Request for Proposal

C002912

Executive Search Firm

President – Downstate Medical University

February 5, 2016

Proposals Due:
February 29, 2016 by 3:00 PM EST
<table>
<thead>
<tr>
<th>RFP Number</th>
<th>RFP Title</th>
<th>RFP Release Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>C002912</td>
<td>Exec Search Firm – President - Downstate</td>
<td>February 5, 2016</td>
</tr>
</tbody>
</table>

**Key Events**

<table>
<thead>
<tr>
<th>Questions due</th>
<th>N/A</th>
</tr>
</thead>
<tbody>
<tr>
<td>Answers provided on approximately</td>
<td>N/A</td>
</tr>
<tr>
<td>Pre-Proposal Conference (if applicable)</td>
<td>N/A</td>
</tr>
<tr>
<td>Site Visit (if applicable)</td>
<td>N/A</td>
</tr>
<tr>
<td>Notice of Intent to Bid Due (if applicable)</td>
<td>N/A</td>
</tr>
<tr>
<td>Proposal Due Date and Time</td>
<td>February 29, 2016 by 3:00 PM EST</td>
</tr>
<tr>
<td>Presentation, Demonstration, Interview (if applicable)</td>
<td>TBA</td>
</tr>
<tr>
<td>Notification of Award</td>
<td>TBA</td>
</tr>
<tr>
<td>Anticipated Contract Start Date</td>
<td>April 2016</td>
</tr>
<tr>
<td>Length of Contract</td>
<td>1 Year</td>
</tr>
</tbody>
</table>

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.

**Contact Information**

<table>
<thead>
<tr>
<th>Primary Contact</th>
<th>Secondary Contact</th>
<th>Other Contact</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jordan Lohre</td>
<td>Kathleen Rowe</td>
<td>none</td>
</tr>
<tr>
<td>Senior Contract Manager</td>
<td>Administrative Assistant</td>
<td>State University of New York</td>
</tr>
<tr>
<td>State University of New York</td>
<td><a href="mailto:kathleen.rowe@suny.edu">kathleen.rowe@suny.edu</a></td>
<td><a href="mailto:kathleen.rowe@suny.edu">kathleen.rowe@suny.edu</a></td>
</tr>
<tr>
<td><a href="mailto:jordan.lohre@suny.edu">jordan.lohre@suny.edu</a></td>
<td>518-320-1341</td>
<td>518-320-1341</td>
</tr>
</tbody>
</table>

**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 and shall continue until the approval of a contract by SUNY, or if applicable, by the Office of the State Comptroller. Therefore, all communications regarding this procurement must be handled through the State University of New York’s designated contacts only.

**Bidder Information**

<table>
<thead>
<tr>
<th>Legal Business Name of Company Bidding</th>
<th>Bidder’s Federal Tax Identification Number</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>D/B/A – Doing Business As (if applicable)</th>
<th>NYS Vendor ID Number</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Street Address</th>
<th>City/State</th>
<th>Zip Code</th>
</tr>
</thead>
</table>

If applicable, place an “x” in the appropriate box: (check all that apply)

- Small Business (if checked, provide number of employees ____)
- Disabled Veteran Owned Business
- Minority Owned Business (NYS Certified)
- Women Owned Business (NYS Certified)

If you are not bidding, place an “x” in the box and return this page only. ☐ We are unable to bid at this time because:

<table>
<thead>
<tr>
<th>Bidders Signature</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>Printed Name and Name of Firm</td>
<td>Date</td>
</tr>
</tbody>
</table>

By signing this form, Bidder acknowledges its understanding of the RFP instructions herein.
Section 1: OVERVIEW

SUNY Downstate Medical University (Downstate) wishes to recruit and select a new President for the institution. SUNY System Administration (University) seeks proposals from executive search firms capable of assisting the University and the search committee with this process.

SUNY is the largest comprehensive university system in the United States, educating more than 467,000 students in more than 7,500 degree and certificate programs on 64 campuses with nearly 3 million alumni around the globe. SUNY is committed to reduce administrative costs, maximize efficiencies and move resources toward academics and student services.

Section 2: PROJECT SPECIFICATIONS

1. Introduction

As one of the nation’s leading urban medical centers, SUNY Downstate Medical University is a vital part of the Brooklyn community—one of its largest employers and a critical source for education, research, and health care. Downstate’s College of Medicine (the 15th oldest in the country), College of Health Related Professions, College of Nursing, School of Graduate Studies, and School of Public Health enroll over 1,800 students and offer a broad professional education that prepares students for practice or health related careers in any location or community.

