



## **Request for Proposal # SU-020119**

### Wiring Project

Responses Due:  
March 1, 2019 5:00 PM EST

*Version 010119*

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## SUMMARY INFORMATION FORM

**THIS PAGE MUST BE SIGNED AND RETURNED WITH BIDDER'S RESPONSE**

<b>RFP #:</b> SU-020119	<b>RFP Title:</b> Campus Building Wiring Project	<b>RFP Release Date:</b> 2/1/19 Electronic copies of this RFP are available at: <a href="https://www.nyscr.ny.gov/">https://www.nyscr.ny.gov/</a>
<b>Key Events</b>		
Questions/Requests for clarification due	2/19/19 5:00 PM EST	
Response to questions/requests for clarifications issued	2/22/19 5:00 PM EST	
Mandatory Pre-Bid Conference (if applicable)	2/18/19 10:00 AM EST	
Mandatory Site Visit (if applicable)	2/18/19 10:00 AM EST	
Optional Notice of Intent to Bid Due (if applicable)	2/19/19 5:00 PM EST	
Proposal Due Date and Time	3/1/19 5:00 PM EST	
Presentation, Demonstration, Interview (if applicable)	N/A	
Anticipated Notification of Award	3/15/19	
Anticipated Contract Start Date	6/3/19	
Anticipated Term Length of Contract	1 year	
<i>SUNY reserves the right, in its sole discretion, to modify the above schedule. Bidders will be notified via email of any changes in a timely manner</i>		
<b>Contact Information</b>		
<b>Primary Contact:</b> F. Edward Herran <a href="mailto:edward.herran@purchase.edu">edward.herran@purchase.edu</a>	<b>Secondary Contact:</b> Bill Junor <a href="mailto:bill.junor@purchase.edu">bill.junor@purchase.edu</a>	<b>Other Contact:</b>
<b>Restricted Period</b>		
In accordance with the requirements of New York State Finance Law Sections 139j and 139k ("Lobbying Law"), the restricted period for this procurement is now in effect. Therefore, all communications regarding this procurement must be handled through the State University of New York's designated contacts only.		
<b>Bidder Information</b>		
Legal Business Name of Company Bidding:	Bidder's Federal Tax Identification Number:	
D/B/A – Doing Business As (if applicable):	NYS Vendor ID Number (See Exhibit B, Section 16):	
Street Address:	City/State:	Zip Code:
If applicable, place an "x" in the appropriate box: <i>(check all that apply)</i>		
<input type="checkbox"/> Small Business (if checked, provide # of employees ____) <input type="checkbox"/> Minority Owned Business (NYS Certified)		
<input type="checkbox"/> Disabled Veteran Owned Business <input type="checkbox"/> Women Owned Business (NYS Certified)		
If you are not bidding, place an "x" in the box and return this page only. <input type="checkbox"/> We are unable to bid at this time because:		
Bidders Signature:	Title:	
Printed Name:	Date:	

**THIS PAGE MUST BE SIGNED AND RETURNED WITH BIDDER'S RESPONSE**

**By signing this form, bidder acknowledges (a) that the RFP instructions are understood; (b) that the bidder is committed to servicing SUNY's needs in the required time period; and (c) that all information required by this RFP has been included in bidder's proposal.**

## Section 1: OVERVIEW

Purchase College intends to install a new data closet and Ethernet wiring infrastructure with 450+ ports throughout this 4 story campus building.

Potential bidders will be touring the building and will be provided sensitive confidential information relating to the network infrastructure and systems in the building. In order to ensure the confidentiality of this information, bidders are required to complete, sign and notarize a Non-Disclosure agreement. Failure to do this will result in the potential bidder disqualification from the bidding process and non-admittance to the Pre-Bid/Site Visit meeting scheduled for Monday, February 18, 2019 10:00 AM EST. Bidders who complete and submit the signed and notarized Non-Disclosure Agreement will be provided with all of the necessary information to submit a bid including: Exhibit 1- Network Cable Installation and Scope of Work, cost worksheet, floorplan, jack labeling diagram, and fiber run diagram.

Purchase College is a Liberal Arts college and is part of the State University of New York. The college is on 500 acres of open fields and forests located about 30 miles north of New York City. Purchase College is the eccentric cousin of the SUNY family.

Purchase College's mission is: Purchase College, SUNY offers a unique education that combines programs in the liberal arts with conservatory programs in the arts in ways that emphasize inquiry, mastery of skills, and creativity. Our graduates contribute to the arts, humanities, sciences and society.

## Section 2: PROJECT SPECIFICATIONS

### A. Scope of Services

Refer to Exhibit 1-Network Cable Installation and Scope of Work for Scope of Services to be provided.

### B. Technical Specifications

#### a. Mandatory Technical Specifications

Refer to Exhibit 1-Network Cable Installation and Scope of Work for mandatory technical specification requirements.

### C. Method of Award

This RFP is part of a competitive procurement process designed to serve the best interests of the State University of New York and the People of the State of New York. It is also designed to provide all bidders with a fair and even opportunity to have their services considered. SUNY will conduct a comprehensive review of each responsive bid submitted in accordance with the terms of this RFP. Proposals will be evaluated on the basis of "best value" by an evaluation committee comprised of SUNY representatives, and shall be conducted in the following steps:

#### 1. **Administrative Review**

Each bid received by the due date and time will be screened for completeness of submission in accordance with Section 4, Bid Submission Requirements.

#### 2. **Technical Evaluation**

Each bid remaining after review of Bidder Qualifications will advance for review and independent evaluation and scoring by the technical review evaluation committee.

### 3. Cost Evaluation

The Financial Proposals of each bid remaining after the Technical Evaluation will be independently evaluated and scored by the designated contract officer. **Cost proposal worksheets are to be submitted in a separate sealed envelope marked "Cost Proposal"**. Costs are not to be referenced elsewhere in the bidder's response.

### 4. Presentation, Demonstration, Interview

Bidders that are susceptible to award following the summation of the technical scoring, the cost scoring and the DPQ scoring may be invited to make a presentation to discuss their proposal. In the event that only one bidder is susceptible to award, SUNY reserves the right to waive the presentation phase of the evaluation and selection process. If such presentations are to be held, SUNY will notify the Bidders and schedule the time, location and format. The format of the presentation may be in-person, by video, or by telephone at SUNY's discretion. The presentation will provide an opportunity for these bidders to clarify or elaborate on their proposals, but shall in no way change their original proposals. The presentation/demonstration/interview will be evaluated and scored by a presentation review evaluation Committee. A bidder's presentation score will be the average of the committee members' scores. All costs associated with the Bidder's attendance will be borne by the Bidder.

### 5. Selection

Proposals will be evaluated on the basis of "best value" by an evaluation committee comprised of SUNY representatives, utilizing an evaluation methodology that considers the following factors:

Technical Proposal		Points	%
	Technical Response	65	65%
<b>Total Technical Proposal</b>		<b>65</b>	<b>65%</b>
<b>Cost Proposal</b>		<b>25</b>	<b>25%</b>
<b>Diversity Practices Questionnaire (DPQ)</b>		<b>10</b>	<b>10%</b>
<b>Total</b>		<b>100</b>	<b>100%</b>

The Bidder earning the highest final composite score (average technical score plus cost score plus DPQ score plus average presentation score) will be selected to contract with SUNY and will be notified by SUNY. Award shall be made by issuance of an award letter. All bidders will be notified of the name of the successful bidder. SUNY contracts may be subject to approval by the NYS Attorney General and the Office of the State Comptroller. SUNY reserves the right to award no contract.

## Section 3: BIDDER QUALIFICATIONS

### A. Minimum Bidder Qualifications

Bids will be accepted only from qualified network cable installers. Bidders must have at least 5 years' experience in installing network cables. Bidders must document in the narrative required in B. Bidder References, their capability of completing the work, as specified in the Scope of Work, on time and performing the work to the specifications provided.

## **B. Bidder References**

All Bidders must complete and submit Attachment 2: **Bidder References Submission Form**. Provide a minimum of three (3) references from other universities, colleges or similar-sized organizations. The references should demonstrate the bidder's ability with projects similar in scope, size and nature of this RFP. Bidder will identify on Attachment 2 at least one (1) reference willing and capable of hosting an optional site visit. Purchase College may elect to perform a site visit to inspect work performed by the bidder and interview the organization providing the reference. Bidder will provide a list of all accounts where a contract was terminated by the customer within the past 5 years.

Each bidder must provide a narrative addressing its ability and experience in the business of network cable installation. Bidder will address in the narrative any projects that they have completed of similar complexity and sensitivity as the installation of network cable in a cultural institution.

Purchase College must be affirmed that the awarded contractor will be capable of completing the project on time within the specified parameters identified in the Scope of Work. Bidder must document its ability to service a contract with a volume similar to the scope of this RFP, by submitting financial statements and documenting past sales history. SUNY reserves the right to reject any bidder who does not demonstrate financial stability sufficient for the scope of this RFP.

## **Section 4: BID SUBMISSION REQUIREMENTS**

### **A. Bid Submission Requirements**

1. A Bidder's proposal shall address the Bidder's ability and methodology for providing SUNY with the requested services. To be deemed "responsive" to this RFP, a Bidder must meet all mandatory requirements and qualifications and its written proposal must address all points and questions appearing in this RFP and the attached Exhibit-1 Network Cable Installation Specification and Scope of work. In the event a Bidder's proposal is determined by SUNY to be "non-responsive," SUNY is required by its contracting procedures to disqualify the proposal. A disqualified proposal will not be further evaluated or considered for contract award. To facilitate SUNY's review of proposals, Bidders must address all points and questions that appear in this RFP, and should do so in the order that they appear. Responses should be labeled to correspond to the numbers/letters of the sections and subsections of this RFP.
2. Prepare a clearly readable proposal that includes all required information.
3. Bidders must submit all information requested by SUNY in written form. Proposals must be complete, accurate, and in the form requested.
4. Indicate any deviations from the technical specifications and if necessary, attach separate documents and/or explanation.
5. Proposals should be submitted in sealed packages clearly labeled on the exterior with the RFP number and title. Proposals not labeled as instructed risk being opened prior to the bid opening date, which may result in the proposal being rejected. All bids and accompanying documentation shall become the property of SUNY and shall not be returned.
6. No telephone, facsimile, emailed or otherwise electronically submitted proposals will be accepted.
7. The proposal must be fully and properly executed by an authorized person, and the authorized person's signature must notarized. By signing, you certify (i) your express authority to sign on behalf of yourself,



your company, or other entity; (ii) your full knowledge and acceptance of this RFP, Exhibit A (State University of New York Standard Contract Clauses), Exhibit A-1 (State University of New York Affirmative Action Clauses), State Finance Law §139-j and §139-k (Procurement Lobbying Certification); and (iii) that all information provided is complete, true and accurate. By signing you further affirm that you understand and agree to comply with the procedures on permissible contacts relating to this procurement as required by State Finance Law §139-j (3) and §139-j (6) (b). These procedures may be accessed at: Procurement Lobbying:

