

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



**REQUEST FOR PROPOSALS  
RFP0008**

**PROFESSIONAL AUDITING SERVICES  
FOR  
THE AUDIT OF OSC'S SYSTEM OF INTERNAL CONTROL**

**ISSUED: JUNE 9, 2025**

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## 1.0 **CALENDAR OF EVENTS**

<b><u>EVENT</u></b>	<b><u>DATE</u></b>
Issuance of Request for Proposals	June 9, 2025
<b>Deadline for Submission of Written Questions</b>	<b>July 1, 2025 4:00 p.m. ET</b>
Responses to Written Questions Posted (on or about)	July 9, 2025
<b>Deadline for Submission of Proposals</b>	<b>July 16, 2025 4:00 p.m. ET</b>
<b>Anticipated</b> Approval of Contract	April 20, 2026

## 2.0 **EXECUTIVE OVERVIEW**

### 2.1. **Overview**

Through this Request for Proposals (“RFP”), the New York State (“State”) Office of the State Comptroller (“OSC”) is seeking competitive proposals from qualified independent certified public accounting firms to conduct an independent audit of existing internal controls at OSC as required by Article 45 of the Executive Law (“Executive Law”) and to provide services as further detailed in Section 4.0 (Services).

### 2.2. **Interchangeable Designations**

The terms Proposer, Selected Proposer, and Contractor may be referenced throughout this RFP. Generally, references to the Proposer are used in conjunction with the proposing organization and procurement process leading up to the final RFP selection and award (at which point the Proposer becomes the Selected Proposer). The term Contractor denotes the role assumed, post-contract execution, by the Selected Proposer.

### 2.3. **Important Information**

This RFP outlines 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 the format and instructions contained in this document. Appendix D (OSC Executive Order on Procurement Integrity and OSC Procurement Integrity Procedures) impacts the entire procurement and potential Proposers are encouraged to read and understand these procedures as a first step in this RFP.

The Proposer should review Appendix A (Standard Clauses for New York State Contracts). Appendix A contains important information related to the contract to be entered into as a result of this RFP and will be incorporated, without change or amendment, into the contract entered into between OSC and the Selected Proposer. By submitting a response to the RFP, the Proposer agrees to comply with all the provisions of Appendix A.

The Proposer should also review Attachment J (Draft Contract) as the Proposer must be willing to enter into an agreement substantially in accordance with the terms of Attachment J should the Proposer be selected for contract award.

## **2.4. Term of the Agreement**

The term of the agreement resulting from this RFP ("Agreement") will be for a period of five years from the date of contract approval by OSC's Bureau of Contracts.

## **2.5. Single Source of Responsibility**

OSC envisions that each proposal will be submitted by a Prime Proposer (the "Prime"). The Prime will serve as the single source of responsibility for the delivery of all contract deliverables and Services (described below in Section 4.0). While Services may be provided by the Prime, its subcontractors, joint venturer (a partnership or a consortium with other vendors), or other entity engaged by or working with the Prime to deliver the Services (collectively, "Subcontractor(s)"), the Prime is responsible for the efforts of all Subcontractors and their compliance with Contract provisions.

Note: Partnerships, joint ventures, consortiums, suppliers, protégé, and subcontracting relationships may be used to satisfy M/WBE and SDVOB goals and/or to ensure the necessary availability of consultants. While M/WBE and SDVOB goals are established in this RFP, the manner in which proposers meet such goals is not mandated by OSC.

## **3.0 MINIMUM QUALIFICATIONS TO PROPOSE**

**Proposers must meet the following Minimum Qualifications in order to be eligible to submit a proposal. Subcontractors cannot be used to meet the Minimum Qualifications. If submitting a joint proposal, all partners or joint venturers participating in that joint proposal must independently meet all Minimum Qualifications.**

**Proposer must:**

- 3.1.** Be an independent Certified Public Accounting ("CPA") firm that is registered and in good standing with the New York State Board of Accountancy, or with the state Board for Accountancy where licensed;
- 3.2.** Be registered to practice public accounting in New York State and provide a copy of the firm's current registration;
- 3.3.** Have conducted a government internal controls audit within the last five years that included the review of internal controls using Generally Accepted Government Auditing Standards ("GAGAS"). (With its proposal, Proposer must 1) submit a list of clients and dates that demonstrate Proposer has conducted such an audit, 2) submit a sample audit report resulting from one of the government audits, and 3) submit references for each audit performed.);
- 3.4.** Be independent of OSC in the accordance with the American Institute of Certified Public Accountants ("AICPA") and government auditing standards. (With its proposal, Proposer must submit a statement signed by an authorized signatory that the firm is independent of OSC and is able to conduct the proposed audit.); and
- 3.5.** Have a supervisory member of the team that the Proposer intends to assign to provide the Services, who has conducted at least one government internal controls audit within the last five years that included the review of internal controls using GAGAS. (With its proposal, Proposer must identify the supervisory member, the client to whom such services were provided, and the date of the audit.)

**Failure to meet these Minimum Qualifications will result in a proposal being found non-responsive and eliminated from consideration.**

#### 4.0 **SERVICES**

This Section describes the auditing services and deliverables (“Services”) that must be provided by the Selected Proposer throughout the term of the Agreement.

**NOTE:** A Proposer will be required to provide responses that address all requirements of this Section as part of its Technical Proposal.

##### 4.1. **Scope of Services**

The Selected Proposer must conduct two independent audits of OSC’s system of internal control in accordance with Article 45 of the Executive Law (Attachment H). The Selected Proposer must also evaluate OSC’s system of internal controls based on criteria established in the Standards issued by the New York State Comptroller in March 2016 ([http://www.osc.state.ny.us/agencies/ictf/docs/intcontrol\\_stds.pdf](http://www.osc.state.ny.us/agencies/ictf/docs/intcontrol_stds.pdf)). In performing the Services, the Selected Proposer must follow GAGAS as set forth by the U.S. General Accountability Office (“GAO”) and must include a report on whether OSC’s internal controls are established and functioning in a manner that provides reasonable assurance that they meet the specific objectives of internal controls as defined in Executive Law Article 45 and that OSC maintained effective internal controls based on criteria established in the Standards.

OSC’s most recent Internal Control Report (2023) is attached as Attachment I.

The audit must cover a 60-day period. OSC’s system of internal control manages critical State and agency functions including, but not limited to, the State’s accounting system, the Common Retirement Fund, the State’s payroll system, State contract and expenditure review, and the State’s Office of Unclaimed Funds. The first audit is estimated to begin in 2026 (“2026 audit”), while the second is estimated to begin in 2029 (“2029 audit”). Specific dates will be determined in conjunction with OSC’s Internal Control Officer after award is made. **All work will be conducted virtually.**

The Selected Proposer must discuss audit observations with OSC’s Internal Control Officer, and any additional OSC staff the Internal Control Officer judges to be appropriate, prior to issuing a draft report. During the course of work, the Selected Proposer must provide periodic engagement status updates to the Internal Control Officer and discuss issues with appropriate OSC staff.

All audit documentation and reports must be retained for the balance of the calendar year in which they are made and for six additional years thereafter unless the Selected Proposer is notified in writing by OSC of the need to extend the retention period. Audit documentation must contain sufficient information to enable an experienced auditor, who has had no previous connection with the audit, to understand the basis for audit staffs’ judgments and conclusions. Such documentation, upon request, must be made available to OSC or its designees.

Since OSC is subject to various other external audits and has its own internal audit function, the Selected Proposer must, to the extent possible, review and rely upon the results of these audits to minimize any duplication of audit work.

OSC will make the following audit reports available to the Selected Proposer:

##### **A. State of New York Basic Financial Statements and Other Supplementary Information**

This annual report includes the New York State’s basic financial statements prepared in accordance with GAAP and the report of the State’s independent auditors.

<https://www.osc.ny.gov/files/reports/finance/pdf/nys-basic-financial-statements-2024.pdf>

##### **B. New York State and Local Retirement System Annual Comprehensive Financial Report**

This annual report presents New York State’s financial statements prepared in accordance with

GAAP. As a comprehensive report, it includes the financial statements previously published in the Basic Financial Statements and Other Supplementary Information, along with 10 years of statistical data.

<https://www.osc.ny.gov/files/reports/finance/pdf/annual-comprehensive-financial-report-2024.pdf>

#### **C. Internal Audit Reports**

Internal Audit Reports that cover audits of many of OSC's programs, operations, and control systems will be made available to the Selected Proposer.

Other reports relevant to the Services may exist and will be made available to the Selected Proposer as needed.

### **4.2. Mandatory Deliverables**

The Selected Proposer must provide the following mandatory deliverables ("Deliverables") for each of the two audits to be conducted during the term of the Agreement:

#### **A. Deliverable One: Opening Conference**

The Selected Proposer must conduct an opening conference, including assigned audit staff, OSC's Internal Control Officer, and appropriate OSC staff. The Selected Proposer must provide an overview of the engagement's timeline, scope, objectives and responsibilities of the auditor and management. The Selected Proposer must also dedicate meeting time to answering questions and responding to OSC staff concerns. OSC's Internal Control Officer will assist the Selected Proposer in scheduling the opening conference and identifying and notifying appropriate OSC staff that should attend.

#### **B. Deliverable Two: Detailed Audit Plan**

The Selected Proposer must deliver a detailed audit plan describing how it will proceed with its review of OSC's systems of internal control ("Audit Plan") to OSC's Internal Control Officer within five business days after the opening conference. The Audit Plan must include a description of the approach the Proposer will use to assess if OSC's administrative and programmatic internal controls system is established and functioning in a manner to achieve the specific objectives of internal controls as set forth by Executive Law and the Standards. The Audit Plan must be approved by the OSC Internal Control Officer in writing (which may be provided by email) prior to audit work commencing. A separate detailed Audit Plan must be provided upon commencement of the 2029 audit and include a listing of the number of hours per title per Deliverable in a manner similar to Attachment F (6.2.D.iii.c Response Form). The number of hours per title per Deliverable should match the titles and hours provided in Attachment C (Cost Proposal) for the 2029 audit.

#### **C. Deliverable Three: Audit Work**

The Selected Proposer must conduct an internal control audit that covers a 60-day period (to be mutually agreed upon by the Selected Proposer and OSC). The audit work must meet all criteria as stated in the approved Audit Plan. During field work, the Selected Proposer must discuss issues with appropriate OSC staff and OSC's Internal Control Officer.

#### **D. Deliverable Four: Draft Report**

The Selected Proposer must discuss audit observations with OSC's Internal Control Officer, and any additional OSC staff the Internal Control Officer deems appropriate, prior to issuing a draft report. Following discussions, the Selected Proposer must deliver a draft report on OSC's system of internal controls within 30 days. The report, addressed to the Comptroller, must contain the following:

i. **Opening Paragraph**

A scope paragraph indicating that the audit of OSC's system of internal control was conducted in accordance with GAGAS and that the audit was limited to the system of internal control examined separately from any financial statements. This paragraph should also contain a statement indicating that the internal controls were reviewed in accordance with standards established by the AICPA. The scope paragraph must also reference the Selected Proposer's procedures for identifying the types of errors and irregularities that may occur, determining the internal control procedures that should prevent or detect such errors and irregularities, determining whether the necessary procedures are prescribed and followed, and evaluating any significant weaknesses. The Selected Proposer must state either that all significant internal controls related to the scope and objectives were reviewed, or that all such controls were reviewed except for those described. It is anticipated that all significant internal controls related to the control objectives will be reviewed.

ii. **Report Body**

The report must include:

- a. A statement regarding whether OSC's internal controls are established and functioning in a manner that provides reasonable assurance that they meet the objectives of internal controls, in accordance with the Executive Law, and as prescribed in the Standards;
- b. Identification of OSC's core functions and the significant internal controls associated with such functions. The report must identify the internal controls evaluated and those not evaluated; and
- c. Identification of internal control deficiencies or combination of deficiencies that severely reduces the likelihood that OSC will achieve its objectives, accompanied by the Selected Proposer's recommendations for corrective action to address such deficiencies.

iii. **Findings**

Each finding should contain sufficient information for OSC management to initiate timely corrective action. All findings should be grouped by applicable OSC Division or bureau. Non-significant or immaterial findings should be excluded from the report, but should be communicated to OSC management before the end of the engagement.

**E. Deliverable Five: Final Report**

The Selected Proposer must deliver a final report on OSC's system of internal control within seven business days of OSC's approval of draft report.

**4.3. Acceptance of Deliverables**

All Deliverables must be submitted in a comprehensive and professional manner, address all Deliverable requirements, and be thoroughly edited. Submission of Deliverables must occur within the timeframe allowed for Deliverable submission as indicated in the approved Audit Plan. Upon completion of each Deliverable, with the exception of Deliverable Two, the Selected Proposer must submit the required Deliverable to the OSC Internal Control Officer for approval. OSC will complete its review of the Deliverable within ten business days. OSC may request, in writing, an extension when the review by OSC cannot be completed within the ten business day period or other mutually agreed upon timeframe. The Selected Proposer's approval of such extension shall not be unreasonably withheld. The Selected Proposer will be notified in writing (which may include email) of approval of each Deliverable by OSC.

If a submitted Deliverable is not satisfactory, the OSC Internal Control Officer will notify the Selected Proposer; any notification will include a list of Deliverable deficiencies. The Selected Proposer must address all cited Deliverable deficiencies and resubmit the Deliverables within a mutually agreed upon timeframe.

Any resubmission of a rejected Deliverable must include responses to all OSC comments and corrections for noted Deliverable deficiencies. OSC acknowledges that large, complex documents may require more time to correct Deliverable deficiencies and may, at its sole option, provide a longer period of time in its written notice to correct the Deliverable deficiencies.

Any Deliverable deficiencies noted by OSC that relate to resubmitted Deliverables will be reported to the Selected Proposer in the same manner as the Deliverable deficiencies related to the original submission of the Deliverable.

#### **4.4. Compensation**

Compensation will be payable for each audit upon OSC's acceptance of Deliverable Four for that audit. Compensation will be based on Selected Proposer's actual number of hours utilized to provide the Deliverables, limited by the Total Not-to-Exceed Cost, i.e., if fewer hours are actually utilized than those set forth in Proposer's Cost Proposal, compensation will be less than the Total Not-to-Exceed Cost; if more hours are actually utilized, compensation will be limited to the Total Not-to-Exceed Cost.

#### **4.5. Assistance Available During Audit**

##### **A. OSC Staff Assistance**

OSC staff will be available during the audit to assist the Selected Proposer. While OSC staff will pull documents, reproduce files, and respond to Selected Proposer's inquiries on an intermittent basis, they cannot be expected to prepare schedules or otherwise provide full-time assistance.

##### **B. Access to OSC Systems**

OSC will provide the Selected Proposer with access to the computer systems and data necessary to perform the audit. OSC Information Technology staff will be available to provide access to these systems and will provide the Selected Proposer with any necessary system documentation and explanations. The Selected Proposer must have computer equipment compatible with that of OSC and should provide all necessary audit software.

The Selected Proposer shall not connect any non-OSC computer or telecommunications equipment to the OSC network **without the express written permission of OSC**; personal and corporate laptop computers, tablets, and phones are included in this prohibition.

The Selected Proposer must comply with all applicable information security policies and procedures (both present and future) of OSC in performing the Services.

#### **4.6. Security**

The Services (including systems that interact with OSC confidential information, e.g., hosting, transmitting, storing, processing, record keeping). may only be performed and located within the contiguous United States.

The Selected Proposer must ensure that all systems that interact with OSC confidential information are appropriately secured, including they systems of all subcontractors and third-party service providers. OSC confidential information shall be used solely for the purpose of carrying out the obligations to OSC as set forth in this RFP, and for no other purpose, including data analysis and data mining, regardless of whether those functions are performed on aggregated or anonymized data.

If an Incident occurs (meaning (i) an actual or potential compromise of OSC confidential information in the possession or control of the Selected Proposer, including its subcontractors and third-party service providers; (ii) breach of Selected Proposer's system(s), including those of its subcontractors and third-party service providers; and (iii) any other occurrence where it can be reasonably assumed under the circumstances that OSC confidential information was exposed, accessed, acquired, or disclosed without OSCs prior written authorization), to the extent not prohibited by

applicable law, the Selected Proposer must notify OSC promptly in writing, in the most expedient time possible and without unreasonable delay, but no later than within 24 hours after discovery of the Incident.

Proposers are encouraged to review additional details in the attached Draft Contract, Section XIV.

## **5.0 ADMINISTRATIVE INFORMATION**

NOTE: From time to time, addenda to procurement documents may be issued or such documents may be amended. It is the Proposer's responsibility to become aware of any such amendments and/or addenda prior to submission of a proposal. All amendments and/or addenda to this RFP will be posted to the OSC website at [www.osc.state.ny.us/procurement/index.htm](http://www.osc.state.ny.us/procurement/index.htm). Only the OSC website will contain all amendments and/or addenda to the procurement documents, including the Responses to Written Questions. Proposers should review the OSC website prior to submission of a proposal to ensure that they have all information required to submit a complete and responsive proposal.

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

### **5.1. Procurement Integrity/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); 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 Director of Finance as Contracting Officer, or designees at OSC, via email (preferred) to [RFP@osc.ny.gov](mailto:RFP@osc.ny.gov) or via hard copy mail to:

Director of Finance  
Questions for RFP0008  
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 is 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

There will be an opportunity for submission of written questions and requests for clarification with regard to this RFP. All questions and requests for clarification of this RFP should cite the particular RFP Section and paragraph number where applicable and 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 changes of contract language contained in Attachment J (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 and notice of such posting will be distributed by email to all vendors known to OSC who have received electronic access to this RFP on the date specified in Section 1.0. This listing will not include the identities of 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. Modifications to this RFP will be made by issuance of amendments and/or addenda.

Prior to the Deadline for Submission of Proposals, any clarifications or modifications as deemed necessary by OSC will be posted to the OSC website and subsequent email notification will be provided to all potential Proposers known to OSC. OSC also reserves the right to cancel this RFP, in whole or in part, and to reject any and all proposals.

If the 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 assumes the risk of proposing. If awarded the contract, the Proposer will not be entitled to additional compensation by reason of the error or its correction.

## 5.4. Minority and Woman-Owned Business Enterprise Requirements

Appendix B (Proposer and Contractor Compliance Requirements and Procedures for Participation by Minority Group Members and Women With Respect to OSC Contracts) provides the policies of OSC with regard to participation by Minority and Women-Owned Business Enterprises with respect to OSC contracts. In accordance with the provisions outlined in Appendix B, it is the intention of OSC to provide real and substantial opportunities for certified M/WBEs on all OSC contracts. It is with this intention that OSC has assigned M/WBE participation goals to this Agreement.

Such participation may be as partners, joint venturers, subcontractors, suppliers, protégés or other roles. Any joint proposal (submitted by partners or joint ventures) must describe the legal relationship and demonstrate how the firms propose to provide Services required in this RFP and how the fees will be allocated among the firms. **When submitting a joint proposal, all required materials must be submitted**

**as to all firms that are participants in the proposal.** See Section 6.1.A for submission requirements with regard to Appendix B.

Proposers submitting a proposal in response to this RFP agree to make good-faith efforts to promote and assist the participation of certified M/WBEs, as set forth herein, for the provision of services and materials in an amount at least equal to **34% M/WBE** of the total dollar value of the contract to be entered into as a result of this RFP. These participation goals are applicable to the contract as a whole and will be monitored by OSC for compliance.

Below is a link to the current directory of NYS certified M/WBE firms:

<https://ny.newnycontracts.com/frontend/searchcertifieddirectory.asp>

A Proposer must respond to the participation goals established for MBE and WBE participation by completing the requirements of Appendix B. See Section 6.1.A for submission requirements with regard to Appendix B.

#### **5.5. Service-Disabled Veteran-Owned Businesses**

Article 3 of the Veterans' Service Law establishes a program to encourage State agencies to foster the use of service-disabled veteran-owned businesses (SDVOBs) on State contracts. Appendix H (Proposer/Contractor Compliance Requirements and Procedures for Participation by Service-Disabled Veteran-Owned Businesses) provides OSC requirements with regard to participation by SDVOBs on OSC contracts. It is the intention of OSC to provide opportunities for meaningful participation by certified SDVOBs on all OSC contracts.

Such participation may be met through Subcontractors (defined above). Any joint proposal (submitted by partners or joint venturers) must describe the legal relationship and demonstrate how the firms propose to provide Services required by this RFP and how the fees will be allocated among the firms. **When submitting a joint proposal, all required materials must be submitted as to all firms that are participants in the proposal.** See Section 6.1.B for submission requirements with regard to Appendix H.

Proposers submitting a proposal in response to this RFP agree to make good-faith efforts to promote and assist the participation of certified SDVOBs in an amount at least equal to **2%** of the total dollar value of the Agreement. These participation goals are applicable to the contract as a whole and will be monitored by OSC for compliance.

SDVOBs can be readily identified on the directory of certified businesses at:

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

The same firm can be used to fulfill both M/WBE and SDVOB requirements.

#### **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 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 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 DTF's website, available through this link: [www.tax.ny.gov/pdf/publications/sales/pub223.pdf](http://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](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](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 and disability and paid family leave benefits insurance coverage is produced. Prior to entering into a contract with OSC, the Selected Proposer must verify for OSC, 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 either 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 either of these types of insurance coverage by the time the Agreement 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:

- 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
- Form SI-12** – Certificate of Workers' Compensation Self-Insurance (or **Form GSI-105.2** Certificate of Participation in Workers' Compensation Group Self-Insurance); or
- 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 and Paid Family Leave documentation:

- Form DB-120.1** – Certificate of Insurance Coverage – Disability and Paid Family Leave Benefits Law; or
- Form DB-120.2** – Certificate of Participation in Disability or Disability and Paid Family Leave Benefits Group Self-Insurance; or
- Form DB-155** – Certificate of Self-Insurance Coverage – Disability and Paid Family Leave Benefits Law; or
- 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:

- A.** Cancel the procurement, reject any and all proposals received in response to this RFP or choose to make no award.
- B.** Prior to opening of proposals, amend the RFP to correct errors or oversights, or change any of the scheduled dates, or supply additional information, as it becomes available. Modifications to the RFP will be made by issuance of amendments and/or addenda.
- 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, to 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 contract award. 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 Freedom of Information Law ("FOIL"). Accordingly, upon submission of its proposal, Proposer is encouraged to clearly and specifically indicate any portion of the 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 to this RFP, the person signing the proposal certifies, for and on behalf of the Proposer, that:

- A.** The signatory has read and understands the provisions applicable to post-employment restrictions affecting former New York State officers and employees, available using the link<sup>1</sup> below:
  - i.** Public Officers Law §73(8)(a)(i), (the two-year bar); and
  - ii.** Public Officers Law §73(8)(a)(ii), (the lifetime bar);
- B.** Submission of this proposal does not violate either provision;
- C.** The signatory is familiar with the Proposer's employees, and its agents;
- D.** No violation will occur by entering into a contract or in performance of the contractual services;
- E.** This certification is material to the proposal; and
- F.** The signatory 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. State Finance Law Consultant Disclosure Provisions (Appendix G)**

Pursuant to New York State Finance Law §163(4)(g), State agencies must require all contractors, including subcontractors, that provide consulting services for State purposes pursuant to a contract, to submit an annual employment report for each such contract, such report to include for each employment category within the contract: (i) the number of employees employed to provide services under the contract, (ii) the number of hours they work, and (iii) their total compensation under the Agreement. Consulting services are defined as analysis, evaluation, research, training, data processing, computer programming, engineering,

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<sup>1</sup> 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).

environmental, health, and mental health services, accounting, auditing, paralegal, legal, or similar services.

