

**STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER**



REQUEST FOR PROPOSALS

RFP0006

BOND CREDIT RATINGS

ISSUED: JUNE 27, 2025

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1.0 CALENDAR OF EVENTS

<u>EVENT</u>	<u>DATE</u>
Issuance of Request for Proposals	June 27, 2025
Deadline for Submission of Written Questions	July 21, 2025 4:00 p.m. ET
Responses to Written Questions Posted (on or about)	August 4, 2025
Deadline for Submission of Proposals	August 25, 2025 4:00 p.m. ET
Anticipated Start of Interviews (if determined to be necessary)	October 23, 2025
Anticipated Commencement of Work	January 26, 2026

2.0 EXECUTIVE OVERVIEW

2.1. Purpose

Through this Request for Proposals (“RFP”), the New York State Office of the State Comptroller (“OSC”) is seeking competitive proposals from qualified firms (“Proposers”) to provide credit rating services in connection with future issuances of State General Obligation (“GO”) bonds, bond anticipation notes, and tax and revenue anticipation notes (collectively referred to hereafter as “GO Bonds”, or individually as a “GO Bond”) as further detailed in Section 4.0 (Services). Through this RFP, OSC intends to select between one to four firms that are qualified nationally-recognized statistical rating organizations (“NRSRO”) for inclusion in the State’s Qualified NRSROs Pool (the “Pool”).

For the purpose of this RFP, the term “State” and “OSC” are used interchangeably to refer to the State Comptroller on behalf of the State.

2.2. Overview

The State Comptroller is authorized to issue all forms of State GO Bonds pursuant to Article 5, Sections 55, 56 and 57 of the State Finance Law (“SFL”). As of March 31, 2025, the State’s GO Bond portfolio consisted of 17 series of fixed rate bonds with an outstanding principal amount of \$2.27 billion.

Further information regarding the financial condition of the State is included in its most recent Annual Information Statement, as updated and/or supplemented thereto, posted by the Division of the Budget at <https://www.budget.ny.gov/investor/ais/ALTaccessAgree2.html>.

OSC anticipates five GO Bond issuances during the five-year period of the contract resulting from this RFP, with an estimate of one transaction each year that may range between \$300 and \$500 million in par value. These estimates are provided for context only. By submission of proposals in response to this RFP, Proposers acknowledge and understand that the State reserves the right to limit the number of participants from the Pool for any GO Bond sale, and that selection pursuant to this RFP does not guarantee that a Proposer’s services will be used on any particular GO Bond sale. OSC’s engagement of a member of the Pool for a specific transaction is at the sole discretion of OSC.

Payment under any contract resulting from this RFP (the “Agreement” or the “Contract”) may be dependent upon an appropriation and availability of proceeds to the State resulting from the completion of a debt issuance.

2.3. State Qualified NRSRO Pool

As noted above, OSC intends to select a maximum of four qualified NRSROs for inclusion in the Pool.

For each GO Bond transaction requiring a credit rating, OSC will issue a solicitation to each member of the Pool, providing a brief description of the GO Bond issuance including the total par amount. Each member of the Pool will have up to three business days from the date of the solicitation to respond and provide its current or most recent rating of New York State GO credit and its bond rating fee for the proposed transaction. The proposed fee must not exceed the fee cap from the Pool member's Cost Proposal.

OSC will rank the solicitation responses received using the current or most recent rating of New York State GO credit, from highest to lowest, as the first criteria; and using the bond rating fee to rank responses within the same GO credit rating, from lowest to highest, as the second criteria. For example:

	NYS GO Credit Rating	Bond Rating Fee (example purpose only)
Pool Firm A	AA+	\$5,000
Pool Firm B	AA	\$1,000
Pool Firm C	AA	\$2,000
Pool Firm D	AA	\$3,000

OSC will choose members from the Pool to provide a credit rating for a specific GO Bond transaction based on the above ranking example. (In the event of a tie, OSC will choose the member from the pool who responded first). The number of Pool members selected to rate a specific GO Bond transaction will be decided by OSC upon evaluation of current market factors in consultation with OSC's financial advisor(s). OSC expects to use at least two ratings for each GO Bond transaction.

2.4. Term of the Agreement

The term of the agreement(s) resulting from this RFP ("Agreement" or "Contract") will be effective from the date of contract approval by OSC's Bureau of Contracts and will continue for five years thereafter with respect to all GO Bonds issued during that period (the "Initial Period"). If the selected Proposer has provided a GO Bond rating for a variable rate GO Bond during the Initial Period, its Agreement will continue in effect until none of those variable rate GO Bonds are outstanding.

2.5. Important Information

This RFP sets forth the terms and conditions and all applicable information required for submission of a proposal. Proposers should pay strict attention to the Deadline for Submission of Proposals in Section 1.0 (Calendar of Events) to prevent disqualification. To ensure compliance with these requirements and to prevent possible disqualification, Proposers should follow and comply with the requirements and instructions contained in this document, including the following:

- A.** Appendix A (Standard Clauses for New York State Contracts) must be attached to every State contract, **without change or amendment**. By submitting a response to this RFP, Proposers agree to comply with all the provisions of Appendix A.
- B.** Appendix D (OSC Executive Order on Procurement Integrity and the OSC Procurement Integrity Procedures) impacts the procurement and Proposers are encouraged to read and understand these procedures before drafting their proposals.
- C.** Attachment F (Draft Contract) Proposers are encouraged to review Attachment F (Draft Contract), including all appendices, as the Proposer must be willing to enter into a contract substantially in accordance with the

terms of Attachment F should the Proposer be selected for contract award. The State may consider limited and reasonable modifications to the Draft Contract in alignment with industry standards, so long as such proposed modifications do not reduce any of the State's rights and protections or increase the State's obligations. The State has no obligation to accept any such proposed modifications and reserves all rights to reject any proposed changes. OSC cannot waive statutory requirements or limitations. No proposed modifications will be incorporated into the final contract unless expressly accepted by OSC in writing. The State prefers that Proposers submit such proposed modifications to the Draft Contract as an attachment to the Administrative Proposal (see Section 6.1 Administrative Proposal).

3.0 MINIMUM QUALIFICATIONS TO PROPOSE

Proposers must meet the following Minimum Qualifications in order to be eligible to submit a proposal:

- A. The Proposer must be registered with the U.S. Securities and Exchange Commission ("SEC") as a NRSRO.
- B. The Proposer must have a minimum of five years' experience providing bond credit ratings to state-level municipal bond issuers.
- C. The Proposer must have provided at least three bond credit ratings to state-level municipal bond issuers for issuances with a par amount of \$300 million or greater within the last five years prior to the due date of proposals in response to this RFP.
- D. The Proposer and its proposed staff to be assigned to this engagement must only perform services from within the United States.

OSC will eliminate from consideration any Proposer that fails to meet these Minimum Qualifications.

4.0 SERVICES

The following municipal credit rating services ("Services") must be provided by the selected Proposer.

NOTE: Proposers will be required to provide responses that address all requirements of this Section as part of their Technical Proposals.

- A. Gather and organize all necessary financial documents, historical data, and other relevant information (including the preliminary official statement) needed to provide a GO Bond credit rating for a requested transaction.
- B. Prepare a comprehensive report or press release detailing the assigned credit rating, the rationale behind the assigned rating, key financial metrics, and any relevant risk factors.
- C. Provide the State with a pre-publication rationale for the assigned credit rating for fact-checking and accuracy purposes.
- D. Identify and assess potential risks that could impact the State's creditworthiness, including recommendations for mitigating identified risks.
- E. Provide the necessary staff to successfully carry out the requirements set forth in this RFP, including assigning a lead person to be the primary contact with OSC.

5.0 ADMINISTRATIVE INFORMATION

The following administrative information applies to this RFP. Failure to comply fully with this information may result in the disqualification of your proposal.

5.1. Procurement Integrity and Restrictions on Communication

This procurement is subject to, and will be conducted in accordance with, the OSC Executive Order on Procurement Integrity and OSC Procurement Integrity Procedures attached to this RFP as Appendix D, which:

- (i) Require a Proposer to make contact only with the OSC Director of Finance or designee(s) ("Contracting Officer"); and
- (ii) Prohibit a vendor from exerting or attempting to exert any improper influence relating to its proposal. "Improper influence" means any attempt to achieve preferential, unequal, or favored consideration of a 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 §§73 and 74.

All inquiries concerning this procurement must be addressed to the Contracting Officer, via email (preferred) to RFP@osc.ny.gov or via hard copy mail to:

Director of Finance
Questions for RFP0006 Bond Credit Ratings
Office of the State Comptroller
110 State Street, Stop 13-2
Albany, NY 12236-0001

During the "restricted period" as defined below, no Proposer-initiated contact with any OSC official shall be permitted regarding this procurement, except as provided herein. This prohibition applies to any oral, written, or electronic communication under circumstances where a reasonable person would infer that the communication was intended to influence this procurement. Violation of any of the requirements described in this Section 5.1 may be grounds for a determination that the Proposer is non-responsible and therefore ineligible for this contract award. Two violations within four years of the rules against impermissible contacts during the restricted period may result in the violator being debarred from participating in an OSC procurement for a period of four years.

"Restricted period" means the period of time commencing with the earliest written notice, advertisement, or solicitation of a Request for Proposals, Invitation for Bids, or solicitation of proposals, or any other method for soliciting a response from Proposers intending to result in a procurement contract with OSC and ending with the final contract award by OSC or, where applicable, final contract approval by the OSC Bureau of Contracts.

5.2. Questions and Clarifications

There will be an opportunity available for submission of written questions and requests for clarification with regard to this RFP. All questions and requests for clarification must be submitted via email (preferred) or by hard copy mail to the Contracting Officer as indicated in Section 5.1 (Procurement Integrity/Restrictions on Communication), no later than the Deadline for Submission of Written Questions as specified in Section 1.0. Questions received after the deadline may not be answered.

Requests for clarifications of contract language contained in Attachment F (Draft Contract) must be addressed at this time.

NOTE: It is the Proposer's responsibility to ensure that hard copy mail or email containing written questions and/or requests for clarification is received at the above address no later than the Deadline for Submission of Written Questions as specified in Section 1.0.

The comprehensive list of questions and responses will be posted to the OSC website on the date specified in Section 1.0 and notice of such posting will be distributed by email to all vendors known to OSC who have received electronic access to this RFP prior to the date of posting. The list of questions and responses will not identify the vendors submitting the questions; those vendors will remain anonymous to the extent allowed by law.

5.3. Right to Modify RFP

OSC reserves the right to modify any part of this RFP, including but not limited to, the date and time by which proposals must be submitted and received by OSC, at any time prior to the Deadline for Submission of Proposals listed in Section 1.0. OSC will post RFP modifications to the OSC website at www.osc.state.ny.us/procurement/index.htm. Only the OSC website will contain the modifications to the procurement documents, including the Responses to Written Questions (see Section 5.2 Questions and Clarifications). OSC will send an email to all potential Proposers known to OSC notifying them of the modifications.

Proposers should review the OSC website prior to submission of a proposal to ensure that they have all the information required to submit a complete and responsive proposal. Failure to comply fully with this information may result in disqualification of your proposal. It is the Proposer's responsibility to become aware of any such modifications prior to submission of its proposal.

If a Proposer discovers any ambiguity, conflict, discrepancy, omission, or other error in this RFP, the Proposer must immediately notify OSC (See Section 5.1) of such error in writing and request clarification or modification of the document. If, prior to the Deadline for Submission of Proposals, a Proposer fails to notify OSC of a known error or an error that reasonably should have been known, the Proposer shall assume the risk of proposing. If awarded the contract, the Proposer shall not be entitled to additional compensation by reason of the error or its correction.

OSC also reserves the right to cancel this RFP, in whole or in part, and to reject any and all proposals.

