

CONTRACT #C000657

BETWEEN

THE NEW YORK STATE OFFICE OF INFORMATION TECHNOLOGY SERVICES

AND

DELOITTE CONSULTING LLP

This Contract is between New York State by its designee, the NYS Office of Information Technology Services ("ITS" or "State"), with offices at the Swan Street Building, Empire State Plaza, Albany, New York, and Deloitte Consulting LLP ("DC" or "Contractor") with offices at 111 Washington Avenue, Suite 500, Albany, New York 12210, collectively referred to as the "Parties."

WHEREAS, on November 7, 2019, the State issued Request for Proposals ("RFP") RFP C000540 – IES System Integrator Master Services Agreement to obtain the services of several responsive, responsible, and qualified contractors to provide system integration services on a per lot basis, as more fully described in the RFP, for the benefit of the New York State's Integrated Eligibility System ("IES") Program initiative as part of a Master Service Agreement ("MSA"); and

WHEREAS, the RFP created a two-tiered process where the first tier established the MSA, otherwise known as this contract, and in the second tier, the State would issue a competitive Tier II Assignment ("Assignment") to the awarded contractors for system integration services such Assignment awards to be based on best value; and

WHEREAS, in response to the RFP, Contractor submitted a Proposal received on February 10, 2020 ("Contractor's Proposal"); and

WHEREAS, Contractor's Proposal was evaluated by the State and selected as a winning proposal for Lot 1, Lot 2, Lot 3, and Lot 4.

NOW THEREFORE, in consideration of the foregoing, the Parties hereby agree as follows:

1. CONTRACT

The Contract between the Parties consists of the following documents listed below in the following order of precedence:

- (i) Appendix A – Standard Clauses for All New York State Contracts;
- (ii) This contract document setting forth the final agreement between the Parties;
- (iii) ITS's Responses to Submitted Questions dated December 31, 2019;
- (iv) Appendix C – ITS Terms and Conditions, including Appendix C-1 – Contractor's Insurance Requirements;
- (v) ITS Request for Proposals Number C000540, including all appendices, attachments, exhibits, and any and all modifications or clarifications thereto;
- (vi) The Statement of Work resulting from the award of the Tier II Assignment;
- (vii) Tier II Assignments issued by ITS pursuant to this Contract;
- (viii) Contractor's responses to the Tier II Assignments;
- (ix) Contractor's clarification(s) received on February 18, 2020 and March 23, 2020; and
- (x) Contractor's Proposal received on February 10, 2020.
- (xi) Vend Rep

The State rejects all other Extraneous Terms submitted by Contractor not expressly accepted herein.

2. CONTRACT TERM

The term of the Contract shall be five (5) years with three (3) one (1) year optional extension periods. The Contract shall take effect and commence upon the approval of the Contract by the New York State Office of the State Comptroller (“OSC”).

3. NOT-TO-EXCEED HOURLY RATES

Contractor’s not-to-exceed hourly rates must adhere to those submitted in Contractor’s Proposal subject to the provisions of Section 14 of Appendix C – ITS Terms and Conditions. Contractor’s not-to-exceed hourly rates may only be modified as set forth in Section 14 of Appendix C.

4. CONTRACT PAYMENTS AND INVOICING

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 and, if applicable, Food and Nutrition Services (FNS) Go Decision and any other required federal approval or certification for system go-live;
- 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, any required federal approvals or certifications for federal financial participation in the funding of system operations and maintenance based on a federal assessment of system performance or stability post-go-live;
- 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.

All invoices must reference the contract number. Contractor agrees to submit all invoices via email to the Office of General Services – Business Services Center at: accountspayable@ogs.ny.gov. Invoices must include the invoice number and the name of the agency being billed in the subject field.

All invoices must contain: (1) Contractor’s Statewide Financial System (SFS) vendor number; (2) invoice number; (3) invoice date; (4) NYS Office of Information Technology Services as the agency being billed; (5) NYS purchase order number. Additionally, invoices for Project Deliverables must be for actual hours worked and also include each consultant’s name, title, hourly rate, and number of hours worked in support of deliverables being invoiced for. ITS will provide the Contractor with a sample invoice for guidance in preparing the Contractor’s invoice for Project Deliverables.

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IN WITNESS WHEREOF, this Contract has been duly executed on the date and year set out below.