<http://www.ogs.state.ny.us/aboutOgs/regulations/defaultAdvisoryCouncil.html>

8. Submit five (5) hard copies of your proposal to the address provided below. Proposals must be received in the office identified below by the due date and time provided on the Summary Information Form on Page 1 of this RFP. Bidders mailing their proposals must allow sufficient time to ensure receipt by the due date and time. Bidders are cautioned that even when using a trackable mailing/courier/messenger service, proposals must be received by the due date and time. While proposals may be signed for by personnel at SUNY prior to the due date and time, this does not guarantee that the identified office will receive the proposal by the due date and time.
  - a. **Late Bids:** For purposes of Bid openings, a Bid must be received by F. Edward Herran at Purchase College, Department of Procurement, 735 Anderson Hill Road, Purchase, NY 10577, on or before March 1, 2019 at 5:00 PM EST. A Late Bid is one that is not received at the location, date and time specified in this RFP. Any Bid received at the specified location after the time specified in this RFP will be considered a Late Bid. A Late Bid shall not be considered for award unless: (i) no timely Bids meeting the requirements of this RFP are received, or; (ii) in the case of a multiple award, an insufficient number of timely bids were received to satisfy the multiple award; (iii) and acceptance of the Late Bid is in the best interest of SUNY. Delays in United States mail deliveries or any other means of transmittal, including couriers or agents of SUNY shall not excuse Late Bid submissions. Similar types of delays, including but not limited to, bad weather, or security procedures for parking and building admittance shall not excuse Late Bid submissions. Determinations relative to bid timeliness shall be at the sole discretion of the SUNY Chancellor or her designee.
9. Bidders unable or unwilling to submit a proposal are asked to complete the Summary Information Form on Page 1 of this RFP and check the box indicating that no bid is being submitted.
10. All prices and conditions must be included in the original proposal. Prices and conditions not included in the original proposal will be rejected. Cost proposals must be submitted in a separate sealed envelope labeled "Cost Proposal".
11. The submission of a proposal constitutes a nonrevocable, binding offer to perform and provide said services. Such binding offer shall be firm and not revocable for a period of sixty (60) days from bid opening. After sixty (60) days, the proposal may remain in effect, subject to withdrawal communicated in writing signed by the Bidder. If this RFP is for the sale of goods pursuant to §2-205 of New York State Uniform Commercial Code, the proposal shall be firm, binding and not revocable for a period of ninety (90) days.
12. Bidder is responsible for all costs that it incurs, direct or indirect, related to the preparation and submission of a proposal in response to this RFP.

13. Each copy of the proposal must be accompanied by the following:

- Summary Information Form (page 1 of this RFP)
- Notary Acknowledgement Form (follows the last page of this RFP)
- Attachment 1: Bid Submission Checklist and the documents indicated thereon.
- Attachment 2: Bidder References Submission Form
- Attachment 3: Procurement Lobbying Act Certification
- Attachment 4: Non-Collusive Bidding Certification
- Attachment 5: Diversity Practices Questionnaire as set forth in Section 6(11)(A).
- Attachment 7: NYS Business Subcontractor Identification Form
- Attachment 8: NY State Finance Law § 139-1 Certification
- Attachment 9: NY Human Rights Law Executive Order 177 Certification
- Vendor Responsibility documentation as set forth in Section 6(16).
- Minority and Women-Owned Business documentation as set forth in Section 6(11)(B).
- Equal Employment Opportunity documentation as set forth in Section 6(11)(C).
- SDVOB documentation as set forth in Section 6(11)(D).

**B. Bidder Questions**

If a Question and Answer period is provided for this solicitation, the schedule will be shown on the Summary Information Form, "Key Events," provided on the first page of this RFP. All questions must be submitted in writing, citing the particular RFP page, section, and paragraph numbers where applicable. Questions must be **EMAILED** to arrive no later than 5:00 pm Eastern time on the date indicated and must be emailed to the Designated Contacts shown on the Summary Information Form. Questions received after the closing date for inquiries will not be answered. Only written answers are official. All Questions and Answers will be issued as addenda to this RFP and will be provided in writing to all potential Bidders.

**C. Pre-Bid Conference Meeting**

If a mandatory or optional Pre-Bid Conference is held for this solicitation, the date, time, and whether the conference is mandatory or optional is reported on the Summary Information Form, "Key Events," provided on Page 1 of this RFP.

**D. Site Visit**

If a site visit is required for this solicitation, the date and time is reported on the Summary Information Form, "Key Events," provided on Page 1 of this RFP.

**E. Bid Opening**

Bids may, as applicable, be opened publicly. SUNY reserves the right at any time to postpone or cancel a scheduled bid opening. In the event a public bid opening is scheduled, Bidders will be notified.

**F. Minor Irregularities**

Bids that contain minor irregularities, such as those submitted without a proper Bid Security, or in the wrong form, or executed improperly, shall be considered informal. Informal proposals may be considered in selecting a low bidder where the public interest will be promoted thereby.

**G. Extraneous Terms**

Bids must conform to the terms set forth in this RFP. Extraneous terms or material deviations (including additional, inconsistent, conflicting or alternative terms) may render the Bid non-responsive and may result in rejection of the Bid. Extraneous term(s) submitted on standard, pre-printed forms (including but not limited to: product literature, order forms, license agreements, contracts or other documents) that are attached or referenced with submissions shall not be considered part of the Bid or resulting Contract, but shall be deemed included for informational or promotional purposes only.

Only those extraneous terms that meet all the following requirements may be considered as having been submitted as part of the Bid:

- a. Each proposed extraneous term (addition, deletion, counter-offer, deviation, or modification) must be specifically enumerated in a writing which is not part of a pre-printed form; and
- b. The writing must identify the particular specification requirement (if any) that Bidder rejects or proposes to modify by inclusion of the extraneous term; and
- c. The Bidder shall enumerate the proposed addition, counter offer, modification or deviation from the Bid Document, and the reasons therefore.

No extraneous term(s), whether or not deemed "material," shall be incorporated into a Contract or Purchase Order unless submitted in accordance with the above and the Chancellor or her designee expressly accepts each such term(s) in writing. Acceptance and/or processing of the Bid shall not constitute such written acceptance of Extraneous Term(s).

**Section 5: GENERAL INFORMATION**

**A. Electronic RFP**

Electronic copies of this RFP and related forms are available at <https://www.nyscr.ny.gov/>.

**B. SUNY'S Reserved Rights**

SUNY reserves the right to:

- 1. Reject any and all proposals received in response to this RFP.
- 2. Reject any or all portions of any proposal, to negotiate terms and conditions consistent with this RFP and to make an award for any or all remaining portions.

3. Withdraw the RFP at any time, at SUNY's sole discretion.
4. Make an award in whole or in part.
5. Disqualify any Bidder whose conduct and/or proposal fails to conform to the requirements of the RFP.
6. Use proposal information obtained through site visits, management interviews and the state's investigation of a Bidder's qualifications, experience ability or financial standing, and any material or information submitted by the Bidder in response to SUNY's request for clarifying information, in the course of evaluation and/or selection under the RFP.
7. Prior to the bid opening, amend the RFP specifications to correct errors of oversights, or to supply additional information, as it becomes available.
8. Request certified audited financial statements for the past three (3) completed fiscal years and/or other appropriate supplementation including, but not limited to, interim financial statements and credit reports.
9. Request references and contact any or all references.
10. Adjust or correct cost or cost figures with the concurrence of the Bidder if mathematical or typographical errors exist.
11. Advise the Successful Bidder of an objectionable employee(s) and/or subcontractor(s).
12. Waive requirements or amend this RFP upon notification to all Bidders. Mandatory requirements may be eliminated if unmet by a majority of Bidders.
13. Negotiate with Bidders responding to this RFP within the requirements necessary to serve the best interests of SUNY.
14. Begin contract negotiations with another Bidder in order to serve the best interests of SUNY should contract negotiations with the Successful Bidder be unsuccessful within a time frame acceptable to SUNY.
15. Request clarifications from Bidders for purposes of assuring a full understanding of responsiveness, and permit revisions from all potential awardees prior to award.
16. Award no contract.

**C. Contract Award**

Receipt of this RFP does not indicate that SUNY has predetermined Bidder's qualifications to receive a contract award. A contract award, if made, shall be based on evaluation of the bid in accordance with the criteria set forth in this RFP. The successful bidder will be notified by SUNY by telephone and confirmed by letter.

**D. Post Award Procedures**

1. Debriefing

Bidders who responded to this RFP will be given written notice as to whether their bid was successful or unsuccessful. Upon being notified of their unsuccessful bid, Bidders may request a debriefing in writing within 15 calendar days of such notice. The 15 day period starts once unsuccessful Bidders are notified. Upon a Bidder's request for a debriefing:

- a. The University will schedule the debriefing within a reasonable time of such request.

- b. The debriefing will be conducted in person with the Bidder, unless the University and the Bidder mutually agree to use another method such as by telephone, video conference or another type of electronic communication.
- c. Bidders' written request must state whether the Bidder will be attending with counsel, to allow the University to arrange for University counsel attendance if so determined.
- d. The debriefings will cover, but not be limited to the following:
  - (i) The reason why the bid was unsuccessful.
  - (ii) The quantitative and qualitative analysis that was used by the campus to assess the relative merits of the bid, proposal or offer.
  - (iii) How the selection criteria was applied to the unsuccessful bid.
  - (iv) If the request for debriefing is made prior to contract award, the debriefing shall be limited to review of that Bidder's bid.
  - (v) If the debriefing is held after the final award (which means OSC approval, if applicable) it may cover the reason for the selection of the winning proposal.
  - (vi) To the extent practicable, general advice and guidance on the ways the Bidder can improve future proposal submission or be more responsive.

## 2. Contract Award Protest Procedures

Bidders wishing to protest a contract award may do so in accordance with the University's procedures, available at: [http://www.suny.edu/sunypp/documents.cfm?doc\\_id=699](http://www.suny.edu/sunypp/documents.cfm?doc_id=699).

## **Section 6: GENERAL TERMS AND CONDITIONS**

### **1. Free and Open Competition**

SUNY encourages free and open competition. Whenever possible, terms, specifications, and conditions are designed to accomplish this objective, consistent with the necessity to satisfy SUNY's needs.

### **2. Notification of Errors, Inquiries and Interpretation**

Bidder is responsible to bring to SUNY's attention any deviations in the technical specifications and to make recommendations for any additional requirements deemed necessary as standard, or for work indicated in the specifications contained in this RFP. If SUNY in its discretion finds the deviations to be significant so as to require a change in the necessary specifications for the work, SUNY will notify all Bidders in writing of the change in specifications. No deviations from the technical specifications provided herein shall be made without written approval of SUNY.