5.4. Equal Employment Opportunity ("EEO") Reporting

In addition to the requirements stated in Appendix A, Clause 12 (Equal Employment Opportunities for Minorities and Women), and to ensure complete compliance with such requirements (and with the Article and the Regulations adopted pursuant thereto), the Proposer must submit Form AC 3239-A (Contractor's/Subcontractor's EEO Staffing Plan of Anticipated Workforce) with its proposal and further, each selected Proposer must submit on a semi-annual basis Form AC 3239-B (Contractor's/Subcontractor's EEO Workforce Utilization Report) attached as Appendix B.

5.5. Service-Disabled Veteran-Owned Businesses

Article 3 of the Veteran's Service Law establishes a program to encourage State agencies to foster the use of service-disabled veteran-owned businesses ("SDVOBs") on State contracts. OSC expects Proposers to make good faith efforts to solicit active participation by New York State certified SDVOBs in the performance of the Contract. Such participation may be as partners, joint venturers, subcontractors, suppliers, protégés or other roles. SDVOBs can be readily identified on the directory of certified businesses at:

<https://online.ogs.ny.gov/SDVOB/search>

Proposers are reminded that they must continue to use small, minority and women-owned businesses consistent with current New York State law.

5.6. Sales and Compensating Use Tax Certification (Tax Law, §5-a)

Tax Law §5-a requires contractors awarded State contracts for commodities or services valued at more than \$100,000 over the full term of the contract to certify to the New York State Department of Taxation and Finance ("DTF") that they are registered to collect New York State and local sales and compensating use taxes, if they made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000, measured over a specific period of time. The registration requirement applies if the contractor made a cumulative total of more than \$300,000 in sales during the four completed sales tax quarters which immediately precede the sales tax quarter in which the certification is made. Sales tax quarters are June – August, September – November, December – February, and March – May. In addition, contractors must certify to DTF 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. Contractors must also certify to the procuring state entity that they filed the certification with the DTF and that it is correct and complete.

The selected Proposer must file a properly completed Form ST-220-CA (with OSC as the Contracting Agency) and Form ST-220-TD (with the DTF). These requirements must be met before a contract may take effect. Further information can be found at the DTF's website, available through this link: www.tax.ny.gov/pdf/publications/sales/pub223.pdf. Forms are available through these links:

- ST-220 CA: http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf
- ST-220 TD: http://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf

5.7. Workers' Compensation, Disability, and Paid Family Leave Benefits Certifications

Sections 57 and 220 of the New York State Workers' Compensation Law ("WCL") provide that the State shall not enter into any contract unless proof of workers' compensation, disability, and paid family leave benefits insurance coverage is produced. Prior to entering into a contract with OSC, the selected Proposer must verify, on forms authorized by the New York State Workers' Compensation Board, the fact it is properly insured or is otherwise in compliance with the insurance provisions of the WCL. The forms to be used to show compliance with the WCL are listed below. Any questions relating to workers' compensation, disability, or paid family leave benefits coverage should be directed to the New York State Workers' Compensation Board, Bureau of Compliance at (866) 298-7830. Failure to provide verification of any of these types of insurance coverage by the time the Contract is ready to be executed will be grounds for disqualification of an otherwise successful Proposal.

The selected Proposer must submit the following documentation upon notification of selection for award:

A. Proof of Workers' Compensation Coverage:

Upon notification of award, the selected Proposer must submit **ONE** of the following forms as workers' compensation documentation:

- i. Form C-105.2 – Certificate of Workers' Compensation Insurance issued by private insurance carrier (or Form U-26.3 issued by the State Insurance Fund); or
- ii. Form SI-12 – Certificate of Workers' Compensation Self-Insurance (or Form GSI-105.2 Certificate of Participation in Workers' Compensation Group Self-Insurance); or
- iii. Form CE-200 – Certificate of Attestation of Exemption from New York State Workers' Compensation Coverage.

B. Proof of Disability and Paid Family Leave Benefits Coverage:

Upon notification of award, the selected Proposer must submit **ONE** of the following forms as disability documentation:

- i. Form DB-120.1 – Certificate of Insurance Coverage – Disability and Paid Family Leave Benefits Law; or
- ii. Form DB-120.2 – Certificate of Participation in Disability or Disability and Paid Family Leave Benefits Group Self-Insurance; or
- iii. Form DB-155 – Certificate of Self-Insurance Coverage – Disability and Paid Family Leave Benefits Law; or
- iv. Form CE-200 – Certificate of Attestation of Exemption from New York State Disability and Paid Family Leave Benefits Coverage.

Further information is available at the Workers' Compensation Board's website, which can be accessed through this link: <http://www.wcb.ny.gov>.

List the Name and Address of the Entity Requesting Proof of Coverage on the Worker's Compensation, Disability and Paid Family Leave Benefits certifications as:

NYS Office of the State Comptroller
ATTN: Bureau of Finance
110 State Street, Mail Stop 13-2
Albany, NY 12236

5.8. OSC's Reserved Rights

OSC reserves all rights with respect to this procurement, including, but not limited to the right to:

- A. Cancel the procurement, reject any and all proposals received in response to this RFP, award more than one contract, or choose to make no award.

- B. Prior to opening of proposals, amend the RFP to correct errors or oversights, or to change any of the scheduled dates, or to supply additional information, as it becomes available. Modifications to the RFP will be made by issuance of amendments and/or addenda issued in accordance with Section 5.3 (Right to Modify RFP).
- C. Prior to opening of proposals, direct Proposers to submit proposal modifications addressing RFP amendments or addenda.
- D. Waive any immaterial deviation or defect in a proposal. A waiver of immaterial deviation or defect shall in no way modify the RFP documents or excuse the Proposer from full compliance with the RFP requirements.
- E. Waive any requirements that are not material, or eliminate any mandatory, non-material requirements that cannot be complied with by all prospective Proposers.
- F. Reject any proposal that contains false or misleading statements, or that provides references that do not support an attribute, condition, or qualification claimed by the Proposer.
- G. Correct any arithmetical errors in any proposal and, if the fees or costs in two or more proposals are not comparable, make appropriate adjustments to render the fees and costs comparable.
- H. Require a Proposer to clarify its proposal to assure a full understanding of the proposal and to request revisions to all proposals from vendors susceptible of award of the contract. Any request for clarification or revision is solely at the discretion of OSC.
- I. Use in the evaluation process any information obtained through interviews and OSC's investigation of a Proposer's qualifications, experience, ability or financial standing, and any material or information submitted by the Proposer in response to OSC's request for clarifying information.
- J. Rescind a preliminary contract award and proceed to the next highest-scoring Proposer if a signed contract does not result from good faith negotiations with OSC within a reasonable period of time as determined by OSC.
- K. Proceed to the next highest-scoring Proposer if the Proposer who had achieved best value prior to contract award cannot satisfy the requirements as stated in this RFP.

5.9. Freedom of Information Law

All proposals are subject to disclosure in accordance with the requirements of the New York State Freedom of Information Law ("FOIL"). Accordingly, upon submission of its proposal, Proposer is encouraged to clearly and specifically indicate any portion of its proposal believed to be a trade secret or the disclosure of which would cause substantial injury to the Proposer's competitive position, and submit a written statement of the necessity for protective treatment by OSC. Blanket assertions are insufficient. Upon receipt of a FOIL request for such records, OSC will grant or deny access in accordance with the law.

5.10. State Ethics Law Provision

By submitting a proposal, the person signing the proposal certifies, for and on behalf of the Proposer, that:

- A. The person signing has read and understands the provisions applicable to post-employment restrictions affecting former New York State officers and employees, available using the link¹ below:
 - i. Public Officers Law §73(8)(a)(i), (the two-year bar); and

¹ Click on this link: [Public Officers Law, Article 4](#). When the page opens, click on "Laws" in the menu bar at the top of the page, then "Laws of New York." On the next page, select "PBO Public Officers." When this page opens, select "Article 4 – (60 - 79) POWERS AND DUTIES OF PUBLIC OFFICERS" and choose Sections 73 (8-a)(i) and 73 (8-a)(ii).

- ii. Public Officers Law §73(8)(a)(ii), (the lifetime bar);
- B. Submission of the proposal does not violate either provision;
- C. The person signing is familiar with the Proposer's employees, and its agents;
- D. No violation shall occur by entering into a contract or in performance of the contractual services;
- E. This certification is material to the proposal; and
- F. The person signing understands that OSC intends to rely on this certification.

The Proposer must fully disclose to OSC, within its proposal and on a continuing basis, any circumstances that could affect its ability to comply with the cited laws. Proposers must address any questions concerning these provisions to:

Commission on Ethics and Lobbying in Government
540 Broadway
Albany, NY 12207
Telephone #: (518) 408-3976

5.11. Debriefings

Consistent with New York State Finance Law §163(9)(c), any Proposer not selected for an award may, within 15 calendar days of release of OSC's written or electronic notice that such proposal is unsuccessful, request a debriefing to discuss the reason(s) that the proposal submitted by the unsuccessful Proposer was not selected for an award.

A debriefing request must be in writing and must be submitted to the Contracting Officer in accordance with Section 5.1.

A Proposer will be accorded fair and equal treatment with respect to its opportunity for debriefing. OSC will schedule the debriefing within a reasonable time after receipt by the Bureau of Finance of the Proposer's written request.

5.12. Protests

Any interested party may file a protest concerning the contract award with OSC's Director of Finance at the above address within 10 business days from the date of the notice of the contract award, except that any protest concerning the terms and conditions of the solicitation (or other matters that would be apparent to an interested party prior to the date set in this RFP for the receipt of proposals) must be filed on or before the date set in this RFP for the receipt of proposals. OSC's Contract Award Protest Procedure may be accessed by using this link: <https://www.osc.state.ny.us/files/state-agencies/pdf/xi-17-att-2.pdf>.

5.13. Background Investigations

The selected Proposer must conduct background investigations on its employees [and by the Selected Proposer's affiliates and subcontractors on their employees] who will have access to OSC's IT systems, access to OSC or State confidential information, or routine access to any OSC facility. For the purposes of this paragraph, "routine access" is defined as access to an OSC facility for five consecutive business days or 10 business days over the annual term of the engagement. ("Covered Staff").

At a minimum, background investigations must include a review/evaluation of the following:

- Social Security Number or national identity number search, as applicable;
- verification of U.S. citizenship or legal immigration status, where appropriate, to verify employment eligibility;
- criminal history check/court records (Federal, state and local for the past five years), as permitted under applicable law;

- work experience/history (for the past five years); and
- pertinent education/professional credentials.

The selected Proposer must undertake such background investigation of any new or replacement Covered Staff. OSC has the right to review the results of the background investigation and its supporting documentation upon request; selected Proposer must therefore obtain staff consent to such review. OSC reserves the right to conduct its own background investigation of the selected Proposer's Covered Staff.

5.14. Staff

The selected Proposer must assign a person to oversee the delivery of the Services. OSC has final approval of any staff furnished to provide Services and may refuse to approve any staff member(s) based on its review of the staff member's responsibility to perform the required Services. OSC reserves the right to bar anyone from access to OSC's premises and/or access to OSC's information. Subsequent to the commencement of Services, whenever the Proposer becomes aware, or reasonably should have become aware, that any staff providing Services to OSC no longer possesses the necessary integrity or professional capacity, the Proposer must immediately discontinue the use of such staff and notify OSC.

6.0 PROPOSAL CONTENT

The following describes the required format and information to be provided by each Proposer. All Proposers are required to submit complete Administrative, Technical, and Cost proposals. A proposal that is incomplete in any material respect will be rejected.

To expedite review of the proposals, Proposers are requested to submit proposals in separate Administrative, Technical, and Cost packages and submit attachments in the order shown in Attachment B (Proposal Documents Checklist). This separation of information will facilitate the review of the material requested. No information beyond that specifically requested is required, and Proposers are requested to keep their submissions to the shortest length consistent with making a complete presentation of qualifications. However, the Technical Response Form should not exceed 15 pages excluding responses to questions A4 (List of state-level bond issuances for which you have provided bond credit ratings) and B1 (Key Personnel Experience). Additional information, if submitted, should be in a separate package. Proposals must contain sufficient information to assure OSC of their accuracy.

