

# New York State Office of the State Comptroller

## Bid Request – Cloud

**Bid Request Title:** Valid8 Government Agency 'Medium' Case Package

**Bid Number:** 25P-05BR

Office of the State Comptroller  
110 State Street  
Albany, NY 12236

| DESIGNATED CONTACTS                                   |               |                                                      |
|-------------------------------------------------------|---------------|------------------------------------------------------|
| Name                                                  |               | Email                                                |
| Sarah Palmo-Manning                                   | Nicole Hudson | <a href="mailto:pifb@osc.ny.gov">pifb@osc.ny.gov</a> |
| Michael Wilson, Jr.                                   |               |                                                      |
| Susanne George Morehouse                              | Corey Geis    |                                                      |
| FORMAL NOTICE CONTACT                                 |               |                                                      |
| Jeremy Disare<br>Director of Financial Administration |               | <a href="mailto:pifb@osc.ny.gov">pifb@osc.ny.gov</a> |

### Calendar of Events

| Event                       | Date       | Time        |
|-----------------------------|------------|-------------|
| Release Date                | 11/24/2025 | N/A         |
| Submission of Questions Due | 12/01/2025 | 4:00 PM EST |
| Responses to Questions Due  | 12/08/2025 | 4:00 PM EST |
| Bid Due Date                | 12/16/2025 | 4:00 PM EST |

OSC will not be held liable for any cost incurred by the vendor for work performed in the preparation of a response to this Bid Request or for any work performed prior to the issuance of the Purchase Order. Responses to the Bid Request must be received by the Bid Due Date specified above.

### A. Overview

The New York State Office of the State Comptroller (“**OSC**”) is seeking best and final quotes for a cloud solution manufactured by Valid8 Financial, Inc. (“**Valid8**”). OSC will make one award to the Bidder offering the lowest price that meets the technical requirements specified in this Bid Request. Upon issuance of the Purchase Order, the selected Bidder will become the “**Contractor**.”

OSC and Valid8 have entered into a service agreement that governs, among other things, OSC's access to the cloud solution, service levels, security and data privacy, service warranties, and the parties' rights and responsibilities (the “**Master Services Agreement**”). The Purchase Order agreement resulting from this Bid Request (the “**Agreement**”) will be subject to the terms of this Master Services Agreement. The Master Services Agreement will be made available to the selected Bidder before issuance of a Purchase Order.

### B. Scope

The Contractor shall provide OSC with the following products:

| Manufacturer | Description                             | Quantity | Term                                            |
|--------------|-----------------------------------------|----------|-------------------------------------------------|
| Valid8       | Government Agency 'Medium' Case Package | 100      | 12 Months<br>(from date of receipt of licenses) |

### **C. Questions**

All communication regarding this Bid Request or its specifications must be in writing and submitted by email to [pifb@osc.state.ny.us](mailto:pifb@osc.state.ny.us).

Bidders are strongly encouraged to submit questions as early as possible. However, all questions must be submitted by the Submission of Questions Due date and time listed in the Calendar of Events on the cover page of this Bid Request. Answers to all questions of a substantive nature will be provided to all Bidders who received this Bid Request in the form of a question and answer document.

### **D. OSC Terms and Conditions**

1. Every offer is firm and not revocable for a period of 120 days from the date of bid submission.
2. OSC reserves the right to purchase all or some of the products and services listed in Section B (Scope).
3. OSC reserved the right to modify this request or choose not to award when it is in the best interest of OSC.
4. By submitting a quote, you are agreeing to comply with all provisions of NYS Appendix A, Standard Clauses for New York State Contracts.
5. OSC rejects all extraneous terms that conflict with NYS Appendix A that have not been expressly accepted as part of the Agreement resulting from this Bid Request.

### **E. License Delivery**

The Contractor shall electronically deliver licenses to OSC at: [asset\\_management@osc.ny.gov](mailto:asset_management@osc.ny.gov).