The Contractor selected as a result of this procurement must submit Form A prior to contract approval and Form B on an annual basis. OSC has provided the appropriate forms as Appendix G to this procurement.

#### **5.12. OSC Executive Order Relating to Auditor Independence (Appendix I)**

The Comptroller has issued an Executive Order relating to Independence of Auditors, a copy of which is attached as Appendix I to this RFP. Any Proposer wishing to submit a proposal in response to this RFP must be in compliance with the terms of the Executive Order. In addition, in accordance with the terms of the Executive Order, before any contract between a Proposer and OSC is entered into, the proposed contract must be reviewed and approved by the Audit Oversight Board created by the Executive Order. See Section 6.1.F for submission requirements.

#### **5.13. 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. The debriefing will be scheduled within a reasonable time after receipt of the Proposer's written request by OSC's Bureau of Finance.

#### **5.14. 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>.

#### **5.15. Background Investigations**

OSC policy requires that background investigations be conducted on Contractor staff who will have access to OSC's IT systems, access to OSC confidential information/data, or routine access to any OSC facility. For purposes of this policy, "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 the Agreement, the Contractor certifies that it has or will conduct a background investigation on any staff to whom the policy applies prior to the staff commencing Services under the Agreement. The Contractor must undertake a background investigation of any new/replacement staff during the term of the Agreement.

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

- identity verification, including Social Security Number or national identity number search, as applicable;
- employment eligibility, including verification of U.S citizenship or legal immigration status where appropriate;

- criminal history/court records (Federal, state and local for the past five years);
- work experience/history for the past five years;
- pertinent skills, qualifications, and education/professional credentials; and
- references.

The Selected Proposer must obtain the consent of its staff to allow OSC, upon request: (i) to review the background investigation records, including all 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 the Agreement, the Contractor must maintain records related to the background investigations performed.

For the purposes of this RFP, "staff" includes employees, owners, officers, directors, or agents of the Proposer and of any of the Proposer's subcontractors and third-party service providers providing the Services.

#### **5.16. Staff Integrity**

The Selected Proposer must certify that staff provided to perform Services possess the necessary integrity and professional capacity to meet OSC's reasonable expectations. 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 resources.

Subsequent to the commencement of Services, whenever the Proposer becomes aware, or reasonably should have become aware, that any staff member(s) 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**

Below is the required format and information to be provided by each Proposer. Proposers responding to this RFP must satisfy all requirements stated in this RFP. All Proposers must 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 formatted with tabs as 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. 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. A proposal that is incomplete in any material respect may be eliminated from consideration. The information requested should be provided

in the prescribed order and format. Responses that do not follow the prescribed format may be eliminated from consideration. All responses to the RFP will be subject to verification for accuracy.

**A. M/WBE Requirements**

Proposers must comply with Minority- and Woman-owned Business Enterprises (M/WBE) participation requirements stated in Section 5.4 of this RFP. Submit the following documents (forms required are provided with Appendix B), as appropriate.

1. A copy of the Proposer's EEO Policy Statement as described in Clause 12 of Appendix A (Standard Clauses for New York State Contracts);
2. Form AC 3239-A (Proposer's EEO Staffing Plan of Anticipated Workforce);
3. M/WBE Participation Forms:
  - Form AC 3239-C (M/WBE Goal Requirements – Certification of Good Faith Efforts);
  - Form AC 3239-D (Proposer's M/WBE Utilization Plan); and
  - Form AC 3239-E (Proposer's M/WBE Subcontractor's/Suppliers Notice of Intent to Participate).
  - Proposers may apply for a partial or total waiver of M/WBE participation requirements by submitting Form AC 3239-F (Request for Waiver) contained in Appendix B of this RFP, and including all required documentation. Waivers will be granted by OSC only where it appears that the Proposer cannot, after a good faith effort, comply with the M/WBE participation requirements set forth under this procurement.

Proposers should note that if selected for contract award they will be required to submit further information as set forth in Appendix B.

**B. SDVOB Requirements**

Proposers must comply with SDVOB participation requirements as stated in Section 5.5 of this RFP. Submit the following documents (forms required are provided with Appendix H), as appropriate.

1. Form AC 3322-1 (Proposed Use of SDVOBs in Contract Performance);

Proposers may apply for a partial or total waiver of SDVOB participation requirements by submitting Form AC 3322-3 (Request for Waiver) contained in Appendix H, and including all required documentation. Waivers will be granted by OSC only where it appears that the Proposer cannot, after a good faith effort, comply with the SDVOB participation requirements set forth under this procurement.

Proposers should note that if selected for contract award they will be required to submit further information as set forth in Appendix H.

**C. Meeting Goals Through Submission of Joint Proposal**

If the M/WBE goals and/or SDVOB goals will be met through the use of Subcontractors (defined above), report the participation of M/WBEs and SDVOBs on Appendix B and Appendix H forms in the spaces provided for reporting the use of Subcontractors.

**D. 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).

**E. Disclosure of Prior Non-Responsibility Determinations**

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

**F. Requirements Concerning Compliance with Comptroller's Executive Order on Independence of Auditors (Appendix I)**

**1. Proposers with Existing Audit Contracts**

Each Proposer that has existing auditing contractual relationships with OSC must submit a statement signed by an individual authorized to bind the Proposer (1) setting out the reasons that the firm could perform services under both contracts without any impairment of independence under GAO standards, (2) attesting that the proposed activity is not one which, if the services were subject to the provisions of the Sarbanes-Oxley Act, would be precluded under the auditor independence provisions of section 201 of the Act, and (3) attesting that the engagements would comply with any additional written standards promulgated by the Board in advance of the solicitation for services to prevent an impairment or the appearance of an impairment of independence from arising from two contracts with the same firm.

**2. Other Proposers**

All other Proposers (i.e., Proposers that do not have existing auditing contractual relationships with OSC) must submit one original and two copies of a statement signed by an individual authorized to bind the Proposer stating that either: (i) the Proposer has no existing contractual relationship with OSC; or (ii) the only existing contractual relationships with OSC are for the rendition of non-auditing services. If the Proposer states that the only existing contractual relationship with OSC relate to non-auditing services, the signatory must also identify, with reasonable detail, the identity (including contract number), and nature of such contractual relationships.

**G. Vendor Responsibility Questionnaire**

Proposers and any Subcontractors providing services in excess of \$100,000 must complete, certify, and file a NYS Vendor Responsibility Questionnaire. OSC recommends that vendors file the required Vendor Responsibility Questionnaire online via the NYS 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 NYS 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 NYS Vendor ID, contact the OSC Help Desk by email at [ITServiceDesk@osc.ny.gov](mailto:ITServiceDesk@osc.ny.gov)

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

#### **H. Freedom of Information Law – Proposal Redactions**

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

### **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 demonstrate the qualifications of the Proposer and the staff to be assigned to provide the Services.

A Technical Proposal that is incomplete in any material respect may be eliminated from consideration. The following outlines the required information to be provided, in the following order and format, by Proposers. Responses 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 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.

Specific attention is directed to the list of requirements provided in Attachment B. Each proposal should contain an index that cites each tab number in the proposal where the requested information can be found using the tab numbers found in Attachment B for the corresponding RFP Section.

#### **C. Proposer's Certified Statements – Attachment A**

Submit Attachment A (Proposer's Certified Statements), which includes information regarding the Proposer.

**Attachment A must be signed by an individual authorized to bind the Proposer contractually.**

Indicate the title or position that the signer holds with the Proposer. 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 found non-responsive.

**D. Further Attachments**

The Technical Proposal must also include the following items and should be in the designated sections and clearly labeled:

- i. Section 1 – Information in Support of Minimum Qualifications to Propose. This section should include:
  - a. Attachment A, as described above;
  - b. Proof that the firm is an independent CPA firm that is registered and in good standing with the New York State Board for Accountancy, or with the state Board for Accountancy where licensed;
  - c. A copy of the firm's current registration to practice public accounting in New York State;
  - d. On Attachment D, list ALL internal control audits completed by the firm on a governmental client within the last five years. The internal control audits may have been completed separately or as part of a larger governmental audit, but, in either case, must have been conducted in accordance with GAGAS. Governmental entities may include, but are not limited to: federal and state agencies, public authorities, county and municipal governments, and school districts. The following items should be indicated for each engagement listed: auditee name and amount of annual budget, principal client contact with name, telephone number, and email address, name of Partner assigned to the engagement, total hours worked including subcontractor hours (do not use hour ranges or full-time equivalent counts), scope of work, and engagement outcomes;
  - e. Audit report resulting from one of the engagements described above;
  - f. A statement signed by an authorized signatory that states that the firm is independent of OSC in accordance with the AICPA and government auditing standards and is able to conduct the proposed audit; and
  - g. A statement signed by an authorized signatory that the team to be assigned to the audit is qualified to provide an opinion on whether OSC's system of internal control are established and functioning in a manner that provides reasonable assurance that it meets the objectives of internal controls as defined in the Executive Law and as prescribed in the Standards.
- ii. Section 2 – Engagement:
  - a. A detailed description of how the firm's experience and the professional staff that will be available to perform the Scope of Work will satisfy the needs as

described in Section 4.0. Describe any relevant techniques to be used in conducting the proposed audit; and

- b. A proposed audit plan describing the Proposer's overall approach to the audit as stated in Section 4.0.

iii. Section 3 – Staffing:

- a. Using Attachment E, identify the Partner assigned to the engagement (meaning the person who will oversee delivery of the Services), audit Managers, Supervisors, and other staff, including any and all Subcontractors likely to be assigned to the 2026 audit and each Subcontractor's staff likely to be assigned. Provide each staff member's title, years of total auditing experience, years of experience in government auditing, certifications (e.g., CPA, CFE, CICS, COSO), and any other qualifications enabling them to render an opinion on whether OSC's system of internal control is established and functioning in a manner that provides reasonable assurance that the controls meet the objectives of internal controls as defined in Executive Law and prescribed in the Standards. For each Subcontractor staff member, also identify the Subcontractor firm name.
- b. The firm resume and the bios of the professional staff to be assigned to the 2026 audit, including a description of any special recognition that the listed professional staff have received for expertise in the areas contemplated by this RFP, including published articles, books, papers, teaching memberships in professional organization. Include Subcontractor staff who are likely to work on the engagement, and the New York State CPA licensure status of each person requiring a license as described in the Cost Proposal.
- c. Using Attachment F, provide a staffing plan identifying all the staff, including titles, to be assigned to the 2026 audit. The staffing plan is to include appropriate totals so that OSC can identify total hours expended per title per Deliverable, and for the entire 2026 audit. The staffing plan's titles and hours should agree with what is in the Cost Proposal for the 2026 audit (hourly rates must not be included in the Technical Proposal; rates must be included in the Cost Proposal only).
- d. Describe the Proposer's methods and procedures for monitoring and ensuring the quality of work completed by Subcontractors. These methods and procedures must be provided even if the Proposer does not include Subcontractors in this proposal. If a Subcontractor to be assigned to this engagement has previously performed work for the Proposer, provide a summary of the past work completed.

**E. References**

Provide references using Attachment G (References) for three clients for whom the firm has performed similar work, at least one of whom is a government agency. Provide client 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 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.

The Cost Proposal must contain all pricing and staffing information relative to accomplishing the audit scope described in this RFP. Staff levels and hours provided in Attachment C for the 2026 audit should agree with staff levels and hours provided in Attachment F (Section 6.2.D.iii.c Response Form). Prior to the 2029 audit, as part of the Proposer's detailed Audit Plan, the Proposer must provide a staffing plan similar to Attachment F. The staff levels and hours provided in the 2029 staffing plan should agree with the staff levels and hours provided in Attachment C for the 2029 audit.

## **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 (RFP0008)  
110 State Street, Mail Stop 13-2  
Albany, NY 12236-0001

**IMPORTANT:** OSC **strongly encourages** use of package tracking to provide an independent and verifiable record regarding the timeliness of Proposer's 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 its 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**

Each 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.**

#### **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 such 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 "RFP0008 [Proposer Name]."

It is the Proposer's responsibility to ensure that the USB drive is free from any and all malicious software and that the files are accessible and uncorrupted. The Proposer should scan the USB flash drive before submission to ensure there is no malicious software (i.e., malware) on the drive and that all files are accessible and uncorrupted. 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 that 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 documents of each of the complete administrative, technical, and cost proposals as follows:

<b>Administrative Proposal</b>	Submit <b>TWO</b> paper copies.
<b>Technical Proposal</b>	Submit <b>THREE</b> paper copies.
<b>Cost Proposal</b>	Submit <b>TWO</b> paper copies.

Submit the administrative, technical, and cost proposals in a separate sealed package, 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 electronic copies of the proposals.**

Clearly mark the outside envelope of your sealed proposals, each copy, and USB flash drive (if applicable) as "RFP0008 [Proposer 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" will be selected for award (State Finance Law, Article 11, §163[1][j]).

OSC, at 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 RFP requirements may be eliminated from consideration. The evaluation process will include separate technical and cost evaluations, and the result of each evaluation will remain confidential until both evaluations have been completed and a selection of the winning proposal is made.

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, including all documentation required for the Administrative Proposal, as stated in this RFP. Proposals that are materially deficient in meeting the submission requirements or have omitted material documents, in the sole opinion of OSC, may be rejected.

## **8.3. Technical Evaluation**

The evaluation process will be conducted in a comprehensive and impartial manner. 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 examine the Cost Proposal documents. The Cost Proposals will be opened and reviewed for responsiveness to cost 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 not-to-exceed total cost. All other responsive proposals will receive a proportionate score based on the relation of their Cost Proposal to the proposals offered at the lowest not-to-exceed total 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 two highest preliminary composite scores will be deemed Finalists. Any proposal scoring within ten percent of the second 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. 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.

The interview should confirm the Proposer's ability to provide the required services. The Proposer is encouraged to schedule key personnel to participate in the interview. **No new material will be permitted to be introduced during the interview.**

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

#### **8.8. Reference Checks**

The Proposer must submit references per Section 6.2.E (References) using Attachment G (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 adding the Final Technical Proposal points, reflecting any adjustments that may result from interviews, and the Cost Proposal points.

#### **8.10. Award Recommendation**

The Technical Evaluation Committee will submit to OSC's Internal Control Officer a recommendation for award to the Finalist with the highest composite score whose experience and qualifications have been verified. The Internal Control Officer will then submit the recommendation to OSC's Inspector General for acceptance. 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, conflict review, and Procurement Integrity review is required, and if applicable, a review in accordance with the Comptroller's Executive Order relating to Auditor Independence may be required before the award recommendation is final. The Director of Finance will notify the awarded Proposer

and Proposers not awarded. The awarded Proposer will enter into a written agreement substantially in accord with the terms of Attachment J 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.

**REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.**

**ATTACHMENT A**

**PROPOSER'S CERTIFIED STATEMENTS**

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

<b>RFP0008 – Professional Auditing Services for the Audit of OSC's System of Internal Control</b>
<b>1. Information with regard to the Proposer</b>
<b>A. Provide the Proposer's name, address, and telephone number.</b>
<b>Name:</b>
<b>Address:</b>
<b>City, State, ZIP Code:</b>
<b>Telephone Number (including area code):</b>
<b>B. Provide the name, address, telephone number, and email address of the Proposer's Primary Contact with OSC with regard to this proposal.</b>
<b>Name:</b>
<b>Address:</b>
<b>City, State, ZIP Code:</b>
<b>Telephone Number (including area code):</b>
<b>Email Address:</b>
<b>C. Provide the name, address, telephone number, and email address of the person authorized to bind the Proposer contractually, if different from (B).</b>
<b>Name:</b>
<b>Address:</b>
<b>City, State, ZIP Code:</b>
<b>Telephone Number (including area code):</b>
<b>Email Address:</b>

<p><b>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.</b></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
<b>2. Minimum Qualifications to Propose (Section 3.0):</b>	
A. The Proposer is an independent Certified Public Accounting ("CPA") firm that is registered and in good standing with the New York State Board for Accountancy, or with the state Board for Accountancy where licensed.	<input type="checkbox"/> Yes <input type="checkbox"/> No
B. The Proposer is registered to practice public accounting in New York State and has provided a copy of the firm's current registration.	<input type="checkbox"/> Yes <input type="checkbox"/> No
C. The Proposer has conducted a government internal controls audit within the last five years that included the review of internal controls using Generally Accepted Government Audit Standards ("GAGAS"). (With its proposal, Proposer must 1) submit a list of clients and dates that demonstrate Proposer has conducted such an audit, 2) submit a sample audit report resulting from one of the government audits, and 3) submit references for each audit performed.)	<input type="checkbox"/> Yes <input type="checkbox"/> No
D. The Proposer is independent of OSC in accordance with the American Institute of Certified Public Accountants ("AICPA") and government auditing standards. (With its proposal, Proposer must submit a statement signed by an authorized signatory that the firm is independent of OSC and is able to conduct the proposed audit.	<input type="checkbox"/> Yes <input type="checkbox"/> No
E. The Proposer has a supervisory member of the team that the Proposer intends to assign to provide the Services, who has conducted at least one government internal controls audit within the last five years that included the review of internal controls using GAGAS. (With its proposal, Proposer must identify the supervisory member, the client to whom such services were provided, and the date of the audit.)	<input type="checkbox"/> Yes <input type="checkbox"/> No

<b>3. Proposer's Acknowledgement of Proposal Requirements:</b> [Note: alteration of any language contained in this section may render the proposal non-responsive.]	
<b>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.</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>B. By submission of a proposal, the Proposer agrees not to make any claims for or assert a right to any damages because of any misrepresentations or misunderstanding of the specifications or because of any lack of information.</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>C. The Proposer agrees to fully comply with the OSC Executive Order on Procurement Integrity and OSC Procurement Integrity Procedures attached to this RFP as Appendix D.</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>D. The Proposer certifies that it can and will provide and make available, at a minimum, all Services as described in the RFP if selected for award.</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>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 Selected Proposer becomes aware, or reasonably should have become aware, that any staff member(s) providing Services to OSC no longer possesses the necessary integrity or professional capacity, the Proposer agrees to immediately discontinue the use of such staff and notify OSC.</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>F. The Proposer certifies that all information provided in connection with its proposal is true and accurate.</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>G. The Proposer has read, understands, and accepts all provisions of Appendix A (Standard Clauses for New York Contracts). Appendix A contains important information related to the contract to be entered into as a result of this RFP and 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.</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>H. The Proposer has reviewed and understands Attachment E (Draft Contract), and the Proposer is willing to enter into an agreement substantially in accord with the terms of Attachment E (Draft Contract), should the Proposer be selected for contract award.</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>I. The Proposer agrees that OSC will have the right to approve or disapprove, after appropriate review and/or interview(s), any and all Subcontractor(s) of the Proposer prior to their performance of services under the Agreement.</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>J. The Proposer agrees that it shall be fully responsible for performance of work by its staff and by its Subcontractor's staff. OSC reserves the right to request removal of any Proposer staff or subcontractor's staff if, in OSC's discretion, such staff is not performing in accordance with the Agreement.</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>* A "No" Response in Sections 2 or 3 of this attachment will result in disqualification.</b>	
<b>4. Information Required:</b>	
<b>A. The Proposer is (check as applicable):</b>	
<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>B. Provide the name, title, address, telephone number, and email address of the person authorized to receive notices with regard to the contract entered into as a result of this procurement. See Section VI. of the Draft Contract (Attachment J), NOTICES.</b>	

<b>Name:</b>
<b>Title:</b>
<b>Address:</b>
<b>City, State, ZIP Code:</b>
<b>Telephone Number (including area code):</b>
<b>Email Address:</b>
<b>C. Proposer's Taxpayer Identification Number:</b>
<b>D. Proposer's NYS Vendor Identification Number as discussed in Section 6.1.G, if enrolled:</b>
<b>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.</b>
_____ <b>Typed or Printed Name of Authorized Representative of the Proposer</b>
_____ <b>Title/Position of Authorized Representative of the Proposer</b>
_____ <b>Signature of Authorized Representative of the Proposer</b>
_____ <b>Date</b>

## ATTACHMENT B

### PROPOSAL DOCUMENTS CHECKLIST

RFP0008 – Professional Auditing Services for the Audit of OSC’s System of Internal Control			
FOR THE ADMINISTRATIVE PROPOSAL			
TAB	RFP §	REQUIREMENT	INCLUDED
1	§6.1.A	<u>M/WBE Participation Requirements:</u>	<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"/>
		Form AC3239-C – M/WBE Goal Requirements – Certification of Good Faith Efforts	<input type="checkbox"/>
		Form AC3239-D – Proposer’s M/WBE Utilization Plan	<input type="checkbox"/>
		Form AC3239-E – Proposer’s M/WBE Subcontractor’s/Supplier’s Notice of Intent to Participate	<input type="checkbox"/>
		Form AC3239-F – Request for Waiver, <u>with all required documentation</u> , if applicable	<input type="checkbox"/>
2	§6.1.B	<u>SDVOB Participation Requirements:</u>	<input type="checkbox"/>
		Form AC3322-1 (Proposed Use of SDVOBs In Contract Performance)	<input type="checkbox"/>
		Form AC3322-3 (Proposer’s/Contractor’s SDVOB Request for Waiver)	<input type="checkbox"/>
3	§6.1.D	Appendix E – Contractor’s Certifications/Acknowledgements, completed and signed	<input type="checkbox"/>
4	§6.1.E	Appendix F – Disclosure of Prior Non-Responsibility Determinations, completed and signed	<input type="checkbox"/>
5	§6.1.F	Appendix I – Executive Order on Independence of Auditors Submission	<input type="checkbox"/>
6	§6.1.G	Vendor Responsibility Questionnaire, certified within six months of the proposal due date ( <u>unless filed and certified online</u> )	<input type="checkbox"/>
		If Vendor Responsibility Questionnaire was completed and certified online, check here and do not attach a paper copy.	<input type="checkbox"/>
7	§6.1.H	Written statements of the necessity for protective treatment under Freedom of Information Law	<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.i.d	Attachment D – Section 6.2.D.i.d Response Form	<input type="checkbox"/>
4	§6.2.D.iii.a	Attachment E – Section 6.2.D.iii.a Response Form	<input type="checkbox"/>
5	§6.2.D.iii.c	Attachment F – Section 6.2.D.iii.c Response Form	<input type="checkbox"/>
6	§6.2.D	All Other Technical Responses and Documents Required by §6.2.D (In Order Listed in the Section)	<input type="checkbox"/>
7	§6.2.E	Attachment G (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. ( <b>preferred</b> )	<input type="checkbox"/>
		Optional: Submit one paper copy of each complete Administrative, Technical, and Cost proposals ( <b>recommended</b> )	<input type="checkbox"/>
N/A	§7.1.B OPTION 2	Submit TWO Copies of the Administrative Proposal	<input type="checkbox"/>
		Submit THREE Copies of the Technical Proposal	<input type="checkbox"/>
		Submit 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. ( <b>requested</b> )	<input type="checkbox"/>

**ATTACHMENT C**  
**COST PROPOSAL**

Attachment C is provided as a separate MS Excel file on OSC's website: <https://www.osc.ny.gov/procurement>.

## ATTACHMENT D

### Section 6.2.D.i.d Response Form

In the table below, list ALL internal control audits completed by the firm on a governmental client within the last five years. The internal control audits may have been completed separately or as part of a larger governmental audit, but, in either case, must have been conducted in accordance with GAGAS. Governmental entities may include, but are not limited to: Federal and state agencies, public authorities, county and municipal governments, and school districts.

Proposers are strongly advised to complete each field as required below. Fields left blank or incorrectly completed will not be evaluated in the Proposer's favor. The information provided will be scored in the technical evaluation. Add rows as necessary.

