

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



REQUEST FOR PROPOSALS

RFP #23-03

JAVA ONLINE SERVICES

ISSUED: JANUARY 2, 2024

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1.0 CALENDAR OF EVENTS

<u>EVENT</u>	<u>DATE</u>
Issuance of Request for Proposals	January 2, 2024
Deadline for Submission of Written Questions	January 29, 2024 4:00 p.m. ET
Responses to Written Questions Posted (on or about)	February 12, 2024
Deadline for Submission of Proposals	February 27, 2024 4:00 p.m. ET
Anticipated Start of Interviews (if determined to be necessary)	April 24, 2024
Anticipated Notification of Award	May 15, 2024
Anticipated Approval of Contract	July 13, 2024
Anticipated Commencement of Work	July 13, 2024

2.0 EXECUTIVE OVERVIEW

2.1. Overview

Through this Request for Proposals (“RFP”), the Office of the State Comptroller (“OSC”) of the State of New York (“State”) is seeking competitive proposals from qualified vendors (“Proposers”) to provide staff augmentation consultant services as described below, and further detailed in Section 3.0 (Services) (“Services”). At its onset, OSC expects to procure consultants for the following positions (“Current Services”):

- one Java Solutions Architect;
- one Java Programmer/Analyst III; and
- one Java Programmer/Analyst II.

This RFP allows for the following positions to be added in the future, on an as-needed basis (“Future Services”):

- Java Programmer/Analyst III (in addition to the onset position); and
- Java Programmer/Analyst II (in addition to the onset position).

Proposers must be able to supply consultants for all positions for both Current and Future Services (individually a “Consultant,” and collectively, the “Consultants”). One contract will be awarded as a result of this RFP (the “Contract” or “Agreement”). 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 entity and procurement process leading up to award, at which point the awarded Proposer becomes the Selected Proposer. The term “Contractor” denotes the role assumed post-contract execution by the Selected Proposer. Where a list states that it “may include” certain items, that list is not intended to be exhaustive, merely representative.

OSC’s Java Applications Unit (“JA Unit”) has implemented and manages various web-based services applications that allow for online access to government services for internal and external customers. Systems include web service utilities, custom identity and access management systems, and large-scale enterprise- and State government-wide solutions. These systems undergo continuous enhancement, refinement, and expansion and require ongoing consulting assistance. The Consultants will report to the JA Unit.

All applications have been built using the Java programming language and run on the WebSphere Application Server platform. Backing these applications is a complex combination of frameworks and tools designed to handle database connectivity, data segregation, entity relationships, transaction management, and application builds. Applications also interface with electronic content management, virus scan, and other enterprise-wide systems.

To ensure the stability of these critical systems and their supporting data, applications are designed securely and robustly, stressing consistency, reusability, and efficiency. As technologies and methodologies evolve, both current and future systems must adhere to the same principles.

2.2. Current Project Status

A. Annual Financial Reporting

The JA Unit recently completed a multi-year project to re-platform and redesign the Annual Financial Reporting system for OSC's Division of Local Government and School Accountability.

This system allows municipalities to submit requisite data, applying a complex series of validations ensuring data integrity and adherence to the Governmental Accounting Standards Board practices. Additionally, the system allows internal OSC users to assign, review, and process data according to their needs.

The JA Unit is responsible for maintaining this application and implementing additional features and modifications as needed, including the implementation of additional schedules and service bus integration.

B. Muni Management

The JA Unit also recently completed a large-scale project to extract State municipality-related functionality from a soon-to-be-dismantled legacy system. This functionality has an enterprise-wide reach and has been architected and developed in the form of a service, allowing data to be modified and consumed across multiple applications and platforms.

The JA Unit is responsible for maintaining this application and implementing additional features and modifications as needed, including service bus integration.

C. Enrollment

Enrollment is a custom IAM solution supported and maintained by the JA Unit. The JA Unit is responsible for onboarding additional applications and roles and performing general application maintenance.

D. Agency Financial Reporting Package

The Agency Financial Reporting Package is a reporting system used by OSC to gather data-in-process which has not been entered into the Statewide Financial System as of the closing date specified in each area.

The JA Unit is currently re-platforming the legacy version of this application and will be responsible for maintaining and supporting this new application.

E. Java Modernization

Through architectural best practices, concepts and designs, the JA Unit continues to modernize its application development practices for improved development velocity, system maintainability, and flexibility.

This work may include:

- Utilization of cloud platforms (deploying applications to cloud platforms, secrets management, service bus integration, etc.);
- Exploration of containerization/orchestration;
- JSON Web Token exploration and implementation;
- Service-oriented architecture (i.e., microservices) design and implementation;
- Integration between disparate systems (Java application integration with Software-as-a-Service platforms); and
- Continued evaluation of the technology stack currently in use by the JA Unit.

2.3. Future Projects

Future JA Unit projects may include:

A. Contact Management

Similar to the Muni Management system, the Contact Management system requires the extraction of enterprise-required functionality from a legacy system. The associated data is vital to the operations of OSC and must be structured and provided in a way that is consumable throughout the agency, by multiple systems.

B. Information Hub for Local Officials

The JA Unit is contemplating development of an online dashboard/interface to municipality users with a centralized view of information supplied by many Local Government and School Accountability products (e.g., Fiscal Stress Monitoring System and online services applications. This work would be a large-scale, multi-year effort.

C. Re-platform Legacy Applications

The JA Unit may undertake an effort to redesign and re-platform legacy applications facing end-of-support and end-of-life challenges. This effort would include application design, implementation, and maintenance of the new systems.

2.4. 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) as it will be incorporated, without change or amendment, into the contract resulting from this RFP. By submitting a response to the RFP, the Proposer agrees to comply with all of the provisions of Appendix A.

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

2.5. Term of the Agreement

The term of the Agreement will be for a period of five years from the date of contract approval by OSC's Bureau of Contracts. Individual consultant engagements (each an "Engagement") will be procured via Consultant Request Documents ("CRDs") and may extend up to three years beyond the term of the Agreement, provided such Engagements are entered into during the term of the Agreement. No new CRDs will be executed after the end date of the Agreement. No amendments to existing CRDs will be permitted after the end date of the Agreement.

2.6. Single Source of Responsibility

OSC envisions that a 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. While Services may be provided by the Prime, its subcontractors, and/or via a joint venture (a partnership or a consortium with other vendors), the Prime is responsible for the efforts of any subcontractors/partner/joint venturer (collectively, “Subcontractor(s)”), including their compliance with contract provisions. In addition, the Prime is responsible for ensuring that each Consultant is fully vetted (see Section 3.4).

Note: Partnerships/joint ventures/consortiums 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 SERVICES

The Consultants engaged pursuant to this RFP and resultant Contract must have expert-level knowledge and skills in the areas of application architecture, technical project management, and application development.

The Proposer must be able to provide Consultants for all positions, and all the Services, throughout the Contract term. Proposers should be aware that a Consultant Engagement that lasts more than 12 months may result in additional compensatory tax obligations for the individual Consultant. OSC is not responsible for these obligations.

NOTE: Proposers must provide responses that address all requirements of this Section as part of the Technical Proposal.

3.1. Current Services Scope

Key job responsibilities, by position, are indicated below. The job responsibilities listed below are not intended to be all-inclusive but are representative of common activities the Consultants will perform.

A. Position A: Java Solutions Architect

Working in conjunction with the JA Unit Manager, this Consultant will be responsible for all aspects of Java-centric technology solution implementation and management. This position requires expert-level capabilities in both technical and project management areas.

This Consultant will be responsible for performing solutions architecture duties including the design and implementation of robust, comprehensive, fully integrated, large-scale solutions, where the viability, sustainability, relevance, and longevity of underlying technologies are essential.

Responsibilities may include:

- Analyzing and understanding the interactions and integrations of large-scale systems;
- Analyzing and understanding legacy systems;
- Architecting and implementing large-scale solutions for the replacement of legacy systems;
- Re-imagining and suggesting new designs for the replacement of legacy systems;
- Analyzing and understanding to-be-built systems;
- Architecting and implementing large-scale to-be solutions from the ground up;
- Monitoring the technology landscape for new tools, trends, and methodologies;
- Identifying, recommending, and implementing the adoption of new tools, technologies, trends, and methodologies;
- Recommending process improvement opportunities by identifying ways to streamline processes, increase efficiency, reduce costs, reduce errors, and reduce downtime in the design of solutions; and
- Investigating, planning, coordinating, and assisting in the deployment of containerized and cloud-based solutions.

This Consultant will be responsible for performing programming duties, including the ability to effectively use the Java programming language and all associated tools, technologies, and frameworks to deliver robust web applications and components.

Technologies may include:

- Java;
- Wicket web framework;
- Transaction management, Inversion of Control (e.g., Spring, Spring Boot);
- ORM frameworks (e.g., Hibernate, MyBatis);
- Build tools (e.g., Ant, Gradle, Maven);
- Database refactoring tools (e.g., Liquibase, Flyway, Slick);
- Open-source databases (e.g., H2, Derby, Hypersonic SQL);
- LDAP;
- WebSphere LTPA;
- Source code management tools (e.g., SVN, GitLab); and
- SQL & PL/SQL.

This Consultant will be responsible for performing project management duties, including all types of industry-standard project management activities.

Responsibilities may include:

- Preparing scope statements;
- Identifying critical success factors;
- Preparing deliverable definitions;
- Preparing work breakdown structures;
- Creating and updating project schedules;
- Maintaining the quality of the products;
- Allocating staff resources;
- Identifying stakeholders; and
- Communication, including:
 - Providing updates to supervisor on a regular basis,
 - Creating technical documentation, and
 - Participating in project and team meetings;
 - Providing clear and concise email correspondence on current tasks; and
 - Identifying and managing risk.

This Consultant will be responsible for performing duties that include requirements gathering, analysis, and quality assurance services, including researching, discovering, and documenting requirements of a system as obtained from users, customers, and stakeholders.

Responsibilities may include:

- Eliciting information by conducting interviews and holding facilitated sessions;
- Ensuring the information gathered is correct and complete;
- Consolidating requirements to find gaps and overlap;
- Prioritizing and formally documenting requirements;
- Introducing numbering schemes allowing for requirements tracking;
- Verifying that collected requirements are documented properly and completely, and communicating needs and expectations clearly;
- Developing acceptance criteria;
- Writing test cases;
- Executing test cases;
- Tracking and reporting test successes and failures; and
- Assisting business owners with testing activities.

This Consultant will be responsible for performing application development services, following the

Application Development Life Cycle, the universally accepted standard to deliver high-quality applications. Phases include:

- Planning – discover the objectives and scope of the intended system;
- Analysis – define project goals into defined functions of the intended system;
- Design – describe features and operations of the intended system in detail;
- Development – perform coding of system;
- Integration and testing – bring modules of system together and ensure proper operation;
- Deployment – oversee the release of the system; and
- Maintenance – ensure delivered system continues to meet the needs of the organization.

B. Position B: Java Programmer/Analyst III

Working under the direction of the Java Solutions Architect, the Consultant in this highly technical position must be able to define and implement solutions for the most advanced technical challenges faced, perform technology research, and assist in the mentoring of OSC staff. The Java Programmer/Analyst III will be assigned more complex tasks than the Java Programmer/Analyst II.

This Consultant will be responsible for performing solutions architecture services, including the design and implementation of robust, comprehensive, fully integrated, large-scale solutions, where the viability, sustainability, relevance and longevity of underlying technologies are essential.

Responsibilities may include:

- Analyzing and understanding the interactions and integrations of large-scale systems;
- Analyzing and understanding legacy systems;
- Architecting and implementing large-scale solutions for the replacement of legacy systems;
- Re-imagining and suggesting new designs for the replacement of legacy systems;
- Analyzing and understanding to-be-built systems;
- Architecting and implementing large-scale to-be solutions from the ground up;
- Monitoring the technology landscape for new tools, trends, and methodologies;
- Identifying, recommending and implementing the adoption of new tools, technologies, trends, and methodologies;
- Recommending process improvement opportunities by identifying ways to streamline processes, increase efficiency, reduce costs, reduce errors, and reduce downtime in the design of solutions; and
- Investigating, planning, coordinating and assisting in the deployment of containerized and cloud-based solutions.

This Consultant will be responsible for providing application development services using the Java programming language and all associated tools, technologies, and frameworks to deliver robust web applications and components.

Technologies may include:

- Java;
- Wicket web framework;
- Transaction management, Inversion of Control (e.g., Spring, Spring Boot);
- ORM frameworks (e.g., Hibernate, MyBatis);
- Build tools (e.g., Ant, Gradle, Maven);
- Database refactoring tools (e.g., Liquibase, Flyway, Slick);
- Open-source databases (e.g., H2, Derby, Hypersonic SQL);
- LDAP;
- WebSphere LTPA;
- Source code management tools (e.g., SVN, GitLab); and
- SQL & PL/SQL.

This Consultant will be responsible for performing requirements gathering and analysis, and quality

assurance, including researching, discovering, and documenting requirements of a system as obtained from users, customers, and stakeholders.

Responsibilities may include:

- Eliciting information by conducting interviews and holding facilitated sessions;
- Ensuring the information gathered is correct and complete;
- Consolidating requirements to find gaps and overlap;
- Prioritizing and formally documenting requirements;
- Introducing numbering schemes allowing for the tracking of requirements;
- Verifying that collected requirements are documented properly and completely, and communicating needs and expectations clearly;
- Developing acceptance criteria;
- Writing test cases;
- Executing test cases;
- Tracking and reporting test successes and failures; and
- Assisting business owners with testing activities.

This Consultant will be responsible for performing application development services, following the Application Development Life Cycle, the universally accepted standard to deliver high-quality applications.

Services include:

- Planning – discover the objectives and scope of the intended system;
- Analysis – define project goals into defined functions of the intended system;
- Design – describe features and operations of the intended system in detail;
- Development – perform coding of system;
- Integration and testing – bring modules of system together and ensure proper operation;
- Deployment – oversee the release of the system; and
- Maintenance – ensure delivered system continues to meet the needs of the organization.

C. Position C: Java Programmer/Analyst II

Working under the direction of the Java Solutions Architect, the Consultant in this technical position must be able to capably execute the technical tasks assigned.

This Consultant will be responsible for performing Java-related services, including effectively using the Java programming language and all associated tools, technologies and frameworks to deliver robust web applications and components.

Technologies may include:

- Java;
- Wicket web framework;
- Transaction management, Inversion of Control (e.g., Spring, Spring Boot);
- ORM frameworks (e.g., Hibernate, MyBatis);
- Build tools (e.g., Ant, Gradle, Maven);
- Database refactoring tools (e.g., Liquibase, Flyway, Slick);
- Open-source databases (e.g., H2, Derby, Hypersonic SQL);
- LDAP;
- WebSphere LTPA;
- Source code management tools (e.g., SVN, GitLab); and
- SQL & PL/SQL.

This Consultant will be responsible for performing requirements gathering, analysis and quality assurance services, including researching, discovering and documenting requirements of a system as obtained from users, customers, and stakeholders.