NYS OFFICE OF INFORMATION
TECHNOLOGY SERVICES

DELOITTE CONSULTING LLP

By: Dennis J. Quinn
Name: Dennis J. Quinn
Title: Director of Contracts
Date: August 5, 2020

By: [Redacted]
Name: David A. Buck
Title: Principal
Date: July 10, 2020

CORPORATE ACKNOWLEDGMENT
STATE OF Columbia)
COUNTY OF Frazer) ss.: Tm 211
On the 10th day of July in the year 2020, before me personally appeared: David A. Buck, known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that his/her place of business is at 111 Washington Ave. Suite 500, Town/City of Albany, County of Albany, State of New York; and further that he is a Principal of Deloitte Consulting LLP, the corporation described in said instrument; that, by authority of the Board of Directors of Deloitte Consulting LLP, he is authorized to execute the foregoing instrument on behalf of Deloitte Consulting LLP for purposes set forth therein; and that, pursuant to that authority, s/he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.

[Signature]
Notary Public John P. [Redacted]
My Commission Expires 31, 2021

APPROVED AS TO FORM:
NYS OFFICE OF THE ATTORNEY GENERAL
By: _____
Title: _____
Date: _____

APPROVED:
NYS OFFICE OF THE STATE COMPTROLLER
By: _____
Title: _____
Date: _____

APPROVED
DEPT. OF AUDIT & CONTROL
Oct 07 2020
Melissa Taub
FOR THE STATE COMPTROLLER

AMENDMENT NO. 1

TO

CONTRACT #C000657

BETWEEN

THE NEW YORK STATE OFFICE OF INFORMATION TECHNOLOGY SERVICES

AND

DELOITTE CONSULTING LLP

This Amendment No. 1 to State Contract No. C000657 is between New York State by its designee, the NYS Office of Information Technology Services ("ITS" or "State"), with offices at the Swan Street Building, Empire State Plaza, Albany, New York, and Deloitte Consulting LLP ("Deloitte" or "Contractor") with offices at 111 Washington Avenue, Suite 500, Albany, New York 12210, collectively referred to as the "Parties."

WHEREAS, on October 1, 2020, the State entered into State Contract No. C000657 (Contract) with Deloitte as a result of Deloitte being awarded a contract pursuant to ITS Request for Proposals No. C000540 - IES System Integrator Master Services Agreement (RFP) which was to obtain the services of several responsive, responsible, and qualified contractors to provide system integration services on a per lot basis, as more fully described in the RFP, for the benefit of the New York State's Integrated Eligibility System ("IES") Program initiative as part of a Master Service Agreement ("MSA"); and

WHEREAS, Section 4 of the Contract clarified certain language in Section 14 of Appendix C to the RFP regarding the withholding of fifteen percent (15%) of all invoices and how such withheld monies would be released following a certain schedule; and

WHEREAS, the Parties have agreed to amend Section 4 of the Contract to permit the State to make determinations as to the schedule of release of withheld monies in the Tier II Assignment.

NOW THEREFORE, in consideration of the foregoing, the Parties hereby agree as follows:

1. CONTRACT PAYMENTS AND INVOICING

Section 4 of the Contract, entitled *Contract Payment and Invoicing*, is hereby deleted in its entirety and replaced with the following:

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 a schedule to be specified in the Tier II Assignment.

All invoices must reference the contract number. Contractor agrees to submit all invoices via email to the Office of General Services – Business Services Center at: accountspayable@ogs.ny.gov. Invoices must include the invoice number and the name of the agency being billed in the subject field.

All invoices must contain: (1) Contractor's Statewide Financial System (SFS) vendor number; (2) invoice number; (3) invoice date; (4) NYS Office of Information Technology Services as the agency being billed; (5) NYS purchase order number. Additionally, invoices for Project Deliverables must be for actual hours worked and also include each consultant's name, title, hourly rate, and number of hours worked in support of deliverables being invoiced for. ITS will provide the Contractor with a sample invoice for guidance in preparing the Contractor's invoice for Project Deliverables.

2. CONTRACT

All other terms and conditions of the Contract not specifically amended by this Amendment No. 1 remain unchanged and shall continue in full force and effect. Except as specifically provided herein, this Contract may not be changed, altered or modified except by a written agreement signed by both Parties and approved by both the New York State Office of the Attorney General and the New York State Office of the State Comptroller.

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AMENDMENT NO. 2

TO

CONTRACT #C000657

BETWEEN

THE NEW YORK STATE OFFICE OF INFORMATION TECHNOLOGY SERVICES

AND

DELOITTE CONSULTING LLP

This Amendment No. 2 to State Contract No. C000657 is between New York State by its designee, the NYS Office of Information Technology Services ("ITS" or "State"), with offices at the Swan Street Building, Empire State Plaza, Albany, New York, and Deloitte Consulting LLP ("Deloitte" or "Contractor") with offices at 111 Washington Avenue, Suite 500, Albany, New York 12210, collectively referred to as the "Parties."