<b>Auditee Name and Amount of Annual Budget</b>	<b>Principal Client Contact (Name, Telephone Number, and Email Address)</b>	<b>Partner Assigned to the Engagement</b>	<b>Total Hours, Including Subcontractors (Do not use hour ranges or FTEs)</b>	<b>Scope of Work</b>	<b>Engagement Outcomes (type of report)</b>

## ATTACHMENT E

### Section 6.2.D.iii.a Response Form

List each staff member to be assigned to the 2026 Audit, along with each Subcontractor staff likely to be assigned, in the tables below. Specify their title, years of total auditing experience, years of experience in government auditing, certifications (e.g., CPA, CFE CICS, COSO Certificate), and any other qualifications that enables them to complete the Services. **Proposers are limited to using the following titles for their staff on this form: Partner, Manager, Supervisor, or Staff Auditor. Proposers should choose the title that most accurately reflects the staff member's actual title.** Add rows if necessary.

Proposers are strongly advised to complete each field as required below. Fields left blank or incorrectly completed will not be evaluated in the Proposer's favor. The information provided will be scored in the technical evaluation. Add rows as necessary.

#### A. Proposer Staff

Name	Title [Partner, Manager, Supervisor, or Staff Auditor]	Years of Total Auditing Experience	Years of Experience in Government Auditing	Certifications	Other Qualifications

#### B. Subcontractor Staff

Name	Title [Partner, Manager, Supervisor, or Staff Auditor]	Subcontractor Firm Name	Years of Total Auditing Experience	Years of Experience in Government Auditing	Certifications	Other Qualifications

## ATTACHMENT F

### Section 6.2.D.iii.c Response Form

For the 2026 audit only, provide the number of hours assigned to each Deliverable under the appropriate staffing titles. Insert titles in the “other” column(s) for titles not listed. Add additional space and description as needed. The titles and hours listed here should agree with what is in the Cost Proposal for the 2026 audit (hourly rates must not be included in the Technical Proposal; rates must be included in the Cost Proposal only).

Deliverables	Hours Per Staffing Title						Total Hours
	Partner	Manager	Supervisor	Staff	Other: _____	Other: _____	
#1: Detailed Audit Plan							
#2: Audit Work							
#3 & 4: Draft and Final Reports							
<b>Total Hours</b>							

## ATTACHMENT G

### REFERENCES

Submit a total of **THREE** references for clients for whom the firm has performed similar work, at least one of whom is a government agency (Section 6.2.E) using this form.

Expand fields and duplicate this page as necessary.

RFP0008 – Professional Auditing Services for the Audit of OSC’s System of Internal Control	
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 H

### NEW YORK STATE EXECUTIVE LAW – ARTICLE 45 INTERNAL CONTROL RESPONSIBILITIES OF STATE AGENCIES

Section 950. Definitions.

Section 951. Internal control responsibilities.

Section 952. Internal audit responsibilities.

Section 953. Independent audits of the executive chamber and the division of the budget.

Section 954. Independent audits of the department of audit and control and the department of law.

#### **§ 950. Definitions.**

As used in this article, the following terms shall have the following meanings:

1. "Internal control". A process that integrates the activities, plans, attitudes, policies, systems, resources and efforts of the people of an organization working together, and that is designed to provide reasonable assurance that the organization will achieve its objectives and mission. The objectives of an internal control system include, but are not limited to: the safeguarding of assets; checking the accuracy and reliability of accounting data and financial reporting; promoting the effectiveness and efficiency of operations; ensuring compliance with applicable laws and regulations; and encouraging adherence to prescribed managerial policies. Internal control review processes are used periodically to evaluate the ongoing internal control system and to assess and monitor the implementation of necessary corrective actions.

2. "Internal audit". An appraisal activity established by the management of an organization for the review of operations as a means of assuring conformance with management policies and the effectiveness of internal control, and conducted in conformance with generally accepted standards for internal auditing.

3. "State agency". Any state department, state university of New York, city university of New York, board, bureau, division, commission, committee, council, office or other governmental entity performing a governmental or proprietary function for the state, or any combination thereof as provided in subdivision two of section nine hundred fifty-one of this article, except any public authority or public benefit corporation, the judiciary or the state legislature.

4. "Judiciary". The courts and court-related programs, including the office of court administration, of the state-funded portion of the unified court system and all components thereof as provided in subdivision two of section two hundred forty-nine-a of the judiciary law.

5. "State legislature". The legislature of the state of New York, including all components thereof as provided in subdivision two of section ninety of the legislative law.

6. "Covered authority". Any public authority or public benefit corporation, other than a bi-state authority or public benefit corporation, a majority of whose members are appointed by the governor or serve as members by virtue of holding state offices to which they were appointed by the governor, or any combination thereof.

#### **§ 951. Internal control responsibilities.**

1. The head of each state agency shall:

a. establish and maintain for the agency guidelines for a system of internal control that are in accordance with this article and internal control standards;

b. establish and maintain for the agency a system of internal control and a program of internal control review. The program of internal control review shall be designed to identify internal control weaknesses, identify actions that are needed to correct these weaknesses, monitor the implementation of necessary corrective actions and periodically assess the adequacy of the agency's ongoing internal control;

c. make available to each officer and employee of the agency a clear and concise statement of the generally applicable management policies and standards with which the officer or employee of such agency shall be expected to comply. Such statement shall emphasize the importance of effective internal control to the agency and the responsibility of each officer and employee for effective internal control;

d. designate an internal control officer, who shall report to the head of the agency, to implement and review the internal control responsibilities established pursuant to this section;

e. implement education and training efforts to ensure that officers and employees within such agency have achieved adequate awareness and understanding of internal control standards and, as appropriate, evaluation techniques; and

f. periodically evaluate the need for an internal audit function.

2. In order to identify all state agencies and their responsibilities for the purposes of implementing the provisions of this article, the director of the division of the budget shall issue and update as necessary a schedule which lists all covered state agencies.

#### **§ 952. Internal audit responsibilities.**

1. The director of the division of the budget, after reviewing the evaluation of the head of each state agency as to the need for an internal audit function, shall issue and, at the director's discretion, periodically revise a schedule of state agencies (other than the department of audit and control and the department of law) which are required to establish and maintain an internal audit function. The comptroller and the attorney general or their designees shall determine, and periodically review such determination of, whether an internal audit function within their respective departments is required. Establishment of such function shall be based upon an evaluation of exposure to risk, costs and benefits of implementation, and any other factors that are determined to be relevant. The head of each state agency listed in the budget director's schedule, and the comptroller and the attorney general if they or their designees so determine, shall establish an internal audit function which operates in accordance with generally accepted professional standards for internal auditing. Any such internal audit function shall be directed by an internal audit director who shall report directly to the head of such state agency. Notwithstanding any other provision of law, each internal audit director shall be appointed by the head of the state agency based on appropriate internal auditing credentials of the proposed appointee, consistent with generally accepted standards for internal auditing, including internal auditing education and experience. The position of internal audit director shall be an exempt position and except in the case of the department of audit and control and department of law, such appointment shall be subject to the approval of the director of the budget. For agencies for which an independent audit is not required pursuant to sections nine hundred fifty-three and nine hundred fifty-four of this article, the internal audit function shall evaluate the agency's internal controls and operations. The internal audit function shall also identify internal control weaknesses that have not been corrected and make recommendations to correct these weaknesses.

2. In the event the head of a state agency does not establish an internal audit function pursuant to subdivision one of this section, he or she shall nevertheless establish and maintain the program of internal control review required by section nine hundred fifty-one of this article.

#### **§ 953. Independent audits of the executive chamber and the division of the budget.**

1. At least once every three years, the independent certified public accountant or accountants selected pursuant to this section shall conduct audits of the internal controls of the executive chamber and the division of the budget, either as a single audit or separately. Such audits shall be performed in accordance with generally accepted government auditing standards and shall include a report on whether the executive chamber and division of the budget's internal controls are established and functioning in a manner that provides reasonable assurance that they meet the objectives of internal control as defined in section nine hundred fifty of this article. The report shall identify the internal controls both evaluated and not evaluated and shall identify internal control weaknesses that have not been corrected and actions that are recommended to correct these weaknesses. If any such internal control weaknesses are significant or material with respect to the entity, the independent auditor shall so state. The governor and the director of the budget shall make available to the public the results of such audits, including any related management letters. The governor and director of the budget and any officer or employee of the executive chamber and the division of the budget shall make available upon request to such independent certified public accountants all books and records relevant to such independent audits.

2. The governor and the director of the budget, either separately or jointly, shall request proposals from independent certified public accountants for audits of the internal controls of the executive chamber and the division of the budget. The requests for proposals shall include a reference to the requirements for audits conducted pursuant to subdivision one of this section. The governor and the director of the budget shall select such independent auditor or auditors in accordance with a competitive procedure including an evaluation, based on quality and price factors, of those proposals received in response to such requests for proposals.

**§ 954. Independent audits of the department of audit and control and the department of law.**

1. At least once every three years, the independent certified public accountants selected pursuant to this section shall conduct audits of the internal controls of the department of audit and control and the department of law, respectively. Such audits shall be performed in accordance with generally accepted government auditing standards and shall include a report on whether the departments' internal controls are established and functioning in a manner that provides reasonable assurance that they meet the objectives of internal control as defined in section nine hundred fifty of this article. The report shall identify the internal controls both evaluated and not evaluated and shall identify internal control weaknesses that have not been corrected and actions that are recommended to correct these weaknesses. If any such internal control weaknesses are significant or material with respect to such departments, the independent auditors shall so state. The comptroller and the attorney general shall make available to the public the results of such audits, including any related management letters. The comptroller and attorney general and any officer or employee of such departments shall make available upon request to such independent certified public accountants all books and records relevant to such independent audits.

2. The comptroller and the attorney general shall request proposals from independent certified public accountants for audits of the internal controls of their respective departments. The requests for proposals shall include a reference to the requirements for audits conducted pursuant to subdivision one of this section. The comptroller and attorney general shall select such independent auditors in accordance with a competitive procedure including an evaluation, based on quality and price factors, of those proposals received in response to such requests for proposals.

3. Whenever the comptroller or the comptroller's appointee is a member of any board, commission, committee, council, or corporation, which constitutes a state agency, the governing body of such board, commission, committee, council, or corporation shall select an independent auditor for the purpose of conducting audits of internal controls in accordance with this section.

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

**Internal Control Report  
April 1, 2023 through May 31, 2023**



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

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## INDEPENDENT ACCOUNTANT'S REPORT

Office of the State Comptroller  
State of New York

We have examined management's assertion that the New York State Office of the State Comptroller's internal controls maintained during the period April 1, 2023 through May 31, 2023, are adequate to meet the criteria for maintaining internal control as established in the "New York State Governmental Accountability, Audit and Internal Control Act." The New York State Office of the State Comptroller's management is responsible for its assertion. Our responsibility is to express an opinion on management's assertion based on our examination. The significant objectives and relevant controls supporting management's assertion are in the accompanying Appendix A.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards applicable to attestation engagements contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform procedures to obtain evidence about management's assertion. The nature, timing and extent of the procedures selected depend on our judgment, including an assessment of the risks of material misstatements of management's assertion whether due to fraud or error. We believe that the evidence we obtained is sufficient and appropriate to provide a reasonable basis for our opinion.

Because of inherent limitations in any internal control, misstatements due to errors or fraud may occur and not be detected. Also, projections of any evaluation of the internal control over administrative operations to future periods are subject to the risk that the internal control may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

We understand that the New York State Office of the State Comptroller considers the controls referred to in the first paragraph of this report that meet the criteria for maintaining internal control as established by the "New York State Governmental Accountability, Audit and Internal Control Act," to be adequate for its purpose. In our opinion, based on this understanding and our examination, management's assertion that the New York State Office of the State Comptroller's internal controls maintained during the period April 1, 2023 through May 31, 2023, are adequate to meet the criteria for maintaining internal control as established by the "New York State Governmental Accountability, Audit and Internal Control Act." is fairly stated, in all material respects.



This report is intended for the information of the New York State Office of the State Comptroller and should not be used for any other purpose. However, this report is a matter of public record and its distribution is not limited.

*Mitchell Titus, LLP*

January 31, 2025

**NEW YORK STATE OFFICE OF THE STATE COMPTROLLER SIGNIFICANT OBJECTIVES  
AND RELEVANT INTERNAL ACCOUNTING AND ADMINISTRATIVE CONTROLS**

**DIVISION OF RETIREMENT SERVICES**

Objective	Controls
Register employees into the retirement system.	<ul style="list-style-type: none"> <li>▪ New members are sent a membership packet and employers receive pertinent membership information through the Member Contribution Rate page in Retirement Online.</li> <li>▪ Segregation of duties is maintained.</li> <li>▪ Internal Users index Social Security numbers and names to prevent creation of duplicate memberships. Employers utilizing Retirement Online will have a validation triggered on the Social Security number and date of birth and if both match it will link to the existing account. However, if the Social Security number is different, a new account will be created and if the date of birth is different, the employer would receive an error and need to follow up with NYSLRS.</li> <li>▪ At a minimum, an employment instance exists for each employer within each active membership.</li> <li>▪ Verification of employees' status to ensure mandatory enrollees are mandated and that optional enrollees are only hired.</li> <li>▪ Employers now select Job Codes, and the Job Codes are mapped to the appropriate system in Portal. The employer would first select the system and then it will only display the available codes for that system so they can't select the wrong ones unless they also select the wrong system.</li> <li>▪ Electable plan assignments are validated to ensure they are within the eligibility criteria. - The plan assignments are programmed for all automatic plans based on the Job Codes and Location Codes selected. The rates are also automatically carried over or calculated based on programmed logic so there is no human intervention.</li> </ul>
Determine eligibility and process benefit payments.	<ul style="list-style-type: none"> <li>▪ Retirement applications are reviewed and approved.</li> <li>▪ Benefit computations are reviewed.</li> <li>▪ The Retirement System's database is reconciled to the month-end extract of pension payroll information.</li> </ul>

**NEW YORK STATE OFFICE OF THE STATE COMPTROLLER SIGNIFICANT OBJECTIVES  
AND RELEVANT INTERNAL ACCOUNTING AND ADMINISTRATIVE CONTROLS**

**DIVISION OF RETIREMENT SERVICES** *(continued)*

Objective	Controls
Determine eligibility and process benefit payments. <i>(continued)</i>	<ul style="list-style-type: none"> <li>▪ Benefit payments are accurately and properly recorded, authorized and in accordance with provisions in the plan documents.</li> <li>▪ Benefit payments are made only to eligible participants or designated beneficiaries.</li> <li>▪ The benefit database is compared to independently provided external sources to match for pensioner deaths.</li> <li>▪ Loans are accurately and properly recorded and authorized.</li> <li>▪ Loans are made only to eligible members and are in accordance with the provisions of the plan.</li> <li>▪ Appropriate segregation of duties is maintained.</li> <li>▪ Large payments by check are sent by certified mail.</li> </ul>
Maintain the retirement system general ledger and investment accounting records. Process retirement system cash receipts and administrative cash disbursements.	<ul style="list-style-type: none"> <li>▪ General ledger investment reconciliations are prepared and reviewed monthly.</li> <li>▪ Segregation of duties exists over the Retirement System's database.</li> <li>▪ Bank reconciliations are prepared on a daily basis for trade settlements and on a monthly basis for the CRF &amp; NYSLRS cash accounts by the retirement system's Accounting Bureau.</li> <li>▪ The Investment Transaction Unit inputs investment activity into the Common Retirement Fund (CRF) based on authorized trade instructions.</li> <li>▪ Failed trades are immediately reviewed and resolved.</li> <li>▪ Reconciliations are performed daily and monthly between the activity reported by the custodian bank and the independently maintained records of the CRF.</li> <li>▪ Staff have appropriate training and skills to maintain data at industry standard levels.</li> <li>▪ Accounting reconciles FWT (Federal Withholding Tax) per payroll register (PeopleSoft database) to MSD Dynamics (general ledger) on a weekly basis after each Ad Hoc and Loan payroll batch is processed, as well as after the Monthly Payroll batch is completed.</li> </ul>

**NEW YORK STATE OFFICE OF THE STATE COMPTROLLER SIGNIFICANT OBJECTIVES  
AND RELEVANT INTERNAL ACCOUNTING AND ADMINISTRATIVE CONTROLS**

**DIVISION OF RETIREMENT SERVICES** *(continued)*

Objective	Controls
<p>Maintain the retirement system general ledger and investment accounting records. Process retirement system cash receipts and administrative cash disbursements. <i>(continued)</i></p>	<ul style="list-style-type: none"> <li>▪ The Accounting Bureau reconciles the interfaced transaction files from the PeopleSoft overnight batches to the transactions posted to Microsoft Dynamics.</li> <li>▪ Journal entries are reviewed, approved, and recorded on a timely basis and substantiated.</li> </ul>
<p>Receive payroll information from employers and post information to member accounts. Ensure complete and accurate billing of participating employers for contributions due to the retirement system.</p>	<ul style="list-style-type: none"> <li>▪ Supervisory review exists over the internal adjustments to the Retirement System's database of payroll information received from employers.</li> <li>▪ Maintenance controls exist over the Retirement System's database.</li> <li>▪ Calculations of actual bills are reviewed for accuracy.</li> <li>▪ Collection of bills is monitored.</li> <li>▪ Segregation of duties is maintained.</li> <li>▪ Accounting reconciles Monthly Employer Reporting PeopleSoft AR Items to PeopleSoft deposits, including wires, direct debit, and checks.</li> <li>▪ Outstanding, unpaid annual bills are reviewed, and employers are contacted.</li> <li>▪ Member contributions are posted timely to member accounts and are reported annually through member annual statements.</li> <li>▪ System controls are in place to prevent employer reporting of errors.</li> <li>▪ Employers can review reported payroll and prior year adjustments year round and confirm amounts prior to the billing cycle.</li> </ul>
<p>Extract the data required for the annual actuarial valuation. Compile and approve actuarial assumptions utilized.</p>	<ul style="list-style-type: none"> <li>▪ An Actuarial Advisory Committee is appointed and annually meets with the Comptroller to discuss all actuarial valuation assumptions and methods.</li> <li>▪ Information Technology (IT) Services controls exist over data extraction programs.</li> <li>▪ Investment performance statistics are collected and reviewed, as appropriate, for use in setting actuarial assumptions.</li> </ul>

**NEW YORK STATE OFFICE OF THE STATE COMPTROLLER SIGNIFICANT OBJECTIVES  
AND RELEVANT INTERNAL ACCOUNTING AND ADMINISTRATIVE CONTROLS**

**DIVISION OF RETIREMENT SERVICES** *(continued)*

Objective	Controls
<p>Extract the data required for the annual actuarial valuation. Compile and approve actuarial assumptions utilized. <i>(continued)</i></p>	<ul style="list-style-type: none"> <li>▪ Contribution rates, actuarial valuations and assumptions are reviewed and approved.</li> <li>▪ Appropriate segregation of duties is maintained.</li> <li>▪ Financial auditors annually examine the actuarial data for reasonableness and completeness.</li> <li>▪ An annual report including census information and valuation output is provided to the New York State (NYS) Department of Financial Services for their review.</li> <li>▪ A quinquennial review is performed by an external actuarial firm that examines all actuarial assumptions and methodologies and compliance with actuarial standards of practice.</li> <li>▪ Office of State Comptroller (OSC) internal auditors periodically review procedures for compliance with OSC internal controls.</li> </ul>
<p>Provide programming and technical support for all system applications.</p>	<ul style="list-style-type: none"> <li>▪ New system implementations and/or change requests are prepared and approved by the requesting Bureau(s), and approved by the requesting Bureau Director, Assistant Bureau Director or Bureau Designee.</li> <li>▪ System modifications are tested and approved by requesting Bureau representatives before migration and confirmed once they go into production.</li> <li>▪ Controls exist to ensure that only properly tested and approved programs and system objects are migrated to the production environment.</li> <li>▪ POST Release Management is responsible for migrating approved programs and system objects to the production environment.</li> <li>▪ With approval from the owning Bureau, the security team is responsible for granting application-level security access.</li> <li>▪ Segregation of duties exists to ensure appropriate migration of all changes to production.</li> </ul>

**NEW YORK STATE OFFICE OF THE STATE COMPTROLLER SIGNIFICANT OBJECTIVES  
AND RELEVANT INTERNAL ACCOUNTING AND ADMINISTRATIVE CONTROLS****DIVISION OF RETIREMENT SERVICES** *(continued)*

Objective	Controls
Provide programming and technical support for all system applications. <i>(continued)</i>	<ul style="list-style-type: none"><li>▪ POST and CIO resources are applied to projects and system support in accordance with the priorities and strategic direction of executive management.</li></ul>

**NEW YORK STATE OFFICE OF THE STATE COMPTROLLER SIGNIFICANT OBJECTIVES  
AND RELEVANT INTERNAL ACCOUNTING AND ADMINISTRATIVE CONTROLS**

**DIVISION OF PENSION INVESTMENT AND CASH MANAGEMENT**

Objective	Controls
<p>Manage the investment process of the CRF to ensure the safeguarding of principal from imprudent risks.</p>	<ul style="list-style-type: none"> <li>▪ The Comptroller approves the asset allocation plan recommended by the Chief Investment Officer (CIO)/Deputy Comptroller.</li> <li>▪ The Rebalance Committee meets periodically to ensure that investments are in line with the asset allocation. Members include the CIO, Deputy CIO, Chief Risk Officer (Director of Risk), representation from Public Equities and Fixed Income and Operations.</li> <li>▪ The Investment Advisory Committee meets approximately six times per year to advise the Comptroller on investment strategy and discuss fund and asset class performance.</li> <li>▪ The Internal Investment Committee meets on a regular basis to review proposed fund investments. The minutes of the meetings accompany recommendations from the CIO/Deputy Comptroller to the Comptroller in accordance with investment policies.</li> <li>▪ The CIO/Deputy Comptroller and the Deputy CIO review and approve the strategic plan for each asset class.</li> <li>▪ Pension Risk Management is headed by the Chief Risk Officer (Director of Risk) who is responsible for advising the CIO and executive management on portfolio risks.</li> </ul>
<p>Manage the investment process of internal management of the CRF to ensure the safeguarding of principal from imprudent risks.</p>	<ul style="list-style-type: none"> <li>▪ An annual inventory of all securities held is verified annually by an independent accounting firm as part of the financial statement audit of New York State and Local Retirement System, including CRF.</li> <li>▪ Public equity and fixed-income transactions are monitored by the Director of Compliance utilizing automated compliance systems in coordination with CRF staff and the CRFs' custodian. Rules are tested periodically to ensure complete and functioning implementation.</li> </ul>

**NEW YORK STATE OFFICE OF THE STATE COMPTROLLER SIGNIFICANT OBJECTIVES  
AND RELEVANT INTERNAL ACCOUNTING AND ADMINISTRATIVE CONTROLS**