Responsibilities may include:

- Eliciting information by conducting interviews and holding facilitated sessions;
- Ensuring the information gathered is correct and complete;
- Consolidating requirements to find gaps and overlap;
- Prioritizing and formally documenting requirements;
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- Tracking and reporting test successes and failures; and
- Assisting business owners with testing activities.

This Consultant will be responsible for performing application development services, following the Application Development Life Cycle, the universally accepted standard to deliver high-quality applications.

Services include:

- Planning – discover the objectives and scope of the intended system;
- Analysis – define project goals into defined functions of the intended system;
- Design – describe features and operations of the intended system in detail;
- Development – perform coding of system;
- Integration and testing – bring modules of system together and ensure proper operation;
- Deployment – oversee the release of the system; and
- Maintenance – ensure delivered system continues to meet the needs of the organization.

3.2. Future Services Scope

Key job responsibilities, by position, are indicated below. The job responsibilities listed below are not intended to be all-inclusive but are representative of common activities the Consultants will perform. OSC does not guarantee any number of Future Consultant positions during the term of the Agreement.

A. Position D: Java Programmer/Analyst III

OSC may fill additional positions under this title with the same job responsibilities as listed in Section 3.1.B above - Position B: Java Programmer/Analyst III.

B. Position E: Java Programmer/Analyst II

OSC may fill additional positions under this title with the same job responsibilities as listed in Section 3.1.C above - Position C: Java Programmer/Analyst II.

3.3. Staffing Requirements

The Contractor must be able to fill all positions described in this RFP. A single candidate must be proposed for each of the three positions described in Current Services. The proposed candidate will be evaluated based on the criteria described in Section 8.0 (Evaluation Process/Criteria). No candidates should be proposed at this time for Future Services, but an hourly rate must be proposed for each of the positions described in that section.

OSC anticipates the following number of positions will be necessary for the time frames indicated below:

Position	Number of Consultants	Duration
Current Services		
Java Solutions Architect	1	Full-time for the duration of the Contract.
Java Programmer/Analyst III	1	Full-time for the duration of the Contract.
Java Programmer/Analyst II	1	Full-time for the duration of the Contract.
Future Services		
Java Programmer/Analyst III	3*	OSC does not require additional Java Programmer Analyst III positions at this time; however, the Contractor may be requested to provide candidates for this position (see Section 3.6 – Process for Engaging Consultants).
Java Programmer/Analyst II	5*	OSC does not require additional Java Programmer Analyst II positions at this time; however, the Contractor may be requested to provide candidates for this position (see Section 3.6 – Process for Engaging Consultants).

*The number of Consultants for Future Services positions are estimated. OSC does not guarantee any number of Future Consultant positions during the term of the Contract.

3.4. **Prime Responsibilities**

A. Contract Administration – Responding to a Consultant Request Document (CRD)

The Prime must appoint a contract administrator (“Contract Administrator”) to be the lead point of contact with OSC for all matters related to the Agreement. The Contract Administrator will communicate with the OSC Bureau of Finance through the RFP@osc.ny.gov email address.

The Contract Administrator, regardless of how or from whom a consultant is sourced, must:

- Timely respond to all OSC inquiries;
- Timely respond to all CRDs;
- Perform all consultant placement-related tasks, including:
 - Providing up to three candidates for each requested position;
 - Vetting each candidate and verifying:
 - mandatory qualifications;
 - identity;
 - work authorization;
 - satisfactory criminal record (federal, state, local);
 - technical credentials; and
 - prior work experience;
 - Submitting a certified CRD for each candidate presented;
 - Scheduling in-person, or if requested and agreed to by OSC (accompanied by appropriate confidentiality and confirmation of identity processes), videoconference consultant interview with OSC; and

- Maintaining the integrity and confidentiality of the interview process.
- Submit only candidates for consideration who:
 - Meet all the Minimum Qualifications for the title listed in Section 4.4 (Candidate Minimum and Preferred Qualifications for Future Services).
 - Are U.S. citizens or currently authorized to work in the United States for any employer.
 - Are able to fulfill the work arrangement required as stated in the CRD (e.g., remote, on-site, hybrid. See 3.4.E limitations below - OSC IT and Security Policies and Remote Work).
 - Are able to work during the business hours specified in the CRD.
 - Are able to work the entire term of the Engagement as specified in the CRD.
 - Have sufficient proficiency in English, both verbal and written, to provide the Services.

NOTE: OSC does not provide sponsorship. The Prime is responsible for ensuring that each placed Consultant retains the authorization to legally work in the US throughout the term of each Engagement. OSC is willing to provide consultant verification letters to assist with the authorization process, upon request.

B. Contract Administration – Performance and Issues Management

In addition, the Contract Administrator, regardless of how or from whom the Consultant was sourced, must:

- Track Consultant performance, including:
 - Attendance; and
 - Time.
- Perform all contract management-related tasks, including:
 - Being available for timely discussion of contract-related issues;
 - Submitting invoices; and
 - Maintaining records of Consultant's credentials, qualifications, and work authorization.
- Maintain the necessary access and authority to perform in their role, including:
 - Reasonable availability for face-to-face meetings in Albany, New York;
 - Reasonable availability to respond to OSC requests from 9:00 a.m. to 5:00 p.m. ET Monday through Friday, excluding State holidays;
 - Ability to ensure the responsiveness of Contractor's management for issues that need to be elevated beyond the Contract Administrator; and
 - Having the authority to accomplish all the above contract administration tasks.
- Upon request, provide OSC with the following documentation, which may be requested by OSC at any time during the Agreement:
 - Document(s) verifying the Consultant's pertinent skills, qualifications, and educational/professional credentials (e.g., college transcripts, IT certifications, licenses);
 - Consultant's resume, showing current and former places of employment, including employer address, years of service, job duties, and direct supervisor name (where that name is available);
 - Document(s) supporting verification of a Consultant's prior work history, which must

include the consultant's name; end client company; the name, title, and contact information of the individual providing verification; and the date of such verification. A Consultant's prior work history may not be verified by a colleague or a placement or sourcing firm; work history may only be verified by an authorized administrator of the end client company;

- A list of the Consultant's references contacted. At least three references must be provided. A reference may be from a current or former employer, work colleague, placement/staffing or sourcing firm, or an end client company's employee, preferably from someone who directly supervised the work performed by the Consultant;
- The name of all entities involved with the sourcing of the Consultant, as applicable, including the entity that will process the Consultant's payroll (meaning the entity that will actually pay the Consultant).
- Government-issued document with photo verifying the Consultant's identity and government-issued document verifying employment eligibility (e.g., driver's license, passport, employment authorization card). Some documents may fulfill both requirements; and
- Documented review of the results of the criminal background investigation. OSC may require that Contractor provide the actual results of the criminal background investigation where the OSC Inspector General requests such documentation.

C. Reporting

The Contractor must submit certified timesheets based on the schedule set by OSC (e.g., weekly, biweekly, monthly), and status reports (meaning the list of tasks completed by the Consultant, attached to the Consultant's timesheet) to OSC for approval throughout the term of the Engagement.

D. OSC-Issued Equipment

OSC will provide each Consultant with a computer, along with the software, hardware, and peripherals necessary to perform the Engagement (collectively "OSC equipment"). A Consultant working remotely must possess a working and reliable internet connection.

Upon the expiration or termination of an Engagement, or immediately upon written notice by OSC, the Contractor must ensure the Consultant returns all OSC equipment. The Contractor or Consultant is responsible for paying the costs of shipping the OSC equipment back to OSC and must provide tracking information within three business days of expiration or termination of an Engagement or upon written notice by OSC. The equipment must be received by OSC within two weeks of the expiration or termination of an Engagement.

The Contractor must ensure that all Consultants maintain OSC equipment in a professionally responsible manner. If a Consultant damages the OSC equipment, OSC will provide a replacement for continuation of the Engagement. The Contractor must reimburse OSC for the full cost of any replacement items provided to a Consultant (substantiation to be provided by OSC to Contractor) and any associated losses (e.g., software, staff time, shipping of replacement equipment) if (i) a Consultant damages or loses (including theft) the OSC equipment; or (ii) the OSC equipment is not returned to the State within two weeks of the expiration or termination of an Engagement, or upon written request by OSC.

In the event that an OSC-issued computer is lost or stolen, the Consultant must immediately contact OSC IT Service Desk at (518) 486-6745. Once the IT Service Desk is made aware of the missing or stolen computer, the Consultant must notify the Contractor. The Contractor must notify the Director of Finance, or their designee, as stated in the "Notices" section of the Agreement.

E. OSC IT and Security Policies and Remote Work

Consultants must comply with all OSC IT and security policies provided to the Consultant or to the Contractor. The Contractor must distribute any OSC IT and security policies it receives to all new

and active Consultants.

Some Consultant positions may only be performed onsite at OSC offices. The location requirements for each position will be identified in the relevant CRD. Where the CRD permits, a Consultant may be approved to work remotely on a part-time or full-time basis at the discretion of OSC. A Consultant desiring to work remotely must submit a written request via the Contractor. That request must identify the requested schedule of remote hours. Consultants approved to work remotely must do so only from their primary residence within the contiguous United States; none of the work may occur at coffee shops, hotels, or other public locations. Contractor must verify that appropriate security is in place before placing a remote work request to OSC. All OSC equipment must at all times remain within the contiguous United States. Contractor must take reasonable steps to verify that Consultant is complying with this requirement during the term of the Engagement.

Any violation of these requirements will result in the immediate termination of the Consultant's Engagement.

F. Staff Integrity and Background Investigations

The Contractor must certify that staff (which includes Consultants, regardless of how sourced, and others assigned by Contractor to provide the Services) 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. If during the term of an Engagement the Contractor becomes aware, or reasonably should be aware, that any staff member(s) providing Services to OSC no longer possesses the necessary integrity or professional capacity, the Contractor must immediately discontinue the use of such staff and notify OSC.

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, or routine access¹ to any OSC facility. Given the nature of the services sought herein, Contractor may perform the background investigation before proposing a Consultant candidate to OSC in response to a CRD, but in any event, a background investigation compliant with the provisions set forth herein must be completed before the Consultant provides Services to OSC.

With submission of a proposal and again pursuant to the terms of any Contract resulting from this RFP, Consultant must certify that it has or will conduct a background investigation on any staff to whom the policy applies prior to the staff commencing Services. The Contractor must conduct a background investigation on any new staff or replacement staff during the term of the Agreement.

Any Proposer refusing to comply with this Policy will be disqualified from the procurement process.

In addition to information determined to be relevant by the Contractor, background investigations must include a review 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), as permitted under applicable law;
- work history;
- pertinent skills, qualifications, and education/professional credential verification; and
- references.

¹ Routine access means will be onsite at an OSC facility for five consecutive business days or 10 business days over the annual term of an Engagement.

Only staff who have satisfactorily completed such background investigation and been deemed suitable to perform the Services without undue risk to OSC interests shall be assigned to provide the Services to OSC. The Contractor must maintain records related to the completed background investigations during the term of the Agreement and in accordance with Appendix A. In the performance of such background investigations, the Vendor must comply with all applicable data privacy and protection statutes or regulations, including state, local and foreign personal privacy laws, as may be enacted or amended.

OSC reserves the right to verify Contractor's compliance with this policy prior to award, during the award process, or at any time during the term of the Agreement. In the event the OSC Inspector General determines to audit a Contract to ensure Contractor compliance, reasonably determines that there are grounds calling into question the completeness or validity of a background investigation, or where the Inspector General deems there has been a material change in circumstances, the Inspector General may request documentation from the Contractor documenting the results of the background investigation.

Further, during the term of the Agreement, the Contractor shall provide immediate written notice to OSC if the Contractor learns that its determination of a Staff person's fitness to perform the services was erroneous or has become erroneous because of changed circumstances.

The Contractor must incorporate these same obligations with regard to staff integrity and background investigations into any subcontracts or other agreements pursuant to which it sources consultant candidates. Regardless of where or how sourced, Contractor is responsible for ensuring compliance with these provisions.

3.5. Availability of Consultants

Consultants proposed by the Contractor in response to a CRD must be available to report to work on the start date of the Engagement. Unless otherwise set forth in a CRD, Consultants must work a 40-hour workweek during regular OSC business hours (between 8:00 a.m. and 5:00 p.m. Monday through Friday, excluding State holidays) and outside business hours when applicable as requested by OSC.

During the first six months of an Engagement, no Consultant may work remotely, unless set forth explicitly in the CRD.²

During the first six months of an Engagement, no replacement candidates will be accepted by OSC to fill a position held by a Consultant selected by OSC, even where that Consultant is no longer available to provide Services, except that in its sole discretion, OSC may permit the Contractor to replace a Consultant where OSC determines such replacement is in the best interests of OSC. In such event, Contractor should provide OSC with at least 15 calendar days' notice of its intent to replace a Consultant. OSC reserves the right to interview, accept or reject any proposed replacement candidate. The rate for any proposed replacement consultant must not to exceed the hourly rate for the replaced position, as set forth in the Contract.

Any replacement candidate must match or exceed the original Consultant in terms of skill level and experience as determined by OSC.

Contractor must make every effort to ensure an assigned Consultant remains available throughout the term of the Engagement. Where a Consultant is assigned to work more than 35 hours per week for OSC, the Contractor shall not assign that Consultant to provide services to another entity or on another project.

If a Consultant must take time off during the term of an Engagement, the Contractor should give OSC at least 30 calendar days' advance notice.

3.6. Process for Engaging Consultants

Once OSC makes a determination to fill a Consultant position, OSC will issue a CRD (see Attachment F -

² OSC may make an exception to this requirement where a Consultant is known to and has previously provided services to OSC, either pursuant to another contract or the Contract awarded as a result of this RFP.

Sample Consultant Request Document) to the Contractor. The CRD will provide a detailed description of the:

1. Title to be filled;
2. Number of consultants requested;
3. Minimum and preferred qualifications;
4. Duration of the Engagement;
5. Work arrangement (e.g., onsite, remote, full-time, part-time);
6. Location of Engagement;
7. Weekly work schedule;
8. Deadline for submission of response; and
9. Anticipated start date.

The Contractor will submit a response to the CRD for each consultant requested, presenting no more than three candidates for each position to be filled. OSC reserves the right to reject any or all candidates submitted and to re-request candidate submissions.

OSC expects positions to be filled promptly. Below is a sample timeline, although actual timelines may vary as necessary.

- Day 1 – Issuance of CRD
- Day 11 – Deadline for submission of candidates
- Day 15 – Consultant interviews, if necessary
- Day 20 – Selection of Consultant (CRD award)
- Day 30 – Consultant starts work

Individual Engagements may extend up to three years past the end of Contract term, provided such Engagements are entered into during the term of the Contract.