Evaluations of the Administrative, Technical, and Cost Proposals received in response to this RFP will be conducted separately. **Proposers are therefore cautioned not to include any Cost Proposal information in the Administrative or Technical Proposal documents.**

OSC will not be responsible for expenses incurred in preparing and submitting the Administrative, Technical, or Cost Proposals. Such costs should not be included in the Proposal.

6.1. Administrative Proposal

The Administrative Proposal should contain all requirements listed below. Information and forms requested should be provided in the prescribed format and in the same order in which they are requested. Responses that are incomplete or that do not follow the prescribed format may be eliminated from consideration. All responses to the RFP will be subject to verification for accuracy. **Cost information must not be included in the Administrative Proposal documents.**

A. Equal Employment Opportunity (EEO) Reporting

- i. Submit a copy of the Proposer's EEO Policy Statement, as described in Clause 12 of Appendix A.
- ii. Submit a completed and signed Form AC 3239-A attached to this RFP as part of Appendix B (Proposer's EEO Staffing Plan of Anticipated Workforce), which should document the workforce to be used on the Contract entered into as a result of this procurement, broken down by specified ethnic background, gender, and federal occupational categories or other appropriate categories specified by OSC. See Section 5.4.

B. Contractor's Certifications/Acknowledgements

Submit a completed and signed Appendix E (Contractor's Certifications/Acknowledgements).

Policies referenced in Appendix E can be found in Appendix C (OSC Policy Statement on Discrimination and Harassment, Including Sexual Harassment) and Appendix D (OSC Executive Order on Procurement Integrity and OSC Procurement Integrity Procedures).

C. Disclosure of Prior Non-Responsibility Determinations

Submit a completed and signed Appendix F (Disclosure of Prior Non-Responsibility Determinations).

D. Vendor Responsibility Questionnaire

Proposers and any subcontractors providing services in excess of \$100,000 must complete, certify, and file a New York State Vendor Responsibility Questionnaire. OSC recommends that vendors file the required Vendor Responsibility Questionnaire online via the State VendRep System: <https://www.osc.ny.gov/state-vendors/vendrep/file-your-vendor-responsibility-questionnaire>.

To enroll for the first time, follow the six-step process outlined on the State VendRep System Checklist: <https://www.osc.state.ny.us/files/vendors/2017-11/vendrep-checklist.pdf>. You will need:

- Vendor Name
- Legal Business Name
- NYS Vendor ID (this is different from a taxpayer ID). If you do not currently have a State Vendor ID, contact the OSC Help Desk at 866-370-4672 or 518-408-4672 and provide your firm's full legal name, tax ID, and contract information.

For assistance with the State VendRep System, or to request a paper copy of the State Vendor Responsibility Questionnaire, contact the OSC Help Desk at 866-370-4672 or 518-408-4672, or by email at ITServiceDesk@osc.ny.gov

E. Freedom of Information Law – Proposal Redactions

While not required, Proposers may submit their written statements of the necessity for claimed proprietary information exceptions at the time of submission of their proposals. See Section 5.9 (Freedom of Information Law).

F. Proposed Modifications to the Draft Contract (if any)

The Proposer should submit proposed modifications to the Draft Contract, if any, in MS Word format with redlined (tracked) changes. Identify the section of the Draft Contract that Proposer proposes to modify and explain why the change is in the best interest of the State. As noted above in Section 5.8, OSC has no obligation to accept any such proposed modifications and reserves all rights to reject any proposed changes.

6.2. Technical Proposal

The purpose of the Technical Proposal is to demonstrate the qualifications, competence, and capacity of the Proposer to perform the Services. The Technical Proposal should address all requirements listed below. Information and forms requested should be provided in the prescribed format and in the same order in which they are requested.

Responses that are incomplete or that do not conform to these instructions may be eliminated from consideration. In addition, a Technical Proposal that is incomplete in any material respect may be eliminated from consideration. All responses to the RFP will be subject to verification for accuracy.

Cost information must not be included in the Technical Proposal documents.

A. Title Page

Submit a Title Page providing the RFP subject and number; the Proposer's name and address, the name, address, telephone number, and email address of the Proposer's contact person; and the date of the proposal.

B. Table of Contents

The Table of Contents should clearly identify all material (by section and page number) included in the proposal.

The proposal should contain an index that cites each tab number in the proposal where the requested information can be found using the tab numbers listed in Attachment B (Proposal Documents Checklist) for the corresponding RFP Section.

C. Proposer's Certified Statements – Attachment A

Submit Attachment A (Proposer's Certified Statements). **Attachment A must be signed by an individual authorized to bind the Proposer contractually.** Indicate the signer's title or position. OSC reserves the right to reject a proposal that contains an incomplete or unsigned Attachment A. Failure to include Attachment A may result in your proposal being considered non-responsive.

D. Technical Response Form

Submit a completed Attachment D (Technical Response Form) which contains information regarding the Proposer's experience, qualifications, and proof of compliance with each of the Minimum Qualifications to Propose stated in Section 3.0.

E. References

Submit references using Attachment E (References) from three clients for whom the Proposer has provided credit rating reports and/or related services. If the Proposer has provided services to any New York State public authority or local government issuer, the entity must be included as one of the references. Provide firm names, addresses, contact names, telephone numbers, and email addresses.

6.3. Cost Proposal

Submit a completed Attachment C (Cost Proposal). The Cost Proposal must comply with the mandatory format and content requirements as detailed in this document and in Attachment C. Failure to comply with the mandatory format and content requirements may result in disqualification.

7.0 PROPOSAL SUBMISSION

Proposals must be received by the date and time indicated for the Deadline for Submission of Proposals as specified in Section 1.0. Proposals received after the Deadline for Submission of Proposals may be rejected.

Administrative, technical, and cost proposals must be clearly labeled and submitted by U.S. Mail or by courier/delivery service (e.g., FedEx, UPS) in separately sealed packages to:

Attn: Director of Finance
Office of the State Comptroller (RFP0006)
110 State Street, Mail Stop 13-2
Albany, NY 12236-0001

IMPORTANT: OSC **strongly encourages** the use of package tracking so as to provide evidence of timely bid submittal if there are mail delivery issues.

Submission of proposals in a manner other than as described in these instructions (e.g., fax, electronic transmission, hand delivery) will not be accepted.

A Proposer may withdraw a proposal at any time before the Deadline for Submission of Proposals by written notification to OSC (see Section 5.1). An authorized agent of the Proposer must sign the notice of withdrawal. The proposal may thereafter be resubmitted, but not after the Deadline for Submission of Proposals specified in Section 1.0. Modification offered in any other manner, oral or written, will not be considered.

7.1. Submission of Proposal Components

The Proposer must submit SEPARATE administrative, technical, and cost proposals, via one of the submittal options identified below.

Note: Documents requiring signature should be signed with an ink pen (i.e., wet signature). OSC will accept scanned copies of wet signed documents. If scanned copies are submitted, Proposers should retain the original proposal documents in their records.

OSC will not accept electronically signed documents.

A. Option #1: USB Flash Drive (Preferred)

The Proposer may submit each of the complete administrative, technical, and cost proposals **as separate files** on a **single** USB flash drive. An acceptable format for the files is unlocked Adobe PDF. OSC prefers that the files be searchable. The files must be representative copies of the original documents, **including signatures**.

Clearly mark the envelope and the USB flash drive as “RFP0006 [Proposer’s name].”

It is the Proposer’s responsibility to ensure that the USB drive is free from malicious software and that the files are accessible and uncorrupted. The Proposer should scan the USB flash drive before submission. OSC will perform a security scan on the USB flash drive before accessing the stored files. If the security scan identifies malicious software, or the files are inaccessible or corrupted, OSC will reject the submission and disqualify the Proposer from further consideration.

Proposers may mitigate the risk associated with submitting via USB flash drive by providing one paper copy of each of the administrative, technical, and cost proposals along with its USB flash drive submission.

- If a Proposer submits a paper copy with its USB submission and OSC is unable to access the proposal files on the USB flash drive, OSC will request a replacement USB drive from the Proposer and use the paper copies to verify the Proposer did not make any revisions to its proposal past the proposal due date.
- In the absence of a paper copy, if OSC is unable to access the proposal files on the USB flash drive, OSC will reject the submission and disqualify the Proposer as stated above.

NOTE: SUBMISSION OF OTHER TYPES OF DATA STORAGE DEVICES WILL NOT BE ACCEPTED.

B. Option #2: Paper

The Proposer may submit paper copies of the complete administrative, technical, and cost proposals as follows:

Administrative Proposal	Submit TWO paper copies.

Technical Proposal	Submit FOUR paper copies.
Cost Proposal	Submit TWO paper copies.

Submit the administrative, technical, and cost proposals in separate sealed envelopes, all of which may be submitted within one proposal package.

If the Proposer elects to submit paper proposals, OSC requests that the Proposer also submit a USB flash drive with scanned copies of the proposals.

Clearly mark the outside envelope of your sealed proposals, each copy, and USB flash drive (if applicable) as "RFP0006 [Proposer's name]."

8.0 EVALUATION PROCESS/CRITERIA

8.1. General Information

OSC will evaluate each proposal based on the "Best Value" concept. This means that the proposal that best "optimizes quality, cost, and efficiency among responsive and responsible offerers" shall be selected for award (State Finance Law, Article 11, §163(1)(j)).

OSC, in its sole discretion, will determine which proposal(s) best satisfies its requirements. OSC reserves all rights with respect to the award. All proposals deemed to be responsive to the requirements of this procurement will be evaluated and scored for technical qualities and cost. Proposals failing to meet the requirements of this document may be eliminated from consideration.

The evaluation process will be conducted in a comprehensive and impartial manner, as set forth herein, by an Evaluation Committee. The Technical Proposal and compliance with other RFP requirements (other than the Cost Proposal) will be weighted **70%** of a proposal's total score and the information contained in the Cost Proposal will be weighted **30%** of a proposal's total score.

Proposers may be requested by OSC to clarify the contents of their proposals. Other than to provide such information as may be requested by OSC, no Proposer will be allowed to alter its proposal or add information, except as provided in Section 5.8.H above, after the Deadline for Submission of Proposals.

8.2. Submission Review

OSC will examine all proposals that are received in a proper and timely manner to determine if they meet the proposal submission requirements, as described in Section 6.0 (Proposal Content) and Section 7.0 (Proposal Submission), and include the proper documentation as stated in this RFP. Proposals that are materially deficient in meeting the submission requirements or that have omitted material documents, in the sole opinion of OSC, may be rejected.

8.3. Technical Evaluation

A Technical Evaluation Committee comprised of OSC staff will review and evaluate all proposals. All proposals will undergo a preliminary technical evaluation to verify Minimum Qualifications to Propose (Section 3.0).

The Technical Evaluation Committee members will independently score each Technical Proposal that meets the submission requirements of this RFP. The individual Committee Member scores will be averaged to calculate the Technical Score for each responsive Proposer.

The technical evaluation is **70%** (up to 70 points) of the final score.

8.4. Cost Evaluation

The Cost Evaluation Committee will review each Cost Proposal for responsiveness to RFP requirements. If a Cost Proposal is found to be non-responsive, that proposal may not receive a cost score and may be eliminated from consideration.

Each proposal that meets the submission requirements, passes the preliminary evaluation, and meets the cost proposal requirements will receive a cost score. The Cost Proposals will be scored based on a maximum cost score of 30 points. The maximum cost score will be allocated to the proposal with the lowest all-inclusive not-to-exceed maximum price. All other responsive proposals will receive a proportionate score based on the relation of their Cost Proposal to the proposals offered at the lowest final cost, using this formula:

Cost points awarded = 30 potential points x (Lowest Cost Proposal / Cost of Proposal Being Evaluated).