**DIVISION OF PENSION INVESTMENT AND CASH MANAGEMENT** *(continued)*

Objective	Controls
<p>Manage the investment process of the CRF of external investments to ensure the safeguarding of principal from imprudent risks.</p>	<ul style="list-style-type: none"> <li>▪ Proposed investments are reviewed by in-house and outside counsel who must represent that there is no legal objection to the CRF entering into said investments.</li> <li>▪ Legal opinions are obtained for all new investment types to ensure the investment is permissible under statute.</li> <li>▪ Staff and independent consultants conduct a thorough review of each proposed investment, and consultants provide written analysis and an investment recommendation prior to the Internal Investment Committee meeting.</li> <li>▪ The Internal Investment Committee typically meets on a weekly basis to review proposed fund investments. The minutes of meetings accompany recommendations from the CIO/Deputy Comptroller to the Comptroller in accordance with investment policies.</li> <li>▪ Before a new investment can be completed, the CIO/Deputy Comptroller must have the opportunity to meet with the general partner and/or investment manager.</li> <li>▪ Special charge vouchers for capital calls are certified by an independent monitoring consultant and approved by designated staff.</li> </ul>
<p>Manage the investment process of the CRF for real estate investments, including mortgages and equity ownership, consistent with prudent underwriting standards, alternative investment opportunities, and maturity and liquidity needs of the fund to ensure the appropriate diversification of its real estate portfolio.</p>	<ul style="list-style-type: none"> <li>▪ Qualified professional advisors are hired through a request for proposal process for asset acquisition, management and disposition.</li> <li>▪ The Real Estate Advisory Committee reviews and approves proposed real estate investments, programs and mortgage investments. Once approved, the CIO/Deputy Comptroller makes a recommendation to the Comptroller in accordance with investment policies.</li> <li>▪ A proposed investment is evaluated against defined objectives in the strategic plan before a recommendation is made to the Comptroller.</li> </ul>

**NEW YORK STATE OFFICE OF THE STATE COMPTROLLER SIGNIFICANT OBJECTIVES  
AND RELEVANT INTERNAL ACCOUNTING AND ADMINISTRATIVE CONTROLS**

**DIVISION OF PENSION INVESTMENT AND CASH MANAGEMENT** *(continued)*

Objective	Controls
<p>Manage the investment process of the CRF for real estate investments, including mortgages and equity ownership, consistent with prudent underwriting standards, alternative investment opportunities, and maturity and liquidity needs of the fund to ensure the appropriate diversification of its real estate portfolio. <i>(continued)</i></p>	<ul style="list-style-type: none"> <li>▪ In-house counsel, in conjunction with outside counsel, as appropriate, reviews relevant investment documentation to ensure compliance with applicable laws and regulations.</li> <li>▪ A Watchlist is maintained to identify and address delinquent or nonperforming mortgages on a regular basis.</li> <li>▪ An annual audit of the mortgage servicer is performed by the servicer's auditor confirming that the firm is in compliance with the minimum servicing standards.</li> <li>▪ Before a new investment can be completed, the CIO/Deputy Comptroller must have the opportunity to meet with the general partner and/or investment manager.</li> <li>▪ Commingled Fund capital calls are certified by an independent monitoring consultant and approved by designated staff.</li> </ul>
<p>Monitor and coordinate the proxy process, initiate shareholder resolutions and solicit proxies.</p>	<ul style="list-style-type: none"> <li>▪ Proxy voting is governed by written policy that is developed and reviewed by the Executive Deputy for Corporate Governance, the CIO/Deputy Comptroller and Comptroller.</li> </ul>

**NEW YORK STATE OFFICE OF THE STATE COMPTROLLER SIGNIFICANT OBJECTIVES  
AND RELEVANT INTERNAL ACCOUNTING AND ADMINISTRATIVE CONTROLS**

**OFFICE OF OPERATIONS**

**DIVISION OF CONTRACTS AND EXPENDITURES**

**BUREAU OF CONTRACTS**

Objective	Controls
<p>Pre-audit of contract transactions to ensure compliance with existing laws, guidelines and policies, including required processing timeframes.</p>	<ul style="list-style-type: none"> <li>▪ Contracts subject to Comptroller pre-audit are checked for compliance with applicable State laws, guidelines and policies, including signature and approval by the NYS Attorney General.</li> <li>▪ OSC auditors complete automated interactive audits on the Control Audit Module (CAM) within the Statewide Financial System (SFS) and resolve any procurement issues.</li> <li>▪ High-risk contracts receive a detailed Vendor Responsibility review.</li> <li>▪ Workflow controls provide for a separate final approval or non-approval of transactions, where applicable.</li> <li>▪ New staff receive on-the-job training and all staff are kept apprised of new requirements.</li> <li>▪ The Bureau maintains formal procedures, both internal and in the Guide to Financial Operations.</li> <li>▪ Managers and team leaders use inventory and aging reports to monitor processing timeframes.</li> </ul>
<p>Support efficient operations with continuous process improvements and current, modern and reliable automated systems.</p>	<ul style="list-style-type: none"> <li>▪ Where appropriate, systems use role-based security.</li> <li>▪ The Business Analysis and Reporting Team is responsible for defining user requirements for new and enhanced systems and ensuring systems meet users' needs. The Knowledge Management Team is responsible for maintaining and defining business processes and ensure alignment of processes with policy and systems.</li> <li>▪ An internal ticketing process ensures system and procedural issues are addressed timely.</li> <li>▪ Specific staff are assigned to trouble shooting system issues.</li> <li>▪ Modifications and fixes to CAM are the responsibility of SFS.</li> </ul>

**NEW YORK STATE OFFICE OF THE STATE COMPTROLLER SIGNIFICANT OBJECTIVES  
AND RELEVANT INTERNAL ACCOUNTING AND ADMINISTRATIVE CONTROLS**

**OFFICE OF OPERATIONS** *(continued)*

**DIVISION OF CONTRACTS AND EXPENDITURES** *(continued)*

**BUREAU OF CONTRACTS** *(continued)*

Objective	Controls
Support efficient operations with continuous process improvements and current, modern and reliable automated systems. <i>(continued)</i>	<ul style="list-style-type: none"> <li>▪ OSC Bureau of Contracts staff/consultants and CIO are responsible for enhancements and fixes for the Contract Submission System, the Vendor Responsibility System, e-Docs and Electronic Document Submission System.</li> <li>▪ All systems are developed and maintained in accordance with generally accepted system development principles.</li> </ul>
Provide the public, agencies, OSC staff and Bureau staff with secure and timely access to accurate contract information that meets statutory requirements, transparency objectives and operational needs.	<ul style="list-style-type: none"> <li>▪ Staff are trained to identify confidential information.</li> <li>▪ Multiple levels of contract review ensure that confidential information is protected.</li> <li>▪ Procedures assign responsibility and timeframes for processing of Freedom of Information Law (FOIL) requests. Requests are monitored for timeliness.</li> <li>▪ FOIL requests are reviewed for appropriate redaction by legal staff.</li> <li>▪ All requests for reports must be approved by the Bureau Assistant Director or Bureau Director. Reports are documented and receive multiple levels of review before release. If the report is to be released to the public as part of a FOIL request, it would be reviewed for appropriate redaction by legal staff.</li> </ul>

**NEW YORK STATE OFFICE OF THE STATE COMPTROLLER SIGNIFICANT OBJECTIVES  
AND RELEVANT INTERNAL ACCOUNTING AND ADMINISTRATIVE CONTROLS**

**OFFICE OF OPERATIONS** *(continued)*

**DIVISION OF CONTRACTS AND EXPENDITURES** *(continued)*

**BUREAU OF STATE EXPENDITURES**

Objective	Controls
<p>Audit of agency vouchers prior to payment to ensure payments made are properly authorized and documented, processed timely, in compliance with existing laws, regulations and policies, and within pre-approved contract amounts.</p>	<ul style="list-style-type: none"> <li>▪ Agencies submit vouchers and expense reports to the Bureau of State Expenditures (BSE) by an electronic transfer of information into the SFS, either directly or indirectly, through the agency's financial management system. Voucher Authorizers at each agency electronically certify that the payment is approved, the information is just, true and correct, and the goods or services rendered are for use in the performance of the official functions of the agency.</li> <li>▪ All transactions captured in the SFS are available for audit.</li> <li>▪ All transactions are pre-audited by the application of risk-based filters and visualization tools.</li> <li>▪ Filtered transactions are reviewed by auditors, who receive formal and on-the-job training on SFS and audit techniques.</li> <li>▪ Segregation of duties exist between the audit and payment process.</li> <li>▪ Agencies are required to submit an annual certification of internal controls over their payment process. BSE evaluates the results to ensure it devotes resources to areas of highest reported risk.</li> </ul>
<p>Conduct audit operations prior to authorizing payments for tax and other refunds, unemployment insurance disbursements, and State Insurance Fund payments.</p>	<ul style="list-style-type: none"> <li>▪ Transactions are certified by agencies and made available to auditors at BSE.</li> <li>▪ All transactions are available for audit.</li> <li>▪ All transactions are subject to audit using individual audit team criteria and procedures.</li> <li>▪ Selected transactions/processes are approved by staff, as appropriate.</li> <li>▪ Segregation of duties exists between the audit and payment processes.</li> </ul>

**NEW YORK STATE OFFICE OF THE STATE COMPTROLLER SIGNIFICANT OBJECTIVES  
AND RELEVANT INTERNAL ACCOUNTING AND ADMINISTRATIVE CONTROLS**

**OFFICE OF OPERATIONS** *(continued)*

**DIVISION OF CONTRACTS AND EXPENDITURES** *(continued)*

**BUREAU OF STATE EXPENDITURES** *(continued)*

Objective	Controls
<p>Conduct post-payment examinations, in accordance with the Bureau's Audit Plan, to improve State fiscal operations by identifying fraud, waste, and improper payments.</p>	<ul style="list-style-type: none"> <li>▪ An Audit Plan is developed that identifies areas to examine based on risks identified as part of the audit of Agency vouchers prior to payment; an analysis of historical transactions to identify trends, patterns or other indications of risky activity; Management priorities; and Comptroller initiatives.</li> <li>▪ The Audit Plan is approved by the Bureau Director and Deputy Comptroller. Audit Supervisors monitor and document their teams' progress with the Audit Plan.</li> <li>▪ All findings are subjected to a multi-level review prior to reporting the results of examinations to the appropriate State Agency.</li> </ul>
<p>Develop and maintain a Statewide Vendor File that provides enhanced efficiency and improved information in support of agency procurement and payment processes.</p>	<ul style="list-style-type: none"> <li>▪ The SFS allows agencies to submit procurement and payment transactions for registered NYS Vendors contained in the Statewide Vendor File.</li> <li>▪ Individuals and entities can only become registered NYS Vendors after their legal names and Taxpayer Identification Numbers are verified with the Internal Revenue Service.</li> <li>▪ For registered vendors, SFS only remits payments to either the established vendor addresses, or approved bank accounts listed in the vendor records contained in the Statewide Vendor File.</li> <li>▪ Changes to data in vendor records are processed via a secure, on-line vendor self-service system or centrally through the Vendor Management Unit. All changes are validated using third-party services or verified with the vendor. Banking changes require a canceled check or bank letter.</li> </ul>

**NEW YORK STATE OFFICE OF THE STATE COMPTROLLER SIGNIFICANT OBJECTIVES  
AND RELEVANT INTERNAL ACCOUNTING AND ADMINISTRATIVE CONTROLS**

**OFFICE OF OPERATIONS** *(continued)*

**DIVISION OF PAYROLL, ACCOUNTING AND REVENUE SERVICES**

**BUREAU OF STATE ACCOUNTING OPERATIONS**

Objective	Controls
<p>Establish accounting and financial reporting policies and procedures that facilitate proper recording of the State revenue and disbursement transactions and ensure that proper controls exist to safeguard information and limit access.</p>	<ul style="list-style-type: none"> <li>▪ Statutory accounting duties of the Comptroller are inventoried and kept current.</li> <li>▪ Systems security exists and staff access is periodically reviewed, which includes password controls, access approvals and roles and responsibility by function.</li> <li>▪ Policies and procedures exist that strictly limit the collection and storage of sensitive/personal information that is relevant and necessary for business needs.</li> <li>▪ Formal policy and procedure manuals exist in each Section of the Bureau. These are updated as conditions warrant and reviewed no less than annually.</li> <li>▪ A Business Continuity Plan has been developed and tested and is kept current.</li> </ul>
<p>Ensure that all funds, programs and accounts are properly established in compliance with state laws.</p>	<ul style="list-style-type: none"> <li>▪ Review, on an annual basis, appropriation acts, special budget implementation acts, other special chapters, and Federal rules and regulations to identify, document and implement special accounting requirements.</li> <li>▪ New Fund requests are submitted to the Chart of Accounts Governance Board, where they are reviewed for compliance with accounting rules, SFS system requirements, and all applicable State laws.</li> </ul>
<p>Ensure that State agency spending does not exceed the amounts authorized by the State Legislature. Appropriation and segregation records are established in the SFS in accordance with amounts provided for in legislation.</p>	<ul style="list-style-type: none"> <li>▪ SFS records are reconciled to appropriation acts. Reconciliation of appropriations-in-force are completed and verified to the Division of Budget reports, and published in the Comptroller's Annual Report.</li> <li>▪ Monitor SFS reports for overspending and communicate corrective actions to the relevant agency(ies).</li> </ul>

**NEW YORK STATE OFFICE OF THE STATE COMPTROLLER SIGNIFICANT OBJECTIVES  
AND RELEVANT INTERNAL ACCOUNTING AND ADMINISTRATIVE CONTROLS**

**OFFICE OF OPERATIONS** *(continued)*

**DIVISION OF PAYROLL, ACCOUNTING AND REVENUE SERVICES** *(continued)*

**BUREAU OF ACCOUNTING OPERATIONS** *(continued)*

Objective	Controls
<p>Ensure that State agency spending does not exceed the amounts authorized by the State Legislature. Appropriation and segregation records are established in the SFS in accordance with amounts provided for in legislation. <i>(continued)</i></p>	<ul style="list-style-type: none"> <li>▪ Periodically advise agencies to review SFS reports of appropriation/segregation records.</li> <li>▪ Confirm, document and maintain records related to appropriated spending that is subject to repayment and receivables.</li> </ul>
<p>Complete timely and accurate review, posting, reconciliation and reporting of cash receipt transactions, accounts receivable deposits and general ledger journal entries.</p>	<ul style="list-style-type: none"> <li>▪ Approve and post all revenue accounting transactions submitted by agencies in SFS.</li> <li>▪ Review and post daily revenue accounting transactions submitted by agencies after agreeing them to the daily deposit list communicated by the joint custodian of the General Checking Account: Department of Taxation and Finance - Treasury. Update guidance to agencies in the Guide for Financial Operations Section IV.3 to aid in proper statewide revenue classification.</li> </ul>
<p>Ensure the prompt and accurate recording of tax collections and refunds paid.</p>	<ul style="list-style-type: none"> <li>▪ Reconcile all sole custody tax accounts to bank statements, and to monthly certifications of the Tax Commissioner of receipts, refunds paid, and amounts owed to local governments which comes from the Department of Taxation and Finance's electronic tax return processing system.</li> <li>▪ Tax receipts are credited to designated funds pursuant to State statutes. These credits are then verified by parties independent of the unit (<i>e.g.</i>, Department of Taxation and Finance, Division of Budget).</li> <li>▪ Reconcile transfers from sole custody tax collection accounts to the SFS.</li> </ul>

**NEW YORK STATE OFFICE OF THE STATE COMPTROLLER SIGNIFICANT OBJECTIVES  
AND RELEVANT INTERNAL ACCOUNTING AND ADMINISTRATIVE CONTROLS**

**OFFICE OF OPERATIONS** *(continued)*

**DIVISION OF PAYROLL, ACCOUNTING AND REVENUE SERVICES** *(continued)*

**BUREAU OF ACCOUNTING OPERATIONS** *(continued)*

Objective	Controls
Ensure the prompt and accurate recording of tax collections and refunds paid. <i>(continued)</i>	<ul style="list-style-type: none"> <li>▪ Distribute each local governments' share of tax collections (e.g., income, sales and wireless taxes). The amounts distributed are then verified by parties independent of the unit (e.g., Department of Taxation and Finance, Division of Budget).</li> <li>▪ Distribute revenue tax collections to Metropolitan Transit Authority each month pursuant to legislation.</li> </ul>
Efficiently manage the daily concentration and disbursement of State funds for purposes of investments and State operations.	<ul style="list-style-type: none"> <li>▪ Initiate wire and ACH transfers with appropriate authorizations, including individual token access to banks and separation of transfer initiation and release functions.</li> <li>▪ Use pre-established templates with approved accounting codes to perform transfers of State funds to banks.</li> <li>▪ Review bank transaction history, as needed to address identified discrepancies, through bank's website.</li> </ul>
Execute federal draws timely, accurately and in accordance with State and Federal laws, guidelines and agreements.	<ul style="list-style-type: none"> <li>▪ Reconcile/validate SFS-prepared draw worksheets/bills to the federal draw system (what was actually keyed and drawn in the federal system by the preparer).</li> </ul>
Complete timely and accurate reporting of federal cash transactions ( <i>i.e.</i> receipts, disbursements by grant award, etc.) and compliance with all relevant rules, regulations, etc.	<ul style="list-style-type: none"> <li>▪ Annual Single Audit includes tests of compliance with Federal rules and regulations.</li> </ul>
Ensure that all payments from State funds are reconciled prior to release.	<ul style="list-style-type: none"> <li>▪ Daily payment release reconciliations are completed before check and electronic payment files are released. Out of balance conditions are reviewed and resolved with SFS staff prior to release.</li> </ul>

**NEW YORK STATE OFFICE OF THE STATE COMPTROLLER SIGNIFICANT OBJECTIVES  
AND RELEVANT INTERNAL ACCOUNTING AND ADMINISTRATIVE CONTROLS**

**OFFICE OF OPERATIONS** *(continued)*

**DIVISION OF PAYROLL, ACCOUNTING AND REVENUE SERVICES** *(continued)*

**BUREAU OF ACCOUNTING OPERATIONS** *(continued)*

Objective	Controls
<p>Ensure all State bank accounts are sufficiently collateralized with approved securities as defined by State Finance Law.</p>	<ul style="list-style-type: none"> <li>▪ Ensure banks complete “undertaking” documents that define the legal foundations and conditions required to accept State deposits.</li> <li>▪ Review and approve banks’ bond ratings to ensure sufficient industry standing.</li> <li>▪ Approve establishment of new bank accounts and maintain an inventory of State-managed bank accounts.</li> <li>▪ Establish collateral level based on average daily available balances, less FDIC coverage.</li> <li>▪ Review bank balances and reports daily and adjust collateral amounts, as necessary.</li> </ul>

**NEW YORK STATE OFFICE OF THE STATE COMPTROLLER SIGNIFICANT OBJECTIVES  
AND RELEVANT INTERNAL ACCOUNTING AND ADMINISTRATIVE CONTROLS**

**OFFICE OF OPERATIONS** *(continued)*

**DIVISION OF PAYROLL, ACCOUNTING AND REVENUE SERVICES** *(continued)*

**BUREAU OF FINANCIAL REPORTING AND OIL SPILL REMEDIATION**

Objective	Controls
Establish accounting and financial reporting policies and procedures utilized in preparing the State's financial statements, on both a cash and GAAP basis of accounting.	<ul style="list-style-type: none"> <li>Formal policy and procedures manuals exist and are updated as a result of operational changes or upon implementation of authoritative standards which results in changes or at a minimum of every three years.</li> </ul>
Prepare the State's annual and monthly cash-basis and annual and quarterly GAAP basis financial statements.	<ul style="list-style-type: none"> <li>Agency financial reporting instructions to State agencies and other reporting entities (enterprise, fiduciary fund and public benefit corporations) provide for uniform reporting by appropriate entities.</li> <li>Monitoring and reconciliation of submodules within SFS and various bank accounts.</li> <li>Bureau management monitors and reviews critical completion dates for financial statement preparation.</li> <li>Legislation and Governmental Accounting Standards Board (GASB) pronouncements are reviewed and implemented, as required.</li> <li>Select an independent accounting firm for the annual GAAP financial statement audit.</li> </ul>
Administer reporting requirements for all reporting entities financial statement-related information.	<ul style="list-style-type: none"> <li>Periodically review reporting requirements for possible revisions.</li> <li>Maintain financial-related data in a secure and accessible system.</li> <li>Oversee and administer financial reporting requirements in accordance with laws and regulations.</li> </ul>
Ensure that the Department of Environment Conservation (DEC), Office of Attorney General (OAG), Department of Health (DOH) and OSC work collaboratively to establish and maintain appropriate controls.	<ul style="list-style-type: none"> <li>Interaction between, and periodic meetings with, DEC, OAG, DOH and OSC are held to ensure close cooperation among the Spill Fund participant agencies, that the fund operates in an efficient and effective manner and mandates under the Navigation Law are fulfilled.</li> </ul>

**NEW YORK STATE OFFICE OF THE STATE COMPTROLLER SIGNIFICANT OBJECTIVES  
AND RELEVANT INTERNAL ACCOUNTING AND ADMINISTRATIVE CONTROLS**

**OFFICE OF OPERATIONS** *(continued)*

**DIVISION OF PAYROLL, ACCOUNTING AND REVENUE SERVICES** *(continued)*

**BUREAU OF FINANCIAL REPORTING AND OIL SPILL REMEDIATION** *(continued)*

Objective	Controls
Ensure that vouchers are paid accurately and timely.	<ul style="list-style-type: none"> <li>▪ The Spill Fund works with the BSE to ensure that proper oversight and internal controls are maintained over all DEC voucher and procurement procedures and processes.</li> </ul>
Maintain data integrity in spill litigation files.	<ul style="list-style-type: none"> <li>▪ The Spill Fund works closely with the GAAP reporting unit of the Bureau of Financial Reporting and Oil Spill Remediation and the Division of Legal Services to ensure that all legal and financial reports are prepared in compliance with Article 12 of the Navigation Law and appropriate governmental accounting and reporting standards, as well as OSC policies. The Spill Fund works closely with the OAG and DEC to ensure that responsible parties are being pursued in an efficient and timely manner. Prompt and appropriate litigation settlements will ensure that the Spill Fund balance remains positive.</li> </ul>

**NEW YORK STATE OFFICE OF THE STATE COMPTROLLER SIGNIFICANT OBJECTIVES  
AND RELEVANT INTERNAL ACCOUNTING AND ADMINISTRATIVE CONTROLS**

**OFFICE OF OPERATIONS** *(continued)*

**DIVISION OF PAYROLL, ACCOUNTING AND REVENUE SERVICES** *(continued)*

**BUREAU OF STATE PAYROLL SERVICES**

Objective	Controls
<p>Ensure that payments to employees, vendors, tax authorities (and other parties) are made in compliance with laws, union contracts, rules and policies.</p>	<ul style="list-style-type: none"> <li>▪ Maintain a quality audit approach to ensure that:               <ul style="list-style-type: none"> <li>(a) Employee bi-weekly payments are accurate (<i>i.e.</i>, payments are calculated correctly and paid to the correct person for the correct amount).</li> <li>(b) Employee annual salaries are calculated in accordance with civil service law (<i>i.e.</i>, new salary or salary change is consistent with the employee's grade and bargaining unit).</li> <li>(c) Employees are properly added and deleted from the payroll.</li> <li>(d) Employee voluntary and involuntary deductions (<i>i.e.</i>, withholding taxes, union dues, child support orders, income execution orders, levies, retirement contributions, tax deferrals, etc.) are processed in compliance with laws, union contracts, rules and regulations.</li> <li>(e) Reporting (to tax authorities, retirement systems, unions and third parties) is accurate and timely.</li> <li>(f) Maintain a computer system that is capable of producing accurate salary payments and mass salary increases for employees.</li> <li>(g) Segregation of duties exist within the Bureau and between the Bureau and State agency payroll offices.</li> </ul> </li> </ul>
<p>Ensure that State agencies make payments to their employees in compliance with union contracts, laws, rules and policies.</p>	<ul style="list-style-type: none"> <li>▪ The Bureau maintains an internal system of quality assurance to identify and report agency compliance with policies, contracts and laws.</li> </ul>

