

SUMMARY INFORMATION FORM
THIS FORM MUST BE SIGNED AND RETURNED
WITH BIDDER'S RESPONSE

IFB #: 990187		IFB Title: Supply and Install Audiovisual Equipment at Music Building Studio A	IFB Release Date: 01/20/2023
Key Events			
Questions/Requests for clarification due		01/31/2023	
Response to questions/requests for clarifications issued		02/07/2023	
Site Visit (if applicable)		01/26/2023, 11:00 a.m.	
Notice of Intent to Bid Due (if applicable)		n/a	
Bid Opening/ Bid Due Date and Time		02/14/2023, 2:00 p.m.	
Presentation, Demonstration, Interview (if applicable)		n/a	
Anticipated Awardee Notification		03/15/2023	
Anticipated Contract Start Date		03/15/2023	
Anticipated Term Length of Contract		180 days	
<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>			
Contact Information			
Primary Contact: Sheli Taylor, Associate Director SUNY Purchase College Contract & Procurement Services 735 Anderson Hill Road Purchase, NY 10577 sheli.taylor@purchase.edu (tel) 914-251-6089		Secondary Contact: Elizabeth Pleva, Director SUNY Purchase College Procurement & Accounts Payable 735 Anderson Hill Road Purchase, NY 10577 elizabeth.pleva@purchase.edu (tel) 914-251-6070	
		Technical Contact: Sayim Malik, Project Manager SUNY Purchase College Capital Facilities Planning 735 Anderson Hill Road Purchase, NY 10577 sayim.malik@purchase.edu (tel) 914-251-4479	
Restricted Period			
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, who are listed immediately above.			
Bidder Information			
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 FORM MUST BE SIGNED AND RETURNED WITH BIDDER'S RESPONSE by signing this form, bidder acknowledges (a) that the IFB 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 IFB has been included in bidder's bid.

**State University of New York
Purchase College**

PART I: PROCUREMENT SPECIFICATIONS

Purchase College is soliciting bids from qualified audiovisual installers to supply and install all materials and equipment to upgrade the audiovisual (AV) systems in Music Building Studio A as indicated in the document titled **“SUNY Purchase College Studio A – AV Specification”** and prepared by our consultant. The work shall include all labor, material, equipment, and services necessary to provide a complete and working system as defined in the contract documents. All AV and Electrical drawings related to this Specification shall be considered a part of this Specification. Drawings and Specifications are the property of SUNY Purchase and are not to be used on any other project or work.

General Specifications and Conditions

1. Clean-up and Protection

The contractor shall, at all times during the progress of the work, keep the site free from accumulation of waste matter or rubbish and shall confine his apparatus, materials and operations of his workmen to limits prescribed by law or by the Contract Limit Lines, except as the latter may be extended with the approval of the State University. Waste matter or rubbish must be properly removed. All rubbish is to be removed from the College. College containers are not to be used for discarding waste materials generated under this contract. Upon completion of the work covered by the contract, the contractor shall leave the completed project ready for use without the need of further cleaning of any kind and with all work in new condition and perfect order. In addition, upon completion of all work, the contractor shall remove from the vicinity of the work and from the property owned or occupied by the State of New York, all paint, building material, rubbish, unused material, and other material belonging to contractor or used under contractor's direction during installation which impairs the use or appearance of the property and shall restore such areas affected by the work to their original condition, and, in the event of contractor's failure to do so, the same shall be removed by the College at the expense of the contractor.

2. OSHA Regulations & Storage of Materials

As required by OSHA standard 29 CFR 1910.1200, the contractor shall provide Safety Data Sheets to The Office of Environmental, Health and Safety of the Campus for all products the contractor brings on site. All such products shall be properly labeled in accordance with this standard.

The contractor may store materials and equipment on site in areas designated by the College. All materials shall be stored in a neat and orderly manner. Security for stored equipment and materials shall be the responsibility of the contractor. Office of Environmental, Health and Safety may conduct periodic inspections.

3. Compliance with Applicable Codes and Campus Policies

Perform work only in accordance with all governing codes, laws, regulations and applicable Purchase College, Environmental, Health, and Safety policies and procedures. All contractor work is subject to compliance audits at any time. Notify the College at once and prior to proceeding of any discrepancies between such codes, laws and regulations and the contract requirements. The contractor shall post notices, pay all fees and comply with all laws, rules and regulations applicable to the work, including OSHA. The contractor, and employees of the contractor, shall comply with all College regulations governing conduct, access to the premises, operation of equipment and systems and conduct while in or near the premises and shall perform the work in such a manner as not to unreasonably interrupt or interfere with the conduct of business of the institution, staff and students. All contracted employees must wear clothing with company name clearly identified on it.

Contractors working at Purchase College campus agree to comply with all applicable New York State Department of Health, CDC and Purchase College guidelines regarding COVID-19. Contractors will be required to submit a work plan that describes how they will comply. They will also be required to communicate, sign and return the Purchase College, Contractor Expectations document before a purchase order can be created. Once work begins, contractors are subject to audit by College personnel to ensure compliance with the plan submitted.

4. Safety and Protective Facilities

The contractor shall provide the necessary safeguards to prevent accidents, to avoid all necessary hazards and protect the public, the staff, the students, the work, and the property at all times, including Saturdays, Sundays, holidays and other times if no work is being done. The contractor shall erect, maintain and remove appropriate signage, barriers or other devices, including mechanical ventilation systems, as required by the conditions of the work for the protection of the work being done, or the containment of dust and debris. All such barriers or devices shall be provided in conformance with all applicable codes, laws and regulations, including OSHA.

5. Protection of Existing Structures, Vegetation and Utilities

The contractor, during the course of his work, shall not damage any buildings, structures and utilities, public or private, including poles, signs, utilities services to buildings, street, telephone cables, plants, and other improvements. Any damage resulting from contractor's operations shall be repaired at his expense.

6. Damage to College/Student Property

The contractor shall be responsible for the repair or replacement cost of any damage to College/Student property caused by the use, misuse, or negligence of the contractor's employees. The contractor is responsible for reporting, in writing, within 72 hours the occurrence of damage to College property. Failure to report the damage to the Project Manager within the specified time may be cause for termination of this contract. Drop cloths are to be used at all times to protect College property.

7. Working Hours & Scheduling

The normal workweek shall be Monday through Friday 8:00 AM to 4:00 PM. Contractor may be permitted to work earlier or later hours and weekends if approved in advance by the College. Contractor will be required to submit such requests in written format to the Project Manager at least 72 hours in advance. College will make every reasonable effort to accommodate such requests. Some projects may require weekend hours in order to meet deadlines – i.e. student move-in, etc., which will be communicated with Contractor at least 72 hours in advance.

8. Conducting Work

All work under this contract is to be conducted in such a manner as not to interfere with the College's operation.

9. Electrical Power for Installation Activities

Electric power will be available from existing outlets in the buildings at no cost to the contractor. This power may be used for small power tools, etc., and the contractor shall investigate and not exceed the capacity of the existing circuits at the panel boards to increase capacities of the circuits. If the required power load exceeds the capacities of the available power sources, the contractor shall be responsible and pay for furnishing and installing all necessary temporary power and remove same at completion. Install all temporary wiring and equipment in conformity with the National Electrical Code. All temporary power and lighting shall comply with all applicable sections of OSHA 29 CFR 1910.304). If an extension cords are used, they shall be plugged into ground fault circuit interrupters (GFCI).

10. Sanitary Facilities

The contractor will be permitted to use existing toilet facilities, provided they are not misused, defaced or dirtied unnecessarily. If the College deems that the existing facilities have been subject to misuse, the contractor shall be informed and caused to install and be responsible for maintaining his own temporary sanitary facilities subject to the College's restriction. The contractor shall also be held responsible for the repair of any damage to said existing facilities.

11. Temporary Lighting

The contractor, at their expense, shall install, and maintain and remove temporary light fixtures as may be required by the conditions of the work. Installation and light levels shall be in accordance with all applicable codes and regulations and acceptable practice.

12. Water

The College will furnish water through the available campus system without charge to the contractor.

13. Use of Elevators

The contractor shall be permitted to make temporary use of elevators designated provided such use does not interfere with the normal activities of the College. Large and heavy items shall not be placed in elevators, and suitable padding shall be provided whenever a cab is used for construction purposes. The elevators shall be restored to their original condition satisfactory to the College at the end of construction activities.

14. Coordination and Cooperation with the College

The contractor shall cooperate with the College in order that the work will cause as little disturbance as possible. Any of the items covered in these specifications which effect the operation of the College, or any questions or problems relating to the College, shall be directed to the College designated Project Manager, tel. (914) 251-4479. The College buildings will be occupied and will continue to be used while the work is in progress. The contractor shall cooperate with the College and cause minimum interference with the daily operations and access to the buildings. Extreme care shall be exercised by the contractor and his workers to attain this result. The contractor shall be expected to maintain the security and the exit capability of all entrances at all times. The buildings shall not be left "open" overnight or during any period of inclement weather. Temporary closures may be used overnight if they are adequate for security and weather protection.

15. Meetings

Periodic meetings will be scheduled by the College during the course of this contract.

16. Parking and Standing

Contractor employee parking will be allowed and arranged within campus parking lots on a limited basis as approved by the College.

Contractor is to abide to the following:

- a. The Contractor and its employees shall be subject to all the rules and regulations of the College, including parking regulations. The College is regulated by New York State Vehicle and Traffic Laws.
- b. The Contractor and its employees shall park in the designated areas in Lot #W-2. Prior Approval and issuance of a daily parking pass by project manager will be required to park elsewhere on campus.
- c. Parking violations are subject to fines and are the sole responsibility of the Contractor or its employees. Vehicles that are parked illegally may be towed at the expense of the owner/driver.
- d. All vehicles are required at all times to register with the College's Public Safety Unit
- e. There is \$35.00 fee for parking permits. The fee is per vehicle and permits need to be display whenever the vehicle is parked on campus.

PART II: GENERAL INFORMATION AND INSTRUCTIONS

1. Method of Award

Award will be made to the lowest responsive and responsible bidder using the attached **Bid Proposal** form, Attachment 1. A Bidder will be deemed "responsible" if SUNY Purchase College's detailed Vendor Responsibility review yields a positive outcome. To be deemed "responsive" to this IFB, a Bidder must meet all specifications, mandatory requirements, and qualifications stated in the IFB.

2. Bid Response Contents

- a. All bids shall subtotal for equipment, parts, and labor pricing
- b. Equipment pricing subtotal shall be based on the equipment list provided with this specification. An itemized list of equipment prices must be attached to the Bid Proposal form. Complete and print Itemized Equipment Price List - Attachment #2.
- c. Parts pricing subtotal shall include an allowance for all wire, cable, connectors, and miscellaneous items not specifically mentioned necessary to complete system installation.
- d. Labor pricing subtotal shall include any labor required to complete the project in a timely manner including project meetings and coordination, site review, prefabricated and onsite wiring, advance subsystems configuration and/or programming, and onsite equipment installation;

- as well as testing, tuning, and training.
- e. Bidder is required to provide a detailed list of any/all equipment and/or parts for which there is a lead time of more than 30 days.

3. Contract Term

The Term of this contract shall be for 180 days.

4. Site Visit

There will be one (1) non-mandatory Site Visit prior to bid submittal to ensure full understanding of the work scope. All bidders are strongly encouraged to attend. The site visit will be held on the date and time listed on the IFB Summary Information form and will meet at the Capital Facilities Planning Conference Room, 735 Anderson Hill Road, Purchase, NY 10605. <https://www.purchase.edu/about/our-campus/interactive-map/>

5. Question and Answer Period

A question and answer period is provided for this solicitation. The schedule is indicated on the Summary Information Page of this IFB. All questions must be submitted in writing to Sayim Malik, Project Manager, via email at sayim.malik@purchase.edu.

