Device Activity Notification Requirements			
Title	Description	Initial Notification Timeframe	Service Credit
Device Activity	Subject device is not reporting activity.	30 minutes	1/30 <sup>th</sup> of the Contractor's monthly cost <u>associated with the device</u> that produced the logs that identified the event that gave rise to the Service Credit

**57.5.5. Cloud Services Availability and Service Credits.** All data center(s) used by Contractor or its Subcontractor(s) to perform the cloud services under this Contract must at minimum be Tier 3 compliant to an industry standard, with a minimum of 99.982% uptime, no more than 1.6 hours of downtime per year, and N+1 fault tolerant providing at least 72-hour power outage protection.



Appendix C – ITS Terms and Conditions

Any disputes regarding unavailability of the Contractor's or its Subcontractor(s)' cloud services shall be managed using an established dispute resolution procedure.

Contractor and its Subcontractor(s) shall ensure the cloud services they provide to the State under the Contract/SOW are scalable to maintain performance during peak periods of network activity and user access, providing the State the root cause, analysis, and proposed resolution plan for any outage or failure to escalate an event.

It is critical to the success of the Contract/SOW that the cloud services provided under the Contract/SOW be maintained in a timely manner and that the Contractor and its Subcontractor(s) operate in an extremely reliable manner. It would be impracticable and extremely difficult to fix the actual damage sustained by the State in the event of certain delays or failures in administration and provision of cloud services under the Contract/SOW.

Other than unavailability caused by circumstances beyond Contractor's or its Subcontractor(s)' control including force majeure, but only to the extent the unavailability was not the result of Contractor's or its Subcontractor(s)' failure to take all reasonable and commercial care to mitigate or prevent the unavailability, in the event of a failure of Contractor or its Subcontractor(s) to maintain the general availability of their cloud services to the State, service credits will be issued to the State as per the following table:

Service Credits for Unavailability of System		
Service	Allowance for Time-to-Restore**	Credit per Outage*
Cloud Services	Under 10 minutes to 30 minutes	10% of monthly invoice
	30 minutes less than 1 hour	25% of monthly invoice
	1 hours to less than 2 hours	35% of monthly invoice
	2 hours to less than 8 hours	50% of monthly invoice
	8 hours to less than 16 hours	75% of monthly invoice
	24 hours or greater	100% of monthly invoice

\*The State, at its sole discretion, may elect to waive any service credits based upon precipitating events such as: catastrophic failure, multiple simultaneous failures, and/or acknowledgement of Contractor's best effort to sustain/restore service.

\*\*Any partial hours will be rounded up to the next full hour.

**57.5.6. Cloud Services Service Credit Maximums, and Invoicing.** In the event that the State experiences downtime, in other than a catastrophic event, the State shall be eligible to receive from the

Appendix C – ITS Terms and Conditions

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Contractor a service credit, provided on the next monthly invoice following any unavailability, or a reasonable time after the availability failure. Contractor will identify the relevant incident number in addition to the start times and end times of unavailability. If multiple incidents of unavailability occur within the same month than the percentage of service credit per outage shall be added to that month's credit. If an entire monthly invoice needs to be credited than the next monthly invoice shall be used until all appropriate credits are provided to ITS.

Credits can accumulate due to multiple incidents in the same month, but the aggregate maximum number of service credits to be issued by Contractor in a single calendar month shall not exceed the total monthly invoice for the month that gave rise to the service credits.

The State, at its sole discretion, may elect to waive any service credits based upon precipitating events such as: catastrophic failure, multiple simultaneous failures, and/or acknowledgement of Contractor's best effort to sustain/restore service.

Amounts due hereunder shall be in addition to any other amount due the State and no provision of this section precludes the State from pursuing any other remedies to which it may be entitled under the Contract.

**57.5.7. Cloud Service Reporting Requirements.** The Contractor will provide the following reporting on either a monthly basis, or as otherwise agreed upon by the Parties in a Tier II Assignment/SOW:

- Service Availability Reports;
- Capacity Summary Reports; and
- Outage Summary Reports, to include:
  - the start and end time of each outage;
  - the duration of the outage;
  - the IP address experiencing the outage;
  - the reason(s) for the outage (if not known, then a delivery date of a root cause analysis report will be given by the Contractor);
  - the name of the Contractor's technical team member(s) responsible for resolving the problem;
  - a description of the actions required to resolve the outage problem; and
  - the total time the cloud service was unavailable.

The Contractor shall provide the reports/documentation as a condition precedent to payment under the Contract.

All reports required under this section shall be due within ten (10) business days after the last day of the required reporting period. Failure to provide a report required within the required due dates shall result in Contractor providing to the State a quarter (.25) of an Availability Service Credit per business day until the report is received by the State's designated contact. The failure of the State to collect said amounts or the

Appendix C – ITS Terms and Conditions

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payment by the State of amounts otherwise due Contractor shall not be deemed a waiver by the State of the right to enforce the provisions of this paragraph.

The Parties shall agree to an electronic format (e.g., application and required data elements) for each of the reports set forth in this section. Each report shall be transmitted to the State electronically via the Internet utilizing encryption standards and protocols approved by the State, and the system used shall generate an electronic ticket acknowledging transmission.

Upon notice, the Contractor shall have an opportunity to cure the default or be subject to Contract termination. The State's failure to demand or receive required documentation shall not be deemed a waiver of rights under this paragraph.

The State reserves the right upon written notice to Contractor, to modify the frequency and reporting deadlines set forth above.

## 58. SERVICE LEVEL AGREEMENT

### 58.1 Introduction

The Service Level Agreement (SLA) set forth below sets the maximum service level requirements which apply to the products and services that will be part of the IES Solution that Contractors can expect as part of the Tier II process (Service Levels). The State reserves the right to modify the Service Levels set forth below on a Tier II Assignment by Tier II Assignment basis. Contractor, by entering in the Contract/SOW, agrees to the Service Levels identified in the Tier II Assignment.

Failure by the Contractor to meet a Service Level will result in the assessment of Service Credits, unless ITS, in its sole discretion, waives a Service Credit, or portion thereof, after determining such waiver is in the best interest of the State. The Service Credits represent a reasonable measure of the damages incurred by the State.

The Contractor warrants that it shall use best efforts to perform all Project Services under the Contract/SOW in a manner that maximizes performance levels for all Project Services, even those without an associated Service Level.

### 58.2 Definitions

The definitions set forth in the RFP, as well as those below, apply to the SLA:

**“Client”** means a person inquiring about, applying for, or currently receiving benefits or services processed by the IES.

**“Earn Back”** means the Service Credits which the Contractor recoups through future satisfactory performance.

**“End Users”** means State, SSD, and Client users of the IES, together with any such users' agents and/or assigns, including their contractors, providers, and vendors.

**“Events”** means Incidents and Problems.

**“Event Repository”** means the state determined tool that is available to the State and all vendors with a Tier II award, containing relevant information about all Incidents, Problems, and Reworks including the Severity Level, associated Incident or Problem Resolution Time, and general status information regarding the Resolution of the Incident, Problem, or Rework, and any other information requested by the State.

Appendix C – ITS Terms and Conditions

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The State (and its agents or assigns) or the Contractor may populate an Incident, Problem, or Rework in the Event Repository; however, in the event the Contractor does so, the State may modify and reclassify such event.

**“IES Availability”** means the time during each Month of the Contract which:

- (i) The IES Solution is available to End Users during Operational Hours;
- (ii) all control, security, and data protection requirements under the Contract are operational;  
and
- (iii) the IES is capable of processing Transactions without material degradation in performance.

**“IES Solution”** means the hardware, software, network, and other components which comprise the IES which is housed within the State’s Processing Center(s).

**“IES Requirements”** means the IES specifications and functional conditions set forth in the RFP, other solicitation documents, the Contractor’s Bid Proposal, the Contract, Deliverable Expectation Documents, Enhancements and any other documents contemplated therein.

**“Incident”** means an unplanned interruption to the IES, reduction in the quality of service, suspected or alleged security incident or breach, or other known issue of the production IES Solution. Failure of any Item, software or hardware, used in the support of IES, that has not yet affected IES service may be considered an Incident. An Incident may occur when the operational status of a service changes from working to a degraded state, or failing or about to fail, resulting in a condition in which the service is not functioning as it was designed or implemented. An example of an Incident would be a server crash which causes a disruption in IES operations. A Security Incident is defined as a credible allegation or suspicion involving any person or entity’s inappropriate or unauthorized access to or disclosure of the IES Solution containing confidential, private, personal and/or sensitive information. A Security Incident shall, for purposes of this agreement, be a type of Incident.

**“Incident Notification”** means the completed entry of an Incident into the Event Repository by the State or the Contractor. Additionally, any issue with the production IES Solution that is known to the vendor requires an Incident Notification.

**“Incident Response Time”** means the applicable Service Level period during which the Contractor must respond to an Incident, commencing upon Incident Notification.

**“Incident Resolution Time”** means the applicable Service Level period measuring the time elapsed from the moment an Incident is entered in the Event Repository to Resolution.

**“Month” or “Monthly”** means a calendar month during the Contract.

**“Monthly Invoice”** means the expenses incurred by the Contractor, as shown on an invoice, resulting from the performance of services during a Month.

**“Operational Hours”** means at least 24 hours per day, 7 days a week, 365 days a year, unless otherwise indicated by ITS. If necessary, down time will be scheduled prior to go live.

**“Problem”** means a cause of one or more Incidents.

**“Problem Notification”** means the completed entry of a Problem into the Event Repository by the State or the Contractor.

**“Problem Response Time”** means the applicable Service Level period during which the Contractor must respond to a Problem, commencing upon Problem Notification.

Appendix C – ITS Terms and Conditions

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**“Problem Resolution Time”** means the applicable Service Level period measuring the time elapsed from the moment a Problem is submitted in the Event Repository to Resolution.

**“Resolution”** or **“Resolved”** means the Incident or Problem is fixed, as determined by the State and as shown in the Event Repository. In some cases, this may include “a work around” solution until the Root Cause of the Incident or Problem is identified and corrected.

**“Rework”** means an Event which was categorized as Resolved in the Event Repository, but subsequent thereto requires a rework as it was not fully Resolved, as determined by the State.

**“Severity Level”** means the Service Level impact resulting from an Incident or a Problem, as determined by ITS, as follows:

**“Severity Level 1”** means the IES is inoperable, all or in part, or exhibits a problem that has no workaround or has an extreme impact on End User(s); a “show stopper”. Examples include, but are not limited to:

- IES Solution is unavailable/inaccessible, all or in part, for an undefined amount of time;
- Performance degradation, slow System Response Times, low throughput;
- Any perceived security breaches, security incidents, or attacks;
- Hardware failure of primary and redundant devices;
- Required functionality or content is missing from the IES, e.g., business rules are not being applied;
- The IES is in a state where information may be compromised or lost; or
- Incorrect Eligibility determinations occur.

**“Severity Level 2”** means the IES is operating in a degraded mode, and a fix is required to be implemented within a certain period of time. Examples include, but are not limited to:

- Redundant hardware device failed over;
- Monitoring/reporting indicates that maximum thresholds set for processes (e.g., bandwidth, CPU, memory, etc.) are close to being met; or
- Required functionality for a small sub-set of End Users is malfunctioning or missing that does not materially affect service to Clients.

**“Severity Level 3”** means the IES requires moderate attention. The problem may affect some End Users, but will not have a major impact on the business processes and/or functions in the immediate future. Examples include, but are not limited to:

- Defect with application – which requires a change but does not yet impact data integrity, security, application functionality, etc.;
- Non-critical broken links or buttons;
- Content problems (i.e., misspellings, etc.)

**“Severity Level 4”** means that the production system requires minimal attention immediately. This problem is not a critical issue, and does not need to be resolved immediately. Examples include, but are not limited to:

- Non-critical questions from End Users that do not affect application for or receipt of benefits or services and do not indicate a problem with the system; or
- Technical issues that cannot be replicated.

Appendix C – ITS Terms and Conditions

“**System Response Time**” or “**SRT**” means the elapsed time it takes for the IES Solution (excluding any non-vendor supported network or services) to process, prepare, and present the correct response to a Transaction.

“**Transaction**” means an End User request for information from the IES that creates, reads, or updates information in the IES Solution and the response within the IES Solution.

**58.3 Event Repository and Monitoring Service Levels**

The Contractor shall use the State determined Event Repository. Incidents, Problems, and Rework will be monitored in the Event Repository by the State for compliance with the Service Levels included herein.

**58.4 Application of Service Credits**

ITS will monitor the Service Levels on a periodic basis and determine the service credits due to the State. Each invoice submitted by the Contractor shall reflect and deduct from the Monthly Invoice, the Service Credits (if any) accrued during the invoice period. The total Service Credits for each Month shall be capped at 15% of the Monthly Invoice for the Month.

**58.5 Earn Backs**

Subsequent to incurring a Service Credit for failing to meet a specific Service Level for a particular Month, the Contractor shall Earn Back the amount of the Service Credit for such month, provided that it operates for 12 consecutive months thereafter without incurring a Service Credit for that Service Level. An Earn Back shall be shown on the first invoice immediately following the occurrence of an Earn Back.

**58.6 Root Cause Analysis**

In the event of any failure to achieve a Service Level, the Contractor shall conduct a Root Cause Analysis (RCA) to determine the underlying factors that caused the failure, as well as develop a Corrective Action Plan (CAP) to correct such failure (Service Level Failure). Within ten (10) days of becoming aware of a Service Level Failure, Contractor shall provide ITS with a RCA, which includes a CAP, in relation to the Service Level Failure. ITS will review, may make recommendations, and shall approve a CAP in writing.

**58.7 Service Levels and Service Credits**

**58.7.1 System Response Times**

- i. Service Levels. The System Response Time (SRT) Service Levels are measured as follows:
  - a) The number of Transactions completed within a SRT of 2.5 seconds during a Month / Total Transactions during the Month (“the 2.5 Second SRT”); and
  - b) The number of Transactions completed within a SRT of 20.0 seconds during a Month / Total Transactions during the Month (“the 20 Second SRT”)
- ii. Service Credits.
  - a) If the Contractor fails to achieve 95% of the 2.5 Second SRT Service Level during a Month, then Service Credits shall accrue as follows:

The 2.5 Second SRT is between	% of the Monthly Invoice deducted	% of the Monthly Invoice deducted	% of the Monthly Invoice deducted when the 2.5
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Appendix C – ITS Terms and Conditions

	for 1 <sup>st</sup> Month the 2.5 Second SRT Service Level is <u>not</u> met	when the 2.5 Second SRT Service Level is <u>not</u> met for 2 consecutive Months	Second Service Level is <u>not</u> met for 3 or more consecutive Months
<95% and > 94%	2.5%	7.5%	15%
<94% and > 93%	5%	15%	15%
<93% and > 92%	7.5%	15%	15%
<92% and > 91%	10%	15%	15%
<91% and > 90%	12.5%	15%	15%
<90%	15%	15%	15%

Example: The Contractor’s 2.5 Second SRT Service Level during Month 1 is 93.7%. The Service Credit for Month 1 is 5.0% of the Monthly Invoice for Month 1. The Contractor’s 2.5 Second SRT Service Level during Month 2 is 94.3%. The Service Credit for Month 2 is 7.5% of the Monthly Invoice for Month 2, as the Contractor failed to meet the Service Level for 2 consecutive Months. The Contractor’s 2.5 Second SRT Service Level during Month 3 is 94.9% and 94.6% for Month 4. The Service Credit for Month 3 and Month 4 is 15% of the Monthly Invoice.

- b) If the Contractor fails to achieve 99.99% of the 20 second SRT Service Level, then the Service Credit shall be 15% of the Monthly Invoice during such Month.

Example: During a Month the Contractor’s 2.5 Second SRT Service Level is 94.5%, and its 20 Second SRT Service Level is 99.3%. The Service Credit for such Month is 15%, as the amount of a Service Credit may not exceed 15% for any Month.

Note: The total amount of all Service Credits together during any Month shall not exceed 15% of the Monthly Invoice for such Month.

- iii. Earn Back Limitation: If the 2.5 Second SRT is below 90%, or the 20 Second SRT is below 99.99%, for any given Month, then the Contractor cannot Earn Back the SRT Service Credits incurred for such Month, even if it meets the SRT Service Levels for the remainder the Contract.

**58.7.2 IES Availability.**

- i. Service Level. IES Availability during a Month shall be 99.80%.
- ii. Service Credits. IES Availability Service Credits are as follows:
  - a) 2.5% of the Monthly Invoice when IES Availability during a Month is equal to or more than 99.50% but less than 99.80%;
  - b) 5.0% of the Monthly Invoice when IES Availability during a Month is equal to or more than 99.00 but less than 99.50%;
  - c) 7.5% of the Monthly Invoice when IES Availability during a Month is equal to or more than 98.50% but less than 99.00%;
  - d) 10% of the Monthly Invoice when IES Availability during a Month is equal to or more than 98.00% but less than 98.50%;

Appendix C – ITS Terms and Conditions

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- e) 12.5% of the Monthly Invoice when IES Availability during a Month is equal to or more than 97.50% but less than 98.0%; and
  - f) 15.0% of the Monthly Invoice when IES Availability during a Month is less than 97.50%.
- iii. Earn Back Limitation: If IES Availability for a given Month is below 97.50%, then the Contractor cannot Earn Back the Service Credit incurred for such Month, even if it meets the IES Availability Service Level for the remainder the Contract.

**58.7.3 Incident Management Process**

The primary goal of the Incident Management Process is to restore IES service operations as quickly as possible and minimize any adverse impact on IES operations in the event of an Incident or Problem.

ITS and the Contractor shall submit Incidents and Problems in the Event Repository, and identify therein the nature of each Incident or Problem, and the Severity Level associated therewith. Contractor shall immediately proceed to respond to and cure the Incident and, if applicable, Problem within the Service Levels indicated below. Contractor shall communicate continuously with IES management during the entire incident management process.

**i. Incident Response Time Service Levels**

Severity Level 1 Incident: The Incident Response Time shall be 15 minutes from Incident Notification.

Severity Level 2 Incident: The Incident Response Time shall be 4 hours from Incident Notification.

Severity Level 3 Incident: The Incident Response Time shall be 2 business days from Incident Notification.

Severity Level 4 Incident: The Incident Response Time shall be 10 business days from Incident Notification.

**ii. Incident Resolution Time Service Levels**

Severity Level 1 Incident: The Incident Resolution Time shall be 4 hours from Incident Notification.

Severity Level 2 Incident: The Incident Resolution Time shall be 2 business days from Incident Notification.

Severity Level 3 Incident: The Incident Resolution Time shall be 15 business days from Incident Notification.

Severity Level 4 Incident: The Incident Resolution Time shall be 30 business days from Incident Notification.

**iii. Communication of Incidents Service Levels**

Specific Service Levels will be included in the Tier II procurements.

**iv. Incident Service Credits**



Appendix C – ITS Terms and Conditions

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Service Credits shall be imposed for the Contractor's failure to meet either Incident Response Times or Incident Resolution Times as follows:

- (a) 2.5% of the Monthly Invoice for 1 failure during a Month;
- (b) 5.0% of the Monthly Invoice for 2 failures during a Month;
- (c) 7.5% of the Monthly Invoice for 3 failures during a Month;
- (d) 10% of the Monthly Invoice for 4 failures during a Month;
- (e) 12.5% of the Monthly Invoice for 5 failures during a Month;
- (f) 15% of the Monthly Invoice for more than 5 failures during a Month;

**v. Problem Resolution Time Service Levels**

Severity Level 1 Problem: The Problem Resolution Time shall be 48 hours from Problem Notification.

Severity Level 2 Problem: The Problem Resolution Time shall be 10 business days from Problem Notification.

Severity Level 3 Problem: The Problem Resolution Time shall be 20 business days from Problem Notification.

Severity Level 4 Problem: The Problem Resolution Time shall be 30 business days from Problem Notification.

**vi. Problem Resolution Time Service Credits**

Service Credits shall be imposed for each failure by the Contractor to meet either 95% of the Severity Level 1, 2, 3 or 4 Problem Resolution Times during any month during the Contract, as follows:

- (a) 5.0% of the Monthly Invoice for 1 failure during a Month;
- (b) 10.0% of the Monthly Invoice for 2 failures during a Month;
- (c) 15% of the Monthly Invoice for more than 2 failures during a Month.

The Service Credit shall apply to the first Monthly Invoice after the Service Credit is incurred during the 30-Day Rolling Period.

**vii. Earn Back Limitation:** If a Service Credit in 7.C for a given Month is 15% of the Monthly Invoice, then the Contractor cannot Earn Back that Service Credit incurred for such Month, even if it meets the Service Level associated with the Service Credit for the remainder the Contract.

**58.7.4 Reworks**

- i. Service Level.** 1% or less of Events during a Month are categorized as Reworks.
- ii. Service Credits:**
  - a) 2.5% of the Monthly Invoice when more than 1% but less than or equal to 1.5% of Events during a Month are categorized as Reworks.

Appendix C – ITS Terms and Conditions

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- b) 5.0% of the Monthly Invoice when more than 1.5 % but less than or equal to 2.0% of Events during a Month are categorized as Reworks.
- c) 7.5% of the Monthly Invoice when more than 2.0% of Events during a Month are categorized as Reworks.

**58.7.5 Business Continuity, Disaster Recovery, and Data Backups.** The State reserves the right to issue specific Recovery Point Objective, Recovery Time Objective, and Data Backup Service Level Agreements for each Tier II assignment and will communicate those values in the Tier II requests.

**58.8 Reduction, Modification, and Addition of Service Levels during Contract**

ITS may unilaterally reduce or modify a Service Level in the SLA, or add a new Service Level during the Contract provided such reduction, modification, or addition 1) does not result in a material variance to the Contract; and 2) reflects reasonable industry standards for an IES project of similar size and scope. ITS may also reduce, modify, or add a Service Level as may be required by law. Such action may be taken by ITS issuing a written notice to the Contractor stating the reduction, modification, or addition as applicable, and the date when such shall commence.



**RFP# C000540 IES System Integrator Master Service Agreements**

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## **Appendix C-1 - Contractor's Insurance Requirements**

During the term of this Contract, the Contractor shall maintain in force, at its sole cost and expense policies of insurance as required by this section. All insurance required by this section shall be written by companies that have an A.M. Best Company rating of "A-," Class "VII" or better. In addition, companies writing insurance intended to comply with the requirements of this section should be licensed or authorized by the New York State Department of Financial Services to issue insurance in the State of New York. ITS may, in its sole discretion, accept policies of insurance written by a non-authorized carrier or carriers when certificates and/or other policy documents are accompanied by a completed Excess Lines Association of New York (ELANY) affidavit or other documents demonstrating the company's strong financial rating. If, during the term of a policy, the carrier's A.M. Best rating falls below "A-," Class "VII," the insurance must be replaced, on or before the renewal date of the policy, with insurance that meets the requirements above.

Acceptance and/or approval by ITS does not, and shall not be construed to, relieve the Contractor of any obligations, responsibilities or liabilities under this Contract.

The Contractor shall not take any action, or omit to take any action that would suspend or invalidate any of the required coverages during the term of the Contract.

**A. General Conditions Applicable to Insurance.** All policies of insurance required by this section shall comply with the following requirements:

- 1. Coverage Types and Policy Limits.** The types of coverage and policy limits required from the Contractor are specified in Section B-*Insurance Requirements*.
- 2. Policy Forms.** Except as otherwise specifically provided herein, or agreed to in the Contract, all policies of insurance required by this section shall be written on an occurrence basis.
- 3. Certificate of Insurance/Notices.** The Contractor shall provide ITS with a Certificate or Certificates of Insurance, in a form satisfactory to ITS (e.g., an ACORD certificate), after renewal or upon request. Certificates shall reference the Contract number and shall name the New York State Office of Information Technology Services, Empire State Plaza, Swan Street, Core 4, Albany New York, 12220 as the certificate holder.

Certificates of Insurance shall:

- Be in the form acceptable to ITS and in accordance with the New York State Insurance Law (e.g., an ACORD Certificate);
- Disclose any deductible, self-insured retention, aggregate limit or exclusion to the policy that materially changes the coverage required by this Contract;
- Refer to this Contract by number;
- Be signed by an authorized representative of the referenced insurance carriers; and
- Contain the following language in the Description of Operations / Locations / Vehicles section: The State of New York, the New York State Office of Information Technology Services, any entity authorized by law or regulation to use the Contract and their officers, agents, and employees are included as an additional insured on endorsement CG 20 10 11 85 (or endorsements that provide equivalent coverage, such as the combination of CG 20 10 04 13 (covering ongoing operations) and CG 20 37 04 13 (covering completed



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**RFP# C000540 IES System Integrator Master Service Agreements**

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operations)), and General liability coverage is provided on the current edition of Commercial General Liability Coverage Form CG 00 01 (or a form that provides equivalent coverage). Additional insured protection afforded is on a primary and non-contributory basis. A waiver of subrogation is granted in favor of the additional insureds.

Only original documents (Certificates and any endorsements and other attachments) or electronic versions of the same that can be directly traced back to the insurer, agent or broker via e-mail distribution or similar means will be accepted.

Except for (i) Data Breach and Privacy/Cyber Liability coverage, (ii) Technology Errors and Omissions, and (iii) Crime insurance coverages, ITS generally requires Contractors to submit only certificates of insurance and additional insured endorsements, although ITS reserves the right to request other proof of insurance. Contractors are requested to refrain from submitting entire insurance policies, unless specifically requested by ITS. If an entire insurance policy is submitted but not requested, ITS shall not be obligated to review and shall not be chargeable with knowledge of its contents. In addition, submission of an entire insurance policy not requested by ITS does not constitute proof of compliance with the insurance requirements and does not discharge Contractors from submitting the requested insurance documentation.

4. **Forms and Endorsements.** For Data Breach and Privacy/Cyber Liability, Technology Errors and Omissions, and certain Crime Insurance coverages (those containing Cyber theft coverage), Contractor shall provide ITS, after renewal or upon request, with a Schedule of Forms and Endorsements and, upon request, all Forms and Endorsements, unless otherwise agreed to in the Contract. The Forms and Endorsements shall provide evidence of compliance with the requirements of this Contract. Only original documents or electronic versions of the same that can be directly traced back to the insurer, agent or broker via e-mail distribution or similar means will be accepted.
5. **Primary Coverage.** All insurance policies shall provide that the required coverage shall be primary and non-contributory to other insurance available to the State, ITS, any entity authorized by law or regulation to use the Contract and their officers, agents, and employees. Any other insurance maintained by the State, ITS, any entity authorized by law or regulation to use the Contract and their officers, agents, and employees shall be excess of and shall not contribute with the Contractor's insurance.
6. **Breach for Lack of Proof of Coverage.** The failure to comply with the requirements of this section at any time during the term of the Contract shall be considered a breach of the terms of the Contract and shall allow the State, ITS, any entity authorized by law or regulation to use the Contract and their officers, agents, and employees to avail themselves of all remedies available under the Contract or at law or in equity.
7. **Self-Insured Retention/Deductibles.** Certificates of Insurance must indicate the applicable deductibles/self-insured retentions for each listed policy. Deductibles or self-insured retentions above \$100,000.00 are subject to approval from ITS. Such approval shall not be unreasonably withheld, conditioned or delayed. The Contractor shall be solely responsible for all claim expenses and loss payments with the deductibles or self-insured retentions. If the Contractor is providing the required insurance through self-insurance, evidence of the financial capacity to support the self-insurance program along with a description of that program, including, but not limited to, information regarding the use of a third-party administrator shall be provided upon request.



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**RFP# C000540 IES System Integrator Master Service Agreements**

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- 8. Subcontractors.** Prior to the commencement of any work by a subcontractor, the Contractor shall require such subcontractor to procure policies of insurance as required by this section and maintain the same in force during the term of any work performed by that subcontractor.
- 9. Waiver of Subrogation.** For the Commercial General Liability Insurance and Comprehensive Business Automobile Liability Insurance required below, the Contractor shall cause to be included in each of its policies a waiver of the insurer's right to recovery or subrogation against the State, ITS, and any entity authorized by law or regulation to use the Contract and their officers, agents, and employees. A Waiver of Subrogation Endorsement evidencing such coverage shall be provided to ITS upon request. A blanket Waiver of Subrogation Endorsement evidencing such coverage is also acceptable.
- 10. Additional Insured.** For the Commercial General Liability Insurance and Comprehensive Business Automobile Liability Insurance required below, the Contractor (and subcontractor, if applicable) shall cause to be included in each of its policies ISO form CG 20 10 11 85 (or a form or forms that provide equivalent coverage, such as the combination of CG 20 10 04 13 and CG 20 37 04 13) and form CA 20 48 10 13 (or a form or forms that provide equivalent coverage) naming as additional insureds: The State of New York, the New York State Office of Information Technology Services, any entity authorized by law or regulation to use the Contract and their officers, agents, and employees. An Additional Insured Endorsement evidencing such coverage shall be provided to ITS after renewal and/or upon request. A blanket Additional Insured Endorsement evidencing such coverage is also acceptable. For Contractors who are self-insured, Contractor shall be obligated to defend and indemnify the above-named additional insureds with respect to Commercial General Liability and Comprehensive Business Automobile Liability, in the same manner that Contractor would have been required to pursuant to this section had Contractor obtained such insurance policies.
- 11. Excess/Umbrella Liability Policies.** Required insurance coverage limits may be provided through a combination of primary and excess/umbrella liability policies. If coverage limits are provided through excess/umbrella liability policies, then a Schedule of underlying insurance listing policy information for all underlying insurance policies (insurer, policy number, policy term, coverage and limits of insurance), including proof that the excess/umbrella insurance follows form must be provided after renewal and/or upon request.
- 12. Notice of Cancellation or Non-Renewal.** Policies shall be written so as to include the requirements for notice of cancellation or non-renewal in accordance with the New York State Insurance Law. Within five (5) business days of receipt of any notice of cancellation or non-renewal of insurance, the Contractor shall provide ITS with a copy of any such notice received from an insurer together with proof of replacement coverage that complies with the insurance requirements of this Contract.
- 13. Policy Renewal/Expiration.** Upon policy renewal/expiration, evidence of renewal or replacement of coverage that complies with the insurance requirements set forth in this Contract shall be delivered to ITS. If, at any time during the term of this Contract, the coverage provisions and limits of the policies required herein do not meet the provisions and limits set forth in this Contract, or proof thereof is not provided to ITS, the Contractor shall immediately cease work. The Contractor shall not resume work until authorized to do so by ITS.