4.0 MINIMUM AND PREFERRED QUALIFICATIONS

To be considered for award, the Proposer must meet or exceed the Minimum Qualifications set forth in Section 4.1 (Minimum Qualifications to Propose), and the three proposed candidates must meet or exceed the Minimum Qualifications set forth in Sections 4.3 (Candidate Minimum and Preferred Qualifications for Current Services). Minimum Qualifications will be evaluated on a pass/fail basis; failure to meet ALL minimum qualifications will result in the Proposer being found non-responsive and eliminated from consideration.

Proposers who meet or exceed all minimum qualifications will be evaluated as to preferred qualifications. The Proposer must submit documentation of its preferred qualifications (see Section 4.2 (Preferred Qualifications)), and for the three proposed candidates (see Section 4.3 (Candidate Minimum and Preferred Qualifications for Current Services)). The preferred qualifications score will become a component of the Proposer's total score, as described in Section 8.0 (Evaluation Process/Criteria).

4.1. MINIMUM QUALIFICATIONS TO PROPOSE

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

P1. Proposer must have at least five years' experience providing Java J2SE/EE application developers who have successfully implemented Java-based web applications and provided associated support and knowledge transfer services.

P2. Proposer must have at least five years' experience providing IT business analysts who have developed business cases, elicited, and validated requirements, performed fit gap analyses, modeled solutions, and documented system specifications.

P3. Proposer must have at least five years' experience providing IT consultants to work in local, state, or federal government environments.

P4. Proposer must have at least one physical office located in the United States.

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

4.2. PREFERRED QUALIFICATIONS

Proposers who meet the Minimum Qualifications to Propose will be evaluated as to Preferred Qualifications. Documentation of Preferred Qualifications must be submitted on Attachment E (Proposer and Candidates' Minimum and Preferred Qualifications). The Proposer's score for Preferred Qualifications will become a component of the Proposer's total score, as described in Section 8.0. Scoring will be based on the Proposer's ability to meet the following Preferred Qualifications:

P5. Any additional years of experience beyond what is required to meet Minimum Qualification "P1".

P6. Any additional years of experience beyond what is required to meet Minimum Qualification "P2".

P7. Any additional years of experience beyond what is required to meet Minimum Qualification "P3".

P8. At least five years' experience in providing consultant resources to architect, configure, and maintain WebSphere based systems.

4.3. CANDIDATE MINIMUM AND PREFERRED QUALIFICATIONS FOR CURRENT SERVICES

A. Java Solutions Architect – (Position A)

i. Minimum Qualifications to Propose

The candidate must meet or exceed the following Minimum Qualifications:

A1. Must be available to commence Services on the Anticipated Commencement of Work Date listed in Section 1.0 (Calendar of Events), for a minimum of six months.

A2. At least seven years' experience performing solutions architecture tasks including overseeing the planning, architecture, analysis, design, and implementation of large-scale, fully-integrated Java systems; and the identification, evaluation, recommendation, and adoption of new techniques, tools, technologies.

A3. At least ten years' experience developing and implementing large-scale Java J2EE web applications using industry-accepted techniques and best practices.

A4. At least five years' experience providing implementation and support services for an IAM system.

Failure to meet these Section 4.3.A.i Minimum Qualifications to Propose will result in a proposal being found non-responsive and eliminated from consideration.

ii. Preferred Qualifications:

Scoring for this position will be based on the following Preferred Qualifications:

A5. Any additional years of experience beyond what is required to meet Minimum Qualification "A2".

A6. Any additional years of experience beyond what is required to meet Minimum Qualification "A3".

- A7. At least five years' experience employing best practices for researching, discovering, and documenting requirements of a system as obtained from users, customers, and stakeholders.
- A8. At least five years' experience employing project management best practices for the creation of scope statements, deliverables definitions, work breakdown structures, and risk identification.
- A9. At least five years' experience implementing applications using the Apache Wicket, Hibernate, Spring, and Bootstrap frameworks.
- A10. Experience with Continuous Integration/Continuous Development (CI/CD) tools and methodologies, experience with containerization practices and methodologies, and experience with git flow methodologies.

B. Java Programmer/Analyst III – (Position B)

i. Minimum Qualifications to Propose

The candidate must meet or exceed the following Minimum Qualifications:

- B1. Must be available to commence Services on the Anticipated Commencement of Work Date listed in Section 1.0 (Calendar of Events), for a minimum of six months.
- B2. At least six years' experience developing and implementing large-scale Java J2EE web applications using industry-accepted techniques and best practices.
- B3. At least five years' experience investigating and implementing new application development technologies.
- B4. At least three years' experience in modernizing legacy applications.

Failure to meet these Section 4.3.B.i Minimum Qualifications to Propose will result in a proposal being found non-responsive and eliminated from consideration.

ii. Preferred Qualifications:

Scoring for this position will be based on the following Preferred Qualifications:

- B5. Any additional years of experience beyond what is required to meet Minimum Qualification "B2".
- B6. Any additional years of experience beyond what is required to meet Minimum Qualification "B3".
- B7. At least four years' experience employing industry-accepted practices of researching, discovering and documenting requirements of a system as obtained from users, customers, and stakeholders.
- B8. At least four years' experience implementing applications using each of the Apache Wicket, Hibernate, Spring, and Bootstrap frameworks.

C. Java Programmer/Analyst II – (Position C)

i. Minimum Qualifications to Propose

The candidate must meet or exceed the following Minimum Qualifications:

- C1.** Must be available to work on this Contract on the Anticipated Commencement of Work Date listed in Section 1.0 (Calendar of Events), for a minimum of six months.
- C2.** At least three years' experience developing and implementing Java J2EE web applications.

Failure to meet these Section 4.3.C.i Minimum Qualifications to Propose will result in a proposal being found non-responsive and eliminated from consideration.

ii. Preferred Qualifications:

Scoring for this position will be based on the following Preferred Qualifications:

- C3.** Any additional years of experience beyond what is required to meet Minimum Qualification "C2".
- C4.** At least two years' experience employing industry-accepted practices of researching, discovering, and documenting requirements of a system as obtained from users, customers and stakeholders.
- C5.** At least two years' experience implementing applications using each of the Apache Wicket, Hibernate, Spring, and Bootstrap frameworks.

4.4. CANDIDATE MINIMUM AND PREFERRED QUALIFICATIONS FOR FUTURE SERVICES

If requested by OSC, the Contractor must provide candidates to fill Future Services positions D and E below. The candidates selected for these Future Services positions must meet or exceed the Minimum Qualifications as set forth below.

A. Java Programmer/Analyst III – (Position D)

i. Minimum Qualifications to Respond to CRD

The candidate must meet or exceed the Minimum Qualifications for the title listed in Section 4.3.B.i except the candidate must be available to commence services on the anticipated start date of the CRD and not the anticipated start date noted in Section 1.0 (Calendar of Events).

ii. Example Preferred Qualification:

See preferred qualifications listed in Section 4.3.B.ii.

B. Java Programmer/Analyst II – (Position E)

i. Minimum Qualifications to Respond to CRD

The candidate must meet or exceed the Minimum Qualifications for the title listed, except the candidate must be available to commence services on the anticipated start date of the CRD and not the anticipated start date noted in Section 1.0. (Calendar of Events).

ii. Example Preferred Qualification:

See preferred qualifications listed in Section 4.3.C.ii.

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. 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 shall 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 designee(s) at OSC, via email (preferred) to RFP@osc.ny.gov or via hard copy mail to:

Director of Finance
Questions for RFP #23-03, Java Online Services
Office of the State Comptroller
110 State Street, Stop 13-2
Albany, NY 12236-0001.

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

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

5.2. Questions

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

Requests for clarifications of contract language contained in Attachment G 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 shall be made by issuance of amendments and/or addenda.

Prior to the Deadline for Submission of Proposals, any such 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 shall immediately notify OSC (See Section 5.1) of such error in writing and request clarification or modification of the document.

If, prior to the Deadline for Submission of Proposals, a Proposer fails to notify OSC of a known error or an error that reasonably should have been known, the Proposer shall assume the risk of proposing. If awarded the contract, the Proposer shall not be entitled to additional compensation by reason of the error or its correction.

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) sets forth the policies of OSC with regard to participation by minority and women-owned business enterprises (M/WBEs) with respect to OSC contracts. In accordance with the provisions outlined therein, it is the intention of OSC to provide real and substantial opportunities for certified M/WBEs on all OSC contracts. Therefore, OSC has assigned M/WBE participation goals to this procurement.

By submitting a proposal, Proposer agrees to make good-faith efforts to promote and assist the participation of certified M/WBEs as subcontractors and suppliers for the provision of services and materials pursuant to this RFP, in an amount at least equal to **36% combined MBE and WBE** of the total dollar value of the awarded contract. The same firm cannot be used to fulfill both MBE and WBE requirements. These participation goals 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/VendorSearchPublic.asp?TN=ny&XID=4687>

Proposers should review the requirements of Appendix B and see Section 6.1.A for submission requirements.

5.5. Service-Disabled Veteran-Owned Businesses

Article 3 of the Veteran's Service Law establishes a program to encourage State agencies to foster the use of service-disabled veteran-owned businesses (SDVOBs) on State contracts. OSC expects Proposers to make good faith efforts to solicit active participation by New York State certified SDVOBs in the performance of the contract to be awarded as a result of this RFP. Such participation may be as partners, joint venturers,

subcontractors, suppliers, protégés or other roles. SDVOBs can be readily identified on the directory of certified businesses at:

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

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

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

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

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

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

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

Sections 57 and 220 of the New York State Workers’ Compensation Law (“WCL”) provide that the State shall not enter into any contract unless proof of workers’ compensation, disability and paid family leave benefits insurance coverage is produced. Prior to entering into a contract with OSC, the selected Proposer must verify 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 workers’ compensation, disability or paid family leave benefits coverage should be directed to the New York State Workers’ Compensation Board, Bureau of Compliance at (866) 298-7830. Failure to provide verification of any of these types of insurance coverage by the time the contract is ready to be executed will be grounds for disqualification of an otherwise successful Proposal.

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

A. Proof of Workers’ Compensation Coverage:

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

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

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

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

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

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

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

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

5.8. OSC's Reserved Rights

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

- 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 to change any of the scheduled dates, or to supply additional information, as it becomes available. Modifications to the RFP shall 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, make appropriate adjustments to render the fees and costs comparable.
- H. Require a Proposer to clarify its proposal to assure a full understanding of the proposal and to request revisions to all proposals from vendors susceptible of award of the contract. Any request for clarification or revision is solely at the discretion of OSC.
- I. Use in the evaluation process any information obtained through interviews and OSC's investigation of a Proposer's qualifications, experience, ability, or financial standing, and any

material or information submitted by the Proposer in response to OSC's request for clarifying information.

- J. Rescind a preliminary contract award and proceed to the next highest-scoring Proposer if a signed contract does not result from good faith negotiations with OSC within a reasonable period of time as determined by OSC.
- K. Proceed to the next highest-scoring Proposer if the Proposer who had achieved best value prior to contract award cannot satisfy the requirements as stated in this RFP.

5.9. Freedom of Information Law

All proposals are subject to disclosure in accordance with the requirements of the 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:

- L. The person signing has read and understands the provisions applicable to post-employment restrictions affecting former State officers and employees, available using the link³ below:
 - Public Officers Law §73(8)(a)(i), (the two-year bar); and
 - Public Officers Law §73(8)(a)(ii), (the lifetime bar);
- M. Submission of the proposal does not violate either provision;
- N. The person signing is familiar with the Proposer's employees, and its agents;
- O. No violation of the cited laws will occur by entering into a contract or in performance of the contractual services;
- P. This certification is material to the proposal; and
- Q. The person signing understands that OSC intends to rely on this certification.

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

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

5.11. 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

³ 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).

annual employment report for each such contract, such report to include for each employment category within the contract: (i) the number of employees employed to provide services under the contract, (ii) the number of hours they work, and (iii) their total compensation under the contract. Consulting services are defined as analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal, or similar services.

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 attached to this procurement as Appendix G.

Note that although Form A is not required as part of the proposal, OSC encourages Proposers to include it with the proposal to expedite contract execution if the Proposer is awarded the contract.

5.12. 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 shall be submitted to the Contracting Officer in accordance with Section 5.1 (Procurement Integrity/Restrictions on Communication).

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

5.13. 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>.

6.0 PROPOSAL CONTENT

The following sets forth 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 are required to submit complete Administrative, Technical, and Cost proposals. A proposal that is incomplete in any material respect will be rejected.

To expedite review of the proposals, Proposers are requested to submit proposals in separate Administrative, Technical, and Cost packages 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 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 the information 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 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 M/WBE participation requirements stated in Section 5.4 (Minority and Women-Owned Business Enterprise Requirements). Proposers should submit the following documents (Forms are provided in Appendix B (Proposer and Contractor Compliance Requirements and Procedures for Participation by Minority Group Members and Women with Respect to OSC Contracts) 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, 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. Contractor's Certifications/Acknowledgements

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

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

C. Disclosure of Prior Non-Responsibility Determinations

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

D. Vendor Responsibility Questionnaire

Proposers and any subcontractors providing services in excess of \$100,000 must complete, certify, and file a New York State Vendor Responsibility Questionnaire. OSC recommends that vendors file the required Vendor Responsibility Questionnaire online via the New York State VendRep System. To enroll in and use the New York State VendRep System, see the VendRep System Instructions at www.osc.state.ny.us/vendrep/index.htm or go directly to the VendRep System online at <https://portal.osc.state.ny.us>.

Vendors must provide their New York State Vendor Identification Number when enrolling. To request assignment of a Vendor ID or for VendRep System assistance, contact the OSC Help Desk at 866-370-4672 or 518-408-4672 or by email at ITServicesDesk@osc.ny.gov.

Vendors opting to complete and submit a paper questionnaire can obtain the appropriate questionnaire from the VendRep website, www.osc.state.ny.us/vendrep, or may contact the Office of the State Comptroller's Help Desk for a copy of the paper form.

E. Freedom of Information Law – Proposal Redactions

While not required, Proposers are encouraged to submit written statements of the necessity for the claimed proprietary information exceptions, if any, 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. A proposal must contain sufficient information to assure OSC of its accuracy. 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. 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; 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 completed Attachment A (Proposer's Certified Statements). It must be signed by an individual authorized to bind the Proposer contractually. OSC reserves the right to reject a proposal that contains an incomplete or unsigned Attachment.

D. References

Submit completed Attachment D (References). Attachment D should list three references for the Proposer, and three references for each of the proposed candidates (i.e., a total of 12 references). Provide firm names, addresses, contact names, telephone numbers, and email addresses.

E. Proposer and Candidates' Minimum and Preferred Qualifications

Submit completed Attachment E (Proposer and Candidates' Minimum and Preferred Qualifications).

- Attachment E, Section E1, should only reflect services previously managed by the Proposer (do not include experience from consultants that Proposer did not manage).
- Attachment E, Sections E2 – E4 must list the experience of the three proposed candidates for the three Current Services positions. Only one candidate may be proposed for each of the required positions.

Attachment E should not be completed for the Future Services positions as these positions will only be filled on an as-needed basis.