**NEW YORK STATE OFFICE OF THE STATE COMPTROLLER SIGNIFICANT OBJECTIVES  
AND RELEVANT INTERNAL ACCOUNTING AND ADMINISTRATIVE CONTROLS**

**OFFICE OF OPERATIONS** *(continued)*

**DIVISION OF PAYROLL, ACCOUNTING AND REVENUE SERVICES** *(continued)*

**BUREAU OF STATE PAYROLL SERVICES** *(continued)*

Objective	Controls
Ensure that proper controls exist in the payroll system to safeguard against fraud and unauthorized system access.	<ul style="list-style-type: none"> <li>▪ A process is in place to detect Bureau employee changes to their individual records in the payroll system.</li> <li>▪ Bureau employees only have access to tasks related to their jobs.</li> <li>▪ Processes are in place to review changes to agency submissions made by the Bureau audit staff.</li> <li>▪ State agencies have controls in place to ensure that access to the payroll system is limited to only those individuals who have job-related responsibilities.</li> </ul>
Ensure that system changes are properly approved and performed accurately.	<ul style="list-style-type: none"> <li>▪ Adequate review and approval of program modifications and actual program changes exist.</li> <li>▪ Segregation of duties exists between the Bureau functional design group and the Office of the Chief Information Officer.</li> </ul>
Ensure the privacy of State employee personal information.	<ul style="list-style-type: none"> <li>▪ Policies and procedures exist that strictly limit the collection and use of personal information to only such information that is relevant and necessary to accomplish payroll processing.</li> <li>▪ Policies and procedures exist to limit access to personal information to only those persons or entities with a legitimate business need or a legal right to such information.</li> <li>▪ Secure electronic transfer of personal data is required to the extent possible to reduce the opportunity for data loss or theft.</li> </ul>

**NEW YORK STATE OFFICE OF THE STATE COMPTROLLER SIGNIFICANT OBJECTIVES  
AND RELEVANT INTERNAL ACCOUNTING AND ADMINISTRATIVE CONTROLS**

**OFFICE OF OPERATIONS** *(continued)*

**DIVISION OF PAYROLL, ACCOUNTING AND REVENUE SERVICES** *(continued)*

**OFFICE OF UNCLAIMED FUNDS (OUF)**

Objective	Controls
Return Abandoned Property to the rightful owner(s).	<ul style="list-style-type: none"> <li>▪ Maintain a computer system that is capable of receiving accurate unclaimed funds owner information, processing claims and producing accurate refunds.</li> <li>▪ Segregation of duties exists between the payment function and the other OUF operational units (reports processing, securities management, etc.).</li> <li>▪ The dollar value of property is not published or available to the public.</li> <li>▪ Policies and procedures are in place to limit access to personal or confidential information only to those entitled to this information.</li> <li>▪ Secure electronic transfer of personal data is achieved to the extent possible to reduce the opportunity for data loss or fraud (<i>i.e.</i>, On-Line Claims).</li> <li>▪ Logical systems security exists in the Unclaimed Funds Processing System (UFPS), including password controls, access approvals, assigning user profiles by function and system audit trails for any data changes.</li> <li>▪ Claim processing and other business procedures are documented, and multi-level approvals are required based upon property type and/or value.</li> <li>▪ Deductions such as withholding taxes, levies and income executions are processed in compliance with laws, rules and regulations.</li> <li>▪ Claims valued at \$5,000 or above require a second level of approval (L2AG) in the Claims Reporting Information System (CRIS), and claims valued at \$10,000 or above require a third level of approval (L3AG) in CRIS before a settlement will be approved for payment. Additionally, post-payment audits of claim payments are conducted on a sample basis to check for compliance with policies and procedures.</li> <li>▪ Reporting of all taxable transactions to tax authorities is accurate and timely.</li> <li>▪ Adequate review and approval of business process improvements and system modifications exist (UFPS and On-Line Application).</li> </ul>

**NEW YORK STATE OFFICE OF THE STATE COMPTROLLER SIGNIFICANT OBJECTIVES  
AND RELEVANT INTERNAL ACCOUNTING AND ADMINISTRATIVE CONTROLS**

**OFFICE OF INSPECTOR GENERAL**

Objective	Controls
<p>Receive and investigate complaints from any source, or upon his or her own initiative, concerning allegations of corruption, fraud, criminal activity, conflicts of interest or abuse in the Office of the State Comptroller by an officer or employee relating to his or her office or employment, by a person having business dealings with the agency relating to such dealings, by a person appointed by the State Comptroller to serve as a member of a committee of the New York State and Local Retirement System or of the CRF, or by a person or entity having business dealings with the CRF relating to such dealings.</p>	<ul style="list-style-type: none"> <li>▪ Established and maintain a hotline and email reporting process.</li> <li>▪ Log and track all complaints received.</li> <li>▪ Log initial review and any disposition of complaint.</li> <li>▪ Track all ongoing investigations.</li> <li>▪ Track disposition or referral of all investigations.</li> </ul>
<p>Inform the State Comptroller and his designees of such allegations and the progress of investigations related thereto, unless special circumstances require confidentiality.</p>	<ul style="list-style-type: none"> <li>▪ Report activity to the Comptroller biannually and as needed.</li> </ul>
<p>Reports of the Inspector General are confidential internal agency documents and shall be treated in the same manner as internal audit reports.</p>	<ul style="list-style-type: none"> <li>▪ All information on logged complaints and investigations are contained on a limited access system.</li> </ul>

**ATTACHMENT J**

**DRAFT CONTRACT**

**STATE OF NEW YORK**

**OFFICE OF THE STATE COMPTROLLER**

**[AGREEMENT TYPE] AGREEMENT WITH**

**[CONTRACTOR NAME]**

**NEW YORK STATE COMPTROLLER'S CONTRACT NUMBER C000XXX**

**THIS AGREEMENT** ("Agreement") is 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**, Article 45, Section 954, of the New York State Executive Law ("Executive Law") requires an independent audit of the Department of Audit and Control's system of internal control once every three years;

**WHEREAS**, to meet this responsibility, OSC issued a Request for Proposals dated [ ] ("RFP") and attached hereto as Exhibit A soliciting proposals from qualified independent certified public accounting firms to conduct an independent audit of existing internal controls at OSC and to provide the services and deliverables as further detailed in the RFP ("Services");

**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**, the Contractor's Proposal offered the best value and it is in the best interests of OSC 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 and the mutual covenants and obligations of the parties as set forth herein, the parties do hereby agree as follows:

**I. TERM**

This Agreement shall be for a period commencing on approval by the OSC Bureau of Contracts and shall continue for a period of five years.

**II. MERGER OF DOCUMENTS/CONFLICT OF CLAUSES**

This Agreement is inclusive of the following documents. Only documents expressly mentioned below are 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):
  - Appendix B – Proposer and Contractor Compliance Requirements and Procedures for Participation by Minority Group Members and Women With Respect to OSC Contracts;
  - 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;
  - Appendix E – Contractor’s Certifications/Acknowledgements;
  - Appendix F – Disclosure of Prior Non-Responsibility Determinations;
  - Appendix G – OSC Consultant Disclosure Reporting Requirements;
  - Appendix H – Proposer/Contractor Compliance Requirements and Procedures for Participation by Service-Disabled Veteran-Owned Businesses;
  - Appendix I – Executive Order on Independence of Auditors Performing Services for the Office of the State Comptroller and the Common Retirement Fund;
3. Exhibit A –RFP number 0008, including the Questions and Answers [and any Addenda or Amendments (if applicable)]; and
  4. Exhibit B –Proposal (Exhibits B1 – Technical Proposal, B2 – Cost Proposal, and B3 – Administrative Proposal), including any clarifications thereto.

### **III. COMPENSATION**

Compensation shall be payable upon the acceptance of each of the final reports on OSC’s system of internal control (i.e., 2026 and 2029) as outlined in Section 4.2 (Mandatory Deliverables) of Exhibit A. Compensation is based on Proposer’s actual number of hours utilized to provide the Services and Deliverables, limited by the Total Not-to-Exceed Cost, i.e., if fewer hours are actually utilized than those set forth in Exhibit B2, compensation will be less than the Total Not to Exceed Cost; if more hours are actually utilized, compensation will be limited to the Total Not to Exceed Cost.

Compensation is inclusive of all support services, supplies, and expenses related to the performance of Services.

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

### **IV. PAYMENT AND INVOICES**

- A. OSC will compensate the Contractor in the ordinary course of State business upon OSC’s receipt of the Contractor’s invoice. Approved invoices for payment will be processed in accordance with Article 11-A of the New York State Finance Law.
- B. All invoices must include the following information:
  1. OSC’s Agreement #C00[ ], Contractor’s taxpayer identification number, and Contractor’s New York State Vendor Identification Number.
  2. A detailed description of Services provided, including:
    - the total number of hours or fraction thereof devoted to each such service, the hourly rate of each person performing such Services, and a comparison of the total hours billed by individual hourly rates;
    - 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; and
  3. In order to track utilization of minority- and women-owned business enterprise (M/WBE) participation goals as required by New York State Executive Law Article 15-A and 5 NYCRR 142.11, each invoice

must include AC 3239-H M/WBE Expenditure Report of Appendix B, which must include the actual total cost of the contract work performed by each certified M/WBE for the work relating to the submitted invoice and the actual amounts of any payments made by the Contractor to each certified M/WBE as of the date the invoice is submitted. Failure to comply with the M/WBE participation goals set forth in the RFP may result in penalties as delineated in Appendix B.

4. In order to track utilization of service-disabled veteran-owned business (SDVOB) participation goals in accordance with New York State Veterans' Service Law Article 3, beginning three months after contract performance has begun, and thereafter with each invoice during term, the Contractor must submit to OSC Form AC-3322-2 (Contractor's SDVOB Utilization Report), which must include the actual total cost of the contract work performed by each certified SDVOB for the work relating to the submitted invoice and the actual amounts of any payments made by the Contractor to each certified SDVOB as of the date the invoice is submitted. Failure to comply with the SDVOB participation goals set forth in the RFP may result in penalties delineated in Appendix H.
- C. All invoices shall be subject to OSC's acceptance of the Services for which billing is being made and are to be submitted via email (preferred) to [contractinvoices@osc.ny.gov](mailto: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 [howe@osc.ny.gov](mailto:howe@osc.ny.gov) or via hard copy mail to:

Office of the State Comptroller  
Office of Internal Control  
110 State Street, Mail Stop 10-3  
Albany, New York 12236-0001  
ATTENTION: Internal Control Officer

## **V. EQUAL EMPLOYMENT OPPORTUNITY ("EEO") REPORTING**

The Contractor agrees to 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), and to ensure complete 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 the Agreement.

The Contractor/subcontractor 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

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/Subcontractor'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/subcontractor 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/subcontractor 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/subcontractor'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/subcontractor by personal service or certified mail, return receipt requested.

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).

**VI. 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

**Contractor:**

Name: [Redacted]  
Title: [Redacted]  
Address: [Redacted]  
[Redacted]  
[Redacted]  
Telephone: [Redacted]

**VII. SERVICES**

The Services and Deliverables to be provided by the Contractor are as set forth in Exhibit A.

**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, OSC shall supply and make available necessary information and personnel to assist the Contractor to perform the Services.

**IX. STAFF**

Contractor's "staff" includes employees, consultants, owners, officers, directors, subsidiaries, affiliates, partners and agents of the Contractor, and includes all subcontractors (which such reference includes all of the entities described as "Subcontractors" in the RFP).

The principal supervisory and management staff, including engagement Partners, Managers, Supervisors, and Supervisors who will be assigned to the engagement ("key staff") shall be those who are set forth in Attachment E of the Contractor's Technical Proposal (see RFP Section 6.2). The replacement for any such key staff removed from, reassigned or who leaves the employ of the Contractor for any reason must match or exceed the replaced staff member in terms of skill level and experience. OSC reserves the right to approve or disapprove any proposed changes in key staff. In each instance the Contractor replaces a key staff person, The Contractor will provide OSC with a summary of the experience of the proposed replacement key staff member and an opportunity to interview that person, prior to giving its approval or disapproval. Said approval shall not be unreasonably withheld.

The Contractor certifies that staff provided to perform Services possesses the necessary integrity and professional capacity (i.e., experience and knowledge) to meet OSC's reasonable expectations. Subsequent to the commencement of Services, whenever the Contractor becomes aware, or reasonably should have become aware, that any staff member(s) providing Services to OSC no longer possesses the necessary integrity or professional capacity, the Contractor shall immediately discontinue the use of such staff and notify OSC.

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. The Contractor shall be fully responsible for performance of work by its staff and by subcontractor's staff. OSC reserves the right to bar anyone from access to OSC's premises and/or access to OSC's information resources.

#### **X. SUBCONTRACTORS**

If the Contractor uses subcontractors to perform any of the Services, OSC shall have the right to approve or disapprove, after appropriate review and/or interview(s), any and all subcontractors of the Contractor prior to their performance of Services.

The Contractor shall require all proposed subcontractors to complete such Appendices included in this Agreement as are deemed necessary by OSC prior to any such proposed subcontractor's performance of Services. The Contractor acknowledges that this requirement is ongoing for the term of this Agreement, and the Contractor shall be required to disclose to OSC its intention to enter into any subcontracts for the performance of any Services.

Failure to disclose the identity of any and all subcontractors used by the Contractor together with a detailed description of their responsibilities may, at the sole discretion of OSC, result in a disqualification of the subcontractor or termination of this Agreement.

The Contractor shall be fully responsible to OSC for the acts and omissions of its subcontractors and of persons either directly or indirectly engaged by them in connection with the performance of the Services.

OSC reserves the right to remove any of the subcontractor's staff if, in OSC's discretion, such subcontractor's staff is not performing in accordance with this Agreement, or for any other reasonable work-related cause. OSC reserves the right to approve or disapprove any proposed changes in subcontractor's key staff. OSC in each instance will be provided with a summary of the experience of the proposed subcontractor's key staff member and an opportunity to interview that person, prior to giving its approval or disapproval.

#### **XI. RELATIONSHIP OF PARTIES; RIGHTS TO WORK PRODUCT**

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, Social Security coverage, or Retirement System benefits.

All work performed by Contractor and its personnel for OSC under the 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 the Agreement, forfeit all past or future claims of title or ownership to the work produced under the Agreement.

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 shall deem appropriate, other than Contractor's work papers, which Contractor may retain.

## **XII. GENERAL WARRANTY AND REPRESENTATIONS**

The Contractor hereby warrants and represents:

- A.** The Services will be performed in a professional and workmanlike manner, in accordance with highest applicable industry standards. For purposes of this Agreement, "highest applicable industry standards" shall be defined as the degree of care, skill, efficiency, and diligence that a prudent person possessing technical expertise in the subject area and acting in a like capacity would exercise in similar circumstances. 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.
- B.** The Federal Immigration Reform and Control Act, as amended, (8 USC section 1324a et. al.) obligates employers, such as the Contractor and its subcontractors, if any, to verify that their staff are legally entitled to work in the United States. The Contractor warrants to OSC that it has verified staff assigned to provide Services to OSC are eligible for employment in the United States. The Contractor is responsible for ensuring that staff retain the authorization to legally work in the United States throughout the term of the Agreement. In order to confirm that the staff are legally entitled to work in the United States, OSC reserves the right to request documentation attesting to the legal entitlement to work in the United States for any of Contractor's staff assigned work under the Agreement. In accordance with such law, OSC does not discriminate against individuals on the basis of national origin or citizenship.

## **XIII. CONFLICTS OF INTEREST**

The Contractor hereby covenants and represents that it currently has no conflicts of interest with respect to Services and any other client engagements, consultant 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.

## **XIV. CONFIDENTIALITY, SECURITY, AND BACKGROUND INVESTIGATIONS**

### **A. Definition**

The term "confidential information" shall mean any and all information which is disclosed by either party ("Owner") to the other ("Recipient") verbally, electronically, visually, or in written or other tangible form which is either identified or should be reasonably understood to be confidential or proprietary. Confidential information may include, but not be limited to, trade secrets, computer programs, software, documentation, formulas, data, inventions, techniques, marketing plans, strategies, forecasts, customer lists, employee information, financial information, confidential information concerning Owner's past, current, or possible future products or methods, including information about Owner's research, development, engineering, purchasing, manufacturing, accounting, marketing, selling, leasing, and/or software (including third party software).

The Services are intended to focus on OSC's controls, not the controls of OSC's consultants, advisors, managers, vendors, and other external entities. OSC regularly engages with highly restricted information obtained from external entities, including information subject to federal tax laws, HIPAA, and data classified as material non-public information (MNPI). None of this information shall be provided to the Contractor.

## **B. Treatment**

Owner's confidential information shall be treated as strictly confidential by Recipient and shall not be disclosed by Recipient to any third party except to those third parties operating under non-disclosure provisions no less restrictive than those in this Section and who have a justified business "need to know." This Agreement imposes no obligation upon the parties with respect to confidential information which either party can establish by legally sufficient evidence: (a) was in the possession of, or was rightfully known by the Recipient without an obligation to maintain its confidentiality prior to receipt from Owner; (b) is or becomes generally known to the public without violation of this Agreement; (c) is obtained by Recipient in good faith from a third party having the right to disclose it without an obligation of confidentiality; (d) is independently developed by Recipient without the participation of individuals who have had access to the confidential information; or (e) is required to be disclosed by governmental or judicial order or applicable law provided notice is promptly given to the Owner and provided further that diligent efforts are undertaken to limit disclosure.

## **C. Confidentiality of OSC Information**

In performing the Services, The Contractor and its staff may view, or have access to, confidential information owned by OSC. Confidential information shall include, but not be limited to:

- Personal information about individuals, e.g., home addresses, home telephone numbers, social security numbers, payroll information, account numbers, health status;
- OSC security procedures, topology, practices and policies;
- Computer codes or other electronic or non-electronic information, the disclosure of which could jeopardize the security of OSC's computer systems; and
- Any other material designated as being "confidential."

The Contractor agrees to preserve the confidentiality of any and all confidential information viewed, accessed, or developed under the Agreement, and agrees:

- To view, access and use only the confidential information relevant and necessary to provide the Services;
- To use its best efforts to preserve the confidentiality of the confidential information;
- To use its best efforts to prevent disclosure of the confidential information to any person other than to OSC staff;
- To abide by all OSC and State confidentiality policies and procedures;
- That all reports and other materials, preliminary, final and otherwise, prepared for or relating to Services described herein (other than Contractor's work papers)-shall be treated at all times as confidential information by the Contractor;
- All confidential information shall remain the property of OSC; and
- That all confidential information shall be returned or destroyed (using highest industry-standard secure disposal methods) within thirty (30) days after the expiration or termination of the Agreement and that upon such destruction, the Contractor will certify as to the method of destruction.

## **D. Security**

The Contractor and its staff shall be required to comply with all applicable facility and information security policies, standards, and procedures, including any training required, both present and future, by OSC in performing the Services.

The Contractor may not connect any non-OSC computer, electronic storage device, or telecommunications equipment to OSC network; e.g., personal and corporate laptop computers, personal and corporate USB devices, smartphones, and tablets are included in this prohibition.

Where performance of Services involves use by the Contractor of State-owned or licensed, or OSC-owned or licensed, papers, files, computer disks or other electronic storage devices, data, or records at OSC or State facilities or offices, the Contractor shall not remove such records therefrom without the prior written approval from an authorized representative of OSC.

#### **E. Background Investigations**

OSC policy requires that background investigations be conducted on Contractor staff who will have access to OSC's IT systems, access to OSC confidential information/data, or routine access to any OSC facility. For purposes of this policy, "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 staff to whom the policy applies prior to the staff commencing Services under this Agreement. The Contractor agrees to undertake a background investigation of any new/replacement staff during the term of the Agreement.

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

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

The Contractor must obtain the consent of its staff to allow OSC, upon request: (i) to review the background investigation records, including all 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 the 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.** 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 God; 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.

- B. 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. For third party claims, OSC shall give the Contractor:
1. prompt written notice of any action, claim, suit, proceeding, or threat of such action;
  2. the opportunity to take over, settle, or defend any such action, claim, suit, or proceeding at Contractor's sole expense; and
  3. 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 a significant public interest.

- C. For all other claims, liabilities, and expenses arising under or related to this Agreement where liability is not otherwise set forth in this Agreement as being without limitation, and regardless of the basis on which the claim is made, the Contractor shall be liable for any act or omission of the Contractor or its staff, in an amount not to exceed the dollar amount of this Agreement. The Contractor shall not be responsible for loss of records or data unless the Contractor is required to back-up the records or data.
- D. 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. Notwithstanding paragraphs C and D, the limitations set forth therein shall not apply to any damages, liabilities, third party claims, or direct damages resulting from or related to an incident.
- E. 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. 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. The Contractor must provide OSC with 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 must, 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.
- C. 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.

- D. 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.
- E. If OSC preliminarily determines the Contractor to be non-responsible, OSC will 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.
- F. 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 may terminate or suspend this Agreement, or terminate or suspend the Services, in whole or in part, with or without cause upon 15 days, prior written notice.
- B. OSC reserves the right to terminate or suspend this Agreement, or terminate or suspend the Services, in whole or in part, 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.
- C. If the Agreement is terminated, the Contractor will be entitled to compensation for Services performed through the date of termination which are acceptable to OSC, in its sole discretion. If the Agreement is suspended, the Contractor shall be entitled to compensation for Services performed prior to the date of suspension and non-suspended Services which are acceptable to OSC, in its sole discretion.

## **XVIII. TRANSITION**

Upon expiration or termination of this Agreement, the Contractor shall, upon the appointment of the successor contractor, provide access to such successor contractor all necessary records in the Contractor's possession relating to the Services. At OSC's request, the Contractor shall, at current (hourly) rates, also make appropriate staff available to OSC and to the successor contractor during normal business hours to answer questions regarding such records and the Services which have been provided by the Contractor under this Agreement. The Contractor shall cooperate to the fullest extent with any successor contractor in order to accomplish a smooth and orderly transition, so that the Services required are uninterrupted and are not adversely impacted by the change in contractor.

## **XIX. 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 and its staff must 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 the Agreement and/or other civil or criminal proceedings as required by law.

**E. SURVIVAL**

The provisions of Sections XII. "General Warranty and Representations," XIV. "Confidentiality, Security and Background Investigations," XV. "Indemnification and Liability," XVIII. "Transition" and Appendix A shall survive the expiration or termination of this Agreement.

**XX. 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. The 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, 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 he/she/they maintain(s) 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**

## APPENDIX A

### STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

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

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

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

3. **COMPTROLLER'S APPROVAL.** In accordance with Section 112 of the State Finance Law, if this contract exceeds \$50,000 (or \$75,000 for State University of New York or City University of New York contracts for goods, services, construction and printing, and \$150,000 for State University Health Care Facilities) or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$25,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services, either for itself or its customer agencies by the Office of General Services Business Services Center, is required when such contracts exceed \$85,000. Comptroller's approval of contracts established as centralized contracts through the Office of General Services is required when such contracts exceed \$125,000, and when a purchase order or other procurement transaction issued under such centralized contract exceeds \$200,000.

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

5. **NON-DISCRIMINATION REQUIREMENTS.** To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment, nor subject any individual to harassment, because of age, race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status or because the individual has opposed any practices forbidden under the Human Rights Law or has filed a complaint, testified, or assisted in any proceeding under the Human Rights Law. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New

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

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

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

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

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

**10. RECORDS.** The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract

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

**11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.** (a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

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

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

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

upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

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

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

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

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

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

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

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

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

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

for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

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

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

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

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

NYS Department of Economic Development  
Division for Small Business and Technology Development  
625 Broadway  
Albany, New York 12245  
Telephone: 518-292-5100

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

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

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

- (a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority- and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;
- (b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;
- (c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job

Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

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

**21. RECIPROCITY AND SANCTIONS PROVISIONS.** Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively, codified in State Finance Law § 165(6) and Public Authorities Law § 2879(5)) ) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 2023, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii.