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 IFB, and responses will be emailed to all requesting vendors by **C.O.B.**

6. Minimum Bidder Qualifications

- a. Any AV firm bidding on this contract shall have a minimum of ten (10) years of experience in the successful completion of similar magnitude to that described herein.
- b. Any AV firm bidding on this contract shall submit examples of ten (10) recording studio specific projects including large format analog consoles which it has completed within the last five (5) years. For verification, submit complete information, including project name, project address, contact person, daytime telephone number plus month and year of project completion.
- c. Any AV firm bidding on this contract shall be able to provide all equipment listed herein and support that equipment as the dealer of record for all manufacturer warranties. The AV contractor must provide proof of being an Authorized Dealer for all major lines of equipment listed. Must have at least one permanent staff member who is factory trained in the installation and maintenance of each major product line offered. This training must have been completed within the last two years from the date of the bid.
- d. Prospective Bidders shall submit a listing of the key engineering, project management, and installation personnel who will be assigned to this project, along with a brief job description and resume of their career-related backgrounds and experience. These key personnel must remain directly involved in all aspects of the project until its completion. Project Manager assigned to this project must have a minimum of five (5) years' experience in installing and integrating AV systems of similar scale. The Bidder must demonstrate that it has staff and workers qualified and trained to perform the work outlined in these documents.
- e. The successful Bidder must be able to devote appropriate manpower resources necessary to meet the construction schedule.
- f. Prospective bidders must attest that they possess, and are skilled in the use of, all the necessary test equipment for verifying the performance of the system including, but not limited to:
 - Professional Digital Multi Meter (DMM) capable of Voltage measurements to 1000 V AC or DC, Current measurements to 10 An AC/DC, Resistance to 50 MΩ; capacitance to 10,000 μF, frequency to 100 kHz, and temperature from -40 °C to 400 °C.
 - Professional True RMS Clamp Meter for current measurement.
 - Professional 2 Channel Audio Analyzer capable of balanced and unbalanced low distortion sine wave signal generation, amplitude measurement and plotting, frequency measurement and plotting, THD&N measurement and plotting, and phase coherence measurement between channels.

7. Bid Submission Requirement

- a. Prepare a clearly readable paper document and attach all required information.
- b. Indicate any deviations from the specifications and, if necessary, attach separate documents and/or explanation.
- c. Bidders must submit all information requested by SUNY Purchase College in written form. Bid must be complete, accurate, and in the form requested. All required forms and attachments as noted on the IFB checklist must be completed and included with Bid. Omissions, inaccuracies, or misstatements will be sufficient cause for rejection of a Bid.
- d. **Complete and sign the Bid Proposal, Attachment 1 on page 22** of this IFB. By signing, you certify (i) your express authority to sign on behalf of yourself, your company, or other entity; Acknowledgement form must be completed by a Notary Public on behalf of bidder's authorized signatory (ii) your full knowledge and acceptance of this IFB, 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.
- e. **Submit two (2) signed** paper bids in a **sealed package** clearly labeled on the exterior with the IFB # 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 Purchase College and shall not be returned. Sealed bids are to be addressed to:

Sheli Taylor
Associate Director, Contract & Procurement Services
SUNY Purchase College
735 Anderson Hill Drive
Purchase, NY 10577
- f. The submission of a bid constitutes a binding offer to perform said services. Such binding offer shall be firm and not revocable for a period of 120 days after the deadline for IFB submission and will continue thereafter until bidder notifies the College otherwise, in writing. Such deadline may be further extended by mutual agreement of both parties.

8. Bid Delivery

Bidders assume all risks for timely and properly submitted deliveries. Bids must be received in the Procurement Office at Purchase College by the due date and time indicated on the Summary Information Page. Bidders mailing their bids must allow sufficient time to ensure receipt by the time specified. **Late bids and electronically transmitted and/or emailed Bids will not be accepted.**

9. Vendor De-Briefing Meeting

The University shall provide a debriefing via phone to any unsuccessful Offeror who submits a written request for a debriefing to the University within 30 days of the Successful Offeror(s). During the debriefing, the University will provide to the unsuccessful Offeror the reasons why the unsuccessful Offeror was not selected for an award. Requests for a debriefing should be sent to the attention of Elizabeth Pleva, Director of Procurement & Accounts Payables, via e-mail (Elizabeth.pleva@purchase.edu) or via mail (SUNY Purchase College, Procurement Department, 735 Anderson Hill Road, Purchase, NY 10577).

10. Bid Protest Procedure

Bidders wishing to file a bid protest may do so in accordance with SUNY's procedures, available at http://www.suny.edu/sunyp/ documents.cfm?doc_id=699.

PART III: GENERAL TERMS AND CONDITIONS

1. 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 IFB. 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 specifications provided herein shall be made without written approval of SUNY.

2. Prevailing Wage Rates

All work performed on campus at SUNY Purchase will be subject to prevailing wage rates. In accordance with SUNY contract documents and NYS law, contractors and subcontractors are responsible for paying the prevailing wage rates as issued by the NY State Dept. of Labor's Bureau of Public Works. SUNY Purchase will not issue updated prevailing wage rate schedules to its contractors for projects and contracts. The NYS DOL now provides the updates on their Internet web site. Contractors shall be responsible for obtaining those updates themselves, at <http://www.labor.state.ny.us/>.

Furthermore, effective Nov. 9, 1997, and in accordance with Assembly Bill 6394-B amending Article 8, Section 220, of the NYS Labor Law, every contractor and subcontractor shall submit to the department of jurisdiction (SUNY Purchase) within 30 days after issuance of its first payroll, and every thirty days thereafter, a transcript of the original payroll record, as provided by this article, subscribed and affirmed as true under penalties of perjury, the Dept. of Jurisdiction shall be required to receive and maintain such payroll records. The original payrolls or transcripts shall be preserved for three years from the completion of the work under the contract.

The latest prevailing wage rates and supplements determined by the Department of Labor of the State of New York for the locality at which the work shall be performed will be in effect during the course of this contract.

The Prevailing Wage Case number for this contract is (PRC# 2022014094 - AV Install Music Studio A)

Website link: on <https://apps.labor.ny.gov/wpp/publicViewProject.do?method=showIt&id=1543041>

3. Payments

Progress billing is allowed. Itemized invoices will be paid in arrears of installation services and/or verification by the Project Manager of the receipt of parts and equipment by the campus.

4. No Claims or Rights

By submitting a Bid, 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.

5. 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.

6. Acceptance of IFB Content

The terms and conditions included in this IFB as well as the applicable portions of Bidder's Bid shall become contractual obligations if a contract is awarded. **BIDDER'S FAILURE TO ACCEPT THIS SHALL RESULT IN REJECTION OF BIDDER'S BID.**

7. 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 costs for any work performed that has not been properly authorized in writing by SUNY.

8. Exhibits

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

- 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 C - this IFB
- e. Exhibit D, the Successful Bidder's Bid.

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.

9. 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 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, 25% for Minority-Owned Business Enterprises ("MBE") participation and 5% 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 attached ([Form 7557-121](#)).

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

For inquiries related specifically to Minority Women-Owned Business Enterprises (MWBE) provisions of this procurement solicitation, the designated contact is Lula Curanovic, Procurement Specialist/MWBE Coordinator, SUNY Purchase College, Procurement & Accounts Payable Dept., 735 Anderson Hill Road, Purchase, NY 10577. (tel) 914.251.6071

10. Equal Employment Opportunity Requirements

By submission of a Bid 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 Sub Licensees 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 an EEO staffing plan (utilizing MWBE form 108 attached) to identify the anticipated work force to be utilized on the Contract. Forms are also available in SUNY Procurement Policies and Procedures Document 7557 online at: http://www.suny.edu/sunypp/documents.cfm?doc_id=611. If the Bidder is awarded a Contract, Bidder will, upon request, submit to SUNY, a workforce utilization report identifying the workforce actually utilized on the Contract if known.

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.

11. 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 License. Such partnering may be as subcontractors, suppliers, protégés or other supporting roles.

12. Office of Federal Contract Compliance Programs

This Contractor and Subcontractors 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 Contractor and subcontractors to employ and advance in employment qualified protected veterans and individuals with disabilities.

13. Confidentiality/Freedom of Information Law

All Bids submitted for SUNY's consideration will become the property of SUNY. 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 Bid 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 Bid 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 Bid 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 Bid be kept confidential is not advisable, because a Bid cannot reasonably consist exclusively of proprietary information.

14. 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>.

15. 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 or expression, 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 NYS Human Rights Law EO 177 certification included with this IFB.

16. Executive Order No. 16 (EO 16)

In accordance with Executive Order No. 16, Contractor hereby certifies that it is not an “entity conducting business in Russia,” defined as an institution or company, wherever located, conducting any commercial activity in Russia or transacting business with the Russian Government or with commercial entities headquartered in Russia or with their principal place of business in Russia in the form of contracting, sales, purchasing, investment, or any business partnership.

17. 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). All Forms are available at:

http://www.suny.edu/sunyp/ documents.cfm?doc_id=816.

For purposes of this solicitation, SUNY hereby establishes an overall goal of 6% for SDVOB participation.

18. State Finance Law § 139-/Certification

Pursuant to N.Y. State Finance Law § 139-/, 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-/, 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.

The required certifications for N.Y. State Finance Law § 139-/are attached to this IFB. Please complete it. 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.

19. Restrictions on the Activities of Current and Former State Officers and Employees

All Bidders 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 business and professional activities of State employees and governing the conduct of employees of firms, associations and corporations in business with the State.

Bidders 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: <https://jcope.ny.gov/ethics-info-center>. Failure to comply with these provisions may result in non-award of an agreement.

20. 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 or go directly to the VendRep System online at <https://www.osc.state.ny.us/state-vendors/vendrep/vendrep-system>. 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. Bidders opting to file a paper questionnaire may use the attached questionnaire, or obtain the appropriate questionnaire from the VendRep website 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.

21. Warranty/Guarantee (For new equipment)

The successful bidder shall guarantee that the equipment offered is standard new equipment latest model of regular stock product and in current production with all parts regularly used with the type of equipment; also, that no attachment or part has been substituted, or applied contrary, to manufacturer's recommendations and standard practice.

Every unit delivered must be guaranteed for a minimum period of one (1) year. The successful bidder shall bear all materials and labor costs for repair of equipment defects and failures occurring within the guarantee period. Service/maintenance during the period shall be no less than service requirements under a maintenance agreement. Warranty period shall commence upon SUNY Purchase's acceptance of the fully installed, fully operational equipment, only after successful start-up and demonstration of fully operational equipment.

22. Installation (As Applicable)

Observe manufacturers' guidelines for proper and safe installation of all equipment listed in this proposal. Properly and permanently label all cables at both ends. Cabling not run in conduit or raceway shall be neatly bundled and or suspended with approved devices (as applicable). All wiring is to be executed in strict adherence with standard industry practices. All switchers and user controls shall be clearly labeled on all equipment and on any as-built drawings.

Contractor shall be required to affix a label or decal to this equipment at the time of installation, showing warranty period by dates, and the name, address, and telephone number of the dealer responsible for service of the equipment.

Should a mutually agreeable location for the equipment, meeting the manufacturer's established installation criteria not be available, the contractor shall not deliver the equipment and shall provide SUNY Purchase College with alternatives.

Any additional equipment needed to make these systems operational that may not have been detailed in this document will also be furnished and installed by the contractor. System design and system performance responsibility rests with the contractor. The contractor shall be responsible for delivering a turnkey system to SUNY Purchase College. The contractor shall furnish all equipment and materials whether specifically mentioned herein, or not, to ensure complete and operating systems.

The contractor shall be responsible for generating any required shop drawings and information for the complete installation of the equipment listed herein. The contractor shall provide for the on-site installation and provide on-going supervision and coordination during the implementation phase.

Testing and adjustments shall result in fully operational equipment. The contractor shall be responsible for testing and adjustments to provide an acceptable operating system with approval of SUNY Purchase College. If the final testing is not acceptable, the contractor will complete this procedure until SUNY Purchase College has been satisfied.

23. Installation Practices (As Applicable)

Installation shall include the delivery to SUNY Purchase unloading, setting in place, fastening to walls, floors, ceilings, counters, or other structures where required, inter-connecting wiring of the system components, equipment alignment and adjustment, and all other work whether or not expressly required herein which is necessary to result in complete operational systems.

All installation practices shall be in accordance with, but not limited to, these specifications. Installation shall be performed in accordance with the applicable standards, requirements, and recommendations of national, state, and local authorities having jurisdiction. If an installation practice is desired, or required, which is contrary to these specifications or drawings, a written request for modification shall be made to SUNY Purchase College. Modifications shall not commence without prior written approval from SUNY Purchase College.

During installation, and up to the date of final acceptance, the contractor shall be under obligation to protect the finished and unfinished work against damage and loss. In the event of such damage or loss, contractor shall replace or repair such work at no cost to SUNY Purchase College.

Other general installation practices shall be as follows:

1. Work site MUST be kept clean on a daily basis.
2. All debris/garbage must be removed and disposed of off campus grounds on a daily basis.
3. Do NOT block any exits or stairwells with equipment, nor debris.

24. Quality of Materials and Equipment

All materials and equipment supplied by the contractor shall be new and meet or exceed the latest published specifications of the manufacturer in all respects. The contractor shall supply the latest model available at the time of bidding for each piece of equipment. The latest model must be compatible with the system design.