### **3. No Claims or Rights**

By submitting a proposal, Bidder agrees that it will not make any claims for, or have any right to damages because of any misinterpretation or misunderstanding of the specifications or because of any misinformation or lack of information.

### **4. Conflict of Interest**

Bidder may be requested to provide evidence that the award of a contract will not result in (i) a conflict of interest with regard to other work performed by Bidder; or (ii) a potential conflict of interest among Bidder's staff.

**5. Acceptance of RFP Content**

The terms and conditions included in this RFP as well as the applicable portions of Bidder's proposal shall become contractual obligations if a contract is awarded. **BIDDER'S FAILURE TO ACCEPT THESE TERMS AND CONDITIONS AND OBLIGATIONS SHALL RESULT IN REJECTION OF BIDDER'S PROPOSAL.**

**6. Services Outside Scope of the Contract Awarded**

SUNY shall not be responsible for any services provided by the successful Bidder that are outside the scope of the contract awarded. SUNY shall not be responsible for any additional costs other than the costs for the services outlined herein, or for any work performed that has not been properly authorized in writing by SUNY.

**7. Standard Contract Clauses**

Any contract awarded resulting from this RFP shall include Exhibit A (State University of New York Standard Contract Clauses) and, for contracts in excess of \$25,000, Exhibit A-1 (State University of New York Affirmative Action Clauses). The provisions of Exhibit A and Exhibit A-1 shall take precedence over any provision in this RFP or any provisions in the contract awarded. Exhibits A and A-1 are attached to this RFP.

**8. Binding Effect**

The contract awarded shall be binding upon its execution by both parties and, if required by New York State law, upon the written approvals of the Attorney General and the Office of the State Comptroller.

**9. Confidentiality/Freedom of Information Law**

All proposals submitted for SUNY's consideration will be held in confidence and will become the property of SUNY. However, the resulting contract is subject to the New York State Freedom of Information Law (FOIL), contained in Article 6 of the New York State Public Officer's Law. Therefore, if a Bidder believes that any information in its proposal constitutes a trade secret, should be treated as confidential and should not be disclosed upon a request pursuant to FOIL, Bidder shall submit with its proposal a separate letter addressed to: Keisha Martin, Government Relations Liaison, Office of the President, Student Services Building, Purchase College 735 Anderson Hill Road, Purchase NY 10577 specifically (i) identifying the page number(s), line(s) or other appropriate designation(s) containing such information; (ii) explaining in detail why such information is a trade secret or confidential; and (iii) formally request that such information be held as confidential. Bidder's failure to submit such a letter with its proposal will constitute a waiver by the Bidder of any rights it may have under Section 89(5) of the Public Officers' Law relating to protection of trade secrets. The proprietary nature of the information designated confidential by the Bidder may be subject to disclosure if ordered by a court of competent jurisdiction. A request that an entire proposal be kept confidential is not advisable, because a proposal cannot reasonably consist exclusively of proprietary information.

**10. Data Privacy and Security**

**A. Data Privacy**

- (i) Contractor will use any information it creates, receives, maintains or transmits on behalf of SUNY ("SUNY Data") only for the purpose of fulfilling its duties under this Contract and will not share such data with or disclose it to any third party without the prior written consent of the SUNY, except as required by the Contract or as otherwise required by law.
- (ii) SUNY Data will not be stored outside the United States without prior written consent from SUNY.
- (iii) Contractor will provide access to SUNY Data only to its employees and subcontractors who need to access the data to fulfill its obligations under the Contract.
- (iv) Contractor will ensure that employees who perform work under the Contract have read, understood, and received appropriate instruction as to how to comply with the data protection provisions of the Contract.

- (v) FERPA: If Contractor will have access to the SUNY's Education Records as defined under the Family Educational Rights and Privacy Act (FERPA), Contractor acknowledges that for the purposes of the Contract it will be designated as a "school official" with "legitimate educational interests" in the SUNY Education records, as those terms have been defined under FERPA and its implementing regulations, and the Contractor agrees to abide by the limitations and requirements imposed on school officials. Contractor will use the Education Records only for the purpose of fulfilling its duties under the Contract for SUNY's and its end users' benefit, and will not share such data with or disclose it to any third party except as provided for in the Contract, required by law, or authorized in writing by SUNY.
- (vi) European Union ("EU") General Data Protection Regulation ("GDPR"). The Contractor, as well as any subcontractors the contractor employs to process data on behalf of SUNY, shall comply with the European Union General Data Protection Regulation ("GDPR") (EU) 2016/679).
- (vii) If Contractor will receive, maintain, process or otherwise will have access to confidential information on employees of the State University of New York. Pursuant to the Gramm-Leach-Bliley Act (P.L. 106-102) and the Federal Trade Commission's Safeguards Rule (16 CFR Part 314), and to the extent the Contractor is a covered entity or applicable service provider under these regulations with respect to student or customer data, the Contractor will implement and maintain a written Information Security Program ("Program") in order to protect such confidential customer information. Customer information is defined as "any record containing nonpublic personal information as defined in 16 CFR §313(n)" (the FTC's Privacy Rule) "about a customer of a financial institution, whether in paper, electronic, or other form" (16 CFR §314.2). Examples of nonpublic personal customer information include, but are not limited to, name, address, phone number, social security number, bank and credit card account numbers and student identification numbers.

**B. Data Security**

- (i) Contractor agrees at all times to maintain network security which at a minimum, includes: network firewall provisioning, intrusion detection, and regular (three or more annually) third party vulnerability assessments, and provide a copy of the annual Attestation of Compliance (AOC) document, if requested. Further, Contractor agrees to maintain network security that conforms to generally recognized "Industry Standards" and best practices that Contractor applies to its own network. Generally recognized industry standards include but are not limited to the current standards and benchmarks set forth and maintained by the Center for Internet Security (see <http://www.cisecurity.org>) or Payment Card Industry/Data Security Standards (PCI/DSS) see <http://www.pcisecuritystandards.org>. Contractor will maintain a data security plan ("Data Security Plan"), which will comply with Payment Card Industry Data Security Standards ("PCI DSS") requirements (as discussed in more detail below) and all applicable legal and regulatory requirements for data protection. In addition, the Data Security Plan will protect against any anticipated threats or hazards to the security or integrity of information stored on its servers and unauthorized access to or use of such information that could result in harm or inconvenience to the person who is the subject of such information. Contractor will review, at least annually, its Data Security Plan and update and revise it as needed. A copy of Contractors' Data Security Plan will be made available to SUNY upon request.
- (ii) Contractor shall maintain mandatory procedures and protocols outlined in its "Information Security Incident Response Policy" to be undertaken in the event of an identified or suspected breach of credit card information or current or former student information that is not Directory Information. A copy of Contractor's Information Security Incident Response Policy will be made available to SUNY upon request. In the event a breach is suspected, Contractor will: (i) immediately contain the possible exposure while not compromising any data on its system; (ii) contact all members of its Corporate Security Committee; (iii) initiate a local analysis within 24 hours of the suspected breach to determine the type of information that has been potentially compromised, the individuals and SUNY institutions at risk, the incident timeframe at risk and the suspected cause of the incident; and (iv) if a breach is identified, immediately contact affected parties with details of the breach.

### **C. New York Information Breach and Notification Requirements**

Contractor hereby acknowledges and agrees to use commercially reasonable efforts to maintain the security of private information (as defined in the New York State Information Security Breach and Notification Act, as amended "ISBNA" (General Business Law § 889-aa; State Technology Law § 208) that it creates, receives, maintains or transmits on behalf of SUNY and to prevent unauthorized use and/or disclosure of that private information; and implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of electronic private information that it creates, receives, maintains or transmits on behalf of SUNY ("SUNY Data"). Contractor hereby acknowledges and agrees to fully disclose to SUNY pursuant to the ISBNA, and any other applicable law any breach of the security of a system where Contractor creates, receives, maintains or transmits private information on behalf of SUNY following discovery or notification of the breach in the system as to any resident of New York State whose private information was, or is reasonably believed to have been acquired by a person without valid authorization ("Security Incidents"). The disclosure shall be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the system. Contractor shall be liable for the costs associated with such breach if caused by Contractor's negligent or willful acts or omissions, or the negligent or willful acts or omissions of Contractor's agents, officers, employees or subcontractors. In the event of a Security Incident involving SUNY Data pursuant to the ISBNA, SUNY has an obligation to notify every individual whose private information has been or may have been compromised. In such an instance, the Contractor agrees that SUNY will determine the manner in which such notification will be provided to the individuals involved pursuant to the ISBNA and agrees to indemnify SUNY against any cost of providing any such legally required notice. Upon termination or expiration of the Contract, the Contractor will follow SUNY's instructions relating to any SUNY Data remaining in Contractor's possession. Upon authorization from SUNY, the Contractor will use data and document disposal practices that are reasonable and appropriate to prevent unauthorized access to or use of SUNY Data and will render the information so that it cannot be read or reconstructed.

### **D. Service Levels ( Applicable to Cloud Based, Remotely Hosted or Technology as A Service Contracts)**

SUNY understands that the Services will not be uninterrupted or error free. Contractor will use commercially reasonable efforts to ensure availability of the Services in accordance with the provisions of the Service Level Agreement, Attachment 6.

### **E. Disaster Recovery**

Contractor shall maintain disaster recovery services at the dedicated facility that is able to handle SUNY data center and business continuity needs under the Contractor in the event disaster recovery is needed. Throughout the term of the Contract, Contractor shall maintain contracts or arrangements that are substantially equivalent or an improvement to those currently in effect. Contractor shall test disaster recovery capabilities, at least once every calendar year and provide SUNY with a copy of its disaster recovery plan upon request.

### **F. Data Portability**

Contractor agrees to do whatever is reasonable and necessary to facilitate the orderly and professional transfer of the Services and SUNY Data upon the expiration or termination of the Contract to SUNY or a SUNY Institution, or do whatever subsequent vendor SUNY may select to provide similar services on SUNY's behalf.

### **G. Electronic Information Technology**

SUNY is committed to providing an accessible, usable and integrated experience for its students, staff and community. Electronic and information technology ("EIT") consists of information technology and any equipment or interconnected system or subsystem of equipment that is used in the creation, conversion, or duplication of data or information that will be deployed. EIT includes, but is not limited to, telecommunication products, information kiosks and transaction machines, Internet and Intranet websites, web-delivered content, software, electronic books and electronic book reading systems, search engines and databases, multimedia,



classroom technology and office equipment. SUNY expects that all such products, if supplied under the awarded contract, will be accessible as defined under Sections 504 and 508 of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act of 1990, as amended.