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

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

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

**25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.** To the extent this agreement is a contract as defined by Tax Law § 5-a, if the contractor fails to make the certification required by Tax Law § 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law § 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

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

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

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

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

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

June 2023

**APPENDIX B**  
**PROPOSER AND CONTRACTOR COMPLIANCE REQUIREMENTS AND PROCEDURES**  
**FOR PARTICIPATION BY MINORITY GROUP MEMBERS AND WOMEN WITH RESPECT TO OSC**  
**CONTRACTS**

In an effort to eradicate barriers that have historically impeded access by minority group members and women in State contracting activities, New York State Executive Law §310–318, (Article 15-A: Participation By Minority Group Members and Women With Respect To State Contracts – hereinafter “the Article”), was enacted to promote equality of employment and economic opportunities for minority group members and women.

To demonstrate its commitment to diversity and non-discrimination, and to remedy disparities caused by discrimination, the New York State Office of the State Comptroller (“OSC”) has enacted the following Executive Orders:

- Equal Opportunity, Non-Discrimination and Affirmative Action;
- Harassment (Including Sexual Harassment), and
- Minority/Women-Owned Business Enterprise (“M/WBE”) Procurements.

In keeping with the Comptroller’s Executive Orders, applicable federal, State and local laws, rules, regulations, and the requirements as set forth under the Article, OSC has developed compliance requirements, forms, and procedures to ensure that (i) all contractors (as defined under §310[3] (to include those who submit bids/proposals in an effort to be selected for contract award [hereinafter “Proposers”] as well as those successful bidders/proposers with whom OSC enters into State Contracts, as defined in §310[13] [hereinafter “Contractors”], as well as proposed or actual “Subcontractors”, as defined in §310[14]) shall comply with requirements to ensure Equal Employment Opportunities (“EEO”) for minority group members and women, and (ii) there are meaningful participation opportunities for certified M/WBEs in the OSC procurement process.

It is the expectation of OSC and the responsibility of all proposers and contractors participating in and/or selected for procurement opportunities with OSC that such proposers and contractors shall fulfill their obligations to comply with applicable federal, State, and local requirements concerning EEO and opportunities for M/WBEs, including but not limited to the Article and its implementing regulations.

**I. EEO Requirements**

**A. Prior to the Award of a State Contract**

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), as a precondition to being selected for contract award and entering into a valid and binding State Contract, the Proposer shall provide with its bid/proposal:

1. An **EEO Policy Statement**, as described in Appendix A, Clause 12.
2. **Form AC 3239-A (Proposer’s EEO Staffing Plan of Anticipated Workforce)**, which should document:
  - a. The workforce to be utilized on the State Contract; or
  - b. Where the workforce to be utilized in the performance of the State Contract cannot be separated out from the Proposer’s and/or proposed Subcontractor’s total work force (for example, certain commodities contracts), the Proposer’s and/or proposed Subcontractor’s total workforce including apprentices, broken down by specified ethnic background, gender, and federal occupational categories or other appropriate categories specified by OSC.

A Proposer’s failure to submit an EEO Policy Statement and **Form AC 3239-A – Proposer’s EEO Staffing Plan of Anticipated Workforce** shall result in the rejection of the Proposer’s bid/proposal, unless the Proposer provides OSC with a reasonable justification in writing for such failure (e.g., the failure to submit a staffing plan where a Proposer has a work force of 10 employees or less), or makes a commitment to submit an EEO Policy Statement and an EEO Staffing Plan of Anticipated Workforce within the time frame specified in writing by OSC.

If, after scoring, a Proposer is selected for award, before that award is completed (e.g., during contract negotiations), OSC will conduct a review of the substance of the EEO Policy Statement and the EEO Staffing Plan of Anticipated Workforce to determine whether the Proposer appears to be in compliance with Appendix A, Clause 12 and the Article, i.e., whether such documents demonstrate that the Proposer is committed to Equal Employment

Opportunity. If, upon review, OSC comes to the conclusion that such commitment to EEO principles is lacking, OSC shall contact the Proposer and make every effort to resolve the deficiencies identified in the bid/proposal and to bring the substance of the bid/proposal into compliance with such requirements. Failure to correct such deficiency within a time frame specified by OSC may result in the rejection of the Proposer's bid/proposal.

## **B. After the Award of the State Contract**

After OSC's award of a State Contract and during the performance of the State Contract, the Contractor shall periodically<sup>1</sup> submit to OSC:

1. **Form AC 3239-B (Contractor's/Subcontractor's EEO Workforce Utilization Report)**, which should document:
  - The workforce to be utilized and, thereafter, actually utilized on the State Contract, broken down by specified ethnic background, gender, and federal occupational categories or other appropriate categories specified by OSC.

In addition to general compliance monitoring of State Contracts, OSC shall conduct in-depth compliance reviews on selected State Contracts during the course of the year, in accord with 5 NYCRR §143.4.

The Contractor's/Subcontractor's EEO Workforce Utilization Reports shall be reviewed as part of OSC's general compliance monitoring. If discrepancies exist between the EEO Staffing Plan of Anticipated Workforce submitted with a bid/proposal and the Contractor's/Subcontractor's EEO Workforce Utilization Reports, the Contractor/Subcontractor may be subject to an in-depth EEO compliance review.

If deficiencies are identified during OSC general contract compliance monitoring or during in-depth compliance reviews, OSC shall make every effort to resolve the deficiencies identified and to bring the Contractor/Subcontractor into compliance with such requirements.

If OSC is unsuccessful in its efforts, and upon review, the Deputy Comptroller for Human Resources and Administration at OSC agrees that the Contractor/Subcontractor 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/Subcontractor'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/Subcontractor by personal service or certified mail, return receipt requested.

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).

## **II. M/WBE Requirements**

It is the policy of the State of New York and of OSC that M/WBEs (as defined under §310[7] and [15] and as certified pursuant to 5 NYCRR Part 144) shall be given the opportunity for meaningful participation in the performance of State Contracts. Accordingly, **Proposers and Contractors shall make good faith efforts** to solicit active participation by M/WBEs identified in the Empire State Development ("ESD") directory of certified businesses<sup>2</sup>, which can be viewed at: [www.nylovesmwbe.ny.gov/cf/search.cfm](http://www.nylovesmwbe.ny.gov/cf/search.cfm).

**For the purposes of this Appendix B, the question of whether a proposer or contractor has engaged in and documented "good faith efforts" to solicit active participation by M/WBEs in the performance of State Contracts shall be determined by OSC after a thorough consideration of the factors listed in 5 NYCRR §142.8.**

The separate MBE and WBE participation goals established by OSC for this procurement are based on the overall availability of M/WBEs that have been certified to perform the specific scope of work identified in this procurement.

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<sup>1</sup> If the workforce utilized in the performance of the contract can be separated out from the Contractor's and/or Subcontractor's total workforce, quarterly reports are required. If the workforce utilized in the performance of the contract cannot be separated out from the Contractor's and/or Subcontractor's total workforce, semi-annual reports are required.

<sup>2</sup> All M/WBE firms to be utilized are required to be certified by ESD or must be in the process of obtaining certification from ESD. Should the Proposer/Contractor identify a minority-owned or woman-owned firm that is not currently certified by ESD, the Proposer/Contractor should request that the firm submit a certification application to OSC for eligibility determination. OSC will work with ESD to expedite the application; however, it is the responsibility of the Proposer/Contractor to ensure that a sufficient number of certified M/WBE firms have been identified in response to this procurement in order to facilitate full M/WBE participation.

**For compliance purposes, these goals should not be construed as rigid and inflexible quotas which must be met, but must be targets reasonably attainable by means of applying every good faith effort** to make all aspects of the entire M/WBE Program work.

#### **A. Prior to the Award of a State Contract**

Bidders/Proposers shall document and/or demonstrate in their bids/proposals every good faith effort to solicit active M/WBE participation at least equal to the participation goals established by OSC. The M/WBE utilization should be measured by comparing (in detail) the dollar value of the component services/deliverables/materials provided/supplied by M/WBEs to the total dollar value of the services/deliverables/materials required by the State Contract. The following must be submitted with the bid/proposal:

1. **Form AC 3239-C (M/WBE Goal Requirements – Certification of Good Faith Efforts)**, which should document:
  - Actions taken by the Bidder/Proposer to solicit M/WBEs as subcontractors and/or suppliers so that the Bidder/Proposer could achieve the overall prescribed M/WBE participation percentage goals set forth in the procurement in the performance of the contract to be awarded.
2. **Form AC 3239-D (Proposer's M/WBE Utilization Plan)**, which should document:
  - Actions taken and/or to be taken to meet established goals and the time frames need to achieve results which could reasonably be expected by putting forth every good faith effort to achieve the overall prescribed M/WBE participation percentage (%) goals set forth in the procurement.
3. **Form AC 3239-E (Proposer's M/WBE Subcontractor's/Supplier's Notice of Intent to Participate)**, which should document:
  - The names and signatures of certified MBEs and/or WBEs which have agreed to participate as Subcontractors if the Proposer is awarded the State Contract.

When M/WBE participation goals higher than 0% (zero percent) are included in OSC's procurement documents, a Proposer's failure to submit a completed **Form AC 3239-C – M/WBE Goal Requirements – Certification of Good Faith Efforts**, **Form AC 3239-D – Proposer's M/WBE Utilization Plan**, and a completed **Form AC 3239-E – Proposer's M/WBE Subcontractor's/Supplier's Notice of Intent to Participate** shall result in the rejection of the Proposer's bid/proposal, unless the Proposer provides OSC with a completed **Form AC 3239-F (Request for Waiver)** or makes a commitment to submit a completed **Form AC 3239-C – M/WBE Goal Requirements – Certification of Good Faith Efforts**, **Form AC 3239-D – Proposer's M/WBE Utilization Plan**, and **Form AC 3239-E – Proposer's M/WBE Subcontractor's/Suppliers Notice of Intent to Participate** within the time frame specified in writing by OSC.

If, after scoring, a Proposer is selected for award, before that award is completed (e.g., during contract negotiations), the "Successful Proposer" will be required to submit **Form AC 3239-G (Contractor's M/WBE Utilization Plan)**. OSC will review the substance of such Plan and within twenty (20) days from the receipt thereof issue a written notice of acceptance or deficiency.

A Successful Proposer must provide OSC with a written remedy in response to a written notice of deficiency within seven (7) business days of receipt or within a reasonable time frame as specified by OSC to correct the specific deficiency. Failure to correct a deficiency and/or demonstrate compliance can result in (i) the necessity of the Successful Proposer to submit to OSC a completed **Form AC 3239-F (Request for Waiver)**, or (ii) disqualification of the bid/proposal.

#### **B. After the Award of the State Contract**

After OSC's award of a State Contract and during the performance of the State Contract, except where OSC has granted the Contractor a total waiver<sup>3</sup>, the Contractor shall submit to the Program with every invoice:

1. **Form AC 3239-H – M/WBE Expenditure Reports**.

Failure to timely submit a **Form AC 3239-H – M/WBE Expenditure Reports** and/or other reports or information as requested may result in payments under the contract being delayed until such reports or other information have

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<sup>3</sup> If OSC has granted a partial waiver to the Successful Proposer, prior to award OSC must have approved a Contractor's M/WBE Utilization Plan and a completed Contractor's M/WBE Subcontractor's/Supplier's Notice of Intent to Participate, and after award the Contractor must still submit the Contractor's Quality Assurance Report/Checklist.

been received<sup>4</sup>.

OSC shall review the substance of the Contractor's **Form AC 3239-H – M/WBE Expenditure Reports** and shall be responsible for evaluating and determining whether the Contractor has demonstrated compliance with its previously approved **Form AC 3239-G – Contractor's M/WBE Utilization Plan**. In making such determination, OSC may review and investigate whether the participation goals are being achieved with certified minority- and women-owned business enterprises and whether information made available to OSC through monitoring, onsite inspections, progress meetings regarding work required by the State Contract, review of payrolls or other OSC actions provides evidence of compliance.

Where it appears that a Contractor cannot, after a good faith effort, comply with its previously approved **Form AC 3239-G – Contractor's M/WBE Utilization Plan**, such Contractor may submit a completed **Form AC 3239-F (Request for Waiver)** setting forth the reasons for such Contractor's inability to meet any or all of the participation requirements, together with an explanation and supporting documentation demonstrating the efforts undertaken by such Contractor to obtain the required M/WBE participation<sup>5</sup>.

If OSC determines that the Contractor has not demonstrated compliance with its previously approved **Form AC 3239-G – Contractor's M/WBE Utilization Plan** and has made no good faith effort to do so, 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 Human Resources and Administration agrees that the Contractor is non-compliant, OSC shall either:

(i) 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/Subcontractor's noncompliance and 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/Subcontractor by personal service or certified mail, return receipt requested.

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 §142.12), including potential temporary debarment of the Contractor where the Contractor is found to have engaged in fraudulent or intentional misrepresentation or willful or intentional disregard of the M/WBE participation requirement in the State Contract; or

(ii) withhold payment from the Contractor as liquidated damages in accordance with 5 NYCRR §142.13, if the Deputy Comptroller for Human Resources and Administration determines that the Contractor has breached the State Contract by willfully and intentionally failing to comply with the MWBE participation goals set forth in the State Contract. Such liquidated damages shall be calculated as an amount equaling the difference between: (1) all sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and (2) all sums actually paid to MWBEs for work performed or materials supplied under the State Contract.

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Nothing herein shall diminish or supersede OSC's authority and responsibility to enforce the requirements of its contracts.

All Affirmative Action, EEO, and M/WBE compliance forms required to be submitted along with bids and/or proposals for OSC procurements are attached hereto. These forms are to be submitted without change to participation goals specified in the procurement documents.

**By submitting a bid/proposal, the Proposer/Contractor agrees to provide to OSC access to all documentation, records, reports, facilities, etc., which OSC may deem necessary to determine Proposer/Contractor compliance.**

**After the award of a State Contract, submit two originals and two copies of all required reports, forms,**

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<sup>4</sup> Contractors will be requested to provide additional compliance reports and information (i) to verify payments made to M/WBEs, (ii) to verify M/WBE utilization and/or, (iii) as needed to evaluate any other aspect of Contractor compliance with the requirements set forth herein.

<sup>5</sup> Requests for a partial or total waiver made subsequent to award of a State Contract may be made at any time during the term of the State Contract but prior to the submission of a request for final payment on that State Contract.

information, and Requests for Waivers (if applicable) to OSC the following address:

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

Requests for technical assistance in meeting these requirements can be obtained by contacting OSC at (518) 474-7574.

Forms attached to this Appendix B:

- **AC 3239-A – Proposer’s EEO Staffing Plan of Anticipated Workforce**
  - To be submitted with the Administrative Proposal
- **AC 3239-B – Contractor’s/Subcontractor’s EEO Workforce Utilization Report**
  - To be submitted as part of post-contract documents
- **AC 3239-C – M/WBE Goal Requirements – Certification of Good Faith Efforts**
  - To be submitted with the Administrative Proposal
- **AC 3239-D – Proposer’s M/WBE Utilization Plan**
  - To be submitted with the Administrative Proposal
- **AC 3239-E – Proposer’s M/WBE Subcontractor’s/Supplier’s Notice of Intent to Participate**
  - To be submitted with the Administrative Proposal
- **AC 3239-F – Request for Waiver**
  - To be submitted with the Administrative Proposal (if applicable)
- **AC 3239-G – Contractor’s M/WBE Utilization Plan**
  - To be submitted as part of post-contract documents
- **AC 3239-H – M/WBE Expenditure Reports**
  - To be submitted as part of post-contract documents on a per-invoice basis
- **AC 3239-I – Contractor’s Quality Assurance Report/Checklist**
  - To be submitted as part of post-contract documents

**NEW YORK STATE OFFICE OF THE STATE COMPTROLLER  
PROPOSER'S EEO STAFFING PLAN OF ANTICIPATED WORKFORCE**

<b>INSTRUCTIONS: All Proposers submitting responses to this procurement must complete and submit this form as part of its Administrative Proposal.</b>															
Proposer Name:								Federal Identification Number:							
Address:								Procurement Number:							
City, State, Zip Code:								M/WBE Participation Goals: MBE ____% WBE ____%							
Does the Proposer have an existing affirmative action program? (Check one): <input type="checkbox"/> Yes <input type="checkbox"/> No (if Yes, attach current copy of EEO Policy Statement.)								Is the Proposer 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 Proposer during the performance of this State Contract.															
<b>JOB CATEGORIES</b> (as defined in the Instructions attached)	<b>RACE/ETHNICITY OF ANTICIPATED WORKFORCE (Report employees in only one category as defined in the Instructions attached.)</b>														
	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				

NEW YORK STATE OFFICE OF THE STATE COMPTROLLER  
PROPOSER'S EEO STAFFING PLAN OF ANTICIPATED WORKFORCE

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

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

<b>RACE AND ETHNIC IDENTIFICATION*</b>	
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:	
<b>Hispanic or Latino</b>	A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin regardless of race.
<b>White</b>	A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.
<b>Black or African-American</b>	A person having origins in any of the black racial groups of Africa.
<b>Native Hawaiian or Other Pacific Islander</b>	A person having origins in any of the peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
<b>Asian</b>	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.
<b>American Indian or Alaska Native</b>	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
<b>Two or More Races</b>	All persons who identify with more than one of the above five races.
<p>Submission of this form constitutes the Proposer's acknowledgement and agreement to adhere to the compliance requirements and procedures set forth under this procurement 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.</p> <p>By submitting a bid/proposal, the Proposer/Contractor agrees (i) to provide OSC access to all documentation, records, reports, facilities, etc. which OSC may deem necessary to determine Proposer/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 <a href="http://www.eeoc.gov/employers/eeo1survey/2007instructions.cfm">www.eeoc.gov/employers/eeo1survey/2007instructions.cfm</a>.</p>	

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

<b>PART A – INSTRUCTIONS: All Contractors/Subcontractors must complete and submit this form within thirty (30) days after award of a State Contract.</b>															
<b>Contractor/Subcontractor Name:</b>															
<b>Address:</b>								<b>Federal Identification Number:</b>							
<b>City, State, Zip Code:</b>								<b>Procurement Number:</b>							
Does the Proposer have an existing affirmative action program? (Check one): <input type="checkbox"/> Yes (if Yes, attach current copy of EEO Policy Statement.) <input type="checkbox"/> No															
Does the Proposer have an existing affirmative action program? (Check one): <input type="checkbox"/> Yes <input type="checkbox"/> No (if Yes, attach current copy of EEO Policy Statement.)								Is the Proposer 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.							
<b>PART B – WORKFORCE UTILIZATION:</b> <input type="checkbox"/> Check box if workforce is the same as reported on Proposer's EEO Staffing Plan of Anticipated Workforce (AC 3239-A) and skip to PART C.															
Enter in the following Job Categories the total number of staff by race, sex, and ethnic status to be utilized by the Proposer during the performance of this State Contract.															
<b>JOB CATEGORIES</b> (as defined in the Instructions attached)	<b>RACE/ETHNICITY OF ANTICIPATED WORKFORCE (Report employees in only one category as defined in the Instructions attached.)</b>														
	<b>Hispanic or Latino</b>		<b>(NOT HISPANIC OR LATINO)</b>												<b>Total Columns A – N</b>
			<b>White</b>		<b>Black or African-American</b>		<b>Native Hawaiian or Other Pacific Islander</b>		<b>Asian</b>		<b>American Indian or Alaska Native</b>		<b>Two or more races</b>		
	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>F</b>	<b>G</b>	<b>H</b>	<b>I</b>	<b>J</b>	<b>K</b>	<b>L</b>	<b>M</b>	<b>N</b>	
	<b>Male</b>	<b>Female</b>	<b>Male</b>	<b>Female</b>	<b>Male</b>	<b>Female</b>	<b>Male</b>	<b>Female</b>	<b>Male</b>	<b>Female</b>	<b>Male</b>	<b>Female</b>	<b>Male</b>	<b>Female</b>	
Executive/Senior Level Officials and Managers															
First/Mid-Level Officials and Managers															
Professionals															
Technicians															
Sales Workers															
Administrative Support Workers															
Craft Workers															
Operatives															
Laborers and Helpers															
Service Workers															
<b>TOTAL:</b>															
<b>PART C – Prepared by (signature):</b> _____															
<b>Name of Preparer</b>			<b>Title of Preparer</b>			<b>Date</b>		<b>Telephone Number</b>			<b>Email Address</b>				

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

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

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

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

  

<b>CONTRACTOR'S/SUBCONTRACTOR'S EEO WORKFORCE UTILIZATION REPORT SUBMISSION REQUIREMENTS</b>
<p>Please submit completed Form AC 3239-B within thirty (30) days after award of a State Contract to:</p> <p><b>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</b></p> <p>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 procurement 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.</p> <p>By submitting a bid/proposal, the Proposer/Contractor agrees (i) to provide OSC access to all documentation, records, reports, facilities, etc. which OSC may deem necessary to determine Proposer/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 <a href="http://www.eeoc.gov/employers/eeo1survey/2007instructions.cfm">www.eeoc.gov/employers/eeo1survey/2007instructions.cfm</a>.</p>

**NEW YORK STATE OFFICE OF THE STATE COMPTROLLER**  
**M/WBE GOAL REQUIREMENTS – CERTIFICATION OF GOOD FAITH EFFORTS**

Bidders/Proposers must document “good faith efforts” to provide meaningful participation by New York State Certified Minority and Women-Owned Business Enterprises (“M/WBE”s) as subcontractors and/or suppliers in the performance of this State Contract.

The undersigned hereby certifies under penalty of perjury that he/she has taken the following actions on behalf of the Bidder/Proposer to demonstrate the aforesaid good faith efforts:

- a) The Bidder/Proposer attended any pre-bid meetings that were scheduled by OSC or the NYS Department of Economic Development (“DED”) or its designee to inform M/WBEs of contracting and subcontracting opportunities available on the project;
- b) The Bidder/Proposer identified economically feasible units of the project that could be contracted or subcontracted to M/WBEs in order to increase the likelihood of participation by such enterprises;
- c) The Bidder/Proposer advertised in general circulation, trade association and trade-oriented, minority and women-focused publications, if any, concerning the contracting or subcontracting opportunity;
- d) The Bidder/Proposer solicited and provided written notice to a reasonable number of M/WBEs identified from current certified lists of such business enterprises provided or maintained by the NYS Empire State Development’s (“ESD”) Division of Minority and Women-Owned Business Development (“DMWBD”), or its designee, of the contracting or subcontracting opportunity in sufficient time to allow the M/WBEs to participate effectively;
- e) The Bidder/Proposer followed up initial solicitations by contacting the M/WBEs to determine whether the M/WBEs were interested in such contracting or subcontracting opportunity;
- f) The Bidder/Proposer provided interested M/WBEs with adequate information about the plans, specifications, and requirements for the contracting or subcontracting opportunity;
- g) The Bidder/Proposer used the services of community organizations, contractor groups, State and federal business assistance offices and other organizations identified by DED or its designee that provide assistance in the recruitment and placement of M/WBEs; and
- h) The Bidder/Proposer negotiated in good faith with M/WBEs submitting bids, proposals, or quotations and did not, without justifiable reason, reject as unsatisfactory any bids, proposals, or quotations prepared by any M/WBE. “Good faith” negotiating means engaging in good faith discussions with M/WBEs about the nature of the work, scheduling, requirements for special equipment, opportunities for dividing of work among the bidders, proposers, and various subcontractors and the bids of the M/WBEs, including sharing with them any cost estimates from the procurement documents, if available.