**RFP# C000540 IES System Integrator Master Service Agreements**

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**14. Deadlines for Providing Insurance Documents after Renewal or Upon Request.** As set forth herein, certain insurance documents must be provided to the ITS Procurement Services contact identified in the Contract Award Notice after renewal or upon request. This requirement means that the Contractor shall provide the applicable insurance document to ITS as soon as possible but in no event later than the following time periods:

- For certificates of insurance: 5 business days
- For information on self-insurance or self-retention programs: 15 calendar days
- For additional insured and waiver of subrogation endorsements: 30 calendar days
- For schedules of forms and endorsements and all forms and endorsements: 60 calendar days

Notwithstanding the foregoing, if the Contractor shall have promptly requested the insurance documents from its broker or insurer and shall have thereafter diligently taken all steps necessary to obtain such documents from its insurer and submit them to ITS, ITS shall extend the time period for a reasonable period under the circumstances, but in no event shall the extension exceed 30 calendar days.

**B. Insurance Requirements:** Throughout the term of this Contract, the Contractor shall obtain and maintain in full force and effect, the following insurance with limits not less than those described below and as required by the terms of this Contract, or as required by law, whichever is greater.

**1. Commercial General Liability Insurance:** Commercial General Liability Insurance with a limit of not less than \$2,000,000 each occurrence. Such liability shall be written on the current edition of ISO occurrence form CG 00 01, or a substitute form providing equivalent coverage.

- |   |             |
|---|-------------|
| • General Aggregate                         | \$2,000,000 |
| • Products – Completed Operations Aggregate | \$2,000,000 |
| • Personal and Advertising Injury           | \$1,000,000 |
| • Each Occurrence                           | \$2,000,000 |
| • Damage to Rented Premises                 | \$50,000    |
| • Medical Expenses                          | \$5,000     |

Aggregate limits shall apply on a per location basis, or as otherwise agreed to in the Contract. This aggregate limit applies separately to each location at which the insured works.

Coverage shall include, but not be limited to, the following:

- Bodily injury;
- Premises operations;
- Independent contractors;
- Products-completed operations;
- Broad form property damage;
- Personal & advertising injury;
- Blanket contractual liability, including tort liability of another assumed in any Contract resulting from this Solicitation;
- Defense and/or indemnification obligations, including obligations assumed under this Contract;



RFP# C000540 IES System Integrator Master Service Agreements

- Cross liability for additional insureds; and
- Explosion, collapse and underground hazards.

2. **Comprehensive Business Automobile Liability Insurance** covering liability arising out of any automobile used in connection with performance under the Contract, including owned, leased, hired and non-owned automobiles bearing or, under the circumstances under which they are being used, required by the Motor Vehicles Laws of the State of New York to bear, license plates. Such policy shall have a combined single limit for Bodily Injury and Property Damage of at least \$2,000,000.00 each accident. The limits may be provided through a combination of primary and umbrella liability policies.

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

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

3. **Data Breach and Privacy/Cyber Liability:** Contractors are required to maintain during the term of this Contract and as otherwise required herein, Data Breach and Privacy/Cyber Liability Insurance, including coverage for failure to protect confidential information and failure of the security of the Contractor’s computer systems or the Authorized Users’ systems due to the actions of the Contractor which results in unauthorized access to the Authorized User(s) or their data. Said insurance shall be maintained in the following limits, as applicable:

Data Breach and Privacy/Cyber Liability		
Software		\$1,000,000
Hardware		\$1,000,000
Cloud *	Low Risk	\$2,000,000
	Moderate Risk	\$5,000,000
	High Risk	\$10,000,000



**RFP# C000540 IES System Integrator Master Service Agreements**

<b>Data Breach and Privacy/Cyber Liability</b>	
Implementation	\$1,000,000
<p>* See NYS-S14-002 Information Classification Standard or successor available at <a href="http://www.its.ny.gov/tables/technologypolicyindex.htm">http://www.its.ny.gov/tables/technologypolicyindex.htm</a> for additional information relating to risk categories. Contractor must maintain minimum insurance coverage for the level of risk for which Contractor provides Products and submit documentation in accordance with the terms of this Contract.</p>	

Said insurance shall provide coverage for damages arising from, but not limited to the following:

- Breach of duty to protect the security and confidentiality of nonpublic proprietary corporate information;
- Personally identifiable nonpublic information (e.g., medical, financial, or personal in nature in electronic or non-electronic form);
- Privacy notification costs;
- Regulatory defense and penalties;
- Website media liability; and
- Cyber theft of customer’s property, including but not limited to money and securities.

If the policy is written on a claims made basis, Contractor must submit to ITS an Endorsement providing proof that the policy provides the option to purchase an Extended Reporting Period (“tail coverage”) providing coverage for no less than one (1) year after work is completed in the event that coverage is cancelled or not renewed. This requirement applies to both primary and excess liability policies, as applicable.

4. **Technology Errors and Omissions:** Contractors are required to maintain during the term of the Contract and as otherwise required herein, Technology Errors and Omissions Insurance. Said insurance shall be maintained in the following limits, as applicable:

<b>Technology Errors and Omissions</b>		
Software	\$1,000,000	
Hardware	\$1,000,000	
Cloud *	Low Risk	\$2,000,000
	Moderate Risk	\$5,000,000
	High Risk	\$10,000,000
Implementation	\$1,000,000	
<p>*See NYS-S14-002 Information Classification Standard or successor available at <a href="http://www.its.ny.gov/tables/technologypolicyindex.htm">http://www.its.ny.gov/tables/technologypolicyindex.htm</a> for additional information relating to risk categories. Contractor must maintain minimum insurance coverage for the level of risk for which Contractor provides Products and submit documentation in accordance with the terms of this Contract.</p>		





**RFP# C000540 IES System Integrator Master Service Agreements**

Said insurance shall provide coverage for damages arising from computer related services including but not limited to the following:

1. Consulting;
2. Data processing;
3. Programming;
4. System integration;
5. Hardware or software development;
6. Installation;
7. Distribution or maintenance;
8. Systems analysis or design;
9. Training;
10. Staffing or other support services; and
11. Manufactured, distributed, licensed, marketed or sold cloud computing services.

The policy shall include coverage for third party fidelity including cyber theft.

If the policy is written on a claims made basis, Contractor must submit to ITS an Endorsement providing proof that the policy provides the option to purchase an Extended Reporting Period (“tail coverage”) providing coverage for no less than one (1) year after work is completed in the event that coverage is cancelled or not renewed. This requirement applies to both primary and excess liability policies, as applicable.

5. **Crime Insurance:** Contractors are required to maintain during the term of the Contract and as otherwise required herein, Crime Insurance. Said insurance shall be maintained in the following limits:

Crime Insurance		
Software		\$2,000,000
Hardware		\$2,000,000
Cloud *	Low Risk	\$2,000,000
	Moderate Risk	\$5,000,000
	High Risk	\$10,000,000
Implementation		\$2,000,000
<p>*See NYS-S14-002 Information Classification Standard or successor available at <a href="http://www.its.ny.gov/tables/technologypolicyindex.htm">http://www.its.ny.gov/tables/technologypolicyindex.htm</a> for additional information relating to risk categories. Contractor must maintain minimum insurance coverage for the level of risk for which Contractor provides Products and submit documentation in accordance with the terms of this Contract.</p>		

Crime Insurance on a “loss sustained form” or “loss discovered form” must provide coverage for Third Party Fidelity.



**RFP# C000540 IES System Integrator Master Service Agreements**

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In addition to the coverage above:

- The policy must allow for reporting of circumstances or incidents that might give rise to future claims.
- The policy must include an extended reporting period of no less than one (1) year with respect to events which occurred but were not reported during the term of the policy.
- Any warranties required by the Vendor's and Contractor's insurer as a result of this Contract must be disclosed and complied with. Said insurance shall extend coverage to include the principals (all directors, officers, agents and employees) of the Vendor and Contractor as a result of this Contract.
- The policy shall include coverage for third party fidelity, including cyber theft if not provided as part of Cyber Liability, and name the State of New York, the New York State Office of Information Technology Services, any entity authorized by law or regulation to use this Contract and their officers, agents, and employees as "Loss Payees" for all Third Party coverage secured. An Endorsement naming as Loss Payees "The State of New York, the New York State Office of Information Technology Services, any entity authorized by law or regulation to use this Contract and their officers, agents and employees" shall be provided upon request. A blanket Loss Payee Endorsement evidencing such coverage is also acceptable. This requirement applies to both primary and excess liability policies, as applicable.
- The policy shall not contain a condition requiring an arrest and conviction.

6. **Workers' Compensation Insurance & Disability Benefits Coverage:** Sections 57 and 220 of the New York State Workers' Compensation Law require the heads of all municipal and state entities to ensure that businesses applying for contracts have appropriate workers' compensation and disability benefits insurance coverage. These requirements apply to both original contracts and renewals. **Failure to provide proper proof of such coverage or a legal exemption will result in a rejection of any contract renewal.** Proof of workers' compensation and disability benefits coverage, or proof of exemption must be submitted to ITS at the time of policy renewal, contract renewal and upon request. Proof of compliance must be submitted on one of the following forms designated by the New York State Workers' Compensation Board. **An ACORD form is not acceptable proof of New York State workers' compensation or disability benefits insurance coverage.**

Proof of Compliance with the Workers' Compensation Coverage Requirements:

- Form CE-200, *Certificate of Attestation for New York Entities With No Employees and Certain Out of State Entities, That New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is Not Required*, which is available on the New York State Workers' Compensation Board's website ([www.wcb.ny.gov](http://www.wcb.ny.gov));
- Form C-105.2 (9/07), *Certificate of Workers' Compensation Insurance*, sent to ITS by the Contractor's insurance carrier upon request, or if coverage is provided by the New York State Insurance Fund, they will provide Form U-26.3 to ITS upon request from the Contractor; or
- Form SI-12, *Certificate of Workers' Compensation Self-Insurance*, available from the New York State Workers' Compensation Board's Self-Insurance Office, or Form GSI-105.2, *Certificate of Participation in Workers' Compensation Group Self-Insurance*, available from the Contractor's Group Self-Insurance Administrator.

Proof of Compliance with the Disability Benefits Coverage Requirements:



## Office of Information Technology Services

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### ***RFP# C000540 IES System Integrator Master Service Agreements***

- Form CE-200, *Certificate of Attestation for New York Entities With No Employees and Certain Out of State Entities, That New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is Not Required*, which is available on the New York State Workers' Compensation Board's website ([www.wcb.ny.gov](http://www.wcb.ny.gov));
- Form DB-120.1, *Certificate of Disability Benefits Insurance*, sent to ITS by the Contractor's insurance carrier upon request; or
- Form DB-155, *Certificate of Disability Benefits Self-Insurance*, available from the New York State Workers' Compensation Board's Self-Insurance Office.

An instruction manual clarifying the New York State Workers' Compensation Law requirements is available for download at the New York State Workers' Compensation Board's website, <http://www.wcb.ny.gov>. Once on the site, click on the Employers/Businesses tab and then click on Employers' Handbook.

## EQUAL EMPLOYMENT OPPORTUNITY - WORK FORCE EMPLOYMENT UTILIZATION/DIVERSITY COMPLIANCE REPORT

(Instructions on Page 2)

Contractor's Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City, State, ZIP: \_\_\_\_\_

Telephone: \_\_\_\_\_  
 Federal ID No.: \_\_\_\_\_ SFS Vendor ID: \_\_\_\_\_  
 Contract No(s): \_\_\_\_\_

Report includes -Please select one from the options below:

- Work force utilized on this contract  
 Contractor/Subcontractor's total work force

Reporting Entity - Please select one from the options below:

- Contractor  
 Subcontractor  
 Jan. 1 - Mar. 31  
 Apr. 1 - Jun. 30  
 Jul. 1 - Sep. 30  
 Oct. 1 - Dec. 31

Job Categories	Total Work Force	Race/Ethnicity - report employees in only one category													
		Hispanic or Latino		Not-Hispanic or Latino											
				Male						Female					
		Male	Female	White	Black or African American	Native Hawaiian or Other Pacific Islander	Asian	American Indian or Alaska Native	Two or More Races	White	Black or African American	Native Hawaiian or Other Pacific Islander	Asian	American Indian or Alaska Native	Two or More Races
Executive/Senior Level Officials and Managers															
First/Mid-Level Officials and Managers															
Professionals															
Technicians															
Sales Workers															
Administrative Support Workers															
Craft Workers															
Operatives															
Laborers and Helpers															
Service Workers															
<b>TOTAL</b>															

PREPARED BY (Signature): \_\_\_\_\_

DATE: \_\_\_\_\_

NAME AND TITLE OF PREPARER: \_\_\_\_\_

TELEPHONE/EMAIL: \_\_\_\_\_

*(print or type)*

## EQUAL EMPLOYMENT OPPORTUNITY - WORK FORCE EMPLOYMENT UTILIZATION/DIVERSITY COMPLIANCE REPORT

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### INSTRUCTIONS

General Instructions: The work force utilization/compliance report (EEO 101) is to be submitted on a quarterly basis during the life of the contract to report the actual work force utilized in the performance of the contract broken down by the specified categories. When the work force utilized in the performance of the contract can be separated out from the contractor's or subcontractor's total work force, the contractor or subcontractor shall submit a Utilization Report of the work force utilized on the contract. When the work force to be utilized on the contract cannot be separated out from the contractor's or subcontractors total work force, information on the contractor's total work force shall be included in the Utilization Report. Utilization reports are to be completed for the quarters ended 3/31, 6/30, 9/30, and 12/31 and submitted within 15 days of the end of each quarter. If there are no changes to the work force utilized on the contract during the reporting period, the contractor can submit a written statement of no change or submit a copy of the previously submitted report with the date and reporting period updated.

#### Instructions for Completing:

1. Enter the Solicitation or Contract number that this report applies to, along with the name, address, and federal ID number of the Contractor preparing the report.
2. Check off the appropriate box to indicate if the work force being reported is just for the contract or the Contractor's total work force.
3. Check off the appropriate box to indicate if the Contractor completing the report is the contractor or subcontractor.
4. Check off the box that corresponds to the reporting period for this report.
5. Enter the total work force by EEO job category. Break down the total work force by gender and race/ethnic background and enter under the heading Race/Ethnicity. Contact the Designated Contact(s) for the contract if you have any questions.
6. Enter the name, title, phone number and/or email address for the person completing the form. Sign and date the form in designated areas.

#### RACE/ETHNIC IDENTIFICATION

For purposes of this form CIO/OFT will accept the definitions of race/ethnic designations used by the federal Equal Employment Opportunity Commission (EEOC), as those definitions are described below or amended hereafter. (Be advised these terms may be defined differently for other purposes under NYS statutory, regulatory, or case law). Race/ethnic designations as used by the EEOC do not denote scientific definitions of anthropological origins. For the purposes of this report, an employee may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. The race/ethnic categories for this survey are:

- **Hispanic or Latino** - A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin regardless of race.
- **White (Not Hispanic or Latino)** - A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.
- **Black or African American (Not Hispanic or Latino)** - A person having origins in any of the black racial groups of Africa.
- **Native Hawaiian or Other Pacific Islander (Not Hispanic or Latino)** - A person having origins in any of the peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
- **Asian (Not Hispanic or Latino)** - A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian Subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
- **American Indian or Alaska Native (Not Hispanic or Latino)** - A person having origins in any of the original peoples of North and South America (including Central America), and who maintain tribal affiliation or community attachment.
- **Two or More Races (Not Hispanic or Latino)** - All persons who identify with more than one of the above five races.

# QUARTERLY M/WBE COMPLIANCE REPORT

M/WBE 102 (v.2015.12.09es)

As evidence of the progress made toward achievement of the minority and women owned business enterprise (MWBE) Goal(s), contractor is required to complete and submit the following for each NYS-certified MWBE (please use additional sheets if necessary). Beginning THIRTY (30) days after a contract is awarded Quarterly MWBE Contractor Compliance Reports are due on Jan.15, April 15th, July 15th, and October 15th to report MWBE utilization for the preceding quarter.

### REPORTING PERIOD

April 1 – June 30	<input type="checkbox"/>	Oct. 1 – Dec. 31	<input type="checkbox"/>
July 1 – Sept. 30	<input type="checkbox"/>	Jan. 1 – Mar. 31	<input type="checkbox"/>

**Contract Overview**

Offeror/Contractor Name: _____	Telephone: _____	M/WBE NYS Certified Firm?
Address _____	Federal ID No: _____	SFS Vendor ID: _____
City, State, Zip: _____	Solicitation No: _____	<input type="checkbox"/> Y If Yes, proceed to box A <input type="checkbox"/> N If No, proceed to box B

Please place the name of your company in Box A only if you are a NYS-Certified M/WBE and include quarterly contract payments received.

<b>A</b> Name: _____ FEIN: _____ SFS Vendor ID: _____ <input type="checkbox"/> MBE <input type="checkbox"/> DUAL <input type="checkbox"/> WBE	Actual CIO/OFT Contract payment(s) received by the NYS-Certified M/WBE Contractor during the reporting period: _____  Actual total of payments made over the life of this contract: _____	\$ _____  \$ _____
--	---	--------------------------

In boxes B thru E, please include quarterly expenditures your company made to NYS-certified M/WBE companies only. Check the DIRECT box for expenditures required to meet CIO/OFT Contract obligations, and INDIRECT box for expenditures not specific to contract obligations.

<b>B</b> Name: _____ FEIN: _____ SFS Vendor ID: _____ <input type="checkbox"/> MBE <input type="checkbox"/> DUAL <input type="checkbox"/> DIRECT <input type="checkbox"/> WBE <input type="checkbox"/> INDIRECT	Actual payment(s) made to the NYS-Certified M/WBE Contractor during the reporting period: _____  Actual total of payments made over the life of this contract: _____ Description of Work: _____ Dates of Services: _____	\$ _____  \$ _____
--	--	--------------------------

<b>C</b> Name: _____ FEIN: _____ SFS Vendor ID: _____ <input type="checkbox"/> MBE <input type="checkbox"/> DUAL <input type="checkbox"/> DIRECT <input type="checkbox"/> WBE <input type="checkbox"/> INDIRECT	Actual payment(s) made to the NYS-Certified M/WBE Contractor during the reporting period: _____  Actual total of payments made over the life of this contract: _____ Description of Work: _____ Dates of Services: _____	\$ _____  \$ _____
--	--	--------------------------

# QUARTERLY M/WBE COMPLIANCE REPORT

M/WBE 102 (v.2015.12.09es)

In boxes B thru E, please include quarterly expenditures your company made to NYS-certified M/WBE companies only. Check the DIRECT box for expenditures required to meet CIO/OFT Contract obligations, and INDIRECT box for expenditures not specific to contract obligations.

<b>D</b> Name: _____ FEIN: _____ SFS Vendor ID: _____ <input type="checkbox"/> MBE <input type="checkbox"/> DUAL <input type="checkbox"/> DIRECT <input type="checkbox"/> WBE <input type="checkbox"/> INDIRECT	Actual payment(s) made to the NYS-Certified M/WBE Contractor during the reporting period: \$ _____ Actual total of payments made over the life of this contract: \$ _____ Description of Work: _____ Dates if Services: _____
<b>E</b> Name: _____ FEIN: _____ SFS Vendor ID: _____ <input type="checkbox"/> MBE <input type="checkbox"/> DUAL <input type="checkbox"/> DIRECT <input type="checkbox"/> WBE <input type="checkbox"/> INDIRECT	Actual payment(s) made to the NYS-Certified M/WBE Contractor during the reporting period: \$ _____ Actual total of payments made over the life of this contract: \$ _____ Description of Work: _____ Dates of Services: _____

- I hereby affirm that the information supplied in this quarterly compliance report is true and correct to the best of my knowledge.
- I hereby affirm that the information supplied in the previous quarterly report is true and correct. If not, attached is a revised compliance report for the previous quarter.

SUBMISSION OF THIS FORM CONSTITUTES THE OFFEROR/CONTRACTOR'S ACKNOWLEDGEMENT AND AGREEMENT TO COMPLY WITH THE M/WBE REQUIREMENTS SET FORTH UNDER NYS EXECUTIVE LAW, ARTICLE 15-A, 5 NYCRR PART 142, AND THE ABOVE REFERENCED SOLICITATION. FAILURE TO SUBMIT COMPLETE AND ACCURATE INFORMATION MAY RESULT IN A FINDING OF NONCOMPLIANCE AND/OR TERMINATION OF THE CONTRACT.

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Email Telephone

Sworn to before me this \_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_

\_\_\_\_\_  
Notary Public

Seal:

FOR AUTHORIZED USE ONLY	
Reviewed by:	
Date Received:	

## APPENDIX G

### PRIMARY SECURITY AND PRIVACY MANDATES<sup>1</sup>

#### Significant federal and state laws, regulations, policies, standards, and guidelines

- Criminal Justice Information Services (CJIS) Security Policy
- Federal Educational Rights and Privacy Act (FERPA)
- Federal Information Security Management Act (FISMA)
  - National Institute of Technology Standards
- Gramm-Leach-Bliley Act (GLB) Act
- Health Insurance Portability and Accountability Act (HIPAA)
- Health Information Technology for Economic and Clinical Health Act (HITECH)
- IRS Publication 1075
- Payment Card Industry Data Security Standard (PCI DSS)
- Sarbanes-Oxley Act (SOX)
- Electronic Communications Privacy Act, Stored Communications Act and the PATRIOT Act
- New York State Breach Notification Act: <https://its.ny.gov/breach-notification>
- NYS Cyber Security Policy and related Standards: <https://its.ny.gov/eiso/policies/security>
- NYS Cyber Incident Reporting: <https://its.ny.gov/incident-reporting>
- Minimum Acceptable Risk Standards for Exchanges (MARS-E)

#### 1.1 Criminal Justice Information Services (CJIS) Security Policy

The CJIS Security Policy represents a shared responsibility between the Federal Bureau of Investigations (FBI) and CJIS System Agencies (CSA) and State Identification Bureau (SIB). For the state of New York, the NY State Police is the CSA, and the Division of Criminal Justice Services is the SIB. The policy covers the roles and responsibilities for the FBI and the CSA and service providers covered under a CJIS security addendums and CJS management control agreements.

CJIS requirements guidance:

- <https://www.fbi.gov/services/cjis/cjis-security-policy-resource-center>

#### 1.2 Federal Educational Rights and Privacy Act (FERPA) - State Ed, Higher Ed

Protects the privacy of student education records. "Education records" are "those records, files documents, and other materials which 1) contain information directly related to a student; and 2) are maintained by an educational institution. Examples: Grades, courses taken, schedule, test scores, advising records, educational services received, disciplinary actions, student identification number, Social Security number, student private email. FERPA applies to all schools that receive funds under an applicable program of the U.S. Department of Education.

FERPA requirements guidance:

- <http://www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html>
- Electronic Code of Federal Regulations, Title 34, Part 99

#### 1.3 Federal Information Security Management Act of 2002 (FISMA)

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<sup>1</sup> Please note that any hyperlinks provided in this document are as they were the date this solicitation was released. The hyperlinks are subject to the change and are not exhaustive of all resources available. Contractor is required to comply with the terms of any contract resulting from the solicitation.



FISMA requires each federal agency to develop, document, and implement an effective agency-wide program to provide information security for the information and information systems that support the operations and assets of the agency, including those provided or managed by another agency, contractor, or other source. It is Title III of the E-Government Act of 2002. It affects Federal agencies, and other agencies they share data with.

Key requirements/provisions include:

- Periodic risk assessments.
- Policies and procedures based on these assessments that cost-effectively reduce information security risk and ensure security is addressed throughout the life cycle of each information system.
- Subordinate plans for information security for networks, facilities, etc.
- Security awareness training for personnel.
- Periodic testing and evaluation of the effectiveness of information security policies, procedures, practices and controls, at least on an annual basis.
- A process to address deficiencies in information security policies.
- Procedures for detecting, reporting and responding to security incidents.
- Procedures and plans to ensure continuity of operations for information systems that support the organization's operations and assets.

FISMA requirements guidance:

- <https://csrc.nist.gov/topics/laws-and-regulations/laws/fisma>
- <https://www.dhs.gov/cisa/federal-information-security-modernization-act>

FISMA requires that federal agencies comply Federal Information Processing Standards (FIPS) developed by the National Institute of Standards and Technology (NIST). Guidance documents and recommendations are issued in the NIST Special Publication (SP) 800-series. Office of Management and Budget (OMB) policy OMB Memorandum M-10-15, directs agencies to follow NIST guidance.

NIST Special Publications: <https://csrc.nist.gov/publications/sp>

#### 1.4 Gramm-Leach-Bliley Act (GLB) Act of 1999

The GLB Act (also known as the Financial Modernization Act of 1999), includes provisions to protect consumers' personal financial information held by financial institutions. There are three principal parts to the privacy requirements: the Financial Privacy Rule, the Safeguards Rule and pretexting provisions.

GLB affects financial institutions (banks, securities firms, insurance companies), as well as companies providing financial products and services to consumers (including lending, brokering or servicing any type of consumer loan; transferring or safeguarding money; preparing individual tax returns; providing financial advice or credit counseling; providing residential real estate settlement services; collecting consumer debts).

Key requirements/provisions: The privacy requirements of GLB include three principal parts:

- The Financial Privacy Rule: Requires financial institutions to give customers privacy notices that explain its information collection and sharing practices. In turn, customers have the right to limit some sharing of their information. Financial institutions and other companies that receive personal financial information from a financial institution may be limited in their ability to use that information.
- The Safeguards Rule: Requires all financial institutions to design, implement and maintain safeguards to protect the confidentiality and integrity of personal consumer information.

- Pretexting provisions: Protect consumers from individuals and companies that obtain their personal financial information under false pretenses, including fraudulent statements and impersonation.

GLB requirements guidance:

- <https://www.ftc.gov/tips-advice/business-center/privacy-and-security/gramm-leach-bliley-act>
- <https://www.ftc.gov/enforcement/rules/rulemaking-regulatory-reform-proceedings/financial-privacy-rule>

## 1.5 Health Information Portability Accountability Act (HIPAA)

HIPAA has two major arms: Privacy and Security. Privacy tends to be a business (non-IT) focus, involving the program, HIPAA Privacy Officer and legal. Security tends to be more IT-focused (though it does cover handling of paper records as well).

Many health agencies have compliance requirements that are more stringent than HIPAA - HIPAA is the baseline. For example, NYS Public Health law has tight requirements regarding AIDS information. The Federal 42 CFR Part 2 guides privacy requirements of substance abuse information. NYS Mental Hygiene law extends HIPAA consent requirements. Accordingly, meeting baseline HIPAA requirements may not be sufficient in all cases.

HHS (Federal Health and Human Services) HIPAA resources and requirements:

- Privacy rule: <https://www.hhs.gov/hipaa/for-professionals/privacy/index.html>
- Security rule: <https://www.hhs.gov/hipaa/for-professionals/security/index.html>

Summarized versions:

- <https://www.hhs.gov/hipaa/for-professionals/privacy/laws-regulations/index.html>
- <https://www.hhs.gov/hipaa/for-professionals/security/laws-regulations/index.html>

HHS Educational Series bulletins:

- <https://www.hhs.gov/hipaa/for-professionals/privacy/guidance/index.html>
- <https://www.hhs.gov/hipaa/for-professionals/security/guidance/index.html>

AMA summary of violation (HHS Office of Civil Rights (OCR) audits can result in significant fines for not following the rules regardless of the scope of impact from a breach).

- <https://www.ama-assn.org/practice-management/hipaa/hipaa-violations-enforcement>

## 1.6 Health Information Technology for Economic and Clinical Health (HITECH) Act

The Health Information Technology for Economic and Clinical Health (HITECH) Act, enacted in 2009, promotes the adoption and meaningful use of health information technology. Subtitle D of the HITECH Act addresses the privacy and security concerns associated with the electronic transmission of health information, in part, through several provisions that strengthen the civil and criminal enforcement of the HIPAA rules.

HITECH requirements guidance:

- <https://www.hhs.gov/hipaa/for-professionals/security/guidance/hitech-act-rulemakingimplementation-update/index.html>

## 1.7 IRS Safeguard Program, Publication 1075, Tax Information Security Guidelines for Federal, State and Local Agencies and Entities Pub1075 contains specific requirements for safeguarding federal tax information (current revision effective on Jan. 1, 2014).

- <https://www.irs.gov/privacy-disclosure/safeguards-program>
- <https://www.irs.gov/pub/irs-pdf/p1075.pdf>

## 1.8 Payment Card Industry Data Security Standard (PCI DSS)

The PCI DSS is a set of requirements for enhancing security of payment customer account data, developed by the founders of the PCI Security Standards Council, including American Express, Discover Financial Services, JCB International, MasterCard Worldwide and Visa to help facilitate global adoption of consistent data security measures. PCI DSS includes requirements for security management, policies, procedures, network architecture, software design and other critical protective measures. The Council also issued requirements called the

Payment Application Data Security Standard (PA DSS) and PCI Pin Transaction Security (PCI PTS). PCI affects retailers, credit card companies, anyone handling credit card data. Currently, PCI DSS specifies 12 requirements, organized in six basic objectives:

### Objective 1: Build and Maintain a Secure Retail Point of Sale System.

- Requirement 1: Install and maintain a firewall configuration to protect cardholder data
- Requirement 2: Do not use vendor-supplied defaults for system passwords and other security parameters

### Objective 2: Protect Cardholder Data

- Requirement 3: Protect stored cardholder data
- Requirement 4: Encrypt transmission of cardholder data across open, public networks

### Objective 3: Maintain a Vulnerability Management Program

- Requirement 5: Use and regularly update anti-virus software
- Requirement 6: Develop and maintain secure systems and applications

### Objective 4: Implement Strong Access Control Measures

- Requirement 7: Restrict access to cardholder data by business need-to-know
- Requirement 8: Assign a unique ID to each person with computer access
- Requirement 9: Restrict physical access to cardholder data

### Objective 5: Regularly Monitor and Test Networks

- Requirement 10: Track and monitor all access to network resources and cardholder data
- Requirement 11: Regularly test security systems and processes

### Objective 6: Maintain an Information Security Policy

- Requirement 12: Maintain a policy that addresses information security

PCI compliance requirements:

- PCI Document Library: [https://www.pcisecuritystandards.org/document\\_library](https://www.pcisecuritystandards.org/document_library)
- PA DSS: <https://www.pcisecuritystandards.org/minisite/en/pa-dss-v2-0.php>
- PCI PTS: [https://www.pcisecuritystandards.org/assessors\\_and\\_solutions/pin\\_transaction\\_device](https://www.pcisecuritystandards.org/assessors_and_solutions/pin_transaction_device)

## 1.9 Sarbanes-Oxley Act of 2002 (SOX)

The Sarbanes-Oxley Act is designed to protect investors and the public by increasing the accuracy and reliability of corporate disclosures. It was enacted after the high-profile Enron and WorldCom financial scandals of the early 2000s. It is administered by the Securities and Exchange Commission, which publishes SOX rules and requirements defining audit

requirements and the records businesses should store and for how long. It affects U.S. public company boards, management and public accounting firms.