2. Background Information

SUNY Downstate Medical University is the sole academic medical center located in the heart of the nation’s largest, most ethnically diverse, working class, urban communities. Downstate’s five schools and colleges train the next generation of physicians, nurses, health care professionals and researchers serving its local community, the City of New York, and New York State. Through the college’s research facilities, its mission is to advance the medical sciences to the community at large. Through its hospital and educational affiliates, its mission is to serve the health care needs of the 2.6 million residents of Brooklyn and Staten Island. Downstate aspires to have a staff that is representative of the diverse ethnic populations we serve and to become more efficient and cost effective in achieving its mission.

SUNY Downstate serves a distinct and diverse population of students. Many students are from Brooklyn or the New York City area, and may be the first in their families to attend college. Many are from economically disadvantaged backgrounds, and many are immigrants or children of immigrants just getting their start in American society. Over a third of Downstate’s students are from underrepresented minority groups.

As the teaching hospital for Brooklyn’s academic medical center, SUNY Downstate’s University Hospital of Brooklyn offers a complete range of medical services, including some unavailable elsewhere in the borough. Downstate is a regional center for cardiac care, neonatal and high risk infant services, pediatric dialysis, and transplantation services. Downstate maintains a commitment to community service. A remarkable variety of community projects involves nearly every department or program on campus and target health problems from HIV and AIDS to hypertension, diabetes, asthma, and pre- and postnatal care. The Arthur Ashe Health Science Academy provides science enrichment classes to talented local high school students. And through such programs as the Community Service Program — which matches students with community agencies on health education projects — and the Center for Health Promotion and Wellness, which each year sponsor or participate in over hundreds of health fairs, educational seminars, and special events, Downstate has an unparalleled outreach record.
Downstate’s clinical and basic researchers have, in past years, attracted over $50 million annually in research funding. Many of the research projects study health concerns that directly affect Brooklyn’s communities, while others focus on basic research. In 1998, the late Distinguished Professor Emeritus Robert F. Furchgott, PhD, won the 1998 Nobel Prize in Medicine or Physiology for his work on nitric oxide—at the time the only active SUNY faculty member to have done Nobel prize-winning work while at SUNY. The first human MRI images were produced on the Downstate campus in the laboratory of Dr. Raymond Damadian, an achievement that revolutionized medical diagnosis. Dr. Eli Friedman is the inventor of a portable dialysis machine. And Dr. Henri Begleiter has received more than $80 million dollars from the National Institutes of Health for his groundbreaking work on the genetics of alcoholism.

Through the Advanced Biotechnology Incubator and Park, Downstate spurs the creation of technology companies and medical innovations. The cornerstone of a Brooklyn-wide effort to attract biotechnology research and development, the Incubator is designed to meet the growing demand for affordable manufacturing space in New York.

One of Downstate’s primary focuses is the study of and mitigation of health disparities. In response to this, Downstate established the Brooklyn Center for Health Disparities in November 2004, in partnership with the Brooklyn Borough President’s Office and the Arthur Ashe Institute of Urban Health. Made possible by an initial $1.1 million grant from the National Institutes of Health, the Center’s focus is on strategies to reduce disparities in cardiovascular health.

SUNY Downstate Medical Center enters the new century with a renewed dedication to serving the people of Brooklyn through its three-fold mission of education, research, and patient care.

3. **Scope of Services**

The Search Firm will provide all the services related to securing appropriate candidates for the position of President which will include but not be limited to:

- Coordinating with SUNY System Administration, the search committee and others involved in the search process,
- Analyzing the needs of Downstate and working with the search committee to create a profile of the position;
- Developing effective recruiting strategies and preparing recruiting materials;
- Handling advertising, recruiting, and screening in order to create a pool of viable, diverse candidates for the search committee to review;
- Working with the search committee to develop an appropriate prescreening method to limit the candidate pool to a group of semi-finalists;
- Scheduling off-campus interviews if/when necessary and appropriate;
- Coordinating with members of the search committee and schedule campus interviews;
- Reviewing qualifications of applicants, conducting initial reference checking and extensive background checks (peers, colleagues, supervisees, etc.), and verifying credentials;
- Providing feedback about references at various points in the process;
- Meeting with the search committee throughout the search process and keeping the committee appraised of the status of the search; and
- Handling the procedural and administrative aspects of the search.

It is expected that the selected Search Firm will commence services immediately following full execution of a contract, but no later than approximately April 1, 2016.

The search for the University President shall be conducted according to guidelines promulgated by the State University of New York, University procedures and relevant state and federal laws. The University’s campus-based Search Committee will participate in the process.
4. **Required Information**

Proposals must be organized into the following sections and include the following information:

**Proposal Overview**

The Proposal Overview shall condense and highlight the contents of the proposal in such a way as to provide the technical review committee with a broad understanding of the entire proposal.

**Understanding of Project**

Bidders must state their understanding of the needs of the University, the capabilities of their firm regarding the project, and why they believe that they are best qualified to meet the University’s needs.