### **F. Payment and Invoicing**

1. A one-time payment will be made after confirmation of renewal of services.
2. OSC will compensate the Contractor in the ordinary course of OSC business upon receipt of the Contractor's invoice. Approved invoices will be paid in accordance with Article 11-A of the New York State Finance Law.
3. All invoices must include the following information:
  - a. OSC's Purchase Order number, Contractor's taxpayer identification number, and Contractor's New York State Vendor Identification Number; and
  - b. A detailed activity report outlining the description of services provided.
4. All invoices are subject to OSC's acceptance of the Services for which billing is being made and are to be submitted via email to [APFinance@osc.ny.gov](mailto:APFinance@osc.ny.gov).

### **G. Entire Agreement**

The Agreement will include the following documents:

1. This Bid Request;
2. The Master Services Agreement;
3. Appendix A – Standard Clauses for all OSC Contracts;
4. Appendix C – OSC Policy Statement on Discrimination/Harassment;
5. Appendix D – Executive Order on Procurement Integrity;

6. Appendix E – Proposer’s Certifications/Acknowledgements;
7. Appendix F – OSC Proposer Disclosure of Prior Non-Responsibility Determinations; and
8. Your response to this Bid Request

#### **H. Instructions for Submitting a Bid**

1. OSC will not accept any Bids received after the Bid Due Date indicated on the cover page of this Bid Request. OSC will not consider such Bids for contract award.
2. Attachment 1- Cloud Solution Financial Response form must be used to submit pricing, or the bid submission will be deemed non-responsive and will be disqualified from consideration.
3. Bids must be submitted by email to [pifb@osc.ny.gov](mailto:pifb@osc.ny.gov) and include the following:
  - a. **Signed and completed** page 4 of this Bid Request;
  - b. Attachment 1 – Cloud Solution Financial Response form;
  - c. **Completed and signed** Appendix E – Contractor’s Certifications/Acknowledgements; and
  - d. **Completed and signed** Appendix F - Disclosure of Prior Non-Responsibility Determinations

Optional Forms – Bidders are encouraged to submit the following forms with their bid:

- ST-220 CA (see ST-220 CA, Contractor Certification to Covered Agency, Section
- E, 4, below),
- Proof of Workers’ Compensation and
- Proof of Disability Benefits Coverage

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## Contractor Information

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                           |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------|
| <b>This Page must be completed by the Bidder Responding to the Bid Request</b>                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                           |
| <b>Bidder's Certification/Acknowledgement of Bid Request Requirements:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                           |
| <b>[Note: alteration of any language contained in this section may render your bid non-responsive.]</b>                                                                                                                                                                                                                                                                                                                                                                                                             |                                                           |
| The Bidder certifies that its bid constitutes a firm and irrevocable offer for a period of <u>120</u> days from the date of submission to OSC.                                                                                                                                                                                                                                                                                                                                                                      | <input type="checkbox"/> Yes <input type="checkbox"/> No* |
| The Bidder certifies that it can and will provide and make available, at a minimum, all services as described in the Bid Request if selected for award.                                                                                                                                                                                                                                                                                                                                                             | <input type="checkbox"/> Yes <input type="checkbox"/> No* |
| The Bidder certifies that its staff provided to perform Services possess the necessary integrity and professional capacity to meet OSC's reasonable expectations.                                                                                                                                                                                                                                                                                                                                                   | <input type="checkbox"/> Yes <input type="checkbox"/> No* |
| The Bidder certifies that all information provided in connection with its bid is true and accurate.                                                                                                                                                                                                                                                                                                                                                                                                                 | <input type="checkbox"/> Yes <input type="checkbox"/> No* |
| The Bidder has included in its offering all the products listed in Section B (Scope).                                                                                                                                                                                                                                                                                                                                                                                                                               | <input type="checkbox"/> Yes <input type="checkbox"/> No* |
| <b>* A "No" Response in the Bidder's Certification section above will result in disqualification.</b>                                                                                                                                                                                                                                                                                                                                                                                                               |                                                           |
| <p><i>The Bid Request Response must be fully and properly executed by an authorized person. By signing you certify your express authority to sign on behalf of yourself, your company, or other entity and full knowledge and acceptance of this Bid Request (including any Questions/Answers or addenda), and that all information provided is complete, true and accurate. Quotes received by Bid Request due date/time are binding and non-retractable for 120 days or as stipulated in the Bid Request.</i></p> |                                                           |
| <p><b>Please complete, sign and submit this form with your bid. By signing, you certify your express authority to sign on behalf of yourself, your company and other entity with full knowledge and acceptance of this Bid Request, including any Appendices, Questions/Answers or addenda.</b></p>                                                                                                                                                                                                                 |                                                           |
| <b>Contractor Name</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                           |
| <b>NYS Contract Number (if applicable)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                           |
| <b>Contact</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                           |
| <b>Contact Phone Number</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                           |
| <b>Email Address</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                           |
| <b>Signature</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                           |
| <b>Date</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                           |