6.3. Cost Proposal

Submit a completed and signed Attachment C (Cost Proposal). The Cost Proposal must comply with the format and content requirements. Do not edit the format of the Cost Proposal. Failure to comply with the mandatory format and content requirements may result in disqualification.

7.0 PROPOSAL SUBMISSION

Proposals must be received by the date and time indicated for the Deadline for Submission of Proposals as specified in Section 1.0 (Calendar of Events). 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 (RFP #23-03)
110 State Street, Mail Stop 13-2
Albany, NY 12236-0001

IMPORTANT: OSC **strongly encourages** the use of package tracking so as to provide an independent and verifiable record regarding the timeliness of Proposer's bid submittal if there are mail delivery issues.

OSC will not accept hand delivery of proposals at 110 State Street.

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

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

7.1. Submission of Proposal Components

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 your USB flash drive as “RFP23-03 [Proposer’s 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 the Proposer did not make any revisions to its proposal past the proposal due date.
- In the absence of a paper copy, if OSC is unable to access the proposal files on the USB flash drive, OSC will reject the submission and disqualify the Proposer as stated above.

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

B. Option #2: Paper

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

Administrative Proposal	Submit TWO paper copies.
Technical Proposal	Submit FIVE paper copies.
Cost Proposal	Submit TWO paper copies.

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

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

Clearly mark the outside envelope of your sealed proposals, each copy, and USB flash drive (if applicable) as “RFP23-03 [Proposer’s name].”

8.0 EVALUATION PROCESS/CRITERIA

8.1. General Information

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

OSC, 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 the requirements of this document may be eliminated from consideration. The evaluation process will include separate technical and cost evaluations, and the result of each evaluation shall 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 the Proposer's and the candidate's Minimum Qualifications to Propose as described within Section 4.1 and Section 4.3.

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 all-inclusive not-to-exceed maximum price. All other responsive proposals will receive a proportionate score based on the relation of their Cost Proposal to the proposals offered at the lowest final cost, using this formula:

Cost points awarded = XX 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 three highest preliminary composite scores will be deemed Finalists. Any proposal scoring within ten percent of the third 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 videoconference. If a Proposer and candidates are selected without an in-person interview during the interview process, the candidates will be subject to an on-site interview and other reviews to verify identity and qualifications upon their commencement of work. 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 and candidates' experience and qualifications as documented in Attachment E. The interview should also confirm the Proposer's ability to provide the required services.

Finalists will be notified of the date, place, and time of their interviews, which are anticipated to start the week of the date listed in Section 1.0. The interview should confirm the Proposer's and candidates' ability to provide the required services. The Proposer, represented by up to two company representatives, and the three proposed candidates, should be present and participate in the interview, and failure of the Proposer and all candidates to appear for the interview may result in disqualification of the Proposer. The proposed candidates may be interviewed separately at a different date and time than the Proposer, at the discretion of the Technical Evaluation Committee. **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 and candidates' experience. After adjustment of technical scores, if any, proposals will be ranked by their final total composite scores.

8.8. Reference Checks

At the discretion of the Evaluation Committee, references may be checked at any point during the evaluation process.

In the event that OSC elects to check references, OSC will contact the first two references listed. If OSC is unable to contact either reference after three attempts over three business days, this fact shall be documented and the third reference will be contacted. If OSC is unable to contact the third reference after three attempts over three business days, this fact shall be documented. In the event that the required reference check cannot be completed, OSC will submit a written request to the Proposer to provide a substitute contact for each unreachable reference. If a substitute contact is not given or is unreachable, the Proposer may be disqualified.

8.9. Final Composite Score

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

8.10. Award Recommendation

The Technical Evaluation Committee will submit to OSC's Assistant Comptroller for the Division of the Chief

Information Office a recommendation for award to the Finalist with the highest composite score whose experience and qualifications have been verified. If the recommendation is accepted, it will be forwarded to OSC's Finance Office for review. The award recommendation will only become final after approval by the Director of Finance.

A responsibility review, conflict review, and Procurement Integrity review will be 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 G to provide the required Services as specified in this RFP. The resultant contract shall not be binding until fully executed and approved by the New York State Office of the Attorney General and the Office of the State Comptroller's Bureau of Contracts.

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ATTACHMENT A
PROPOSER'S CERTIFIED STATEMENTS

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

RFP23-03 – Java Online Services
1. Information with regard to the Proposer
A. Provide the Proposer's name, address, and telephone number.
Name:
Address:
City, State, ZIP Code:
Telephone Number (including area code):
B. Provide the name, address, telephone number, and email address of the Proposer's Primary Contact with OSC with regard to this proposal.
Name:
Address:
City, State, ZIP Code:
Telephone Number (including area code):
Email Address:
C. Provide the name, address, telephone number, and email address of the person authorized to bind the Proposer contractually, if different from (B).
Name:
Address:
City, State, ZIP Code:
Telephone Number (including area code):
Email Address:

<p>D. In accordance with paragraph 6 of the OSC Procurement Integrity Procedures included in this RFP as Appendix D, provide the name, address, telephone number, email address, place of principal employment and occupation of any person authorized to represent the Proposer. This requirement applies not only to Proposer's employees involved in the submission of the proposal, but also to every individual or organization employed or designated by the Proposer to attempt to influence the procurement process. If there is none, state that. This information must be updated if, after the Deadline for Submission of Proposals, the Proposer retains an individual or organization to attempt to influence the procurement process. Indicate also whether the individual or organization has a financial interest in the procurement.</p>	
Name:	
Address:	
City, State, ZIP Code:	
Telephone Number (including area code):	
Email Address:	
Place of Principal Employment:	
Occupation:	
This individual/organization has a financial interest in the procurement:	<input type="checkbox"/> Yes <input type="checkbox"/> No
No such individual/organization is authorized to represent the Proposer:	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Minimum Qualifications to Propose (Section 4.0):	
A. The Proposer meets all minimum qualifications as defined in Section 4.1 (Minimum Qualifications to Propose).	<input type="checkbox"/> Yes <input type="checkbox"/> No
B. The candidate proposed for Position A: Java Solutions Architect meets all minimum qualifications as defined in Section 4.3.A.i.	<input type="checkbox"/> Yes <input type="checkbox"/> No
C. The candidate proposed for Position B: Java Programmer/Analyst III meets all minimum qualifications as defined in Section 4.3.B.i.	<input type="checkbox"/> Yes <input type="checkbox"/> No
D. The candidate proposed for Position C: Java Programmer/Analyst II meets all minimum qualifications as defined in Section 4.3.C.i.	<input type="checkbox"/> Yes <input type="checkbox"/> No
3. Proposer's Acknowledgement of Proposal Requirements: [Note: alteration of any language contained in this section may render your proposal non-responsive.]	
A. The proposal, including the Technical, Administrative, and Cost Proposals, constitutes a firm and irrevocable offer for a period of <u>180</u> days from the date of submission to OSC.	<input type="checkbox"/> Yes <input type="checkbox"/> No*
B. By submission of a proposal, the Proposer agrees not to make any claims for or have a right to any damages because of any misrepresentations or misunderstanding of the specifications or because of any lack of information.	<input type="checkbox"/> Yes <input type="checkbox"/> No*
C. The Proposer agrees to fully comply with the OSC Executive Order on Procurement Integrity and OSC Procurement Integrity Procedures attached to this RFP as Appendix D.	<input type="checkbox"/> Yes <input type="checkbox"/> No*
D. The Proposer certifies that it can and will provide and make available, at a minimum, all services as described in the RFP if selected for award.	<input type="checkbox"/> Yes <input type="checkbox"/> No*

E. The Proposer certifies that staff provided to perform Services possesses 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.	<input type="checkbox"/> Yes <input type="checkbox"/> No*
F. The Proposer agrees to conduct background investigations (as defined in Section 3.4.F) of employees that will be providing the Services described in this RFP to OSC before such services are provided to OSC.	<input type="checkbox"/> Yes <input type="checkbox"/> No*
G. The Proposer certifies that all information provided in connection with its proposal is true and accurate.	<input type="checkbox"/> Yes <input type="checkbox"/> No*
H. 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.	<input type="checkbox"/> Yes <input type="checkbox"/> No*
I. The Proposer's legal representation has reviewed and understands Attachment G (Draft Contract), and the Proposer is willing to enter into an Agreement substantially in accord with the terms of Attachment G, should the Proposer be selected for contract award.	<input type="checkbox"/> Yes <input type="checkbox"/> No*
J. The Proposer agrees that OSC shall 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.	<input type="checkbox"/> Yes <input type="checkbox"/> No*
K. 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.	<input type="checkbox"/> Yes <input type="checkbox"/> No*
* A "No" Response in Sections 2 or 3 of this attachment will result in disqualification.	
4. Information Required:	
A. The Proposer is (check as applicable):	
<input type="checkbox"/> A New York State Certified Minority-Owned Business Enterprise <input type="checkbox"/> A New York State Certified Woman-Owned Business Enterprise <input type="checkbox"/> A New York State Certified Minority and Woman-Owned Business Enterprise (Dual Certified) <input type="checkbox"/> A New York State Service-Disabled Veteran-Owned Business <input type="checkbox"/> None of the above	
B. Provide the name, title, address, telephone number, and email address of the person authorized to receive Notices with regard to the contract entered into as a result of this procurement. See Section VI. of the Draft Contract (Attachment G), NOTICES.	
Name:	
Title:	
Address:	
City, State, ZIP Code:	
Telephone Number (including area code):	
Email Address:	

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

ATTACHMENT B
PROPOSAL DOCUMENTS CHECKLIST

RFP23-02 – Java Online Services			
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	Appendix E (Contractor's Certifications/Acknowledgements), completed and signed	<input type="checkbox"/>
3	§6.1.C	Appendix F (Disclosure of Prior Non-Responsibility Determinations), completed and signed	<input type="checkbox"/>
4	§6.1.D	Vendor Responsibility Questionnaire, certified within six months of the Proposal due date (<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"/>
5	§6.1.F	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	Attachment D (References), completed	<input type="checkbox"/>
4	§6.2.E	Attachment E (Proposer and Candidates' Minimum and Preferred Qualifications), completed	<input type="checkbox"/>
FOR THE COST PROPOSAL			
TAB	RFP §	REQUIREMENT	INCLUDED
1	§6.3	Attachment C (Cost Proposal), completed	<input type="checkbox"/>
FOR ALL PROPOSALS			
TAB	RFP §	REQUIREMENT	INCLUDED
N/A	§7.1.A OPTION 1	Submit a single USB flash drive that has been scanned for malware and contains each of the complete Administrative, Technical, and Cost Proposals <u>as separate files</u> as stated in Section 7.1.A. (preferred)	<input type="checkbox"/>
		Optional: Submit one paper copy of each complete Administrative, Technical, and Cost Proposals (recommended)	<input type="checkbox"/>
N/A	§7.1.B OPTION 2	TWO Copies of the Administrative Proposal	<input type="checkbox"/>
		FIVE Copies of the Technical Proposal	<input type="checkbox"/>
		TWO Copies of the Cost Proposal	<input type="checkbox"/>
		Submit a single USB flash drive that has been scanned for malware and contains each of the complete Administrative, Technical, and Cost Proposals as separate files as stated in Section 7.1.B. (requested)	<input type="checkbox"/>

ATTACHMENT C
COST PROPOSAL

TO BE COMPLETED FOR:

Current Services Scope and Future Services Scope (See Sections 3.1 – 3.2)

Proposer/Company Name:	
-------------------------------	--

#	POSITION NAME	CANDIDATE NAME	(E) HOURLY RATE BID FOR THIS PROCUREMENT ¹
A	Java Solutions Architect		\$
B	Java Programmer/Analyst III		\$
C	Java Programmer/Analyst II		\$
D	Java Programmer/Analyst III	Future Services – no candidate name, rate only	\$
E	Java Programmer/Analyst II	Future Services – no candidate name, rate only	\$

¹ Hourly rates must be inclusive of all fees and expenses, including travel. No charges may be submitted for time spent in travel.

ATTACHMENT D**REFERENCES**

Submit **THREE** references each for the Proposer and three proposed candidates (i.e., 12 references total) using this form (see Section 6.2.D).

Expand fields and duplicate this page as necessary.

RFP23-03 – Java Online Services		
PROPOSER:		
Check one	Proposer <input type="checkbox"/>	Candidate B Java Programmer/Analyst III <input type="checkbox"/>
	Candidate A Java Solutions Architect <input type="checkbox"/>	Candidate C Java Programmer/Analyst II <input type="checkbox"/>
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 E
PROPOSER AND CANDIDATES' MINIMUM AND PREFERRED QUALIFICATIONS

Proposer Name: _____

INSTRUCTIONS: Attachment E describes minimum and preferred qualifications for the purpose of computing a technical score on the response for this RFP. Minimum qualifications are scored on a pass/fail basis and preferred qualifications will be assigned a technical score that will represent 70% of the total score.

Responses are required for all the following sections of Attachment E:

Section	Position	Proposal Requirement	Technical Score per Section
E1	Proposer	One proposer to provide all positions	10
E2	POSITION A: Java Solutions Architect	One candidate proposed per position	35
E3	POSITION B: Java Programmer/Analyst III	One candidate proposed per position	15
E4	POSITION C: Java Programmer/Analyst II	One candidate proposed per position	10

Proposer must propose a single candidate for each of the three positions (POSITIONS A, B, and C).

Experience excluded from this form will not be considered for technical scoring, so please include the specific experience, descriptions, and applicable dates required for each criteria. For Finalists, claimed experience may be validated by interviews and contacts with customer references.

For a given criteria, expand response areas on forms to document experience for multiple engagements, as necessary.

Failure to meet the minimum qualifications will result in disqualification.

ATTACHMENT E

E1 – Proposer Minimum and Preferred Qualifications

Proposer Name: _____

INSTRUCTIONS: Complete this section for all qualifying experience for the Proposer. The qualifying experience may be satisfied as follows:

- By the Proposer's direct relevant experience; or
- By the direct relevant experience of another entity previously acquired by or merged with the Proposer.

Minimum Qualification P1 and Preferred Qualification P5

Complete this table to substantiate that the Proposer meets the minimum qualification listed below. Identify one consultant placement in the table for each year of experience claimed by the Proposer. An example in grey font is provided below for reference. The example can be deleted or overwritten.

Additional years of relevant experience should be documented in the table as well. While not required, additional technical points will be given to Proposers who meet or exceed the preferred qualification listed below. Add rows if necessary.

Minimum Qualification P1 – Proposer must have at least five years' experience providing Java J2SE/EE application developers who have successfully implemented Java-based web applications and provided associated support and knowledge transfer.

Preferred Qualification P5 – Any additional years of experience beyond what is required to meet minimum qualification P1.