## 11. Diversity Contracting Requirements

### A. Diversity Practices

SUNY seeks to engage contractors that have a demonstrated history of hiring, training, developing, promoting and retaining minority group members and women. Under NYS Executive Law Article 15-A, 5 NYCRR Part 141.1(o) diversity practices are the efforts of contractors to include New York State certified MWBEs in their business practices. Diversity practices may include past, present, or future actions and policies, and include activities of contractors on contracts with private entities and governmental units other than the State of New York. SUNY will assess the diversity practices of prospective bidders to encourage contractors to engage in meaningful, capacity-building collaborations with MWBEs through evaluation of the Diversity Practices Questionnaire in Attachment 5. All prospective bidders are required to complete the attached Diversity Practices Questionnaire. This questionnaire elicits information about each prospective bidder in order to verify that its work environment demonstrates a strong commitment to diversity. By responding to the RFP and completing this questionnaire, each prospective bidder acknowledges that:

- (i) The Bidder has an equal employment opportunity policy statement (which shall be submitted to SUNY with each Bidder's Proposal using the Form identified in subsection (iv) below).
  - a. Pursuant to Article 15 of the Executive Law (the "Human Rights Law"), all other State and Federal statutory and constitutional non-discrimination provisions, the Bidder will not discriminate against any employee or applicant for employment because of race, creed, color, sex, religion, national origin, military status, sexual orientation, age, disability, genetic disposition or carrier status, domestic violence victim status, or marital status, will undertake, or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and will make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force during its legal engagement with SUNY. It shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.
  - b. The Bidder will state in all solicitations or advertisements for employees that, in the performance of this Contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, sex, religion, national origin, military status, sexual orientation, age, disability, genetic disposition or carrier status, domestic violence victim status, or marital status.
  - c. The Bidder will submit the applicable EEO Staffing Plan, Form 7557-108, describing the anticipated work force to be utilized on the engagement with SUNY or, where required, information on the Bidder's total work force, including apprentices, broken down by specified ethnic background, gender, and Federal occupational categories or other appropriate categories specified by SUNY. This form elicits information about each responding Bidder in order to verify that its work environment demonstrates a strong commitment to diversity.
- (ii) By submission of a bid or proposal in response to this solicitation and completing this questionnaire, the Bidder agrees with all of the terms and conditions of SUNY Exhibit A-1 including Clause 12 - Equal Employment Opportunities for Minorities and Women and acknowledges that:
  - a. The Contractor is required to ensure that it and any subcontractors awarded a subcontract over \$25,000 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, shall undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.

- (iii) Pursuant to Article 15 of the Executive Law (the "Human Rights Law"), all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.
- (iv) Bidder must submit with their bid or proposal their Bidder's Equal Employment Opportunity Policy Statement (which conforms to the provisions of Exhibit A-1) utilizing MWBE Form 104. Forms are available in SUNY Procurement Policies and Procedures Document 7557 online at: [http://www.suny.edu/sunypp/documents.cfm?doc\\_id=611](http://www.suny.edu/sunypp/documents.cfm?doc_id=611). Please Note: Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions or enforcement proceedings as allowed by the Contract.
- (v) Diversity, Equity and Inclusion: If this solicitation is for the services of an executive search firm, the SUNY Board of Trustees adopted a policy to establish diversity, equity and inclusiveness throughout the SUNY system. Diversity is broadly defined under that policy to include race, ethnicity, religion, sexual orientation, gender, gender identity and expression, age, socioeconomic status, status as a veteran, status as an individual with a disability, students undergoing transition (such as transfer, stop-out, international student acclimation), and first generation students. In furtherance of this policy, all executive search firms are required to provide the following:
  - a. information about the diversity of your Firm's staff; and
  - b. the Firm's success rate in placing diverse candidates.

## **B. Minority and Women-owned Business Enterprises (MWBE)**

Pursuant to New York State Executive Law Article 15-A, SUNY recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority- and women-owned business enterprises and the employment of minority group members and women in the performance of SUNY contracts.

For purposes of this solicitation, SUNY hereby establishes an overall goal of 30% for MWBE participation, 22% for Minority-Owned Business Enterprises ("MBE") participation and 8% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs). For additional information please refer to the MWBE requirements outlined in MWBE Prospective Bidder's Notice (Form 7557-121).

For guidance on how SUNY will determine a Contractor's good faith efforts to utilize certified MWBEs, refer to 5 NYCRR §142.8.

Please note the response forms identified in Form 7557-121 (SUNY MWBE Forms 7557-104, 7557-107 & 7557-108) must be submitted with all Bids. Forms are available in SUNY Procurement Policies and Procedures Document 7557 online at: [http://www.suny.edu/sunypp/documents.cfm?doc\\_id=611](http://www.suny.edu/sunypp/documents.cfm?doc_id=611).

Bidders must submit an MWBE Utilization Plan on Form 7557-107 with their bid or proposal. Upon contract award and prior to contract execution, the winning contractor will enter its Statewide Utilization Management Plan (SUMP) and upload its Good Faith Effort documentation electronically on to the New York State Contract

System by logging in at <https://ny.newnycontracts.com>. Should the Bidders experience technical difficulties, or require assistance in accordance with the Americans with Disabilities Act (ADA), Title II (42 USCA §§ 12311-12134 when accessing the system to submit the SUMP, contact Technical Support at <https://ny.newnycontracts.com/FrontEnd/ContactForm.asp?TN=ny&XID=2388>.

Any modifications or changes to the Statewide Utilization Management Plan after the Contract execution and during the term of the Contract must be reported on a revised SUMP and submitted to SUNY. SUNY will review the submitted SUMP and advise the Bidder of SUNY acceptance or issue a notice of deficiency within 30 days of receipt.

If a notice of deficiency is issued, Bidder agrees that it shall respond to the notice of deficiency within seven (7) business days of receipt by submitting to Purchase College Attn: F. Edward Herran, Interim Director of Procurement and Accounts Payable, 735 Anderson Hill Road, Purchase, NY 10577 ph. 914-251-6070, fax 914-251-6075, a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by SUNY to be inadequate, SUNY shall notify the Bidder and direct the Bidder to submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals on Form 7557-114. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.

SUNY may disqualify a Bidder as being non-responsive under the following circumstances:

- a. If a Bidder fails to submit a MWBE Utilization Plan;
- b. b) If a Bidder fails to submit a written remedy to a notice of deficiency;
- c. c) If a Bidder fails to submit a request for waiver; or
- d. d) If SUNY determines that the Bidder has failed to document good faith efforts.

Contractors shall attempt to utilize, in good faith, any MBE or WBE identified within its MWBE Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract Award may be made at any time during the term of the Contract to SUNY, but must be made no later than prior to the submission of a request for final payment on the Contract.

Contractors are required to report their M/WBE Contractor Compliance & Payments at New York State Contract System ("NYSCS") by logging in at <https://ny.newnycontracts.com/> and respond to the monthly Compliance Audit Reminder. Contractors that are required to report, should do so monthly, upon receipt of the NYSCS Audit Reminder over the term of the Contract, documenting the progress made toward achievement of the MWBE goals of the Contract. To become familiar with the NYSCS as a vendor, you may access the training classes without logging in by clicking here: <https://ny.newnycontracts.com/?IN=ny>.

### **C. Equal Employment Opportunity Requirements**

By submission of a bid or proposal in response to this solicitation, the Bidder/Contractor agrees with all of the terms and conditions of SUNY Exhibit A including Clause 12 - Equal Employment Opportunities for Minorities and Women. The Contractor is required to ensure that it and any subcontractors awarded a subcontract over \$25,000 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, shall undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.

Bidder further agrees, where applicable, to submit with the bid a staffing plan (Form 7557-108) identifying the anticipated work force to be utilized on the Contract and if awarded a Contract, will, upon request, submit to SUNY , a workforce utilization report identifying the workforce actually utilized on the Contract if known. Forms are available in SUNY Procurement Policies and Procedures Document 7557 online at: [http://www.suny.edu/sunypp/documents.cfm?doc\\_id=611](http://www.suny.edu/sunypp/documents.cfm?doc_id=611).

Please Note: Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions or enforcement proceedings as allowed by the Contract.

#### **D. Executive Order 162 (EO 162)**

Governor Cuomo's Executive Order 162 requires state contractors to disclose data on the gender, race, ethnicity, job title, and salary of employees performing work on state contracts issued on or after June 1, 2017.

Bidder agrees to submit Workforce Utilization Report (Form 7557-110) and to require the same information to be submitted by any of their subcontractors on the state contract, in such format as shall be required by SUNY on a monthly basis for all construction contracts and quarterly basis for all other contracts during the term of the contract. Empire State Development has provided specific details on this requirement at <https://esd.ny.gov/doing-business-ny/mwbe/mwbe-executive-order-162>.

#### **E. Executive Order 177 (EO 177)**

The New York State Human Rights Law, Article 15 of the Executive Law, prohibits discrimination and harassment based on age, race, creed, color, national origin, sex, pregnancy or pregnancy-related conditions, sexual orientation, gender identity, disability, marital status, familial status, domestic violence victim status, prior arrest or conviction record, military status or predisposing genetic characteristics.

The Human Rights Law may also require reasonable accommodation for persons with disabilities and pregnancy-related conditions. A reasonable accommodation is an adjustment to a job or work environment that enables a person with a disability to perform the essential functions of a job in a reasonable manner. The Human Rights Law may also require reasonable accommodation in employment on the basis of Sabbath observance or religious practices.

Generally, the Human Rights Law applies to: (i) all employers of four or more people, employment agencies, labor organizations and apprenticeship training programs in all instances of discrimination or harassment; (ii) employers with fewer than four employees in all cases involving sexual harassment; and (iii) any employer of domestic workers in cases involving sexual harassment or harassment based on gender, race, religion or national origin.

In accordance with Executive Order No. 177, prior to contract award, successful bidder must submit a certification that it does not have institutional policies or practices that fail to address harassment and discrimination as described above. SUNY is electing to obtain the certification with the bid documents to avoid unnecessary delay in the contract award process. All bidders must sign and submit the certification attached to this RFP as Attachment 9.

#### **F. Service-Disabled Veteran-Owned Businesses (SDVOB)**

SUNY is committed to the State's policy of encouraging the development of service-disabled veteran-owned businesses (SDVOB). The Service-Disabled Veteran-Owned Business Act (the "Act") became effective on May 12, 2014, and SUNY has implemented the State's comprehensive plan and operational guidelines to promote SDVOBs and to assist them in obtaining opportunities to participate in the procurement of goods and services by the State. SUNY will employ applicable measures and procedures provided by the Director of the Division of Service-

Disabled Veterans' Business Development in the Office of General Services (the "Division"), to ensure that SDVOBs are afforded the opportunity for meaningful participation in the performance of SUNY's contracts and to assist in achieving the Act's statewide goal for participation on state contracts by SDVOBs. The awarded contract shall provide that any contractor who willfully and intentionally fails to comply with the SDVOB participation requirements shall be liable to SUNY for damages, calculated based on costs for administration of SUNY's SDVOB program.