## APPENDIX A

### STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

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

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

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

3. **COMPTROLLER'S APPROVAL.** In accordance with Section 112 of the State Finance Law, if this contract exceeds \$50,000 (or \$75,000 for State University of New York or City University of New York contracts for goods, services, construction and printing, and \$150,000 for State University Health Care Facilities) 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, either for itself or its customer agencies by the Office of General Services Business Services Center, is required when such contracts exceed \$85,000. Comptroller's approval of contracts established as centralized contracts through the Office of General Services is required when such contracts exceed \$125,000, and when a purchase order or other procurement transaction issued under such centralized contract exceeds \$200,000.

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, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status or because the individual has opposed any practices forbidden under the Human Rights Law or has filed a complaint, testified, or assisted in any proceeding under the Human Rights Law. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform

the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

**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 and Technology Development  
625 Broadway  
Albany, New York 12245  
Telephone: 518-292-5100

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

NYS Department of Economic Development  
Division of Minority and Women's Business Development  
633 Third Avenue 33<sup>rd</sup> Floor  
New York, NY 10017  
646-8467364  
Email: [mwbebusinessdev@esd.ny.gov](mailto:mwbebusinessdev@esd.ny.gov)  
<https://ny.newnycontracts.com/FrontEnd/searchcertifieddirectory.asp>

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

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority- and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

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

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

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

**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 May 2023, 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 899-bb and State Technology Law § 208).

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

**24. PROCUREMENT LOBBYING.** To the extent this agreement is a “procurement contract” as defined by State Finance Law §§ 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/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.

June 2023

## **APPENDIX C**

### **OSC POLICY STATEMENT ON DISCRIMINATION AND HARASSMENT, INCLUDING SEXUAL HARASSMENT**

#### **DISCRIMINATION AND HARASSMENT**

It is the policy of the Office of the State Comptroller ("OSC") to provide a workplace that is free of discrimination and harassment based on race, color, sex (including sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender), creed or religion, age, national origin, disability, marital status, military or veteran status, predisposing genetic characteristics, domestic violence victim status or any other classification protected by state or federal law, rule or regulation or executive order.

Discrimination is defined as the failure or refusal to hire, promote, or train an individual or treat that individual equally with respect to compensation, terms, conditions or privileges of employment because of that individual's membership in any one of the above classes. Harassment based upon a person's membership in any of the above classes is included within the definition of discrimination.

In keeping with its policies, OSC reaffirms that it will not tolerate such discrimination or harassment in its workplace and that it will take appropriate action to prevent and stop the occurrence of such conduct in its workplace. OSC employees and any third parties who interact with OSC employees in the workplace are expected to avoid any behavior or conduct that could be interpreted as discrimination/harassment based on membership in any of the above classes.

Examples of conduct that may constitute harassment based upon membership in one of the above classes include, but are not limited to:

- kidding or teasing related to membership in, or characteristic of one of the above classes, such as laughing at or mimicking someone's physical or mental impairment, foreign accent, etc.;
- using ethnic or racial slurs;
- conduct that denigrates or shows hostility toward an individual because of protected class status, and that has the purpose or effect of creating an intimidating, hostile or offensive environment; and
- telling jokes that belittle a member or members of one of the above classes.

#### **SEXUAL HARASSMENT**

Sexual harassment, a form of discrimination, is defined as unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex when:

- such conduct is made either explicitly or implicitly a term or condition of employment;
- submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment; or
- such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment, even if the complaining individual is not the intended target of the sexual harassment.