Year Claimed (YYYY)	Start of Placement (MM/YYYY)	Client Name	Client Contact Information	Consultant Name / Title	Consultant Job Description
2018	02/2018	ABC Corp	Bob Smith Manager 518-555-6792 bsmith@abccorp.com	John Johnston Java Developer	Example Job Description

Minimum Qualification P2 and Preferred Qualification P6						
<p>Complete this table to substantiate that the Proposer meets the minimum qualification listed below. Identify one consultant placement in the table for each year of experience claimed by the Proposer. An example in grey font is provided below for reference. The example can be deleted or overwritten.</p> <p>Additional years of relevant experience should be documented in the table as well. While not required, additional technical points will be given to Proposers who meet or exceed the preferred qualification listed below. Add rows if necessary.</p> <p>Minimum Qualification P2 – Proposer must have at least five years' experience providing IT business analysts who have developed business cases, elicited and validated requirements, performed fit/gap analyses, modeled solutions, and documented system specifications.</p> <p>Preferred Qualification P6 – Any additional years of experience beyond what is required to meet minimum qualification P2.</p>						
Year Claimed (YYYY)	Start of Placement (MM/YYYY)	Client Name	Client Contact Information	Consultant Name / Title	Consultant Job Description	Year Claimed (YYYY)
2018	02/2018	ABC Corp	Bob Smith Manager 518-555-6792 bsmith@abccorp.com	John Johnston Java Developer	Example Job Description	2018

Minimum Qualification P3 and Preferred Qualification P7

Complete this table to substantiate that the Proposer meets the minimum qualification listed below. Identify one consultant placement in the table for each year of experience claimed by the Proposer. An example in grey font is provided below for reference. The example can be deleted or overwritten.

Additional years of relevant experience should be documented in the table as well. While not required, additional technical points will be given to Proposers who meet or exceed the preferred qualification listed below. Add rows if necessary.

Minimum Qualification P3 - Proposer must have at least five years' experience providing IT consultants to work in local, state, or federal government environments.

Preferred Qualification P7 – Any additional years of experience beyond what is required to meet minimum qualification P3.

Year Claimed (YYYY)	Start of Placement (MM/YYYY)	Client Name	Client Contact Information	Consultant Name / Title	Consultant Job Description	Year Claimed (YYYY)
2018	02/2018	ABC Corp	Bob Smith Manager 518-555-6792 bsmith@abccorp.com	John Johnston Java Developer	Example Job Description	2018

Minimum Qualification P4	
Minimum Qualification P4 – Proposer must have at least one physical office location in the United States. Identify one physical office location of the Proposer in the United States using the table below.	
United States Office(s) Location	

Preferred Qualification P8						
Complete this table to substantiate that the Proposer meets or exceeds the preferred qualification listed below. Identify one consultant placement in the table for each year of experience claimed by the Proposer. An example in grey font is provided below for reference. The example can be deleted or overwritten. While not required, additional technical points will be given to Proposers who meet or exceed the preferred qualification. Add rows if necessary. Preferred Qualification P8 – At least five years' experience in providing consultant resources to architect, configure, and maintain WebSphere based systems.						
Year Claimed (YYYY)	Start of Placement (MM/YYYY)	Client Name	Client Contact Information	Consultant Name / Title	Consultant Job Description	Year Claimed (YYYY)
2018	02/2018	ABC Corp	Bob Smith Manager 518-555-6792 bsmith@abccorp.com	John Johnston Java Developer	Example Job Description	2018

ATTACHMENT E

E2 – POSITION A: Java Solutions Architect Minimum and Preferred Qualifications

Candidate Name: _____

INSTRUCTIONS: Complete this section for all qualifying experience for the proposed Java Solutions Architect candidate. The qualifying experience may be satisfied by the candidate's direct relevant experience. The experience claimed should not include experience or services rendered by subordinates or other project or team members.

Minimum Qualification A1

Minimum Qualification A1 – The candidate proposed for this position must be available to work on this Contract on the Anticipated Commencement of Work Date listed in Section 1.0 (Calendar of Events), for a minimum of six months.

Is candidate available to provide the Services as described in Minimum Qualification A1?

☐ Yes ☐ No*

Minimum Qualification A2 and Preferred Qualification A5

Complete this table to substantiate that the Proposer's Java Solutions Architect meets the minimum qualification listed below.

Additional years of relevant experience should be documented in the table as well. While not required, additional technical points will be given to Proposers whose Java Solutions Architect meets or exceeds the preferred qualification listed below. Add rows if necessary.

Minimum Qualification A2 – At least seven years' experience performing Solutions Architecture tasks including overseeing the planning, architecture, analysis, design and implementation of large-scale, fully-integrated Java systems; and the identification, evaluation, recommendation, and adoption of new techniques, tools, technologies.

Preferred Qualification A5 – Any additional experience beyond what is required to meet minimum qualification A2.

# of Months Experience	Dates of Experience (MM/YYYY – MM/YYYY)	Company Name	Contact Name & Title	Contact Phone Number	Project Name/Description of Relevant Experience

Minimum Qualification A3 and Preferred Qualification A6

Complete this table to substantiate that the Proposer's Java Solutions Architect meets the minimum qualification listed below.

Additional years of relevant experience should be documented in the table as well. While not required, additional technical points will be given to Proposers whose Java Solutions Architect meets or exceeds the preferred qualification listed below. Add rows if necessary.

Minimum Qualification A3 – At least ten years' experience developing and implementing large-scale Java J2EE web applications using industry-accepted techniques and best practices.

Preferred Qualification A6 – Any additional experience beyond what is required to meet minimum qualification A3.

# of Months Experience	Dates of Experience (MM/YYYY – MM/YYYY)	Company Name	Contact Name & Title	Contact Phone Number	Project Name/Description of Relevant Experience

Minimum Qualification A4

Complete this table to substantiate that the Proposer's Java Solutions Architect meets the minimum qualification listed below.

Minimum Qualification A4 – At least five years' experience in providing implementation and support services for an IAM system.

# of Months Experience	Dates of Experience (MM/YYYY – MM/YYYY)	Company Name	Contact Name & Title	Contact Phone Number	Project Name/Description of Relevant Experience

Preferred Qualification A7

Complete this table to substantiate that the Proposer's Java Solutions Architect meets or exceeds the preferred qualification listed below.

While not required, additional technical points will be given to Proposers whose Java Solutions Architect meets or exceeds the preferred qualification. Add rows if necessary.

Preferred Qualification A7 – At least five years' experience employing best practices for researching, discovering, and documenting requirements of a system as obtained from users, customers, and stakeholders.

# of Months Experience	Dates of Experience (MM/YYYY – MM/YYYY)	Company Name	Contact Name & Title	Contact Phone Number	Project Name/Description of Relevant Experience

Preferred Qualification A8

Complete this table to substantiate that the Proposer's Java Solutions Architect meets or exceeds the preferred qualification listed below.

While not required, additional technical points will be given to Proposers whose Java Solutions Architect meets or exceeds the preferred qualification. Add rows if necessary.

Preferred Qualification A8 – At least five years' experience employing project management best practices for the creation of scope statements, deliverables definitions, work breakdown structure, risk identification.

# of Months Experience	Dates of Experience (MM/YYYY – MM/YYYY)	Company Name	Contact Name & Title	Contact Phone Number	Project Name/Description of Relevant Experience

Preferred Qualification A9

Complete this table to substantiate that the Proposer's Java Solutions Architect meets or exceeds the preferred qualification listed below.

While not required, additional technical points will be given to Proposers whose Java Solutions Architect meets or exceeds the preferred qualification. Add rows if necessary.

Preferred Qualification A9 – At least five years' experience implementing applications using the Apache Wicket, Hibernate, Spring and Bootstrap frameworks.

# of Months Experience	Dates of Experience (MM/YYYY – MM/YYYY)	Company Name	Contact Name & Title	Contact Phone Number	Project Name/Description of Relevant Experience

Preferred Qualification A10

Complete this table to substantiate that the Proposer's Java Solutions Architect meets or exceeds the preferred qualification listed below.

While not required, additional technical points will be given to Proposers whose Java Solutions Architect meets or exceeds the preferred qualification. Add rows if necessary.

Preferred Qualification A10 – Experience with Continuous Integration/Continuous Development (CI/CD) tools and methodologies, experience with containerization practices and methodologies, and/or experience with git flow methodologies.

# of Months Experience	Dates of Experience (MM/YYYY – MM/YYYY)	Company Name	Contact Name & Title	Contact Phone Number	Project Name/Description of Relevant Experience

ATTACHMENT E

E3 – POSITION B: Java Programmer/Analyst III Minimum and Preferred Qualifications

Candidate Name: _____

INSTRUCTIONS: Complete this section for all qualifying experience for the proposed Java Programmer/Analyst III candidate. The qualifying experience may be satisfied by the candidate's direct relevant experience but should not include experience or services rendered by subordinates or other project or team members. Add rows if necessary.

Minimum Qualification B1	
Minimum Qualification B1 – The candidate proposed for this position must be available to work on this Contract on the Anticipated Commencement of Work Date listed in Section 1.0 (Calendar of Events), for a minimum of six months.	
Is candidate available to work on this Contract as described in Minimum Qualification B1?	<input type="checkbox"/> Yes <input type="checkbox"/> No*

Minimum Qualification B2 and Preferred Qualification B5					
<p>Complete this table to substantiate that the Proposer's Java Programmer/Analyst III meets the minimum qualification listed below.</p> <p>Additional years of relevant experience should be documented in the table as well. While not required, additional technical points will be given to Proposers whose Java Programmer/Analyst III meets or exceeds the preferred qualification listed below. Add rows if necessary.</p> <p>Minimum Qualification B2 – At least six years' experience developing and implementing large-scale Java J2EE web applications using industry-accepted techniques and best practices.</p> <p>Preferred Qualification B5 – Any additional experience beyond what is required to meet minimum qualification B2.</p>					
# of Months Experience	Dates of Experience (MM/YYYY – MM/YYYY)	Company Name	Contact Name & Title	Contact Phone Number	Project Name/Description of Relevant Experience

Minimum Qualification B3 and Preferred Qualification B6

Complete this table to substantiate that the Proposer's Java Programmer/Analyst III meets the minimum qualification listed below.

Additional years of relevant experience should be documented in the table as well. While not required, additional technical points will be given to Proposers whose Java Programmer/Analyst III meets or exceeds the preferred qualification listed below. Add rows if necessary.

Minimum Qualification B3 – At least five years' experience investigating and implementing new application development technologies.

Preferred Qualification B6 – Any additional experience beyond what is required to meet minimum qualification B3.

# of Months Experience	Dates of Experience (MM/YYYY – MM/YYYY)	Company Name	Contact Name & Title	Contact Phone Number	Project Name/Description of Relevant Experience

Minimum Qualification B4

Complete this table to substantiate that the Proposer's Java Programmer/Analyst III meets the minimum qualification listed below. Add rows if necessary.

Minimum Qualification B4 – At least three years' experience in modernizing legacy applications.

# of Months Experience	Dates of Experience (MM/YYYY – MM/YYYY)	Company Name	Contact Name & Title	Contact Phone Number	Project Name/Description of Relevant Experience

Preferred Qualification B7

Complete this table to substantiate that the Proposer's Java Programmer/Analyst III meets or exceeds the preferred qualification listed below.

While not required, additional technical points will be given to Proposers whose Java Programmer/Analyst III meets or exceeds the preferred qualification. Add rows if necessary.

Preferred Qualification B7 – At least four years' experience employing industry-accepted practices of researching, discovering and documenting requirements of a system as obtained from users, customers, and stakeholders.

# of Months Experience	Dates of Experience (MM/YYYY – MM/YYYY)	Company Name	Contact Name & Title	Contact Phone Number	Project Name/Description of relevant experience

Preferred Qualification B8

Complete this table to substantiate that the Proposer's Java Programmer/Analyst III meets or exceeds the preferred qualification listed below.

While not required, additional technical points will be given to Proposers whose Java Programmer/Analyst III meets or exceeds the preferred qualification. Add rows if necessary.

Preferred Qualification B8 – At least four years' experience implementing applications using each of the Apache Wicket, Hibernate, Spring, and Bootstrap frameworks.

# of Months Experience	Dates of Experience (MM/YYYY – MM/YYYY)	Company Name	Contact Name & Title	Contact Phone Number	Project Name/Description of Relevant Experience

ATTACHMENT E

E4 – POSITION C: Java Programmer/Analyst II Minimum and Preferred Qualifications

Candidate Name: _____

INSTRUCTIONS: Complete this section for all qualifying experience for the proposed Java Programmer/Analyst II candidate. The qualifying experience may be satisfied by the candidate's direct relevant experience but should not include experience or services rendered by subordinates or other project or team members. Add rows if necessary.

Minimum Qualification C1	
Minimum Qualification C1 – The candidate proposed for this position must be available to work on this Contract on the Anticipated Commencement of Work Date listed in Section 1.0 (Calendar of Events), for a minimum of six months.	
Is candidate available to work on this Contract as described in Minimum Qualification C1?	<input type="checkbox"/> Yes <input type="checkbox"/> No*

Minimum Qualification C2 and Preferred Qualification C3					
<p>Complete this table to substantiate that the Proposer's Java Programmer/Analyst II meets the minimum qualification listed below.</p> <p>Additional years of relevant experience should be documented in the table as well. While not required, additional technical points will be given to Proposers whose Java Programmer/Analyst II meets or exceeds the preferred qualification listed below. Add rows if necessary.</p> <p>Minimum Qualification C2 – At least three years' experience developing and implementing Java J2EE web applications.</p> <p>Preferred Qualification C3 – Any additional experience beyond what is required to meet minimum qualification C2.</p>					
# of Months Experience	Dates of Experience (MM/YYYY – MM/YYYY)	Company Name	Contact Name & Title	Contact Phone Number	Project Name/Description of Relevant Experience

Preferred Qualification C4

Complete this table to substantiate that the Proposer's Java Programmer/Analyst II meets or exceeds the preferred qualification listed below.

While not required, additional technical points will be given to Proposers whose Java Programmer/Analyst II meets or exceeds the preferred qualification. Add rows if necessary.

Preferred Qualification C4 – At least two years' experience employing industry-accepted practices of researching, discovering, and documenting requirements of a system as obtained from users, customers and stakeholders.

# of Months Experience	Dates of Experience (MM/YYYY – MM/YYYY)	Company Name	Contact Name & Title	Contact Phone Number	Project Name/Description of Relevant Experience

Preferred Qualification C5

Complete this table to substantiate that the Proposer's Java Programmer/Analyst II meets or exceeds the preferred qualification listed below.

While not required, additional technical points will be given to Proposers whose Java Programmer/Analyst II meets or exceeds the preferred qualification. Add rows if necessary.

Preferred Qualification C5 – At least two years' experience implementing applications using each of the Apache Wicket, Hibernate, Spring, and Bootstrap frameworks.