The Act is organized into 11 titles:

1. Public Company Accounting Oversight
2. Auditor Independence
3. Corporate Responsibility
4. Enhanced Financial Disclosures
5. Analyst Conflicts of Interest
6. Commission Resources and Authority
7. Studies and Reports
8. Corporate and Criminal Fraud Accountability
9. White-Collar Crime Penalty Enhancements
10. Corporate Tax Returns
11. Corporate Fraud Accountability

SOX requirement guidance:

- <https://www.congress.gov/bill/107th-congress/house-bill/3763>
- <https://pcaobus.org/>

#### 1.10 The U.S. Electronic Communications Privacy Act, The U.S. Stored Communications Act The U.S. PATRIOT Act

The Electronic Communications Privacy Act (ECPA) and the Stored Communications Act (SCA) create statutory privacy rights for people's electronic communications stored by a third-party service provider in "electronic," "computer," "temporary" or "intermediate" storage. Certain types of electronic communications (unread mail that is newer than 180 days) may only be obtained by law enforcement from a service provider via a search warrant. Other electronic communications and user information may be more easily obtained by law enforcement from a third party provider by a court order or subpoena. Any communications may be obtained by law enforcement from a third party provider if the end user has provided consent. End users should be careful not to give such consent by clicking through a Terms of Use and/or Privacy Policy or by signing a contract. The PATRIOT Act allows law enforcement to obtain or intercept electronic communications and other end user data from third-party service providers for terrorism investigations using protocols that are less stringent than those that would normally apply.

- U.S. Electronic Communications Privacy Act: <https://it.ojp.gov/PrivacyLiberty/authorities/statutes/1285>
- U.S. Stored Communications Act: <http://uscode.house.gov/view.xhtml?path=/prelim@title18/part1/chapter121&edition=prelim>
- U.S. PATRIOT Act: <https://www.justice.gov/archive/ll/highlights.htm>



RFP # C000540 – IES System Integrator Master Service Agreements

Appendix H- OSC CONSULTANT DISCLOSURE REPORTING REQUIREMENTS  
CONTRACTOR INSTRUCTIONS

**Background:**

Pursuant to New York State Finance Law Section 163(4)(g), state agencies must require all contractors, including subcontractors, that provide consulting services for State purposes pursuant to a contract to submit an annual employment report for each such contract, such report to include for each employment category within the contract: (i) the number of employees employed to provide services under the contract, (ii) the number of hours they work, and (iii) their total compensation under the contract. Consulting services are defined as analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal, or similar services.

Contractors selected for award on the basis of a procurement issued by OSC (Request for Proposals, Request for Quotations, Mini-Bid, or Invitation for Bids) must complete **Form A, State Consultant Services – Contractor’s Planned Employment from Contract Start Date through the End of the Contract Term** upon notification of award. The completed **Form A** must include information for all employees that will be providing services under the contract, whether employed by the contractor or by a subcontractor.

Contractors selected for award are also required to complete **Form B, State Consultant Services Contractor’s Annual Employment Report** annually for each year of the contract term, on a State fiscal year basis. The first report is due May 15 for the period April 1 through March 31 of the most recently concluded State fiscal year or portion thereof.

Form A must be submitted to OSC as the contracting agency, and Form B must be submitted to OSC (as the contracting agency), the Department of Civil Service, and the Consultant Reporting Section of the Bureau of Contracts at OSC, at the addresses provided in these instructions.

**Instructions:**

**FORM A:**

**Upon notification of contract award, use Form A, State Consultant Services Contractor’s Planned Employment From Contract Start Date Through the End of the Contract Term**, attached to these instructions, to report the necessary planned employment information prospectively from the start date through the end of the contract term. This is a one-time reporting requirement.

Complete **Form A** for contracts for consulting services in accordance with the following:

- **Employment category:** the specific occupation(s), as listed in the O\*NET occupational classification system, which best describe the employees anticipated to be providing services under the contract. (Note: Access the O\*NET database, which is available through the US Department of Labor’s Employment and Training Administration website at [www.online.onetcenter.org](http://www.online.onetcenter.org).)
- **Number of employees:** the total number of employees in the employment category employed anticipated to provide services under the contract, including part time employees and employees of subcontractors.
- **Number of hours to be worked:** the total number of hours anticipated be worked by the employees in the employment category.



RFP # C000540 – IES System Integrator Master Service Agreements

Appendix H- OSC CONSULTANT DISCLOSURE REPORTING REQUIREMENTS  
CONTRACTOR INSTRUCTIONS

- **Amount payable under the contract:** the total amount payable by the State to the State contractor under the contract, for work by the employees in the employment category, for services to be provided during the Report Period.

**Submit completed Form A within 48 hours of notification of selection for award to OSC (as the contracting agency) at the address listed below.**

**FORM B:**

Use **Form B, State Consultant Services Contractor's Annual Employment Report**, attached to these Instructions, to report the annual employment information required by the statute. This form will capture historical information, detailing actual employment data for the most recently concluded State fiscal year (April 1 – March 31). Submit **Form B** to OSC (as the contracting Agency), the Department of Civil Service (DCS), and to the Consultant Reporting Section of the Bureau of Contracts at OSC at the addresses listed below.

Complete **Form B** for contracts for consulting services in accordance with the following:

- **Scope of Contract:** a general classification of the single category that best fits the predominate nature of the services provided under the contract.
- **Employment Category:** the specific occupation(s), as listed in the O\*NET occupational classification system, which best describe the employees providing services under the contract. (Note: Access the O\*NET database, through the US Department of Labor's Employment and Training Administration website at [www.online.onetcenter.org](http://www.online.onetcenter.org).)
- **Number of Employees:** the total number of employees in the employment category employed that provided services under the contract during the Report Period, including part time employees and employees of subcontractors.
- **Number of hours worked:** the total number of hours **worked** during the Report Period by the employees in the employment category.
- **Amount Payable under the Contract:** the total amount paid or payable by the State to the State contractor under the contract, for work by the employees in the employment category, for services provided during the Report Period.



## Office of Information Technology Services

**RFP # C000540 – IES System Integrator Master Service Agreements**

### Appendix H- OSC CONSULTANT DISCLOSURE REPORTING REQUIREMENTS CONTRACTOR INSTRUCTIONS

Submit the completed Form B by May 15 for the period April 1 through March 31, and annually by May 15<sup>th</sup> thereafter for each State fiscal year (or portion thereof) the contract is in effect, as follows, to each of the following entities:

**To ITS (as the contracting Agency):**

**NYS Office of Information Technology Services - Procurement & Contract Services**

Attn: Consultant Reporting  
ESP, Swan Street Building - Core 4  
Albany, NY 12220

-- and --

**To the Consultant Reporting Section of the Bureau of Contracts at OSC:**

**NYS Office of the State Comptroller**

Attn: Consultant Reporting  
110 State Street - 11th Floor  
Albany, New York 12236  
By fax: (518) 474-8030 or (518) 473-8808

-- and --

**To the NYS Department of Civil Service:**

**NYS Department of Civil Service**

Attn: Consultant Reporting  
Albany, New York 12239

**FORM A**

New York State Consultant Services <b>Contractor's Planned Employment</b> From Contract Start Date Through The End Of The Contract Term
---

State Agency Name: <b>Office of the State Comptroller</b>	
State Agency Department ID: 3050000	Agency Business Unit: OSC01
Contractor Name:	Contract Number:
Contract Start Date: / /	Contract End Date: / /

Employment Category	Number of Employees	Number of hours to be worked	Amount Payable Under the Contract
Total this page	0	0	\$ 0.00
<b>Grand Total</b>			

Name of person who prepared this report:

Title:

Phone #:

Preparer's Signature:

Date Prepared: / /

(Use additional pages, if necessary)

Page of



**FORM B**

New York State Consultant Services <b>Contractor's Annual Employment Report</b> Report Period: April 1,            to March 31,
---

Contracting State Agency Name: <b>Office of the State Comptroller</b>	
Contract Number:	Agency Business Unit: OSC01
Contract Term: / /            to    / /	Agency Department ID: 3050000
Contractor Name:	
Contractor Address:	
Description of Services Being Provided:	

**Scope of Contract (Choose one that best fits):**

Analysis     Evaluation     Research     Training  
 Data Processing     Computer Programming     Other IT consulting  
 Engineering     Architect Services     Surveying     Environmental Services  
 Health Services     Mental Health Services  
 Accounting     Auditing     Paralegal     Legal     Other Consulting

Employment Category	Number of Employees	Number of Hours Worked	Amount Payable Under the Contract
Total this page	0	0	\$ 0.00
<b>Grand Total</b>			

Name of person who prepared this report:

Title:

Phone #:

Preparer's Signature:

Date Prepared: / /

(Use additional pages, if necessary)

Page    of



# **APPENDIX I CHANGE REQUEST FORM**

<b>1. Description of Requested Change:</b>
<b>2. Reason/Justification for Change:</b>
<b>3. Additional or Deleted Tasks or Deliverables Required by Change:</b>
<b>4. Additional or Deleted Cost and/or Timeframes Required by Change:</b>
<b>Justification for Additional Cost if Applicable:</b>

The signatures below represent that the New York State Office of Information Technology Services and (insert Bidder/vendor company name) are in agreement with the above change(s) to the project deliverables for (*RFP Name*)

<b>New York State Office of Information Technology Services</b>	<b>(insert Bidder/vendor company name)</b>
<b>Name (Print):</b>	<b>Name (Print):</b>
<b>Signature:</b>	<b>Signature:</b>
<b>Title:</b>	<b>Title:</b>
<b>Date:</b>	<b>Date:</b>



**Office of Information  
Technology Services**

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***RFP# C000540 - IES System Integrator Master Service Agreements***

If Applicable:

<b>New York State Office of the State Comptroller</b>
<b>Name (Print):</b>
<b>Signature:</b>
<b>Title:</b>
<b>Date:</b>

**Appendix J – Glossary of Terms**

The following definitions shall apply to this RFP:

Term	Definition
Administrative Proposal	The administrative portion of a Bidder's Proposal as set forth in Section 4.7 of the RFP.
Agency or Agencies	Mean the State of New York, acting by or through one or more departments, boards, commissions, offices or institutions of the State of New York. Shall have the same meaning as "State Agency".
Alfresco	The NYSOH document repository
BAFO	Best and Final Offer, the last opportunity for a bidder to provide the most favorable pricing and/or terms
Best Value	The basis for awarding all service and technology contracts to the Bidder that optimizes quality, cost and efficiency, among responsive and responsible Bidders. (State Finance Law §163 (1) (j)).
BICS	Benefits Issuance Control System
Proposal	Means a Bidder's Administrative, Financial and Technical Proposals submitted in response to the RFP to provide the Project Services as defined in RFP.

Term	Definition
Bidder	Means any entity who submits a Proposal in response to the RFP. It shall be understood that references in the RFP to “Bidder” shall include said entity’s proposed subcontractor, if any. At the time that a Bidder executes a Contract with the State, the Bidder shall become a “Contractor.” See also “Contractor.”
Business Day	Monday through Friday between the hours of 7:00 AM – 5:00 PM EST, excluding New York State holidays.
Case Management	A collaborative and goal-oriented process designed to handle cases from opening to closure. Case management consists of a coordinated process that tracks, evaluates, plans, implements, and monitors options and services required to meet customer health, well-being, and human service needs. Case management may include coordination with internal and external partners engaged to progress an individual/family to achieve a set of uniquely developed goals. Worker/customer engagement is critical to determine how the progress toward goal attainment can be achieved
CCI	Common Client Index
Contract	The writings that contain the agreement of the Agency and the Contractor setting forth the total legal obligation between the parties as determined by applicable rules of law.
Contract Approval Date or Contract Effective Date	The date upon which OSC approves the Contract.
Contract Term	The initial term of the Contract and any renewals and/or extensions.
Contractor	Any successful Bidder to whom a Contract has been awarded.
COTS	Commercial off the Shelf
Customer Placements	Means an individual(s) providing/supplying consulting services which are the subject matter of the RFP for the benefit of a customer of the Bidder,

Term	Definition
Data or State Data	Means any information, analytic derivatives, formula, algorithms, or other content that the State may provide to the Contractor pursuant to this Contract.
DOH	Department of Health
DSS	Department of Social Services
Enterprise	ITS' total business operations in the United States, without regard to either the geographic location where such operations are performed or the location of the entity actually performing such operations.
Eligibility IT project	The design, development and implementation of a system or module that determines eligibility for individuals or groups for coverage benefits, or services based on meeting eligibility rules.
Enrollment IT project	The design, development and implementation of a system or module that registers individuals or groups for coverage or benefit based on their eligibility rules.
Equal Employment Opportunity (EEO)	Policies and procedures of the jurisdiction to ensure non-discrimination and equal opportunity to all employees, especially women, minorities, and persons with disabilities.
ETL	Extract Transform and Load
Financial Proposal	The financial portion of a Bidder's Proposal as set forth in Section 4.6 of this RFP.
HEAP or LIHEAP	Home Energy Assistance Program or Low-Income Home Energy Assistance Program

Term	Definition
HRA One Viewer	The NYC Human Resource Administration document repository
I/EDR	Imaging/Enterprise Document Repository. The state-support document repository used by 46 Social Services Districts, though this number is subject to change over time.
IAM	Identity and Access Management
IES	Integrated Eligibility System
IES Solution	The component technologies that once implemented will provide the State a means to meet the defined mission and goals of the IES Program.
Integrated Eligibility System Program or IES Program	Means the initiative and all associated projects undertaken by the State to enhance the well-being of New Yorkers by transforming health and human services delivery through coordinated business practices, modernized technology, and strategic partnerships in order to realize the eight business objectives of the initiative. The IES Solution is a component aspect of the program, which once implemented will provide a means for the State to meet its defined mission and goals.
IES Program Office or Program Office	The State team responsible for managing the IES Program.
Information Technology (IT)	Includes, but is not limited to, all electronic technology systems and services, automated information handling, System design and analysis, conversion of data, computer programming, information storage and retrieval, telecommunications which include voice, video, and data communications, requisite System controls, simulation, electronic commerce, and all related interactions between people and Machines.

Term	Definition
ITS	New York State Office of Information Technology Services ( <a href="http://www.its.ny.gov/">http://www.its.ny.gov/</a> ).
Installation	Means the act or process of making Products ready to be used. Installation does not include Configuration.
Live Production Pilot	A Live Production Pilot will be conducted for each set of functions or services deployed to the production environment in accordance with 7 CFR 277.18. An agency/district or agencies/districts will be selected to participate in the live production pilot. Their use of the functions will serve as a measure to ensure the functional and non-functional performance indicators have been met in an environment that represents real life. Key performance indicators will be evaluated and remediation will be addressed as appropriate prior to determining go/no-go decision to roll out to the broader user base.
Lot	Contractually awarded pool of Contractors for a category of modules for the IES Solution corresponding to the system integration services being sought by ITS
Non-MAGI	Non-income related Medicaid eligibility groups
Mandatory/Minimum	Refers to items or information that the State has deemed that a Bidder must submit as compulsory and obligatory. These items or information are noted as such, or the requirements may be phrased in terms of “must” or “shall”. Mandatory requirements must be met by the Bidder for Bidder’s Proposal to be considered responsive.
MSA	Master Service Agreement
May	Denotes the permissive in a contract clause or specification. Refers to items or information that the State has deemed are worthy of obtaining, but not required or obligatory. Also see “Should”.
MDM	Master Data Management
Minority and/or Woman- Owned Business (MWBE)	A business certified with Empire State Development (ESD) as a Minority and/or Woman-Owned Business.



Term	Definition
MTP	Master Test Plan
Must	Denotes the imperative in a contract clause or specification, or a requirement, e.g. when something is mandatory, as well as imperative. Also see “Shall” and “Mandatory”.
NYS	New York State or State
NYSOH	New York State of Health
OCFS	Office of Children and Family Services
OTDA	Office of Temporary and Disability Assistance
Party	Means the Contractor or the Agency collectively referred to as “the Parties”.
POS	The New York City Human Resources Administration Paperless Office System.
PRD	Personnel Request Document
Proposal	Means the Administrative, Financial and Technical Proposals submitted by a Bidder to provide the Project Services set forth in the RFP
Provider Management	Provider Management is inclusive of vendor management
PA	Public Assistance

<b>Term</b>	<b>Definition</b>
Responsive Bidder	A Bidder meeting the specifications or requirements prescribed in the RFP, as determined by the State.
Request for Proposals or RFP	Means this Request for Proposal Reference No. C000540, entitled, “IES System Integrator” including all appendices, attachments and exhibits contained herein, and any written clarifications or amendments thereto.
Project Services or Services	The Contractor’s performance of services to provide technical support personnel, on an as needed basis, for the benefit of the IES Program initiative in accordance with the provisions of the RFP and resultant contract
Shall	Denotes the imperative in a contract clause or specification, or a requirement, e.g. when something is mandatory, as well as imperative. Also see “Must” and “Mandatory”.
Should	Denotes the permissive in a contract clause or specification. Refers to items or information that the State has deemed are worthy of obtaining, but not required or obligatory. Also see “May”.
SIs	System Integrators
SOW	Statement of Work
SNA	Safety Net Assistance
SNAP	Supplemental Nutrition Assistance Program
SSDs	Social Service Districts
SSP	State Supplement Program (SSP) for Social Security Income (SSI) recipients

<b>Term</b>	<b>Definition</b>
State Program Management Office	The IES Program Office's Program Management division
Subcontractor	Means any individual or legal entity (including but not limited to sole proprietor, partnership, limited liability company, firm or corporation) who has entered into a contract, express or implied, for the performance of a portion of a Contract with a Contractor.
TA	Temporary Assistance
TANF	Temporary Assistance for Needy Families, a Federally-funded, State-administered financial assistance program
Technical Proposal	Means the technical portion of a Bidder's Proposal as set forth in Section 4.5 of the RFP.
WIC	Special Supplemental Nutrition Program for Women, Infants and Children
WMS	The Upstate and NYC Welfare Management Systems

## Appendix K – Overview of IES

### **Mission, Vision, and Business Objectives**

#### ***Mission***

To enhance the well-being of New Yorkers by transforming health and human service delivery through coordinated business practices, modernized technology, and strategic partnerships.

#### ***Vision***

- A simple, seamless, no-wrong-door customer experience that guides New Yorkers to access programs that enhance their well-being and self sufficiency
- A flexible, statewide solution that supports state and local workers
- A sustainable, trusted, and efficient system that improves the state and social service districts' ability to achieve their core missions

#### ***Business Objectives***

- Improve Client Outcomes
- Client-Focused Service Delivery
- Improve Referrals and Inter-Agency Coordination
- More Efficient and Accurate Service Delivery
- Improve Worker Experience
- Maximize Value of State and Federal Investments
- Provide a Flexible, Statewide Solution
- Reduce Operational Risks

#### **Program Scope**

The table below outlines how different programs are in scope for the IES implementation.

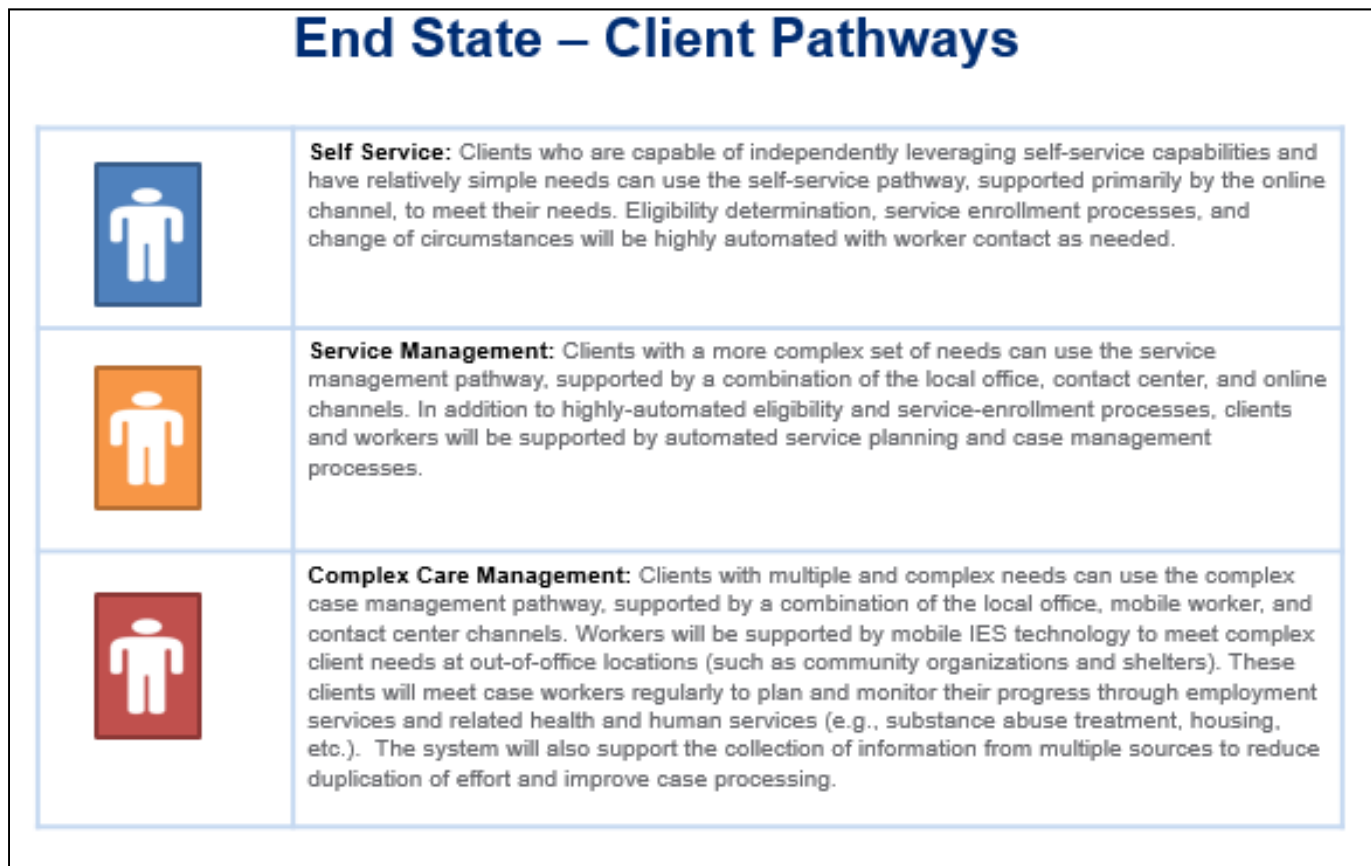
Agency	Program	IES Scope Category
OTDA	Supplemental Nutrition Assistance Program (SNAP)	Full Scope
	Home Energy Assistance Program (HEAP)	Full Scope
	Public Assistance (PA)	Full Scope
	State Supplement Program (SSP)	Partial
	Child Support	Partial
OCFS	Child Care	Full Scope
	Foster Care Services	Partial
	Additional Child Welfare Services and Domestic Violence	Partial
	Adoption Services	Partial
	Adult Protective Services	Integration
DOH	Medicaid	Partial
	Women, Infants and Children (WIC)	Integration

The chart below includes the high level functional requirements for IES.

IES Business Capability Grouping	Business Function
Program and Service Delivery	Eligibility and Enrollment Client Referral Client Communication and Outreach Client Assessment Case Management Care Coordination Client Information Management Benefits Management
Program Management and Operations	Performance Management and Reporting Health and Human Services Design Compliance and Risk Management Service Operations Support Freedom of Information Law (FOIL) and Personal Privacy Protection Law (PPPL) Requests Fair Hearings
Program Core/Functions Unique to Individual Programs	Supplemental Nutrition Assistance Program (SNAP) Home Energy Assistance Program (HEAP) Child Care State Supplement Program (SSP) to support change of circumstance and program alerts Child Support OCFS Services Payments Adult Protective Services (APS) Payments Public Assistance (Safety Net Assistance/Family Assistance) Emergency Assistance Employment Services
Provider and Business Partner Management	Provider Eligibility and Enrollment Provider Communication and Outreach Provider Information Management Business Partner Information Sharing

IES Business Capability Grouping	Business Function
Financial Management	Accounts Payable Accounts Receivable Funding Stream Electronic Benefits Transfer (EBT)

The client pathways enabled by the IES Solution and which will be available to clients are depicted in the following diagram:



## Phasing

The IES Solution will be implemented in phases by a combination of state resources (inclusive of staff augmentation resources) and multiple system integrators (SIs) procured off of a Master Services Agreement (MSA) in a phased approach.

Prior to the onboarding of any SIs, the state will use a combination of state and staff augmentation resources to implement the shared services of the IES platform that will then be integrated by SIs for programmatic and functional releases. The state anticipates executing shared services activities prior to the onboarding of SIs, maintaining these services long term, and pushing updates to the shared services platform for releases within the SI configurations. The following shared services, subject to change, are intended to be implemented as part of the platform project:

- 1) API Management
- 2) Identity and Access Management
- 3) Enterprise Application Server
- 4) Enterprise Content Management
- 5) Business Rules Management System
- 6) Business Process Management
- 7) Webservice
- 8) Enterprise Reporting Server
- 9) Correspondence Content Management
- 10) OLTP Database
- 11) OLAP Database
- 12) NoSQL Database
- 13) ETL
- 14) CICD
- 15) Email Server
- 16) Real Time Virus Scan
- 17) Search Engine
- 18) Case Management Software
- 19) Scheduling Software
- 20) Financial Management Software
- 21) MDM
- 22) Auditing
- 23) Messaging
- 24) Logging

It is anticipated that these and other shared services will be implemented using state staff and staff augmentation resources.



Please note that the list of shared services and resource needs are not exhaustive and additional skills and experience may be needed over the life of the IES Program to supplement state resources and SI activities.



## Appendix L – Job Titles/Positions

The IES Job Title/Descriptions are defined below and best describe the Consultants anticipated to be providing services under the Contract. These positions have been mapped to similar positions listed in the O\*NET occupational classification system, which is provided for vendors to have similar understandings of the responsibilities required by IES (Note: Access the O\*NET database, which is available through the US Department of Labor’s Employment and Training Administration website at [www.online.onetcenter.org](http://www.online.onetcenter.org).)

There are three (3) Job Levels for each Job Title as follows: Level I – Associate; Level II – Senior; and Level III – Expert. In general, the distinguishing distinction between level I and level II is Prior Work Experience and the distinction between level II and level III is Prior Work Experience and demonstrated leadership on past projects. Prior Work Experience is defined in terms of time and the nature of such experience in regard to the complexity of the project on which the individual worked or a combination thereof, as follows:

Level I – more than one (1) but less than four (4) years’ experience.

Level II – between four (4) and seven (7) years of experience.

Level III - more than seven (7) years of experience working on complex projects with 2 or more years in a leadership role.

Position #	IES Job Title	Job Description	Related O*NET Codes
1	Business Analyst	Facilitate discussions with business stakeholders on their needs, document these needs, and provide in traceable form to technical staff for analysis products against user requirements. Document and decompose user stories and system requirements, develop use cases, workflows, and journey maps, maintain traceability matrices. Facilitate end user acceptance testing in the field	13-1111.00, 15-1121.00
2	Developer	Develop, create, and modify software code, inclusive of web development and COTS configuration. Analyze user needs and develop software solutions. Design software or customize software for client use with the aim of optimizing operational efficiency.	15-1131.00, 15-1132.00, 15-1133.00 15-1134.00
3	Architect	Oversee the design and modeling of solutions, including product evaluation and system architecture based on functional and technical requirements. Specialties include data, application, business, infrastructure, and enterprise.	15-1141.00,15-1199.02, 15-1199.06, 15-1199.07
4	Project Manager	Manage project execution to ensure adherence to budget, schedule, and scope. Monitor or track project milestones and deliverables. Other responsibilities as defined in the Project Management Body of Knowledge (PMBOK)	15-1199.09
5	Trainer	Develop training materials and procedures, or train users in the proper use of systems.	15-1151.00, 27-3042.00
6	Tester	Conduct SIT, functional testing, regression testing, and parallel testing. Write, update, and maintain test plans.	15-1199.01
7	Security Analyst	Analyze systems for security and develop and execute plans to safeguard systems against accidental or unauthorized security breaches.	13-1199.02, 15-1122.00

Position #	IES Job Title	Job Description	Related O*NET Codes
8	Specialist	<p>Experience in the usage and support of a collection of development platforms, technical architectures, or business applications and products that run on those platforms, beyond that of a Programmer. Examples include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• Master Data Management tools</li> <li>• Rules Engines</li> <li>• Interactive Voice Response Systems</li> </ul> <p>Extract, Transform, and Load tools</p>	15-1142.00, 15-1152.00, 15-1143.01, 15-1199.03







**RFP# C000540 – IES System Integrator Master Service Agreements**

## *Appendix N – Deliverable Acceptance Form*

<b>DELIVERABLE ACCEPTANCE FORM FOR:</b>	<b>Date:</b>
<b>Vendor Name Statement of Submission</b>	
<i>Detailed description of items for Acceptance</i>	

Vendor Details	
<b>Submitted by:</b>	
<b>Name</b>	
<b>Title</b>	
<b>Signature of Vendor</b>	
<b>Date Delivered</b>	

Change Order Details, if applicable			
Change Order #	Description	Date approved	Comments

NYS Statement of Acceptance		
<input type="checkbox"/> Accepted	<input type="checkbox"/> Accepted with Exceptions	<input type="checkbox"/> Not Accepted
<b>Exceptions or Reason for Rejection:</b>		
<b>Accepted by:</b>		
<b>Name</b>		
<b>Title</b>		
<b>Signature:</b>		<b>Date:</b>



RFP# C000540 IES System Integrator Master Service Agreements

CONSULTANT CONFIDENTIALITY & NON-DISCLOSURE AGREEMENT

THIS AGREEMENT, made on \_\_\_\_\_, is between the State of New York ("State"), acting by and through the New York State Office of Information Technology Services ("ITS"), having its principal place of business at State Capitol, Empire State Plaza, Albany, New York 12220-0062, and \_\_\_\_\_ ("Consultant"), an employee or subcontractor of \_\_\_\_\_ ("Contractor") with its principal place of business at \_\_\_\_\_. This Agreement is signed in relation to the provision by Consultant of services to the ITS Office of \_\_\_\_\_ (hereinafter "Engagement").