Examples of sexual harassment include, but are not limited to, sexual innuendo; suggestive comments; sexually-oriented kidding, teasing or practical jokes; jokes about gender-specific traits; jokes about sexual orientation, or perceived masculinity or femininity of individuals; foul or obscene language or gestures; display of foul, obscene or sexually suggestive printed or visual material; physical conduct such as touching or patting; sexually-oriented email or phone mail messages; suggestive or obscene letters, notes, or invitations; inappropriate discussions of a person's physical appearance; or unwelcome gifts and attention.

A perpetrator of harassment can be a superior, subordinate, co-worker or anyone in the workplace, including an independent contractor, contract worker, vendor, client, customer or visitor.

Questions about what behavior constitutes discrimination or harassment, including sexual harassment, or requests for OSC Executive Orders and policies on such matters may be directed to the OSC Division of Diversity Management at (518) 473-1368.

## **APPENDIX D**

### **OSC EXECUTIVE ORDER ON PROCUREMENT INTEGRITY**

Whereas, it is the policy of the Office of the State Comptroller (OSC) and the New York State Common Retirement Fund (CRF) to procure goods and services in a fair, equitable and open manner and to protect the procurement process from improper influences; and

Whereas, procurement lobbying activities must be monitored and documented to assure the integrity of the procurement process;

Now, therefore, I, Thomas P. DiNapoli, Comptroller of the State of New York, in consideration of the foregoing, do hereby order as follows;

1. **Applicability.** This executive order applies to determinations by OSC or CRF to award a contract for the acquisition of any goods, services, or information technology. Decisions to invest or disinvest CRF assets in securities, properties, or other investment vehicles, and selections of investment advisors or managers whose services are integral to the administration of CRF investments, remain subject to the Comptroller's fiduciary responsibility to administer the CRF prudently to increase and preserve CRF assets on behalf of its beneficiaries. In addition, selection of counsel to represent the CRF in transactional, investment or litigation matters remain subject to the Comptroller's fiduciary responsibilities. Although such CRF investment decisions and selections are not subject to this executive order, they shall be made in a fair and equitable manner, in accordance with the Comptroller's fiduciary responsibilities.
2. **General Counsel.** The General Counsel shall have general responsibility for the prevention of improper influence relative to all procurement contracts awarded by OSC or CRF. The General Counsel shall form such committees or draw upon OSC staff as needed to fulfill this responsibility.
3. **Procedural Controls.** The General Counsel shall develop, in consultation with the executive staff of OSC, procedural controls in the form of written Procurement Integrity Procedures. Such procedures shall:
  - a. require that decisions made on the award of procurement contracts shall be made in accordance with Article 11 of the State Finance Law, free from any improper influence;
  - b. require that any OSC employee who has direct knowledge of any improper influence or attempted improper influence shall immediately make a record of the improper influence or attempted improper influence relating to a bid, proposal or a procurement contract and notify the General Counsel or appropriate Division of Legal Services staff designated by the General Counsel;
  - c. prohibit contact relating to a bid or proposal, during the procurement process, between all OSC personnel involved in the determination of the procurement contract award and any employee, agent, or consultant of a bidder or proposer competing for the contract, except for contacts authorized by the procedures established pursuant to this executive order;
  - d. establish procedures for appropriate contacts between OSC personnel involved in the determination of a procurement contract award and the employees, agents or consultants of a bidder or proposer for the purpose of clarifying a bid or proposal. Such authorized contacts shall only be for the purpose of providing information to OSC personnel to assist them in understanding and assessing the qualities, characteristics and anticipated performance of a product or service offered by a bidder or proposer, and shall occur only at such times and in such manner as have been authorized by the procedures established pursuant to this executive order;

- e. provide for appropriate contacts between OSC personnel and the employees, agents or consultants of a proposer for the purpose of negotiating contract terms after the evaluation of bids or proposals and selection of a contractor have been completed;
  - f. establish a process for the review by the General Counsel of any allegations of improper influence or attempted improper influence, and for the imposition of sanctions if such improper activity has been found to exist.
- 4. Incorporation of Procedural Controls in Contract Documents. The Procurement Integrity Procedures required by this executive order shall be incorporated into all OSC and CRF procurement solicitations and contracts.
  - 5. Periodic Review. The General Counsel shall periodically review the Procurement Integrity Procedures with OSC personnel in order to ascertain potential areas of exposure to improper influence and to adopt desirable revisions for more effective avoidance of improper influences.
  - 6. Sanctions. Any OSC employee who violates the Procurement Integrity Procedures may be subject to disciplinary action. Any vendor who violates the Procurement Integrity Procedures may be found to be a non-responsible vendor, and on the basis of such finding, may be ineligible to receive a contract award.