# of Months Experience	Dates of Experience (MM/YYYY – MM/YYYY)	Company Name	Contact Name & Title	Contact Phone Number	Project Name/Description of Relevant Experience

ATTACHMENT F
SAMPLE CONSULTANT REQUEST DOCUMENT (CRD)
PART 1

General	
CRD Number:	
Title Requested:	
Number of Positions:	
Calendar	
Date Issued:	
Deadline for Submission:	
Anticipated Interview Date:	
Anticipated Selection Date:	
Anticipated Start Date:	
Engagement	
Division/Bureau:	
Supervisor:	
Location:	
Duration:	
Work Arrangement:	
Weekly Work Schedule:	
Timesheets and Status Reports:	To be submitted [weekly/bi-weekly/monthly]
Detailed Description of Services:	
Mandatory Qualifications:	
1. 2. 3.	
Desired Qualifications:	
1. 2. 3. 4. 5. 6.	

SAMPLE Instructions

A. Submission Requirements:

1. Consultant Response Document (CRD), Part 2:

Contractor must complete a separate CRF for each proposed candidate. No more than three candidates may be submitted for each consultant position requested.

When completing the CRF, describe in detail how the candidate meets the Minimum Qualifications (on what projects systems software, etc.) and where, when, and how long the candidate(s) worked on the particular project using the specified software/technology. Provide clear and accurate descriptions of each candidate's experience for each Minimum Qualifications and Preferred Qualifications. OSC will not interpret omissions and vagueness in the candidates' favor.

NOTE: Resumes should be submitted but will be used only as **supporting evidence** for the responses and **not** as the primary source of evidence for candidates' experience.

The Contractor is reminded that the not-to-exceed hourly rate for the staff position being sought is set forth in the Agreement.

2. Contractor's Certifications

- a. Contractor **MUST** certify that it has verified ALL Minimum Qualifications for each proposed candidate by calling references of past projects the candidate has worked on or by other similar means.
- b. Contractor **MUST** certify that it has conducted a background check in accordance with the Agreement on any proposed candidate prior to submission of the CRF. The Contractor must not submit any candidate where the Contractor discovers adverse findings in the background check.

B. CRD Terms and Conditions:

1. OSC reserves the right to terminate the CRD award with or without cause pursuant to the termination provisions of the Agreement.
2. If the awarded candidate is not available to start on the designated start date, OSC may eliminate that candidate from consideration.
3. Consultant will be required to take any training mandated by the State.
4. Contractor must try to give OSC at least 30 days advanced notice if consultant needs to take time off during the engagement or if consultant is unable to continue working. Such time off is subject to OSC's prior approval; however, unforeseen circumstances will be accommodated on a case-by-case basis.
5. Contractor must provide OSC with required consultant documentation for the selected consultant prior to commencement of Services, including:
 - Document(s) verifying the consultant's pertinent skills, qualifications, and education/professional credentials (e.g., college transcripts, IT certifications or licenses);
 - Consultant's resume, showing current and former places of employment, including employer address, years of service, job duties, and direct supervisor name (where that name is available);
 - Document(s) supporting verification of a consultant's prior work history, which must include: the consultant's name; end client company; the name, title, and contact information of the individual providing verification; and the date of such verification. A consultant's prior work history may not be verified by a colleague or a placement or sourcing firm; work history may only be verified by an authorized Human Resources Department representative of the end client company;
 - A list of the consultant's references contacted. At least three references must be provided. A reference may be from a current or former employer, work colleague, placement/staffing or sourcing firm, or an end client company's employee, preferably from someone who directly supervised the work performed by the consultant; and

- The name of all subcontractors involved with the sourcing of the consultant, including the entity that will process the consultant's payroll.
6. Upon request, Contractor must provide OSC with the following documentation, which may be requested by OSC at any time during the Agreement:
- Government-issued document with photo verifying the consultant's identity and government-issued document verifying employment eligibility (e.g., driver's license, passport, employment authorization card). Some documents may fulfill both requirements; and
 - Documented review of the results of the criminal background investigation. OSC may require that Contractor provide the actual results of the criminal background investigation.

SAMPLE CONSULTANT REQUEST DOCUMENT (CRD) PART 2

Complete for each Candidate submitted

Contractor Name:			
CRD Number:			
Consultant Name:			
Consultant Candidate Contact Information: (address, telephone number, email)			
Consultant Start Date:	[Completed by OSC]	Consultant End Date:	[Completed by OSC]
Subcontracting Entity (if applicable): NOTE: Identify any entity used in the sourcing of this candidate if they are not an employee of the Contractor.			
General Requirements			
Is Consultant a US citizen or currently authorized to work in the United States?	<input type="checkbox"/> YES <input type="checkbox"/> NO*		
Can Consultant work the Weekly Work Schedule and Work Arrangement as specified in the CRD?	<input type="checkbox"/> YES <input type="checkbox"/> NO*		
Is Consultant able to work the entire term of the Engagement?	<input type="checkbox"/> YES <input type="checkbox"/> NO*		
Is Consultant sufficiently proficient in English, both verbal and written, to provide the Services?	<input type="checkbox"/> YES <input type="checkbox"/> NO*		
* A "No" Response to any of the above may result in disqualification.			
Minimum Qualifications for [Title]			
NOTE: In the fields below, document qualifying experience that proves the Consultant meets each of the Minimum Qualifications specified below. Qualifying experience must have been acquired prior to issuance of this CRD and may be satisfied by the Consultant's direct relevant experience but must not include experience or services rendered by subordinates or other project/team members. Multiple engagements may be used for qualifying experience. If the engagement is less than full-time, then you must specify the time worked as a percentage of full time. Qualifying experience not included on this form may not be considered.			
Type to expand response areas on form. To document additional engagements, copy and insert the rows from "Dates (month/year) of Experience" through "Project(s) Name and Description" for each additional engagement.			
Qualification (the number and content of the qualifications will vary according to the staff position being solicited):			
Dates (month/year) of Experience:			
Company Name:			
Contact Name and Title:			
Contact Phone Number:			
Project(s) Name and Description: Description of Candidate's roles and responsibilities on the project(s) related to this requirement. Clearly describe the experienced gained during this engagement to demonstrate how this qualifies in meeting this requirement:			
Qualification (the number and content of the qualifications will vary according to the staff position being solicited):			
Dates (month/year) of Experience:			
Company Name:			

Contact Name and Title:	
Contact Phone Number:	
Project(s) Name and Description: Description of Candidate's roles and responsibilities on the project(s) related to this requirement. Clearly describe the experienced gained during this engagement to demonstrate how this qualifies in meeting this requirement:	
Qualification (the number and content of the qualifications will vary according to the staff position being solicited):	
Dates (month/year) of Experience:	
Company Name:	
Contact Name and Title:	
Contact Phone Number:	
Project(s) Name and Description: Description of Candidate's roles and responsibilities on the project(s) related to this requirement. Clearly describe the experienced gained during this engagement to demonstrate how this qualifies in meeting this requirement:	
Qualification (the number and content of the qualifications will vary according to the staff position being solicited):	
Dates (month/year) of Experience:	
Company Name:	
Contact Name and Title:	
Contact Phone Number:	
Project(s) Name and Description: Description of Candidate's roles and responsibilities on the project(s) related to this requirement. Clearly describe the experienced gained during this engagement to demonstrate how this qualifies in meeting this requirement:	
Qualification (the number and content of the Qualifications will vary according to the staff position being solicited):	
Dates (month/year) of Experience:	
Company Name:	
Contact Name and Title:	
Contact Phone Number:	
Project(s) Name and Description: Description of Candidate's roles and responsibilities on the project(s) related to this requirement. Clearly describe the experienced gained during this engagement to demonstrate how this qualifies in meeting this requirement:	
Preferred Qualifications	
Preferred Qualifications (the number and content of the qualifications will vary according to the engagement being solicited):	
Dates (month/year) of Experience:	

Company Name:	
Contact Name and Title:	
Contact Phone Number:	
Project(s) Name and Description: Description of Candidate's roles and responsibilities on the project(s) related to this requirement. Clearly describe the experienced gained during this engagement to demonstrate how this qualifies in meeting this desired qualification:	

CERTIFICATION: I, the undersigned, hereby certify that:

- (i) all statements made on this form, or any attachments, are true and complete, to the best of my knowledge;
- (ii) the Candidate's experience has been verified by calling the references of past projects listed on this form or by other similar means;
- (iii) a background check has been performed and the Candidate has satisfactorily passed the background investigation, or a background investigation will be performed prior to the Candidate's performance of Services; and
- (iv) Contractor shall withdraw any Candidate where adverse findings in the background investigation are discovered.

I understand that OSC's discovery of false information subsequent to Candidate engagement may result in dismissal from this CRD. Repeated submission of unverified Candidates or false information may result in termination of the Agreement.

Signature: _____

Typed or Printed Name: _____ **Date:** _____

IN WITNESS WHEREOF, the parties hereto have executed this CRD pursuant to Contract #C00XXXX

CRD #XXX

Candidate Name: _____

In addition to the acceptance of the terms and conditions of this CRD, the parties' signatures on this page certify that originals of this signature page will be attached to all other originals of this CRD.

CONTRACTOR

OFFICE OF THE STATE COMPTROLLER

SIGNATURE

SIGNATURE

NAME

NAME

TITLE

DIRECTOR OF FINANCE

TITLE

DATE

DATE

ATTACHMENT G
DRAFT CONTRACT

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER
AGREEMENT WITH
[Contractor Name]

NEW YORK STATE COMPTROLLER'S CONTRACT NUMBER C000XXX

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

W I T N E S S E T H

WHEREAS, OSC is responsible for maintaining a number of web-based Java online services applications for online access to government services for internal and external customers;

WHEREAS, to meet this responsibility OSC issued a Request for Proposals dated [] ("RFP"), attached hereto as Exhibit A, soliciting proposals from vendors operating in New York State to provide consulting resources as described in RFP23-03 ("Services");

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

WHEREAS, based upon the evaluation of the various proposals submitted in response to the RFP, OSC has determined that the Contractor's proposal offers the best value and that 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 set forth and the mutual covenants and obligations of the parties, the parties agree as follows:

I. TERM

This Agreement is for a period of five years commencing on approval by the OSC Bureau of Contracts and subject to earlier termination as provided in Section XVII (Termination and Suspension),.

II. MERGER OF DOCUMENTS/CONFLICT OF CLAUSES

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

1. Appendix A – Standard Clauses for New York State Contracts;
2. Agreement – (this document), including:
 - o Appendix B – Proposer and Contractor Compliance Requirements and Procedures for Participation by

- Minority Group Members and Women With Respect to OSC;
- 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 G – OSC Consultant Disclosure Reporting Requirements;
- 3. Exhibit A – The RFP number 23-03, including the Questions and Answers [and any Addenda or Amendments (if applicable)]; and
- 4. Exhibit B – The Proposal (Exhibits B1 – Technical Proposal, B2 – Cost Proposal, and B3 – Administrative Proposal), including any clarifications thereto and the completed appendices listed below.
 - Appendix E – Contractor’s Certifications/Acknowledgements;
 - Appendix F – Disclosure of Prior Non-Responsibility Determinations;

III. **COMPENSATION**

- A. Compensation.** OSC will compensate the Contractor pursuant to this Agreement in accordance with rates set forth in Exhibit B2 (Cost Proposal). Total compensation for Services provided under this Agreement shall not exceed the sum of \$XXXXX.
- B. Hourly Rates.** The hourly rates stated in Exhibit B2 are firm for the first year of the Agreement. After the first year and at least 60 days before the anniversary date of the Agreement, the Contractor may submit a request to OSC to increase or decrease the hourly rates. Such increase or decrease will be limited to the Consumer Price Index – for All Urban Consumer (“CPI-U”), Northeast region percent change for the previous 12-month period, or 5%, whichever is lower. The rate increase or decrease will be effective upon OSC’s written approval of the request.
1. The hourly rates are inclusive of all and any direct and indirect costs including personnel, travel, computer charges, postage and all other expenses. The Contractor will not be reimbursed for the preparation of any CRD response(s), invoice or billing statements, timesheet submission, or for the correction of any error in previously submitted invoice.
 2. OSC will not reimburse the Contractor for any taxes incurred by a consultant.
- C. Rate Changes.** OSC does not pay overtime rates for any time worked; fees for hours worked by each consultant shall not increase, except as set forth in paragraph B, above.

IV. **PAYMENT AND INVOICES**

Compensation for Services will be payable by OSC 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.

- A. Submission by Contractor.** All invoices for Services will be submitted by the Contractor. All payments will be made to the Contractor, who is solely responsible for payment to consultants, and to any subcontractor, joint venturer, partner, or a consortium member.
- B. Invoice Requirements.** All invoices must include the following information:

1. OSC's Agreement #C00XXXX, Contractor's taxpayer identification number, and Contractor's New York State Vendor Identification Number;
2. The CRD number, if applicable;
3. A detailed description of the Services provided. Each consultant must be billed for separately, and each invoice must include:
 - a. the name of each individual providing the Services, the title of each individual, a breakdown of the number of hours spent by each individual in providing the Services each week (indicated by "week ending on dd/mm/yyyy"), the total number of hours or fraction thereof spent by each individual devoted to each such service, the hourly rate of each individual performing such Services, and the total amount billed for each individual;
 - b. the total amount billed for Services for the invoice period;
 - c. the beginning and ending dates of the billing period included in the invoice, and the expiration date of this Agreement; and
 - d. Form AC 3239-H (M/WBE Expenditure Report of Appendix B). Form AC 3239-H must include (i) the actual total cost of the Contract work performed by each certified M/WBE for the invoiced services, and (ii) the actual amounts of payments made by the Contractor to each certified M/WBE as of the invoice submission date. Failure to comply with the M/WBE participation goals set forth in the RFP may result in penalties as delineated in Appendix B.
4. All invoices are subject to OSC's acceptance of the Services for which billing is being made and must be submitted via email (preferred) to contractinvoicess@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 cioprocurement@osc.ny.gov or via hard copy mail to:

Office of the State Comptroller
CIO Procurement
110 State Street, Mail Stop 8-7a
Albany, New York 12236-0001
ATTENTION: CIO Procurement

V. EQUAL EMPLOYMENT OPPORTUNITY (EEO) REPORTING

- A. Requirements.** 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 must submit on a semi-annual basis Form AC 3239-B

Contractor's/subcontractor's EEO Workforce Utilization Report ("Report") and must require each of its subcontractors, if any, to submit such Report on a quarterly basis during the term of the Agreement.

The Contractor/subcontractor must 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

B. Compliance Review. 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.

C. Non-Compliance Consequences. If deficiencies are identified, OSC will make every effort to resolve the deficiencies identified and to bring the Contractor/subcontractor into compliance. If OSC is unsuccessful in its efforts, and upon review, the OSC Deputy Comptroller for the Bureau of Finance determines that the Contractor/subcontractor is non-compliant, the Deputy Comptroller will submit a written complaint to the New York State Department of Economic Development's Division of Minority and Women's Business Development ("DMWBD") and will recommend to DMWBD that it review and attempt to resolve the noncompliance matter. The Deputy Comptroller will serve a copy of the complaint upon the Contractor/subcontractor by personal service or certified mail, return receipt requested.

DMWBD will 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 will take all appropriate actions under statute (Executive Law §316) and regulation (5 NYCRR §143.6).