1. **Definitions.** For the purposes of this Agreement, the following terms shall be defined as follows:

**I. Confidential Information**

"Confidential Information" shall be defined to include any information that ITS or the State, regardless of form or medium of disclosure (e.g., verbal, hard copy, or electronic) or source of information (e.g., ITS, other state agencies, state employees, electronic systems, or third party contractors) provides to Consultant, or which Consultant obtains, discovers, derives or otherwise becomes aware of as a result of the Engagement other than:

- (a) information that is previously rightfully known to Consultant without restriction on disclosure;
- (b) information that is or becomes, from no act or failure to act on the part of the Consultant, generally known in the relevant industry or in the public domain; or
- (c) information that is independently developed by Consultant without the use of Confidential Information.

**II. Authorized Person**

"Authorized Person" shall be defined as a person authorized by ITS as having a need to receive, possess, store, access, view and/or use Confidential Information for an Authorized Use.

**III. Authorized Use**

"Authorized Use" shall be defined as the use of Confidential Information by Consultant or Authorized Persons, solely for the purpose of performing the Engagement.

**IV. Electronic Information**

"Electronic Information" shall be defined as information or data produced or stored by electronic, digital, or similar means.

2. **Term**

Consultant's obligations under this Agreement shall commence upon the execution of this Agreement or the start of the Engagement, whichever occurs first, and shall survive the duration of engagement, in perpetuity.

3. **Duty to Protect Confidential Information**

Consultant agrees not to disclose Confidential Information to any outside party without the prior express written permission of ITS, except as provided in this Agreement. In addition, Consultant shall safeguard all



**RFP# C000540 IES System Integrator Master Service Agreements**

Confidential Information from unauthorized access, loss, theft, destruction, and the like. Consultant shall notify ITS immediately upon becoming aware that confidential information is in the possession of or has been disclosed to an unauthorized person or entity.

Consultant also agrees to promptly report any activities by any individual or entity that the Consultant suspects may compromise the availability, integrity, security or privacy of any Confidential Information.

**4. Press Releases**

Consultant shall not issue any press releases, give or make any presentations, or give to any print, electronic or other news media information regarding his/her Engagement - nor shall Consultant authorize or permit any other person or entity to do so - without the prior express written permission of ITS. Consultant shall immediately refer any media requests or other requests for information to ITS.

**5. Use Restriction**

Consultant shall not receive, possess, store, access, view and/or use Confidential Information for any purpose other than an Authorized Use. Consultant shall not permit unauthorized persons or entities to gain access to Confidential Information and shall not divulge methods of accessing Confidential Information to unauthorized persons.

**6. Security Obligations Regarding Confidential Information**

Consultant agrees to comply with the following security obligations as well as any other such obligations conveyed to him/her during the course of the Engagement:

- a. Unless otherwise authorized by ITS, Confidential Information may NOT be stored on personal (non-ITS) computing or other electronic or mobile storage devices, or taken or removed in any form from ITS.
- b. Consultant shall comply with all federal and State laws.
- c. Consultant shall comply with all ITS policies and procedures including but not limited to those that provide for accessing, protecting and preserving State assets.
- d. Consultant shall take no action to intrude upon, disrupt or deny services to ITS.
- e. Consultant shall use only those access rights granted by ITS.

**7. Certification by Consultant of Return of Confidential Information, Electronic Information and Tangible Property**

Upon termination of the Engagement, Consultant shall return all Confidential Information stored on any format to ITS, or destroy any Confidential Information that Consultant possesses in a format that cannot be returned. Further, Contractor agrees to submit to ITS on Contractor's letterhead a "CERTIFICATION OF RETURN OR DESTRUCTION OF CONFIDENTIAL INFORMATION, ELECTRONIC INFORMATION, AND TANGIBLE PROPERTY" certifying that all copies of Confidential Information, electronic property and tangible property belonging to the State of New York or ITS have been returned, or if necessary destroyed, using the form provided in Appendix A.

**8. Termination**

Consultant's Authorized Use of Confidential Information shall terminate automatically upon: (a) breach of this Agreement as determined solely by ITS, (b) completion or termination of Consultant's Engagement, or, (c) termination of Contractor's State contract, whichever occurs first





**9. Compliance**

Should Consultant breach this Agreement, the State shall have all equitable and legal rights (including the right to obtain injunctive relief) to seek redress for such breach, prevent further breaches and to be fully compensated (including litigation costs and reasonable attorney’s fees) for losses or damages resulting from such breach. Consultant acknowledges that compensation for damages may not be sufficient and that injunctive relief to prevent or limit any breach of confidentiality may be the only viable remedy available to ITS.

**10. Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of the State of New York. If any provision of Agreement is declared by a court of competent jurisdiction to be invalid, illegal, or unenforceable, the other provisions shall remain in full force and effect.

**IN WITNESS WHEREOF**, Consultant has signed this Agreement as of the date set forth below.

By: \_\_\_\_\_  
Signature

\_\_\_\_\_

Name

\_\_\_\_\_

Date

**Acknowledgment for Consultant Confidentiality & Non-Disclosure Agreement**

STATE OF NEW YORK	}	
	}	Scilicet
COUNTY OF	}	
<p>On the ___th day of _____ in the year 201_, before me personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the foregoing Consultant Confidentiality &amp; Non-Disclosure Agreement (instrument) and acknowledged to me that he executed the same in his capacity, and that by his signature on the he executed the foregoing instrument in his name and on his own behalf.</p> <p>_____</p> <p>Notary Public  Registration No.</p>		



APPENDIX A

CERTIFICATION OF RETURN OR DESTRUCTION OF CONFIDENTIAL INFORMATION, ELECTRONIC INFORMATION, AND TANGIBLE PROPERTY BY CONSULTANT PURSUANT TO CONSULTANT CONFIDENTIALITY & NON-DISCLOSURE AGREEMENT DATED \_\_\_\_\_

Pursuant to the Consultant Confidentiality and Non-Disclosure Agreement between the State of New York, acting by and through the New York State Office of Information Technology Services ("ITS") and \_\_\_\_\_ ("Consultant") dated \_\_\_\_\_, Consultant acknowledges that his/her authority to receive, possess, store, access, view and/or use Confidential Information, electronic information and tangible property: \_\_\_\_\_

description of returned Confidential Information, electronic information or tangible property:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ destroyed

description of destroyed Confidential Information, electronic information or tangible property:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Consultant Signature

\_\_\_\_\_  
Consultant Name

\_\_\_\_\_  
Date

Acknowledgment for Certification of Return or Destruction of Confidential Information

STATE OF NEW YORK	}
	} Scilicet
COUNTY OF	}
On the ____ day of _____ in the year 20__, before me personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the foregoing Consultant Confidentiality & Non-Disclosure Agreement (instrument) and acknowledged to me that he executed the same in his capacity, and that by his signature on the he executed the foregoing instrument in his name and on his own behalf.	
_____ Notary Public Registration No.	



**RFP# C000540 IES System Integrator Master Service Agreements**

**Proposal Submission Requirements Checklist**

Checklist Item	Page #
Administrative Proposal	
<input type="checkbox"/> Correct Number of Administrative Proposals submitted (1 original hard copy) and USB flash drive (2)	
<u>Each Administrative Proposal should include:</u>	
<input type="checkbox"/> Attachment 1 - Proposal Checklist, completed and signed	
<input type="checkbox"/> Attachment 3 – Non-Collusive Bidding Certification	
<input type="checkbox"/> Attachment 5 - NYS Required Certification	
<input type="checkbox"/> Attachment 7, Completed, Signed, and Notarized Firm Offer Letter and Conflict of Interest Disclosure	
<input type="checkbox"/> Attachment 8, Completed Procurement Lobbying Forms and EO 177 <ul style="list-style-type: none"> <li>• Completed and signed Offeror’s Affirmation of Understanding of and Agreement pursuant to State Finance Law §139-j (3) and §139-j (6) (b)</li> </ul>	
Completed and signed Offeror Disclosure of Prior Non-Responsibility Determinations	
<input type="checkbox"/> Attachment 9, EEO 100 – Equal Employment Opportunity Staffing Plan, completed and signed	
<input type="checkbox"/> Attachment 10, Completed and signed MWBE 100 - MWBE Utilization Plan	
<input type="checkbox"/> Attachment 11, Completed Minority and Women-Owned Business Enterprises and Equal Employment Opportunity Policy Statement- Form # 4	
<input type="checkbox"/> Attachment 12, Encouraging Use of NYS Businesses in Contract Performance	
<input type="checkbox"/> Attachment 13, Contractor Certification to Covered Agency, ST-220-CA, completed, signed, and notarized	
<input type="checkbox"/> Attachment 14, Bidder Information Form	
<input type="checkbox"/> Attachment 15, Workers’ Compensation Requirements under WCL § 57:           Completed Workers Compensation Coverage Form: <ul style="list-style-type: none"> <li>• C-105.2 (Certificate of NYS Workers' Compensation Insurance Coverage): Contact your insurance carrier or licensed NYS insurance agent for this form OR</li> <li>• U-26.3 (NY State Insurance Fund Certificate of Workers' Compensation Coverage) Available from the NYS Insurance Fund OR</li> </ul>	





**RFP# C000540 IES System Integrator Master Service Agreements**

***Proposal Submission Requirements Checklist***

---

Each Technical Proposal should include:

- Table of Contents
- Attachment 1, Completed and Signed Proposal Checklist
- Attachment 7, Firm Offer Letter and Conflict of Interest Disclosure
- Attachment 16 – Technical Proposal Forms
- Attachment 17 – Key Subcontractor Information
- Attachment 18 – Bidder References


I certify, with my signature below, that all required and requested information listed above is completed and included in this bid submission.

Authorized Signature:

Date:

Print Name and Title:

Company represented:

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

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

**BY SUBMISSION OF THIS BID, BIDDER AND EACH PERSON SIGNING ON BEHALF OF BIDDER CERTIFIES, AND IN THE CASE OF JOINT BID, EACH PARTY THERETO 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 purposes of restricting competition, as to any matter relating to such prices with any other Bidder or with any competitor;

[2] Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder prior to opening, directly or indirectly, to any other Bidder or to any competitor; and

[3] No attempt has been made or will be made by the Bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

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

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 corporation of partnership.

STATE OF NEW YORK }

} SS

COUNTY OF \_\_\_\_\_ }

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year of \_\_\_\_\_, before me personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the foregoing Non-collusive Bidding Certification (instrument) and acknowledged to me that he/she executed the same in his/her capacity, and on his/her own behalf.

\_\_\_\_\_

Notary Public

Registration No:

**IF BIDDER(S) (ARE) A PARTNERSHIP, COMPLETE THE FOLLOWING:**

NAMES OF PARTNERS OR PRINCIPALS	LEGAL RESIDENCE
_____	_____
_____	_____
_____	_____

**IF BIDDER(S) (ARE) A CORPORATION, COMPLETE THE FOLLOWING:**

NAME	LEGAL RESIDENCE
_____	_____
<b>President:</b>	_____
_____	_____
<b>Secretary:</b>	_____
_____	_____
<b>Treasurer:</b>	_____

**Identifying Data**

Potential Contractor \_\_\_\_\_

Address \_\_\_\_\_  
Street

\_\_\_\_\_ City, Town, etc.

Telephone \_\_\_\_\_ (If applicable, Responsible Corporate Officer)

Name \_\_\_\_\_ Title \_\_\_\_\_

Signature \_\_\_\_\_

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

_____	_____
Legal name of person, firm or corporation	Legal name of person, firm or corporation
By _____	_____
<small>Name</small>	<small>Name</small>
_____	_____
<small>Title</small>	<small>Title</small>
Address _____	Address _____
<small>Street</small>	<small>Street</small>
_____	_____
<small>City</small>	<small>City</small>
<small>State</small>	<small>State</small>



**RFP #C000540 IES System Integrator Master Service Agreements  
Attachment 5- NYS Required Certification**

**Non-discrimination in Employment in Northern Ireland**

**MacBride Fair Employment Principles**

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

(1) has business operations in Northern Ireland

Yes \_\_\_\_\_ No \_\_\_\_\_

**If Yes,**

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

Yes \_\_\_\_\_ No \_\_\_\_\_



**[TO BE COMPLETED ON BIDDER'S LETTERHEAD]**

Date

Mrs. Ward  
Contract Management Specialist  
Empire State Plaza  
Swan Street Building, Core 4  
Albany, NY 12223

Dear Mrs. Ward:

RE: RFP C000540 IES System Integrator

**Firm Offer to the State of New York and Conflict of Interest Disclosure**

[INSERT BIDDER NAME] hereby submits this firm and binding offer to the State of New York in response to New York State Request for Proposals (RFP) # C000540 IES System Integrator Master Service Agreement, by the New York State Office of Information Technology Services. The Proposal hereby submitted by [INSERT BIDDER NAME] meets or exceeds all terms, conditions and requirements set forth in the above-referenced RFP. This formal offer will remain firm and non-revocable for a minimum period of 180 days from the date proposals are due to be received by the State, or until a Contract is approved by the NYS Comptroller and executed by the State.

[INSERT BIDDER NAME]'s complete offer is set forth in three, separately bound volumes as follows:

Technical Proposal:

Total of one (1) original hard copy and two (2) electronic copies on PC Compatible Windows USB Flash-Drive saved as Microsoft Word, Excel and/or Adobe Acrobat formats, and in Windows file format

Financial Proposal:

Total of one (1) original hard copy and two (2) electronic copies on PC Compatible Windows USB Flash-Drive saved as Microsoft Word, Excel and/or Adobe Acrobat formats, and in Windows file format

Administrative Proposal:

Total of one (1) original hard copy and two (2) electronic copies on PC Compatible Windows USB Flash-Drive saved as Microsoft Word, Excel and/or Adobe Acrobat formats, and in Windows file format

[INSERT BIDDER NAME] hereby affirms that the solution proposed by the Bidder in the Proposal meets or exceeds the service level requirements set forth in the above-referenced RFP, including referenced attachments.

**[INSERT BIDDER NAME]** hereby affirms that, at the time of Proposal submission, Bidder knows of no factors existing at time of Proposal submission or which are anticipated to arise during the procurement or Contract term, which would constitute a potential conflict of interest in successfully meeting the contractual obligations set forth in the above-referenced RFP and the Proposal hereby submitted, including but not limited to:

1. No potential for conflict of interest on the part of the Bidder or any due to prior, current, or proposed contracts, engagements, or affiliations; and
2. No potential conflicts in the sequence or timing of the proposed award under this RFP # C000540 relative to the timeframe for service delivery, or personnel or financial resource commitments of Bidder or to other projects.

To comply with the Vendor Responsibility Requirements outlined in Appendix C, Section 48 of the above-referenced RFP, #C000540 IES System Integrator Master Service Agreement, hereby affirms that (enter an “X” in the appropriate box):

An on-line Vendor Responsibility Questionnaire has be updated or created within the last six months, at the Office of the State Comptroller’s website:

<https://portal.osc.state.ny.us/wps/portal>

A hard copy Vendor Responsibility Questionnaire is included with this Proposal and is dated within the last six months.

A Vendor Responsibility Questionnaire is not required due to an exempt status. Exemptions include governmental agencies, public authorities, public colleges and universities, public benefit corporations, and Indian Nations.

By signing, the undersigned individual affirms and represents that he has the legal authority and capacity to sign and make this offer on behalf of, and has signed using that authority to legally bind **[INSERT BIDDER NAME]** to the offer, and possesses the legal capacity to act on behalf of Bidder to execute a Contract with the State of New York The aforementioned legal authority and capacity of the undersigned individual is affirmed by the enclosed Resolution of the Corporate Board of Directors of **[INSERT BIDDER NAME]**.

---

Signature  
**[INSERT BIDDER NAME]**  
**[INSERT TITLE]**  
**[INSERT COMPANY NAME]**

Corporate Seal

**CORPORATE ACKNOWLEDGMENT**

<b>STATE OF</b>	}	
	:ss.:	
<b>COUNTY OF</b>	}	
On the _____ day of _____ in the year 20 __, before me personally came: _____, to me known, who, being by me duly sworn, did depose and say that he/she/they reside(s) in _____; that he/she/they is (are) _____ (the President or other officer or director or attorney in fact duly appointed) of _____, the corporation described in and which executed the above instrument; and that he/she/they signed his/her/their name(s) thereto by authority of the board of directors of said corporation.		
<hr/> <b>Signature and Office of Person Taking Acknowledgment</b>		

**PARTNERSHIP ACKNOWLEDGMENT**

<b>STATE OF</b>	}	
	:ss.:	
<b>COUNTY OF</b>	}	
On the _____ day of _____ in the year 200 __, before me personally came: _____ to me known, who, being by me duly sworn, did depose and say that he reside(s) in _____; that he is _____ (the General/Managing Partner or other officer or attorney in fact duly appointed) of _____, the partnership described in said instrument; that, by the terms of said partnership, he is authorized to execute the foregoing instrument on behalf of the partnership for the purposes set forth therein; and that, pursuant to that authority, he executed the foregoing instrument in the name and on behalf of said partnership as the act and deed of said partnership.		
<hr/> <b>Signature and Office of Person Taking Acknowledgment</b>		

**INDIVIDUAL ACKNOWLEDGEMENT**

<b>STATE OF</b>	}	
	:ss.:	
<b>COUNTY OF</b>	}	
On the ____ day of _____ in the year 20 __, before me personally appeared: _____, known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that he resides at _____, Town of _____, County of _____, State of _____; and that he executed the foregoing instrument in his/her name and on his/her own behalf.		
<hr/> <b>Notary Public</b>		

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

New York 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.

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

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Contractor Name: \_\_\_\_\_

Contractor Address: \_\_\_\_\_

\_\_\_\_\_

## **Offerer Disclosure of Prior Non-Responsibility Determinations**

### **Background:**

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).

### **Instructions:**

A Governmental Entity 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: \_\_\_\_\_

\_\_\_\_\_

Contract Procurement Number: \_\_\_\_\_

Date: \_\_\_\_\_

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

**No**

**Yes**

If yes, please answer the next questions:

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

**No**

**Yes**

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

**No**

**Yes**

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

Governmental Entity:

\_\_\_\_\_

Date of Finding of Non-responsibility:

\_\_\_\_\_

Basis of Finding of Non-Responsibility:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(Add additional pages as necessary)

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

**No**

**Yes**

6. If yes, please provide details below.

Governmental Entity: \_\_\_\_\_

Date of Termination or Withholding of Contract:

\_\_\_\_\_

Basis of Termination or Withholding:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Add additional pages as necessary)

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

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

**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 Office of Information Technology Services with respect to State Finance Law §139-k is complete, true and accurate.

Offerer Certification:

*I certify that all information provided to the Office of Information Technology Services with respect to State Finance Law §139-k is complete, true and accurate.*

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Contractor Name: \_\_\_\_\_

Contractor Address: \_\_\_\_\_

\_\_\_\_\_

**Procurement Lobbying Termination**

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



**Offerer's Certification of Adherence  
to Executive Order 177 regarding  
Anti-Discriminatory Policies and Practices**

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

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

Generally, the Human Rights Law applies to:

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

In accordance with Executive Order No. 177, the Bidder hereby certifies that it does not have institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sex, sexual orientation, gender identity, disability, marital status, military status, or other protected status under the Human Rights Law. 3

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

Offerer Certification:

*I certify adherence to Executive Order No. 177.*

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Contractor Name: \_\_\_\_\_

Contractor Address: \_\_\_\_\_  
\_\_\_\_\_

# EQUAL EMPLOYMENT OPPORTUNITY – STAFFING PLAN

(Instructions on Page 2)

Contractor's Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City, State, ZIP: \_\_\_\_\_

Telephone: \_\_\_\_\_  
 Federal ID No.: \_\_\_\_\_ SFS Vendor ID: \_\_\_\_\_  
 Contract No(s): \_\_\_\_\_

Report includes -Please select one from the options below:

Reporting Entity - Please select one from the options below:

- Work force utilized on this contract  
 Contractor/Subcontractor's total work force

- Contractor  
 Subcontractor

Job Categories	Total Work Force	Race/Ethnicity - report employees in only one category													
		Hispanic or Latino		Not-Hispanic or Latino											
				Male						Female					
		Male	Female	White	Black or African American	Native Hawaiian or Other Pacific Islander	Asian	American Indian or Alaska Native	Two or More Races	White	Black or African American	Native Hawaiian or Other Pacific Islander	Asian	American Indian or Alaska Native	Two or More Races
Executive/Senior Level Officials and Managers															
First/Mid-Level Officials and Managers															
Professionals															
Technicians															
Sales Workers															
Administrative Support Workers															
Craft Workers															
Operatives															
Laborers and Helpers															
Service Workers															
<b>TOTAL</b>															

PREPARED BY (Signature): \_\_\_\_\_

DATE: \_\_\_\_\_

NAME AND TITLE OF PREPARER: \_\_\_\_\_  
 (print or type)

TELEPHONE/EMAIL: \_\_\_\_\_

## INSTRUCTIONS

General Instructions: All Offeror and each subcontractor identified in the bid or proposal must complete an EEO Staffing Plan (EEO 100) and submit it as part of the bid or proposal package. Where the work force to be utilized in the performance of the State contract can be separated out from the contractor's or subcontractor's total work force, the Offeror shall complete this form only for the anticipated work force to be utilized on the State contract. Where the work force to be utilized in the performance of the State contract cannot be separated out from the contractor's or subcontractor's total work force, the Offeror shall complete this form for the contractor's or subcontractor's total work force.

### Instructions for Completing:

1. Enter the Solicitation or Contract number that this report applies to, along with the name, address, and federal ID number of the Contractor preparing the report.
2. Check off the appropriate box to indicate if the work force being reported is just for the contract or the Contractor's total work force.
3. Check off the appropriate box to indicate if the Contractor completing the report is the contractor or subcontractor.
4. Check off the box that corresponds to the reporting period for this report.
5. Enter the total work force by EEO job category.
6. Enter the name, title, phone number and/or email address for the person completing the form. Sign and date the form in designated areas.

### RACE/ETHNIC IDENTIFICATION

For purposes of this form CIO/OFT will accept the definitions of race/ethnic designations used by the federal Equal Employment Opportunity Commission (EEOC), as those definitions are described below or amended hereafter. (Be advised these terms may be defined differently for other purposes under NYS statutory, regulatory, or case law). Race/ethnic designations as used by the EEOC do not denote scientific definitions of anthropological origins. For the purposes of this report, an employee may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. The race/ethnic categories for this survey are:

- **Hispanic or Latino** - A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin regardless of race.
- **White (Not Hispanic or Latino)** - A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.
- **Black or African American (Not Hispanic or Latino)** - A person having origins in any of the black racial groups of Africa.
- **Native Hawaiian or Other Pacific Islander (Not Hispanic or Latino)** - A person having origins in any of the peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
- **Asian (Not Hispanic or Latino)** - A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian Subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
- **American Indian or Alaska Native (Not Hispanic or Latino)** - A person having origins in any of the original peoples of North and South America (including Central America), and who maintain tribal affiliation or community attachment.
- **Two or More Races (Not Hispanic or Latino)** - All persons who identify with more than one of the above five races.

# M/WBE UTILIZATION PLAN

INSTRUCTIONS: This form MUST be submitted with any bid, proposal, or proposed negotiated contract prior to contract award. This Utilization Plan must contain a detailed description of the supplies and/or services to be provided by each NYS-certified Minority and Women-owned Business Enterprise (M/WBE), including the offeror if a NYS-certified MWBE, and estimated (or actual if known) annual dollar value under the contract and reflect the MWBE participation goals specified in the contract or procurement document.

Will there be M/WBE participation for services provided under this contract?  YES  NO

Contract Overview			
Offeror/Contractor Name: _____	Telephone: _____	SFS Vendor ID: _____	
Address: _____	Federal ID No: _____	SFS Vendor ID: _____	
City, State, Zip: _____	Solicitation No: _____		
NYS Certified M/WBE Fill out box below for each NYS-Certified M/WBE Contractor or Subcontractor	Classification	Description of Scope of Work (Subcontracts/Supplies/Services)	Annual Dollar Value of Subcontracts/Supplies/Services
Name: _____	<input type="checkbox"/> MBE	<input type="checkbox"/> DIRECT (Spending directly fulfilling contract obligations) Description: _____	\$ _____
Address: _____	<input type="checkbox"/> WBE	<input type="checkbox"/> INDIRECT (Spending in support of company operations.) Description: _____	
City, State, Zip: _____	<input type="checkbox"/> DUAL	<input type="checkbox"/> Copy of written agreement attached (Required for teaming)	
Telephone: _____			
Fed. ID. No: _____	SFS Vendor ID: _____		
Name: _____	<input type="checkbox"/> MBE	<input type="checkbox"/> DIRECT (Spending directly fulfilling contract obligations) Description: _____	\$ _____
Address: _____	<input type="checkbox"/> WBE	<input type="checkbox"/> INDIRECT (Spending in support of company operations.) Description: _____	
City, State, Zip: _____	<input type="checkbox"/> DUAL	<input type="checkbox"/> Copy of written agreement attached (Required for teaming)	
Telephone: _____			
Fed. ID. No: _____	SFS Vendor ID: _____		

VENDOR CERTIFICATION: I hereby affirm that the information supplied in this utilization plan is true and correct.

SUBMISSION OF THIS FORM CONSTITUTES THE OFFEROR/CONTRACTOR'S ACKNOWLEDGEMENT AND AGREEMENT TO COMPLY WITH THE M/WBE REQUIREMENTS SET FORTH UNDER NYS EXECUTIVE LAW, ARTICLE 15-A, 5 NYCRR PART 142, AND THE ABOVE REFERENCED SOLICITATION. FAILURE TO SUBMIT COMPLETE AND ACCURATE INFORMATION MAY RESULT IN A FINDING OF NONCOMPLIANCE AND/OR TERMINATION OF THE CONTRACT.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
 Print Name: \_\_\_\_\_ Telephone No: \_\_\_\_\_  
 Title: \_\_\_\_\_ Email: \_\_\_\_\_

## M/WBE UTILIZATION PLAN

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### FOR AUTHORIZED USE ONLY

Utilization Plan Approved:     Y         N        Date: \_\_\_\_\_

Notice of Deficiency Issued:     Y         N        Date: \_\_\_\_\_

Notice of Acceptance Issued:     Y         N        Date: \_\_\_\_\_

Reviewed By: \_\_\_\_\_        Date: \_\_\_\_\_

Comment(s):



MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES – EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT (Form #4)

M/WBE AND EEO POLICY STATEMENT

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

M/WBE

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

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

EEO

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

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

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

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

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

Agreed to this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_

By: \_\_\_\_\_

Print: \_\_\_\_\_ Title: \_\_\_\_\_

(Name of Designated Liaison) is designated as the Minority Business Enterprise Liaison responsible for administering the Minority and Women-Owned Business Enterprises - Equal Employment Opportunity (M/WBE-EEO) program.



**RFP #C000540 IES System Integrator Master Service Agreements  
ATTACHMENT 12 - ENCOURAGING USE OF NEW YORK STATE BUSINESSES  
IN CONTRACT PERFORMANCE**

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

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

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

Public procurements can drive and improve the State's economic engine through promotion of the use of New York businesses by its Contractors. The State therefore expects Bidders to provide maximum assistance to New York businesses in their use of the Contract. The potential participation by all kinds of New York businesses will deliver great value to the State and its taxpayers.

Bidders can demonstrate their commitment to the use of New York State businesses by responding to the question below; however, the State will not award any points during evaluation of Bidder's response to this procurement:

**Will New York State Businesses be used in the performance of this Contract? \_\_\_\_\_ Yes \_\_\_\_\_ No**

**If yes, identify New York State Business (es) that will be used; (Attach identifying information).**



# Contractor Certification to Covered Agency

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

# ST-220-CA

(12/11)

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

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

I, \_\_\_\_\_, hereby affirm, under penalty of perjury, that I am \_\_\_\_\_

(name)

(title)

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

(Mark an X in only one box)

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

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

(insert contract number or description)

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

Sworn to this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_

(sign before a notary public)

(title)

## Instructions

### General information

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

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

### When to complete this form

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

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

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



Individual, Corporation, Partnership, or LLC Acknowledgment

STATE OF }
: SS.:
COUNTY OF }

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

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

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

Notary Public

Registration No.

Privacy notification

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

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

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

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

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

Need help?

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

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

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

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



**Office of Information  
Technology Services**

**RFP #C000540 IES System Integrator Master Service Agreements**

**Attachment 14-Bidder Information Form**

Name of Company Bidding:		Bidder Firm's Federal Tax Identification No.:	
NYS Vendor ID Number:			
Bidding Firm's Address:			
Street		City	
State	Zip	County	Country
Bidder's Primary Contact			
Phone: ( ) -	ext ( )	Toll Free Phone: ( ) -	ext ( )
Fax : ( ) -	ext ( )	Toll Free Fax : ( ) -	ext ( )
E-mail Address:		Company Web Site:	
Date: _____			
Title: _____			
Contact Name: _____			
Authorized Signature: _____			



**RFP #C000540 IES System Integrator Master Service Agreements  
Attachment 15: Workers Compensation and Disability Insurance  
Requirements**

Sections 57 and 220 of the New York State Workers' Compensation Law (WCL) provide that ITS shall not enter into any Contract unless proof of workers' compensation and disability benefits insurance coverage is produced. Prior to entering into a Contract with ITS successful Bidders will be required to verify for ITS on forms authorized by the New York State Workers' Compensation Board, the fact that they are properly insured or are otherwise in compliance with the insurance provisions of the WCL. The forms to be used to show compliance with the WCL are listed below. ITS would prefer Bidders to submit this insurance verification information with their bids if possible. Any questions relating to either workers' compensation or disability benefits coverage should be directed to the State of New York Workers' Compensation Board, Bureau of Compliance at (518)486-6307. Failure to provide verification of either of these types of insurance coverage by the time winning bids have been selected and Contracts are ready to be executed will be grounds for disqualification of an otherwise successful bid.