All material and equipment shall be installed in accordance with all applicable standards and codes of the governing local municipality, all other applicable local codes, and all safety codes and ordinances.

25. Product References

"Or Equal" shall apply to all bid items specified herein. The words "or equal" are understood to apply where a copyright brand name, trade name, catalog reference, or patented Product is referenced. References to such specific products are intended as descriptive, not restrictive, unless otherwise stated. As offered, comparable items will be considered if proof of equality is provided, including appropriate catalog excerpts, descriptive literature, specifications and test data, etc. SUNY Purchase College's decision as to acceptance of comparable items as equal shall be final.

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

Prior to approval of the contract for which this IFB has been issued by SUNY Purchase College, or if applicable, the Office of the State Comptroller, a Bidder shall not communicate with SUNY Purchase College other than with the persons identified in this IFB or on the IFB Summary Information Form Designated Contacts or with a person who the Designated Contacts has advised the Bidder in writing is also a Designated Contact.

The **Designated Contacts for this IFB** are:

Primary Contact:

Sheli Taylor, Associate Director
Contract & Procurement Services
sheli.taylor@purchase.edu

Secondary Contact:

Elizabeth Pleva, Director
Procurement & Accounts Payable
elizabeth.pleva@purchase.edu

Technical Contact:

Sayim Malik, Project Manager
Capital Facilities Planning
sayim.malik@purchase.edu

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 IFB. 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 IFB. 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

Each Bidder shall submit with its Bid a written affirmation of its understanding of SUNY's procurement lobbying procedures and agreement to comply with such procedures. The requisite forms are attached to this IFB.

27. State Consultant Services Reporting

State Finance Law sections 8 and 163 requires that contractors annually report certain employment information to the contracting agency, the Department of Civil Service (DCS) and Office of the State Comptroller (SUNY). State contractors are required to disclose, by employment category, the number of persons employed to provide services under a contract for consulting services, the number of hours worked and the amount paid to the contractor by the State as compensation for work performed by these employees. This will include information on any persons working under any subcontracts with the State contractor. 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, if applicable, Contractor agrees to complete and submit an initial planned employment data report and an annual employment report.

28. 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.

29. Subcontracting

Subcontractors are not allowed on this project.

30. 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.

31. Insurance

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 emailed directly from the insurance broker to: Sheli Taylor, Associate Director of Contracts & Procurement Services, sheli.taylor@purchase.edu.

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 SUNY Purchase.

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. Workers Compensation and Disability Benefits 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 Law. Evidence of coverage must be provided on forms specified by the Commissioner of the Workers Compensation Board.
- b. General Liability Insurance with limits no less than two million (\$2,000,000.00) per claim and two million (\$2,000,000.00) in the aggregate. Such policy shall name the State University of New York as an additional insured and shall designate the State University of New York as the loss payee, 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.
- c. 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 (\$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.

32. Price

Price shall be net F.O.B. Destination (including all freight and transportation charges for inside delivery, uncrating, setting in place, installation, connections, and successful start-up) to SUNY Purchase College, Purchase, New York 10577 unless otherwise specified. Price also includes installation and instruction of personnel, and literature including, but not limited to instruction manuals, maintenance manuals, operator's

handbooks, etc.

If substantially the same or a smaller quantity of a commodity is sold by the contractor under the same or similar terms and conditions as that of any State contract for such commodity then held by the contractor, at a price lower than bid price, the price to SUNY Purchase College shall be immediately reduced to the lower price. Bidder guarantees that prices quoted are equal to or less than those offered to any governmental or commercial account for similar conditions.

Price shall include all operations defined in the detailed specifications of the IFB, Quote Sheet, and applicable sections of the New York State Standard Clauses (Exhibit A and Exhibit A-1). No additional charges will be allowed. **Prepayment/deposits will NOT be considered by SUNY Purchase College.**

33. 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 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.

34. Diesel Emissions Reduction Act of 2006

The Successful Bidder (Contractor) certifies and warrants that all heavy duty vehicles, as defined in New York State Environmental Conservation Law (ECL) section 19-0323, to be used by Contractor, its agents or subcontractors under the contract awarded, will comply with the specifications and provisions of ECL section 19-0323 and any regulations promulgated pursuant thereto, which requires the use of Best Available Retrofit Technology ("BART") and Ultra Low Sulfur Fuel ("ULSD"), unless specifically waived by DEC. Qualification for a waiver under this law will be the responsibility of Contractor. Annually, but no later than March 1st, Contractor shall complete and submit directly to SUNY, via electronic mail, the Regulated Entity Vehicle Inventory Form and Regulated Entity and Contractors Annual Report forms available at the Department of Environmental Conservation ("DEC") website: <http://www.dec.ny.gov/chemical/4754.html>, for heavy duty

vehicles used in the performance of the contract awarded for the preceding calendar year. The Contractor shall certify to SUNY, and submit with each application for payment, Contractor and Subcontractor Certification forms, which state that the Contractor will comply with the provisions of ECL Section 19.0323.

35. Smoke Free SUNY

The State University of New York campus is smoke free. No smoking is permitted within the buildings or upon the grounds owned or leased by SUNY. The Successful Bidder (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.

36. Additional Terms and/or Conditions

- a. Award shall be made to a qualified and responsible vendor. SUNY Purchase College reserves the right to reject any or all proposals, or any part thereof, if deemed in the best interest of SUNY Purchase College and the State of New York.
- b. Any terms that are attached or referenced with a submission shall not be considered part of the bid or bid proposal but shall be deemed included for informational purposes only.
- c. The resulting agreement shall be binding upon its execution by SUNY Purchase College and the Contractor and as required by New York State law.
- d. The agreement may be revised upon mutual consent of the parties in writing.
- e. Proposed prices should reflect all discounts including educational discounts.
- f. SUNY Purchase College will not be liable for any costs associated with the preparation, transmittal, or presentation of any Bid Proposals or materials submitted in response to this IFB or the costs of any services performed prior to receiving approval of the agreement from New York State. All Proposals and materials submitted in conjunction with Bid Proposals shall become the property of SUNY Purchase College for use as deemed appropriate, respecting all copyrights.
- g. Public announcements or news releases regarding this IFB or any subsequent award of a contract must not be made by any Bidder without the prior written approval of SUNY Purchase College.
- h. The Successful Bidder(s) is responsible for compliance with all applicable rules and regulations pertaining to cities, towns, counties and State where the services are provided, and all other laws applicable to the performance of the resulting contract. The Successful Bidder shall provide all necessary safeguards for safety and protection as set forth by the United States Department of Labor, Occupational Safety and Health Administration.
- i. Indemnification
 - i. Successful Bidder (Contractor)

The Successful Bidder (Contractor) shall fully indemnify, defend and save SUNY and its respective officers, agents and employees without limitation, from suits, actions, damages and costs of every name and description arising out of the acts or omissions of the Contractor 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.

ii. SUNY

Subject to the availability of lawful appropriations pursuant to Section 41 of the New York State 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 and within the scope of the contract awarded.

37. State University of New York Purchase College has the right to:

- a. Reject any or all portions of any of bid, to negotiate terms and conditions consistent with the solicitation, and to make an award in whole or in part.
- b. Make no contract award.
- c. Withdraw the IFB at any time, at SUNY's sole discretion.
- d. Disqualify any Bidder whose conduct and/or proposal fails to conform to the requirements of the IFB.
- e. Use information obtained through site visits, bidder's proposal, 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 IFB.
- f. 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.
- g. Request references and contact any or all references and perform other related due diligence.
- h. Waive requirements or amend this IFB upon notification to all Bidders. Mandatory requirements may be eliminated if unmet by all Bidders.
- i. Adjust or correct cost or cost figures with the concurrence of the Bidder if mathematical or typographical errors exist.
- j. Negotiate with Bidders responding to this IFB within the requirements necessary to serve the best interests of SUNY Purchase College.
- k. Begin contract negotiations with another Bidder in order to serve the best interests of SUNY Purchase College, should SUNY Purchase College be unsuccessful in negotiating a contract with the Successful Bidder within an acceptable time frame.
- l. Advise the Successful Bidder of an objectionable employee(s) and/or subcontractor(s), and if necessary, reject and bar such employee(s) and/or subcontractor(s) from the campus.
- m. Waive minor irregularities.
- n. Require clarifications from Bidders for purposes of assuring a full understanding of responsiveness, and permit revisions from all Bidders determined to be susceptible to contract award prior to award
- p. SUNY Purchase College reserves the right to modify or amend the requirements of this IFB after its

release. All vendors will receive written notification of any modifications to the requirements of this IFB. If any modifications make compliance with the original Procurement Timetable impractical, SUNY Purchase College will adjust the timetable accordingly.

- q. By submitting a Bid Proposal, the vendor agrees that she/he 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.

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**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

Bid Submission Checklist

<input type="checkbox"/>	Description
<input type="checkbox"/>	IFB (page 1) Summary Information Form
<input type="checkbox"/>	Notary Acknowledgement Form
<input type="checkbox"/>	Bid Submission Checklist
<input type="checkbox"/>	Bid Proposal Form – Attachment 1
<input type="checkbox"/>	Itemized Equipment Price List – Attachment 2 (Excel File)
<input type="checkbox"/>	List of equipment/parts with lead times more than 30 days. (Attach additional sheets if necessary)
<input type="checkbox"/>	Bidder Qualifications: Narrative addressing requirements in Part II, (6)
<input type="checkbox"/>	Bidder Qualifications: List of ten (10) similar projects and ten (10) references
<input type="checkbox"/>	Procurement Lobbying Act Certification
<input type="checkbox"/>	Non-Collusive Bidding Certification
<input type="checkbox"/>	NY State Finance Law § 139-l Certification
<input type="checkbox"/>	NYS Human Rights Law Executive Order 177 Certification
<input type="checkbox"/>	NYS Compliance with Russian Business Ban EO 16 Certification
<input type="checkbox"/>	<p>Vendor Responsibility:</p> <p>File either the required Vendor Responsibility Questionnaire online via the New York State VendRep System or complete and submit a paper questionnaire.</p> <p>Select one:</p> <p><input type="checkbox"/> Online questionnaire completed</p> <p><input type="checkbox"/> Paper copy of questionnaire included</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

ATTACHMENT 1

BID PROPOSAL

IFB Number: 990187

IFB Title: Supply and Install Audiovisual Equipment at Music Building Studio A

Name of Bidder: _____

BID CALCULATION

All quotes are per specifications and requirements as contained in this IFB #990187. Enter the subtotals as specified below and attach completed Excel worksheet with itemized equipment price list to this Bid Proposal.

Equipment Pricing shall include all items on the equipment list. Attach an itemized equipment price list to this Bid Proposal.	\$ _____
Parts Pricing subtotal shall include an allowance for all wire, cable, connectors, and miscellaneous items not specifically mentioned necessary to complete system installation.	\$ _____
Labor Pricing subtotal shall include any labor required to complete the project in a timely manner including project meetings and coordination, site review, prefabricated and onsite wiring, advance subsystems, configuration and/or programming, and onsite equipment installation; as well as testing, tuning, and training.	\$ _____
Total Bid	\$ _____

LEAD TIMES

Identify any/all equipment and parts with lead times more than 30 days. (Attach additional sheets as necessary) _____

Dated ____/____/____ Firm's Federal Tax ID Number _____

Legal name of person, partnership, joint venture or corporation:

By _____

(signature)

Printed Name and Title _____

Email address _____

FORM A

Summary: Policy and Procedure of the State University of New York Relating to State Finance Law §§139-j and 139-k

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.

A complete copy of the State University of New York Procurement Lobbying Policy and Procedure is available for review at www.suny.edu/sunypp/.

FORM B
Affirmation with respect to State Finance Law §§139-j and 139-k

A complete copy of the State University of New York Procurement Lobbying Policy and Procedure is available for review at www.suny.edu/sunypp/.

Procurement Description/ID No. IFB#110922 I Lawncare and Maintenance Services

Offerer **AFFIRMS** that it has reviewed and understands the Policy and Procedure of the State University of New York, relating to State Finance Law §§139-j and 139-k, and agrees to comply with State University's procedure relating to Contacts with respect to this procurement.

Name of Offerer:
Address:
Person Submitting Form:
Name:
Title:

FORM C
Disclosure and Certification with respect to State Finance Law §§139-j and 139-k

Procurement Description/ID No. _____

1. Has a Governmental Entity, as defined in State Finance Law §139-j(1)(a), made a determination of non-responsibility with respect to the Offerer within the previous four years where such 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, provide the following details:
Governmental Entity which made the finding:
Date of finding:
Basis of finding:

2. Has a Governmental Entity terminated or withheld a procurement contract with the Offer 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, identify the following:
Governmental Entity which terminated the contract:
Date of contract termination or withholding:
Identify the related procurement contract:

Offerer **CERTIFIES** that all information provided by Offerer with respect to its compliance with State Finance Law §§139-j and 139-k is complete, true and accurate.