I have provided information on the above as requested for (Procurement #) in Attachment A, Proposer’s Certified Statements, Section 4.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed or Typed Name and Title

\_\_\_\_\_  
Procurement Number

\_\_\_\_\_  
Date

**STATE OF NEW YORK)**

) ss:

**COUNTY OF** \_\_\_\_\_)

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year 202\_\_\_\_ before me personally came \_\_\_\_\_ to me known, who, being by me duly sworn, did depose and say that (s)he resides in \_\_\_\_\_; that (s)he is the \_\_\_\_\_ of \_\_\_\_\_ which executed the above instrument; and that (s)he signed his/her name thereto as the \_\_\_\_\_ thereof.

\_\_\_\_\_  
Notary Public

**NEW YORK STATE OFFICE OF THE STATE COMPTROLLER  
PROPOSER'S M/WBE UTILIZATION PLAN**

**INSTRUCTIONS:** All Proposers submitting responses to this procurement must complete and submit this M/WBE Utilization Plan as part of its Administrative Proposal. Proposers must submit a separate M/WBE Utilization Plan for each M/WBE utilized.

<b>Contractor Name:</b>	<b>Federal Identification Number:</b>
<b>Address:</b>	<b>Procurement Number:</b> _____
<b>City, State, Zip Code:</b>	<b>M/WBE Participation Goals:</b> MBE _____% WBE _____%

**LIST ALL M/WBE SUBCONTRACTORS AND/OR SUPPLIERS TO BE UTILIZED (ATTACH ADDITIONAL SHEETS IF NECESSARY).**

M/WBE Name, Address, Email Address, and Telephone Number	Certification Classification (check all that apply.)	Federal ID No.	Estimated Dollar Value of Work/Supplies	Please provide a brief description of services or supplies to be provided by each M/WBE identified here on Page 2.
A.	NYS ESD Certified: <input type="checkbox"/> MBE <input type="checkbox"/> WBE			
B.	NYS ESD Certified: <input type="checkbox"/> MBE <input type="checkbox"/> WBE			
C. ESD Certification Number: _____ D. ESD Certification Expiration Date: _____				

If Contractor will not be utilizing an M/WBE, check here ☐ and attach Form AC 3239-F, Request for Waiver, and supporting documentation.  
If Contractor has previously submitted AC 3239-F, Request for Waiver, for this procurement, check here ☐ and enter date submitted: \_\_\_\_\_.

**Prepared by (Signature):** \_\_\_\_\_

Name of Preparer	Title of Preparer	Date	Telephone Number	Email Address

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 procurement 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.

**THIS SECTION FOR OSC USE ONLY**

<b>Reviewed by:</b>	<b>Date Received:</b>	<b>Utilization Plan Approved</b>	<b>Date Approved:</b>	<b>M/WBE Certification Status:</b>
		<input type="checkbox"/> Yes <input type="checkbox"/> No		MBE Certified <input type="checkbox"/> Yes <input type="checkbox"/> No WBE Certified <input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Deficiencies Identified:</b>	<b>Notice of Deficiency Issued:</b>	<b>Date of Notice of Deficiency:</b>	<b>Waiver Requested:</b>	
MBE <input type="checkbox"/> Yes <input type="checkbox"/> No / WBE <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No (Partial <input type="checkbox"/> Total <input 3"="" type="checkbox/&gt;)&lt;/td&gt; &lt;/tr&gt; &lt;tr&gt; &lt;td&gt;&lt;b&gt;Waiver Granted&lt;/b&gt;&lt;/td&gt; &lt;td&gt;&lt;b&gt;If Waiver Granted&lt;/b&gt;&lt;/td&gt; &lt;td colspan="/> <b>Waiver Approved by (Signature):</b>	
<input type="checkbox"/> Yes <input type="checkbox"/> No	Total Waiver <input type="checkbox"/> Yes <input type="checkbox"/> No Partial Waiver <input type="checkbox"/> Yes <input type="checkbox"/> No			

**NOTES:**

NEW YORK STATE OFFICE OF THE STATE COMPTROLLER  
PROPOSER'S/CONTRACTOR'S M/WBE UTILIZATION PLAN

Provide a brief description of the services or supplies to be identified by the subcontractor(s) identified above:

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

**NEW YORK STATE OFFICE OF THE STATE COMPTROLLER  
PROPOSER'S M/WBE SUBCONTRACTORS/SUPPLIERS NOTICE OF INTENT TO PARTICIPATE**

**INSTRUCTIONS:** All Proposers submitting responses to this procurement must complete and submit this form as part of its Administrative Proposal. Part A must be completed and signed by the Proposer. Parts B and C must be completed and signed by each of the M/WBE subcontractors/suppliers identified on Form AC 3239-D (Proposer's M/WBE Utilization Plan).

**PART A – TO BE COMPLETED BY THE PROPOSER FOR EACH M/WBE IDENTIFIED ON AC 3239-D**

<b>Proposer Name:</b>		<b>Federal Identification Number:</b>		
<b>Address:</b>		<b>Procurement Number:</b> _____		
<b>City, State, Zip Code:</b>		<b>M/WBE Participation Goals:</b> MBE _____% WBE _____%		
<b>Telephone Number:</b>		<b>Email Address:</b>		
<b>Name of Proposer's Preparer</b>	<b>Title of Preparer</b>	<b>Date</b>	<b>Telephone Number</b>	<b>Email Address</b>

**PART B – TO BE COMPLETED BY EACH MBE/WBE IDENTIFIED ON AC 3239-D ACKNOWLEDGING THAT THE NAMED VENDOR INTENDS TO PROVIDE SERVICES OR SUPPLIES IN CONNECTION WITH THE ABOVE CONTRACTOR AND PROCUREMENT.**

<b>Name of Subcontractor/Supplier:</b>		<b>Federal Identification Number:</b>		
<b>Address:</b>		<b>NYS ESDC Certification Status (Check one):</b> <input type="checkbox"/> MBE <input type="checkbox"/> WBE (attach copy of ESD Certification) <input type="checkbox"/> Have applied to ESDC for certification as <input type="checkbox"/> MBE <input type="checkbox"/> WBE		
<b>City, State, Zip Code:</b>		<b>Provider type (Check one):</b> <input type="checkbox"/> Subcontractor <input type="checkbox"/> Supplier		
<b>ESD Certification Number:</b>		<b>ESD Certification Expiration Date:</b>		

Please provide a brief description of services or supplies to be provided on Page 2.

The undersigned is prepared to provide the services or supplies described on Page 2 and will enter into a formal agreement to do so with the Proposer named above upon execution of a State Contract between the Proposer and the Office of the State Comptroller.

**Signature of Authorized Representative of the M/WBE Firm:** \_\_\_\_\_

<b>Name of Preparer</b>	<b>Title of Preparer</b>	<b>Date</b>	<b>Telephone Number</b>	<b>Email Address</b>

**Estimated Total Dollar Value of the Agreement to be entered into with the Subcontractor/Supplier: \$** \_\_\_\_\_

*THIS SECTION FOR OSC USE ONLY*

<b>Reviewed by</b>	<b>Date</b>	<b>Utilization Plan Approved</b>	<b>Date</b>	<b>Certification Verified</b>
		<input type="checkbox"/> Yes <input type="checkbox"/> No		MBE Certified <input type="checkbox"/> Yes <input type="checkbox"/> No WBE Certified <input type="checkbox"/> Yes <input type="checkbox"/> No

**NOTES:**

NEW YORK STATE OFFICE OF THE STATE COMPTROLLER  
PROPOSER’S M/WBE SUBCONTRACTORS/SUPPLIERS NOTICE OF INTENT TO PARTICIPATE

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

**NEW YORK STATE OFFICE OF THE STATE COMPTROLLER  
REQUEST FOR WAIVER**

<b>INSTRUCTIONS AND SUBMISSION REQUIREMENTS: PROPOSERS/CONTRACTORS MUST FOLLOW THE INSTRUCTIONS ON PAGE 2 OF THIS FORM TO REQUEST A WAIVER OF THE M/WBE PARTICIPATION GOALS INCLUDED IN THIS PROCUREMENT. THIS FORM MAY BE USED PRIOR TO AND/OR AFTER AWARD OF A STATE CONTRACT.</b>				
Proposer/Contractor Name:		Federal Identification Number:		
Address:		Procurement/Contract Number: _____		
City, State, Zip Code:		M/WBE Participation Goals: MBE _____% WBE _____%		
<b>COMPLETE THIS SECTION ONLY IF THIS WAIVER IS REQUESTED AFTER AWARD OF A STATE CONTRACT.</b>				
Contract Award Date: _____		Contract Start Date: _____		Contract End Date: _____
<b>All Requests for Waiver (AC 3239-F) submitted prior to or after award of a State Contract <u>must</u> be accompanied by the information requested on Page 2 of this form, Instructions and Submission Requirements.</b>				
Proposer/Contractor is requesting a Waiver of the following M/WBE participation goals as follows (check as appropriate): <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> MBE Waiver – A waiver of the MBE participation goal for this procurement is requested.  <input type="checkbox"/> WBE Waiver – A waiver of the WBE participation goal for this procurement is requested.         </div> <div> <input type="checkbox"/> Total Waiver  <input type="checkbox"/> Total Waiver         </div> <div> <input type="checkbox"/> Partial Waiver  <input type="checkbox"/> Partial Waiver         </div> </div>				
Prepared by (Signature): _____				
Name of Preparer	Title of Preparer	Date	Telephone Number	Email Address
<b>SUBMISSION OF THIS FORM CONSTITUTES THE PROPOSER'S ACKNOWLEDGMENT AND AGREEMENT TO ADHERE TO THE M/WBE REQUIREMENTS AND PROCEDURES SET FORTH UNDER THIS PROCUREMENT 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 AND THE IMPLEMENTING REGULATIONS SET FORTH UNDER 5 NYCRR. FAILURE TO SUBMIT COMPLETE AND ACCURATE INFORMATION MAY RESULT IN NON-COMPLIANCE AND PROPOSAL DISQUALIFICATION.</b>				
<b>THIS SECTION FOR OSC USE ONLY</b>				
Date Waiver Request Received		Reviewed by		Date
Waiver Requested	Waiver Granted	If Waiver Granted		
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> MBE <input type="checkbox"/> WBE	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> MBE <input type="checkbox"/> WBE	Total Waiver <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> MBE <input type="checkbox"/> WBE Partial Waiver <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> MBE <input type="checkbox"/> WBE		
Signature of OSC Reviewer:				

**NEW YORK STATE OFFICE OF THE STATE COMPTROLLER  
REQUEST FOR WAIVER**

**PLEASE READ THESE INSTRUCTIONS AND DOCUMENT SUBMISSION REQUIREMENTS CAREFULLY.**

**REQUIREMENTS AND DOCUMENT SUBMISSION INSTRUCTIONS FOR REQUEST FOR WAIVER OF M/WBE PARTICIPATION GOALS**

**PART 1. INSTRUCTIONS FOR PROPOSER/CONTRACTOR REQUEST FOR WAIVER (AC 3239-F):**

- I. (PRIOR TO AWARD OF A STATE CONTRACT):** Proposers requesting a waiver of M/WBE Participation Goals must submit the information listed in PART II as part of its Administrative Proposal.
- II. (AFTER AN AWARD OF A STATE CONTRACT):** Contractors may request a waiver of M/WBE Participation Goals at any time during the term of the contract but prior to the submission of a request for final payment on that contract. Contractors requesting a waiver of M/WBE Participation Goals must submit the information listed in PART II.

All waiver requests must be submitted 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

**PART II. DOCUMENTATION SUBMISSION REQUIREMENTS FOR REQUESTING WAIVERS**

- 1. The names of general circulation, trade association, and minority and women oriented publications in which bids/proposals were solicited for purposes of complying with participation goal requirements established for certified M/WBE participation;**
- 2. The dates bid solicitations for certified M/WBE participation were published in any of the publications listed in #1;**
- 3. List of certified M/WBEs appearing in the directory which were solicited in writing to provide bids/proposals for purposes of complying with participation goal requirements established for certified M/WBE participation;**
- 4. Proof of dates on which such solicitations were made in writing and copies of solicitations made, or a sample copy of the solicitation if an identical solicitation was made of all certified M/WBEs;**
- 5. Copies of responses made by certified M/WBEs to solicitations made by the Proposer/Contractor;**
- 6. A description of any contract documents, plans, or specifications made available to certified M/WBEs for purposes of soliciting their bids/proposals, and the dates and manner in which these documents were made available;**
- 7. Documentation of any negotiations between the Proposer/Contractor and certified M/WBEs undertaken for the purposes of complying with participation goal requirements established for certified M/WBE participation;**
- 8. Any other information determined relevant by OSC; and**
- 9. A statement setting forth the Proposer's/Contractor's basis for requesting a partial or total waiver of M/WBE participation goals.**

**NEW YORK STATE OFFICE OF THE STATE COMPTROLLER  
CONTRACTOR'S M/WBE UTILIZATION PLAN**

**INSTRUCTIONS:** After the award of a State Contract, Contractors must complete and submit this Contractor's M/WBE Utilization Plan as part of their compliance reporting. Contractors must submit a separate M/WBE Utilization Plan for each M/WBE utilized on the State Contract.

<b>Contractor Name:</b>	<b>Federal Identification Number:</b>
<b>Address:</b>	<b>Contract Number:</b> _____
<b>City, State, Zip Code:</b>	<b>M/WBE Participation Goals:</b> MBE ____% WBE ____%

**LIST ALL M/WBE SUBCONTRACTORS AND/OR SUPPLIERS TO BE UTILIZED (ATTACH ADDITIONAL SHEETS IF NECESSARY).**

M/WBE Name, Address, Email Address, and Telephone Number	Certification Classification (check all that apply.)	Federal ID No.	Estimated Dollar Value of Work/Supplies	Please provide a brief description of services or supplies to be provided by each M/WBE identified here on Page 2.
A.	NYS ESD Certified: <input type="checkbox"/> MBE <input type="checkbox"/> WBE			
B.	NYS ESD Certified: <input type="checkbox"/> MBE <input type="checkbox"/> WBE			
<b>C. ESD Certification Number:</b> _____ <b>D. ESD Certification Expiration Date:</b> _____				

If Contractor will not be utilizing an M/WBE, check here ☐ and attach Form AC 3239-F, Request for Waiver, and supporting documentation.  
 If Contractor has previously submitted AC 3239-F, Request for Waiver, for this procurement, check here ☐ and enter date submitted: \_\_\_\_\_.

**Prepared by (Signature):** \_\_\_\_\_

Name of Preparer	Title of Preparer	Date	Telephone Number	Email Address

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 procurement 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.

**THIS SECTION FOR OSC USE ONLY**

<b>Reviewed by:</b>	<b>Date Received:</b>	<b>Utilization Plan Approved</b>	<b>Date Approved:</b>	<b>M/WBE Certification Status:</b>
		<input type="checkbox"/> Yes <input type="checkbox"/> No		MBE Certified <input type="checkbox"/> Yes <input type="checkbox"/> No WBE Certified <input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Deficiencies Identified:</b>	<b>Notice of Deficiency Issued:</b>	<b>Date of Notice of Deficiency:</b>	<b>Waiver Requested:</b>	
MBE <input type="checkbox"/> Yes <input type="checkbox"/> No / WBE <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No (Partial <input type="checkbox"/> Total <input 3"="" type="checkbox/&gt;)&lt;/td&gt; &lt;/tr&gt; &lt;tr&gt; &lt;td&gt;&lt;b&gt;Waiver Granted&lt;/b&gt;&lt;/td&gt; &lt;td&gt;&lt;b&gt;If Waiver Granted&lt;/b&gt;&lt;/td&gt; &lt;td colspan="/> <b>Waiver Approved by (Signature):</b>	
<input type="checkbox"/> Yes <input type="checkbox"/> No	Total Waiver <input type="checkbox"/> Yes <input type="checkbox"/> No Partial Waiver <input type="checkbox"/> Yes <input type="checkbox"/> No			

**NOTES:**

NEW YORK STATE OFFICE OF THE STATE COMPTROLLER  
CONTRACTOR'S M/WBE UTILIZATION PLAN

Provide a brief description of the services or supplies to be identified by the subcontractor(s) identified above:

Please submit completed Form AC 3239-G 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 procurement 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 a bid/proposal, the Proposer/Contractor agrees (i) to provide OSC access to all documentation, records, reports, facilities, etc. which OSC may deem necessary to determine Proposer/Contractor compliance, and (ii) to be bound by the provisions of §316 regarding possible fines, sanctions, and penalties for violations of the Article.

**NEW YORK STATE OFFICE OF THE STATE COMPTROLLER  
M/WBE EXPENDITURE REPORT**

**INSTRUCTIONS:** The Awarded Contractor is required to complete and submit this M/WBE Expenditure Report on a per-invoice basis upon award of the State Contract for each M/WBE Subcontractor/Supplier identified in its Utilization Plan (AC 3239-D and AC 3239-G).

<b>Contractor Name:</b>		<b>Federal Identification Number:</b>
<b>Contract Start Date:</b>	<b>Projected End Date:</b>	<b>Contract Number:</b>
<b>Report for Period (MM/DD/YY) _____ to (MM/DD/YY) _____</b>		<b>Total Amount of Awarded Contract: \$</b>

**M/WBE SUBCONTRACTOR AND/OR SUPPLIER UTILIZED**

<b>M/WBE Name and Address, including Email Address and Telephone Number of Contact Person</b>	<b>Certification Classification</b>	<b>Federal ID No.</b>	<b>Brief Description of Work/Supplies</b>
	NYS ESD Certified: <input type="checkbox"/> MBE <input type="checkbox"/> WBE		
<b>ESD Certification Number:</b>		<b>ESD Certification Expiration Date:</b>	
<b>Actual Payment for This Period</b>	<b>Total Payment Made To Date</b>	<b>Total Percentage of Participation Goal Paid to Date</b>	
\$	\$	%	

<b>Prepared by (Signature):</b>				
<b>Name of Preparer</b>	<b>Title of Preparer</b>	<b>Date</b>	<b>Telephone Number</b>	<b>E-mail Address</b>

BY SUBMISSION OF THIS FORM, THE CONTRACTOR CERTIFIES THAT PAYMENT HAS BEEN MADE OR WILL BE MADE TO THE M/WBE NAMED ABOVE IN THE AMOUNT REPORTED, IN ACCORDANCE WITH THE TERMS OF THE M/WBE PARTICIPATION GOALS STATED IN THE CONTRACTOR'S PROPOSAL.

**THIS SECTION FOR OSC USE ONLY**

<b>Reviewed by</b>	<b>Date</b>	<b>Utilization % to be Applied</b>	<b>Actual Utilization to date:</b>
		MBE ____% WBE ____%	MBE ____% WBE ____%
<b>Waiver Requested</b>	<b>Waiver Granted</b>	<b>If Waiver Granted</b>	<b>Notice of Deficiency Issued</b>
<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	Total Waiver <input type="checkbox"/> Yes <input type="checkbox"/> No Partial Waiver <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

**NOTES:**

**NEW YORK STATE OFFICE OF THE STATE COMPTROLLER  
CONTRACTOR'S QUALITY ASSURANCE REPORT/CHECKLIST**

<b>INSTRUCTIONS:</b> Contractors/Subcontractors are required to submit a completed Form AC 3239-I (Contractor's Quality Assurance Report/Checklist and all submission documents required by the fifth (5 <sup>th</sup> ) day of the month, beginning thirty (30) days following the award of a State Contract.				
Contractor Name:		Federal Identification Number:		
Address:		Procurement/Contract Number:		
		Contract Award Date:		
City, State, Zip Code:		Contract Start Date:		
		Contract End Date:		
<b>SECTION I. WORKFORCE UTILIZATION</b>				
1. Contractor's/Subcontractor's Checklist of EEO Compliance Documents for Submission: <input type="checkbox"/> Current EEO Policy Statement was submitted on _____ (date) <input type="checkbox"/> Contractor's/Subcontractor's EEO Workforce Utilization Report (AC 3239-B) was submitted on _____ (date)				
<b>SECTION II. M/WBE UTILIZATION</b>				
2. Contractor's/Subcontractor's Checklist of M/WBE Utilization Documents for Submission: <input type="checkbox"/> Contractor's M/WBE Utilization Plan (AC 3239-G) (A separate Utilization Plan is required for each M/WBE identified.) <input type="checkbox"/> Copy of Contractor's/Subcontractor's executed written agreement with the M/WBE Subcontractor/Supplier. (A separate Agreement is required for each M/WBE identified.)				
3. Has Contractor/Subcontractor requested any of the following? (Check all that apply.) <input type="checkbox"/> Waiver of the MBE participation goal for the above procurement/contract. Date requested: _____ <input type="checkbox"/> Waiver of the WBE participation goal for the above procurement/contract. Date requested: _____				
4. Has Subcontractor's ESD Certification Number and Expiration Date been entered? <input type="checkbox"/> Yes <input type="checkbox"/> No				
Prepared by (Signature):				
Name of Preparer	Title of Preparer	Date	Telephone Number	Email Address
Submit completed forms and documentation 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				
<b>FOR OSC USE ONLY</b>				
<b>RECEIVED DATE</b>	<b>WAIVER STATUS</b>	<b>OSC STATUS</b>	<b>WORKFORCE UTILIZATION PLAN</b>	<b>M/WBE UTILIZATION PLAN</b>
	<input type="checkbox"/> Approved <input type="checkbox"/> Pending <input type="checkbox"/> Denied      Date: _____	<input type="checkbox"/> Responsive <input type="checkbox"/> Non-Responsive	<input type="checkbox"/> Approved <input type="checkbox"/> Denied	<input type="checkbox"/> Approved <input type="checkbox"/> Denied

## **APPENDIX C**

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

#### **DISCRIMINATION AND HARASSMENT**

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

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

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

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

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

#### **SEXUAL HARASSMENT**

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

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

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

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

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

## **APPENDIX D**

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

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

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

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

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

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

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

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

## OSC PROCUREMENT INTEGRITY PROCEDURES

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

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

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

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

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

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

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

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

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

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

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 make a record of the improper influence or attempted improper influence and notify the General Counsel to the Comptroller. The General Counsel to the Comptroller shall thereupon cause an investigation to be made and shall recommend such action, if any, as may be necessary.

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

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

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

October 11, 2011

## 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> <ul style="list-style-type: none"> <li>(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;</li> <li>(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</li> <li>(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."</li> </ul>
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

<b>PROPOSER NAME</b>	<b>JOINT PROPOSER NAME (IF ANY)</b>
<b>SIGNATURE</b>	<b>SIGNATURE</b>
<b>PRINTED OR TYPED NAME</b>	<b>PRINTED OR TYPED NAME</b>
<b>TITLE</b>	<b>TITLE</b>
<b>DATE</b>	<b>DATE</b>

*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

## APPENDIX G

### OSC CONSULTANT DISCLOSURE REPORTING REQUIREMENTS

#### CONTRACTOR INSTRUCTIONS

##### **Background:**

Pursuant to New York State Finance Law Section 163(4)(g), State agencies must require all contractors, including subcontractors, that provide consulting services for State purposes pursuant to a contract to submit an annual employment report for each such contract. The report must include for each employment category within the contract: (i) the number of employees employed to provide services under the contract, (ii) the number of hours they work, and (iii) their total compensation under the contract. Consulting services are defined as analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal, or similar services.

Contractors selected for award on the basis of a procurement issued by OSC (Request for Proposals, Request for Quotations, Mini-Bid, or Invitation for Bids) must complete **Form A, State Consultant Services – Contractor’s Planned Employment**, upon notification of award. The completed **Form A** must include information for all employees that will be providing services under the contract, whether employed by the contractor or by a subcontractor.