For additional information please refer to the SDVOB requirements outlined in SDVOB Prospective Bidder's Notice (Forms 7564-121A, 7564-121B and 7564-121C). A SDVOB Utilization Plan must be submitted with all bids, utilizing Form 7564-107. All Forms are available at: [http://www.suny.edu/sunypp/documents.cfm?doc\\_id=816](http://www.suny.edu/sunypp/documents.cfm?doc_id=816).

Bidders are encouraged to apply to the Division for certification as a Service-Disabled Veteran-Owned Business, and to provide such documentation necessary to establish their status as such in accordance with the rules of the Director of the Division. For purposes of this solicitation, SUNY hereby establishes an overall goal of 6% for SDVOB participation.

## **12. Encouraging Use of New York State Businesses in Contract Performance**

New York State businesses have a substantial presence in SUNY contracts and strongly contribute to the economies of New York and the nation. In recognition of their economic activity and leadership in doing business in New York State, Bidders/Proposers/Contractors for this contract for commodities, services or technology are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the contract. Such partnering may be as subcontractors, suppliers, protégés or other supporting roles. All bidders must complete and return Attachment 7.

## **13. Office of Federal Contract Compliance Programs**

**This Contractor and Subcontractor shall abide by the requirements of 41 C.F.R. §§ 60-1.4(a), 41 CFR §§ 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals on the basis of protected veteran status or disability, and require affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and individuals with disabilities.**

## **14. State Finance Law § 139-l Certification**

Pursuant to N.Y. State Finance Law § 139-l, every bid made on or after January 1, 2019 to the State or any public department or agency thereof, where competitive bidding is required by statute, rule or regulation, for work or services performed or to be performed or goods sold or to be sold, and where otherwise required by such public department or agency, shall contain a certification 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 N.Y. State Labor Law § 201-g.

N.Y. State Labor Law § 201-g provides requirements for such policy and training and directs the Department of Labor, in consultation with the Division of Human Rights, to create and publish a model sexual harassment prevention guidance document, sexual harassment prevention policy and sexual harassment prevention training program that employers may utilize to meet the requirements of N.Y. State Labor Law § 201-g. The model sexual harassment prevention policy, model sexual harassment training materials, and further guidance for employers, can be found online at the following URL: <https://www.ny.gov/combating-sexual-harassment-workplace/employers>.

Pursuant to N.Y. State Finance Law § 139-l, any bid by a corporate bidder containing the certification required above shall be deemed to have been authorized by the board of directors of such Bidder, and such authorization

shall be deemed to include the signing and submission of such bid and the inclusion therein of such statement as the act and deed of the Bidder.

If the Bidder cannot make the required certification, such Bidder shall so state and shall furnish with the bid a signed statement that sets forth in detail the reasons that the Bidder cannot make the certification. After review and consideration of such statement, SUNY may reject the bid or decide that there are sufficient reasons to accept the bid without such certification.

The certification required above can be found on Attachment 8.

## 15. **Governing Law**

This RFP, Bidders' proposals and any resulting contract shall be governed, construed and enforced in accordance with the laws of the State of New York, excluding New York's choice of law principles in a New York court of competent jurisdiction. Bidder/Contractor agrees to submit itself to such court's jurisdiction.

## 16. **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 and a directory of minority and women-owned business enterprises is available from:

NYS Empire State Development                      Website: <https://esd.ny.gov/doing-business-ny/small-business-hub>  
Division for Small Business  
625 Broadway, Albany, NY 12207  
Phone: 1-800-782-8369  
Email: [nylovesmbiz@esd.ny.gov](mailto:nylovesmbiz@esd.ny.gov)

## 17. **Determination of Vendor Responsibility**

New York State procurement law requires that state agencies award contracts only to responsible contractors. Additionally, the New York State Comptroller must be satisfied that a proposed contractor is responsible before approving a contract award under Section 112 of the State Finance Law. Section 163 of the New York State Finance Law ("SFL") requires that contracts for services and commodities be awarded on the basis of lowest price or best value "to a responsive and responsible bidder." Section 163 (9)(f) of the SFL requires that prior to making a contract award, each contracting agency shall make a determination of responsibility of the proposed contractor.

In accordance with these procurement laws, SUNY will conduct an affirmative review of vendor responsibility for all organizations or firms with which it conducts business. In doing so, bidders are required to file the required Vendor Responsibility Questionnaire online via the New York State VendRep System or may choose to complete and submit a paper questionnaire. To enroll in and use the VendRep System, see the VendRep System Instructions on the Office of State Comptroller (OSC) website, available at: [www.osc.state.ny.us/vendrep](http://www.osc.state.ny.us/vendrep) or go directly to the VendRep System online at <https://portal.osc.state.ny.us>. For VendRep System user assistance, the OSC Help Desk may be reached at 866-370-4672 or 518-408-4672 or by email at [helpdesk@osc.state.ny.us](mailto:helpdesk@osc.state.ny.us). Bidders opting to file a paper questionnaire may obtain the appropriate questionnaire from the VendRep website [www.osc.state.ny.us/vendrep](http://www.osc.state.ny.us/vendrep) or may contact SUNY System Administration for a copy of the paper form.

In addition:

- a. *General Responsibility.* The Contractor shall at all times during the contract awarded term remain responsible. The Contractor agrees, if requested by the SUNY Chancellor or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

- b. *Suspension of Work for Non-Responsibility.* The SUNY Chancellor, in his or her sole discretion, reserves the right to suspend any or all activities under the contract awarded, at any time, when he or she discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the SUNY Chancellor or his or her designee issues a written notice authorizing a resumption of performance of the contract awarded.
- c. *Termination for Non-Responsibility.* Upon written notice to the Contractor and a reasonable opportunity to be heard with appropriate SUNY officials or staff, the contract awarded may be terminated by the SUNY Chancellor or his or her designee at the Contractor's expense, where the Contractor is determined by the SUNY Chancellor or his or her designee to be non-responsible. In such event, the SUNY Chancellor or his or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

## **18. Requirements of New York State's Recycling Program**

In accordance with the provisions of Section 165(3) of the State Finance Law and Executive Order No. 142, SUNY is required to purchase recycled products, if available, made with recycled content in accordance with rules and regulations established by the State Department of Environmental Conservation in development of that agency's Recycling Emblems Program. If the cost of a recycled product does not exceed by 10% the cost of a product made without recycled content (or by 15% if over 50% of the recycled materials are generated from the New York State waste stream), the recycled product must be purchased.

## **19. State Consultant Services Reporting**

State Finance Law Section 163(4)(g) imposes certain reporting requirements on contractors doing business with New York State. In furtherance of these reporting requirements, Contractor agrees to complete and submit an initial planned employment data report and an annual employment report, which are attached as Consulting Reporting Forms A and B, respectively.

## **20. Electronic Payment Authorization**

Contractor shall provide complete and accurate billing invoices to SUNY in order to receive payment for its services. Billing invoices submitted to SUNY must contain all information and supporting documentation required by SUNY and the Office of State Comptroller (OSC). Payment for invoices submitted by Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the Vice Chancellor for Business and Finance of the State University of New York or designee, in her/his sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary New York State procedures and practices. Contractor shall comply with the OSC procedures to authorize payments. Authorization forms are available at the OSC website at [www.osc.state.ny.us/epay](http://www.osc.state.ny.us/epay), by email at [epunit@osc.state.ny.us](mailto:epunit@osc.state.ny.us) or by telephone at 518-474-4032. Contractor acknowledges that it will not receive payment on any invoices submitted under this contract if it does not comply with the OSC's electronic payment procedures, except where the Vice Chancellor or designee has expressly authorized payment by paper check as set forth above.

## **21. Timeliness of Payment and Interest**

Interest for late payment shall be governed by Section 179g of New York State Finance Law.

## **22. Exhibits**

The following documents will be incorporated into, and made part of, the contract awarded:

- a. Exhibit A, State University of New York Standard Contract Clauses

- b. Exhibit A-1, State University of New York Affirmative Action Clauses (for contracts valued at greater than \$25,000)
- c. The Agreement
- d. Exhibit B, this RFP
- e. Exhibit C, the Successful Bidder's proposal and Statement of Work
- f. Exhibit D, the Successful Bidder's Cost Proposal

In the event of any inconsistency in or conflict among the document elements described above, such inconsistency or conflict shall be resolved by giving precedence to the document elements in the order set forth above.

### **23. Independent Contractor**

The Successful Bidder (Contractor) and its agents or employees or any entity or person acting on behalf of the Contractor engaged in the performance of work shall at all times be deemed to be performing as independent contractors. The Contractor hereby covenants and agrees to act in accordance with that status. The Contractor and its agents or employees or any entity or person acting on behalf of the Contractor shall neither hold themselves out as, nor claim to be, officers or employees of SUNY and shall make no claim for, nor be entitled to, Workers' Compensation coverage, medical and unemployment benefits, social security, or retirement membership benefits from SUNY.

### **24. Subcontracting**

In the event the Successful Bidder (Contractor) uses partners, subcontracts or subcontractors, the Contractor will remain responsible for compliance with all specifications and performance of all obligations under the contract resulting from this RFP. For the resulting agreement, the successful bidder will be the prime contractor.

Within thirty (30) calendar days after Notice of Award, the Successful Bidder must submit a written statement to SUNY giving the name and address of all proposed subcontractors. The statement must contain a description of the portion of the work and materials which the proposed subcontractors are to perform and must furnish any other information to document that the proposed subcontractors have the necessary facilities, skill, integrity, past experience and financial resources to perform the work in accordance with the terms and provisions of the contract.

If SUNY finds that the proposed subcontractors are qualified, it will so notify the Contractor within ten (10) business days following receipt of Contractor's written statement described above. If SUNY determines that a subcontractor is not qualified, it will so notify the Contractor. The Contractor must, within ten (10) business days thereafter, submit a written statement as described above with respect to other proposed subcontractors, unless the Contractor decides to do such work itself and in SUNY's opinion is qualified to do such work.

SUNY's approval of a subcontractor shall not relieve the Contractor of any of its responsibilities, duties and liabilities under the contract. The Contractor shall be solely responsible to SUNY for the acts, omissions or defaults of such subcontractors and of such subcontractors' officers, agents and employees, each of whom shall, for this purpose, be deemed to be the agent or employee of the Contractor to the extent of its subcontract. No provisions of the awarded contract shall create or be construed as creating any contractual relation between SUNY and any subcontractor or sub-subcontractor or with any person, firm or corporation employed by, contracted with or whose services are utilized by the Contractor.

The Contractor shall be fully responsible for the administration, integration, coordination, direction and supervision of all of its subcontractors and of all work. Contractor shall check requirements of the work and coordinate and adjust as required so that conflicts in time, work space, equipment and supplies do not occur in the work being performed by the Contractor with its own employees and the work being performed by its subcontractors.



No subcontractor shall be permitted to work until it has furnished satisfactory evidence to SUNY of the insurance required by law.