Name of Offerer:

Address:

Signature of Person Submitting Form: _____
Name:
Title:
Date:

Bidder's Certifications

NEW YORK STATE FINANCE LAW 139-L 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__

Bidder's Certifications

NON-COLLUSIVE BIDDING CERTIFICATION

By submission of this bid, Bidder and each person signing on behalf of Bidder certifies, and in the case of a joint bid, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of their 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 therefor:

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 or partnership.

IF BIDDER IS A SOLE PROPRIETER OR PARTNERSHIP, COMPLETE THE FOLLOWING:

NAMES OF PARTNERS OR PRINCIPALS

LEGAL RESIDENCE

_____	_____
_____	_____
_____	_____
_____	_____

IF BIDDER IS A CORPORATION, COMPLETE THE FOLLOWING:

NAME

LEGAL RESIDENCE

President: _____

Secretary: _____

Treasurer: _____

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

Bidder's Certifications

Identifying Data:

Bidder	
Address	
Telephone	
Name of Responsible Corporate Officer	
Title of Responsible Corporate Officer	

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

Legal name of person, firm or corporation

By (signature): _____

Name: _____

Title: _____

Address: _____

Bidder's Certifications

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__

Certification Under Executive Order No. 16

Prohibiting State Agencies and Authorities from Contracting with Businesses Conducting Business in Russia

Executive Order No. 16 provides that "all Affected State Entities are directed to refrain from entering into any new contract or renewing any existing contract with an entity conducting business operations in Russia." The complete text of Executive Order No. 16 can be found [here](#).

The Executive Order remains in effect while sanctions imposed by the federal government are in effect. Accordingly, vendors who may be excluded from award because of current business operations in Russia are nevertheless encouraged to respond to solicitations to preserve their contracting opportunities in case the sanctions are lifted during a solicitation or even after award in the case of some solicitations.

As defined in Executive Order No. 16, an "entity conducting business operations in Russia" means an institution or company, wherever located, conducting any commercial activity in Russia or transacting business with the Russian Government or with commercial entities headquartered in Russia or with their principal place of business in Russia in the form of contracting, sales, purchasing, investment, or any business partnership.

Is Vendor an entity conducting business operations in Russia, as defined above? Please answer by checking one of the following boxes:

- ☐ 1. No, Vendor does not conduct business operations in Russia within the meaning of Executive Order No. 16.
- ☐ 2. a. Yes, Vendor conducts business operations in Russia within the meaning of Executive Order No. 16 but has taken steps to wind down business operations in Russia or is in the process of winding down business operations in Russia. (Please provide a detailed description of the wind down process and a schedule for completion.)
- ☐ 2. b. Yes, Vendor conducts business operations in Russia within the meaning of Executive Order No. 16 but only to the extent necessary to provide vital health and safety services within Russia or to comply with federal law, regulations, executive orders, or directives. (Please provide a detailed description of the services being provided or the relevant laws, regulations, etc.)
- ☐ 3. Yes, Vendor conducts business operations in Russia within the meaning of Executive Order No. 16.

The undersigned certifies under penalties of perjury that they are knowledgeable about the Vendor's business and operations and that the answer provided herein is true to the best of their knowledge and belief.

Vendor Name: _____
(legal entity)

By: _____
(signature)

Name: _____

Title: _____

Date: _____

NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE FOR-PROFIT BUSINESS ENTITY

You have selected the For-Profit Non-Construction questionnaire which may be printed and completed in this format or, for your convenience, may be completed online using the New York State VendRep System.

COMPLETION & CERTIFICATION

The person(s) completing the questionnaire must be knowledgeable about the vendor's business and operations. An owner or officer must certify the questionnaire and the signature must be notarized.

NEW YORK STATE VENDOR IDENTIFICATION NUMBER (VENDOR ID)

The Vendor ID is a ten-digit identifier issued by New York State when the vendor is registered on the Statewide Vendor File. This number must now be included on the questionnaire. If the business entity has not obtained a Vendor ID, contact the IT Service Desk at ITServiceDesk@osc.state.ny.us or call 866-370-4672.

DEFINITIONS

All underlined terms are defined in the "New York State Vendor Responsibility Definitions List," found at www.osc.state.ny.us/vendrep/documents/questionnaire/definitions.pdf. These terms may not have their ordinary, common or traditional meanings. Each vendor is strongly encouraged to read the respective definitions for any and all underlined terms. By submitting this questionnaire, the vendor agrees to be bound by the terms as defined in the "New York State Vendor Responsibility Definitions List" existing at the time of certification.

RESPONSES

Every question must be answered. Each response must provide all relevant information which can be obtained within the limits of the law. However, information regarding a determination or finding made in error which was subsequently corrected is not required. Individuals and Sole Proprietors may use a Social Security Number but are encouraged to obtain and use a federal Employer Identification Number (EIN).

REPORTING ENTITY

Each vendor must indicate if the questionnaire is filed on behalf of the entire Legal Business Entity or an Organizational Unit within or operating under the authority of the Legal Business Entity and having the same EIN. Generally, the Organizational Unit option may be appropriate for a vendor that meets the definition of "Reporting Entity" but due to the size and complexity of the Legal Business Entity, is best able to provide the required information for the Organizational Unit, while providing more limited information for other parts of the Legal Business Entity and Associated Entities.

ASSOCIATED ENTITY

An Associated Entity is one that owns or controls the Reporting Entity or any entity owned or controlled by the Reporting Entity. However, the term Associated Entity does **not** include "sibling organizations" (i.e., entities owned or controlled by a parent company that owns or controls the Reporting Entity), unless such sibling entity has a direct relationship with or impact on the Reporting Entity.

STRUCTURE OF THE QUESTIONNAIRE

The questionnaire is organized into eleven sections. Section I is to be completed for the Legal Business Entity. Section II requires the vendor to specify the Reporting Entity for the questionnaire. Section III refers to the individuals of the Reporting Entity, while Sections IV-VIII require information about the Reporting Entity. Section IX pertains to any Associated Entities, with one question about their Officials/Owners. Section X relates to disclosure under the Freedom of Information Law (FOIL). Section XI requires an authorized contact for the questionnaire information.

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

I. LEGAL BUSINESS ENTITY INFORMATION			
<u>Legal Business Entity Name*</u>		<u>EIN</u>	
Address of the <u>Principal Place of Business</u> (street, city, state, zip code)		<u>New York State Vendor Identification Number</u>	
		Telephone <div style="text-align: right;">ext.</div>	Fax
Email		Website	
Additional <u>Legal Business Entity</u> Identities: If applicable, list any other <u>DBA</u> , <u>Trade Name</u> , <u>Former Name</u> , Other Identity, or <u>EIN</u> used in the last five (5) years and the status (active or inactive).			
Type	Name	EIN	Status
1.0 <u>Legal Business Entity</u> Type – Check appropriate box and provide additional information:			
<input type="checkbox"/> <u>Corporation</u> (including <u>PC</u>)		Date of Incorporation	
<input type="checkbox"/> <u>Limited Liability Company (LLC or PLLC)</u>		Date of Organization	
<input type="checkbox"/> <u>Partnership</u> (including <u>LLP</u> , <u>LP</u> or <u>General</u>)		Date of Registration or Establishment	
<input type="checkbox"/> <u>Sole Proprietor</u>		How many years in business?	
<input type="checkbox"/> Other		Date Established	
If Other, explain:			
1.1 Was the <u>Legal Business Entity</u> formed or incorporated in New York State?			<input type="checkbox"/> Yes <input type="checkbox"/> No
If 'No,' indicate jurisdiction where <u>Legal Business Entity</u> was formed or incorporated and attach a <u>Certificate of Good Standing</u> from the applicable jurisdiction or provide an explanation if a <u>Certificate of Good Standing</u> is not available.			
<input type="checkbox"/> United States State _____			
<input type="checkbox"/> Other Country _____			
Explain, if not available:			
1.2 Is the <u>Legal Business Entity</u> publicly traded?			<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide <u>CIK Code</u> or Ticker Symbol			
1.3 Does the <u>Legal Business Entity</u> have a <u>DUNS</u> Number?			<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," Enter <u>DUNS</u> Number			

*All underlined terms are defined in the "New York State Vendor Responsibility Definitions List," which can be found at www.osc.state.ny.us/vendrep/documents/questionnaire/definitions.pdf.

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

I. LEGAL BUSINESS ENTITY INFORMATION

- 1.4 If the Legal Business Entity's Principal Place of Business is not in New York State, does the Legal Business Entity maintain an office in New York State?
(Select "N/A," if Principal Place of Business is in New York State.)
- ☐ Yes ☐ No
☐ N/A

If "Yes," provide the address and telephone number for one office located in New York State.

- 1.5 Is the Legal Business Entity a New York State certified Minority-Owned Business Enterprise (MBE), Women-Owned Business Enterprise (WBE), New York State Small Business (SB) or a federally certified Disadvantaged Business Enterprise (DBE)?
- If "Yes," check all that apply:
- ☐ New York State certified Minority-Owned Business Enterprise (MBE)
☐ New York State certified Women-Owned Business Enterprise (WBE)
☐ New York State Small Business (SB)
☐ Federally certified Disadvantaged Business Enterprise (DBE)
- ☐ Yes ☐ No

- 1.6 Identify Officials and Principal Owners, if applicable. For each person, include name, title and percentage of ownership. Attach additional pages if necessary. If applicable, reference to relevant SEC filing(s) containing the required information is optional.

Name	Title	Percentage Ownership (Enter 0% if not applicable)

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

II. REPORTING ENTITY INFORMATION

2.0 The Reporting Entity for this questionnaire is:

Note: Select only one.

☐ Legal Business Entity

Note: If selecting this option, “Reporting Entity” refers to the entire Legal Business Entity for the remainder of the questionnaire. (SKIP THE REMAINDER OF SECTION II AND PROCEED WITH SECTION III.)

☐ Organizational Unit within and operating under the authority of the Legal Business Entity

SEE DEFINITIONS OF “REPORTING ENTITY” AND “ORGANIZATIONAL UNIT” FOR ADDITIONAL INFORMATION ON CRITERIA TO QUALIFY FOR THIS SELECTION.

Note: If selecting this option, “Reporting Entity” refers to the Organizational Unit within the Legal Business Entity for the remainder of the questionnaire. (COMPLETE THE REMAINDER OF SECTION II AND ALL REMAINING SECTIONS OF THIS QUESTIONNAIRE.)

IDENTIFYING INFORMATION

a) Reporting Entity Name

Address of the Primary Place of Business (street, city, state, zip code)

Telephone

ext.

b) Describe the relationship of the Reporting Entity to the Legal Business Entity

c) Attach an organizational chart

d) Does the Reporting Entity have a DUNS Number?

☐ Yes ☐ No

If “Yes,” enter DUNS Number

e) Identify the designated manager(s) responsible for the business of the Reporting Entity.

For each person, include name and title. Attach additional pages if necessary.

Name

Title

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

INSTRUCTIONS FOR SECTIONS III THROUGH VII

For each “Yes,” provide an explanation of the issue(s), relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s). For each “Other,” provide an explanation which provides the basis for not definitively responding “Yes” or “No.” Provide the explanation at the end of the section or attach additional sheets with numbered responses, including the Reporting Entity name at the top of any attached pages.