**Workers' Compensation Requirements under WCL § 57:**

To comply with coverage provisions of the WCL, businesses shall:

- a) be legally exempt from obtaining workers' compensation insurance coverage; or
- b) obtain such coverage from insurance carriers; or
- c) be self-insured or participate in an authorized group self-insurance plan.

To verify your compliance with the above, ITS shall receive one of the following properly executed Workers' Compensation Board forms from the Contractor, the Contractor's insurance carrier or the Workers' Compensation Board, depending on which form is appropriate:

1. CE-200, Certificate of Attestation of Exemption from New York State Workers Compensation and/or Disability Benefits Coverage; OR

2. C-105.2, Certificate of Workers' Compensation Insurance. (The Contractor's insurance carrier will send this form to ITS upon the Contractor's request.)

Please Note: The State Insurance Fund provides its own version of this form, the U-26.3; OR

3. SI-12, Certificate of Workers' Compensation Self-Insurance (the Workers' Compensation Board's Self Insurance Office will send this form to ITS upon the Contractor's request), OR

4. GSI-105.2 – Certificate of Participation in Workers' Compensation Group Self-Insurance (the Contractor's Group Self-Insurance Administrator will send this form to ITS upon the Contractor's request).



**RFP #C000540 IES System Integrator Master Service Agreements  
Attachment 15: Workers Compensation and Disability Insurance  
Requirements**

**Disability Benefits Requirements under WCL § 220(8):**

To comply with the coverage provisions of the Disability Benefits Law, businesses shall:

- a) be legally exempt from obtaining disability benefits insurance coverage; OR
- b) obtain such coverage from insurance carriers; OR
- c) be self-insured.

To verify your compliance with the above, ITS shall receive one of the following properly executed Workers' Compensation Board forms from the Contractor, the Contractor's insurance carrier or the Workers' Compensation Board, depending on which form is appropriate:

1. CE-200, Certificate of Attestation of Exemption from New York State Workers Compensation and/or Disability Benefits Coverage; OR
2. Either the DB-120.1 – Certificate of Disability Benefits Insurance OR the DB-820/829 Certificate/Cancellation of Insurance (the Contractor's insurance carrier will send one of these forms to ITS upon the Contractor's request); OR
3. DB-155 – Certificate of Disability Benefits Self-Insurance (the Workers' Compensation Board's Self Insurance Office will send this form to ITS upon request the Contractor's request).



## RFP# C000540 IES System Integrator Master Service Agreement

### Attachment 16: Technical Proposal Form

When completing the Technical Proposal Content, please do so in the order enumerated below. **DO NOT INCLUDE ANY PRICING INFORMATION.**

Bidder must provide information which meets the minimum qualifications, set forth in 1.3 of the RFP, and demonstrates that Bidder can successfully undertake and complete a project of the scale and scope set forth in this RFP.

#### **PART 1: ORGANIZATIONAL OVERVIEW (EXECUTIVE SUMMARY)**

The Bidder must possess the administrative and organizational capacity, experience and expertise to provide the required Project Services as set forth in the RFP and the administrative structure to oversee the billing, payment, and processing of invoices to ITS for work performed under the Contract. To demonstrate that it meets or exceeds these requirements, at this part of its Technical Proposal, the Bidder must submit an Executive Summary, not to exceed five (5) pages that includes:

- (1) The name and address of the Bidder's main and branch offices and the name of the senior officer who will be responsible for this account;
- (2) A statement indicating for which Lot(s) the Bidder meets or exceeds the associated minimum bidder qualifications and for which Lot(s) it is submitting a Proposal for the State's consideration.
- (3) A concise description of the Bidder's understanding of the requirements presented in the RFP, ITS' needs, approach, and how the Bidder can assist ITS in accomplishing its objectives. The description provided should demonstrate the Bidder's understanding of (1) the scope of work included in the RFP, and (2) the effort, skills and processes necessary to successfully complete the software development services detailed in this RFP while adhering to the software development lifecycle (SDLC) prescribed by the State using State-defined tools, methodologies, and technologies and operating on a State-owned and operated platform.
- (4) A succinct statement outlining corporate/business history including a general mission statement, the overall number of employees per position, and other general information about the Bidder.
- (5) A description of the activities the Bidder is proposing to undertake to begin providing services to ITS if selected in response to a Tier II Assignment.
- (6) A statement specifying its agreement to and, as applicable, explain how it will:
  - a. Maintain an adequate organizational structure and resources sufficient to discharge its contractual responsibilities including monitoring Contract activities, deliverables, invoicing, billing, and personnel issues.
  - b. Provide for normal day-to-day communications and maintain a Contractor Sole Point of Contact (Engagement Executive) for proper communication and performance of all contractual responsibilities.
  - c. Substitute any employee whose continued presence would be detrimental to the success of the State's efforts with an employee of equal or better qualifications.
  - d. Cooperate fully with the State's staff, advisors, and any other contractors and/or subcontractors who may be engaged by the State relative to the Project Services.



**RFP# C000540 IES System Integrator Master Service Agreement**

**PART 2: MINIMUM BIDDER QUALIFICATIONS**

Please complete Table 1 - Project Engagement, on the following page, for each project engagement the Bidder is using to demonstrate that it meets or exceeds the Minimum Bidder Qualifications. Failure to meet the Minimum Bidder Qualifications set forth below will result in the Proposal being deemed non-responsive and eliminated from further consideration. The Minimum Bidder Qualifications section will be scored on a Pass/Fail basis.

For each Lot the Bidder is bidding on, Bidder must complete the table provided under that section. Depending on the Lot or Lots for which they are submitting Proposals, Bidders must meet the Lot-specific Minimum Bidder Qualifications to be deemed qualified to respond to that/those particular Lot/Lots. Failure to meet a given Lot's Minimum Bidder Qualifications will disqualify and eliminate the Bidder from further consideration for that Lot's services. The Lot-specific Minimum Bidder Qualifications section will be scored on a Pass/Fail basis.

Bidders should list as many projects as needed to meet the Minimum Bidder Qualifications. Additional projects in excess of the Minimum Bidder Qualifications should not be listed in this section but can be discussed in Part 5 of Attachment 16, entitled "Bidder Experience."



**RFP# C000540 IES System Integrator Master Service Agreement**

**Table 1 Project Engagement**

**Minimum Bidder Qualifications**

**Qualification 1:** The Bidder, at time of bid submission and throughout the term of the Contract, must be authorized to conduct business in New York State, or has filed an application for authority to do business in New York State with the New York State Secretary of State at the time of bid submission. Such application must be approved prior to Contract Award.

**The Bidder certifies that it is authorized to conduct business in the State of New York. (If the answer is “Yes,” skip the next two items regarding this Qualification 1.)**

Yes  No

**If the Bidder is not currently authorized to conduct business in the State of New York, has the Bidder filed an application for authority to do business in New York State with the New York State Secretary of State prior to the date of its bid submission?**

Yes  No

**If the answer to the above question is “Yes,” please provide the date the Bidder filed its application for authority to do business in New York State with the New York State Secretary of State.**

**Qualification 2:** The Bidder must include a letter from a financial institution, insured by the Federal Deposit Insurance Corporation and licensed to do business under the laws of the State of New York, indicating that such financial institution will issue the Bidder a performance bond in an amount of at least Twenty-Five Million U.S. Dollars (\$25,000,000.00) if the Bidder is awarded a contract under a Tier II Assignment.

**A letter was included from a financial institution insured by the Federal Deposit Insurance Corporation and licensed to do business under the laws of the State of New York indicating that such financial institution will issue the Bidder a performance bond in an amount of at least Twenty-Five Million U.S. Dollars (\$25,000,000.00) if the Bidder is awarded a contract under a Tier II Assignment.**

Yes  No

**Qualification 3:** The Bidder must represent and warrant that it possesses at least three (3) years of experience as the prime contractor on a project(s) subject to and under the following conditions:

- the project(s) included multiple prime contractors working simultaneously on software development in a shared system environment;
- the Bidder was responsible for providing software development services, which includes/included design, development, and implementation, inclusive of testing and defect resolution for the project(s); and
- in providing such software development services, the Bidder was required to adhere to the software development lifecycle (SDLC) as prescribed by the client using client-defined tools, methodologies, and technologies and operating on a client-owned and operated platform.



**RFP# C000540 IES System Integrator Master Service Agreement**

<p>The Bidder represents and warrants that it possesses at least three (3) years of experience as the prime contractor on a project(s) subject to and under the following conditions:</p> <ul style="list-style-type: none"><li>the project(s) included multiple prime contractors working simultaneously on software development in a shared system environment;</li><li>the Bidder was responsible for providing software development services, which include/included design, development, and implementation, inclusive of testing and defect resolution, for the project(s); and</li><li>in providing such software development services, the Bidder was required to adhere to the software development lifecycle (SDLC) as prescribed by the client using client-defined tools, methodologies, and technologies and operating on a client-owned and operated platform.</li></ul>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
Project Engagement # and Name:	
Client Name(s):	
Dates (month/year) of Experience (including date the engagement started and ended or is scheduled to end):	thru
Client Contact Name and Title:	
Phone Number:	
Email:	
Alternate Client Contact Name and Title:	
Phone Number:	
Email:	





**RFP# C000540 IES System Integrator Master Service Agreement**

**LOT-SPECIFIC MINIMUM BIDDER QUALIFICATIONS**

<b>Table 2 Lot #1 - Eligibility, Enrollment, and/or Case Management Project Engagement</b>	
<b>Minimum Bidder Qualifications</b>	
<p><b>Lot 1 Qualification:</b> The Bidder must represent and warrant that it possesses at least three (3) years of experience as the prime contractor on an eligibility, enrollment, and/or case management IT project(s) under which the Bidder was responsible for providing software development services, which includes/included design, development, and implementation, inclusive of testing and defect resolution, for the project and the software solution developed was used by and met both common and differing needs of multiple business units (e.g., finance department, agency policy office) or program areas (e.g., SNAP, HEAP).</p> <p>*The Bidder may add more engagements as necessary to show experience. However, the Bidder should only provide engagements needed to meet the minimum.</p>	
<p><b>The Bidder represents and warrants that it possesses at least three (3) years of experience as the prime contractor on an eligibility, enrollment, and/or case management IT project(s) under which the Bidder was responsible for providing software development services, which includes/included design, development, and implementation, inclusive of testing and defect resolution, for the project and the software solution developed was used by and met both common and differing needs of multiple business units (e.g., finance department, agency policy office) or program areas (e.g., SNAP, HEAP).</b></p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
Project Engagement # and Name:	
Client Name(s):	
Client Contact Name and Title:	
Phone Number:	
Email:	
Alternate Client Contact Name and Title:	
Phone Number:	
Email:	



**RFP# C000540 IES System Integrator Master Service Agreement**

Dates (month/year) of Experience (including date the engagement started and ended or is scheduled to end):	thru
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**Table 3 Lot #2 - Reports and Analytics Project Engagement**

**Minimum Bidder Qualifications**

**Lot 2 Qualification:** The Bidder must represent and warrant that it possesses at least three (3) years of experience as the prime contractor on a reports and analytics IT project(s) under which the Bidder was responsible for providing software development services, which includes/included design, development, and implementation, inclusive of testing and defect resolution, for the project.

\*The Bidder may add more engagements as necessary to show experience. However, the Bidder should only provide engagements needed to meet the minimum.

<b>The Bidder represents and warrants that it possesses at least three (3) years of experience as the prime contractor on a reports and analytics IT project(s) under which the Bidder was responsible for providing software development services, which includes/included design, development, and implementation, inclusive of testing and defect resolution, for the project.</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
---	--

Project Engagement # and Name:	
Client Name(s):	
Dates (month/year) of Experience (including date the engagement started and ended or is scheduled to end):	thru
Client Contact Name and Title:	
Phone Number:	
Email:	
Alternate Client Contact Name and Title:	
Phone Number:	
Email:	



RFP# C000540 IES System Integrator Master Service Agreement

Table 4 Lot #3 - Financial Management and Provider Management Project Engagement	
Minimum Bidder Qualifications	
<p><b>Lot 3 Qualification:</b> The Bidder must represent and warrant that it possesses at least three (3) years of experience as the prime contractor on a financial management IT project(s) under which the Bidder was responsible for providing software development services, which includes/included design, development, and implementation, inclusive of testing and defect resolution, for the project.</p> <p>*The Bidder may add more engagements as necessary to show experience. However, the Bidder should only provide engagements needed to meet the minimum.</p>	
<p><b>The Bidder represents and warrants that it possesses at least three (3) years of experience as the prime contractor on a financial management IT project(s) under which the Bidder was responsible for providing software development services, which includes/included design, development, and implementation, inclusive of testing and defect resolution, for the project.</b></p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
Project Engagement # and Name:	
Client Name(s):	
Dates (month/year) of Experience (including date the engagement started and ended or is scheduled to end):	thru
Client Contact Name and Title:	
Phone #:	
Email:	
Alternate Client Contact Name and Title:	
Phone #:	
Email:	



RFP# C000540 IES System Integrator Master Service Agreement

**Table 5 Lot #4 – Fair Hearings Project Engagement**

**Minimum Bidder Qualifications**

**Lot 4 Qualification:** The Bidder must represent and warrant that it possesses at least three (3) years of experience as the prime contractor on a public sector fair hearings or appeals IT project(s) under which the Bidder was responsible for providing software development services, which includes/included design, development, and implementation, inclusive of testing and defect resolution, for the project.

\*The Bidder may add more engagements as necessary to show experience. However, the Bidder should only provide engagements needed to meet the minimum.

**The Bidder represents and warrants that it possesses at least three (3) years of experience as the prime contractor on a public sector fair hearings or appeals IT project(s) under which the Bidder was responsible for providing software development services, which includes/included design, development, and implementation, inclusive of testing and defect resolution, for the project.**

Yes  No

Project Engagement # and Name:

Client Name(s):

Dates (month/year) of Experience (including date the engagement started and ended or is scheduled to end):

thru

Client Contact Name and Title:

Phone Number:

Email:

Alternate Client Contact Name and Title:

Phone Number:

Email:



## **RFP# C000540 IES System Integrator Master Service Agreement**

### **PART 3: PROJECT OVERVIEW**

In this section of the Technical Proposal, Part 3 – Project Overview, Bidders should demonstrate their competence and capacity to provide systems integration services, inclusive of design, development, and implementation, testing and defect resolution, knowledge transfer and cross-training of State technical staff, and tier 2-4 help desk support for all Lots bid. The Project Overview should include a narrative describing the project approach and provide information regarding how the Bidder will fulfill the services set forth in Section 2.1 of the RFP.

Specifically, the Bidder should outline the factors that it believes are critical to the success of system integration projects. The Bidder should describe its experience in successfully addressing the following critical factors in other similar engagements, highlighting unique experiences, skills, or abilities the Bidder would bring to the engagement that differentiate it from other Bidders and that would maximize the likelihood of a successful outcome for Assignments. At a minimum, the Bidder must address the following:

1. Bidder's ability to have their workplan and product for any award incorporated into the State's master plan;
2. Bidder's approach to adhering to a software development lifecycle (SDLC) as prescribed by the State using State-defined tools, methodologies, and technologies and operating on a State-owned and operated platform;
3. Bidder's ability to work in a multi-vendor environment with the State and with other vendors performing IES-related work on various modules awarded through the RFP, other solicitation instruments, or separate project teams being managed by State resources;
4. Bidder's ability to manage and mitigate Bidder, or client, identified risk(s); and
5. Bidder's approach to scope, schedule, cost, and quality management, including ability to maintain strict adherence to budget.

The Project Overview will be scored based on how the Bidder addresses both its approach to the project and the critical factors listed above. This part of the Bidder's Technical Proposal must not exceed twenty (20) pages.



**RFP# C000540 IES System Integrator Master Service Agreement**

**PART 4: CONTRACTOR'S ENGAGEMENT EXECUTIVE**

This section will be evaluated and scored in accordance with section 5.1.3 of the RFP. However, this part of Bidder's Technical Proposal will not be scored if the minimum thresholds/qualifications identified below are not met. The Bidder must specify the individual it is proposing to serve as the Contractor's Sole Point of Contact during the term of the Contract, i.e., the Engagement Executive. This Part 4, including the Profile Table and reference, is not to exceed five (5) pages.

To receive a score above zero for this section, the Engagement Executive must meet or exceed the following thresholds/qualifications: ten (10) years' experience in system integration projects, with five (5) of those years serving in a leading role in multiple system integration projects for governmental entities which includes a state, quasi-state, local, or Federal agency. An ideal Engagement Executive has:

- experience in the health and human services field;
- extensive development, design, and implementation (DDI) experience on large complex projects;

experience on a leadership team of a large operational IT organization.

In addition to completing the Contractor's Table 6- Engagement Executive on the next page, the Bidder should supply a letter of reference for the Engagement Executive. The reference letter should be one of the engagements listed in the profile and include the name, address, and contact information of the client for whom the proposed individual provided services on behalf of the Bidder similar to those expected of the Engagement Executive position. (Note: The reference letter will not be separately scored but will be used to confirm information in the Bidder's proposal.) Further, the Bidder should discuss the Engagement Executive's availability to meet with ITS staff in Albany, NY.



**RFP# C000540 IES System Integrator Master Service Agreement**

**Table 6 – Contractor’s Engagement Executive**

**Engagement Executive Qualification (to be eligible for scoring):** The Engagement Executive must have, at a minimum, ten (10) years’ experience in system integration projects, with five (5) of those years serving in a leading role in multiple system integration projects for governmental entities, e.g., a state, quasi-state, local, or Federal agency.

The Bidder should use the space below to identify the Engagement Executive and justify how this individual could aid in success of the project.

**The Bidder represents and warrants that the Engagement Executive has, at a minimum, ten (10) years’ experience in system integration projects, with five (5) of those years serving in a leading role in multiple system integration projects for governmental entities, e.g., a state, quasi-state, local, or Federal agency.**

Yes  No

Individual’s Name:

**Engagement(s)**

(Bidders should add more rows as necessary)

Dates (month/year – month/year) Served in Title:

Client Name:

Client Address:

Client Phone Number:

**Experience**

Bidder’s proposed Engagement Executive will be scored based upon that individual’s experience with the following:

- health and human services field;
- development, design, and implementation (DDI) on large, complex projects; and
- leadership of a complex IT project.



**RFP# C000540 IES System Integrator Master Service Agreement**

**PART 5: BIDDER EXPERIENCE**

In this section, Bidder's must use the table below (one (1) table per IT project – copying and pasting the table as needed) to list and provide details on previous engagements that would demonstrate the Bidder's ability to complete projects within the scope of this RFP. Project Engagements should be used to describe the Bidder's experience being a prime contractor responsible for providing software development services, which includes/included design, development, and implementation, inclusive of testing and defect resolution, for an IT project. The table(s) may include projects used to meet the Minimum Bidder Qualifications, but should include *all* projects that the Bidder believes are relevant to demonstrate its experience in providing the services requested in this RFP as it could relate to the IES program and differentiate Bidder from other bidders. Please note that public sector experience is preferred. If the Bidder's Proposal covers more than one Lot, the Bidder should indicate which Lot the experience is related to while providing the Lot-specific information indicated below. Additionally, there should be experience/engagement details for each Lot the Bidder includes in its Proposal. Bidders should submit tables below organized by Lot with each Lot separated and labeled. Bidders deemed qualified to bid on a Lot will be evaluated and scored based on its/their collective experience (each engagement will not be scored separately). Evaluations will examine Lot specific experience and other aspects of the engagement(s) as reflected in the table(s) below.

<b>Project Engagement #:</b>	
<u>Project Engagement Name:</u>	
Client Name(s):	
Dates (month/year) of Experience (including date the engagement started and ended or is scheduled to end):	thru
This project experience is related to <u>Lot Number (s):</u>	
Client Contact Name and Title:	
Phone #:	
Email:	
For Lot Specific Experience, Bidders should include a discussion of how the Bidder's approach to each engagement has been successful with clients in the past associated with each Lot(s) for which it is bidding. In the spaces below, Bidders must provide narratives with related information including project-specific scope, particularly noting any health and human services aspects of the project and including, but not limited to, the project's: budget, actual cost, staffing resources, status, and risks (and mitigation strategies).	
<b>Lot Specific Experience</b>	
Bidders must include Lot-specific experience in the narrative below related to Lot 1: experience as the prime contractor on an eligibility, enrollment, and/or case management IT project.	
Bidders must include Lot-specific experience in the narrative below related to Lot 2: experience as the prime contractor on reports and analytics IT project.	





## RFP# C000540 IES System Integrator Master Service Agreement

Bidders must include Lot-specific experience in the narrative below related to Lot 3: experience as the prime contractor on a financial management IT project.
Bidders must include Lot-specific experience in the narrative below related to Lot 4: experience as the prime contractor on a public sector fair hearings or appeals IT project.
<p style="text-align: center;"><b>Scope, Schedule and Budget</b></p> <p>Below, Bidders should discuss their project experience in terms of the items below:</p> <ul style="list-style-type: none"><li>- a description of the Project Engagement, including its scope, noting any health and human services aspect of the project;</li><li>- whether or not the project has been completed or the current deployment schedule if the project is not completed;</li><li>- the success of the project measured by: on-time, on-budget delivery from the scope, schedule, and budget agreed to by client at the kickoff/formal initiation; the client's ability to manage Bidder identified risks and the success of any such risk mitigation; and the number and value of approved Bidder requested change orders, if any;</li><li>- the overall estimated cost at initiation and actual cost if complete (estimated if not complete) and if/how the Bidder was able to achieve deliverables within the projects' budget; and</li><li>- a description of the Bidder's staffing resources originally projected to be required to complete the project and the staffing resources ultimately deployed if the project is completed or planned to be deployed if the project is not yet completed and how, if any, change requests were approved by the client.</li></ul>
<p style="text-align: center;"><b>Coordination of Work</b></p> <p>Below, Bidders should discuss their project experience in terms of the items below:</p> <ul style="list-style-type: none"><li>- include a list of the other prime contractors that were working simultaneously on the software development in the shared system and if there were multiple vendors on the project, how was the Bidder able to coordinate work with other contractors in a shared environment; and</li><li>- how many business units (e.g., finance department, agency policy office) or program areas (e.g., SNAP, HEAP) were involved in the project and how the Bidder was able to coordinate between units and program areas.</li></ul>



**RFP# C000540 IES System Integrator Master Service Agreement**

**Methodology**

Below, Bidders should discuss their project experience in terms of the item below:

- if the Bidder was required to adhere to the SDLC as prescribed by the client using client-defined tools, methodologies, and technologies and operating on a client-owned and operated platform, and how the bidder followed client direction in executing the SDLC (please note any instances where the Bidder was required to deviate from the client defined SDLC, the reason for deviation, and whether this action was formally approved by the client).



**RFP# C000540 IES System Integrator Master Service Agreement**

**PART 6: PROJECT STAFFING**

ITS expects that Contractors will identify and propose staff with skill sets and experience specific to each Assignment. The names and qualifications of proposed staff members will be submitted and evaluated as part of any Response. Within its response to this RFP, the Bidder, at this part of its Technical Proposal, must address the following, not to exceed twenty (20) pages:

1. The Bidder's overall organizational capacity and skills development processes for ensuring success in general;
2. The Bidder's ability to manage appropriate levels of staffing on a project, including the removal and replacement of specific staff;
3. The Bidder's organizational capacity and skills development processes specifically regarding the job titles listed in Appendix L to fill, and as necessary replace, individuals on projects; and
4. An explanation of the how the Bidder handles knowledge transfer and transition continuously on a long-term project and indicate whether or not its proposed approach to handle knowledge transfer and/or transition will differ from how it currently handles those factors should the Bidder be awarded a contract resulting from this RFP.

The Bidder will be scored based upon its responses to the above criteria.



**RFP# C000540 IES System Integrator Master Service Agreement**

**ATTACHMENT 17- KEY SUBCONTRACTOR INFORMATION**

Corporate/Business Background of Subcontractor

**(Note: Key Subcontractors proposed by a Bidder, if any, will not be separately scored)**

At this part of its Technical Proposal, using the tables provide below, the Bidder must identify all Key Subcontractors, if any, that the Bidder will be subcontracting with to provide Project Services. If the Bidder will not be subcontracting with any Key Subcontractor(s) to provide Project Services, the Bidder should provide a statement to that affect at this part of its Technical Proposal.

*Note: copy and complete this section for each subcontractor proposed*

Subcontractor Company Information

<b>Company Name</b>	
<b>Company Address</b>	
<b>Subcontractor's Legal Form</b>	<input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Other
<b>Parent Company</b>	
<b>Affiliates</b>	
<b>Other Locations/ Branches (if any)</b>	

Subcontractor's Primary Contact

<b>Name, Title</b>	
<b>Address</b>	
<b>Email Address</b>	
<b>Telephone Number</b>	

Subcontractor Profile

<b>Description of the company's corporate profile core business</b>	
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**RFP# C000540 IES System Integrator Master Service Agreement**

Service Offerings	Description of service	Year(s) service was provided (ex. 2005 to present)

**History of Working with Proposed Subcontractor**

If subcontractors are part of the Bidder’s Proposal, engagement descriptions may include engagements conducted by the subcontractor(s). The description of Bidder's prior experience shall include information about its history working with the proposed subcontractors (e.g., nature of relationship, number of engagements worked together, duration of engagements, budget of engagement, percent split between the Bidder/subcontractor).

**Number of engagements worked together:**

Engagement 1 - Describe nature of relationship	Start Date	End Date	Engagement budget	Number and type of staff involved	Percent budget split between Bidder/Subcontractor

Engagement 2 - Describe nature of relationship	Start Date	End Date	Engagement budget	Number and type of staff involved	Percent budget split between Bidder/Subcontractor

Engagement 3 - Describe nature of relationship	Start Date	End Date	Engagement budget	Number and type of staff involved	Percent budget split between Bidder/Subcontractor



RFP # C000540 IES System Integrator Master Service Agreement

Attachment 18 – Bidder References

Bidder References

For each Lot covered by the Bidder’s Proposal, the Bidder must provide at least one but not more than three (3) client experience(s) (i.e., active project or an engagement concluded within the past year) (hereinafter “Bidder Reference”) in the format specified herein. Bidder References must be signed by the client and should reflect the Bidder’s ability to provide services of similar scope to the Lot for which the reference is being provided and of similar size and complexity to that as set forth herein this RFP for the Lot for which the reference is being provided.

(Note: bidder references will not be separately evaluated and scored.)

Bidder Name:

Lot #:

Table with 10 rows and 4 columns for Bidder Reference # 1. Fields include Name of the Bidder, Name of the Client Firm, Project Reference #, Briefly describe the type and scope of services of the engagement, Engagement Budget, Engagement term (Start Date, End Date), Client Contact Name and Title, Phone Number, Email, Client Signature and Date, Date.



**Office of Information  
Technology Services**

**RFP # C000540 IES System Integrator Master Service  
Agreement**

**Attachment 18 – Bidder References**

Bidder Reference # 2			
Name of the Bidder:			
Name of the Client Firm:			
Project Reference #:			
Briefly describe the type and scope of services of the engagement (include role and relevance to this RFP).			
Engagement Budget:			
Engagement term:	Start Date: (Month/Year)		End Date: (Month/Year)
Client Contact Name and Title:			
Phone Number:		Email:	
Client Signature and Date			Date:



# Office of Information Technology Services

## RFP # C000540 IES System Integrator Master Service Agreement

### Attachment 18 – Bidder References

Page 3 of 3

Bidder Reference # 3			
Name of the Bidder:			
Name of the Client Firm:			
Project Reference #:			
Briefly describe the type and scope of services of the engagement (include role and relevance to this RFP).			
Engagement Budget:			
Engagement term:	Start Date: (Month/Year)		End Date: (Month/Year)
Client Contact Name and Title:			
Phone Number:		Email:	
Client Signature and Date			Date:

**RETURN THIS PAGE AS PART OF RFP RESPONSE**





**RFP# C000540- IES System Integrator Master Service Agreements  
Attachment 19 – Financial Proposal**

**Attachment 19 – Financial Proposal  
Page 1 of 4**

*FINANCIAL PROPOSAL*

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**INSTRUCTIONS FOR SUBMISSION**

The Bidder must respond to all sections of the Financial Proposal in the format specified in the Pricing Schedule as contained herein this RFP, **Attachment 19**, respectively. The *Financial Proposal* must be furnished in hard copy, with electronic version in Microsoft Word, Microsoft Excel, Microsoft Project, Visio or Adobe Acrobat, as applicable. In the event of a discrepancy between the hard copy and electronic copy, the hard copy shall govern.