VI. NOTICES

A. Process. Any legal notice or other legal communication given pursuant to this Agreement must be in writing and addressed to the party at the address set forth in this Agreement, and will be effective:

1. When delivered personally to the party for whom intended; or
2. 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).

B. Contact for Notice. The following are the names and contact information for OSC and the Contractor. The parties will 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: []
Title: []
Address: []
[]
[]
Telephone: []

VII. SERVICES

- A. Retention.** OSC hereby retains the Contractor to perform the Services, and the Contractor hereby agrees to perform the Services, which shall include all deliverables, work and/or work products as described in Exhibit A.
- B. Not Exclusive.** Nothing contained herein prohibits OSC from contracting at any time, with third parties or from performing any of the work itself or through other State entities, for any Services that otherwise may be requested or required of the Contractor pursuant to this Agreement, and the Contractor has no right to assert an exclusive right to perform such Services.

VIII. COOPERATION

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

IX. STAFF

- A. Definition.** Contractor's "staff" includes employees, consultants, owners, officers, directors, subcontractors, subsidiaries, affiliates, partners, agents of the Contractor and other entities used by the Contractor to provide the Services. Contractor is fully responsible for the performance of work by its staff.
- B. Staff Integrity and Professional Capacity.** The Contractor certifies that staff assigned to perform Services possess the necessary integrity and professional capacity to meet the OSC's reasonable expectations. Subsequent to the commencement of Services, or whenever the Contractor becomes aware, or reasonably should have become aware, that any staff providing Services no longer possesses the necessary integrity or professional capacity, the Contractor shall immediately discontinue the use of such staff and notify OSC.
- C. Contract Administrator.** Contractor must assign a contract administrator to be primary point of contact with OSC for all matters related to this Agreement. A replacement for this key staff position must match or exceed the replaced contract administrator in terms of skill level and experience. In the event of such replacement, OSC will be provided with a summary of the experience of the proposed replacement and an opportunity to interview that person. The Contractor must ensure that the replacement contract administrator is sufficiently prepared to transition into that role to ensure a smooth transition.
- D. Consultant Assignment.** The Contractor shall assign consultants to perform the Services as requested by OSC, in accordance with the RFP, the Proposal, and the relevant Consultant Request Document ("CRD"). Each individual consultant engagement pursuant to a CRD is an "Engagement" and may extend

up to three years beyond the term of this Agreement, provided such Engagement is entered into during the term of the Agreement. No amendments to existing CRDs are permitted after the end date of this Agreement. No new CRDs will be executed after the end date of this Agreement.

- E. Replacement Consultants.** No replacement consultants will be accepted by OSC for the first six months of any CRD. If an assigned consultant cannot complete the term of an Engagement, the Contractor must notify OSC as soon as practicable, but no less than 14 days before the end of the Engagement. However, OSC may, in its sole discretion, permit the Contractor to replace a Consultant after that initial six-month period, if OSC deems such replacement to be in the best interests of OSC. In each instance the Contractor must provide OSC with a summary of the experience of the proposed replacement consultant and an opportunity to interview the proposed replacement in-person. Any replacement candidate must match or exceed the original Consultant in terms of skill level and experience as determined by OSC. OSC reserves the right to accept or reject any proposed replacement candidate. Replacement consultants must be provided at a rate not to exceed the hourly rate for that position, as defined in as defined herein.
- F. Staff Removal.** 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.

X. RELATIONSHIP OF PARTIES; RIGHTS TO WORK PRODUCT

- A. Independent Contractor.** The relationship of the Contractor and its staff to OSC shall be that of an independent contractor, and not that of an agent or employee of OSC. The Contractor, as an independent contractor, shall not have the authority to contract for or bind OSC for any purpose whatsoever. The Contractor covenants and agrees that its staff will not hold themselves out as agents, officers, or employees of OSC, and that they will not make any claim, demand, or application for any right or privilege applicable to any officer or employee of OSC, including but not limited to, Workers' Compensation coverage, Social Security coverage, or Retirement System benefits.
- B. Use of Subcontractors.** In the event that Contractor intends to use subcontractors or other entities to perform any of the Services ("subcontractors," and incorporated into the definition of "staff"), the Contractor shall disclose any such subcontractors to OSC prior to the performance of any Services. OSC shall have the right to approve or disapprove, after appropriate review and/or interview(s), any and all subcontractors prior to their performance of Services. Such approval shall be solely at the discretion of OSC. 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. 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.

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.

- C. Obligations.** The Contractor must incorporate these same obligations with regard to staff suitability and background investigations into any subcontracts or other agreements pursuant to which it sources consultant candidates. Regardless of where or how a candidate is sourced, Contractor is responsible for ensuring compliance with these provisions. In addition, the Contractor must 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.

- D. Intellectual Property.** All works performed Consultants under the Agreement are works 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 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.

XI. GENERAL WARRANTY AND REPRESENTATIONS

The Contractor hereby warrants and represents:

- A. Contractor Organization.** Contractor is an entity duly organized, validly existing, and in good standing under the laws of the State of [STATE], and has authority to conduct business in the State of New York.
- B. Highest Applicable Industry Standards.** Contractor warrants that 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.
- C. FIRCA.** The Federal Immigration Reform and Control Act, as amended, (8 USC §1324a et. al.) obligates employers, such as the Contractor and its subcontractors, if any, to verify that United States-based 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. OSC does not discriminate against individuals on the basis of national origin or citizenship. OSC does not provide sponsorship.

XII. CONFIDENTIALITY AND SECURITY

- A. OSC Confidential Information.** The Contractor and its staff shall treat as confidential all information that the Contractor or its staff receives in the course of providing Services, either verbally, electronically, visually, or in written or other tangible form, which is either identified by OSC as confidential, or should be reasonably be understood to be confidential. Confidential Information includes, but is not limited to, OSC security procedures, topology, practices and policies, computer programs and code, software, documentation, employee information, and IT infrastructure details. The Contractor shall not disclose OSC confidential information to any third party except to those third parties operating under non-disclosure provisions no less restrictive than those in this Section XII. (Confidentiality and Security) and who have a justified business "need to know." Contractor certifies that Contractor and its staff shall comply with all OSC and State confidentiality policies and procedures.
- B. Use of Confidential Information.** The Contractor shall use OSC confidential information solely for the purpose of carrying out its obligations to OSC as set forth in this Agreement, and for no other purpose.

C. Destruction. Promptly after the termination or conclusion of the Agreement, the Contractor shall sanitize OSC confidential information, except where Contractor is required to retain such confidential information pursuant to applicable law. After the destruction of OSC confidential information, an officer or principal of the Contractor shall certify to OSC, in writing and under penalty of perjury, that such destruction has been completed in accordance with the Office of Information Technology Services Policy for Sanitization/Secure Disposal in NYS-S13-003 or successor policy.

D. Disclosure.

1. **Mandatory.** In the event of a receipt by Contractor of a mandatory request for OSC confidential information from a judicial, administrative, or governmental agency having jurisdiction over it, the Contractor shall, unless prohibited by applicable law, promptly notify OC thereof. The Contractor will, to the extent practicable, meet with OSC for purposes of discussing such order or request prior to the submission of a response thereto, and will, except to the extent prohibited as a matter of law, cooperate and assist OSC in responding to any such order or request.
2. **Unauthorized.** Contractor acknowledges that any unauthorized use or disclosure of OSC confidential information may cause irreparable damage to OSC. If an unauthorized use or disclosure occurs, including any theft; loss of; unauthorized or unlawful disclosure, use, alteration or destruction of; unauthorized or unlawful access to; or other actual or potential compromise of, OSC confidential information in the possession or control of the Contractor (including its subcontractors and third party service providers); breach of Contractor's system(s) (including its subcontractors and third party service providers); and includes, in the absence of direct evidence of a breach, any occurrence where it can be reasonably assumed under the circumstances that OSC confidential information was exposed, accessed, acquired, or disclosed without OSC's prior, written authorization. ("Incident"), to the extent not prohibited by applicable law, Contractor shall notify the OSC promptly in writing Incident, in the most expedient time possible and without unreasonable delay, but no later than within 24 hours Such notice will be made by contacting OSC's Information Security Office by telephone at XXX and by email to: XXX (or such other contact that OSC may provide).
 - a. At its sole cost and expense, the Contractor shall immediately commence an investigation to determine the scope of the Incident and to restore the security of its systems and prevent further, unauthorized access to or disclosure of OSC confidential information. Contractor shall keep OSC informed about the results of its investigation and the efforts taken to secure the information and prevent further Incidents. Contractor shall undertake commercially reasonable efforts to identify any third parties that received or obtained OSC confidential information as a result of the Incident. If the Contractor fails to take such steps in a timely and adequate manner, OSC may take them at the expense of the Contractor To the extent OSC determines that further notifications are required, Contractor shall be responsible for providing such notifications to all required recipients and for the costs of such notifications.
 - b. Contractor must obtain written authorization from OSC prior to making notifications hereunder to the New York State Attorney General's Office or any regulating or reporting agencies of an Incident, or making any determination to delay notifications due to law enforcement investigations, except as set forth below or as required by law. Contractor agrees that OSC will have final approval over the form, content, mode of transmission, and timing of any notice to be provided concerning an Incident. Approval of notices and public

disclosures required by law or other regulations will not be unreasonably withheld or delayed. This prior approval applies to any determination to delay notifications due to law enforcement investigations.

- c. Nothing contained herein will be interpreted as reducing or altering Contractor's own obligations under applicable law, including the New York State General Business Law.

E. Security Policies, Standards and Procedures. The Contractor and its staff must comply with all applicable OSC facility and information security policies, standards, and procedures identified by OSC, including any training required, both present and future, by OSC in performing the Services. No non-OSC computer, electronic storage device, or telecommunications equipment may be connected to OSC's network; 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, software, papers, files, 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.

F. Compliance with the Law. In performing the Services, the Contractor shall comply with: (i) all applicable international, federal, State, and local laws, rules, regulations, and governmental requirements now or hereafter in effect relating to the confidentiality or security of confidential information.

XIII. Background Investigations

A. OSC Policy. OSC policy requires that background investigations must be conducted by Contractor, including any of its subcontractors, on individuals who, in providing the Services hereunder, will have (i) access to OSC's IT systems, (ii) access to OSC confidential information, or (iii) routine access to any OSC facility. For purposes of this requirement, "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 (any such staff in (i) – (iii) "**Covered Staff**"). All of the Consultants assigned to provide Services pursuant to this Agreement shall be deemed to be "Covered Staff."

B. Requirements. In addition to information determined by the Contractor to be relevant, 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.

Contractor must comply with all applicable data privacy and protection statutes or regulations, including state, local and foreign personal privacy laws, as may be enacted or amended, in conducting such background investigations.

C. Background Investigation Certification. The Contractor, and on behalf of its subcontractor, certifies that it has or will conduct a background investigation on Covered Staff prior to the Covered Staff commencing Services. Only staff who have satisfactorily completed such background investigation and been deemed

suitable to perform the Services without undue risk to OSC interests shall be assigned to provide the Services to OSC. OSC reserves the right to verify Contractor's compliance with this Policy at any time during the Contract term, as further described in the RFP . In the event the New York State Office of the State Comptroller Inspector General reasonably determines that there are grounds calling into question the completeness or validity of a background investigation, or where the Inspector General deems there has been a material change in circumstances, the Inspector General may request documentation from the Contractor, unless prohibited by applicable law, to verify satisfactory completion of such investigation. Further, during the term of the Agreement, Contractor shall provide immediate written notice to OSC if Contractor learns that its determination of a staff person's fitness to perform the Services was erroneous or has become erroneous because of changed circumstances.

- D. Records.** Contractor and its subcontractors must maintain records related to the investigations performed during the term of the Agreement, in accordance with Appendix A (Section 5, Records).

XIV. INDEMNIFICATION AND LIABILITY

- A. Contractor Liability.** Contractor shall be fully liable for any act or omission of the Contractor and its staff, as defined herein.
- B. Contractor Indemnification.** Contractor 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.
- C. Indemnification is in Addition to Rights.** The indemnification obligation contained herein: (i) is in addition to, and not in lieu of, any other right, power, or remedy that OSC, or the officers, agents, representatives, and staff of OSC may have against the Contractor; and (ii) will not be construed to limit in any way the duties, responsibilities, and obligations of the Contractor set forth in this Agreement.
- D. Third Party Claims.** 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.

E. Liability Limitations.

1. **Force Majeure.** 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 will 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.

2. **No Consequential, Indirect or Special Damages.** 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.
3. **Contractor Liability Limitation.** 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 any of its staff, in an amount not to exceed, in aggregate, the greater of 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.

XV. RESPONSIBILITY TERMS

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

Notwithstanding the above, 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.

- C. **Non-Responsibility Determination.** OSC reserves the right to make a final determination of the Contractor's non-responsibility ("Determination of Non-Responsibility") at any time during the term of this Agreement based on (i) any information provided in the Responsibility Questionnaire and/or in any updates, clarifications, or amendments thereof; or (ii) the Contractor's failure to disclose material information; or (iii) OSC's discovery of any other material information which pertains to the Contractor's responsibility.

If OSC preliminarily determines the Contractor to be non-responsible, OSC shall provide written notice to the Contractor detailing the reason(s) for the preliminary determination, and shall provide the Contractor

with an opportunity to be heard before the determination is finalized. Upon a Determination of Non-Responsibility of the Contractor, OSC reserves the right to terminate this Agreement for cause pursuant to Section XVII. "Termination and Suspension."

XVI. TERMINATION AND SUSPENSION

- A. Termination or Suspension with Notice.** OSC may terminate or suspend this Agreement or CRD award, or suspend the Services, with or without cause upon 15 days, prior written notice.
- B. Immediate Termination or Suspension for Unsatisfactory Performance.** OSC reserves the right to terminate or suspend this Agreement or CRD award, or terminate or suspend the Services, 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. Effect of Termination or Suspension.** If the Agreement, the Services, or a CRD is terminated or suspended, the Contractor shall be entitled to compensation for Services performed through the date of termination which are acceptable to OSC, in its sole discretion. In addition, during a period of suspension, the Contractor shall be entitled to compensation for non-suspended Services which are acceptable to OSC, in its sole discretion.

XVII. 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. Publication.** Neither Contractor nor its staff shall publish a work related to any aspect of performance under this Agreement, or the results and accomplishments attained in such performance, without the prior written approval of OSC,
- E. Ethics Compliance.** Contractor, its officers, directors, employees, subsidiaries, affiliates, partners, and agents shall comply with the requirements of Public Officers Law §§73 and 74, and other State codes, rules and regulations establishing ethical standards for the conduct of business with New York State. Failure to comply with those provisions may result in termination of the Agreement and/or other civil or criminal proceedings as required by law.
- F. Survival.** The provisions of Sections XI. "General Warranty and Representations," XII. "Confidentiality, Security and Background Investigations," XIV. "Indemnification and Liability," and Appendix A shall survive the expiration or termination of this Agreement.