III. LEADERSHIP INTEGRITY

Within the past five (5) years, has any current or former reporting entity official or any individual currently or formerly having the authority to sign, execute or approve bids, proposals, contracts or supporting documentation on behalf of the reporting entity with any government entity been:

3.0 <u>Sanctioned</u> relative to any business or professional permit and/or license?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other
3.1 <u>Suspended, debarred, or disqualified</u> from any <u>government contracting process</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other
3.2 The subject of an <u>investigation</u> , whether open or closed, by any <u>government entity</u> for a civil or criminal violation for any business-related conduct?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other
3.3 Charged with a misdemeanor or felony, indicted, granted immunity, convicted of a crime or subject to a <u>judgment</u> for: a) Any business-related activity; or b) Any crime, whether or not business-related, the underlying conduct of which was related to truthfulness?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other

For each “Yes” or “Other” explain:

IV. INTEGRITY – CONTRACT BIDDING

Within the past five (5) years, has the reporting entity:

4.0 Been <u>suspended or debarred</u> from any <u>government contracting process</u> or been <u>disqualified</u> on any government procurement, permit, license, concession, franchise or lease, including, but not limited to, <u>debarment</u> for a violation of New York State Workers’ Compensation or Prevailing Wage laws or New York State Procurement Lobbying Law?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.1 Been subject to a denial or revocation of a government prequalification?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.2 Been denied a contract award or had a bid rejected based upon a <u>non-responsibility finding</u> by a <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.3 Had a low bid rejected on a <u>government contract</u> for failure to <u>make good faith efforts</u> on any <u>Minority-Owned Business Enterprise</u> , <u>Women-Owned Business Enterprise</u> or <u>Disadvantaged Business Enterprise</u> goal or <u>statutory affirmative action requirements</u> on a previously held contract?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.4 Agreed to a voluntary exclusion from bidding/contracting with a <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.5 Initiated a request to withdraw a bid submitted to a <u>government entity</u> in lieu of responding to an information request or subsequent to a formal request to appear before the <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No

For each “Yes,” explain:

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

V. INTEGRITY – CONTRACT AWARD*Within the past five (5) years, has the reporting entity:*

5.0 Been <u>suspended</u> , cancelled or <u>terminated for cause</u> on any <u>government contract</u> including, but not limited to, a <u>non-responsibility finding</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
5.1 Been subject to an <u>administrative proceeding</u> or civil action seeking specific performance or restitution in connection with any <u>government contract</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
5.2 Entered into a formal monitoring agreement as a condition of a contract award from a <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No

For each “Yes,” explain:

VI. CERTIFICATIONS/LICENSES*Within the past five (5) years, has the reporting entity:*

6.0 Had a revocation, <u>suspension</u> or <u>disbarment</u> of any business or professional permit and/or license?	<input type="checkbox"/> Yes <input type="checkbox"/> No
6.1 Had a denial, decertification, revocation or forfeiture of New York State certification of <u>Minority-Owned Business Enterprise</u> , <u>Women-Owned Business Enterprise</u> or federal certification of <u>Disadvantaged Business Enterprise</u> status for other than a change of ownership?	<input type="checkbox"/> Yes <input type="checkbox"/> No

For each “Yes,” explain:

VII. LEGAL PROCEEDINGS*Within the past five (5) years, has the reporting entity:*

7.0 Been the subject of an <u>investigation</u> , whether open or closed, by any <u>government entity</u> for a civil or criminal violation?	<input type="checkbox"/> Yes <input type="checkbox"/> No
7.1 Been the subject of an indictment, grant of immunity, <u>judgment</u> or conviction (including entering into a plea bargain) for conduct constituting a crime?	<input type="checkbox"/> Yes <input type="checkbox"/> No
7.2 Received any OSHA citation and Notification of Penalty containing a violation classified as <u>serious or willful</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
7.3 Had a <u>government entity</u> find a willful prevailing wage or supplemental payment violation or any other willful violation of New York State Labor Law?	<input type="checkbox"/> Yes <input type="checkbox"/> No
7.4 Entered into a consent order with the New York State Department of Environmental Conservation, or received an enforcement determination by any <u>government entity</u> involving a violation of federal, state or local environmental laws?	<input type="checkbox"/> Yes <input type="checkbox"/> No
7.5 Other than previously disclosed: a) Been subject to fines or penalties imposed by <u>government entities</u> which in the aggregate total \$25,000 or more; or b) Been convicted of a criminal offense pursuant to any administrative and/or regulatory action taken by any <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No

For each “Yes,” explain:

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

VIII. FINANCIAL AND ORGANIZATIONAL CAPACITY

8.0 Within the past five (5) years, has the Reporting Entity received any formal unsatisfactory performance assessment(s) from any government entity on any contract? ☐ Yes ☐ No

If “Yes,” provide an explanation of the issue(s), relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.

8.1 Within the past five (5) years, has the Reporting Entity had any liquidated damages assessed over \$25,000? ☐ Yes ☐ No

If “Yes,” provide an explanation of the issue(s), relevant dates, contracting party involved, the amount assessed and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.

8.2 Within the past five (5) years, have any liens or judgments (not including UCC filings) over \$25,000 been filed against the Reporting Entity which remain undischarged? ☐ Yes ☐ No

If “Yes,” provide an explanation of the issue(s), relevant dates, the Lien holder or Claimant’s name(s), the amount of the lien(s) and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.

8.3 In the last seven (7) years, has the Reporting Entity initiated or been the subject of any bankruptcy proceedings, whether or not closed, or is any bankruptcy proceeding pending? ☐ Yes ☐ No

If “Yes,” provide the bankruptcy chapter number, the court name and the docket number. Indicate the current status of the proceedings as “Initiated,” “Pending” or “Closed.” Provide answer below or attach additional sheets with numbered responses.

8.4 During the past three (3) years, has the Reporting Entity failed to file or pay any tax returns required by federal, state or local tax laws? ☐ Yes ☐ No

If “Yes,” provide the taxing jurisdiction, the type of tax, the liability year(s), the tax liability amount the Reporting Entity failed to file/pay and the current status of the tax liability. Provide answer below or attach additional sheets with numbered responses.

8.5 During the past three (3) years, has the Reporting Entity failed to file or pay any New York State unemployment insurance returns? ☐ Yes ☐ No

If “Yes,” provide the years the Reporting Entity failed to file/pay the insurance, explain the situation and any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.

8.6 During the past three (3) years, has the Reporting Entity had any government audit(s) completed? ☐ Yes ☐ No

a) If “Yes,” did any audit of the Reporting Entity identify any reported significant deficiencies in internal control, fraud, illegal acts, significant violations of provisions of contract or grant agreements, significant abuse or any material disallowance? ☐ Yes ☐ No

If “Yes” to 8.6 a), provide an explanation of the issue(s), relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

IX. ASSOCIATED ENTITIES

*This section pertains to any entity(ies) that either controls or is controlled by the reporting entity.
(See definition of "associated entity" for additional information to complete this section.)*

9.0 Does the Reporting Entity have any Associated Entities?

☐ Yes ☐ No

Note: All questions in this section must be answered if the Reporting Entity is either:

An Organizational Unit; or

The entire Legal Business Entity which controls, or is controlled by, any other entity(ies).

If "No," SKIP THE REMAINDER OF SECTION IX AND PROCEED WITH SECTION X.

9.1 Within the past five (5) years, has any Associated Entity Official or Principal Owner been charged with a misdemeanor or felony, indicted, granted immunity, convicted of a crime or subject to a judgment for:

☐ Yes ☐ No

a) Any business-related activity; or

b) Any crime, whether or not business-related, the underlying conduct of which was related to truthfulness?

If "Yes," provide an explanation of the issue(s), the individual involved, his/her title and role in the Associated Entity, his/her relationship to the Reporting Entity, relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s).

9.2 Does any Associated Entity have any currently undischarged federal, New York State, New York City or New York local government liens or judgments (not including UCC filings) over \$50,000?

☐ Yes ☐ No

If "Yes," provide an explanation of the issue(s), identify the Associated Entity's name(s), EIN(s), primary business activity, relationship to the Reporting Entity, relevant dates, the Lien holder or Claimant's name(s), the amount of the lien(s) and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.

9.3 Within the past five (5) years, has any Associated Entity:

a) Been disqualified, suspended or debarred from any federal, New York State, New York City or other New York local government contracting process?

☐ Yes ☐ No

b) Been denied a contract award or had a bid rejected based upon a non-responsibility finding by any federal, New York State, New York City, or New York local government entity?

☐ Yes ☐ No

c) Been suspended, cancelled or terminated for cause (including for non-responsibility) on any federal, New York State, New York City or New York local government contract?

☐ Yes ☐ No

d) Been the subject of an investigation, whether open or closed, by any federal, New York State, New York City, or New York local government entity for a civil or criminal violation with a penalty in excess of \$500,000?

☐ Yes ☐ No

e) Been the subject of an indictment, grant of immunity, judgment, or conviction (including entering into a plea bargain) for conduct constituting a crime?

☐ Yes ☐ No

f) Been convicted of a criminal offense pursuant to any administrative and/or regulatory action taken by any federal, New York State, New York City, or New York local government entity?

☐ Yes ☐ No

g) Initiated or been the subject of any bankruptcy proceedings, whether or not closed, or is any bankruptcy proceeding pending?

☐ Yes ☐ No

For each "Yes," provide an explanation of the issue(s), identify the Associated Entity's name(s), EIN(s), primary business activity, relationship to the Reporting Entity, relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

X. FREEDOM OF INFORMATION LAW (FOIL)

10. Indicate whether any information supplied herein is believed to be exempt from disclosure under the Freedom of Information Law (FOIL). Note: A determination of whether such information is exempt from FOIL will be made at the time of any request for disclosure under FOIL.	<input type="checkbox"/> Yes <input type="checkbox"/> No
--	--

If “Yes,” indicate the question number(s) and explain the basis for the claim.

XI. AUTHORIZED CONTACT FOR THIS QUESTIONNAIRE

Name	Telephone ext.	Fax
Title	Email	

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

Certification

The undersigned: (1) recognizes that this questionnaire is submitted for the express purpose of assisting New York State government entities (including the Office of the State Comptroller (OSC)) in making responsibility determinations regarding award or approval of a contract or subcontract and that such government entities will rely on information disclosed in the questionnaire in making responsibility determinations; (2) acknowledges that the New York State government entities and OSC may, in their discretion, by means which they may choose, verify the truth and accuracy of all statements made herein; and (3) acknowledges that intentional submission of false or misleading information may result in criminal penalties under State and/or Federal Law, as well as a finding of non-responsibility, contract suspension or contract termination.

The undersigned certifies that he/she:

- is knowledgeable about the submitting Business Entity's business and operations;
- has read and understands all of the questions contained in the questionnaire;
- has not altered the content of the questionnaire in any manner;
- has reviewed and/or supplied full and complete responses to each question;
- to the best of his/her knowledge, information and belief, confirms that the Business Entity's responses are true, accurate and complete, including all attachments, if applicable;
- understands that New York State government entities will rely on the information disclosed in the questionnaire when entering into a contract with the Business Entity; and
- is under an obligation to update the information provided herein to include any material changes to the Business Entity's responses at the time of bid/proposal submission through the contract award notification, and may be required to update the information at the request of the New York State government entities or OSC prior to the award and/or approval of a contract, or during the term of the contract.

Signature of Owner/Official _____

Printed Name of Signatory _____

Title _____

Name of Business _____

Address _____

City, State, Zip _____

Sworn to before me this _____ day of _____, 20____;

Notary Public



PROSPECTIVE BIDDERS NOTICE MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE REQUIREMENTS: COMMODITY AND SERVICE CONTRACTS

To Prospective Bidders:

Consistent with the State University of New York (SUNY) 's commitment and in accordance with Article 15-A of the New York State Executive Law, contractors are required to ensure that good faith efforts are made to include meaningful participation by Minority and Women-Owned Business Enterprises (MWBE). These requirements apply to all SUNY commodity and service contracts in excess of \$25,000.

Bidders must submit MWBE documentation with all of the bids or proposals for commodities and services contracts when MWBE goals apply. The MWBE forms identified below shall be submitted by all bidders.

- a. MWBE Utilization Plan ([7557-107](#))
- b. MWBE-EEO Staffing Plan ([7557-108](#))
- c. MWBE-EEO Policy ([7557-104](#)) or the vendor/contractor's own EEO Policy Statement

If the Bidder's MWBE participation rate shown on its MWBE Utilization Plan is below 30%, the campus MWBE Program Coordinator will provide a written notice of deficiency of the Utilization Plan within twenty (20) business days of its submission to the contractor, as required under 5 NYCRR §142.4.

The notice will include but not be limited to the following:

- a. A list of NYS certified MWBEs that the contractor could potentially use within the contract scope of work;
- b. The name of any MWBE which is not acceptable for the purpose of complying with the MWBE participation goals; and
- c. Any other information which the MWBE Program Coordinator determines to be relevant to develop an approvable MWBE Utilization Plan.

The contractor shall respond to the notice of deficiency by submitting a revised MWBE Utilization Plan within seven (7) business days, as required by 5 NYCRR Part §142.6 (e) to the MWBE Program Coordinator.

If the deficiency is not corrected and the MWBE participation rate on the MWBE Utilization Plan is still below 30%, the contractor should request a waiver.