The cost evaluation is **30%** (up to 30 points) of the final score.

8.5. Preliminary Composite Score

A preliminary composite score will be calculated by the OSC Finance Office by adding the preliminary Technical Proposal points and the Cost Proposal points. Finalists will be determined based on preliminary composite scores.

8.6. Finalists

The proposals with the four highest preliminary composite scores will be deemed Finalists. Any proposal scoring within ten percent of the fourth highest preliminary composite scoring proposal will also be deemed a Finalist. Finalists may be interviewed at the discretion of the Evaluation Committee. If the Finalists do not include the proposal with the maximum cost score, the cost scores for the Finalists will be re-calculated by awarding the maximum cost score to the Finalist with the lowest combined cost. The remaining Finalists will receive a proportionate score based on the relation of their cost proposal to the proposal of the Finalist with the lowest cost, using the formula in Section 8.4 (Cost Evaluation). The composite scores will be adjusted accordingly.

8.7. Interviews

Interviews, if determined to be necessary, will be held for all Finalists in person at 110 State Street, in Albany, NY or, at the discretion of the Technical Evaluation Committee, by telephone or videoconference. Interviews are anticipated to start the week of the date listed in Section 1.0. Finalists who cannot be contacted via telephone to arrange the interview after three attempts by OSC may be disqualified.

The purpose of an interview is to allow the evaluators to validate the Proposer's experience and qualifications and confirm the Proposer's ability to provide the required services. Proposer's proposed lead staff member as well as any other key personnel (not to exceed six people) should be present and participate in the interview. **No new material will be permitted to be introduced during the interview.**

After the interview, the evaluators may adjust a Proposer's preliminary technical score to reflect their enhanced understanding of the Proposer's experience.

8.8. Reference Checks

The Proposer should submit references using Attachment E (References). At the discretion of the Evaluation Committee, references may be checked at any point during the process.

8.9. Final Composite Score

A Final Composite Score will be calculated by the OSC Finance Office by adding the Final Technical Proposal points, reflecting any adjustments that may result from the interviews, and the Cost Proposal points.

8.10. Award Recommendation

The Technical Evaluation Committee will submit to OSC's Deputy Comptroller for the Office of Budget and Policy Analysis a recommendation for award to the Finalist(s) with the highest composite score(s) whose experience and

qualifications have been verified. If the recommendation is accepted, it will be forwarded to OSC's Finance Office for review. The award recommendation will only become final after approval by the Director of Finance.

A responsibility review and Procurement Integrity review will be required before the award recommendation is final. The Director of Finance will notify the conditionally awarded Proposer(s) and Proposers not awarded. The awarded Proposer(s) will enter into a written Agreement substantially in accord with the terms of Attachment F to provide the required services as specified in this RFP. The resultant contract shall not be binding until fully executed and approved by the New York State Office of the Attorney General and the Office of the State Comptroller's Bureau of Contracts.

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ATTACHMENT A

PROPOSER'S CERTIFIED STATEMENTS

(MANDATORY SUBMISSION: to be completed and included in the Technical Proposal documents)

RFP0006 Bond Credit Ratings
1. Information with regard to the Proposer
A. Provide the Proposer's name, address, and telephone number.
Name:
Address:
City, State, ZIP Code:
Telephone Number (including area code):
B. Provide the name, address, telephone number, and email address of the Proposer's Primary Contact for this proposal.
Name:
Address:
City, State, ZIP Code:
Telephone Number (including area code):
Email Address:
C. Provide the name, address, telephone number, and email address of the person authorized to bind the Proposer contractually, if different from (B).
Name:
Address:
City, State, ZIP Code:
Telephone Number (including area code):
Email Address:

<p>D. In accordance with paragraph 6 of the OSC Procurement Integrity Procedures included in this RFP as Appendix D, provide the name, address, telephone number, email address, place of principal employment and occupation of any person authorized to represent the Proposer. This requirement applies not only to Proposer's employees involved in the submission of the proposal, but also to every individual or organization employed or designated by the Proposer to attempt to influence the procurement process. If there is none, state that. This information must be updated if, after the Deadline for Submission of Proposals, the Proposer retains an individual or organization to attempt to influence the procurement process. Indicate also whether the individual or organization has a financial interest in the procurement.</p>	
Name:	
Address:	
City, State, ZIP Code:	
Telephone Number (including area code):	
Email Address:	
Place of Principal Employment:	
Occupation:	
This individual/organization has a financial interest in the procurement:	<input type="checkbox"/> Yes <input type="checkbox"/> No
No such individual/organization is authorized to represent the Proposer:	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Minimum Qualifications to Propose (Section 3.0):	
A. The Proposer must be registered with the U.S. Securities and Exchange Commission ("SEC") as a NRSRO.	<input type="checkbox"/> Yes <input type="checkbox"/> No
B. The Proposer must have a minimum of five years' experience providing bond credit ratings to state-level municipal bond issuers.	<input type="checkbox"/> Yes <input type="checkbox"/> No
C. The Proposer must have provided at least three bond credit ratings to state-level municipal bond issuers for issuances with a par amount of \$300 million or greater within the last five years prior to the due date of proposals in response to this RFP.	<input type="checkbox"/> Yes <input type="checkbox"/> No
D. The Proposer and its proposed staff to be assigned to this engagement must only perform services from within the United States.	<input type="checkbox"/> Yes <input type="checkbox"/> No
3. Proposer's Acknowledgement of Proposal Requirements: [Note: alteration of any language contained in this section may render your proposal non-responsive.]	
A. The proposal, including the Technical, Administrative, and Cost Proposals, constitutes a firm and irrevocable offer for a period of <u>180</u> days from the date of submission to OSC.	<input type="checkbox"/> Yes <input type="checkbox"/> No
B. By submission of a proposal, the Proposer agrees not to make any claims for or have a right to any damages because of any misrepresentations or misunderstanding of the specifications or because of any lack of information.	<input type="checkbox"/> Yes <input type="checkbox"/> No
C. The Proposer agrees to comply with the OSC Executive Order on Procurement Integrity and OSC Procurement Integrity Procedures attached to this RFP as Appendix D.	<input type="checkbox"/> Yes <input type="checkbox"/> No

D. The Proposer certifies that it can and will provide, at a minimum, all services as described in the RFP if selected for award.	<input type="checkbox"/> Yes <input type="checkbox"/> No
E. The Proposer certifies that staff provided to perform Services possess the necessary integrity and professional capacity to meet OSC's reasonable expectations. Subsequent to the commencement of Services, whenever the Proposer becomes aware, or reasonably should have become aware, that any staff member(s) providing Services no longer possesses the necessary integrity or professional capacity, the Proposer must immediately discontinue the use of such staff and notify OSC.	<input type="checkbox"/> Yes <input type="checkbox"/> No
F. The Proposer certifies that all information provided in connection with its proposal is true and accurate.	<input type="checkbox"/> Yes <input type="checkbox"/> No
G. The Proposer has read, understands, and accepts all provisions of Appendix A (Standard Clauses for New York State Contracts). Appendix A will be incorporated, without change or amendment, into the contract entered into between OSC and the Proposer. By submitting a response to the RFP, the Proposer agrees to comply with all the provisions of Appendix A.	<input type="checkbox"/> Yes <input type="checkbox"/> No
H. The Proposer has reviewed and understands Attachment F (Draft Contract), and the Proposer is willing to enter into an agreement substantially in accord with the terms of Attachment F, should the Proposer be selected for award.	<input type="checkbox"/> Yes <input type="checkbox"/> No
* A "No" Response in Sections 2 or 3 of this attachment will result in disqualification.	
4. Information Required:	
A. The Proposer is (check as applicable):	
<input type="checkbox"/> A New York State Certified Minority-Owned Business Enterprise <input type="checkbox"/> A New York State Certified Woman-Owned Business Enterprise <input type="checkbox"/> A New York State Certified Minority and Woman-Owned Business Enterprise (Dual Certified) <input type="checkbox"/> A New York State Service-Disabled Veteran-Owned Business <input type="checkbox"/> None of the above	
B. Provide the name, title, address, telephone number, and email address of the person authorized to receive notices with regard to the contract to be entered into as a result of this procurement. See Section VII. of the Draft Contract (Attachment F), NOTICES.	
Name:	
Title:	
Address:	
City, State, ZIP Code:	
Telephone Number (including area code):	
Email Address:	
C. Section XI. Contractor's Representations, Warranties, and Covenants of the Draft Contract (Attachment F) states that the Contractor is a [ENTITY FORM] duly organized, validly existing, and in good standing under the laws of the State of [STATE].	
Provide the Entity Form:	
Provide the name of the State:	
D. Proposer's Taxpayer Identification Number:	

E. Proposer's NYS Vendor Identification Number as discussed in Section 6.1.E, if enrolled:
By my signature I affirm under penalty of perjury that I am duly authorized to legally bind the Proposer referenced above and I sign this Attachment A (Proposer's Certified Statements) as the legally binding act of the Proposer.
_____ Typed or Printed Name of Authorized Representative of the Proposer
_____ Title/Position of Authorized Representative of the Proposer
_____ Signature of Authorized Representative of the Proposer
_____ Date

ATTACHMENT B

PROPOSAL DOCUMENTS CHECKLIST

RFP0006 Bond Credit Ratings			
FOR THE ADMINISTRATIVE PROPOSAL			
TAB	RFP §	REQUIREMENT	INCLUDED
1	§6.1.A	M/WBE Participation Requirements:	<input type="checkbox"/>
		The Proposer's EEO Policy Statement, as described in Clause 12 of Appendix A – Standard Clauses for NYS Contracts	<input type="checkbox"/>
		Form AC3239-A – Proposer's EEO Staffing Plan of Anticipated Workforce	<input type="checkbox"/>
2	§6.1.B	Appendix E – Contractor's Certifications/Acknowledgements, completed and signed	<input type="checkbox"/>
3	§6.1.C	Appendix F – Disclosure of Prior Non-Responsibility Determinations, completed and signed	<input type="checkbox"/>
4	§6.1.D	Vendor Responsibility Questionnaire, certified within six months of the Proposal due date (unless filed and certified online)	<input type="checkbox"/>
		If Vendor Responsibility Questionnaire was completed and certified online, check here and do not attach a paper copy.	<input type="checkbox"/>
5	§6.1.E	Written statements of the necessity for protective treatment under Freedom of Information Law	<input type="checkbox"/>
6	§6.1.F	Proposed Modifications to Draft Contract	<input type="checkbox"/>
FOR THE TECHNICAL PROPOSAL			
TAB	RFP §	REQUIREMENT	INCLUDED
1	§6.2.A - B	Title Page and Table of Contents	<input type="checkbox"/>
2	§6.2.C	Attachment A – Proposer's Certified Statements, completed and signed	<input type="checkbox"/>
3	§6.2.D	Attachment D – Technical Response Form	<input type="checkbox"/>
4	§6.2.E	Attachment E – References	<input type="checkbox"/>
FOR THE COST PROPOSAL			
TAB	RFP §	REQUIREMENT	INCLUDED
1	§6.3	Attachment C (Cost Proposal), completed	<input type="checkbox"/>
FOR ALL PROPOSALS			
TAB	RFP §	REQUIREMENT	INCLUDED
N/A	§7.1.A OPTION 1	Submit a single USB flash drive that has been scanned for malware and contains each of the complete Administrative, Technical, and Cost Proposals <u>as separate files</u> as stated in Section 7.1.A. (preferred)	<input type="checkbox"/>
		Optional: Submit one paper copy of each complete Administrative, Technical, and Cost Proposals (recommended)	<input type="checkbox"/>
N/A	§7.1.B OPTION 2	TWO Copies of the Administrative Proposal	<input type="checkbox"/>
		FOUR Copies of the Technical Proposal	<input type="checkbox"/>
		TWO Copies of the Cost Proposal	<input type="checkbox"/>
		Submit a single USB flash drive that has been scanned for malware and contains each of the complete Administrative, Technical, and Cost Proposals as separate files as stated in Section 7.1.B. (requested)	<input type="checkbox"/>