The *Financial Proposal* must contain the following information, in the order enumerated below:



RFP# C000540- IES System Integrator Master Service Agreements  
Attachment 19 – Financial Proposal

Attachment 19 – Page 2 of 4

## Attachment 19 – PRICING SCHEDULE

### Pricing Schedule Instructions/Assumptions

#### INSTRUCTIONS FOR COMPLETION

This Form (Attachment 19), must be completed in its entirety according to the following instructions:

- Bidders are instructed to utilize the job titles as listed and described in Appendix L even if they are not consistent with the Bidder's existing job titles.
- The Financial Proposal must include the hourly rate (U.S. dollars) for each title listed in Attachment 19. A dollar rate of zero is **not acceptable**.
- All hourly rates must be presented as a fixed dollar amount. Rates as quoted should be expressed in decimals, not to exceed two places for each item.
- Submit only one rate for each job title; a range of hourly rates is **not acceptable**. **Do not leave blanks or fail to provide a rate for each title in the given lot you are bidding on.**
- The Bidder must certify that their proposed, not-to-exceed hourly rates cover all services required in this RFP. **The proposed rates must be inclusive of all direct and indirect costs, fees, profit and all overhead expenses, including, but not limited to, all training, travel costs, parking fees, and other ancillary fees and costs including permits, licenses, and insurance and any necessary office space within 50 miles of the Capital Region.**

***\*Please note that the hourly rates proposed in any Tier II responses must not exceed the Contractor's hourly rates proposed for the Tier I Contract; must cover all of all direct and indirect costs, fees, profit and all overhead expenses, including, but not limited to, all training, travel costs, parking fees, and other ancillary fees and costs including permits, licenses, and insurance.***



**RFP# C000540- IES System Integrator Master Service Agreements  
Attachment 19 – Financial Proposal**

**Pricing Schedule – Albany**

<b>Job Title</b>	<b>Job Level</b>	<b>Not-To-Exceed Hourly Rates Lot 1</b>	<b>Not-To- Exceed Hourly Rates Lot 2</b>	<b>Not-To- Exceed Hourly Rates Lot 3</b>	<b>Not-To- Exceed Hourly Rates Lot 4</b>
Business Analyst	Level I				
Business Analyst	Level II				
Business Analyst	Level III				
Architect	Level I				
Architect	Level II				
Architect	Level III				
Developer	Level I				
Developer	Level II				
Developer	Level III				
Project Manager	Level I				
Project Manager	Level II				
Project Manager	Level III				
Security Analyst	Level I				
Security Analyst	Level II				
Security Analyst	Level III				
Specialist	Level I				
Specialist	Level II				
Specialist	Level III				
Tester	Level I				
Tester	Level II				
Tester	Level III				
Trainer	Level I				
Trainer	Level II				
Trainer	Level III				



**RFP# C000540- IES System Integrator Master Service Agreements  
Attachment 19 – Financial Proposal**

**Pricing Schedule – NYC**

<b>Job Title</b>	<b>Job Level</b>	<b>Not-To-Exceed Hourly Rates Lot 1</b>	<b>Not-To- Exceed Hourly Rates Lot 2</b>	<b>Not-To- Exceed Hourly Rates Lot 3</b>	<b>Not-To- Exceed Hourly Rates Lot 4</b>
Business Analyst	Level I				
Business Analyst	Level II				
Business Analyst	Level III				
Architect	Level I				
Architect	Level II				
Architect	Level III				
Developer	Level I				
Developer	Level II				
Developer	Level III				
Project Manager	Level I				
Project Manager	Level II				
Project Manager	Level III				
Security Analyst	Level I				
Security Analyst	Level II				
Security Analyst	Level III				
Specialist	Level I				
Specialist	Level II				
Specialist	Level III				
Tester	Level I				
Tester	Level II				
Tester	Level III				
Trainer	Level I				
Trainer	Level II				
Trainer	Level III				

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

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

**COMPLETION & CERTIFICATION**

The person(s) completing the questionnaire must be knowledgeable about the vendor's business and operations. An owner or officer must certify the questionnaire and the signature must be notarized.

**NEW YORK STATE VENDOR IDENTIFICATION NUMBER (VENDOR ID)**

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

**DEFINITIONS**

All underlined terms are defined in the "New York State Vendor Responsibility Definitions List," found at [www.osc.state.ny.us/vendrep/documents/questionnaire/definitions.pdf](http://www.osc.state.ny.us/vendrep/documents/questionnaire/definitions.pdf). These terms may not have their ordinary, common or traditional meanings. Each vendor is strongly encouraged to read the respective definitions for any and all underlined terms. By submitting this questionnaire, the vendor agrees to be bound by the terms as defined in the "New York State Vendor Responsibility Definitions List" existing at the time of certification.

**RESPONSES**

Every question must be answered. Each response must provide all relevant information which can be obtained within the limits of the law. However, information regarding a determination or finding made in error which was subsequently corrected is not required. Individuals and Sole Proprietors may use a Social Security Number but are encouraged to obtain and use a federal Employer Identification Number (EIN).

**REPORTING ENTITY**

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

**ASSOCIATED ENTITY**

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

**STRUCTURE OF THE QUESTIONNAIRE**

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

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

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

\*All underlined terms are defined in the “New York State Vendor Responsibility Definitions List,” which can be found at [www.osc.state.ny.us/vendrep/documents/questionnaire/definitions.pdf](http://www.osc.state.ny.us/vendrep/documents/questionnaire/definitions.pdf)

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

**I. LEGAL BUSINESS ENTITY INFORMATION**

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

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

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

1.6 Identify Officials and Principal Owners, if applicable. For each person, include name, title and percentage of ownership. Attach additional pages if necessary. If applicable, reference to relevant SEC filing(s) containing the required information is optional.

Name	Title	Percentage Ownership <i>(Enter 0% if not applicable)</i>

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

**II. REPORTING ENTITY INFORMATION**

2.0 The Reporting Entity for this questionnaire is:

Note: Select only one.

Legal Business Entity

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

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

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

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

**IDENTIFYING INFORMATION**

a) Reporting Entity Name

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

Telephone

ext.

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

c) Attach an organizational chart

d) Does the Reporting Entity have a DUNS Number?

Yes  No

If “Yes,” enter DUNS Number

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

Name

Title



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

**INSTRUCTIONS FOR SECTIONS III THROUGH VII**

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

**III. LEADERSHIP INTEGRITY**

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

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

For each “Yes” or “Other” explain:

**IV. INTEGRITY – CONTRACT BIDDING**

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

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

For each “Yes,” explain:

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

**V. INTEGRITY – CONTRACT AWARD**

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

- |   |  |
|---|--|
| 5.0 Been <u>suspended</u> , cancelled or <u>terminated for cause</u> on any <u>government contract</u> including, but not limited to, a <u>non-responsibility finding</u> ? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 5.1 Been subject to an <u>administrative proceeding</u> or civil action seeking specific performance or restitution in connection with any <u>government contract</u> ?     | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 5.2 Entered into a formal monitoring agreement as a condition of a contract award from a <u>government entity</u> ?   | <input type="checkbox"/> Yes <input type="checkbox"/> No |

For each “Yes,” explain:

**VI. CERTIFICATIONS/LICENSES**

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

- |   |  |
|---|--|
| 6.0 Had a revocation, <u>suspension</u> or <u>disbarment</u> of any business or professional permit and/or license?   | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 6.1 Had a denial, decertification, revocation or forfeiture of New York State certification of <u>Minority-Owned Business Enterprise</u> , <u>Women-Owned Business Enterprise</u> or federal certification of <u>Disadvantaged Business Enterprise</u> status for other than a change of ownership? | <input type="checkbox"/> Yes <input type="checkbox"/> No |

For each “Yes,” explain:

**VII. LEGAL PROCEEDINGS**

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

- |  |  |
|--|--|
| 7.0 Been the subject of an <u>investigation</u> , whether open or closed, by any <u>government entity</u> for a civil or criminal violation?   | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 7.1 Been the subject of an indictment, grant of immunity, <u>judgment</u> or conviction (including entering into a plea bargain) for conduct constituting a crime?   | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 7.2 Received any OSHA citation and Notification of Penalty containing a violation classified as <u>serious or willful</u> ?  | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 7.3 Had a <u>government entity</u> find a willful prevailing wage or supplemental payment violation or any other willful violation of New York State Labor Law?  | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 7.4 Entered into a consent order with the New York State Department of Environmental Conservation, or received an enforcement determination by any <u>government entity</u> involving a violation of federal, state or local environmental laws?   | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 7.5 Other than previously disclosed:<br>a) Been subject to fines or penalties imposed by <u>government entities</u> which in the aggregate total \$25,000 or more; or<br>b) Been convicted of a criminal offense pursuant to any administrative and/or regulatory action taken by any <u>government entity</u> ? | <input type="checkbox"/> Yes <input type="checkbox"/> No |

For each “Yes,” explain:

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

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

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

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

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

**X. FREEDOM OF INFORMATION LAW (FOIL)**

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

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

**XI. AUTHORIZED CONTACT FOR THIS QUESTIONNAIRE**

Name	Telephone	Fax
	ext.	
Title	Email	

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

**Certification**

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

**The undersigned certifies that he/she:**

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

Signature of Owner/Official \_\_\_\_\_

Printed Name of Signatory \_\_\_\_\_

Title \_\_\_\_\_

Name of Business \_\_\_\_\_

Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_;

\_\_\_\_\_ Notary Public

## Vendor Assurance of No Conflict of Interest or Detrimental Effect

The Firm offering to provide services pursuant to this [RFP/Contract], as a contractor, joint venture contractor, subcontractor, or consultant, attests that its performance of the services outlined in this [RFP/Contract] does not and will not create a conflict of interest with nor position the Firm to breach any other contract currently in force with the State of New York.

Furthermore, the Firm attests that it will not act in any manner that is detrimental to any State project on which the Firm is rendering services. Specifically, the Firm attests that:

1. The fulfillment of obligations by the Firm, as proposed in the response, does not violate any existing contracts or agreements between the Firm and the State;
2. The fulfillment of obligations by the Firm, as proposed in the response, does not and will not create any conflict of interest, or perception thereof, with any current role or responsibility that the Firm has with regard to any existing contracts or agreements between the Firm and the State;
3. The fulfillment of obligations by the Firm, as proposed in the response, does not and will not compromise the Firm's ability to carry out its obligations under any existing contracts between the Firm and the State;
4. The fulfillment of any other contractual obligations that the Firm has with the State will not affect or influence its ability to perform under any contract with the State resulting from this RFP;
5. During the negotiation and execution of any contract resulting from this RFP, the Firm will not knowingly take any action or make any decision which creates a potential for conflict of interest or might cause a detrimental impact to the State as a whole including, but not limited to, any action or decision to divert resources from one State project to another;
6. In fulfilling obligations under each of its State contracts, including any contract which results from this RFP, the Firm will act in accordance with the terms of each of its State contracts and will not knowingly take any action or make any decision which might cause a detrimental impact to the State as a whole including, but not limited to, any action or decision to divert resources from one State project to another;
7. No former officer or employee of the State who is now employed by the Firm, nor any former officer or employee of the Firm who is now employed by the State, has played a role with regard to the administration of this contract procurement in a manner that may violate section 73(8)(a) of the State Ethics Law; and

8. The Firm has not and shall not offer to any employee, member or director of the State any gift, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence said employee, member or director, or could reasonably be expected to influence said employee, member or director, in the performance of the official duty of said employee, member or director or was intended as a reward for any official action on the part of said employee, member or director.

Firms responding to this [RFP/Contract] should note that the State recognizes that conflicts may occur in the future because a Firm may have existing or new relationships. The State will review the nature of any such new relationship and reserves the right to terminate the contract for cause if, in its judgment, a real or potential conflict of interest cannot be cured.

Name, Title:

Signature:

Date:

This form must be signed by an authorized executive or legal representative.



**Compliance with HIPAA (Health Insurance Portability And Accountability Act Of 1996) and HI-TECH (Health Information Technology for Economic and Clinical Health Act of 2009)****Definitions:**

The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information (PHI), Required By Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

**(a) Business Associate.** "Business Associate" shall generally have the same meaning as the term "business associate" at 45 CFR 160.103, and in this Agreement may refer to Contractor or its subcontractor(s), to the extent Contractor or its subcontractor(s) create, receive, maintain, or transmit protected health information on behalf of ITS.

**(b) Covered Entity.** By entering into this Agreement, ITS does not affirm that it necessarily meets the definition of a "Covered Entity" or a "Business Associate" under the HIPAA statute, and rather affirms that ITS may in a given instance be acting as a "conduit" or in another capacity providing services to other entities, some of which themselves may be covered entities. But to the extent ITS is deemed to be covered by HIPAA or HI-TECH, the parties agree the term "Covered Entity" in this Agreement shall generally have the same meaning as the term "covered entity" at 45 CFR 160.103.

**(c) HIPAA Rules.** "HIPAA Rules" shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.

**Protected Health Information Obligations and Activities of Contractor**

To the extent Contractor or its subcontractor(s) create, receive, maintain, or transmit protected health information on behalf of ITS pursuant to their responsibilities under this Agreement, Contractor agrees that it is subject to, will abide by, and will require in writing its subcontractors to similarly abide by, the following requirements applicable to Business Associates under HIPAA, agreeing to:

**(a)** Not use or disclose protected health information other than as permitted or required by the Agreement or as required by law;

**(b)** Use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information, to prevent use or disclosure of protected health information other than as provided for by the Agreement;

**(c)** Report to ITS within ten (10) business days or fewer any use or disclosure of protected health information not provided for by this Agreement of which it becomes aware. In no event shall Contractor exceed the timeframe for reporting to ITS breaches of unsecured protected health information as required at 45 CFR 164.410, and any security incident of which it becomes aware. Contractor shall provide ITS all information reasonably requested by ITS concerning any breach. Contractor shall also provide the following information to ITS upon first instance of the notification of breach: the identification of each individual whose unsecured protected health information has been, or is reasonably believed by Contractor, to have been, accessed, acquired, used, or disclosed during the breach.

**(d)** In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any subcontractors that create, receive, maintain, or transmit protected health information on behalf of

Contractor agree in writing to the same restrictions, conditions, and requirements that apply to Contractor with respect to such information;

(e) Make available protected health information in a designated record set to ITS, in a manner to be prescribed by ITS within a reasonable timeframe not to exceed fifteen (15) days, absent extenuating circumstances, as necessary to satisfy obligations which ITS or the entities it provides services to reasonably believe applicable to them under 45 CFR 164.524. In the event Contractor or its subcontractor(s) receive any request for such protected health information directly from an individual, Contractor shall refer such request to ITS within a reasonable timeframe not to exceed ten (10) business days.

(f) Make any amendment(s) to protected health information in a designated record set as directed by ITS pursuant to 45 CFR 164.526, or take other measures as necessary to satisfy obligations that ITS reasonably believes it has under 45 CFR 164.526, in the manner as prescribed by ITS and within twenty (20) business days of such request. In the event Contractor or its subcontractor(s) receive any request to amend a data set directly from an individual, Contractor shall refer such request to ITS within a reasonable timeframe not to exceed ten (10) business days;

(g) Maintain and make available the information required to provide an accounting of disclosures to ITS as necessary to satisfy obligations that ITS reasonably believes it has under 45 CFR 164.528, in the manner as prescribed by ITS and within ten (10) business days of such request. In the event Contractor or its subcontractor(s) receive any request for an accounting of disclosures directly from an individual, Contractor shall refer such request to ITS within a reasonable timeframe not to exceed ten (10) business days;

(h) To the extent Contractor or its subcontractor(s) are to carry out one or more of obligation(s) ITS may have under Subpart E of 45 CFR Part 164, in performing such obligations, comply with the requirements of Subpart E that apply to ITS; and

(i) Make either Contractor's or its subcontractor(s)', or both, internal practices, books, and records available to the Secretary of the Department of Health and Human Services and the Director of ITS, or his or her designee, for purposes of determining compliance with the HIPAA and HI-TECH Rules.

**Permitted Uses and Disclosures of Protected Health Information by Contractor and its Subcontractor(s)**

(a) Contractor and its subcontractor(s) may only use or disclose protected health information as necessary to perform the services set forth in this Agreement, provided however, that if de-identified information can be used in lieu of individually identifiable health information with the same effect, Contractor and its subcontractor(s) shall use de-identified information in their performance of this Agreement in accordance with 45 CFR 164.514(a)-(c).

(b) Contractor and its subcontractor(s) may use or disclose protected health information as required by law.

(c) Contractor and its subcontractor(s) agrees to make only those uses, disclosures and requests for protected health information that are consistent with the minimum necessary policies and procedures of ITS or the entit(ies) for whom ITS provides services which entail the creation, reception, maintenance, or transmittal of protected health information.

(d) Contractor and its subcontractor(s) may not use or disclose protected health information in a manner that would violate Subpart E of 45 CFR Part 164 except as may be provided for in this Agreement or for the proper management and administration of Contractor or its subcontractor(s), including the carrying out of the Contractor's or its subcontractor(s)' legal responsibilities.

### **Term and Termination**

(a) **Termination for cause under HIPAA or HI-TECH.** The Term of this Agreement shall be as described elsewhere in the "Term" section of this agreement. Among the other reasons for which ITS may terminate this Agreement prior to the end of its Term date for cause, ITS may terminate this Agreement if ITS determines the Contractor or its subcontractor(s) have violated a material term of this HIPAA and HI-TECH Compliance section of the Agreement, and Contractor or its subcontractor(s) have not cured the breach or ended the violation within any time that has been specified by ITS.

(b) **Contractor's and its Subcontractor(s)' Obligations Upon Termination.** Upon termination of this Agreement for any reason, Contractor and its subcontractor(s) shall return to ITS, transfer to another of ITS' contractors as directed by ITS, or, if agreed to by ITS on an individual case-by-case basis, destroy all protected health information received from ITS, or created, maintained, or received by the Contractor and its subcontractor(s) on behalf of ITS, that the Contractor and its subcontractor(s) still maintain in any form. Contractor and its subcontractor(s) shall retain no copies of the protected health information. Contractor understands and agrees and will require of its subcontractor(s) in writing that Contractor and its subcontractor(s) are required to receive written approval from ITS prior to the return, transfer or destruction of any protected health information.

(c) **Survival.** Contractor's and its subcontractor(s)' obligations under this HIPAA and HI-TECH Compliance section of this Agreement shall survive the termination of this Agreement.

### **Miscellaneous**

(a) **Regulatory References.** A reference in this Agreement to a section in the HIPAA or HI-TECH Rules means the section as in effect or as amended.

(b) **Amendment.** The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for compliance with the requirements of the HIPAA or HI-TECH Rules and any other applicable law.

(c) **Interpretation.** Any ambiguity in this Agreement shall be interpreted to permit compliance with the HIPAA or HI-TECH Rules.

(d) **Sub-contractors.** Contractor shall require any subcontractors that it uses that create, receive, maintain, or transmit protected health information on behalf of ITS under this Agreement to conform to these HIPAA and HI-TECH Compliance requirements in addition to any other security, privacy or applicable terms of this Agreement.

<p><u>Contractor</u> By: _____ Signature</p> <p>_____ Name</p> <p>_____ Date</p>	<p><u>Subcontractor</u> By: _____ Signature</p> <p>_____ Name</p> <p>_____ Date</p>
--	---



SDVOB UTILIZATION PLAN

INSTRUCTIONS: This form MUST be submitted with any bid, proposal, or proposed negotiated contract prior to contract award. This Utilization Plan must contain a detailed description of the supplies and/or services to be provided by each NYS-certified Service-Disabled Veteran-Owned Business (SDVOB), including the offeror if a NYS-certified SDVOB, and estimated (or actual if known) annual dollar value under the contract and reflect the SDVOB participation goals specified in the contract or procurement document.

Will there be SDVOB participation for services provided under this contract?  YES Complete the form.  NO If No, please contact ITS Procurement & Contracts Support for help.

Contract Overview

Offeror/Contractor Name: Telephone: SFS Vendor ID: Address Federal ID No: City, State, Zip: Solicitation No:

Table with 4 columns: SDVOB: Complete box below for each NYS-Certified SDVOB Contractor/Subcontractor. Add more pages if needed. Classification, Description of Scope of Work (Subcontracts/Supplies/Services), Annual Dollar Value of Subcontracts/Supplies/Services. Includes rows for Name, Address, City, State, Zip, Telephone, Fed. ID. No., and SFS Vendor ID.

VENDOR CERTIFICATION: I hereby affirm that the information supplied in this utilization plan is true and correct.

SUBMISSION OF THIS FORM CONSTITUTES THE OFFEROR/CONTRACTOR'S ACKNOWLEDGEMENT AND AGREEMENT TO COMPLY WITH THE SDVOB REQUIREMENTS SET FORTH UNDER NYS EXECUTIVE LAW, ARTICLE 17-B, 9 NYCRR PART 252, AND THE ABOVE REFERENCED SOLICITATION. FAILURE TO SUBMIT COMPLETE AND ACCURATE INFORMATION MAY RESULT IN A FINDING OF NONCOMPLIANCE AND/OR TERMINATION OF THE CONTRACT.

Signature: Date: Print Name: Telephone No: Title: Email:



## SDVOB UTILIZATION PLAN

FOR AUTHORIZED USE ONLY

SDVOB Utilization Plan Approved:	<input type="checkbox"/> Y	<input type="checkbox"/> N	Date:	_____
Notice of Deficiency Issued:	<input type="checkbox"/> Y	<input type="checkbox"/> N	Date:	_____
Notice of Acceptance Issued:	<input type="checkbox"/> Y	<input type="checkbox"/> N	Date:	_____
Reviewed By:	_____		Date:	_____
Comment(s):				

**IES System Integrator Master Service Agreements**

**Affirmative Statements - Sworn to by the Bidder**

**DO NOT ADD, REMOVE OR REARRANGE ANY COLUMNS OR ROWS.**

An authorized signatory for the bidder must initial the fields in yellow.

Bidder Name:

Affirmative Statement	Response
1. Bidder affirms that the proposal was signed and executed by an individual with the capacity and legal authority to bind the Bidder in its offer to the State.	
2. Bidder affirms that it accepts all of the terms and conditions set forth in this RFP, including all amendments, appendices and attachments, and must agree to enter a contractual agreement containing, at a minimum, the terms and conditions identified in this RFP.	
3. Bidder affirms that its Administrative, Technical and Financial Proposals remain open and valid for at least 180 days from the due date of this RFP, unless the time for awarding the Contract is extended by mutual consent of ITS and the Bidder.	
4. Bidder affirms that its Administrative, Technical and Financial Proposals shall continue to remain an effective offer, firm and irrevocable, subsequent to such 180-day period until either tentative award of the Contract by ITS is made or withdrawal of the proposal in writing by Bidder. Tentative award of the Contract shall consist of written notice to that effect by ITS to a successful Bidder, who shall thereupon be obligated to execute a formal Contract.	
5. Bidder affirms that in its fulfillment of obligations as proposed in its response to the RFP, it does not violate any existing contracts or agreements between the Bidder and the State.	
6. Bidder affirms that, in its fulfillment of obligations as proposed in its response to the RFP, it does not or will not create any conflict of interest, or perception thereof, with any current role or responsibility the Bidder has with regard to any existing contracts or agreements between the Bidder and the State.	
7. Bidder affirms that, in its fulfillment of obligations as proposed in the response, it does not and will not compromise the Bidder's ability to carry out its obligations under any existing contracts between the Bidder and the State.	
8. Bidder affirms that during the negotiation and execution of any contract resulting from this RFP, the Bidder will not knowingly take any action or make any decision which creates a potential for conflict of interest or might cause a detrimental impact to the State as a whole, including but not limited to, any action or decision to divert resources from one State project to another.	
9. Bidder affirms that in fulfilling obligations under each of its State contracts, including any contract which results from this RFP, the Bidder will act in accordance with the terms of each of its State contracts and will not knowingly take any action or make any decision which might cause a detrimental impact to the State as a whole including but not limited to, any action or decision to divert resources from one State project to another.	
10. Bidder affirms that the Bidder commits to obtaining all necessary proof of insurance with their proposal (see Appendix C-1 for detailed insurance requirements).	
11. Bidder affirms that if awarded a contract, the Bidder must provide proof of current insurance, certifications, licensing, etc. throughout the contract term.	
12. Bidder affirms that it shall be fully responsible to ITS for the acts and omissions of, and the performance of Project Services by, all subcontractors and/or persons either directly or indirectly employed by such subcontractors. This statement must acknowledge that the Bidder shall not in any way be relieved of any programmatic or financial responsibility under the Contract by the terms of its agreement with any subcontractor.	
13. Bidder affirms that if selected, the successful Bidder is prepared to commence performance of services described herein.	
14. Bidder affirms that it will comply with Federal Executive Order 11246, the Copeland "Anti-Kickback Act" (18 USC 874), Section 508 of the Federal Clean Air Act, and Section 306 of the Federal Clean Water Act.	
15. Bidder affirms that neither it nor its principals are debarred or suspended from Federal financial assistance programs and activities.	
16. Bidder affirms that it will comply with the provisions of Section 5151-5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.).	
17. Bidder affirms that no Federal funds will be used to lobby or influence a Federal officer or a Member of Congress.	



**RFP #C000540 IES System Integrator Master Service Agreements  
ATTACHMENT 26 – Sexual Harassment Prevention Certification**

State Finance Law §139-L requires bidders on state procurements to certify that they have a written policy addressing sexual harassment prevention in the workplace and provide annual sexual harassment training (that meets the Department of Labor’s model policy and training standards) to all its employees.

Bids that do not contain the certification will not be considered for award; provided however, that if the bidder cannot make the certification, the bidder may provide a signed statement with their bid detailing the reasons why the certification cannot be made.

*By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies its own organization, under penalty of perjury, that the bidder has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of section two hundred one-g of the labor law.*

Bidder Certification:

By my signature below, I certify that I am a duly authorized signatory of the Bidder with the ability to legally bind the Bidder. I further certify that Bidder adheres to State Finance Law §139-L.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Bidder Name: \_\_\_\_\_

Bidder Address:

\_\_\_\_\_  
\_\_\_\_\_



# SNAP SYSTEM INTEGRITY REVIEW TOOL



The 2008 Farm Bill in section 4121 reinforces the requirement that projects for new IS systems or projects involving significant enhancements to legacy systems be adequately tested by the state agency before implementation as a condition of continued FNS funding. The regulatory citations associated with review elements are to assist the reviewer in determining the proper functionality of the system design.

Please complete the following:

## Table of Contents

i.	Introduction to Tool .....	5
<b>A.</b>	<b>Eligibility &amp; Benefits Determination .....</b>	<b>6</b>
A1.	Initial Application Processing (273.2) .....	6
A2.	HH Data (273.1; 273.3 through 273.6) .....	7
A3.	Status of HHs.....	8
A4.	Authorized Representative (throughout 273.2; specifically 273.2[n]) .....	8
A5.	Earned Income (273.9) .....	9
A6.	Unearned Income (273.9) .....	10
A7.	Resources (273.8) .....	11
A8.	Medical Deduction (273.9[d][3]) .....	12
A9.	Dependent Care Deduction (273.9[d][4]) .....	12
A10.	Shelter Deduction (273.9[d][6][ii]) .....	13
A11.	Other Deductions .....	14
A12.	Categorical Eligibility (throughout 273.2; specifically 273.2[j][2]) .....	14

A13. Work Registration (273.7[a]) .....	15
A14. ABAWDS (273.7[c]) .....	15
A15. Students (273.5) .....	16
A16. Group Facility Residences/Homeless Meal Providers.....	16
A17. Disaster SNAP.....	17
<b>B. Changes .....</b>	<b>18</b>
B1. Reporting (273.12) .....	18
B2. Mass Changes (273.12[e]) .....	19
<b>C. Claims &amp; Restoration.....</b>	<b>20</b>
C1. CHART-Claims (273.18).....	20
C2. Restoration of Lost Benefits (273.17).....	21
<b>D. Certification Notices .....</b>	<b>22</b>
D1. Certification Notices.....	22
<b>E. System Operations .....</b>	<b>23</b>
E1. Edits & Pending Cases.....	23
E2. Staff Alerts .....	24
E3. Eligibility & Benefit Actions (273.10) .....	25
E4. QC (275) .....	26
E5. Case Records .....	27

E6. Policy Manuals .....	27
E7. System Performance.....	28
E8. Management Information.....	28
E9. CHART-Management Information Reporting.....	29
E10. Data Matching.....	31
E10. CHART-Data Matching .....	32
E11. FNS Reports .....	34
<b>F. Issuance &amp; Reconciliation.....</b>	<b>35</b>
F1. Issuance (274.12) .....	35
F2. Reconciliation (274.12[k]).....	36
<b>G. Appendices.....</b>	<b>37</b>
G1. System Testing Guidance .....	37
G2. Acronym List .....	40
G3. Cover Sheet - State / System Identifier .....	42

Please complete the following. Additional information may be added in each row or in the comments section. If the Y/N boxes are shaded, a response other than Yes/No is requested. If the answer is 'No' please explain.

## A. Eligibility & Benefits Determination

### A1. Initial Application Processing (273.2)

Y	N	Initial Application Processing	If No – Why
		AP-1 Does the system capture the application date?	
		AP-2 Is eligibility for expedited service designated in the system?	
		AP-3 Does the system capture the expedited service determination date?	
		AP-4 Does the system calculate destitute provisions for income of migrants?	
		AP-5 Is the type of interview (face-to-face/phone) designated?	
		AP-6 Does the system capture the interview date?	
		AP-7 Is an online application available? (For purposes of this review, online applications include only those that permit a client to apply directly with a State agency and do not include downloadable applications on a State website that the client must print and submit)	
		AP-8 Does the online application have an electronic signature?	
		AP-9 Can the online application be filed with only the applicant's name, address, and signature at any point when completing the application?	
		AP-10 Does the online application display the most up to date non-discrimination statement?	
		AP-11 Does the online application populate the eligibility system with data? (i.e., does the information entered by the client on the online application form automatically transfer into the eligibility screens of the new system?)	
		AP-12 How does the system handle multiple internet or paper applications being submitted from the same person or household?	
		AP-13 Does the online application get filed electronically?	
		AP-14 Does the system capture verification of identity types/sources?	

<b>Y</b>	<b>N</b>	<b>Initial Application Processing</b>	<b>If No – Why</b>
		AP-15 Does the system apply program choices by individual household (HH) member?	
		AP-16 Does the system check that each HH member is not in another active case?	
		AP-17 If duplicate participation is detected; does system prevent entry of the duplicate case?	
		AP-18 Does the system contain mandatory data fields that must be completed before the worker can move to the next screen (i.e., can any fields be left blank)?	

A1 Comments:

## A2. HH Data (273.1; 273.3 through 273.6)

<b>Y</b>	<b>N</b>	<b>HH Data</b>	<b>If No – Why</b>
		HH-1 Does the system allow for an unlimited number of household (HH) members?	
		HH-2 Does the system capture the name of each HH member?	
		HH-3 Does the system capture a Social Security Number (SSN) for each HH member?	
		HH-4 Are HH members who still need to provide a SSN tracked?	
		HH-5 Does the system provide temporary SSN if member does not have one? (i.e., Numident or similar process)	
		HH-6 Does the system capture the date of birth for each HH member?	
		HH-7 Does the system designate head of HH?	
		HH-8 Does the system capture the relationship of each member to the head of HH?	
		HH-9 Does the system capture whether the members purchase and prepare with head of HH?	

<b>Y</b>	<b>N</b>	<b>HH Data</b>	<b>If No – Why</b>
		HH-10 Does the system capture the sex of each member?	
		HH-11 Does the system capture the racial/ethnic data for each member using the categories listed on the FNS 101 report, “Participation in Food Programs – By Race”?	
		HH-12 Does the system generate the racial/ethnic data needed to complete the FNS 101 report in either an XML or Excel file?	
		HH-13 Does the system capture the citizenship/immigration status of each member?	
		HH-14 Does the system capture all categories of non-citizens not subject to meeting additional conditions for eligibility (e.g. five year waiting period or 40 qualifying hours of work)?	
		HH-15 Does the system capture the alien registration number of each member?	
		HH-16 Does the system capture the residence address?	
		HH-17 Does the system indicate that the address has been verified?	
		HH-18 If the HH residence is group facility, is that designation made?	
		HH-19 Does the system have a designation for homeless?	
		HH-20 Does the system capture the mailing address?	
		HH-21 Does the system capture multiple telephone number(s)?	
		HH-22 Does the system capture whether any adult HH member speaks English proficiently?	
		HH-23 Does the system capture the HH’s language?	
		HH-24 Does the system capture the translation needs?	
		HH-25 Does the system capture the interpreter needs?	
		HH-26 Are non-HH members (e.g., disqualified, fleeing felons, ineligible aliens, drug felons, students, strikers, others) identified in system?	
		HH-27 Does the system allow the entry of a HH member not applying to skip entry of SSN and immigration status?	