The Successful Bidder (Contractor) shall execute a written agreement with each of its subcontractors and shall require all subcontractors to execute with their sub-subcontractors a written agreement which shall bind each to the terms and provisions of the prime contract awarded, insofar as such terms and provisions are applicable to the work to be performed by such subcontractors. The Contractor shall require all subcontractors and sub-subcontractors to promptly, upon request, file with SUNY a copy of such agreements upon request, from which the price and terms of payment may be deleted.

## **25. Compliance**

Contractor shall comply with all laws, rules, orders, regulations, and requirements of federal, state and municipal governments applicable hereto, including the provisions of Exhibit A, State University of New York Standard Contract Clauses, attached hereto and made a part hereof, and for agreements with a value of \$25,000 or more Exhibit A-1, State University of New York Affirmative Action Clauses, attached hereto and made a part hereof.

## **26. Indemnification**

### **a. Successful Bidder (Contractor)**

The Successful Bidder(Contractor) shall be responsible to and shall fully defend, indemnify, and hold harmless the State of New York and the State University of New York and their respective officers, trustees, directors, agents and employees without limitation, from any and all losses, expenses, damages and liabilities, including reasonable attorneys' fees, arising out of the intentional or negligent acts or omissions of the Contractor, its officers, employees, agents or licensees in any performance under this Agreement including: i) personal injury, damage to real or personal tangible property; ii) negligence, either active or passive; and iii) infringement of any law or of a United States Letter Patent, with respect to Products and Services furnished under this Agreement, or of any copyright, trademark, trade secret or intellectual proprietary rights, provided that SUNY shall give Contractor: (a) prompt written notice of any action, claim, or threat of infringement suit, or other suit, promptness of which, shall be established by SUNY upon the furnishing of written notice and verified receipt, (b) the opportunity to take over, settle or defend such action, claim or suit at Contractor's sole expense, and (c) assistance in the defense of any such action is at the expense of the Contractor. Where a dispute or claim arises relative to a real or anticipated infringement, SUNY may require the Contractor, at its sole expense, to submit such information and documentation, including formal patent attorney opinions, as SUNY shall require. New York State reserves the right to join such action, at its sole expense, when it determines there is an issue involving a significant public interest.

### **b. SUNY**

Subject to the availability of lawful appropriations and consistent with Section 8 of the New York Court of Claims Act, SUNY will hold the Contractor harmless from and indemnify it for any final judgment of a court of competent jurisdiction only to the extent attributable to the negligence of SUNY or of its officers or employees when acting within the course and scope of their employment.

## **27. Liability**

The Successful Bidder (Contractor) understands and agrees that it is responsible for the performance of the Services in accordance with the terms and conditions of the awarded Contract. SUNY may look solely to the Contractor for remedy, redress, liability or indemnification for any failure to perform, whether caused by Contractor itself or by one or more of its officers, employees, subcontractors, agents, licensees, licensors or affiliates or any person or entity acting on behalf of Contractor in providing the Services. The Contractor shall be fully liable for the actions of its officers, employees, subcontractors, agents, licensees, licensors, or affiliates or any person or entity acting on its behalf in providing the Services and shall fully indemnify and save harmless SUNY and the State of New York from suits, actions, damages and costs of every name and description presented,

brought, or recovered against SUNY and the State of New York for, or on account of any liability which may be incurred by reason of the Contractor's performance of this Agreement.

The Contractor will be responsible for the work, direction and compensation of any person or entity it engages as an officer, expert, employee, consultant, agent, independent contractor, or subcontractor. Nothing in the contract awarded or the performance thereof by the Contractor will impose any liability or duty whatsoever on SUNY including, but not limited to, any liability for taxes, compensation, commissions, Workers' Compensation, disability benefits, Social Security, or other employee benefits for any person or entity.

## **28. Insurance**

During the term of the awarded contract, the Successful Bidder (Contractor) must obtain and maintain insurance coverage at its own expense as provided in this paragraph, and shall deliver Certificates of Insurance in a form satisfactory to SUNY before commencing any work under this contract. Certificates shall reference the Contract Number. Certificates of Insurance must indicate the applicable deductible/self-insured retention on each policy. Certificates shall be mailed to: Purchase College, F. Edward Herran, Procurement Department, 735 Anderson Hill Rd., Purchase, NY 10577.

The policies of insurance set forth below shall be written by companies authorized by the New York Department of Financial Services to issue insurance in the state of New York ("admitted" carriers) with an A.M. Best company rating of "A-" or better. Unless otherwise agreed, policies shall be written so as to include a provision that the policy will not be canceled, materially changed, or not renewed without at least thirty (30) days prior written notice except for non-payment as required by law to [Contract Administrator name and address].

All insurance policies shall provide that the required coverage shall apply on a primary and not on an excess or contributing basis as to any other insurance that may be available to SUNY for any claim arising from the successful bidder's work under the awarded contract, or as a result of the successful bidder's activities. Any other insurance maintained by SUNY shall be excess of and shall not contribute with the successful bidder's insurance, regardless of any "other insurance" clause contained in any SUNY policy of insurance.

At least two weeks prior to the expiration of any policy required by the awarded contract, evidence of renewal or replacement of policies of insurance with terms no less favorable to SUNY than the expiring policies shall be delivered to SUNY in the manner required for service of Notice under the contract.

- a. A professional liability policy (errors and omissions) in the amount of One Million Dollars (\$1,000,000.00, which shall be maintained for a period of three (3) years after completion of this contract. If said policy is issued on a claims-made policy form, the policy shall be purchased with extended Discovery Clause coverage of up to three (3) years after work is completed if coverage is cancelled or not renewed.
- b. Workers Compensation, Disability Benefits and Paid Family Leave coverage for the life of this Agreement for the benefit of employees required to be covered by the New York State Workers Compensation Law and the New York State Disability Benefits and Paid Family Leave Law. Evidence of coverage must be provided on forms specified by the Commissioner of the Workers Compensation Board.
- c. General Liability Insurance with limits no less than One Million Dollars (\$1,000,000.00 per claim and One Million Dollars (\$1,000,000.00) in the aggregate. Such policy shall name the State University of New York as an additional insured and shall contain a provision that the State University of New York shall receive at least thirty (30) days written notice prior to material change, cancellation or expiration of such policy.
- d. Business Automobile Liability insurance covering liability arising out of the use of any motor vehicle in connection with the work, including owned, leased, hired and non-owned vehicles bearing, or under the circumstances under which they are being used, required by the Motor Vehicle Laws of the State of New York to bear, license plates. Such policy shall have a combined single limit for Bodily Injury and Property Damage of at least One Million Dollars (\$1,000,000.00) and shall name the State University of New York

as additional insured. The limits may be provided through a combination of umbrella/excess liability policies.

## 29. Travel

In the event the Contractor is required to be reimbursed for travel, reimbursement rates shall not exceed the current NYS Schedule of Allowable Reimbursable Travel Expenses, available from the New York State Comptroller at: <https://www.osc.state.ny.us/agencies/travel/travel.htm>.

## 30. Termination

The Contract awarded to the Successful Bidder (Contractor) may be terminated by SUNY for any of the following reasons:

- a. *Convenience of SUNY*: The contract may be terminated at any time upon receipt of thirty (30) days prior written notice given by SUNY for whatever reason.
- b. *Event of default*: The contract may be terminated in the event of breach of any of its provisions by the Contractor, or if the Contractor's Services are deemed unsatisfactory in SUNY's sole discretion, due to Contractor's fault or negligence, or that of its officers, employees, subcontractors, agents, licensees, licensors, or affiliates. In such event, SUNY will send a written cure notice in accordance with the Notice provisions of the contract, and Contractor shall have thirty (30) days to correct the deficiencies noted. If the deficiencies are not corrected, SUNY may terminate this contract immediately upon written notice.
- c. *Deficient Certifications*: If the awarded contract has a value greater than \$15,000, SUNY shall have the right to terminate in the event the State Finance Law sections 139-j and 139-k certifications executed by the Contractor are found to be intentionally false or incomplete. If the contract has a value of greater than \$100,000 and Contractor's sales for the immediately preceding four quarters were greater than \$300,000, or if the contract has a value of \$125,000 or greater, SUNY shall have the right to terminate in the event the successful bidder's Department of Taxation and Finance Contractor Certification form, ST 220-CA, statements are found to be false or incomplete.
- d. *Lack of Funds*: If for any reason the State of New York terminates or reduces its appropriations to SUNY, the awarded contract may be terminated or reduced at SUNY's discretion, provided that no such reduction or termination shall apply to allowable costs already incurred by the Contractor where funds are available to the SUNY for payment of such costs. In any event, no liability shall be incurred by the State (including SUNY) beyond monies available for the purposes of the awarded contract.
- e. SUNY may terminate the awarded contract, upon written notice, in the event of any of the following: (1) Contractor makes an assignment for the benefit of creditors; (ii) a petition in bankruptcy or any insolvency proceeding is filed by or against Contractor and is not dismissed within thirty (30) days from the date of filing; or (iii) all or substantially all of Contractor's property is levied upon or sold in any judicial proceeding.

## 31. Procurement Lobbying Act – State Finance Law §§ 139-j and 139-k

Prior to approval of the contract for which this RFP has been issued by SUNY, or if applicable, the Office of the State Comptroller, a Bidder shall not communicate with SUNY other than with the persons identified in this RFP as Designated Contacts or with a person who the Designated Contacts has advised the Bidder in writing is also a Designated Contact. Generally, the New York State Finance Law restricts communications between a bidder or a person acting on behalf of a Bidder, including its lobbyist, to communications with the officers and employees of the procuring agency designated in each solicitation to receive such communications. Further, the law prohibits a communication (a "Contact") which a reasonable person would infer as an attempt to unduly influence the award, denial or amendment of a contract. These restrictions apply to each contract in excess of \$15,000 during the "restricted period" (the time commencing with the earliest written notice of the proposed procurement and ending with the later of approval of the final contract by the agency, or, if applicable, the State Comptroller). The

agency must record all Contacts, and, generally, must deny an award of contract to a vendor involved in a knowing and willful Contact.

SUNY has developed guidelines regarding Contacts and procedures for the reporting and investigation of Contacts. SUNY's procurement record must demonstrate compliance with these requirements. SUNY will make a record of all Contacts, and such records of Contact will become part of the procurement record for this RFP. A determination that a Bidder or a person acting on behalf of a Bidder has intentionally made a Contact or provided inaccurate or incomplete information as to its past compliance with State Finance Law §§139-j and 139-k, is likely to result in denial of the award of contract under this RFP. Additional sanctions may apply. A complete copy of SUNY's Procurement Lobbying Policy and Procedure and its accompanying forms is available for review at [http://www.suny.edu/sunypp/documents.cfm?doc\\_id=430](http://www.suny.edu/sunypp/documents.cfm?doc_id=430)

Each Bidder shall submit with its proposal a written affirmation of its understanding of SUNY's procurement lobbying procedures and agreement to comply with such procedures. The requisite form is provided at Attachment 3.