Contractors selected for award are also required to complete **Form B, State Consultant Services Contractor’s Annual Employment Report**, annually for each year of the contract term, on a State fiscal year basis. The first report is due May 15 for the period April 1 through March 31 of the most recently concluded State fiscal year or portion thereof.

Form A must be submitted to OSC as the contracting agency. Form B must be submitted to OSC (as the contracting agency), the Department of Civil Service, and the Consultant Reporting Section of the Bureau of Contracts at OSC, at the addresses provided in these instructions.

##### **Instructions:**

##### **Form A: State Consultant Services – Contractor’s Planned Employment**

Upon notification of contract award, complete Form A, attached to these instructions, to report the necessary planned employment information prospectively from the start date through the end of the contract term. This is a one-time reporting requirement.

Complete Form A for contracts for consulting services in accordance with the following:

1. **Employment category:** the specific occupation(s), as listed in the O\*NET occupational classification system, which best describe the employees anticipated to be providing services under the contract. (Note: The O\*NET database is available through the US Department of Labor’s Employment and Training Administration website at <https://www.onetonline.org>.)
2. **Number of employees:** the total number of employees in the employment category anticipated to provide services under the contract, including part-time employees and employees of subcontractors.
3. **Number of hours to be worked:** the total number of hours anticipated be worked by the employees in the employment category.
4. **Amount payable under the contract:** the total amount payable by the State to the Contractor under the contract, for work by the employees in the employment category, for services to be provided during the contract term.

**Submit completed Form A to OSC within 48 hours of notification of selection for award at the address listed below.**

## **Form B: State Consultant Services Contractor's Annual Employment Report**

Use Form B, attached to these Instructions, to report annual employment information. This form captures historical information, detailing actual employment data for the most recently concluded State fiscal year (April 1 – March 31). Submit Form B to OSC (as the contracting agency), the Department of Civil Service, and to the Consultant Reporting Section of the Bureau of Contracts at OSC at the addresses listed below.

Complete Form B for contracts for consulting services in accordance with the following:

5. **Scope of Contract:** a general classification of the single category that best fits the predominate nature of the services provided under the contract.
6. **Employment Category:** the specific occupation(s), as listed in the O\*NET occupational classification system, which best describe the employees providing services under the contract. (Note: The O\*NET database is available through the US Department of Labor's Employment and Training Administration website at <https://www.onetonline.org>.)
7. **Number of Employees:** the total number of employees in the employment category employed that provided services under the contract during the Report Period, including part-time employees and employees of subcontractors.
8. **Number of hours worked:** the total number of hours worked during the Report Period by the employees in the employment category.
9. **Amount Payable under the Contract:** the total amount paid or payable by the State to the Contractor under the contract, for work by the employees in the employment category, for services provided during the Report Period.

**Submit the completed Form B by May 15 for the period April 1 through March 31, and annually by May 15<sup>th</sup> thereafter for each State fiscal year (or portion thereof) the contract is in effect, as follows:**

### **To OSC (as the contracting agency):**

By mail: Bureau of Finance  
Office of the State Comptroller  
110 State Street, Stop 13-2  
Albany, NY 12236-0001

By email: [rfp@osc.state.ny.us](mailto:rfp@osc.state.ny.us)

### **To the Bureau of Contracts:**

By mail: Bureau of Contracts  
NYS Office of the State Comptroller  
110 State Street, 11<sup>th</sup> Floor  
Albany, NY 12236  
Attn: Consultant Reporting

By email: [CDMOST@osc.ny.gov](mailto:CDMOST@osc.ny.gov)

### **To Department of Civil Service:**

By mail: NYS Department of Civil Service  
Alfred E. Smith Office Building  
Albany, NY 12239  
Attn: Executive Office

By email: [SubmitformB@cs.ny.gov](mailto:SubmitformB@cs.ny.gov)

**FORM A**

New York State Consultant Services <b>Contractor's Planned Employment</b> From Contract Start Date Through the End of the Contract Term
---

State Agency Name: <b>Office of the State Comptroller</b>	
State Agency Department ID: 3050000	Agency Business Unit: OSC01
Contractor Name:	Contract Number:
Contract Start Date:    /    /	Contract End Date:    /    /

Employment Category	Number of Employees	Number of hours to be worked	Amount Payable Under the Contract
Total this page	0	0	\$ 0.00
<b>Grand Total</b>			

Name of person who prepared this report:

Title:

Phone #:

Preparer's Signature:

Date Prepared:    /    /

(Use additional pages, if necessary)

Page    of

**FORM B**

New York State Consultant Services <b>Contractor's Annual Employment Report</b> Report Period: April 1,          to March 31,
---

Contracting State Agency Name: <b>Office of the State Comptroller</b>	
Contract Number:	Agency Business Unit: OSC01
Contract Term:    /    /          to    /    /	Agency Department ID: 3050000
Contractor Name:	
Contractor Address:	
Description of Services Being Provided:	

**Scope of Contract (Choose one that best fits):**

- |  |   |  |  |
|--|---|--|--|
| <input type="checkbox"/> Analysis        | <input type="checkbox"/> Evaluation             | <input type="checkbox"/> Research            | <input type="checkbox"/> Training  |
| <input type="checkbox"/> Data Processing | <input type="checkbox"/> Computer Programming   | <input type="checkbox"/> Other IT consulting |  |
| <input type="checkbox"/> Engineering     | <input type="checkbox"/> Architect Services     | <input type="checkbox"/> Surveying           | <input type="checkbox"/> Environmental Services                          |
| <input type="checkbox"/> Health Services | <input type="checkbox"/> Mental Health Services |  |  |
| <input type="checkbox"/> Accounting      | <input type="checkbox"/> Auditing               | <input type="checkbox"/> Paralegal           | <input type="checkbox"/> Legal <input type="checkbox"/> Other Consulting |

Employment Category	Number of Employees	Number of Hours Worked	Amount Payable Under the Contract
Total this page	0	0	\$ 0.00
<b>Grand Total</b>			

Name of person who prepared this report:

Title:

Phone #:

Preparer's Signature:

Date Prepared:    /    /

(Use additional pages, if necessary)

Page      of

## APPENDIX H

**PROPOSER/CONTRACTOR COMPLIANCE REQUIREMENTS AND PROCEDURES****FOR PARTICIPATION BY SERVICE-DISABLED VETERAN-OWNED BUSINESSES****Use of Service-Disabled Veteran-Owned Businesses in Contract Performance**

Article 3 of the Veterans' Services Law seeks to encourage and support eligible service-disabled veteran-owned businesses (SDVOBs) to play a greater role in the State's economy by providing for meaningful participation in New York State's contracting opportunities. It is the policy of the Office of the State Comptroller (OSC) to make every effort to use SDVOBs in accordance with State laws in the purchasing and contracting activities of OSC.

Article 3 sets a Statewide participation goal of 6% for SDVOBs on all contracts for commodities, services, and technology valued over \$25,000 and for all construction contracts valued over \$100,000. In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, proposers/contractors are expected to consider SDVOBs in the fulfillment of the requirements of this procurement. Such participation may be as subcontractors, suppliers, consultants, joint ventures, or other type of partnering or supporting roles.

SDVOBs can be readily identified on the directory of certified businesses at:

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

Proposers/contractors are reminded that they must continue to use small, minority- and women-owned businesses consistent with current State law and with the goals set forth in the attached procurement.

**C. SDVOB Participation Requirements**

The SDVOB participation goals established by OSC for this procurement are based on the current availability of qualified SDVOBs able to perform the specific scope of work identified in this procurement. Questions for technical assistance in meeting these requirements can be obtained by contacting OSC at (518) 474-7574.

**D. Prior to the Award of a State Contract**

As a precondition to being selected for contract award and entering into a valid and binding State contract, a proposer must submit Form AC3322-1 (Proposed Use of SDVOBs in Contract Performance or the "Utilization Plan") with its proposal. The Utilization Plan must document the SDVOBs that will perform work under the State contract.

**Failure to submit a Utilization Plan will result in the rejection of a proposal, unless the proposer provides OSC with a reasonable justification in writing for such failure, or makes a commitment to submit a Utilization Plan within the timeframe specified in writing by OSC.**

- OSC will review the proposed Utilization Plan and issue a written notice of acceptance or deficiency before the contract award is complete.

If a notice of deficiency is issued, proposer must submit a written remedy to OSC. If the written remedy is inadequate or not timely, OSC will notify the proposer and work with the proposer to resolve the deficiency identified or direct the proposer to submit a request for either a partial or total waiver of the SDVOB participation goals. Failure to exercise good faith efforts, correct the deficiency, or file the waiver in a timely manner may be grounds for disqualification of the proposal.

- Requests for Waivers (if applicable) may be sent to OSC at the following address:

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

#### **E. After the Award of the State Contract**

- Contractor certifies that if awarded a contract, it will follow the submitted Utilization Plan for the performance of SDVOBs on the contract.
- Contractor agrees to provide OSC access to all documentation, records, reports, facilities, etc. that OSC may deem necessary to determine Contractor compliance.
- Contractor must include Form AC3322-2 (Contractor's SDVOB Utilization Report) with each invoice submitted to OSC during the contract term. Form AC3322-2 documents SDVOBs *actually used* on the Contract.

Failure to timely submit Form AC3322-2 and/or other reports or information as requested may result in payments under the contract being delayed until such reports or other information have been received.

- If deficiencies are identified during OSC general contract compliance monitoring or during in-depth compliance review, OSC will attempt to resolve the deficiencies identified and may request that the Division of Service-Disabled Veterans' Business Development (DSDVBD) within the New York State Office of General Services review and attempt to resolve the noncompliance matter.
- If OSC determines that Contractor has not acted in good faith, has failed, is failing, or is refusing to comply with goals for participation by SDVOBs as established in the contract, OSC may, after giving Contractor an opportunity to be heard, make a determination that the Contractor has failed to meet contract goals and may withhold payment from the Contractor as liquidated damages, if the Deputy Comptroller for Finance and Administration determines that the Contractor has breached the contract by failing to comply with the SDVOB participation goals set forth in the contract. Such liquidated damages shall be calculated as an amount equaling the difference between: (1) all sums identified for payment to SDVOBs had the Contractor achieved the contractual SDVOB goals; and (2) all sums actually paid to SDVOBs for work performed or materials supplied under the contract. In addition, where a Contractor willfully and intentionally fails to comply with SDVOB requirements, the Contractor shall be liable to OSC for damages; such damages shall be calculated based on the actual cost incurred by OSC related to OSC's expenses for personnel, supplies and overhead related to establishing, monitoring, and reviewing SDVOB programmatic goals.
- Contractor further agrees that a failure to use SDVOBs as agreed in the Utilization Plan shall constitute a material breach of the terms of the contract. Upon the occurrence of such a material breach, OSC shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsibility.

Nothing herein shall be deemed to diminish or supersede OSC's authority and responsibility to enforce the requirements of its contracts.

AC3322-1

**NEW YORK STATE OFFICE OF THE STATE COMPTROLLER  
PROPOSED USE OF SDVOBS IN CONTRACT PERFORMANCE**

**INSTRUCTIONS**

Article 3 of the Veterans' Services Law seeks to encourage and support eligible service-disabled veteran-owned businesses (SDVOBs) to play a greater role in the State's economy by providing for meaningful participation in the State's contracting opportunities. Proposers are expected to consider certified SDVOBs in fulfillment of the requirements of the attached contract. Such participation may be as subcontractors, suppliers, consultants, joint ventures, or other type of partnering or supporting roles. SDVOBs can be readily identified on the directory of certified businesses at:

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

**Use of SDVOBs for non-commercially useful functions may not be counted towards contract SDVOB participation goals.**

**All Proposers must complete and submit this form with their proposals.**

<b>All Proposers must complete and submit this form with their proposals.</b>					
<b>Proposer Name</b>					
<b>Address</b>					
<b>City, State, Zip Code</b>					
<b>Federal Identification Number</b> <small>(do not use Social Security Number)</small>				<b>NYS Vendor ID Number</b> <small>(do not use Social Security Number)</small>	
<b>Is Proposer a NY Certified SDVOB?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No	<b>If Yes, provide DSDVBD Certification Number</b>		<b>Expiration Date</b>	
<b>Will NYS-certified Service-Disabled Veteran-Owned Businesses (SDVOBs) be used in the performance of this contract?</b>		<input type="checkbox"/> Yes <input type="checkbox"/> No	<b>If Yes, identify below the SDVOBs that will be used</b> <b>If No, see below re Request for Waiver</b>		<b>Contract or Procurement #:</b> _____
<b>SDVOB Utilization Goals for this Procurement:</b>		_____ %			

SDVOB Company Name	Business Address	DSDVBD Certification #	% of Total Contract Work to SDVOB	Nature of SDVOB Participation: Describe commodities, services or technology
<b>TOTAL</b>				

<b>Name of Preparer</b>	<b>Title of Preparer</b>	<b>Date</b>	<b>Telephone Number</b>	<b>Email Address</b>
<b>Preparer signature:</b>				

**If Proposer will not use SDVOB in the performance of this contract, attach Form AC3322-3, Request for Waiver, and include supporting documentation.**

Additional information about the Veterans' Services Law can be found at: <https://ogs.ny.gov/veterans>

**NEW YORK STATE OFFICE OF THE STATE COMPTROLLER  
CONTRACTOR'S SDVOB UTILIZATION REPORT**

**INSTRUCTIONS**

Article 3 of the Veterans' Services Law seeks to encourage and support eligible service-disabled veteran-owned businesses (SDVOBs) to play a greater role in the State's economy by providing for meaningful participation in the State's contracting opportunities. SDVOBs can be readily identified on the directory of certified businesses at:

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

**All Contractors must complete and return this form with each invoice submitted to OSC during the contract term.**

Failure to submit complete and accurate information may result in a determination of contract non-compliance.

Additional information about the Veterans' Services Law can be found at: <https://ogs.ny.gov/veterans>

**All Contractors must complete and return this form with each invoice.**

<b>All Contractors must complete and return this form with each invoice.</b>					
<b>Contractor Name</b>					
<b>Address</b>					
<b>City, State, Zip Code</b>					
<b>Federal Identification Number</b> (do not use Social Security Number)				<b>NYS Vendor ID Number</b> (do not use Social Security Number)	
<b>Is Contractor a NY Certified SDVOB?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No	<b>If Yes, provide DSDVBD Certification Number</b>		<b>Expiration Date</b>	
<b>Are NYS-certified Service-Disabled Veteran-Owned Businesses (SDVOBs) being used in the performance of this contract?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No	<b>If Yes, identify below the SDVOBs that are being used</b> <i>If No, see below re Request for Waiver</i>			<b>Total Anticipated \$ Value of this Contract</b>
<b>SDVOB Utilization Goals on this Contract:</b>		_____ %			

SDVOB Company Name	Business Address	DSDVBD Certification #	% of Total Contract Work to SDVOB	\$ Amount to SDVOB	Nature of Participation: Describe commodities, services or technology
<b>TOTAL</b>					

<b>Name of Preparer</b>	<b>Title of Preparer</b>	<b>Date</b>	<b>Telephone Number</b>	<b>Email Address</b>
<b>Preparer's Signature:</b>				

**If Contractor is not using an SDVOB, attach Form AC3322-3, Request for Waiver, and include supporting documentation.**  
**If Contractor has previously submitted Form AC3322-3 for this procurement, check here ☐ and enter date submitted:**

\_\_\_\_\_.

**NEW YORK STATE OFFICE OF THE STATE COMPTROLLER**  
**PROPOSER'S/CONTRACTOR'S SDVOB REQUEST FOR WAIVER**

**Part I: INSTRUCTIONS**

- Proposers responding to a solicitation and requesting a waiver of SDVOB participation goals must complete Part II and submit AC3322-3, the Request for Waiver form, as part of their solicitation response.
- Contractors may request a waiver of SDVOB participation goals at any time during the term of their contract with OSC, but prior to the submission of a request for final payment on that contract. Contractors requesting a waiver of SDVOB participation goals must complete Part II and submit the Request for Waiver form to.

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

**Part II: DOCUMENTATION**

<b>Proposer/Contractor Name:</b>			
<b>Address:</b>			
<b>City, State, Zip Code:</b>			
<b>Federal Identification Number</b> <small>(do not use Social Security Number)</small>		<b>NYS Vendor ID Number</b> <small>(do not use Social Security Number)</small>	
<b>SDVOB Utilization Goals on this Contract:</b>	_____ %	<b>Contract or Procurement #:</b>	

Proposer/Contractor must provide:

- A list of certified SDVOBs appearing on the Division of Service-Disabled Veterans' Business Development (DSDVBD) directory who were solicited in writing for the purpose of complying with SDVOB participation goal requirements;
- Proof of dates on which such written solicitations were made and copies of solicitations made, or a sample copy of the solicitation if an identical solicitation was made to all certified SDVOBS on the DSDVBD directory;
- Copies of responses made by certified SDVOBs to solicitations made by the Proposer/Contractor;
- A description of any contract documents, plans or specifications made available to certified SDVOBs for purposes of soliciting their participation, and the dates and manner in which those documents were made available;
- Documentation of any negotiations between the Proposer/Contractor and certified SDVOBs undertaken for the purposes of complying with SDVOB participation goal requirements;
- A statement setting forth the Proposer's/Contractor's basis for requesting a partial or total waiver of SDVOB participation goal requirements; and
- Any other information determined relevant by OSC or by the Proposer/Contractor.

**THIS SECTION FOR OSC USE ONLY**

<b>Reviewed by:</b>	<b>Date Received:</b>	<b>Deficiencies Identified:</b>	<b>Utilization Plan Approved:</b>	<b>Date Approved:</b>
		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>Waiver Requested:</b>	<b>Waiver Granted:</b>	<b>Waiver Type:</b>		
<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Partial <input type="checkbox"/> Total		
	<b>Name</b>	<b>Signature</b>		
<b>Waiver Approved by:</b>				

**NOTES:**

**APPENDIX I**  
**EXECUTIVE ORDER**

**INDEPENDENCE OF AUDITORS PERFORMING SERVICES FOR THE OFFICE OF THE STATE  
COMPTROLLER AND THE COMMON RETIREMENT FUND**

WHEREAS, improper and deceptive accounting practices by auditing firms and major corporations in recent years resulted in massive losses at a number of corporations, cost thousands of workers their jobs, as well as their retirement savings, and cost investors (both individuals and institutions) billions of dollars; and

WHEREAS, disclosures regarding these practices created a heightened concern over the ability of auditing firms to maintain audit independence when they are permitted to provide consulting services to the same client; and

WHEREAS, situations where the same audit partner is responsible for conducting or supervising the audit of a client in several successive years and situations where auditors are permitted to accept employment with audit clients were also identified as creating the risk of diminished audit independence; and

WHEREAS, the Comptroller General of the United States promulgated generally accepted government auditing standards expressly prohibiting auditors from providing certain non-audit services to an audit client; and

WHEREAS, Congress responded to these issues by enacting the Sarbanes-Oxley Act of 2002, which includes provisions creating an oversight board for accounting firms auditing publicly-traded companies, addressing auditor independence issues and expressly prohibiting an audit firm from performing certain non-audit services contemporaneously with an audit, and imposing certain governance requirements on publicly-traded companies; and

WHEREAS, it is impossible to specify all situations that could arise that would create a conflict of interest or the appearance of diminished audit independence in contracts between audit firms and the Office of the State Comptroller (OSC) or the New York State Common Retirement Fund (CRF);

NOW, THEREFORE, I, Thomas P. DiNapoli, as the administrative head of the OSC and Sole Trustee of the CRF, in order to: (i) prevent the potential conflict of interest presented when a firm providing audit services is in a position to gain financially from providing certain non-audit services to the same client; (ii) avoid the risk of a conflict of interest or the appearance of diminished audit independence where auditor-client relationships are longstanding or where auditors are permitted to accept employment with audit clients; (iii) preserve the independence necessary for sound and reliable financial review, and (iv) provide for an on-going process for review of proposed contracts with audit firms and provide the flexibility in a designated group of senior managers to promulgate additional audit independence standards for OSC and CRF, as appropriate, do hereby order and direct the following policy and procedures for OSC and CRF in connection with new procurements:

First, an Audit Oversight Board (the Board) is established for OSC and CRF, which will consist of the following members:

1. First Deputy Comptroller;
2. Executive Deputy Comptroller for State and Local Government Accountability;
3. General Counsel;
4. Executive Deputy Comptroller for Operations;
5. Deputy Comptroller for Retirement Services.

Second, the Board shall oversee the procurement of all audit services and shall promulgate guidelines setting out auditor independence standards for OSC and CRF; the guidelines may impose auditor independence standards in addition to these set forth herein and may be amended from time to time.

Third, before any contract is entered into by OSC or CRF with an audit firm, the Board shall review the proposed contract in the context of any prior, current and pending contracts with such firm for compliance with legal and professional audit standards and with the terms of this Order and guidelines promulgated by the Board.

Fourth, no audit firm shall be hired to perform services for OSC or CRF unless the provision of such services is consistent with standards promulgated by the GAO.

Fifth, no audit firm shall be hired to perform services for OSC or CRF unless the provision of such services is consistent with the auditor independence provisions of section 201 of the Sarbanes-Oxley Act<sup>1</sup>.

Sixth, no audit firm shall be hired to perform services for OSC or CRF unless the provision of such services is consistent with any additional auditor independence standards that may be issued by the Board, as amended from time to time.

Seventh, where any firm performing audit services for OSC or CRF seeks to respond to a solicitation for services by OSC or CRF for non-audit services to be rendered during the term of the audit contract, and where any firm performing non-audit services for OSC or CRF seeks to respond to a solicitation for services by OSC or CRF for audit services to be rendered during the term of the contract for non-audit services, the firm shall submit with its response a statement (1) setting out the reasons that the firm could perform services under both contracts without any impairment of independence under GAO standards, (2) attesting that the proposed activity is not one which, if the services were subject to the provisions of the Sarbanes-Oxley Act, would be precluded under the auditor independence provisions set out in section 201 of the Act, and (3) attesting that the engagements would comply with any additional written standards promulgated by the Board in advance of the solicitation for services to prevent an impairment or the appearance of an impairment of independence from arising from two contracts with the same firm; all such statements on independence submitted by any firm shall be reviewed by the Board prior to consideration of a proposal submitted in response to a solicitation for services by OSC or CRF and the Board shall determine whether the firm can be considered for the contract consistent with the requisite independence standards.

Eighth, the lead or coordinating partner having primary responsibility for the audit, or the audit partner having responsibility for reviewing the audit shall, not serve in such capacity for more than five consecutive years.

Ninth, no appointment or promotion to an exempt, policy-making position in OSC shall be approved for any partner or other professional employed by a firm that provided audit services to OSC or CRF during the two-year period preceding the date of the appointment or promotion.

\_\_\_\_TPD/s/  
Thomas P. DiNapoli  
Comptroller, State of New York  
Last Revised Date: February 19, 2009  
Original Date: February 14, 2002

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<sup>1</sup> Section 201 expressly prohibits an audit firm from providing the following non-audit services contemporaneously with an audit:

- Bookkeeping or other services related to the accounting records or financial statements of the audit client;
- Financial information systems design and implementation;
- Appraisal or valuation services, fairness opinions, or contribution-in-kind reports;
- Actuarial services;
- Internal audit outsourcing services;
- Management functions or human resources;
- Broker or dealer, investment adviser, or investment banking services;
- Legal services and expert services unrelated to the audit; and
- Any other service that the Public Company Accounting Oversight Board determines, by regulation, is impermissible.