A2 Comments:

### A3. Status of HHs

Y	N	Status of HHs	If No – Why
		S-1 Does the system identify a HH with all elderly/disabled members?	
		S-2 Does the system identify a HH with all SSI recipients?	
		S-3 Does the system identify a HH with all TANF/GA recipients?	

A3 Comments:

### A4. Authorized Representative (throughout 273.2; specifically 273.2[n])

Y	N	Authorized Representative	If No – Why
		AR-1 Does the system capture the name(s) of the authorized representative(s)?	
		AR-2 Does the system capture the address(es) of the authorized representative(s)?	
		AR-3 Does the system capture telephone numbers for two unique authorized representative(s)?	
		AR-4 Does the system differentiate the roles of authorized representative(s)? (i.e., The household has the right to name two authorized representatives: one to make application and report changes for the household and one to use the EBT card. The authorized representative for obtaining benefits may or may not be the same individual designated as an authorized representative for the application process or for meeting reporting requirements.)	

A4 Comments:

### A5. Earned Income (273.9)

Y	N	Earned Income	If No – Why
		EI-1 Does the system capture the gross total earned income for the HH?	



Y	N	Earned Income	If No – Why
		EI-2 Does the system capture the gross earned income by HH member?	
		EI-3 Does the system capture the source(s) of earned income?	
		EI-4 Does the system capture the self-employment earned income by HH member?	
		EI-5 Does the system capture the <input type="checkbox"/> self-employment expenses (allowed/disallowed) or <input type="checkbox"/> self-employment expense standard (if State has one)?	
		EI-6 Does the system allow for net losses from farm self-employment to be offset from other income? (Note: See UI-6; offset may be made from unearned income also.)	
		EI-7 Does the system capture the frequency of earned income?	
		EI-8 Does the system capture the verification of earned income types/sources?	
		EI-9 Are sources of earned income identified, including training allowances, VISTA [Title 1], Work Incentive Act, roomer/boarder, striker, other, identified?	
		EI-10 Does the system calculate the earned income deduction?	
		EI-11 Does the system not apply the earned income deduction if no earned income is reported?	
		EI-12 Does the system identify whether earned income is included/excluded based on program type?	
		EI-13 Can the system attribute disqualified or non-eligible HH member earned income to HH?	

A5 Comments:

#### A6. Unearned Income (273.9)

Y	N	Unearned Income	If No – Why
		UI-1 Does the system capture the gross unearned income total for HH?	
		UI-2 Does the system capture the individual gross unearned income by	

<b>Y</b>	<b>N</b>	<b>Unearned Income</b>	<b>If No – Why</b>
		HH member?	
		UI-3 Does the system capture the source(s) of unearned income?	
		UI-4 Does the system capture the frequency of unearned income?	
		UI-5 Does the system allow adjustments to unearned income?	
		UI-6 Does the system allow offset(s) from unearned income? (e.g., Net losses from farm self-employment.)	
		UI-7 Does the system capture the verification of unearned income types/sources?	
		UI-8 Does the system identify whether unearned income is included/excluded based on program type?	
		UI-9 Can the system attribute disqualified or non-eligible HH member unearned income to HH?	

A6 Comments:

### **A7. Resources (273.8)**

<b>Y</b>	<b>N</b>	<b>Resources</b>	<b>If No – Why</b>
		R-1 Does the system correctly calculate total resources?	
		R-2 Does the system capture individual resource ownership?	
		R-3 Does the system capture joint resource ownership?	
		R-4 Does the system capture HH vehicles?	
		R-5 Does the system capture HH liquid resources (cash on hand, bank accounts, stocks, bonds)?	
		R-6 Does the system capture HH real estate?	
		R-7 Does the system capture IRA/Keogh Plans?	
		R-8 Does the system capture other resources?	
		R-9 Are transfers of resources (3 months prior) identified?	
		R-10 Does the system capture the verification of resource types/sources?	
		R-11 Does the system identify whether resources are included/excluded	

Y	N	Resources	If No – Why
		based on program type?	
		R-12 Can the system attribute disqualified or non-eligible HH member resources to HH?	

A7 Comments:

### A8. Medical Deduction (273.9[d][3])

Y	N	Medical Deduction	If No – Why
		MD-1 Is eligibility for the excess medical deduction (disabled or elderly) determined?	
		MD-2 Does the system capture the total monthly medical expenses?	
		MD-3 Does the system correctly calculate allowable individual monthly medical expenses?	
		MD-4 Does the system correctly apply the medical expense deduction to the household?	
		MD-5 Does the system capture the verification of medical expense types/sources?	
		MD-6 Does the system identify whether medical expenses are included/excluded based on program type?	
		MD-7 Does the system attribute disqualified HH member medical expenses to HH?	
		MD 8 If the State has implemented a standard medical deduction (waiver required), does the system provide data that indicates what percentage of the caseload eligible for the deduction actually utilizes it?	
		MD-9 If the State has a Standard Medical Deduction (SMD), is the standard automatically applied for HH's that exceed the \$35 threshold?	
		MD-9 If the State has a Standard Medical Deduction, does the system allow for an itemized deduction if the medical expenses exceed the	

<b>Y</b>	<b>N</b>	<b>Medical Deduction</b>	<b>If No – Why</b>
		State’s Standard?	

A8 Comments:

**A9. Dependent Care Deduction (273.9[d][4])**

<b>Y</b>	<b>N</b>	<b>Dependent Care Deduction</b>	<b>If No – Why</b>
		DD-1 Does the system capture the HH’s total monthly dependent care expenses?	
		DD-2 Does the system capture the individual monthly dependent care expenses?	
		DD-3 Does the system capture eligibility for dependent care deduction?	
		DD-4 Does the system capture verification of dependent care expense types/sources?	
		DD-5 Does the system identify whether dependent care expenses are included/excluded based on program type?	
		DD-6 Can the system attribute disqualified HH member dependent care expenses to HH?	
		DD-7 Does the system disallow the deduction if the care is reimbursed by Employment and Training or paid by another source?	

A9 Comments:

**A10. Deduction (273.9[d][6][ii])**

<b>Y</b>	<b>N</b>	<b>Deduction</b>	<b>If No – Why</b>
		SD-1 Does the system capture the shelter expense total?	
		SD-2 Does the system capture the rent or mortgage and frequency?	
		SD-3 Does the system capture property taxes and frequency?	

<b>Y</b>	<b>N</b>	<b>Deduction</b>	<b>If No – Why</b>
		SD-4 Does the system capture property insurance and frequency?	
		SD-5 Does the system capture the utility expenses total?	
		SD-6 Does the system capture the telephone expense and frequency?	
		SD-7 Does the system capture the electricity expense and frequency?	
		SD-8 Does the system capture the gas expense and frequency?	
		SD-9 Does the system capture the oil expense and frequency?	
		SD-10 Does the system capture the water/sewage expense and frequency?	
		SD-11 Does the system capture the trash expense and frequency?	
		SD-12 Does the system capture the heating/cooling expense and frequency?	
		SD-13 Does the system capture vendor payments?	
		SD-14 Does the system capture the receipt of LIHEAP?	
		SD-15 Does the system capture subsidized Public Housing?	
		SD-16 Does the system calculate correctly the Heating and Cooling Standard Utility Allowance (HCSUA)?	
		SD-17 Does the system calculate correctly the Limited Utility Allowance (LUA)?	
		SD-18 Does the system calculate correctly the Telephone Utility Allowance (TUA)?	
		SD-19 Does the system calculate correctly single utility allowances?	
		SD-20 Is the homeless standard allowed (if State has taken this option)?	
		SD-21 Is the maximum correctly allowed (for deductions with a maximum)?	
		SD-22 Are disabled/elderly HH excess shelter expenses allowed?	
		SD-23 Does the system correctly apply the excess shelter cap for non-elderly/disabled HH members?	
		SD-24 Does the system record what type of utility expense was allowed based on what option the State took (i.e. actual or mandatory)?	
		SD-25 Does the system capture the verification of shelter expense types/sources?	
		SD-26 Does the system identify whether shelter expenses are included/excluded based on program type?	

<b>Y</b>	<b>N</b>	<b>Deduction</b>	<b>If No – Why</b>
		SD-27 Can the system attribute disqualified HH member shelter expenses to HH?	

A10 Comments:

### A11. Other Deductions

<b>Y</b>	<b>N</b>	<b>Other Deductions</b>	<b>If No – Why</b>
		OD-1 Does the system calculate correctly the standard deduction based on HH size?	
		OD-2 Depending on State option, is child support payment treated as exclusion or deduction? <input type="checkbox"/> Exclusion <input type="checkbox"/> Deduction	
		OD-4 Does system capture the legally obligated amount, the actual amount paid, and any arrearages?	
		OD-3 Does the system capture the verification of other deduction types/sources?	

A11 Comments:

### A12. Categorical Eligibility (throughout 273.2; specifically 273.2[j][2])

<b>Y</b>	<b>N</b>	<b>Categorical Eligibility</b>	<b>If No – Why</b>
		CAT-1 Does the system calculate correctly the resource disregard for eligible HHs?	
		CAT-2 Does the system calculate correctly the gross income disregard for eligible HHs?	
		CAT-3 Does system disregard net income limit for categorically eligible 1 and 2 person HHs?	

<b>Y</b>	<b>N</b>	<b>Categorical Eligibility</b>	<b>If No – Why</b>
		CAT-4 Depending on state option, are cases of categorically eligible HHs with 3 or more persons suspended or closed when eligible for zero benefits?	
		CAT-5 Does the system capture households with 3 or more persons that are not eligible through broad-based categorical eligibility (BBCE) and thus subject to a resource limit?	

A12 Comments:

### A13. Work Registration (273.7[a])

<b>Y</b>	<b>N</b>	<b>Work Registration</b>	<b>If No – Why</b>
		WR-1 Does the system capture and track registered HH members?	
		WR-2 Does the system capture the reason for exemption?	
		WR-3 Does the system identify correctly Employment and Training mandatory participants?	
		WR-4 Does the system correctly handle voluntary quit or reduction in work hours?	
		WR-5 Does the system correctly handle disqualification for non-compliance?	
		WR-6 Does the system track the number of disqualifications?	
		WR-7 Does the system generate the data needed to complete the FNS 583 Employment and Training Activity Report in either an XML or Excel file?	
		WR-7 Does the system auto-fill in the 10 day period to comply into the NOAA for E&T Disqualification?	

A13 Comments:

### A14. ABAWDS (273.7[c])

<b>Y</b>	<b>N</b>	<b>ABAWDS</b>	<b>If No – Why</b>

<b>Y</b>	<b>N</b>	<b>ABAWDS</b>	<b>If No – Why</b>
		ABS-1 Are the 3 in 36 countable months of participation tracked by the system?	
		ABS-2 Are exempt areas of State tracked (areas covered by waivers) by the system?	
		ABS-3 Are the reasons for exemptions from the ABAWD work requirement captured by the system?	
		ABS-4 Does the system track 15% exemptions? This includes each month an ABAWD is assigned an exemption and the total number of exemptions used Statewide each quarter.	
		ABS-5 Are fixed or rolling 36 month periods accommodated?	
		ABS-6 Are the number of failures to comply with an employment and training program tracked by the system?	
		ABS-7 Is 100% Federal funds spending tracked by the system?	
		ABS-8 Is 50% Federal funds spending tracked by the system?	
		ABS-9 Does the system generate the data needed to complete the FNS 583 Employment and Training Activity Report in either an XML or Excel file?	
		ABS-10 Does the system track pledge funds?	
		ABS-11 Does the system track the additional 3 months of eligibility after the first 3 in 36 months are used?	
		ABS-12 Does the system generate a notice and terminate issuance when an ABAWD becomes ineligible?	

A14 Comments:

### **A15. Students (273.5)**

<b>Y</b>	<b>N</b>	<b>Students</b>	<b>If No – Why</b>
		S-1 Does the system capture the reason for disqualification/ineligibility?	
		S-2 Does the system capture all exemption categories allowing students to be eligible?	



Y	N	Students	If No – Why
		S-3 Is student eligibility established considering work status?	
		S-4 Does the system address student eligibility based on school attendance?	
		S-5 Does the system calculate student income and deductions for educational expenses?	
		S-6 Does the system account for the state option to average student work hours monthly (if applicable)?	

A15 Comments:

**A16. Group Facility Residences/Homeless Meal providers (273.11)**

Y	N	Group Facility Residences/Homeless Meal providers	If No – Why
		GRP-1 Does the system identify the HH member as resident of group facility?	
		GRP-2 Does the system identify group facility classified by type (Group Living Arrangements (GLA), Drug Addict or Alcoholic program (DAA), Mental Health, Battered men/women/children)?	
		GRP-3 Is the facility identified as <b>the</b> authorized representative where applicable?	
		GRP-4 Is the benefit allotment divided between facility & recipient in the month the recipient leaves?	
		GRP-5 Is a second issuance in same month to battered women/children shelter resident allowed?	
		GRP-6 Does the system identify cases permitted to use benefits at restaurants and/or homeless meal providers? If so, does the system have the ability to report on the following: <ul style="list-style-type: none"> <li>• Individual Categories <ul style="list-style-type: none"> <li>o Homeless – Total # and %</li> <li>o Disabled– Total # and %</li> <li>o Elderly – Total # and %</li> </ul> </li> </ul>	

Y	N	Group Facility Residences/Homeless Meal providers	If No – Why
		<ul style="list-style-type: none"> <li>• Usage <ul style="list-style-type: none"> <li>o Multiple transactions</li> <li>o Excessive issuance</li> <li>o Rapid transactions</li> <li>o Time of transactions</li> </ul> </li> <li>• Dollar amount (per benefit)</li> </ul>	

A16 Comments:

### A17. Disaster SNAP

Y	N	Disaster SNAP	If No – Why
		DIS-1 Does the system process applications, determine eligibility, and calculate benefits for the Disaster SNAP Program?	
		DIS-2 Does the system check for duplication of benefits with the regular SNAP?	
		DIS-3 Does the system check applicants against Disaster SNAP denied applications? (See policy memo: <a href="http://www.fns.usda.gov/snap/rules/Memo/2008/121708a.pdf">http://www.fns.usda.gov/snap/rules/Memo/2008/121708a.pdf</a> )	
		DIS-4 Does the system check for duplication against approved Disaster SNAP benefits?	
		DIS-5 Does the system specifically identify and report Disaster SNAP benefits needed to complete the FNS-292b, FNS-46, and FNS-388 reports as well as daily reports for disaster reporting?	
		DIS-6 Does the system track and report separately mass replacement amounts provided for HHs whose food was purchased with regular SNAP benefits but destroyed in a major disaster event?	
		DIS-7 Does the system track and report separately supplemental benefits issued to ongoing, regular SNAP HHs that bring their benefit level up to the maximum for their HH size?	
		DIS-8 Does the system issue notices specifying Disaster SNAP eligibility and benefit amounts?	

<b>Y</b>	<b>N</b>	<b>Disaster SNAP</b>	<b>If No – Why</b>
		DIS-9 Does the system check residence zip codes against those within authorized disaster area (such as county, town, etc.)? DSNAP benefits can also be extended with approval to HHs who had a member who worked (but may not live) in the authorized disaster area and lost income due to the disaster event.	
		DIS-10 Does the system check duplicate participation for all cases approved through the EBT terminal (i.e. if state certifies and issues benefits through the EBT terminal and not the eligibility system)?	
		DIS-11 In the event of a major disaster/pandemic are State and local office staff able to access the system to operate SNAP remotely?	
		DIS-12 Does the system allow expungement earlier than the 365 <sup>th</sup> day if there is waiver approval for early expungement of DSNAP and supplemental benefits?	
		DIS-13 In the event of an offsite DSNAP operation, is the system portable or available via internet access?	
		DIS-14 Can new security roles be easily defined in the system for DSNAP eligibility and issuance workers?	
		DIS-15 Are there back-ups to the DSNAP, issuance, and regular eligibility systems in case there are system failures during and after a disaster event?	

A17 Comments:

## B. Changes

### B1. Reporting (273.12)

<b>Y</b>	<b>N</b>	<b>Reporting Systems</b>	<b>If No – Why</b>
		CHG-1 Does the system identify the type of reporting HH must do?	
		CHG-2 Does the system allow change reporting?	
		CHG-3 Does the system allow simplified reporting?	
		CHG-4 For simplified reporting, does the system generate periodic	

Y	N	Reporting Systems	If No – Why
		reports (if applicable)?	
		CHG-5 Does the system allow monthly reporting?	
		CHG-6 For monthly reporting, does the system generate reports?	
		CHG-7 Does the system allow quarterly reporting?	
		CHG-8 For quarterly reporting, does the system generate reports?	
		CHG-9 Does the system terminate issuance if no report is provided?	
		CHG-10 Does the system track processing of client reports (monthly, quarterly, periodic)?	
		CHG-11 Are case changes recorded in an audit trail which identifies the EW that made the change?	
		CHG-12 Do positive database matches with wage-reporting systems initiate a notice to the EW?	
		CHG-13 Is there a way for the system to generate/track a request for contact (RFC) notice in response to unclear information?	
		CHG-14 Does the system allow the EW to track a reported mid-period change that could not be processed until the periodic report or recertification? (For simplified reporting cases, this may be common in States that do not act on all changes. It also applies to some changes reported by other programs.)	
		CHG-15 If the system receives info from a source considered “verified upon receipt,” does it automatically update the case, recalculate benefits, suspend/terminate case, and notify EW?	
		CHG-16 Does the system record origin of all reports causing case changes?	
		CHG-17 If a joint eligibility system, does the system automatically notify other programs of reported changes and new SNAP benefit amount?	
		CHG-18 If a joint eligibility system, are other program changes and new grant amounts automatically processed for SNAP case?	

B1 Comments:

## B2. Mass Changes (273.12[e])

Y	N	Mass Changes	If No – Why
		MC-1 Is the system capable of computing changes and adjusting benefits as needed for:	
		- Gross income eligibility limit?	
		- Net income eligibility limit?	
		- Standard deduction?	
		- Shelter cap deduction?	
		- Utility standards?	
		- Disaster income eligibility standards?	
		- Overpayments (claims)?	
		- Underpayments (restorations)?	
		- Minimum/maximum monthly food stamp allotments	
		MC-2 Are changes made to update SNAP income with actual increased amounts of TANF grants, SSA benefits, and SSI benefits?	
		MC-3 Can the system issue reduced or increased allotments for the entire caseload, if necessary?	
		MC-4 Can the restorations for the reduced month be made at a later date, if necessary?	
		MC-5 Does the system possess facilities to assure changes in program specifications regarding eligibility and benefit calculations can be affected without major modifications to the system or duplication to HH's cases?	
		MC-6 Is there a back-up process in place in case the system has to be reverted to its previous state?	
		MC-7 Can client notices be issued to the households affected by a mass change if the State chooses to send out a notice?	

B2 Comments:

## C. Claims & Restoration

### C1. Claims (273.18)

Claim Function	Eligibility system	Separate system	If No - Why
C-1 Does the system calculate the claim amount?			
C-2 Does the system identify claim amount?			
C-3 Does the system identify claim type?			
C-4 Does the system determine correct allotment reduction percentage per claim type?			
C-5 Does the system identify retention percentages based on claim type?			
C-6 Does the system disallow earned income deduction when IPV?			
C-7 Does the system calculate the pro rata share of the payment collected for each program when the debtor does not specify to which program to apply the collection?			
C-8 Does the system display the date of payment agreement?			
C-9 Does the system display the discovery date?			
C-10 Does the system display the referral date?			
C-11 Does the system generate demand letters?			
C-12 Does the system display the client notification date? (i.e., date of demand letter)			
C-13 Does the system suspend or terminate claims? (How – auto or worker, when?)			
C-14 Does the system permit change to claim type and date of change?			
C-15 Does the system determine the claim amount?			

Claim Function	Eligibility system	Separate system	If No - Why
C-16 Does the system determine the recoupment rate (minimum amount)?			
C-17 Does the system calculate the amount recouped to date?			
C-18 Does the system offset claims against restoration amounts?			
C-19 Does the system track Treasury Offset Program (TOP) timeframes?			
C-20 Does the system track payments by cash, check, TOP offset, recoupment, EBT transaction? Automatically? Or manual entry from separate system?			
C-21 Does the system calculate the outstanding claim balance?			
C-22 Does the system indicate if the claim was compromised?			
C-23 Does the system display the delinquency date?			
C-24 Does the system properly calculate the delinquency date from the due date stated on the demand letter, per the State's claims management policy?			
C-25 Is the system capable of tracking timely claims payments and capturing both the payment amounts and the due dates?			
C-26 Can the system automatically apply expunged benefits to the correctly prioritized outstanding claim(s)?			
C-27 Can the claims that are on hold for collection pending a fair hearing decision be tracked?			
C-28 Can the claims that have been written off or terminated be tracked?			
C-29 Does the system interface with TOP? If yes, - Are state refunds and TOP refunds able to be tracked and reconciled? Are TOP refunds able to be reported?			

Claim Function	Eligibility system	Separate system	If No - Why
-Are claims that have met all due process for TOP be automatically referred to TOP (in batch)?			

## C2. Restoration of Lost Benefits (273.17)

Y	N	Restoration of Lost Benefits	If No – Why
		RST-1 Does the system capture the restoration determination date? <input type="checkbox"/> Date the State received HH request for restoration, <input type="checkbox"/> Date that the State discovered a loss had occurred, <input type="checkbox"/> Date of Fair Hearing restoration determination date	
		RST-2 Does the system calculate the restoration benefit amount?	
		RST-3 Does the system identify restoration amounts within the benefit history?	
		RST-4 Does the system designate the month(s) for which the benefit is restored?	
		RST-5 Does the system issue retroactive/restored benefits?	
		RST-6 If not captured under claims, does the system offset restoration against pending HH claims amounts?	
		RST-7 Does the system allow for currently ineligible HHs to receive restoration amounts?	
		RST-8 Does the system generate client notices of restoration?	
		RST-9 Does the system capture the Fair Hearing request date?	
		RST-10 Does the system edit restoration benefits so that none are restored for a period of more than 12 months?	
		RST-11 Does system code why benefits were restored (for example, the case was closed in error)?	



C1 -2 Comments:

**D. Certification Notices (273.10, 273.12, 272.13, and 273.14)**

**D1. Certification Notices**

Y	N	Certification Notices	If No – Why
		CN-1 Does the system automatically generate client notices for:	
		<ul style="list-style-type: none"> <li>• Notice of Eligibility?</li> </ul>	
		<ul style="list-style-type: none"> <li>• Notice of Denial?</li> </ul>	
		<ul style="list-style-type: none"> <li>• Are notices of denial issued as soon as the decision to deny is made and do they accurately reflect the reason for the denial?</li> </ul>	
		<ul style="list-style-type: none"> <li>• Notice of Pending Status?</li> </ul>	
		<ul style="list-style-type: none"> <li>• Notice of Suspension? (if State suspends)</li> </ul>	
		<ul style="list-style-type: none"> <li>• Notice of Expiration?</li> </ul>	
		<ul style="list-style-type: none"> <li>• Notice of Adverse Action (reduction or termination of benefits)?</li> </ul>	
		<ul style="list-style-type: none"> <li>• Are notices of adverse action issued as soon as the decision is made and do they accurately reflect the reason for the adverse action?</li> </ul>	
		<ul style="list-style-type: none"> <li>• Notice of Adverse Action for a disqualification or failure to recertify?</li> </ul>	
		<ul style="list-style-type: none"> <li>• Notice of Adverse Action or Demand Letter for a claim/overpayment?</li> </ul>	
		<ul style="list-style-type: none"> <li>• Notice of Change (positive or negative)?</li> </ul>	
		<ul style="list-style-type: none"> <li>• Notice of Mass Change?</li> </ul>	
		<ul style="list-style-type: none"> <li>• Notice of Disqualification?</li> </ul>	
		<ul style="list-style-type: none"> <li>• Request of Required Verifications?</li> </ul>	
		<ul style="list-style-type: none"> <li>• Request for Contact?</li> </ul>	
		<ul style="list-style-type: none"> <li>• Reminders?</li> </ul>	

Y	N	Certification Notices	If No – Why
		<ul style="list-style-type: none"> <li>• Monthly Report-Adequate Notice with Computation Sheet?</li> </ul>	
		<ul style="list-style-type: none"> <li>• Periodic/Interim Report?</li> </ul>	
		<ul style="list-style-type: none"> <li>• Notice of Missed Interview?</li> </ul>	
		CN-2 Can the system generate ad hoc notices?	
		CN-3 Does the system maintain certification notice history?	
		CN-4 Does the system make copies of client notices (with complete notice verbiage) available?	
		CN-5 Does the system produce and provide client notices in languages other than English?	
		CN-6 Can notices be customized (i.e., are workers able to add comments/additional information or are notices standardized)? Please describe what notices can be ad hoc and/or manually entered by the eligibility worker? What automatic text selections are available to eligibility workers to enter into automated notices?	
		CN-7 Can notices be printed locally?	
		CN-8 Do all client notices display the most up to date non-discrimination statement?	
		CN-9 How easily can updates and language changes be made to the client notices?	
		CN-10 Is there a spell and/or grammar check available on notices where workers can ad hoc or manually enter in text?	
		CN-11 Can the system send communication via email regarding the availability of online notices (if the state is approved for a waiver)?	

D1 Comments:

## E. System Operations

### E1. Edits & Pending Cases

Y	N	Edits & Pending Cases	If No – Why
		What identification numbers can the system search with to find individuals or HH cases (i.e. SSN, unique ID, last name, DOB, etc.)? Can more than one search criteria be used at a time?	
		ED-1 Does the system automatically terminate the case at the end of the certification period if not recertified?	
		ED-2 Does the system allow for retrospective budgeting where appropriate?	
		ED-3 Does the system identify errors needing resolution?	
		Does the system flag high risk-criteria cases for a secondary level review before certification is approved?	
		ED-4 Does the system track pending cases?	
		ED-5 Does the system track pending verifications?	
		ED-6 Does the database prevent duplication of case numbers?	
		ED-7 Does the system assign unique HH member identifier?	
		ED-8 Does the system prevent duplicate HH member identifiers?	
		ED-8 Does the system generate/create verification checklists?	
		ED 9-Does the system prevent denying an application prior to the 30 <sup>th</sup> day?	
		ED-10 Does the system automatically deny an application by 30/60 <sup>th</sup> day (or less if the State has a waiver)?	
		ED-11 Does the system prevent denying or terminating a case during the 10 day period clients have to provide verifications?	

E1 Comments:

## E2. Staff Alerts

Y	N	Staff Alerts	If No – Why
		STA-1 Are staff alerts generated for:	
		<ul style="list-style-type: none"> <li>Pending applications?</li> </ul>	
		<ul style="list-style-type: none"> <li>Pending changes?</li> </ul>	
		<ul style="list-style-type: none"> <li>Data matches?</li> </ul>	
		<ul style="list-style-type: none"> <li>Recertification?</li> </ul>	
		<ul style="list-style-type: none"> <li>Work registration renewal?</li> </ul>	
		<ul style="list-style-type: none"> <li>SNAP recertification when TANF cases are terminated?</li> </ul>	
		<ul style="list-style-type: none"> <li>Monthly reports for suspended Households</li> </ul>	
		<ul style="list-style-type: none"> <li>Significant birthdays (18 yr., 60 yr.)?</li> </ul>	
		<ul style="list-style-type: none"> <li>End of disqualification period?</li> </ul>	
		<ul style="list-style-type: none"> <li>Expedited case time frames</li> </ul>	
		<ul style="list-style-type: none"> <li>30 day processing time frames (Approvals/Denials)</li> </ul>	
		<ul style="list-style-type: none"> <li>Fair Hearings</li> </ul>	
		<ul style="list-style-type: none"> <li>Language needs / limited English proficiency</li> </ul>	
		<ul style="list-style-type: none"> <li>Special needs / identified disability</li> </ul>	
		<ul style="list-style-type: none"> <li>Other: If yes, please describe.</li> </ul>	
		STA-2 Are staff alerts provided for management?	
		STA-3 Is the system capable of disabling staff alerts?	

E2 Comments:

## E3. Eligibility & Benefit Actions (273.10 and 273.11)

Y	N	Eligibility & Benefit Actions	If No – Why
		EB-1 Does the system perform automatic determination of financial	

Y	N	Eligibility & Benefit Actions	If No – Why
		ineligibility?	
		EB-2 Does the system perform automatic determination of non-financial ineligibility?	
		EB-3 For ineligibility, does the system provide information to support the determination?	
		EB-4 Does the system show budget to support the benefit allotment?	
		EB-5 Does the system show proration amount?	
		EB-6 Does the system:	
		<ul style="list-style-type: none"> <li>Identify HH size?</li> </ul>	
		<ul style="list-style-type: none"> <li>Calculate retroactive benefits to the month/date of application?</li> </ul>	
		<ul style="list-style-type: none"> <li>Convert income to monthly?</li> </ul>	
		<ul style="list-style-type: none"> <li>Average income/expenses over certification period, where appropriate?</li> </ul>	
		<ul style="list-style-type: none"> <li>Authorize/prevent changes between actual utility costs and LUA/SUA/TUA during cert period, if applicable?</li> </ul>	
		<ul style="list-style-type: none"> <li>Suspend case for one month due to temporary circumstances?</li> </ul>	
		<ul style="list-style-type: none"> <li>Identify Fair Hearing request date?</li> </ul>	
		<ul style="list-style-type: none"> <li>Identify Fair Hearing decision date?</li> </ul>	
		<ul style="list-style-type: none"> <li>Continue benefits after an adverse action if a Fair Hearing is requested?</li> </ul>	
		<ul style="list-style-type: none"> <li>Allow for “transitional benefits” when TANF income ends, if applicable?</li> </ul>	
		<ul style="list-style-type: none"> <li>Prohibit an increase in benefits if HH’s income is reduced due to failure to comply with means-tested program (i.e. TANF)?</li> </ul>	
		<ul style="list-style-type: none"> <li>Reduce allotment by a percentage not to exceed 25% for failure to comply with means-tested programs? (273.11(j) )</li> </ul>	
		EB-7 Will the system issue combined allotments?	
		EB-8 Does the system capture the benefits determination date (i.e., date	

Y	N	Eligibility & Benefit Actions	If No – Why
		HH was determined eligible for benefits)?	
		EB-9 Is the certification period captured?	
		EB-10 Can the system print eligibility summary or completed application for client review?	