ATTACHMENT C
COST PROPOSAL

Name of Proposer		
Maximum Cost of Services - Year 1		
In Par Amounts	Initial Rating Fee	Annual Surveillance Fee, if Variable Rate Bonds
Less than \$200 million	\$	\$
\$200 million to \$500 million	\$	\$
Greater than \$500 million	\$	\$
Maximum Cost of Services - Year 2		
In Par Amounts	Initial Rating Fee	Annual Surveillance Fee, if Variable Rate Bonds
Less than \$200 million	\$	\$
\$200 million to \$500 million	\$	\$
Greater than \$500 million	\$	\$
Maximum Cost of Services - Year 3		
In Par Amounts	Initial Rating Fee	Annual Surveillance Fee, if Variable Rate Bonds
Less than \$200 million	\$	\$
\$200 million to \$500 million	\$	\$
Greater than \$500 million	\$	\$
Maximum Cost of Services - Year 4		
In Par Amounts	Initial Rating Fee	Annual Surveillance Fee, if Variable Rate Bonds
Less than \$200 million	\$	\$
\$200 million to \$500 million	\$	\$
Greater than \$500 million	\$	\$
Maximum Cost of Services - Year 5		
In Par Amounts	Initial Rating Fee	Annual Surveillance Fee, if Variable Rate Bonds
Less than \$200 million	\$	\$
\$200 million to \$500 million	\$	\$
Greater than \$500 million	\$	\$

OSC anticipates a total of five GO Bond issuances during the five-year period of the contract resulting from this RFP, with an estimate of one transaction each year that may range between \$300 and \$500 million in par value. These estimates are provided for context only and do not guarantee any future engagements to the Pool or any Proposer pursuant to the resulting Agreement. Any use of the Pool participants will be at the sole discretion of OSC.

ATTACHMENT D

TECHNICAL RESPONSE FORM

The Technical Response Form should not exceed 15 pages excluding responses to questions A4 (List of state-level bond issuances for which you have provided bond credit ratings) and B1 (Key Personnel Experience).

MINIMUM QUALIFICATIONS
MQ1. The Proposer must be registered with the U.S. Securities and Exchange Commission (“SEC”) as a NRSRO. In the space below, describe how your firm meets this minimum qualification.
RESPONSE:
MQ2. The Proposer must have a minimum of five years’ experience in providing bond credit ratings to state-level government issuers. In the space below, describe how your firm meets this minimum qualification.
RESPONSE:
MQ3. The Proposer must have provided at least three bond credit ratings to state-level municipal bond issuers of issuances with a par amount of \$300 million or greater within the last five years prior to the due date of proposals in response to this RFP. Using the table below, identify at least three issuances meeting the criteria above. Proposers are encouraged to identify additional certifications beyond the number required to meet the minimum qualification as this will be considered the technical evaluation. Add rows if necessary.

Date	Issuer	Series	Par Amount (in \$mm)

MQ4. The Proposer and its proposed staff to be assigned to this engagement will only perform services from within the United States.		<input type="checkbox"/> Yes <input type="checkbox"/> No
PROPOSER QUALIFICATIONS		
A1. Describe your firm's qualifications to provide bond credit ratings for State GO Bonds. Include a brief history of your firm, its organizational and ownership structure, and years of experience.		
RESPONSE:		
A2. Provide a detailed outline of your firm's credit rating process, including the lead time required to gather necessary information and issue the initial bond credit rating.		
RESPONSE:		
A3. Explain your firm's approach to identifying and assessing potential risks to the GO Bonds creditworthiness. Outline your risk assessment methods and criteria.		
RESPONSE:		

A4. Using the table below, identify all state-level municipal bond transactions with a par amount of \$300 million or greater for which you have provided bond credit ratings within the last five years prior to submission. Add rows as necessary.

Dated Date	Issuer	Series	Par Amount (in \$mm)

KEY PERSONNEL EXPERIENCE

B1. Using the table below, list the firm's principals and key personnel who will be primarily responsible for the State's GO bond credit ratings, along with their years of experience. Identify who will be the lead staff member for this engagement with OSC. You may add or remove rows, if necessary. Include resume(s) of all pertinent staff as an appendix to your technical proposal (does not count towards page limit).

Name	Title	Total Years of Credit Rating Experience	Years and Brief Description of Other Relevant Credit Rating Experience

NEW YORK STATE PRESENCE

C1. Discuss your firm's presence in New York State, including the location of your headquarters and the number of offices maintained in the State. Include the total number of staff employed in the State and specify the number of staff dedicated to covering State GO Bonds who are based in the State.

RESPONSE:

ATTACHMENT E

REFERENCES

Using this form, submit a total of **THREE** client references for whom the Proposer has provided bond credit rating reports and/or related services (Section 6.2.E). If the proposer has provided services to any New York State public authority or local government issuer, the entity must be included as one of the references.

Expand fields and duplicate this page as necessary.

RFP0006 Bond Credit Ratings	
PROPOSER:	
Provide the following information for each reference submitted. Fields will expand as you type.	
Reference Company #1:	
Contact Person:	
Address:	
City, State, Zip:	
Telephone Number:	
Email Address:	
Number of years Proposer provided services to this entity:	
Brief description of the services provided:	
Reference Company #2:	
Contact Person:	
Address:	
City, State, Zip:	
Telephone Number:	
Email Address:	
Number of years Proposer provided services to this entity:	
Brief description of the services provided:	
Reference Company #3:	
Contact Person:	
Address:	
City, State, Zip:	
Telephone Number:	
Email Address:	
Number of years Proposer provided services to this entity:	
Brief description of the services provided:	

ATTACHMENT F
DRAFT CONTRACT
STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER
AGREEMENT WITH
[Contractor Name]

NEW YORK STATE COMPTROLLER'S CONTRACT NUMBER C000XXX

THIS AGREEMENT ("Agreement") is made effective as of the date of approval by the New York State Office of the State Comptroller's Bureau of Contracts after execution by the parties, and is by and between the New York State ("State") Office of the State Comptroller, by the Department of Audit and Control ("OSC"), whose main office and principal place of business is 110 State Street, Albany, New York, 12236, and [Contractor Name] (the "Contractor") whose office is located at [Contractor Address].

W I T N E S S E T H

WHEREAS OSC is authorized to issue all forms of State General Obligation Bonds ("GO Bonds") pursuant to Article 5, Sections 55, 56, and 57 of the State Finance Law ("SFL"); and

WHEREAS, OSC issued a Request for Proposals dated [] ("RFP") and attached hereto as Exhibit A soliciting proposals from vendors for GO Bond credit ratings services ("Services"); and

WHEREAS, the Contractor, among others, responded to the RFP with a proposal dated [] ("Proposal") and attached hereto as Exhibit B indicating its willingness to perform the necessary Services; and

WHEREAS, based upon the evaluation of the various proposals submitted in response to the RFP, OSC has determined that is in the best interests of the State to retain the Contractor to perform the Services in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the terms set forth and the mutual covenants and obligations of the parties, the parties do hereby agree as follows:

I. TERM

This Agreement will commence on the date of contract approval by OSC's Bureau of Contracts and will continue for a period of five years thereafter with respect to all GO Bonds issued during that period (the "Initial Period"). If the Contractor has provided a GO Bond rating for a variable rate GO Bond during the Initial Period and the variable rate GO Bond is outstanding, this Agreement will remain in effect until there are no outstanding variable rate bonds for which an initial GO Bond rating was provided by the Contractor.

Should compensation for the Services under this Agreement reach the "total compensation" amount stated in Section IIIIV (Compensation), OSC will terminate the Agreement and notify the Contractor of such, regardless of whether or not the full five year Initial Period has been reached or not and regardless of whether there are outstanding variable rate bonds for which an initial GO Bond rating was provided by the Contractor.

II. MERGER OF DOCUMENTS/CONFLICT OF CLAUSES

This Agreement is inclusive of the following documents. Only documents expressly mentioned below are deemed a part of this Agreement. Conflicts between these documents will be resolved in the following order of precedence:

1. Appendix A – Standard Clauses for New York State Contracts;
2. Agreement – this document, including:

- Appendix C – OSC Policy Statement on Discrimination and Harassment, Including Sexual Harassment;
- Appendix D – OSC Executive Order on Procurement Integrity and OSC Procurement Integrity Procedures;
- 3. Exhibit A – RFP number 0006, including the Questions and Answers [and any addenda or amendments if applicable]; and
- 4. Exhibit B – the Proposal (Exhibits B1 – Technical Proposal, B2 – Cost Proposal, and B3 – Administrative Proposal), as modified by any clarifications thereto, and including all attachments, including completed:
 - Appendix B – Form AC 3239-A Contractor's EEO Staffing Plan of Anticipated Workforce and Form AC 3239-B, Contractor's/Subcontractor's EEO Workforce Utilization Report;
 - Appendix E – Contractor's Certifications/Acknowledgements; and
 - Appendix F – Disclosure of Prior Non-Responsibility Determinations.

III. **SERVICES**

- A. **Engagement.** In reliance on the Contractor's representations, warranties, and covenants set forth in Exhibit B and as set forth herein, OSC hereby retains the Contractor to perform the Services, and the Contractor hereby agrees to perform the Services, which shall include all deliverables, work, and work products set forth in Exhibits A and B.
- B. **Non Exclusive.** Nothing contained herein prohibits OSC from contracting at any time with third parties or from performing any of the work itself or through other State entities, for any Services that otherwise may be requested or required of the Contractor pursuant to this Agreement, and the Contractor shall not assert an exclusive right to perform such Services.

IV. **COMPENSATION**

OSC will compensate the Contractor pursuant to this Agreement in accordance with the Fee Schedule set forth in Exhibit B2 (Cost Proposal).

- A. **Initial Rating Fee.** The Contractor's Initial Rating Fee is payable upon OSC's acceptance of the final GO Bond credit rating report.
- B. **Annual Surveillance Fee.** The Contractor's Annual Surveillance Fee is payable one year after the issuance of a variable rate GO Bond for which OSC accepted the Contractor's final GO Bond credit rating report. Such Fee is payable for each subsequent year thereafter on the anniversary of the variable rate GO Bond issuance as long as such variable rate GO Bond is outstanding.

The amount of the Annual Surveillance Fee payable by OSC for an outstanding variable rate GO Bond on the first anniversary and each subsequent anniversary will be the amount of the Annual Surveillance Fee stated in Exhibit B2 (Cost Proposal) for the year that the variable rate GO Bond was issued. For example, on the first anniversary of a variable rate GO Bond and each subsequent anniversary thereafter so long as that variable rate GO Bond is outstanding, the Annual Surveillance Fee for a variable rate GO Bond issued during Year 3 of this Agreement will be the Annual Surveillance Fee stated in Exhibit B2 (Cost Proposal) for Year 3.

Total compensation under this Agreement must not exceed **\$XXX.XX.**

V. **COMPENSATION AND INVOICES**

- A. **Compensation.** Compensation for Services provided for pursuant to this Agreement will be payable by OSC in the ordinary course of OSC business upon OSC's receipt of the Contractor's invoice. Approved invoices will be processed in accordance with Article 11-A of the New York State Finance Law.