### **32. Restrictions on the Activities of Current and Former State Officers and Employees**

All Contractor employees must be aware of and comply with the requirements of the New York State Public Officers Law, all other appropriate provisions of New York State Law and all resultant codes, rules and regulations from State laws establishing the standards for business and professional activities of State employees and governing the conduct of employees of firms, associations and corporations in business with the State.

Contractors and their employees are cautioned that the hiring of former state employees may violate the Ethics Law. The governing provisions are set forth the New York State Public Officers Law §§ 73 and 74, and the underlying principle of law is to prevent conflicts of interest and encourage ethical behavior. The law may be found on the website of the New York State Joint Commission on Public Ethics at: [http://www.jcope.ny.gov/about/laws\\_regulations.html](http://www.jcope.ny.gov/about/laws_regulations.html). Failure to comply with these provisions may result in termination of the Agreement.

### **33. Diesel Emissions Reduction Act of 2006**

If Contractor operates any diesel powered heavy duty vehicle(s) on behalf of SUNY pursuant to the awarded contract, Contractor certifies and warrants that all such heavy duty vehicles, as defined in New York State Environmental Conservation Law (ECL) Section 19-0323 will comply with the specifications and provisions of ECL Section 19-0323 and any regulations promulgated pursuant thereto, including but not limited to 6 NYCRR Part 248, which requires the use of Best Available Retrofit Technology ("BART") and Ultra Low Sulfur Fuel ("ULSD". If needed, qualification for a waiver will be Contractor's responsibility. If applicable, annually, but no later than March 1st, Contractor shall complete and submit directly to SUNY, via electronic mail, the "Regulated Entity and Contractor Vehicle Inventory Form" and "Regulated Entity and Contractors Annual Report Form" that can be found at the New York State Department of Environmental Conservation ("DEC") website: <http://www.dec.ny.gov/chemical/4754.html>. SUNY reserves the right to require Contractor to periodically certify compliance with the provisions of ECL Section 19.0323.

### **34. Compliance with SUNY Policies**

At all times when on SUNY premises, all Contractors and subcontractor personnel shall be required to comply with SUNY regulations, policies and procedures including (i) the requirement to wear an identity tag clearly identifying them as being an employee or agent of the contractor; (ii) there will be no smoking within the buildings or on the grounds owned or leased by SUNY. The Contractor must communicate this policy to its employees, subcontractors, and any other individuals assigned to enter upon SUNY grounds and premises in connection with the services to be performed in connection with the contract awarded; and (iii) Parking regulations: Parking violations are subject to fines and are the sole responsibility of Contractor. All vehicles must be registered with SUNY.

**35. Trademarks and Service Marks**

SUNY trademarks, service marks and logos are registered trademarks or owned by SUNY (the "Licensed Marks") and may not be used without SUNY's written permission. In the event that the awarded contract requires Contractor to use the Licensed Marks, SUNY will grant a limited license for use of the Licensed Marks only in connection with the contracted work. Such license shall not be construed as permission by SUNY to use its name or the Licensed Marks for any other purpose.

**State University of New York  
Notary Acknowledgement**

**(ACKNOWLEDGEMENT BY INDIVIDUAL)**

STATE OF NEW YORK            )  
COUNTY OF                    ) ss.:

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_, before me personally came \_\_\_\_\_, to me known and known to me to be the person described in and who executed the foregoing instrument and he/she acknowledged to me that he/she executed the same.

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

**(ACKNOWLEDGEMENT BY UNINCORPORATED ASSOCIATION)**

STATE OF NEW YORK            )  
COUNTY OF                    ) ss.:

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_, before me personally came \_\_\_\_\_, to me known and known to me to be the person who executed the above instrument, who, being duly sworn by me, did for himself/herself depose and say that he/she is a member of the firm of \_\_\_\_\_ and that he/she executed the foregoing instrument in the firm name of \_\_\_\_\_ and that he/she had authority to sign same, and he/she did duly acknowledge to me that he/she executed the same as the act and deed of said firm of \_\_\_\_\_ for the uses and purposes mentioned therein.

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

**(ACKNOWLEDGEMENT BY CORPORATION)**

STATE OF NEW YORK            )  
COUNTY OF                    ) ss.:

On this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, before me personally came \_\_\_\_\_, to me known, who being duly sworn, did depose and say that he/she resides in \_\_\_\_\_; that he/she is the \_\_\_\_\_ (title) of \_\_\_\_\_ (firm), the corporation described in and which executed the foregoing instrument; that he/she knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by the order of the Board of Directors of said corporation, and that he/she signed his/her name thereto by like order.

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

**THIS PAGE MUST BE SIGNED IN THE ORIGINAL AND MUST ACCOMPANY EACH COPY OF YOUR BID.**

## Attachment 1: Bid Submission Checklist

√	<b>Description</b>
<input type="checkbox"/>	RFP (page 1) Summary Information Form
<input type="checkbox"/>	Notary Acknowledgement Form
<input type="checkbox"/>	Attachment 1: Bid Submission Checklist
<input type="checkbox"/>	Attachment 2: Bidder Qualifications Submission Form
<input type="checkbox"/>	If required: Narrative addressing ability and experience
<input type="checkbox"/>	Attachment 3: Procurement Lobbying Act Certification
<input type="checkbox"/>	Attachment 4: Non-Collusive Bidding Certification
<input type="checkbox"/>	Attachment 5: Diversity Practices Questionnaire
<input type="checkbox"/>	Attachment 7: NYS Business Subcontractor Identification Form
<input type="checkbox"/>	Attachment 8: NY State Finance Law § 139-1 Certification
<input type="checkbox"/>	Attachment 9: NYS Human Rights Law Executive Order 177 Certification
<input type="checkbox"/>	<p>Vendor Responsibility: File either the required Vendor Responsibility Questionnaire online via the New York State VendRep System or complete and submit a paper questionnaire.</p> <p><b>Select one:</b></p> <p><input type="checkbox"/> completed online questionnaire</p> <p><input type="checkbox"/> paper copy of questionnaire included in Bid.</p>
<input type="checkbox"/>	MWBE Form 7557-104: Equal Opportunity Policy Statement
<input type="checkbox"/>	MWBE Form 7557-107: Utilization Form
<input type="checkbox"/>	MWBE Form 7557-108: EEO Staffing Plan
<input type="checkbox"/>	SDVOB Form 7564-107: Utilization Form

## Attachment 2: Bidder Reference Submission Form

### **Bidder References:**

References					
	Company Name:	Address:	Contact Name, email address, Phone #	Length of time as your customer	Estimated Total Annual Sales
1.					
2.					
3					
Contract Terminations					
Company Name:	Address:	Contact Name, email address, Phone #	Date of Contract Termination	Reason for Contract Termination	

Bidder will identify at least one reference willing to host a site visit by Purchase College



## Attachment 3: Procurement Lobbying Act Certification

State Finance Law §§139-j and 139-k, enacted by Ch. 1 L. 2005, as amended by Ch. 596 L. 2005, effective January 1, 2006, regulate lobbying on government procurement, including procurements by State University to obtain commodities and services and to undertake real estate transactions.

Generally, the law restricts communications between a potential vendor or a person acting on behalf of the vendor, including its lobbyist, to communications with the officers and employees of the procuring agency designated in each solicitation to receive such communications. Further, the law prohibits a communication (a "Contact") which a reasonable person would infer as an attempt to unduly influence the award, denial or amendment of a contract. These restrictions apply to each contract in excess of \$15,000 during the "restricted period" (the time commencing with the earliest written notice of the proposed procurement and ending with the later of approval of the final contract by the agency, or, if applicable, the State Comptroller). The agency must record all Contacts, and, generally, must deny an award of contract to a vendor involved in a knowing and willful Contact. Each agency must develop guidelines and procedures regarding Contacts and procedures for the reporting and investigation of Contacts. The agency's procurement record must demonstrate compliance with these new requirements.

Accordingly, neither a potential vendor nor a person acting on behalf of the vendor should contact any individual at State University other than the person designated in this solicitation as State University's Designated Contact, nor attempt to unduly influence award of the contract. State University will make a record of all Contacts, and such records of Contact will become part of the procurement record for this solicitation. A determination that a vendor or a person acting on behalf of the vendor has made intentionally a Contact or provided inaccurate or incomplete information as to its past compliance with State Finance Law §§139-j and 139-k is likely to result in denial of the award of contract under this solicitation. Additional sanctions may apply.

Please complete the following:

1. As defined in State Finance Law §§ 139-j (1)(a), has a governmental agency made a determination of non-responsibility with respect to the Offeror within the previous four years where such a finding was due to a violation of State Finance Law §§ 139-j or the intentional provision of false or incomplete information with respect to previous determinations of non-responsibility? NO  YES  If yes, attach explanation
  
2. Has a governmental entity terminated or withheld a procurement contract with the Offeror because of violations of State Finance Law §§ 139-j or the intentional provision of false or incomplete information with respect to previous determinations of non-responsibility? NO  YES  If yes, attach explanation.

**CERTIFICATION:**

By signing below the Bidder affirms and certifies that it: (1) has reviewed and understands the Policy and Procedure of SUNY, related to SFL §§ 139-j and 139-k, (2) agrees to comply with SUNY's procedure relating to Contacts with respect to this procurement, and (3) has provided information that is complete, true, and accurate with respect to SFL §§ 139-j and 139-k. Bidder understands that SUNY reserves the right to terminate any resulting contract in the event it is found that the certification filed by the Bidder in accordance State Finance Law §§139-j and 139-k was intentionally false or intentionally incomplete. Upon such finding, SUNY may exercise its termination right by providing written notification to the Bidder in accordance with the written notification terms of the contract.

Firm Name and Address:	
FEIN #:	
Telephone Number:	
Fax Number:	
Email Address:	
Bidder's Name and Title:	
Bidder's Signature:	
Date:	

**Attachment 4: Non-Collusive Bidding Certification**

**By Submission Of This Bid, Bidder And Each Person Signing On Behalf Of Bidder Certifies, And In The Case Of Joint Bid, Each Party Thereto Certifies As To Its Own Organization, Under Penalty Of Perjury, That To The Best Of His/Her Knowledge And Belief:**

1. The prices of this bid have been arrived at independently, without collusion, consultation, communication, or agreement, for the purposes of restricting competition, as to any matter relating to such prices with any other Bidder or with any competitor;
2. Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder prior to opening, directly or indirectly, to any other Bidder or to any competitor; and
3. No attempt has been made or will be made by the Bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

**A Bid Shall Not Be Considered For Award Nor Shall Any Award Be Made Where [1], [2], [3] Above Have Not Been Complied With; Provided However, That If In Any Case The Bidder(S) Cannot Make The Foregoing Certification, The Bidder Shall So State And Shall Furnish Below A Signed Statement Which Sets Forth In Detail The Reasons Therefore:**

[AFFIX ADDENDUM TO THIS PAGE IF SPACE IS REQUIRED FOR STATEMENT.]