E3 Comments:

#### E4. QC (275)

Y	N	Quality Control	If No – Why
		QC-1 Does the system provide for monthly selection of active cases and negative actions for QC?	
		QC-2 Does the system include all required cases in sampling frame?	
		QC-3 When is sampling frame available?	
		QC-4 When is sample selection made?	
		QC-5 What are sources of sampling frames?	
		QC-6 Is there a system in place that can replicate the sampling frame and selection for any given month?	
		QC-7 Is systematic selection design used? If not, what type of selection is used?	
		QC-8 Does the system provide random start whether self-generated or user provided?	
		QC-9 What options does the system have for changing intervals and random starts?	
		QC-10 Does the system select records for ME, supervisory, or Quality Assurance review? (e.g., active, denied, terminated and recertification cases).	
		QC-11 Does the system provide FNS on-line access for QC?	

E4 Comments:

**E5. Case Records**

Y	N	Case Records	If No – Why
		CR-1 Is a complete audit trail that includes the following for each transaction captured by the system that includes:	
		<ul style="list-style-type: none"> <li>the action</li> </ul>	
		<ul style="list-style-type: none"> <li>the date action was taken</li> </ul>	
		<ul style="list-style-type: none"> <li>effective date of the action</li> </ul>	
		<ul style="list-style-type: none"> <li>and the caseworker who performed the action</li> </ul>	
		CR-2 How long are case history records available on-line?	
		CR-3 How long are case history records available off-line?	
		CR-4 Can off-line records be accessed electronically?	
		CR-5 Does the system contain a section for Case Notes?	

E5 Comments:

**E6. Policy Manuals**

Y	N	Policy Manual	If No – Why
		PM-1 Is the current State policy manual accessible within the eligibility system for caseworkers?	
		PM-2 Is an online help linked by specific eligibility factors to the eligibility system? Describe.	
		PM-3 Are older versions of State policy manuals available online for caseworkers?	
		PM-4 Is the current eligibility system’s user guide available online for caseworkers?	

E6 Comments:

### E7. System Performance

SYS-1 What are average response times for the following administrative actions: Inquiry? _____ Processing of data entry? _____ Screen refresh? _____ Other Actions? _____
SYS-2 What is the system's data capacity and what do you expect usage to be at full implementation?
SYS- 3 During stress testing, what was the number of concurrent users who could use the system without negatively impacting system performance?
SYS-4 How many concurrent users are now using or are expected to use the system?
SYS-5 What are the save points in the eligibility system that protect loss of data?
SYS-6 Name all the other ADP systems that feed into and integrate with this eligibility system:
SYS-7 What are the back-ups to the issuance and eligibility systems in case there are system failures?
SYS-8 Describe the user roles and the security levels in this system:

E7 Comments:

### E8. Management Information

Y	N	Management Information	If No – Why
		MI-1 Complete CHART in Section E9.	
		MI-2 Are reports generated from the eligibility system or from a separate database?	
		MI-3 Can reports be sorted by office?	



Y	N	Management Information	If No – Why
		MI-4 Can reports be sorted by caseworker?	

E8 Comments:

### E9. Management Information Reporting

Case Reports	Standard	Ad Hoc	Frequency of Reports	Comments	If No – Why
New cases					
Expedited cases					
Apps pending					
Recerts due					
Recerts pending					
Verifications pending					
Apps denied					
Closed cases					
Suspended cases					
Changes processed					
Claims established					
Late expedited actions					
Late certification actions					
<ul style="list-style-type: none"> <li>Reason for late action</li> </ul>					
<ul style="list-style-type: none"> <li>Agency</li> </ul>					
<ul style="list-style-type: none"> <li>Client</li> </ul>					
Cases certified this period					

<b>Case Reports</b>	<b>Standard</b>	<b>Ad Hoc</b>	<b>Frequency of Reports</b>	<b>Comments</b>	<b>If No – Why</b>
Client reports (monthly, quarterly, simplified)					
Initial					
<b>Benefit Reports</b>	<b>Standard</b>	<b>Ad Hoc</b>	<b>Frequency of Reports</b>	<b>Comments</b>	<b>If No - Why</b>
Supplemental					
Replacements					
Retroactive					
Restored					
DSNAP					
<b>Data Items</b>	<b>Standard</b>	<b>Ad Hoc</b>	<b>Frequency of Reports</b>	<b>Comments</b>	<b>If No - Why</b>
Demographics (please list what information is captured under comments)					
Client Income					
HH Characteristics					
Language / LEP status					
Client Complaints					
Error Prone Profiles					
<b>Trends</b>	<b>Standard</b>	<b>Ad Hoc</b>	<b>Frequency of Reports</b>	<b>Comments</b>	<b>If No - Why</b>
Applications					
Denied apps					
SNAP benefits					
Caseload					

<b>Case Reports</b>	<b>Standard</b>	<b>Ad Hoc</b>	<b>Frequency of Reports</b>	<b>Comments</b>	<b>If No – Why</b>
Fraud referrals					
Claims referrals					
E&T referrals					
ABAWDs					
Fair hearings					
Application withdrawals					
Timeliness 7 <sup>th</sup> /30 <sup>th</sup> day					
Denials before 30 <sup>th</sup> day					
<b>Performance &amp; Monitoring</b>	<b>Standard</b>	<b>Ad hoc</b>	<b>Frequency of Reports</b>	<b>Comments</b>	<b>If No - Why</b>
Real-time reports for staff to monitor their work (explain in comments column)					
Caseloads by worker					
Timeliness (by worker and county)					

### E10. Data Matching

<b>Y</b>	<b>N</b>	<b>Data Matching</b>	<b>If No – Why</b>
		DM-1 What data items does the system check to determine duplicate participation?	
		Name	

Y	N	Data Matching	If No – Why
		Phonetic Name	
		Nickname	
		Alias Name	
		Date of Birth	
		Address	
		Case Number	
		SSN	
		FDPIR, if applicable	
		Other, please describe:	
		DM-2 Are matches for duplicate participation done <input type="checkbox"/> Immediately on-line or <input type="checkbox"/> Through batches?	
		DM-3 Is intra-jurisdictional (counties, regions, other states) information regarding multiple applications and duplicate participation available <input type="checkbox"/> On-line? or <input type="checkbox"/> Through daily batches?	
		DM-4 Does the system provide for automatic notices to the School Lunch Program for direct certification based on SNAP eligibility?	
		What is the frequency of the notices?	
		DM-5 Can the system be queried for School Lunch Program eligibility?	
		DM-6 Can the system be queried on-line by local school districts and/or the State department of education regarding SNAP participation (both inbound and outbound)?	

E10 Comments:

**E10. Data Matching**

State Data Matches	Source	Online (Y/N)	Batch (Y/N)	Frequency	Staff Alerts (Y/N)	Comments
State Wages						
State Unemployment						
State Taxes						
Child Support						
LIHEAP						
Medicaid						
TANF						
Prisoner						
Death						
Lottery Match						
State to State PARIS matches						
Other						

E10 Additional Comments:

Federal Data Matches	Source	Online (Y/N)	Batch (Y/N)	Frequency	Staff Alerts (Y/N)	Comments
Federal RSDI (BENDEX)						
Federal SSI (SDX)						
SSN						

Federal Data Matches	Source	Online (Y/N)	Batch (Y/N)	Frequency	Staff Alerts (Y/N)	Comments
Federal Taxes						
Immigration (SAVE, ASVI)						
IRS unearned income (BEERS)						
Disqualified HH members (eDRS)						
Other						

E10 Additional Comments:

### E11. FNS Reports

FNS Report	Frequency	Data Source	Comments
FNS-46 Issuance Reconciliation			
FNS-101 Participation by Race			
FNS-209 Recipient Claims			
FNS-292 Disasters and Commodities			
FNS-366a Budget Projection			
FNS-366b Project Activity			
FNS-388 Issuance and Participation			
FNS-388a Project Area Issuance & Participation			

FNS Report	Frequency	Data Source	Comments
FNS-583 Quarterly E&T			

E11 Additional Comments:

## F. Issuance & Reconciliation

### F1. Issuance (274.12)

Y	N	Issuance	If No – Why
		ISS-1 What demographic data is sent to the EBT system for EBT account set-up?	
		ISS-2 When is demographic data sent to EBT system? <input type="checkbox"/> date of filing, <input type="checkbox"/> date of eligibility determination, or <input type="checkbox"/> on some other date?	
		ISS-3 Does the system provide demographic data and benefit issuance records to EBT with sufficient time to meet expedited processing timeframes and regular processing timeframes?	
		ISS-4 When is the monthly benefit file for ongoing HHs sent to EBT?	
		ISS-5 Does the system uniquely identify each benefit record?	
		ISS-6 Does each monthly benefit record contain an availability date so that HHs may access their monthly benefit on the same day each month?	
		ISS-7 Does each benefit record identify the month for which the benefit is issued?	
		ISS-8 Does the system identify each benefit as: <ul style="list-style-type: none"> <li>• Initial issuance?</li> </ul>	
		<ul style="list-style-type: none"> <li>• Regular issuance?</li> </ul>	

Y	N	Issuance	If No – Why
		<ul style="list-style-type: none"> <li>Supplemental issuance?</li> </ul>	
		<ul style="list-style-type: none"> <li>Replacement issuance (for HH disaster situations)?</li> </ul>	
		<ul style="list-style-type: none"> <li>Retroactive issuance?</li> </ul>	
		<ul style="list-style-type: none"> <li>Mass Replacement Issuance (waiver for major disaster event)?</li> </ul>	
		<ul style="list-style-type: none"> <li>DSNAP issuance (waiver for major disaster event)?</li> </ul>	
		<ul style="list-style-type: none"> <li>Restoration of lost benefits?</li> </ul>	
		ISS-9 Does the system differentiate between the month of availability and month for which the amount is issued in cases of restored and retroactive benefits?	
		ISS-10 Does the system have edits that prevent duplicate issuances?	
		ISS-11 Does the system require a secondary review for any issuances other than initial/regular?	

F1 Comments:

## F2. Reconciliation (274.12[k])

Y	N	Reconciliation	If No – Why
		RCN-1 Has the interface with the EBT contractor been tested?	
		RCN-2 Does the State send all benefit records via overnight batch to the EBT contractor?	
		RCN-3 If not, how else (e.g. online or daily file) are benefit records sent to the EBT contractor?	
		RCN-4 For benefit records not sent via overnight batch, does the State ensure that the issuance amounts authorized by the eligibility system are reconciled to those posted in the EBT system?	
		RCN-5 If a benefit record is rejected by EBT, what data is returned to the eligibility system?	



Y	N	Reconciliation	If No – Why
		RCN-6 If a benefit record is rejected by EBT, when is it returned to the eligibility system?	
		RCN-7 What actions are taken to rectify the situation for cases with rejected benefit records?	
		RCN-8 Are daily issuance totals reconciled to amounts posted and available for clients to spend? What is the tolerance for error?	
		RCN-9 Does the eligibility system use EBT transaction daily history file to track EBT transactions (debits and credits) back to each benefit record?	

F2 Comments:

## Appendix G1

### System Testing Guidance

The System Integrity Review Instrument can be a valuable tool for both State agency and Federal Supplemental Nutrition Assistance Program (SNAP) staff to evaluate whether the system delivered meets all SNAP functional requirements.

The 2008 Farm Bill in section 4121 reinforces the requirement that projects for new Information Systems (IS) or projects involving significant enhancements to legacy systems be adequately tested by the State agency before implementation as a condition of continued FNS funding.

This paper discusses three go/no-go points in the system development life cycle (SDLC) when the State and Federal staff must evaluate whether a system is meeting expectations. The first point is prior to/during/after User Acceptance Testing (UAT). The next point is prior/during/after the Pilot Test. The third point is after the system has been rolled out Statewide and is ready to transition from implementation to the operations stage. This review instrument was designed so it can be used during pre- or post-implementation reviews conducted by State and/or Federal reviewers.

## User Acceptance Testing (UAT)

The objective of systems development is to design a system that meets the needs of the user, not just the system specifications. User Acceptance Testing (UAT) is necessary to confirm that the developed system meets all user requirements. During and at the completion of the development phase of the project the State agency should be prepared to participate in intensive UAT. UAT is a crucial part of the integration and testing phase of the SDLC. A common mistake is to assume testing is at the end of the system's lifecycle development process, and that it requires minimal attention. This can result in project delays since testing was not thoroughly conducted. Testers should work with users early in the project to define system criteria for meeting user needs, incorporate them into the acceptance test plan, and create detailed test scripts. Once the acceptance criteria have been established, the testers should incorporate them into all aspects of development as much as possible.

UAT should be conducted in a simulated "real" user environment in which the users use simulated or real target platforms and infrastructures. This environment should be separate from the development or production environments, but as similar to the production environment as possible. Typically, a separate test environment is set up for testing by developers. An additional test environment is set up for UAT. The system should be tested from end-to-end, including both normal and abnormal conditions such as user mistakes. States should develop a formal UAT plan that includes real-life scenarios and establishes severity levels, error tracking software, results reporting, and regression testing. These scenarios should have detailed scripts, developed by state agency project staff and/or consultants independent of the development contractor, so that any errors found can be easily replicated and regression tested. To avoid a conflict of interest, it is critical that development and implementation team resources do not perform UAT testing. FNS strongly recommends that State and local users participate in the UAT. Once the UAT plan is executed, an acceptance decision must be made based on the results of this testing, followed by users sign-off upon successful completion of the UAT plan.

## Pilot Testing

The goal of the Pilot Test is to achieve a high probability that the implemented system will meet the objectives specified in the approved Implementation Advance Planning Document (IAPD). The Pilot Test is a key milestone in project development and occurs when a fully functional prototype system is available for testing, but before statewide implementation. When a contractor is used for system development, the contract should clearly state that the State agency's approval of the Pilot Test results is a condition of project continuation. This provision ensures that State agencies have control of the development process. States are responsible for defining go/no-go criteria, and FNS may also establish go/no-go points for continuation of the project. Successful UAT and Pilot testing are commonly used decision points.

Pilot acceptance testing may be performed by the State and/or by an independent contractor, but not by the contractor developing or transferring the system. This will ensure the testing results are not biased as a result of a conflict of interest. Optionally, FNS may participate in the Pilot Test to assist and corroborate the findings of the State agency. If the State intends to use an independent contractor for contract monitoring or Quality Assurance (QA), those activities must be incorporated into the project schedule and budget.

In some cases, prior approval of funds by FNS may be conditional on the results of the Pilot Test; therefore, States must plan to secure this approval before rollout of the system beyond the pilot area. In particular, States should submit documentation of the results and findings of their pilot tests to FNS.

In planning for the Pilot Test, the state agency should ensure that the test, at a minimum, includes the following elements:

**Performance Test** - To simulate system operation, and thereby project whether the system will meet the criteria in the IAPD for sizing, performance, and capacity;

**Systems Test** - To ensure that each component, as delivered by the contractor or State systems staff, operates in accordance with the design specifications; and

**End-to-End Test** - To ensure that the interactions between each component and interface perform in accordance with the design specifications. This must include reconciliation between the State's EBT processor and the State's system.

The Pilot Test needs to be completed or conducted on the entire system in a "live" environment to ensure that it will meet the objectives of the IAPD after implementation. If a legacy system exists, this test will involve parallel processing of data (e.g., calculation of benefits based on household or participant information) through the current and pilot system, and then comparing the results.

Results of the Pilot Test must be evaluated to determine if the system is ready to be rolled out to the rest of the state. As stated earlier this is another significant go/no-go point for continuation of the project.

More information on testing and other system-related information can be found in FNS Handbook 901 located at:

[http://www.fns.usda.gov/apd/Handbook\\_901\\_2007/HB901\\_2007.htm](http://www.fns.usda.gov/apd/Handbook_901_2007/HB901_2007.htm).

When evaluating the plan for system testing, pilot and implementation, the following information should be gathered and questions asked if not specified in the State's planning documents:

1. What is the projected timeframe for each of these phases; UAT, pilot, rollout?
2. What are the go/no-go criteria for determining when to move from one phase to the next?
3. What scenarios are being tested during UAT?
4. Are these scenarios scripted?

5. Who identified the scenarios to be tested and developed the scripts?
6. What is the profile and number of staff involved in UAT?
7. When errors are found how are they prioritized?
8. Are fixes regression tested and validated by UAT staff?
9. How is the conversion process being tested?
10. Is an interface being built between the legacy and new system so they can run in parallel during the pilot?
11. Will the new system become the “system of record” during the pilot?
12. What is the plan for rolling the new system out to the rest of the state? Is it a phased rollout?

## Appendix G2 Acronyms

AB	Able-Bodied Adults Without Dependents
ABAWDS	Able-Bodied Adults Without Dependents
AP	Application Processing
AR	Authorized Representative
ASVI	Alien Status Verification Index
BENDEX	Benefit Evidentiary Data Exchange
CAT	Categorical Eligibility
CLM	Claims
CLR	Client Record
CN	Client Notices
CR	Change Reporting

DD	Dependent Care Deduction
DIS	Disaster
DM	Data Match
EB	Eligibility and Benefits
EBT	Electronic Benefits Transfer
ED	Edits
eDRS	Electronic Disqualification Recipient System
EI	Earned Income
EID	Earned Income Deduction
E&T	Employment and Training
EW	Eligibility Worker
FNS	Food and Nutrition Service
GA	General Assistance
GLA	Group Living Arrangement
GRP	Group Facility
HH	Household
ID	Identification
IPV	Intentional Program Violation
IRA	Individual Retirement Accounts
ISS	Issuance
LUA	Limited Utility Allowance
MC	Mass Change
MD	Medical Deductions
MI	Management Information
OD	Other Deductions
PA	Public Assistance
PARIS	Public Assistance Reporting Information System
PM	Policy Manual
QC	Quality Control
R	Resources
RCN	Reconciliation
RSDI	Retired, Survivors, and Disability Insurance
RST	Restoration of Lost Benefits
S	Students

SA	State Agency
SAVE	Systematic Alien Verification for Entitlements
SD	Shelter Deduction
SDX	Supplemental Data Exchange
SMD	Standard Medical Deduction
SNAP	Supplemental Nutrition Assistance Program
SSA	Social Security Administration
SSI	Supplemental Security Income
SSN	Social Security Number
STA	Staff Alerts
SUA	Standard Utility Allowance
SYS	System
TANF	Temporary Assistance to Needed Families
TOP	Treasury Offset Program
TUA	Telephone Utility Allowance
UE	Unearned Income
VA	Veterans Administration
VISTA	Volunteers in Service to America

## Appendix G3 Review Cover Sheet

STATE: \_\_\_\_\_ Review Date(s) \_\_\_\_\_

System Name: \_\_\_\_\_

**Reviewer(s):**

**SA:** \_\_\_\_\_

**FNS:** \_\_\_\_\_

**FNS SNAP Eligibility System Go Live Requirements**

\* Required for User Acceptance Testing (UAT) and Pilot

\*\* Required for Pilot only

Program Related Areas	
Required Criteria	General Standard, Metric or Target
Transmittal letter summarizes State’s decision to move forward *	An executive sponsor summarizing project status and justification for the decision to move forward or delay.
Training *	<p>An assessment of the effectiveness of staff training based on UAT and then pilot and expectations for length of the learning curve. Average Case processing time per worker and office or per day/week/month (same, fewer, more) in legacy, during UAT with new system, and during pilot. Method of comparison must also account for states who change workflow, from a case-based flow to a task-based flow.</p> <p>A training plan that ensures users complete training “just in time” before the system is rolled out in each office.</p> <p>A comprehensive description of Interim Business Processes (IBP), or workarounds, in place for pilot or “Go-Live” and assurance that these were incorporated into training.</p>
Current Program Performance (timeliness, payment accuracy & volume of any document processing backlogs) **	<p>Data indicating that the State is meeting Federal timeliness standards – 95% of cases processed by 7 or 30 days. If there are program performance deficiencies, explain how the current level of performance will be maintained or improved in accordance with the State’s Timeliness Corrective Action Plan.</p> <p>State must provide a plan to mitigate timeliness and accuracy issues for period of training, UAT, pilot and rollout activities as these are the periods when staffing will be reduced and the learning curve will take place. The plan must demonstrate that the same number of cases can be processed with the same resources, in the same time. Staffing must be adequate to handle not just same caseload, but also any conversion/cleanup workload.</p>



Program Related Areas	
Required Criteria	General Standard, Metric or Target
Contingency Plan *	<p>Provide a strategy should the State decide to stop testing, delay pilot, or delay rollout. Explain the strategy to roll back to the legacy system. The strategy should describe the period of time and circumstances after go live where the state would “fall back” to the legacy system.</p> <p>Contingency plan includes failure/response plan for all key operational areas. Checkpoints are identified, and measurement method is known for each checkpoint during conversion and the “fall back” window. Decision makers are identified.</p>
Escalation Plan **	<p>State must develop and provide a plan to explain the process to escalate issues happening on the ground (pilot areas, service centers, etc.) to get technical support and inform impacted stakeholders, including FNS and advocate community.</p> <p>Plan explains the complete feedback loop from point of initiation through the process, decision making, and back to the end users. Plan identifies who has the final decision on the issue.</p>
Communication Plan *	<p>State must develop and provide a plan to explain how and when the stakeholders, public, State and local offices will be informed about the pilot and roll out of the new system and its impact in the short and long term.</p>
System Integrity Review Tool (SIRT) utilized for pretesting of functional requirements. This should be completed prior to UAT.	<p>The SIRT has been completed and comments provided back to FNS. Any outstanding issues for required program functionality identified by the tool have been updated prior to pilot.</p>
Client notices **	<p>The State must develop and provide a plan identifying the process for producing notices; how notices are generated, batched, displayed, printed, validated, maintained, etc...</p> <p>The State must provide data indicating the percent of client notices in the pilot area that are accurate, including content, printing and mailing.</p>

Program Related Areas	
Required Criteria	General Standard, Metric or Target
Reports **	<p>The State must demonstrate that critical information necessary to monitor program compliance and basic program functioning is accurate and available on time.</p> <p>A state’s new system must be able to produce specific reports in order to receive FNS’ approval. The following reports must be produced on demand accurately 95 percent of the time. These reports are subject to FNS review and verification to ensure accuracy and compliance with SNAP policy and regulations.</p> <ul style="list-style-type: none"> <li>• SNAP Financial Status Report (SF-425/FNS-778)</li> <li>• State Issuance and Participation Estimates (FNS-388)</li> <li>• Project Area Data Format Report( FNS 388A)</li> <li>• Timeliness Report –A state system must be able to produce an application processing timeliness report calculating the application processing timeliness rate. The application processing timeliness rate must be calculated in accordance with SNAP policy and regulations.</li> <li>• Backlog Report –A state system must be able to produce a backlog report. The backlog report must include a breakdown of unworked and overdue initial applications, recertification applications, and interim reports (or change reports, as applicable) by 1-30 days, 31-60 days, 61-90 days, and 90+ days overdue.</li> <li>• Notice Report –A state system must be able to produce a notice report for all notices sent by the State. The notice report must include total number of notices generated and sent(including paper notices and electronic notices when applicable) each day and be able to distinguish by type such as notice of expiration, notice of approval, periodic report notice, etc.</li> </ul> <p>Daily Report –A state system must be able to produce a daily report reflecting State activity for that day. The report should have the capacity to break tasks down by staff member and office or by day/week/month. This daily report must include, at a minimum, total number of applications and recertifications received, number of initial applications and recertifications worked that day by status (pending, approved, denied, closed), total number of interviews conducted broken out by initial applications and recertifications, total number of periodic reports (or change reports, as applicable) received, number of periodic reports (or change reports as applicable) worked that day, number of case documents received, and number of case documents worked that day. All information pertaining to initial applications must be separated by expedited and regular.</p>

Program Related Areas	
Required Criteria	General Standard, Metric or Target
Reports ** (continued)	<p>In addition to these specific reports, the system must contain the data elements necessary to produce the following reports, must demonstrate that these reports have been developed, and if not functioning at 95% accuracy, must have a specific timeline for issue/defect resolution and testing.</p> <ul style="list-style-type: none"> <li>• Status of Claims Against Households Reports (FNS 209/209-A)</li> <li>• Budget Summary Detailed Reports (FNS 366/366-B)</li> <li>• SNAP Employment and Training Report (FNS 583)</li> <li>• Issuance Reconciliation Report (FNS 46)</li> <li>• Participation in Food Programs – By Race (FNS 101)</li> <li>• Disaster Food Stamp Benefit Issuance Report (FNS 292-B)</li> </ul>
Valid QC Sampling Process **	<p>What is the State’s process? Can this be validated in Pilot?</p> <p>QC process operates 100% normally, with payment accuracy results statistically comparable to pre-conversion results in the pilot area. (At least 2 months of valid QC samples have been successfully pulled from pilot cases. At least 1 month of sample has been reviewed for payment accuracy.)</p> <p><u>Valid Sampling info</u></p> <ol style="list-style-type: none"> <li>a. Does the sample pull from the right frame and include all SNAP beneficiaries, negative actions (terminations, denials, suspensions for the specific month in question (effective)?)</li> <li>b. Does the sampling capture only SNAP beneficiaries for the specific month in question (specific)?</li> <li>c. Does the sampling exclude most non-reviewable negative actions for the specific month in question?</li> </ol> <p><u>Representative</u></p> <ol style="list-style-type: none"> <li>a. Is the sampling a normal representative of the frame?</li> <li>b. Are there no systemic or otherwise biases?</li> </ol> <p><u>Reliable</u></p> <ol style="list-style-type: none"> <li>a. Is the Universe preserved for at least 3 years?</li> <li>b. Can the sampling be reproduced at any given time (audit, ME review)?</li> </ol>

Program Related Areas	
Required Criteria	General Standard, Metric or Target
Valid QC Sampling Process ** (continued)	<p><u>Reporting requirements:</u></p> <ul style="list-style-type: none"> <li>a. Does the active sample list provide the information needed for QC to review the case; specifically, case number, name, and SNAP allotment for the sample month?</li> <li>b. Does the negative sample list provide the information needed for QC to review the case; specifically, case number, name, type of negative action and data of that action?</li> <li>c. Are monthly reports of frame sizes and sample sizes, for active and negative frames, provided, along with the interval and random start points used?</li> </ul>
RO/HQ QC read only access to Eligibility system *	Per SNAP-Fiscal Year (FY) 2017 Quality Control Procedural Clarifications and Federal Access to State Systems QC Policy Memo 17-01, RO and HQ staff have read-only user roles with access limited to SNAP information only.
Duplicate Issuances **	<p>What is the State’s process to prove that there are not any duplicate issuances occurring?</p> <p>What are the edits in the system to prevent duplicate issuances?</p>
Black-out period **	Are there any times when all systems will be offline? If so, for how long and what is the plan for continuity of operations to ensure processing standards are met?

System Related Areas	
Required Criteria	General Standard, Metric or Target
Live Pilot **	Requirement to conduct a “live” production pilot in accordance with 7 CFR 277.18.
Statewide Implementation	Provide the State’s plan for statewide implementation.
Testing Goals achieved and associated severity levels and definitions *	Statement of status based on State’s testing goals to include: <ul style="list-style-type: none"> <li>• The number of test scenarios completed</li> <li>• The number of defects by severity level</li> <li>• Definition of each severity level</li> </ul>
Software Defect Status *	Table of outstanding system defects by severity level, including any that would impact SNAP.  Defect tracking and prioritization in line with industry standards and identified in Test Plan. For example: <ul style="list-style-type: none"> <li>• No outstanding critical defects</li> <li>• Minimal outstanding medium category defects with plans in place to fix</li> <li>• All critical Business processes are working</li> <li>• All test results recorded and approved</li> <li>• UAT or Pilot test summary report documented and approved</li> </ul>
Deferred Defects and Deferred Functionality *	Provide a list of deferred defects and any deferred functionality. Include a list of Interim Business Processes (IBP), or workarounds for FNS review that will be used after “Go-Live” until a fix is in place. Any outstanding defect at “Go-Live” that materially impacts the SNAP eligibility process must have a successful tested IBP in place.
Data Conversion: Conversion for UAT and conversion before pilot. If rolled out incrementally, conversion for each wave. *	Describe the conversion process and include testing conversion rate and minimum necessary threshold for success.
Post-Conversion Clean-up	An assessment of workload impact to determine the amount of cleanup necessary as part of implementation and timeframes set to accomplish. Describe the post conversion clean-up activities and the impact on workload/resources (i.e. percent of cases affected times the average amount of time to clean-up the data per case).

System Related Areas	
Required Criteria	General Standard, Metric or Target
Total cases proposed and total cases processed during Pilot **	<p>Pilot caseload = ____percent of statewide caseload.</p> <p>Pilot caseload should replicate statewide diversity of cases. Provide statistics identifying diversity of case types across programs. Describe the process which ensures the pilot reaches a state of routine operation with the full caseload in the pilot area.</p>
Site Readiness *	<p>Provide Site Readiness criteria and completion checklist or statement of validation assuring readiness.</p> <p>Examples of site readiness could include:  All locations: software (i.e. browser),wiring completed; high speed internet proven at full user volume and velocity with no outages; hardware set-up validated at all workstations; scanning equipment at full volume, client information materials distributed/posted; user “quick reference” guides at all workstations; help desk phone number at all workstations, etc.</p>
System Performance and Capacity Testing **	<p>Identify the strategy for addressing any degradation to performance as the system moves from UAT through Statewide rollout. Provide system performance and user response time validation process and results.</p>
Interface Testing and Acceptance (Interface validation report) **	<p>Interface validation report. All “trading partners” attest that interfaces are working successfully, including live, real-time data transfers. In addition, a letter from the EBT processor that all testing and validation of interfaces is complete with no known issues.</p>
System Security fully tested **	<p>System security fully tested according to State Security Plan and any Federal regulations that apply.</p>
QA/IV&V or other system status ratings *	<p>The QA and/or IV&amp;V vendor (or state equivalent) report/ratings must be submitted and will be used in the FNS go/no-go decision process.</p>