B. Invoice Requirements. All invoices must include the following information:

- OSC's Agreement #C00[REDACTED], Contractor's taxpayer identification number, and Contractor's New York State Vendor Identification Number;
- a detailed description of Services provided, including: [REDACTED];
 - the bond series name, the par amount of the issuance, and whether the fee is an Initial Rating Fee or Annual Surveillance Fee;
 - the total amount billed for Services for the invoice period; and
 - the beginning and ending dates of the billing period included in the invoice, and the expiration date of this Agreement;

C. Submittal. All invoices are subject to OSC's acceptance of the Services for which billing is being made and must be submitted via email (preferred) to contractinvoices@osc.ny.gov or via hard copy mail to:

Office of the State Comptroller
Bureau of Finance
Contract Payment Unit
110 State Street, Stop 13-2
Albany, NY 12236-0001

With a copy via email (preferred) to debtmanagement@osc.ny.gov or via hard copy mail to:

ATTENTION: Director, Bureau of Debt Management
Office of the State Comptroller
Bureau of Debt Management
110 State Street, 15th Floor, Stop 15-9
Albany, New York 12236-0001

VI. EQUAL EMPLOYMENT OPPORTUNITY (EEO) REPORTING

- A. Compliance.** The Contractor shall comply with applicable federal, State, and local requirements concerning equal employment opportunities for minorities and women, including but not limited to Executive Law §312 and its implementing regulations. In addition to the requirements stated in Appendix A Clause 12 (Equal Employment Opportunities for Minorities and Women).
- B. Required Submissions.** To ensure compliance with such requirements (and with Executive Law §312 and the regulations adopted pursuant thereto) Contractor agrees to submit to OSC its EEO Policy Statement, and Form AC 3239-A Proposer's EEO Staffing Plan of Anticipated Workforce. Further, Contractor shall submit on a semi-annual basis Form AC 3239-B (Contractor's/Subcontractor's EEO Workforce Utilization Report) and shall require each of its subcontractors, if any, to submit such Report on a quarterly basis during the term of this Agreement.

The Contractor shall submit two originals and two copies of Form AC 3239-B to OSC at the following address:

Attn: Director of Finance
New York State Office of the State Comptroller
Bureau of Finance
110 State Street, Stop 13-2
Albany, NY 12236

- C. Deficiencies.** These Reports are reviewed as part of OSC's general compliance monitoring. If discrepancies exist between the EEO Staffing Plan of Anticipated Workforce and the Contractor's EEO Workforce Utilization Reports, the Contractor/subcontractor may be subject to an in-depth EEO compliance review. If deficiencies are identified, OSC shall make every effort to resolve the deficiencies identified and to bring the Contractor into compliance with such requirements. If OSC is unsuccessful in its efforts, and upon review, the Deputy Comptroller for the Bureau of Finance at OSC determines that the Contractor is

non-compliant, such Deputy Comptroller shall submit a written complaint to the New York State Department of Economic Development's Division of Minority and Women's Business Development ("DMWBD") regarding the Contractor's noncompliance and shall recommend to DMWBD that it review and attempt to resolve the noncompliance matter. Such Deputy Comptroller shall serve a copy of the complaint upon the Contractor by personal service or certified mail, return receipt requested.

- D. Noncompliance Resolution.** DMWBD shall attempt to resolve a noncompliance dispute. If a resolution of the noncompliance dispute is satisfactory to the parties, the parties shall so indicate by signing a document indicating that the matter has been resolved and stating the terms of the resolution. If a resolution is not possible, DMWBD shall take all appropriate actions under statute (Executive Law §316) and regulation (5 NYCRR §143.6).

VII. NOTICES

Any legal notice or other legal communication given pursuant to this Agreement shall be in writing and addressed to such party at the address set forth in this Agreement, and shall be effective:

- (i) When delivered personally to the party for whom intended; or
- (ii) Upon actual receipt by the intended party if such notice or other communication is sent by overnight mail service, or United State Postal Service mail (certified mail, return receipt requested, or first-class postage prepaid).

The following are the names and contact information for the OSC and the Contractor. The parties shall notify each other as soon as possible of any change.

OSC:

Title: Director of Finance
Address: Office of the State Comptroller
110 State Street, Stop 13-2
Albany, NY 12236-0001

Copy to:

Name: Chuck Trimbach
Title: Director
Address: Bureau of Debt Management
Office of the State Comptroller
110 State Street, Stop 15-9
Albany, NY 12236-0001
Telephone: (518) 473-4333

Contractor:

Name: [REDACTED]
Title: [REDACTED]
Address: [REDACTED]
[REDACTED]
[REDACTED]
Telephone: [REDACTED]

VIII. COOPERATION

The Contractor and OSC and their respective agents, employees, and officers shall cooperate with each other to the fullest extent in connection with the Services. Pursuant to the terms and conditions of this Agreement and all appendices hereto, OSC will supply and make available necessary information and personnel to assist the Contractor to perform the Services.

IX. STAFF

- A. Definition.** Contractor's "staff" means Contractor's employees [and its subcontractors' employees] providing Services. "Staff" includes staff, and also owners, officers, directors, employees, subsidiaries, affiliates, partners, and agents of the Contractor; and Contractor's contractors (including third-party services providers) and their employees providing Services hereunder or who have access to the State's confidential information.
- B. Staff and Replacement.** The Contractor shall assign the **[NAME]** to be the Lead person to oversee the Contractor's day-to-day performance of the Services and shall assign other such personnel as necessary. In the event any of Contractor's key Staff must be replaced, the replacement person's skill level and experience must be at least equivalent to, or exceed, the replaced Staff member, as determined by OSC. OSC reserves the right to approve or disapprove any proposed changes in key Staff. OSC in each instance will be provided with a summary of the experience of the proposed key Staff member and an opportunity to interview that person, prior to giving its approval or disapproval. Said approval shall not be unreasonably withheld.
- C. Skills and Expertise.** The Contractor represents and agrees that its Staff have and shall possess the experience, knowledge, and character necessary to qualify them individually for the particular duties to be performed hereunder. OSC reserves the right to remove any of the Contractor's Staff if, in OSC's discretion, such Staff is not performing in accordance with this Agreement, or for any other reasonable work-related cause.
- D. FIRCA.** The Federal Immigration Reform and Control Act, as amended (8 USC §1324a et al.), obligates employers, such as the Contractor, to verify that its United States-based employees are legally entitled to work in the United States. To confirm that such employees are legally entitled to work in the United States, OSC reserves the right to request documentation attesting to such for any Contractor employees assigned to provide Services in the United States. The Contractor warrants to OSC that Contractor's employees assigned to provide Services in the United States are eligible for employment in the United States. The Contractor is responsible for ensuring that such employees retain the authorization to legally work in the United States throughout the period for which they provide Services in the United States. OSC does not discriminate against individuals on the basis of national origin or citizenship. OSC does not provide sponsorship.
- E. Responsibility.** The Contractor is fully responsible to OSC for the acts and omissions of Contractor and its Staff in connection with their performance hereunder and their adherence to all contract terms and conditions.

X. RELATIONSHIP OF PARTIES; RIGHTS TO WORK PRODUCT

- A. Independent Contractor.** The relationship of the Contractor and its Staff to OSC shall be that of an independent contractor, and not that of an agent or employee of OSC. The Contractor, as an independent contractor, shall not have the authority to contract for or bind OSC for any purpose whatsoever. The Contractor covenants and agrees that its Staff will not hold themselves out as agents, officers, or employees of OSC, and that they will not make any claim, demand, or application for any right or privilege applicable to any officer or employee of OSC, including but not limited to, workers' compensation coverage, disability coverage, Social Security coverage, or Retirement System benefits.
- B. Work for Hire.** All work performed by Contractor and its personnel for OSC under this Agreement is intended as work for hire. Such work is specially ordered and commissioned for use as contributions to a collective work, or is other such work as specified by Section 101(2) of the U.S. Copyright Act [17 U.S.C. 101(2)], and is intended to be a work for hire that is made for the use and ownership of the State of New York. Furthermore, OSC and the Contractor agree that the State of New York is the owner of all copyrights regarding such work. The Contractor warrants to the State of New York that it, and all of its Staff, who have been, or may be used in regard to this Agreement, forfeit all past or future claims of title or ownership to the work produced under this Agreement.
- C. Publication.** If the Contractor publishes a work related to any aspect of performance under this Agreement, or the results and accomplishments attained in such performance, OSC shall have, in addition to any rights

and remedies it may have under this Agreement, a perpetual, royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use the publication.

- D. Contractor Work Papers.** Any and all reports and other materials (preliminary, final and otherwise), analyses and data (whether statistical or otherwise), transmitted to OSC by the Contractor shall become the sole and exclusive property of OSC for such use as OSC deems appropriate, other than Contractor's work papers, which Contractor may retain.

XI. REPRESENTATIONS, WARRANTIES AND COVENANTS

The Contractor hereby represents, warrants, and covenants that:

- A. Organization.** The Contractor is an entity duly organized, validly existing, and in good standing under the laws of the State of [STATE], and has authority to conduct business in the State of New York.
- B. Standards.** Contractor shall perform the Services in a professional and workmanlike manner, in accordance with highest applicable industry standards. For purposes of this Agreement, "highest applicable industry standards" means 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. Contractor shall re-perform, at its own expense, any work not in compliance with this warranty. Such re-performance of Services will be completed within 90 days of notification to the Contractor of non-compliant work.
- C. Compliance with Applicable Law.** In performing the Services, the Contractor and its Staff shall comply with: (i) all applicable international, federal, state, and local laws, rules, regulations, and governmental requirements now or hereafter in effect relating to the Services.
- D. No Conflicts of Interest.** The Contractor currently has no conflicts of interest with respect to Services and any other client engagements, contract or employment, and that the Contractor shall immediately advise OSC whenever it becomes aware of any situation that involves or appears to involve such a conflict of interest or potential conflict.

XII. CONFLICT RESOLUTION

If there are conflicts between the Contractor and OSC, the Contractor shall submit to OSC a timely written explanation of the details of the conflict, including such pertinent facts as may provide OSC with a firm basis for understanding the nature of the conflict. The OSC Director of Finance shall have the sole right and authority to direct the involved parties on the appropriate course of action to be taken to resolve the conflict. Both parties reserve the right to pursue all available legal and equitable remedies.

XIII. CONFIDENTIALITY AND SECURITY

- A. Confidential Information.** The Contractor shall treat as confidential all information concerning the State's determination as to issuance of any GO Bond before that issuance has been publicly announced. The Contractor and its Staff may have access to other OSC information that in the course of providing Services, that is either identified or should be reasonably understood to be confidential. The Contractor shall maintain the confidence of such OSC confidential information and agrees that:
1. The Contractor shall use OSC confidential information solely for the purpose of carrying out its obligations to, or on behalf of, OSC as set forth in this Agreement, and for no other purpose.
 2. In the event of a receipt by the Contractor of a valid order or mandatory request for disclosure of OSC confidential information from a judicial, administrative, or governmental agency having jurisdiction over it, the Contractor, must unless prohibited by applicable law, promptly notify OSC thereof. The Contractor must, to the extent practicable, meet with OSC for purposes of discussing such order or request prior to the submission of a response thereto, and shall, except to the extent prohibited as a matter of law, cooperate and assist OSC in responding to any such order or request.

3. Promptly after the termination or conclusion of the Agreement, upon the request of OSC, the Contractor must sanitize OSC confidential information, except where the Contractor is required to retain such information pursuant to applicable law.

B. Security

1. The Contractor and its Staff shall comply with applicable State facility and information security policies, standards, and procedures, including any training required, both present and future, by OSC in performing the Services.
2. Security Incident Notification. To the extent not prohibited by applicable law, the Contractor shall promptly notify OSC in writing upon the occurrence of any Security Incident, as defined in this Section, in the most expedient time possible and without unreasonable delay, but in any event no later than within [48 hours or as mutually agreed between the parties] of such occurrence.

“Security Incident” means any exploited vulnerability or unauthorized or unlawful access to OSC confidential information. A Security Incident includes any destruction, damage, loss, unauthorized use, unauthorized or unlawful disclosure of OSC confidential information, any breach or compromise of the Contractor’s computer data, applications, networks or devices (including the applications, networks, or devices of all subcontractors or third-party service providers that access, store, process, or otherwise interact with confidential information on behalf of the Contractor), and, in the absence of direct evidence of a Security Incident, any occurrence where it can be reasonably assumed under the circumstances that confidential information was exposed, accessed, or disclosed without OSC’s prior written authorization.