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

CONTRACT NUMBER: [REDACTED]

[CONTRACTOR]

OFFICE OF THE STATE COMPTROLLER

SIGNATURE

SIGNATURE

PRINTED NAME

JEREMY R. DISARE

PRINTED NAME

TITLE

DIRECTOR OF FINANCE

TITLE

DATE

DATE

CONTRACTOR'S ACKNOWLEDGEMENT

STATE OF _____ }

COUNTY OF _____ }

SS.:

On the _____ day of _____ in the year 20_____, before me personally appeared _____, known to me to be the person who executed the foregoing instrument, who, acknowledged to me that he/she/they maintains an office at _____, is the _____ of _____, the corporation described in foregoing instrument; and, by authority of the Board of Directors of the corporation, is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and, pursuant to that authority, has executed the foregoing instrument in the name of and on behalf of the corporation as the act and deed of the corporation.

Notary Public
Registration No.

APPROVED AS TO FORM:
NYS ATTORNEY GENERAL

APPROVED:
THOMAS P. DiNAPOLI, COMPTROLLER

BY:

BY:

DATE

DATE

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 33rd Floor

New York, NY 10017

646-8467364

Email: mwbusinessdev@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 periodically¹ 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 businesses², which can be viewed at: 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. **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

¹ 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.

² 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.

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 waiver³, 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 been received⁴.

³ 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.

⁴ 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.

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 participation⁵.

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.

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, 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**

⁵ 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.

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**

INSTRUCTIONS: All Proposers submitting responses to this procurement must complete and submit this form as part of its Administrative Proposal.																
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.																
JOB CATEGORIES (as defined in the Instructions attached)		RACE/ETHNICITY OF ANTICIPATED WORKFORCE (Report employees in only one category as defined in the Instructions attached.)														
		Hispanic or Latino		(NOT HISPANIC OR LATINO)												Total Columns A – N
				White		Black or African-American		Native Hawaiian or Other Pacific Islander		Asian		American Indian or Alaska Native		Two or more races		
		A	B	C	D	E	F	G	H	I	J	K	L	M	N	
		Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	
Executive/Senior Level Officials and Managers																
First/Mid-Level Officials and Managers																
Professionals																
Technicians																
Sales Workers																
Administrative Support Workers																
Craft Workers																
Operatives																
Laborers and Helpers																
Service Workers																
TOTAL:																
Prepared by (signature): _____																
Name of Preparer				Title of Preparer				Date		Telephone Number			Email Address			

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

RACE AND ETHNIC IDENTIFICATION*	
For the purpose of completing this form, OSC has adapted the race and ethnic designations used and obtained in accordance with the requirements administered by the Equal Employment Opportunity Commission, which do not denote scientific definitions of anthropological origins. Definitions of the race and ethnicity categories are as follows:	
Hispanic or Latino	A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin regardless of race.
White	A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.
Black or African-American	A person having origins in any of the black racial groups of Africa.
Native Hawaiian or Other Pacific Islander	A person having origins in any of the peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
Asian	A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian Subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
American Indian or Alaska Native	A person having origins in any of the original peoples of North and South America (including Central America), and who maintain tribal affiliation or community attachment
Two or More Races	All persons who identify with more than one of the above five races.
<p>Submission of this form constitutes the 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 www.eeoc.gov/employers/eeo1survey/2007instructions.cfm.</p>	

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

PART A – INSTRUCTIONS: All Contractors/Subcontractors must complete and submit this form within thirty (30) days after award of a State Contract.																
Contractor/Subcontractor Name:																
Address:								Federal Identification Number:								
City, State, Zip Code:								Procurement Number:								
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.								
PART B – WORKFORCE UTILIZATION: <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.																
JOB CATEGORIES (as defined in the Instructions attached)		RACE/ETHNICITY OF ANTICIPATED WORKFORCE (Report employees in only one category as defined in the Instructions attached.)														
		Hispanic or Latino		(NOT HISPANIC OR LATINO)												Total Columns A – N
				White		Black or African-American		Native Hawaiian or Other Pacific Islander		Asian		American Indian or Alaska Native		Two or more races		
		A	B	C	D	E	F	G	H	I	J	K	L	M	N	
		Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	
Executive/Senior Level Officials and Managers																
First/Mid-Level Officials and Managers																
Professionals																
Technicians																
Sales Workers																
Administrative Support Workers																
Craft Workers																
Operatives																
Laborers and Helpers																
Service Workers																
TOTAL:																
PART C – Prepared by (signature): _____																
Name of Preparer				Title of Preparer				Date		Telephone Number			Email Address			

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

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

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

RACE AND ETHNIC IDENTIFICATION*

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

Hispanic or Latino	A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin regardless of race.
White	A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.
Black or African-American	A person having origins in any of the black racial groups of Africa.
Native Hawaiian or Other Pacific Islander	A person having origins in any of the peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
Asian	A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian Subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
American Indian or Alaska Native	A person having origins in any of the original peoples of North and South America (including Central America), and who maintain tribal affiliation or community attachment
Two or More Races	All persons who identify with more than one of the above five races.

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

Please submit completed Form AC 3239-B within thirty (30) days after award of a State Contract to:

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

Submission of this form constitutes the Contractor's/Subcontractor's acknowledgement and agreement to adhere to the compliance requirements and procedures set forth under this 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.

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

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

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:

- 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;
- 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;
- 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;
- 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;
- 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;
- The Bidder/Proposer provided interested M/WBEs with adequate information about the plans, specifications, and requirements for the contracting or subcontracting opportunity;
- 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
- 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 RFP #23-03 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.

Contractor Name:	Federal Identification Number:
Address:	Procurement Number: _____
City, State, Zip Code:	M/WBE Participation Goals: 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

Reviewed by:	Date Received:	Utilization Plan Approved	Date Approved:	M/WBE Certification Status:
		<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
Deficiencies Identified:	Notice of Deficiency Issued:	Date of Notice of Deficiency:	Waiver Requested:	
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/>)</td> </tr> <tr> <td>Waiver Granted</td> <td>If Waiver Granted</td> <td colspan="/> Waiver Approved by (Signature):	
<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

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

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.

Name of Subcontractor/Supplier:		Federal Identification Number:		
Address:		NYS ESDC Certification Status (Check one): <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		
City, State, Zip Code:		Provider type (Check one): <input type="checkbox"/> Subcontractor <input type="checkbox"/> Supplier		
ESD Certification Number:		ESD Certification Expiration Date:		

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: _____

Name of Preparer	Title of Preparer	Date	Telephone Number	Email Address

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

THIS SECTION FOR OSC USE ONLY

Reviewed by	Date	Utilization Plan Approved	Date	Certification Verified
		<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**

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.				
Proposer/Contractor Name:		Federal Identification Number:		
Address:		Procurement/Contract Number: _____		
City, State, Zip Code:		M/WBE Participation Goals: MBE ____% WBE ____%		
COMPLETE THIS SECTION ONLY IF THIS WAIVER IS REQUESTED AFTER AWARD OF A STATE CONTRACT.				
Contract Award Date: _____		Contract Start Date: _____		Contract End Date: _____
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.				
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
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.				
THIS SECTION FOR OSC USE ONLY				
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.

Contractor Name:	Federal Identification Number:
Address:	Contract Number: _____
City, State, Zip Code:	M/WBE Participation Goals: 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

Reviewed by:	Date Received:	Utilization Plan Approved	Date Approved:	M/WBE Certification Status:
		<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
Deficiencies Identified:	Notice of Deficiency Issued:	Date of Notice of Deficiency:	Waiver Requested:	
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/>)</td> </tr> <tr> <td>Waiver Granted</td> <td>If Waiver Granted</td> <td colspan="/> Waiver Approved by (Signature):	
<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).

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

M/WBE SUBCONTRACTOR AND/OR SUPPLIER UTILIZED

M/WBE Name and Address, including Email Address and Telephone Number of Contact Person	Certification Classification	Federal ID No.	Brief Description of Work/Supplies
	NYS ESD Certified: <input type="checkbox"/> MBE <input type="checkbox"/> WBE		

ESD Certification Number:		ESD Certification Expiration Date:	
Actual Payment for This Period	Total Payment Made To Date	Total Percentage of Participation Goal Paid to Date	
\$	\$	%	

Prepared by (Signature): _____

Name of Preparer	Title of Preparer	Date	Telephone Number	E-mail Address

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

Reviewed by	Date	Utilization % to be Applied	Actual Utilization to date:
		MBE ____% WBE ____%	MBE ____% WBE ____%
Waiver Requested	Waiver Granted	If Waiver Granted	Notice of Deficiency Issued
<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**

INSTRUCTIONS: 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 th) 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:		
SECTION I. WORKFORCE UTILIZATION				
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)				
SECTION II. M/WBE UTILIZATION				
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				
FOR OSC USE ONLY				
RECEIVED DATE	WAIVER STATUS	OSC STATUS	WORKFORCE UTILIZATION PLAN	M/WBE UTILIZATION PLAN
	<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 services¹ 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 vendor² 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 question³ concerning the procurement in writing not later than the date specified by OSC for such questions; and a copy of each question, together with OSC's written answer, should be supplied to all interested vendors and included in the procurement record.
2. Unless otherwise directed by the General Counsel to the Comptroller, OSC's Assistant Comptroller for Administration or a designee will serve as the coordinator for all procurement-related contacts between OSC personnel and vendor personnel. All telephone calls, correspondence, and meeting requests must be routed to: Assistant Comptroller for Administration, Office of the State Comptroller, 110 State Street – 13th Floor, Albany, NY 12236, telephone: (518) 474-7574, Fax: (518) 473-9377, Email: RFP@osc.state.ny.us. OSC's Assistant Comptroller for Administration, or a designee, will maintain a record of all such contacts.
3. A vendor may not exert or attempt to exert any improper influence⁴ relating to the vendor's bid or proposal. Any OSC employee who has direct knowledge of any improper influence or attempt to exert an improper influence concerning a procurement contract shall immediately 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.

¹ 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.

² 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.

³ 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.

⁴ 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.

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 process⁵. If, after submission of a bid or proposal, a vendor retains an individual or organization to attempt to influence the procurement process, then the name, address, telephone number, place of principal employment and occupation of such individual or organization shall be disclosed in writing to OSC or CRF prior to any contact with OSC or CRF and such disclosure shall be included in the procurement record. IFBs and RFPs shall require that vendors indicate in their bids or proposals or subsequent disclosures whether each contact individual or organization has a financial interest in the procurement.
7. All contacts between OSC personnel and vendor personnel during which a procurement-related matter is discussed in any way must be by telephone, in writing, or in person at the place of business of OSC or the vendor or at a place designated by OSC. Written documentation of all such discussions must be filed by the Assistant Comptroller for Administration or designee in the procurement record.
8. During the procurement process no lunch, dinner, or other meal shall be accepted by a member of the OSC staff from an interested vendor, except that a presentation, interview or similar session occurring at the place of business of OSC or a vendor or at a place designated by OSC may include a refreshment break.
9. The evaluations of competing bids or proposals and the recommendations and deliberations of OSC evaluation or selection committees shall be based solely on the merits of the bids or proposals, free from any improper influence.
10. Prior to the public release by OSC or CRF of an Invitation for Bids (IFB) or Request for Proposals (RFP), no OSC employee may disclose the contents of any portion of an IFB or RFP to any person not employed by OSC or any other person not authorized by the Assistant Comptroller for Administration or designee unless such disclosure is specifically authorized by the Assistant Comptroller for Administration, who shall only authorize such disclosure if he or she determines that such disclosure will not impair the fairness and integrity of the procurement process.
11. The evaluation of competing bids or proposals shall be conducted strictly in accordance with the detailed evaluation and selection procedures documented in the procurement record prior to the initial receipt and opening of the bids or proposals. The Assistant Comptroller for 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.

⁵ 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.

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

CONTRACTOR'S ACKNOWLEDGEMENT OF RECEIPT OF OSC POLICY STATEMENT ON DISCRIMINATION AND HARASSMENT, INCLUDING SEXUAL HARASSMENT
The Contractor and each person signing on behalf of the Contractor acknowledges that he/she/they has/have the authority to sign on behalf of the Contractor, has/have received a copy of the OSC Policy Statement on Discrimination and Harassment, Including Sexual Harassment (Appendix C), and agree(s) to abide by the terms of that Policy Statement.
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 § 201-g of the NYS Labor Law."</p> <p>Note: Reference to bid includes proposals and other responses to solicitations. Reference to bidder includes proposers and Contractors.</p>
NON-COLLUSIVE BIDDING CERTIFICATION
<p>The Contractor and each person signing on behalf of the Contractor 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 his/her/their knowledge and belief:</p> <ol style="list-style-type: none">1. The prices in this Agreement have been arrived at independently without collusion, consultation, communication or agreement for the purpose of restricting competition, as to any matter relating to such prices with any other competitor;2. Unless otherwise required by law, the prices which have been quoted in this Agreement have not been knowingly disclosed by the Contractor and will not knowingly be disclosed by the Contractor, directly or indirectly, to any other competitor; and3. No attempt has been made or will be made by the Contractor to induce any other person, partnership, or corporation to submit or not to submit a bid for the purpose of restricting competition.
CONTRACTOR'S ACKNOWLEDGEMENT OF RECEIPT AND UNDERSTANDING OF OSC EXECUTIVE ORDER ON PROCUREMENT INTEGRITY
The Contractor and each person signing on behalf of the Contractor acknowledges that he/she/they has/have received a copy of the OSC Executive Order on Procurement Integrity and OSC Procurement Integrity Procedures (Appendix D) and affirms, under penalty of perjury, that he/she/they understand(s) such Executive Order and Procedures and will comply with them.
THE SIGNATURE(S) BELOW INDICATES AGREEMENT WITH EACH OF THE ABOVE.

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

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

May 17, 2019

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:

- **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>.)
- **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.
- **Number of hours to be worked:** the total number of hours anticipated that will be worked by the employees in the employment category.
- **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:

- **Scope of Contract:** a general classification of the single category that best fits the predominate nature of the services provided under the contract.
- **Employment Category:** the specific occupation(s), as listed in the O*NET occupational classification system, which best describe the employees providing services under the contract. (Note: The O*NET database is available through the US Department of Labor's Employment and Training Administration website at <https://www.onetonline.org>.)
- **Number of Employees:** the total number of employees in the employment category employed that provided services under the contract during the Report Period, including part-time employees and employees of subcontractors.
- **Number of hours worked:** the total number of hours worked during the Report Period by the employees in the employment category.
- **Amount Payable under the Contract:** the total amount paid or payable by the State to the 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 15th 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

To the Bureau of Contracts:

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

By email: 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

FORM A

New York State Consultant Services Contractor's Planned Employment From Contract Start Date Through the End of the Contract Term

State Agency Name: Office of the State Comptroller	
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
Grand Total			

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
Contractor's Annual Employment Report
 Report Period: April 1, to March 31,

Contracting State Agency Name: Office of the State Comptroller	
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
Grand Total			

Name of person who prepared this report:

Title:

Phone #:

Preparer's Signature:

Date Prepared: / /

(Use additional pages, if necessary)

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