WHEREAS, on October 1, 2020, the State entered into State Contract No. C000657 ("Contract") with Contractor as a result of Contractor being awarded a contract pursuant to ITS Request for Proposals No. C000540 - IES System Integrator Master Services Agreement (RFP) which was to obtain the services of several responsive, responsible, and qualified contractors to provide system integration services on a per lot basis, as more fully described in the RFP, for the benefit of the New York State's Integrated Eligibility System ("IES") Program initiative as part of a Master Service Agreement ("MSA"); and

WHEREAS, Contractor, as a result of potentially providing system integration services under the MSA, may have access to Federal Tax Information ("FTI"), it is necessary to add language from Exhibit 7 to the U.S. Internal Revenue Service's ("IRS") Publication 1075, which was revised in December 2021, to the Contract; and

WHEREAS, the Parties have agreed to add a Section 5 to the Contract incorporating the IRS's Publication 1075's Exhibit 7 regarding the safeguarding of FTI to which the Contractor may have access.

NOW THEREFORE, in consideration of the foregoing, the Parties hereby agree as follows:

1. SAFEGUARDING FEDERAL TAX INFORMATION

The Parties hereby agree to add Section 5 of the Contract, entitled *Safeguarding Federal Tax Information*, to be read as follows:

5. SAFEGUARDING FEDERAL TAX INFORMATION

I. PERFORMANCE

In performance of this Contract, the Contractor agrees to comply with and assume responsibility for compliance by Contractor Staff with the following requirements:

- (1) All work will be performed under the supervision of the Contractor.
- (2) The Contractor and Contractor Staff to be authorized access to Federal Tax Information (FTI) must meet the background check requirements defined in IRS Publication 1075. The Contractor will maintain a list of Contractor Staff authorized access to FTI. Such list will be provided to ITS and, upon request, to the IRS.
- (3) FTI made available in any format shall be used only for the purpose of carrying out the provisions of this Contract. FTI in any format shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this Contract. Inspection by or disclosure of FTI to anyone other than the Contractor or Contractor Staff authorized is prohibited.

(4) All FTI will be accounted for upon receipt and properly stored before, during, and after processing. In addition, any related output and products will be given the same level of protection as required for the source material.

(5) The Contractor will certify that the FTI processed during the performance of this Contract will be completely purged from all physical and electronic data storage with no output to be retained by the Contractor at the time the work is completed. If immediate purging of physical and electronic data storage is not possible, the Contractor will certify that any FTI in physical or electronic storage will remain safeguarded to prevent unauthorized disclosures.

(6) Any spoilage or any intermediate hard copy printout that may result during the processing of FTI will be given to ITS. When this is not possible, the Contractor will be responsible for the destruction of the spoilage or any intermediate hard copy printouts and will provide ITS with a statement containing the date of destruction, description of material destroyed, and the destruction method.

(7) All computer systems receiving, processing, storing, or transmitting FTI must meet the requirements defined in IRS Publication 1075. To meet functional and assurance requirements, the security features of the environment must provide for the managerial, operational, and technical controls. All security features must be available and activated to protect against unauthorized use of and access to FTI.

(8) No work involving FTI furnished under this Contract will be subcontracted without prior written approval of the IRS.

(9) Contractor will ensure that the terms of FTI safeguards described herein are included, without modification, in any approved subcontract for work involving FTI.

(10) To the extent the terms, provisions, duties, requirements, and obligations of this Contract apply to performing services with FTI, the Contractor shall assume toward the subcontractor all obligations, duties and responsibilities that ITS under this Contract assumes toward the Contractor, and the subcontractor shall assume toward the Contractor all the same obligations, duties and responsibilities which the Contractor assumes toward ITS under this Contract.

(11) In addition to the subcontractor's obligations and duties under an approved subcontract, the terms and conditions of this Contract apply to the subcontractor, and the subcontractor is bound and obligated to the Contractor hereunder by the same terms and conditions by which the contractor is bound and obligated to ITS under this Contract.

(13) ITS will have the right to void the Contract if the Contractor fails to meet the terms of FTI safeguards described herein.

II. CRIMINAL/CIVIL SANCTIONS

(1) Each Contractor Staff of a Contractor to whom FTI is or may be disclosed shall be notified in writing that FTI disclosed to such Contractor Staff can be used only for a purpose and to the extent authorized herein, and that further disclosure of any FTI for a purpose not authorized herein constitutes a felony punishable upon conviction by a fine of as much as \$5,000 or imprisonment for as long as 5 years, or both, together with the costs of prosecution.