Notice to OSC required under this Section must be made by contacting OSC’s Information Security Office first by telephone at 518-474-9487 and then by email to: iso@osc.ny.gov. The notice must include, to the extent such information is available, a description of:

- the scope of the Security Incident; identification of the vulnerability in the affected system; the amount of time that the vulnerability existed; an identification of potentially compromised confidential information; the last time that the attacker (if applicable) had access to the affected systems or confidential information; the identity of the unauthorized third party or unauthorized entity that may have accessed or obtained confidential information as a result of the Security Incident; and the identification of any misuse of any confidential information involved in the Security Incident; and
 - the efforts taken by the Contractor to contain and mitigate the impact of the Security Incident, including any retention of an outside law firm or cyber firm to assist in the effort, the involvement of law enforcement, and a reasonably detailed summary of the results of the investigation of the Security Incident. The Contractor shall promptly update OSC with additional information regarding the Security Incident discovered in the course of its investigation.
3. In the instance of a Security Incident, the Contractor shall not notify the New York State Attorney General’s Office or any regulating or reporting agency of the Security Incident, or delay such notifications due to law enforcement investigations, without first receiving OSC’s authorization to make or delay such notifications except as required to comply with the Contractor’s legal obligations. OSC shall have final approval over the form, content, mode of transmission, and timing of any notice to be provided concerning a Security Incident. OSC’s approval of notices and/or public disclosures required by law or other regulations will not be unreasonably withheld or delayed. This prior approval applies to any determination to delay notifications due to law enforcement investigations.
 4. The Contractor acknowledges that any unauthorized use or disclosure of OSC confidential information may cause irreparable damage to the State. If an unauthorized use or disclosure occurs, the Contractor must, at its expense, take such steps that are reasonably necessary to recover such information and to prevent its subsequent unauthorized use or dissemination, including availing itself of actions for seizure and injunctive relief. If the Contractor fails to take such steps in a timely and adequate manner, OSC may take them at the expense of the Contractor.

Nothing contained herein reduces or alters the Contractor’s obligations under applicable law.

XIV. Background Investigations

The Contractor must conduct background investigations on its employees [and by its subcontractors on their employees] who will have access to OSC's IT systems, access to OSC confidential information, or routine access to any OSC facility ("Covered Staff"). For the purposes of this paragraph, "routine access" is defined as access to an OSC facility for five consecutive business days or 10 business days over the annual term of the engagement. Accordingly, with the signing of this Agreement, the Contractor certifies that it has or will conduct a background investigation on Covered Staff prior to their commencing Services under this Agreement.

At a minimum, background investigations must include a review/evaluation of the following:

- Social Security Number or national identity number search, as applicable;
- verification of U.S. citizenship or legal immigration status, where appropriate, to verify employment eligibility;
- criminal history check/court records (Federal, state and local for the past five years), as permitted under applicable law;
- work experience/history (for the past five years);
- pertinent education/professional credentials; and
- references.

The Contractor must undertake such background investigation of any new or replacement Covered Staff.

The Contractor [and subcontractor] must obtain, unless prohibited by applicable law, the consent of such Covered Employees to allow the Office of the State Comptroller Inspector General to audit the results of these background investigations, and (i) to review unredacted background investigation records, including supporting documentation, and (ii) to conduct its own background investigation.

Only Staff who have passed the background investigation and provided such consent shall be assigned to provide Services to OSC under this Agreement. During the term of this Agreement and in accordance with Appendix A (Section 10, Records), the Contractor must maintain records related to the background investigations performed.

XV. INDEMNIFICATION AND LIABILITY

A. Contractor Liability and Indemnification. The Contractor shall be fully liable for any act or omission of the Contractor and its Staff and shall fully indemnify, defend, and hold harmless OSC and the State, their officials, agents, and employees, without limitation, from suits, actions, damages, and costs of every name and description (including reasonable attorneys' fees and expenses) arising from any act or omission of the Contractor or its Staff, including bodily or personal injury (including wrongful death); damage to real or tangible personal property (including electronic systems, software and databases); damage to intellectual property; and infringement or violation of a third party's patent, copyright, license, or other proprietary or intellectual property right; provided however that the Contractor shall not be obligated to indemnify OSC for that portion of any claim, loss, or damage arising hereunder due to the negligent act or failure to act of OSC.

B. Third Party Claims. For third party claims, for which OSC or the State is entitled to indemnification under this Agreement, OSC shall give the Contractor:

- prompt written notice of any action, claim, suit, proceeding, or threat of such action;
- the opportunity to take over, settle, or defend any such action, claim, suit, or proceeding at Contractor's sole expense; and
- reasonable assistance in the defense of any such action, claim, suit, or proceeding at the expense of Contractor.

Notwithstanding the foregoing, the State reserves the right to join such action, claim, suit or proceeding at its sole expense, if it determines there is an issue involving significant public interest.

C. Liability Limitations

1. Neither the Contractor, OSC, nor the State shall be liable for any delay or failure in performance beyond its control resulting from acts of war, hostility or sabotage; act of nature; electrical, internet, or telecommunications outage that is not caused by the obligated party; or government restrictions, or

other force majeure. The parties shall use reasonable efforts to eliminate or minimize the effect of such force majeure events upon performance of their respective duties under this Agreement. If such event continues for more than 90 days, either party may terminate all or any agreed upon portion of the Services immediately upon written notice. This paragraph does not excuse either party's obligation to take reasonable steps to follow its normal disaster recovery procedures, or OSC's obligation to pay for Services provided by the Contractor which have been approved by OSC.

2. Notwithstanding the above, neither party shall be liable for any consequential, indirect, or special damages of any kind which may result directly or indirectly from such performance, including, without limitation, damages resulting from loss of use or loss of profit by OSC, the Contractor, or by others.
- D. **Remedies.** OSC may, in addition to other legal remedies available to it, retain from amounts otherwise due Contractor such moneys as may be necessary to satisfy any claim for damages OSC may have against Contractor.

XVI. RESPONSIBILITY TERMS

- A. **Covenants and Representations.** The Contractor covenants and represents that it has, to the best of its knowledge, truthfully and thoroughly completed the Contractor's Vendor Responsibility Questionnaire ("Responsibility Questionnaire") provided to the Contractor by OSC prior to execution of this Agreement. The Contractor further covenants and represents that as of the date of execution of this Agreement, there are no material events, omissions, changes, or corrections to such document requiring an amendment to the Responsibility Questionnaire.
- B. **Ongoing Reporting Obligation.** The Contractor shall provide to OSC updates to the Responsibility Questionnaire if any material event(s) occurs requiring an amendment or as new information related to such Responsibility Questionnaire becomes available. The Contractor shall, on an annual basis from the anniversary date of execution of this Agreement, re-certify such Responsibility Questionnaire, noting any changes, whether material or non-material, or submit a certification of "no change" to OSC.

Notwithstanding Subsection (B) hereinabove, OSC reserves the right, in its sole discretion, at any time during the term of this Agreement, (i) to require updates or clarifications to the Responsibility Questionnaire, (ii) to inquire about information included in or omitted from the Responsibility Questionnaire, and (iii) to require the Contractor to provide such information to OSC within a reasonable timeframe to be established at OSC's sole discretion.

- E. **Determination of Non-Responsibility.** OSC reserves the right to make a final determination of the Contractor's non-responsibility ("Determination of Non-Responsibility") at any time during the term of this Agreement based on (i) any information provided in the Responsibility Questionnaire and/or in any updates, clarifications, or amendments thereof; or (ii) the Contractor's failure to disclose material information; or (iii) OSC's discovery of any other material information which pertains to the Contractor's responsibility. If OSC preliminarily determines the Contractor to be non-responsible, OSC shall provide written notice to the Contractor detailing the reason(s) for the preliminary determination, and shall provide the Contractor with an opportunity to be heard before the determination is finalized. Upon a Determination of Non-Responsibility of the Contractor, OSC reserves the right to terminate this Agreement for cause pursuant to Section XVII. "Termination and Suspension."

XVII. TERMINATION AND SUSPENSION

- A. **OSC Termination or Suspension.** OSC reserves the right to terminate or suspend this Agreement or terminate or suspend the Services, with respect to a specific matter or matters, with or without cause upon 15 days', prior written notice to the Contractor.

OSC reserves the right to terminate or suspend this Agreement or terminate or suspend the Services, with respect to a specific matter or matters, immediately upon written notice to the Contractor, if OSC in its sole discretion, deems the Contractor's performance unsatisfactory at any time during the term of this Agreement.

- B. Effect of Termination or Suspension.** If this Agreement is terminated or suspended, the Contractor shall be entitled to compensation for Services performed through the date of termination or suspension which are acceptable to OSC, in its sole discretion.

XVIII. MISCELLANEOUS PROVISIONS

- A. Waiver.** The waiver by either party of any default or breach of this Agreement shall not constitute a waiver of any other subsequent default or breach.
- B. Severability.** If any term or provision of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and every other term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.
- C. Public Communication.** Neither the Contractor nor any of its Staff shall make any statement to the press or issue through any media of communication any statement bearing on the Services performed or data collected under this Agreement without the prior written approval of OSC.
- D. Ethics Compliance.** The Contractor, its officers, directors, employees, subsidiaries, affiliates, partners, and agents 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 those provisions may result in termination of this Agreement and/or other civil or criminal proceedings as required by law.
- E. Survival.** The provisions of Sections XI (Representations, Warranties and Covenants), XIII (Confidentiality and Security), XV (Indemnification and Liability) and Appendix A shall survive the expiration or termination of this Agreement.

XIX. ENTIRE AGREEMENT/APPROVALS

This Agreement and the appendices, exhibits, and attachments hereto constitute the entire Agreement between the parties and no statement, promise, condition, understanding, inducement or representation, oral or written, expressed or implied, which is not contained herein shall be binding or valid. This Agreement shall not be changed, modified, or altered in any manner except by an instrument in writing executed by the parties. This Agreement and any amendment hereof shall not be deemed executed, valid, or binding unless and until approved in writing by the New York State Attorney General and thereafter, approved in writing by the OSC Bureau of Contracts pursuant to Section 112 of the State Finance Law, and filed in the Office of the State Comptroller.

REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

In addition to the acceptance of this Agreement, the OSC and Contractor signatures on this page also certify that originals of this signature page will be attached to all other originals of this Agreement.

CONTRACT NUMBER: [REDACTED]

[CONTRACTOR]

OFFICE OF THE STATE COMPTROLLER

SIGNATURE

SIGNATURE

PRINTED NAME

JEREMY R. DISARE

PRINTED NAME

TITLE

DIRECTOR OF FINANCE

TITLE

DATE

DATE

CONTRACTOR'S ACKNOWLEDGEMENT

STATE OF _____ }

_____ }

COUNTY OF _____ }

SS.:

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 acknowledged to me that the person maintains an office at _____, is the _____ of _____, the corporation described in foregoing instrument; and, by authority of the Board of Directors of the corporation, is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and, pursuant to that authority, has executed the foregoing instrument in the name of and on behalf of the corporation as the act and deed of the corporation.

Notary Public
Registration No.

APPROVED AS TO FORM:
NYS ATTORNEY GENERAL

APPROVED:
THOMAS P. DINAPOLI, COMPTROLLER

By:

By:

DATE

DATE

1. APPENDIX A

2. STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

(a) 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.

(c) 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.

(d) 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.

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

- (f) NYS Department of Economic Development
- (g) Division for Small Business and Technology Development
- (h) 625 Broadway
- (i) Albany, New York 12245
- (j) Telephone: 518-292-5100

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

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

(r) 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:

(s) 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;

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

(u) 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

(v) 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>

(w) 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.

(x) 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.