\_\_\_\_\_/s/\_\_\_\_\_  
Thomas P. DiNapoli  
Comptroller, State of New York

Last Revised Date: March 14, 2007  
Original Date: February 14, 2002

## OSC PROCUREMENT INTEGRITY PROCEDURES

In order to ensure that procurements of goods or services<sup>1</sup> by the Office of the State Comptroller (OSC) or the Common Retirement Fund (CRF) are conducted in a fair, equitable and open manner, the procedures set forth below shall apply to the procurement process.

The General Counsel to the Comptroller shall have general responsibility for the prevention of improper influence relative to all procurement contracts awarded by OSC or CRF.

A copy of these Procurement Integrity Procedures will be given to every OSC employee, consultant, or other person assigned to any task related to an OSC or CRF procurement. A copy of these procedures will be incorporated into every Request for Information (RFI), Request for Proposals (RFP) or Invitation for Bids (IFB) issued by OSC or CRF.

Any OSC employee who violates these procedures may be subject to disciplinary action, such as a reprimand, suspension, demotion, or dismissal. Any vendor who violates these procedures may, after notice and an opportunity to be heard, be determined to be a non-responsible vendor, and on the basis of such a determination may be ineligible to receive a contract award.

Every reasonable effort will be made to assure compliance with these procedures, but a minor deviation from these procedures that does not impair the fairness and integrity of the procurement process will not require the invalidation of a contract award.

1. OSC employees must provide every interested vendor<sup>2</sup> with an equal opportunity to compete. No information may be given to one vendor without being made available to all other interested vendors. Vendors should be asked to submit every substantive question<sup>3</sup> concerning the procurement in writing not later than the date specified by OSC for such questions; and a copy of each question, together with OSC's written answer, should be supplied to all interested vendors and included in the procurement record.
2. Unless otherwise directed by the General Counsel to the Comptroller, OSC's Assistant Comptroller for Administration or a designee will serve as the coordinator for all procurement-related contacts between OSC personnel and vendor personnel. All telephone calls, correspondence, and meeting requests must be routed to: Assistant Comptroller for Administration, Office of the State Comptroller, 110 State Street – 13<sup>th</sup> Floor, Albany, NY 12236, telephone: (518) 474-7574, Fax: (518) 473-9377, Email: [RFP@osc.state.ny.us](mailto:RFP@osc.state.ny.us). OSC's Assistant Comptroller for Administration, or a designee, will maintain a record of all such contacts.
3. A vendor may not exert or attempt to exert any improper influence<sup>4</sup> relating to the vendor's bid

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<sup>1</sup> These procedures apply to determinations by OSC or CRF to award a contract for the acquisition of any goods, services, or information technology, except that they do not apply to (i) decisions to invest or disinvest CRF assets in securities, properties, or other investment vehicles, (ii) selections of investment advisors or managers whose services are integral to the administration of CRF investments, and (iii) selection of counsel to represent the CRF in transactional, investment or litigation matters. Such CRF investment decisions and selections remain subject to the Comptroller's fiduciary responsibilities, and are to be made in a fair and equitable manner in accordance with those responsibilities.

<sup>2</sup> For the purposes of these procedures, the term "interested vendor" means a person or firm that has received or requested a Request for Information (RFI), an RFP, or an IFB issued by OSC or CRF.

<sup>3</sup> For the purposes of these procedures, the term "substantive question" means an inquiry concerning a material requirement of the procurement process, such as a technical specification or a financial prerequisite. The term does not apply to ministerial matters, such as the time and place or manner of submitting a bid or proposal.

<sup>4</sup> For the purposes of these procedures, the term "improper influence" means any attempt to achieve preferential, unequal, or favored consideration of a bid or proposal based on considerations other than the merits of the proposal, including but not limited to, any conduct prohibited by the Ethics in Government Act, as set forth in Public Officers Law sections 73 and 74.

or proposal. Any OSC employee who has direct knowledge of any improper influence or attempt to exert an improper influence concerning a procurement contract shall immediately make a record of the improper influence or attempted improper influence and notify the General Counsel to the Comptroller. The General Counsel to the Comptroller shall thereupon cause an investigation to be made and shall recommend such action, if any, as may be necessary.