Subscribed to under penalty of perjury under the laws of the State of New York, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ as the act and deed of said corporation of partnership.

**IF BIDDER(S) (ARE) A PARTNERSHIP, COMPLETE THE FOLLOWING:**

**NAMES OF PARTNERS OR PRINCIPALS**

**LEGAL RESIDENCE**

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**IF BIDDER(S) (ARE) A CORPORATION, COMPLETE THE FOLLOWING:**

**NAME**

**LEGAL RESIDENCE**

\_\_\_\_\_  
**President:**

\_\_\_\_\_  
**Secretary:**

\_\_\_\_\_  
**Treasurer:**

\_\_\_\_\_  
**President:**

\_\_\_\_\_  
**Secretary:**

\_\_\_\_\_  
**Treasurer**

**Identifying Data**

Potential Contractor	
Address	
Telephone	
Name of Responsible Corporate Officer	
Title of Responsible Corporate Officer	
Signature:	

Joint or combined bids by companies or firms must be certified on behalf of each participant.

\_\_\_\_\_  
 Legal name of person, firm or corporation

\_\_\_\_\_  
 Legal name of person, firm or corporation

By \_\_\_\_\_

By \_\_\_\_\_

Name:

Name:

Title:

Title:

Address:

Address:

## Attachment 5: Diversity Practices Questionnaire

I, \_\_\_\_\_, as \_\_\_\_\_ (title) of \_\_\_\_\_ firm or company (hereafter referred to as the company), swear and/or affirm under penalty of perjury that the answers submitted to the following questions are complete and accurate to the best of my knowledge:

1. Does your company have a Chief Diversity Officer or other individual who is tasked with supplier diversity initiatives? Circle one: **Yes / No**

If **Yes**, provide the name, title, description of duties, and evidence of initiatives performed by this individual or individuals.

2. What percentage of your company's gross revenues (from your prior fiscal year) was paid to New York State certified minority and/or women-owned business enterprises as subcontractors, suppliers, joint-venturers, partners or other similar arrangement for the provision of goods or services to your company's clients or customers? \_\_\_\_\_%
3. What percentage of your company's overhead (i.e. those expenditures that are not directly related to the provision of goods or services to your company's clients or customers) or non-contract-related expenses (from your prior fiscal year) was paid to New York State certified minority- and women-owned business enterprises as suppliers/contractors?<sup>1</sup> \_\_\_\_\_%
4. Does your company provide technical training<sup>2</sup> to minority- and women-owned business enterprises? Circle one: **Yes / No**

If **Yes**, provide a description of such training which should include, but not be limited to, the date the program was initiated, the names and the number of minority- and women-owned business enterprises participating in such training, the number of years such training has been offered and the number of hours per year for which such training occurs.

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<sup>1</sup> Do not include onsite project overhead.

<sup>2</sup> Technical training is the process of teaching employees how to more accurately and thoroughly perform the technical components of their jobs. Training can include technology applications, products, sales and service tactics, and more. Technical skills are job-specific as opposed to soft skills, which are transferable.

5. Is your company participating in a government approved minority- and women-owned business enterprise mentor-protégé program? Circle one: **Yes / No**

If **Yes**, identify the governmental mentoring program in which your company participates and provide evidence demonstrating the extent of your company's commitment to the governmental mentoring program.

6. Does your company include specific quantitative goals for the utilization of minority- and women-owned business enterprises in its non-government procurements? Circle one: **Yes / No**

If **Yes**, provide a description of such non-government procurements (including time period, goal, scope and dollar amount) and indicate the percentage of the goals that were attained.

7. Does your company have a formal minority- and women-owned business enterprise supplier diversity program? Circle one: **Yes / No**

If Yes, provide documentation of program activities and a copy of policy or program materials.

8. Does your company plan to enter into partnering or subcontracting agreements with New York State certified minority- and women-owned business enterprises if selected as the successful respondent? Circle one: **Yes / No**

If Yes, complete the MWBE Utilization Plan, Form No. 7557-107.

All information provided in connection with the questionnaire is subject to audit and any fraudulent statements are subject to criminal prosecution and debarment.

Signature of  
Owner/Official \_\_\_\_\_

Printed Name of Signatory \_\_\_\_\_

Title \_\_\_\_\_

Name of Business \_\_\_\_\_

Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

## Attachment 6: Service Level Agreement

This Service Level Agreement ("SLA") sets forth the service level and performance objectives of the Contractor in providing hosting services (the "Services") to SUNY. The Contractor will use commercially reasonable efforts to meet the following service level and performance objectives to support the operation of the facilities, server(s), computer equipment, operating software and connectivity used to provide the Services to SUNY.

### 1. Uptime Commitment.

The Contractor will use commercially reasonable efforts to ensure the Contractor's Systems are available 99.9% of the time (the "Uptime Commitment"). All Uptime Commitment will be measured within the Contractor's System on a monthly basis calculated to include twenty-four (24) hours per day over each month, but excluding from the numerator and denominator in the calculation the duration in time of any temporary shutdowns due to scheduled maintenance (which will not exceed in the aggregate sixteen (16) hours per month), telecommunications or power disruptions caused by third parties, and any other causes beyond Contractor's reasonable control. The Contractor agrees to notify the Group promptly of any factor, occurrence, or event coming to its attention that may affect the Contractor's ability to meet the Uptime Commitment, or that is likely to cause any material interruption in the Services.

### 2. Exclusive Remedy.

The Contractor will use commercially reasonable efforts to correct any material problems in the Services, including any failure to satisfy the Uptime Commitment. In the event that the Contractor fails to satisfy the Uptime Commitment for a given month, the Group's sole and exclusive remedy will be to receive a service credit equal to the following percentage of the monthly fees for the Services for the stated uptime:

97% to 99.9%	15%
94% to 96.9%	25%
92% to 93.9%	50%
90% to 91.9	75%
Below 90%	100%

In no event will the service credit exceed the monthly fees paid by SUNY for the Services. SUNY acknowledges and agrees that if the remedies set forth in this section are applied, any failure of the Contractor to meet the requirements in this SLA will not constitute a breach of the Agreement.

### 3. Monitoring.

Contractor will monitor and maintain Contractor's Systems in working order each day (24 x 7). Contractor will proactively manage and monitor all application server hardware devices and software to ensure optimal performance and reliability as well as to detect abnormal events or exceeded utilization or performance thresholds. Contractor will proactively monitor the status of the operating systems (e.g., CPU, disk I/O, memory, processes, etc.), critical application layer daemons and processes and trigger appropriate event notification alarms caused by errors, exceeded thresholds, etc.

#### 3.1 Maintenance.

Contractor will operate, monitor and administer all servers, applications and networks supporting the Services. In order to provide such coverage, Contractor may utilize a mixture of on-site and on-call support staff, automated server monitoring and automated paging technology. Contractor's on-site coverage is during Contractor's normal business hours, Monday through Friday, excluding holidays recognized by Contractor.

#### 3.2 Scheduled Outages.

Maintenance outages, if necessary, will be conducted at a time and in a manner to minimize adverse impacts on the Services. Maintenance outages will include, but are not limited to the installation of upgrades, service packs and routine server or application configuration changes. Other maintenance outages may be necessary from time to time.

#### 3.3 Change Control.

Contractor will install new equipment, software, releases, upgrades, fixes, patches and other items necessary to maintain Contractor's Systems to industry standards. Contractor will proactively gather information from appropriate server, peripheral, operating system or database vendors regarding upgrades, defect patches or fixes.

#### 3.4 Notice.

Contractor will use commercially reasonable efforts to give the Group three (3) days notice prior to all non-routine management, maintenance, change control or other actions by Contractor that may material impact the Service adversely.

## **Attachment 7 – NYS Business Subcontractor Identification Form**

### **Encouraging the use of New York State Businesses in Contract Performance**

New York State businesses have a substantial presence in SUNY contracts and strongly contribute to the economies of New York and the nation. In recognition of their economic activity and leadership in doing business in New York State, bidders/proposers/contractors for this contract for commodities, services or technology are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the contract. Such partnering may be as subcontractors, suppliers, protégés or other supporting roles.

Bidders/proposers/contractors need to be aware that to the maximum extent practical and consistent with legal requirements, they are strongly encouraged to use responsible and responsive New York State businesses in purchasing commodities that are of equal quality and functionality and in utilizing services and technology. Furthermore, bidders/proposers/contractors are reminded that they must continue to utilize small, minority and women-owned businesses, consistent with current State law.

Utilizing New York State businesses in SUNY contracts will help create more private sector jobs, rebuild New York's infrastructure, and maximize economic activity to the mutual benefit of the contractor and its New York State business partners. New York State businesses will promote the contractor's optimal performance under this contract, thereby fully benefiting the public sector programs that are supported by associated procurements.

Public procurements can drive and improve the State's economic engine through promotion of the use of New York businesses by its contractors. SUNY therefore expects bidders/proposers to provide maximum assistance to New York businesses in their use of the contract. The potential participation by all kinds of New York businesses will deliver great value to New York State and its taxpayers.

Bidders/proposers can demonstrate their commitment to the use of New York State businesses by responding to the question below:

**Will New York State Businesses be used in the performance of this contract? Circle one: YES / NO**

**If YES, identify New York State Business(es) that will be used by attaching identifying information, e.g., contact information, dollar value of the subcontract or supply contract.**

**This form, along with accompanying information as required above, must be completed and submitted with your proposal.**

**Attachment 8: NY State Finance Law 139-1 Certification**

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 a policy shall, at a minimum, meet the requirements of section two hundred one-g of the labor law.

If the bidder cannot make the foregoing certification, such bidder shall so state and shall furnish with the bid a signed statement that sets forth in detail the reasons that the bidder cannot make the certification.

**Bidder Name:** \_\_\_\_\_

**By (signature):** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_, 20\_\_



**Attachment 9: NY Human Rights Law Executive Order 177 Certification**

In accordance with Executive Order No. 177, the Bidder hereby certifies that it does not have institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sex, sexual orientation, gender identity, disability, marital status, military status, or other protected status under the Human Rights Law.

Executive Order No. 177 and this certification do not affect institutional policies or practices that are protected by existing law, including but not limited to the First Amendment of the United States Constitution, Article 1, Section 3 of the New York State Constitution, and Section 296(11) of the New York State Human Rights Law.

**Bidder Name:** \_\_\_\_\_

**By (signature):** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_, 20\_\_

## CONSULTING FORMS A & B

### **Procurement Officers:**

Please attach Consulting Reporting Forms A & B to the RFP for informational purposes. These forms are referenced in Section 6, General Terms & Conditions, Paragraph 19, State Consulting Reporting Requirements.

**EXHIBIT A: State University of New York Standard Contract Clauses**

**EXHIBIT A-1: State University of New York Affirmative Action Clauses**