(2) Each Contractor Staff of a Contractor to whom FTI is or may be accessible shall be notified in writing that FTI accessible to such Contractor Staff may be accessed only for a purpose and to the extent authorized herein, and that access/inspection of FTI without an official need-to-know for a purpose not authorized herein constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as \$1,000 or imprisonment for as long as 1 year, or both, together with the costs of prosecution.

(3) Each Contractor Staff of a Contractor to whom FTI is or may be disclosed shall be notified in writing that any such unauthorized access, inspection or disclosure of FTI may also result in an award of civil damages against the Contractor Staff in an amount equal to the sum of the greater of \$1,000 for each unauthorized access, inspection, or disclosure, or the sum of actual damages sustained as a result of such unauthorized

access, inspection, or disclosure, plus in the case of a willful unauthorized access, inspection, or disclosure or an unauthorized access/inspection or disclosure which is the result of gross negligence, punitive damages, plus the cost of the action. These penalties are prescribed by IRC sections 7213, 7213A and 7431 and set forth at 26 CFR 301.6103(n)-1.

(4) Additionally, it is incumbent upon the Contractor to inform its Contractor Staff of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of their employment or official position, has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.

(5) Granting a contractor access to FTI must be preceded by certifying that each Contractor Staff understands ITS's security policies and procedures for safeguarding FTI. The Contractor and Contractor Staff must maintain their authorization to access FTI through annual recertification of their understanding of ITS's security policy and procedures for safeguarding FTI. The initial certification and recertifications must be documented and placed in the ITS's files for review. As part of the certification and at least annually afterwards, the Contractor and each Contractor Staff must be advised of the provisions of IRC sections 7213, 7213A, and 7431 (see Exhibit 4, *Sanctions for Unauthorized Disclosure*, and Exhibit 5, *Civil Damages for Unauthorized Disclosure*). The training on ITS's security policies and procedures provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches (See Section 10). For the initial certification and the annual recertifications, the Contractor and each Contractor Staff must sign, either with ink or electronic signature, a confidentiality statement certifying their understanding of the security requirements.

III. INSPECTION

The IRS and ITS, with 24 hour notice, shall have the right to send its inspectors into the offices and plants of the Contractor to inspect facilities and operations performing any work with FTI under this Contract for compliance with requirements defined in IRS Publication 1075. The IRS' right of inspection shall include the use of manual and/or automated scanning tools to perform compliance and vulnerability assessments of information technology (IT) assets that access, store, process, or transmit FTI. Based on the inspection, corrective actions may be required in cases where the Contractor is found to be noncompliant with FTI safeguard requirements.

2. CONTRACT

All other terms and conditions of the Contract not specifically amended by this Amendment No. 2 remain unchanged and shall continue in full force and effect. Except as specifically provided herein, this Contract may not be changed, altered or modified except by a written agreement signed by both Parties and approved by both the New York State Office of the Attorney General and the New York State Office of the State Comptroller.

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IN WITNESS WHEREOF, this Amendment No. 2 has been duly executed on the date and year set out below.

NYS OFFICE OF INFORMATION TECHNOLOGY SERVICES

DELOITTE CONSULTING LLP

By: [Signature]

By: [Redacted]

Name: Shaun Katz

Name: DAVID A. BUCK

Title: Director, Vendor Sourcing and Management

Title: PRINCIPAL

Date: May 10, 2022

Date: MAY 7, 2022

CORPORATE ACKNOWLEDGMENT

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.:

On the 7th day of May in the year 2022, before me personally appeared: DAVID A. BUCK, known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that his/her place of business is at 111 WASHINGTON AVENUE, ALBANY Town/City of NEW YORK, County of ALBANY, State of NEW YORK; and further that s/he is the PRINCIPAL of DELOITTE CONSULTING, the corporation described in said instrument; that, by authority of the Board of Directors of DELOITTE, s/he is authorized to execute the foregoing instrument on behalf of DELOITTE CONSULTING for purposes set forth therein; and that, pursuant to that authority, s/he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.

LESLIE ALWADISH
Notary Public, State of New York
NO. 01AL4852847
Qualified in New York County
Commission Expires Feb. 10, 2026

[Signature]

Notary Public

APPROVED AS TO FORM:

NYS OFFICE OF THE ATTORNEY GENERAL

By: _____
Title: _____
Date: _____

APPROVED:

NYS OFFICE OF THE STATE COMPTROLLER

By: _____
Title: _____
Date: _____

APPROVED
DEPT. OF AUDIT & CONTROL

May 13 2022
Hannah Czyzewski

FOR THE STATE COMPTROLLER