The Waiver Request Form submitted by the contractor will include, but not be limited to, the following:

- a. A request for partial or total waiver of MWBE goals as required by 5 NYCRR Part §142.6 (f) on Request for Waiver ([Form 7557-114](#)) provided by the University-wide Program Office.
- b. Copy of the deficient Utilization Plan.
- c. Work Scope of this contract. If there are subcontracting opportunities, please provide documentation d, e, and f.
- d. Screenshot of searching results for available MWBEs in [NYS M/WBE Directory](#).
- e. Copy of email messages containing the request for quote along with the responses from MWBEs.
- f. Forms recommended to obtain information on MWBE vendor solicitation efforts are:
[7557-101](#) – MWBE Contractor Solicitation Letter
[7557-102](#) – MWBE Participation Quote
[7557-103](#) – MWBE Contractor Unavailability Certification

Please submit the above documentations by mail, fax, or email:

SUNY PURCHASE COLLEGE
LULA CURANOVIC, CAMPUS MWBE PROGRAM COORDINATOR
735 ANDERSON HILL ROAD, PURCHASE, NY 10577-1402
Fax: 914-251-6075
Tel: 914-251- 6071
Email: LULA CURANOVIC

- OR -

SUNY PURCHASE COLLEGE
ELIZABETH PLEVA, DIRECTOR, PROCUREMENT & ACCOUNTS PAYABLE
735 ANDERSON HILL ROAD, PURCHASE, NY 10577-1402
Fax: 914-251-6075
Tel: 914-251- 6070
Email: LULA CURANOVIC

Please submit the above documentation to the University-wide MWBE Program Office:

SUNY System Administration at State University Plaza,
Office of Diversity, Equity and Inclusion
University-wide MWBE Program
Albany, NY 12246
Fax: (518)-320-1548
Tel: (518)-320-1452
Email: MWBEProgram@suny.edu

Information regarding this legislation may be found at: [Participation by Minority Group Members and Women \(MWBEs\) with Respect to State University of New York Contracts](#) on the [State University of New York](#) web site.

STATE UNIVERSITY OF NEW YORK

MWBE UTILIZATION PLAN INSTRUCTIONS

[FOR ALL CONTRACT TYPES]

A letter of explanation and documentation of efforts should accompany any MBE/WBE Utilization Plan that falls short of the stated goals. Without an approved MBE/WBE Utilization Plan, SUNY's Notice of Award and Contract may be withheld.

If you have questions or need assistance related to the SUNY's Minority and Women's Business requirements call the University-wide MWBE Program Office at 518-320-1189 or email MWBEprogram@suny.edu.

1. The three low bidding contractors ("Contractor") are required to submit a Utilization Plan (107) to the MWBE Program Coordinator within seven (7) calendar days after the opening of bids for construction contracts exceeding \$100,000.
2. The MWBE Program Coordinator is required to submit the mandatory MWBE documentation to the University-wide MWBE Program Office web based contract management system for commodity, service and construction related consultant service contracts exceeding \$25,000 and for construction projects exceeding \$100,000 upon contract execution.
3. The MBE and WBE goals are separate and not to be treated as one combined goal.
4. The MBE and WBE firms included are businesses the bidder *seriously expects* to include in the project activity.
5. The contractor reasonably commits to the dollar values included in the plan for participation by MBE and WBE subcontractors and suppliers.
6. MBE and WBE firms **must be certified** by the New York State Department of Economic Development, Division of Minority and Women Business Development. A directory of certified minority and women-owned business enterprises is available on the internet at <https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>.
7. Contractors utilizing MWBE firms for supplies/materials/equipment whose NYS certification profile designates them as Broker will receive an MWBE utilization credit for the actual monetary value of the broker fees or the actual markup percentage of the items brokered.
8. MBE and WBE Participation:

The actual services provided by the MBE or WBE must be essential in the performance of the scope of work for the applicable contract. Utilization of a certified MBE or WBE as a conduit or pass through for participation credit is **strictly prohibited**. It is the discretion of University-wide MWBE Program to determine whether services are essential in the performance of the scope of work and offer a determination of the appropriateness of work allowed for lower tier subcontracting in accordance with practices generally accepted in the construction industry. The services the MBE or WBE will provide must be among those explicitly identified in the profile (codes) of firm as listed in the NYS Empire State Development Directory of Certified MWBEs. Firms submitted or who participate in the project outside of these conditions and without specific prior approval by SUNY will not be credited toward the MWBE Utilization Plan and goals for the contract.

9. Prior to submitting the Plan, the Contractors should confirm the following:
 - a. MBE and WBE firms are NYS certified;
 - b. MBE **or** WBE designation ~ Dual certified firms may be used as *either* but **not** both;
 - c. MBE and WBE firms are being used for item(s) within their certification product codes;
 - d. MBE and WBE firms will perform work for which they have been submitted; and
 - e. 2nd tier subcontractors and/or suppliers are noted as such and an MWBE Utilization credit shall be given for 60% of the total contract value of supply purchases or services rendered (for example, when an electrical subcontractor purchases from a 3rd party supplier an MWBE utilization credit will be given for 60% of the total contract value).

The prime Contractor is responsible for ensuring participation provided by subcontractors for 2nd and 3rd tier MBE and WBE participation.

Submission of a Utilization Plan which fails to meet or exceed each goal shall be accompanied by documentation of specific efforts undertaken both pre and post bid. The campus MWBE Program Coordinator will review and notify contractor of its assessment.

The University-wide MWBE Program Office in collaboration with the campus MWBE Program Coordinator will review the Utilization Plan and notify the contractor of any deficiencies and determine necessary actions to bring the Utilization Plan into compliance. The University-wide MWBE Program Office reserves the right to require the contractor to provide sufficient documentation of the efforts made in the development of the Plan. The documentation should meet the good faith efforts standard under 5 NYCRR Part §141.6, and demonstrate the contractor's commitment to providing opportunities for MBE and WBE firms in the development of the Utilization Plan.

A copy of the approved Utilization Plan will be provided to the contractor after issuance of Notice of Award.

MWBE FORM (107) INSTRUCTIONS

Requested information must be completed and submitted within seven (7) days after the bid opening.

Subcontractor Name & Address

Name & Address of each MBE/WBE subcontractor or supplier

MBE or WBE

Minority (MBE) or Women (WBE) Designation

Federal ID

Provide accurate Federal ID number of each MBE/WBE subcontractor or supplier

Dollar Value of Subcontract or Purchase Order

This is the total value of the signed subcontract. If this value is different from the amount in the approved MBE/WBE utilization plan, an explanation should be provided.

Description of Work or Supplies

Brief description of work performed or supplies provided by the MBE/WBE subcontractor or supplier

Schedule

This is the anticipated start and completion dates for each MBE/WBE subcontractor or supplier.
Do not include the construction schedule for the life of the entire project.

Signature

To be signed by an Officer of the Company

- ▶ The information included on the form is subject to verification by the campus MWBE Program Coordinator.
- ▶ The campus MWBE Program Coordinator must be notified prior to changes made to the approved MBE/WBE Utilization Plan.

Questions regarding this form should **first** be directed to the [campus MWBE Program Coordinator](#) (click the link and be directed to the SUNY MWBE Campus Contacts directory on the University-wide MWBE web site).

Questions regarding this form should be directed to the University-wide MWBE Program Office at (518) 320-1189 or via e-mail: MWBEprogram@suny.edu.

Submit To:

State University of New York
Office of Diversity, Equity and Inclusion University-wide MWBE Program
353 Broadway
Albany, NY 12246
Or MWBEProgram@suny.edu

**MINORITY AND WOMEN'S BUSINESS - EQUAL EMPLOYMENT
OPPORTUNITY PROGRAM POLICY STATEMENT**

Policy Statement

The _____ commits to carrying out the intent of the New York State
(Name of Campus, Consultant, Contractor)
Executive Law, Article 15-A which assures the meaningful participation of minority and
women's business enterprises in contracting and the meaningful participation of minorities and
women in the workforce on activities financed by public funds.

Minority Business Officer

_____ is designated as the Minority Business Enterprise Officer
(Name of Designated Officer)
responsible for administering the Minority and Women's Business-Equal Employment
Opportunity (M/WBE-EEO) program.

Phone _____

Email _____

M/WBE Contract Goals

_____ % Minority Business Enterprise Participation

_____ % Women's Business Enterprise Participation

EEO Contract Goals

10% Minority Labor Force Participation

10% Female Labor Force Participation

(Authorized Representative)

Title: _____

Date: _____



UNIVERSITY-WIDE MWBE PROGRAM UTILIZATION PLAN

SUNY Project No. _____

Contractor: _____

Address: _____

Phone Number: _____

Bid Date: [Click here to enter a date.](#)

Primary Contact: _____

City: _____ State: _____ Zip Code: _____

Fax Number: _____ E-Mail: _____

Agreement/Contract Value: _____

GOALS: MBE _____%

WBE _____%

Campus: _____

SUBCONTRACTOR	FEDERAL ID #	DOLLAR VALUE OF CONTRACT OR PURCHASE ORDER	DESCRIPTION OF WORK OR SUPPLIES	SUBCONTRACTOR/SUPPLIER SCHEDULE	
				START DATE	COMPLETION DATE
Company Name: _____ Street Address: _____ Contact Name: _____ E-Mail Address: _____ Check One: MBE <input type="checkbox"/> WBE <input type="checkbox"/>				Click here to enter a date.	Click here to enter a date.
Company Name: _____ Street Address: _____ Contact Name: _____ E-Mail Address: _____ Check One: MBE <input type="checkbox"/> WBE <input type="checkbox"/>				Click here to enter a date.	Click here to enter a date.
Company Name: _____ Street Address: _____ Contact Name: _____ E-Mail Address: _____ Check One: MBE <input type="checkbox"/> WBE <input type="checkbox"/>				Click here to enter a date.	Click here to enter a date.
Company Name: _____ Street Address: _____ Contact Name: _____ E-Mail Address: _____ Check One: MBE <input type="checkbox"/> WBE <input type="checkbox"/>				Click here to enter a date.	Click here to enter a date.

In accordance with the SUNY Contract Documents and Executive Law Article 15-A, my firm seriously expects to use the NYS certified MBE/WBE certified firms listed above. The Contractor shall immediately notify and request approval prior to any changes to this plan from the University-wide MWBE Program Office. ☐

NAME: _____ TITLE: _____ COMPANY OFFICER'S SIGNATURE _____ DATE: [Click here to enter a date.](#)

APPROVED: ☐ DEFICIENT: ☐ MWBE PROGRAM COORDINATOR: _____ DATE: _____

EEO STAFFING PLAN

Instructions on page 2

Solicitation No.:	Reporting Entity:	Report includes Contractor's/Subcontractor's: <input type="checkbox"/> Work force to be utilized on this contract <input type="checkbox"/> Total work force
Offeror's Name:		<input type="checkbox"/> Offerer <input type="checkbox"/> Subcontractor Subcontractor's name _____
Offeror's Address:		

Enter the total number of employees for each classification in each of the EEO-Job Categories identified

EEO-Job Category	Total Work force	Work force by Gender		Work force by Race/Ethnic Identification													
		Total Male (M)	Total Female (F)	White (M) (F)		Black (M) (F)		Hispanic (M) (F)		Asian (M) (F)		Native American (M) (F)					
Officials/Administrators																	
Professionals																	
Technicians																	
Sales Workers																	
Office/Clerical																	
Craft Workers																	
Laborers																	
Service Workers																	
Temporary/Apprentices																	
Totals																	

PREPARED BY (Signature):	TELEPHONE NO.: EMAIL ADDRESS:	DATE:
NAME AND TITLE OF PREPARER (Print or Type):	Submit completed with bid or proposal	

General instructions: All Offerors and each subcontractor identified in the bid or proposal must complete an EEO Staffing Plan (ADMIEEO 100) and submit it as part of the bid or proposal package. For construction, except for contracts of \$100,000 or less, the three lowest bidders shall submit to the University for its approval an EEO Staffing Plan within seven (7) calendar days after the opening of bids. Where the work force to be utilized in the performance of the State contract can be separated out from the contractor's and/or subcontractor's total work force, the Offeror shall complete this form only for the anticipated work force to be utilized on the State contract. Where the work force to be utilized in the performance of the State contract cannot be separated out from the contractor's and/or subcontractor's total work force, the Offeror shall complete this form for the contractor's and/or subcontractor's total work force.

Instructions for completing:

1. Enter the Solicitation number that this report applies to along with the name and address of the Offeror.
2. Check off the appropriate box to indicate if the Offeror completing the report is the contractor or a subcontractor.
3. Check off the appropriate box to indicate work force to be utilized on the contract or the Offerors' total work force.
4. Enter the total work force by EEO job category.
5. Break down the anticipated total work force by gender and enter under the heading 'Work force by Gender'
6. Break down the anticipated total work force by race/ethnic identification and enter under the heading 'Work force by Race/Ethnic Identification'. Contact the MIWBE Permissible contact(s) for the solicitation if you have any questions.
7. Enter information on disabled or veterans included in the anticipated work force under the appropriate headings.
8. Enter the name, title, phone number and email address for the person completing the form. Sign and date the form in the designated boxes.