4. Unless otherwise directed by the General Counsel to the Comptroller, OSC's Assistant Comptroller for Administration or a designee will be responsible for approving and scheduling all contacts between OSC employees and vendor personnel concerning procurements.
5. Vendors are expected to obtain information relating to an OSC or CRF procurement only from an OSC employee or other person designated by OSC. Vendors who seek information from other sources are cautioned that they rely on such information at their own risk.
6. Every IFB and RFP shall require vendors to identify in their bids or proposals the persons authorized to represent the vendor by name, address, telephone number, place of principal employment and occupation. This requirement applies not only to vendor employees involved in the submission of the vendor's bid or proposal but also to every individual or organization employed or designated by the vendor to attempt to influence the procurement process<sup>5</sup>. If, after submission of a bid or proposal, a vendor retains an individual or organization to attempt to influence the procurement process, then the name, address, telephone number, place of principal employment and occupation of such individual or organization shall be disclosed in writing to OSC or CRF prior to any contact with OSC or CRF and such disclosure shall be included in the procurement record. IFBs and RFPs shall require that vendors indicate in their bids or proposals or subsequent disclosures whether each contact individual or organization has a financial interest in the procurement.
7. All contacts between OSC personnel and vendor personnel during which a procurement-related matter is discussed in any way must be by telephone, in writing, or in person at the place of business of OSC or the vendor or at a place designated by OSC. Written documentation of all such discussions must be filed by the Assistant Comptroller for Administration or designee in the procurement record.
8. During the procurement process no lunch, dinner, or other meal shall be accepted by a member of the OSC staff from an interested vendor, except that a presentation, interview or similar session occurring at the place of business of OSC or a vendor or at a place designated by OSC may include a refreshment break.
9. The evaluations of competing bids or proposals and the recommendations and deliberations of OSC evaluation or selection committees shall be based solely on the merits of the bids or proposals, free from any improper influence.
10. Prior to the public release by OSC or CRF of an Invitation for Bids (IFB) or Request for Proposals (RFP), no OSC employee may disclose the contents of any portion of an IFB or RFP to any person not employed by OSC or any other person not authorized by the Assistant Comptroller for Administration or designee unless such disclosure is specifically authorized by the Assistant Comptroller for Administration, who shall only authorize such disclosure if he or she determines that such disclosure will not impair the fairness and integrity of the procurement process.

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<sup>5</sup> For the purposes of these procedures, the term "attempt to influence the procurement process" means any attempt to influence any determination by OSC or CRF by a person other than an OSC employee with respect to (i) the solicitation, evaluation or award of a procurement contract; or (ii) the preparation of specifications or request for submissions of bids or proposals for a procurement contract.



11. The evaluation of competing bids or proposals shall be conducted strictly in accordance with the detailed evaluation and selection procedures documented in the procurement record prior to the initial receipt and opening of the bids or proposals. The Assistant Comptroller for Administration or a designee shall issue the detailed evaluation and selection procedures to the members of the evaluation and selection committees prior to the distribution of the bids or proposals to the committee members for evaluation.
12. During the evaluation and selection phases of the procurement process, no OSC employee may disclose any part of a bid or proposal to any other person, except that (i) a member of an evaluation or selection committee may discuss a proposal with another member of the same committee, and (ii) a member of an evaluation or selection committee may disclose a proposal or a portion of a proposal to a person assigned to assist in the evaluation or selection process, as described below.
13. With the approval of the Assistant Comptroller for Administration or designee, evaluation or selection committees may appoint OSC employees or other experts to provide supporting services or information to assist in the evaluation of proposals and the selection of a contractor.
14. At the discretion of the Assistant Comptroller for Administration or a designee, any person to whom a bid or a proposal or a portion of a bid or a proposal is disclosed may be required to comply with a written non-disclosure or confidentiality agreement setting forth the terms and conditions under which such person is entrusted with the bid or proposal or portion thereof.

October 11, 2011