(y) 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 B
NEW YORK STATE OFFICE OF THE STATE COMPTROLLER
CONTRACTOR'S EEO STAFFING PLAN OF ANTICIPATED WORKFORCE

INSTRUCTIONS: Contractor must complete and submit this form as part of the Agreement.															
Contractor Name:								Federal Identification Number:							
Address:								Contract Number:							
City, State, Zip Code:								M/WBE Participation Goals Assigned: MBE <u>N/A</u> % WBE <u>N/A</u> %							
Does the Contractor have an existing EEO Policy? (Check one): <input type="checkbox"/> Yes <input type="checkbox"/> No (if Yes, attach current copy of EEO Policy Statement.)								Is the Contractor ESD Certified: (Check one): <input type="checkbox"/> Yes <input type="checkbox"/> No (If Yes, provide ESD Certification Number and Expiration Date.)							
<input type="checkbox"/> Check box if the information provided below reflects only the workforce to be utilized in the performance of this State Contract that <u>can</u> be separated out from the Contractor's/Subcontractor's total workforce.								<input type="checkbox"/> Check box if the information provided below reflects only the workforce to be utilized in the performance of this State Contract that <u>cannot</u> be separated out from the Contractor's/Subcontractor's total workforce.							
Enter in the following Job Categories the total number of staff by race, sex, and ethnic status to be utilized by the Contractor during the performance of this State Contract.															
JOB CATEGORIES (as defined in the Instructions attached)	RACE/ETHNICITY OF ANTICIPATED WORKFORCE (Report employees in only one category as defined in the Instructions attached.)														
	Hispanic or Latino		(NOT HISPANIC OR LATINO)												Total Columns A – N
			White		Black or African-American		Native Hawaiian or Other Pacific Islander		Asian		American Indian or Alaska Native		Two or more races		
	A	B	C	D	E	F	G	H	I	J	K	L	M	N	
	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	
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															
TOTAL:															
Prepared by (signature): _____															
Name of Preparer			Title of Preparer			Date		Telephone Number			Email Address				

Location and Description of Work to be Performed (expand as necessary):

INSTRUCTIONS FOR COMPLETING CONTRACTOR'S EEO STAFFING PLAN OF ANTICIPATED WORKFORCE FORM

RACE AND ETHNIC IDENTIFICATION*	
For the purpose of completing this form, OSC has adapted the race and ethnic designations used and obtained in accordance with the requirements administered by the Equal Employment Opportunity Commission, which do not denote scientific definitions of anthropological origins. Definitions of the race and ethnicity categories are as follows:	
Hispanic or Latino	A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin regardless of race.
White	A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.
Black or African-American	A person having origins in any of the black racial groups of Africa.
Native Hawaiian or Other Pacific Islander	A person having origins in any of the peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
Asian	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	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	All persons who identify with more than one of the above five races.
<p>Submission of this form constitutes the Contractor's acknowledgement and agreement to adhere to the compliance requirements and procedures set forth under this State Contract and OSC's right to evaluate and determine Contractor/Subcontractor adherence or compliance during the term of said State Contract, pursuant to New York State Executive Law Article 15-A (the "Article") and the implementing regulations set forth under 5 NYCRR.</p> <p>By submitting this form, the Contractor agrees (i) to provide OSC access to all documentation, records, reports, facilities, etc. which OSC may deem necessary to determine Contractor compliance, and (ii) to be bound by the provisions of §316 regarding possible fines, sanctions, and penalties for violations of the Article.</p> <p>Failure to submit complete and accurate information may result in non-compliance and bid/proposal disqualification.</p> <p>*The Equal Employment Opportunity Commission's Description of Job Categories and Instructions for assigning employees can be viewed at www.eeoc.gov/employers/eeo1survey/2007instructions.cfm.</p>	

**NEW YORK STATE OFFICE OF THE STATE COMPTROLLER
CONTRACTOR'S/SUBCONTRACTOR'S EEO WORKFORCE UTILIZATION REPORT**

PART A – INSTRUCTIONS: All Contractors/Subcontractors must complete and submit this form on a semi-annual basis in accordance with terms of Agreement.															
Contractor/Subcontractor Name:															
Address:								Federal Identification Number:							
City, State, Zip Code:								Contract Number:							
Does the Contractor have an existing EEO Policy? (Check one): <input type="checkbox"/> Yes <input type="checkbox"/> No (if Yes, attach current copy of EEO Policy Statement.)															
Does the Contractor have an existing Affirmative Action Program? (Check one): <input type="checkbox"/> Yes <input type="checkbox"/> No (if Yes, attach description of Affirmative Action Program)								Is the Contractor ESD Certified: (Check one): <input type="checkbox"/> Yes <input type="checkbox"/> No (If Yes, provide ESD Certification Number and Expiration Date.) _____							
<input type="checkbox"/> Check box if the information provided below reflects only the workforce to be utilized in the performance of this State Contract that <u>can</u> be separated out from the Contractor's/Subcontractor's total workforce.								<input type="checkbox"/> Check box if the information provided below reflects only the workforce to be utilized in the performance of this State Contract that <u>cannot</u> be separated out from the Contractor's/Subcontractor's total workforce.							
Enter in the following Job Categories the total number of staff by race, sex, and ethnic status to be utilized by the Bidder during the performance of this State Contract.															
JOB CATEGORIES (as defined in the Instructions attached)	RACE/ETHNICITY OF ANTICIPATED WORKFORCE (Report employees in only one category as defined in the Instructions attached.)														
	Hispanic or Latino		(NOT HISPANIC OR LATINO)												Total Columns A – N
			White		Black or African-American		Native Hawaiian or Other Pacific Islander		Asian		American Indian or Alaska Native		Two or more races		
	A	B	C	D	E	F	G	H	I	J	K	L	M	N	
	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	
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															
TOTAL:															
PART C – Prepared by (signature): _____															
Name of Preparer			Title of Preparer			Date		Telephone Number			Email Address				

NEW YORK STATE OFFICE OF THE STATE COMPTROLLER
CONTRACTOR’S/SUBCONTRACTOR’S EEO WORKFORCE UTILIZATION REPORT

Description of Services or Supplies Provided (expand as necessary):

INSTRUCTIONS FOR COMPLETING CONTRACTOR'S/SUBCONTRACTOR'S EEO WORKFORCE UTILIZATION REPORT FORM

RACE AND ETHNIC IDENTIFICATION*

For the purpose of completing this form, OSC has adapted the race and ethnic designations used and obtained in accordance with the requirements administered by the Equal Employment Opportunity Commission, which do not denote scientific definitions of anthropological origins. Definitions of the race and ethnicity categories are as follows:

Hispanic or Latino	A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin regardless of race.
White	A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.
Black or African-American	A person having origins in any of the black racial groups of Africa.
Native Hawaiian or Other Pacific Islander	A person having origins in any of the peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
Asian	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	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	All persons who identify with more than one of the above five races.

CONTRACTOR'S/SUBCONTRACTOR'S EEO WORKFORCE UTILIZATION REPORT SUBMISSION REQUIREMENTS

Please submit completed Form AC 3239-B semi-annually, in accordance with the terms of the State Contract to:

New York State Office of the State Comptroller
Bureau of Financial Administration, Attn: M/WBE Specialist
110 State Street, Stop 13-2
Albany, NY 12236

Submission of this form constitutes the Contractor's/Subcontractor's acknowledgement and agreement to adhere to the compliance requirements and procedures set forth under this State Contract and OSC's right to evaluate and determine Contractor/Subcontractor adherence or compliance during the bid and award of said State Contract, pursuant to New York State Executive Law Article 15-A (the "Article") and the implementing regulations set forth under 5 NYCRR.

By submitting this form, the Contractor agrees (i) to provide OSC access to all documentation, records, reports, facilities, etc. which OSC may deem necessary to determine Contractor compliance, and (ii) to be bound by the provisions of §316 regarding possible fines, sanctions, and penalties for violations of the Article.

Failure to submit complete and accurate information may result in non-compliance and bid/proposal disqualification.

*The Equal Employment Opportunity Commission's Description of Job Categories and Instructions for assigning employees can be viewed at www.eeoc.gov/employers/eeo1survey/2007instructions.cfm.

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.

August 31, 2021

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 services² 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 vendor³ 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 question⁴ 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 – 13th Floor, Albany, NY 12236, telephone: (518) 474-7574, Fax: (518) 473-9377, Email: 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 influence⁵ relating to the vendor's bid 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

² 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.

³ 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.

⁴ 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.

⁵ 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.

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 process⁶. 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.
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

⁶ 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.

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

APPENDIX E

CONTRACTOR'S CERTIFICATIONS/ACKNOWLEDGEMENTS

SIGNATURE AUTHORITY
<p>The Contractor* and the person signing on behalf of the Contractor certify that such person is authorized to sign on behalf of the Contractor and has the express authority to contractually bind the Contractor.</p>
ACKNOWLEDGEMENT OF RECEIPT OF OSC'S POLICY STATEMENT ON DISCRIMINATION AND HARASSMENT, INCLUDING SEXUAL HARASSMENT
<p>The Contractor and the person signing on behalf of the Contractor acknowledge receipt of the OSC Policy on Discrimination and Harassment, Including Sexual Harassment (Appendix C), and each agrees to abide by the terms of Appendix C.</p>
CERTIFICATION OF COMPLIANCE WITH STATE FINANCE LAW § 139(L) REGARDING SEXUAL HARASSMENT POLICY AND ANNUAL TRAINING
<p>"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 as to its own organization, under penalty of perjury, that the bidder has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of section two hundred one-g of the labor law."</p>
NON-COLLUSIVE BIDDING CERTIFICATION
<p>"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 as to its own organization, under penalty of perjury, that to the best of [such persons] knowledge and belief:</p> <ol style="list-style-type: none"> 1. The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such prices with any other 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, directly or indirectly, to any other 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."
CONTRACTOR'S ACKNOWLEDGEMENT OF RECEIPT AND UNDERSTANDING OF OSC EXECUTIVE ORDER ON PROCUREMENT INTEGRITY
<p>The Contractor and the person signing on behalf of the Contractor acknowledge receipt of the OSC Executive Order on Procurement Integrity and OSC Procurement Integrity Procedures (Appendix D). By submission of this bid, the Contractor and the person signing on behalf of the Contractor each affirms, under penalty of perjury, that they understand and will comply with the terms of Appendix D.</p>

* All reference to "bidders" within this Appendix E includes proposers and Contractors. Reference to "bids" includes proposals and other responses to solicitations.

THE SIGNATURE(S) BELOW INDICATES AGREEMENT WITH EACH OF THE ABOVE CERTIFICATIONS/ ACKNOWLEDGEMENTS

PROPOSER NAME	JOINT PROPOSER NAME (IF ANY)
SIGNATURE	SIGNATURE
PRINTED OR TYPED NAME	PRINTED OR TYPED NAME
TITLE	TITLE
DATE	DATE

Add additional signature lines below for additional Joint Proposers, as necessary.

October 24, 2023

APPENDIX F

DISCLOSURE OF PRIOR NON-RESPONSIBILITY DETERMINATIONS

Have you been found by any governmental entity to be non-responsible within the past four years from the date of this bid due to:

1. Impermissible contacts or other violations of New York State Finance Law Section 139-j (e.g., conduct prohibited by the ethics provisions of the New York State Public Officers Law)?

☐ Yes

☐ No

2. Intentional provision of false or incomplete information to a governmental entity?

☐ Yes

☐ No

If your answer to either of the above is "Yes," please attach a written explanation indicating the date of the non-responsibility finding, the entity that found you to be non-responsible, and the circumstances surrounding such finding (including any written finding of non-responsibility issued by such entity).

By my signature on this form, I certify that all information disclosed to the State is complete, true, and accurate with regard to prior non-responsibility findings within the past four years based on (i) impermissible Contacts or other violations of New York State Finance Law Section 139-j, or (ii) the intentional provision of false or incomplete information to a governmental entity.

Signature

Printed or Typed Name

Title

Procurement Number

Date

August 15, 2014