RACE/ETHNIC IDENTIFICATION

Race/ethnic designations as used by the Equal Employment Opportunity Commission do not denote scientific definitions of anthropological origins. For the purposes of this form, an employee may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. However, no person should be counted in more than one race/ethnic group. The race/ethnic categories for this survey are:

- **WHITE** (Not of Hispanic origin) All persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.
- **BLACK** a person, not of Hispanic origin, who has origins in any of the black racial groups of the original peoples of Africa.
- **HISPANIC** a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.
- **ASIAN & PACIFIC ISLANDER** a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands.
- **NATIVE INDIAN (NATIVE AMERICAN/ ALASKAN NATIVE)** a person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

OTHER CATEGORIES

- **DISABLED INDIVIDUAL** any person who:
 - has a physical or mental impairment that substantially limits one or more major life activity(ies)
 - has a record of such an impairment; or
 - is regarded as having such an impairment.
- **VIETNAM ERA VETERAN** a veteran who served at any time between and including January 1, 1963 and May 7, 1975.
- **GENDER** Male or Female

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

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

2. PROHIBITION AGAINST ASSIGNMENT. In accordance with Section 1 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article 5-A of the State Finance Law may be waived at the discretion of SUNY and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. SUNY retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with SUNY. The Contractor may, however, assign its right to receive payments without SUNY's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

3. COMPTROLLER'S APPROVAL. In accordance with Section 112 of the State Finance Law and Section 55 of the Education Law, if this contract exceeds \$250,000, or, if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$25,000, it shall not be valid, effective or binding upon the State, and the State shall bear no liability, until it has been approved by the State Comptroller and filed in his or her office, or the pertinent pre-audit review period has elapsed. However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.

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

5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment, nor subject any individual to harassment, because of age, race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status or because the individual has opposed any practices forbidden under the Human Rights Law or has filed a complaint, testified, or assisted in any proceeding under the Human Rights Law. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 20 of the Labor Law, then, in accordance with Section 2 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 2 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article of the Labor Law or a building service contract covered by Article thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 2, 200, if this is a public work contract covered by Article of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision -a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State--approved sums due and owing for work done upon the project.

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 1 -d of the State Finance Law, if this contract was awarded based upon the submission of competitive bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to SUNY a non-collusive bidding certification on Contractor's behalf.

8. INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law and Section 1 -h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1950 (50 USC App. Sections 2401 *et seq.*) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2 NYCRR § 105.4).

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

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

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

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

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

Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.

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

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

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

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

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

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

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

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

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

17. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as

refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

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

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

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

20. OMNIBUS PROCUREMENT ACT OF 1992.

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

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

NYS Department of Economic Development
Division for Small Business

Albany, NY 12245
Tel: 518-292-5100
Fax: 518-292-5884
email: opa@esd.ny.gov

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

NYS Department of Economic Development
Division of Minority and Women's Business Development
633 Third Avenue
New York, NY 10017
212-803-2414

email: mwbecertification@esd.ny.gov
<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>

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

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

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

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

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

21. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act of 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively, codified in State Finance Law § 165(6) and Public Authorities Law § 2879(5)) require that they be denied contracts which they would otherwise obtain.

NOTE: As of October 2019, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii.

22. COMPLIANCE WITH BREACH NOTIFICATION AND DATA SECURITY LAWS. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law § 899-aa; State Technology Law § 208) and commencing March 21, 2020 shall also comply with General Business Law § 899-bb.

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

24. PURCHASES OF APPAREL AND SPORTS EQUIPMENT. In accordance with State Finance Law Section 165(7), SUNY may determine that a bidder on a contract for the purchase of apparel or sports equipment is not a responsible bidder as defined in State Finance Law Section 163 based on (a) the labor standards applicable to the manufacture of the apparel or sports equipment, including employee compensation, working conditions, employee rights to form unions and the use of child labor; or (b) bidder's failure to provide information sufficient for SUNY to determine the labor conditions applicable to the manufacture of the apparel or sports equipment.

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

THE FOLLOWING PROVISIONS SHALL APPLY ONLY TO THOSE CONTRACTS TO WHICH A HOSPITAL OR OTHER HEALTH SERVICE FACILITY IS A PARTY

29. Notwithstanding any other provision in this contract, the hospital or other health service facility remains responsible for insuring that any service provided pursuant to this contract complies with all pertinent provisions of Federal, state and local statutes, rules and regulations. In the foregoing sentence, the word "service" shall be construed to refer to the health care service rendered by the hospital or other health service facility.

30. (a) In accordance with the 1980 Omnibus Reconciliation Act (Public Law 96-499), Contractor hereby agrees that until the expiration of four years after the furnishing of services under this agreement, Contractor shall make available upon written request to the Secretary of Health and Human Services, or upon request, to the Comptroller General of the United States or any of their duly authorized representatives, copies of this contract, books, documents and records of the Contractor that are necessary to certify the nature and extent of the costs hereunder.

(b) If Contractor carries out any of the duties of the contract hereunder, through a subcontract having a value or cost of \$10,000 or more over a twelve-month period, such subcontract shall contain a clause to the effect that, until the expiration of four years after the furnishing of such services pursuant to such subcontract, the subcontractor shall make available upon written request to the Secretary of Health and Human Services or upon request to the Comptroller General of the United States, or any of their duly authorized representatives, copies of the subcontract and books, documents and records of the subcontractor that are necessary to verify the nature and extent of the costs of such subcontract.

(c) The provisions of this section shall apply only to such contracts as are within the definition established by the Health Care Financing Administration, as may be amended or modified from time to time.

31. Hospital Retained Authority: Hospital Retained Authority: The Hospital retains direct, independent authority over the appointment and/or dismissal, in its sole discretion, of the facility's management level employees (including but not limited to, the Facility/Service Administrator/Director, the Medical Director, the Director of Nursing, the Chief Executive Officer, the Chief Financial Officer and the Chief Operating Officer) and all licensed or certified health care staff. The Hospital retains the right to adopt and approve, at its sole discretion, the facility's operating and capital budgets. The Hospital retains independent control over and physical possession of the facility's books and records. The Hospital retains independent control over and physical possession of the facility's operating policies and procedures. The Hospital retains full authority and responsibility for, and control over, the operations and management of the facility. The Hospital retains the right and authority to independently adopt, approve and enforce, in its sole discretion, policies affecting the facility's delivery of health care services. The Hospital retains the right to independently adopt, approve and enforce, at its sole discretion, the disposition of assets and authority to incur debts. The Hospital retains the right to approve, at its sole discretion, contracts for administrative services,

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

27. IRAN DIVESTMENT ACT. By entering into this contract, Contractor certifies in accordance with State Finance Law §165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at:

<https://ogs.ny.gov/list-entities-determined-be-non-responsive-biddersofferers-pursuant-nys-iran-divestment-act-2012>

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

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

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

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

management and/or clinical services. The Hospital retains the right to approve, at its sole discretion, any facility debt. The Hospital retains the right to approve, at its sole discretion, settlements of administrative proceeding or litigation to which the facility is a party. No powers specifically reserved to the Hospital may be delegated to, or shared by, the Contractor or any other person. In addition, if there is any disagreement between the parties to this Agreement regarding control between the Hospital and the Contractor, the terms of this Section shall control.

1. DEFINITIONS. The following terms shall be defined in accordance with Section 310 of the Executive Law:

STATE CONTRACT herein referred to as "State Contract", shall mean: (a) a written agreement or purchase order instrument, providing for a total expenditure in excess of twenty-five thousand dollars (\$25,000.00), whereby the State University of New York ("University") is committed to expend or does expend funds in return for labor, services including but not limited to legal, financial and other professional services, supplies, equipment, materials or a combination of the foregoing, to be performed for, or rendered or furnished to the University; (b) a written agreement in excess of one hundred thousand dollars (\$100,000.00) whereby the University is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; (c) and (d) a written agreement in excess of one hundred thousand dollars (\$100,000.00) whereby the University as an owner of a state assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project.

SUBCONTRACT herein referred to as "Subcontract", shall mean any agreement for a total expenditure in excess of \$25,000 providing for services, including non-staffing expenditures, supplies or materials of any kind between a State agency and a prime contractor, in which a portion of the prime contractor's obligation under the State contract is undertaken or assumed by a business enterprise not controlled by the prime contractor.

WOMEN-OWNED BUSINESS ENTERPRISE herein referred to as "WBE", shall mean a business enterprise, including a sole proprietorship, partnership or corporation that is: (a) at least fifty-one percent (51%) owned by one or more United States citizens or permanent resident aliens who are women; (b) an enterprise in which the ownership interest of such women is real, substantial and continuing; (c) an enterprise in which such women ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise; (d) an enterprise authorized to do business in this state and independently owned and operated; (e) an enterprise owned by an individual or individuals, whose ownership, control and operation are relied upon for certification, with a personal net worth that does not exceed fifteen million dollars (\$15,000,000), as adjusted annually on the first of January for inflation according to the consumer price index of the previous year; and (f) an enterprise that is a small business pursuant to subdivision twenty of this section.

A firm owned by a minority group member who is also a woman may be certified as a minority-owned business enterprise, a women-owned business enterprise, or both, and may be counted towards either a minority-owned business enterprise goal or a women-owned business enterprise goal, in regard to any Contract or any goal, set by an agency or authority, but such participation may not be counted towards both such goals. Such an enterprise's participation in a Contract may not be divided between the minority-owned business enterprise goal and the women-owned business enterprise goal.

MINORITY-OWNED BUSINESS ENTERPRISE herein referred to as

"MBE", shall mean a business enterprise, including a sole proprietorship, partnership or corporation that is: (a) at least fifty-one percent (51%) owned by one or more minority group members; (b) an enterprise in which such minority ownership is real, substantial and continuing; (c) an enterprise in which such minority ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise; (d) an enterprise authorized to do business in this state and independently owned and operated; (e) an enterprise owned by an individual or individuals, whose ownership, control and operation are relied upon for certification, with a personal net worth that does not exceed fifteen million dollars (\$15,000,000.00), as adjusted annually on the first of January for inflation according to the consumer price index of the previous year; and (f) an enterprise that is a small business pursuant to subdivision twenty of this section.

MINORITY GROUP MEMBER shall mean a United States citizen or permanent resident alien who is and can demonstrate membership in one of the following groups: (a) Black persons having origins in any of the Black African racial groups; (b) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American of either Indian or Hispanic origin, regardless of race; (c) Native American or Alaskan native persons having origins in any of the original peoples of North America. (d) Asian and Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian Subcontinent or Pacific Islands.

CERTIFIED ENTERPRISE OR BUSINESS shall mean a business verified as a minority or women-owned business enterprise pursuant to section 314 of the Executive Law. A business enterprise which has been

approved by the New York Division of Minority & Women Business Development ("DMWBD") for minority or women-owned enterprise status subsequent to verification that the business enterprise is owned, operated, and controlled by minority group members or women, and that also meets the financial requirements set forth in the regulations.

2. TERMS. The parties to the attached State Contract agree to be bound by the following provisions which are made a part hereof (the word "Contractor" herein refers to any party other than the University:

1(a) Contractor and its Subcontractors shall undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. For these purposes, affirmative action shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.

(b) Prior to the award of a State Contract, the Contractor shall submit an equal employment opportunity (EEO) policy statement to the University within the time frame established by the University.

(c) As part of the Contractor's EEO policy statement, the Contractor, as a precondition to entering into a valid and binding State Contract, shall agree to the following in the performance of the State Contract: (i) The Contractor will not discriminate against any employee or applicant for employment, 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 shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State Contracts; (ii) The Contractor shall state in all solicitations or

advertisements for employees that, in the performance of the State Contract, all qualified applicants will be afforded equal employment opportunities without discrimination; (iii) At the request of the University the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate, and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.

(d) Form 108 - Staffing Plan To ensure compliance with this Section, the Contractor shall submit a staffing plan to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. Contractors shall complete the Staffing plan form and submit it as part of their bid or proposal or within a reasonable time, but no later than the time of award of the contract.

(e) Form 112 - Workforce Employment Utilization Report ("Workforce Report")

(i) Once a contract has been awarded and during the term of Contract, Contractor is responsible for updating and providing notice to SUNY of any changes to the previously submitted Staffing Plan. This information is to be submitted on a quarterly basis during the term of the contract to report the actual workforce utilized in the performance of the contract by the specified categories listed including ethnic background, gender, and Federal occupational categories. The Workforce Report must be submitted to report this information.

(ii) Separate forms shall be completed by Contractor and any subcontractor performing work on the Contract.

(iii) In limited instances, Contractor may not be able to separate out the

workforce utilized in the performance of the Contract from Contractor's and/or subcontractor's total workforce. When a separation can be made, Contractor shall submit the Workforce Report and indicate that the information provided related to the actual workforce utilized on the Contract. When the workforce to be utilized on the contract cannot be separated out from Contractor's and/or subcontractor's total workforce, Contractor shall submit the Workforce Report and indicate that the information provided is Contractor's total workforce during the subject time frame, not limited to work specifically under the contract.

(f) Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. Contractor and subcontractors shall 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.

(g) The Contractor shall include the provisions of this section in every Subcontract in such a manner that the requirements of the provisions will be binding upon each Subcontractor as to work in connection with the State Contract, including the requirement that Subcontractors shall undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and, when requested, provide to the Contractor information on the ethnic background, gender, and Federal occupational categories of the

employees to be utilized on the State Contract.

(h) To ensure compliance with the requirements of this paragraph, the University shall inquire of a Contractor whether the work force to be utilized in the performance of the State Contract can be separated out from the Contractor's and/or Subcontractors' total work force and where the work of the State Contract is to be performed. For Contractors who are unable to separate the portion of their work force which will be utilized for the performance of this State Contract, Contractor shall provide reports describing its entire work force by the specified ethnic background, gender, and Federal Occupational Categories, or other appropriate categories which the agency may specify.

(i) The University may require the Contractor and any Subcontractor to submit compliance reports, pursuant to the regulations relating to their operations and implementation of their affirmative action or equal employment opportunity program in effect as of the date the State Contract is executed.

(j) If a Contractor or Subcontractor does not have an existing affirmative action program, the University may provide to the Contractor or Subcontractor a model plan of an affirmative action program. Upon request, the Director of DMWBD shall provide a contracting agency with a model plan of an affirmative action program.

(k) Upon request, DMWBD shall provide the University with information on specific recruitment sources for minority group members and woman, and contracting agencies shall make such information available to Contractors

3. Contractor must provide the names, addresses and federal identification numbers of certified minority- and women-owned business enterprises which the Contractor intends to use to perform the State Contract and a description of the Contract scope of work which the Contractor intends to structure to

increase the participation by Certified minority- and/or women-owned business enterprises on the State Contract, and the estimated or, if known, actual dollar amounts to be paid to and performance dates of each component of a State Contract which the Contractor intends to be performed by a certified minority- or woman-owned business enterprise. In the event the Contractor responding to University solicitation is joint venture, teaming agreement, or other similar arrangement that includes a minority- and women owned business enterprise, the Contractor must submit for review and approval: i. the name, address, telephone number and federal identification of each partner or party to the agreement; ii. the federal identification number of the joint venture or entity established to respond to the solicitation, if applicable; iii. A copy of the joint venture, teaming or other similar arrangement which describes the percentage of interest owned by each party to the agreement and the value added by each party; iv. A copy of the mentor-protégé agreement between the parties, if applicable, and if not described in the joint venture, teaming agreement, or other similar arrangement.

4. PARTICIPATION BY MINORITY GROUP MEMBERS AND WOMEN. The University shall determine whether Contractor has made conscientious and active efforts to employ and utilize minority group members and women to perform this State Contract based upon an analysis of the following factors:

(a) Whether Contractor established and maintained a current list of recruitment sources for minority group members and women, and whether Contractor provided written notification to such recruitment sources that contractor had employment opportunities at the time such opportunities became available.

(b) Whether Contractor sent letters to recruiting sources, labor unions, or authorized representatives of workers with which contractor has

a collective bargaining or other agreement or understanding requesting assistance in locating minority group members and women for employment.

(c) Whether Contractor disseminated its EEO policy by including it in any advertising in the news media, and in particular, in minority and women news media.

(d) Whether Contractor has attempted to provide information concerning its EEO policy to Subcontractors with which it does business or had anticipated doing business.

(e) Whether internal procedures exist for, at a minimum, annual dissemination of the EEO policy to employees, specifically to employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions. Such dissemination may occur through distribution of employee policy manuals and handbooks, annual reports, staff meetings and public postings.

(f) Whether Contractor encourages and utilizes minority group members and women employees to assist in recruiting other employees.

(g) Whether Contractor has apprentice training programs approved by the N.Y.S. Department of Labor which provides for training and hiring of minority group members and women.

(h) Whether the terms of this section have been incorporated into each Subcontract which is entered into by the Contractor.

5. PARTICIPATION BY MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES. Based upon an analysis of the following factors, the University shall determine whether Contractor has made good faith efforts to provide for meaningful participation by minority-owned and women-owned business enterprises which have been certified by DMWBD:

(a) Whether Contractor has actively solicited bids for Subcontracts from qualified

M/WBEs, including those firms listed on the Directory of Certified Minority and Women-Owned Business Enterprises, and has documented its good faith efforts towards meeting minority and women owned business enterprise utilization plans by providing, copies of solicitations, copies of any advertisements for participation by certified minority- and women-owned business enterprises timely published in appropriate general circulation, trade and minority- or women-oriented publications, together with the listing(s) and date(s) of the publications of such advertisements; dates of attendance at any pre-bid, pre-award, or other meetings, if any, scheduled by the University, with certified minority- and women-owned business enterprises, and the reasons why any such firm was not selected to participate on the project.

(b) Whether Contractor has attempted to make project plans and specifications available to firms who are not members of associations with plan rooms and reduce fees for firms who are disadvantaged.

(c) Whether Contractor has utilized the services of organizations which provide technical assistance in connection with M/WBE participation.

(d) Whether Contractor has structured its Subcontracts so that opportunities exist to complete smaller portions of work.

(e) Whether Contractor has encouraged the formation of joint ventures, partnerships, or other similar arrangements among Subcontractors.

(f) Whether Contractor has requested the services of the Department of Economic Development (DED) to assist Subcontractors' efforts to satisfy bonding requirement.

(g) Whether Contractor has made progress payments promptly to its Subcontractors.

(h) Whether the terms of this section have been incorporated into each Subcontract which is entered into by the Contractor. It shall be the responsibility of Contractor to

ensure compliance by every Subcontractor with these provisions.

6. MWBE Utilization Plan.

(a) The Contractor represents and warrants that Contractor has submitted an MWBE Utilization Plan prior to the execution of the contract.

(b) MWBE Utilization Plan (Form 7557-107).

Contractors are required to submit a Utilization Plan on Form 7557-107 with their bid or proposal. Complete the following steps to prepare the Utilization Plan:

- i. list NYS Certified minority- and women-owned business enterprises which the Contractor intends to use to perform the State contract;
- ii. insert a description of the contract scope of work which the Contractor intends to structure to increase the participation by NYS Certified minority- and women-owned enterprises on the State contract;
- iii. insert the estimated or, if known, actual dollar amounts to be paid to and performance dates of each component of a State contract which the Contractor intends to be performed by a NYS Certified minority- or women-owned business; and

(c) Any modifications or changes to the agreed participation by NYS Certified MWBEs after the Contract Award and during the term of the contract must be reported on a revised MWBE Utilization Plan and submitted to the SUNY University-wide MWBE Program Office.

(d) The University will review the MWBE Utilization Plan and will issue the Contractor a written notice of acceptance or deficiency within twenty (20) day of its receipt. A notice of deficiency shall include the:

- i. list NYS Certified minority- and women-owned business enterprises which the

Contractor intends to use to perform the State contract; name of any MWBE which is not acceptable for the purpose of complying with the MWBE participation goals;

- ii. reasons why it is not an acceptable element of the Contract scope of work which the MWBE Program Office has determined can be reasonably structured by the Contractor to increase the likelihood of participation in the Contract by MWBEs; and
- iv. other information which the MWBE Program Office determines to be relevant to the MWBE Utilization Plan.

(e) The Contractor shall respond to the notice of deficiency within seven (7) business days of receipt by submitting to the University a written remedy in response to the notice of deficiency.

- i. If the written remedy that is submitted is not timely or is found to be inadequate, the University-wide MWBE Program Office shall notify the Contractor and direct the Contractor to submit, within five (5) business days, a request for partial or total waiver of MWBE participation goals on forms provided by the University-wide MWBE Program Office.

- ii. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.

(f) The University may disqualify a Contractor as being non-responsive under the following circumstances:

- i. If a Contractor fails to submit a MWBE Utilization Plan;
- ii. If a Contractor fails to submit a written remedy to a notice of deficiency in a MWBE Utilization Plan;
- iii. If a Contractor fails to submit a request for waiver; or

iv. If the MWBE Program Office determines that the Contractor has failed to document Good Faith Efforts.

(g) Contractor agrees to use such MWBE Utilization Plan for the performance of MWBEs on the Contract pursuant to the prescribed MWBE goals set forth in Section III-A of this Appendix.

(h) Contractor further agrees that a failure to submit and/or use such MWBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, SUNY shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsiveness.

7. Waivers.

(a) For Waiver Requests Contractor should use (Form 7557-114) – Waiver Request.

(b) If the Contractor, after making good faith efforts, is unable to comply with MWBE goals, the Contractor may submit a Request for Waiver form documenting good faith efforts by the Contractor to meet such goals. If the documentation included with the waiver request is complete the University shall evaluate the request and issue a written notice of acceptance or denial within twenty (20) days of receipt.

(c) If University, upon review of the MWBE Utilization Plan and updated Quarterly MWBE Contractor Compliance Reports determines that Contractor is failing or refusing to comply with the Contract goals and no waiver has been issued in regards to such non-compliance, the University may issue a notice of deficiency to the Contractor. The contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

. MWBE Contractor Compliance Report.

Contractor is required to submit an MWBE Contractor Compliance Report (Form 7557-112) to the University by the 5th day following each end of quarter over the term of the Contract documenting the progress made towards achievement of the MWBE goals of the Contract. Compliance Reports for construction contracts (Form 7557-110) must be submitted on a monthly basis.

. GOALS. (a) GOALS FOR MINORITY AND WOMEN WORK FORCE PARTICIPATION.

(i) The University shall include relevant work force availability data, which is provided by the DMWBD, in all documents which solicit bids for State Contracts and shall make efforts to assist Contractors in utilizing such data to determine expected levels of participation for minority group members and women on State Contracts.

(ii) Contractor shall exert good faith efforts to achieve such goals for minority and women's participation. To successfully achieve such goals, the employment of minority group members and women by Contractor must be substantially uniform during the entire term of this State Contract. In addition, Contractor should not participate in the transfer of employees from one employer or project to another for the sole purpose of achieving goals for minority and women's participation.

(b) GOALS FOR MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES PARTICIPATION.

For all State Contracts in excess of \$25,000.00 whereby the University is committed to expend or does expend funds in return for labor, services including but not limited to legal, financial and other professional services, supplies, equipment, materials or an combination of the foregoing or all State Contracts in excess of \$100,000.00 whereby the University is committed to expend or does expend funds for the acquisition,

construction, demolition, replacement, major repair or renovation of real property and improvements thereon, Contractor shall exert good faith efforts to achieve a participation goal of 25 percent (25%) for Certified Minority-Owned Business Enterprises and 5 percent (5%) for Certified Women-Owned Business Enterprises.

10. ENFORCEMENT. The University will be responsible for enforcement of each Contractor's compliance with these provisions. Contractor, and each Subcontractor, shall permit the University access to its books, records and accounts for the purpose of investigating and determining whether Contractor or Subcontractor is in compliance with the requirements of Article 15-A of the Executive Law. If the University determines that a Contractor or Subcontractor may not be in compliance with these provisions, the University may make every reasonable effort to resolve the issue and assist the Contractor or Subcontractor in its efforts to comply with these provisions. If the University is unable to resolve the issue of noncompliance, the University may file a complaint with the DMWBD.

Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the withholding of funds or such other actions, remedies or enforcement proceedings as allowed by the Contract.

11. DAMAGES FOR NON COMPLIANCE.

Where the University determines that Contractor is not in compliance with the requirements of the Contract and Contractor refuses to comply with such requirements, or if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, Contractor shall be obligated to pay

liquidated damages to the University. Such liquidated damages shall be calculated as an amount equaling the difference between:

- a. All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and
- b. All sums actually paid to MWBEs for work performed or materials supplied under the Contract.

In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by the University, Contractor shall pay such liquidated damages to the University within sixty (60) days after such damages are assessed, unless prior to the expiration of such sixtieth day, the Contractor has filed a complaint with the Director of the

Division of Minority and Woman Business Development pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the liquidated damages shall be payable if Director renders a decision in favor of the University.