**Proposal Detail**

In this section of the proposal, bidders must address each of the following:

*Needs Assessment:*

Describe in sufficient detail your firm’s understanding of the needs and goals of this specific search as set forth in this RFP.

*Experience:*

Describe your firm’s experience recruiting a diverse pool of candidates for presidential positions at Academic Medical Centers of similar size and scope as SUNY Downstate Medical University. Include a list of colleges and universities for which the firm has successfully recruited Presidents.

*Staffing:*

Describe how the firm will staff this engagement. Identify the specific principals and staff members that will be assigned to this particular project. Include each individual’s background, educational level and credentials, and experience in presidential searches for higher education institutions and/or Academic Medical Centers. Response to this criterion can include resumes of the individuals assigned to this project, along with supporting documentation and additional information as needed (such as a list of each individuals’ successfully completed projects). See also, Diversity, Equity and Inclusion, below.

*Proposed Search Strategy:*

While the actual search strategy will be developed through close consultation with the Search Committee, a proposed search strategy is required. Please propose a search strategy, recognizing the need to work closely with the Search Committee.

*Diversity, Equity and Inclusion:*

The SUNY Board of Trustees adopted a policy to establish diversity, equity and inclusiveness throughout the SUNY system. Diversity is broadly defined under that policy to include race, ethnicity, religion, sexual orientation, gender, gender identity and expression, age, socioeconomic status, status as a veteran, status as an individual with a disability, students undergoing transition (such as transfer, stop-out,
international student acclimation), and first generation students. In furtherance of this policy, all executive search firms are required to provide the following:

a. Information about the diversity of your firm’s staff; and  
b. The firm’s success rate in placing diverse candidates.

References

Provide three relevant references and their contact information with your proposal.

IMPORTANT: Additional Proposal Submission Requirements are set forth below in Section 3. All proposals must include this information.

Cost of Advertising and Candidate Travel

Advertising:

The firm will be required to place all advertising on behalf of the University, however, the publication will invoice Downstate and Downstate will pay the publication directly.

Candidate Travel:

The firm will be required to make all travel arrangements on behalf of the candidates, however, travel costs will be paid by the candidate. The candidate will provide its receipts to the firm, the firm will then send the receipts to Downstate and Downstate will reimburse the candidate directly.

Method of Award

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

1. Proposal Review
   Each proposal received by the due date and time will be screened for completeness of submission in accordance with this RFP and for determination of whether the Bidder has met the requirements of the RFP.

2. Technical Evaluation
   Each proposal remaining thereafter will be advanced for review and independent evaluation and scoring by the technical review evaluation committee.

3. Cost Evaluation
   The Cost Proposal of each proposal will be independently scored by the designated contract officer. The Cost Proposal Worksheet attached to this RFP as Attachment 4 must be completed by bidder in accordance with the instructions provided on the Worksheet. Bidders must not modify the Cost Proposal Worksheet. Rates quoted must include all travel and out-of-pocket expenses required to perform the contract. SUNY will not reimburse for such expenses. Note that Candidate Travel is treated separately, above.
4. **Presentation, Demonstration, Interview**

The Bidders receiving the two (2) highest scores (average Technical score plus Cost score) and that are susceptible to award, will be invited to make a presentation to discuss their proposal. If such presentations are to be held, SUNY will notify the Bidders and schedule the time, location and format. The format of the presentation may be in-person, by video or by telephone and will be at the University’s discretion. The presentation will provide an opportunity for these bidders to clarify or elaborate on their proposals, but shall in no way change their original proposals. The presentation/demonstration/interview will be evaluated and scored by the technical review evaluation committee. All costs associated with the Bidder’s attendance will be borne by the Bidder.

5. **Selection**

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

**Selection Criteria**

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

<table>
<thead>
<tr>
<th>Technical Proposal</th>
<th>Points</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Responsiveness of the proposal in clearly demonstrating an understanding of the Scope of Services</td>
<td>15</td>
<td>15%</td>
</tr>
<tr>
<td>Ability of the firm to execute its proposal and provide the services described in this RFP</td>
<td>20</td>
<td>20%</td>
</tr>
<tr>
<td>Qualifications and experience of the firm, its principals and its staff to provide presidential recruitment services to Academic Medical Centers</td>
<td>20</td>
<td>20%</td>
</tr>
<tr>
<td><strong>Total Technical Proposal</strong></td>
<td>55</td>
<td>55%</td>
</tr>
<tr>
<td><strong>Cost Proposal</strong></td>
<td>35</td>
<td>35%</td>
</tr>
<tr>
<td><strong>Presentation (if applicable)</strong></td>
<td>10</td>
<td>10%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>100</td>
<td>100%</td>
</tr>
</tbody>
</table>

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**Section 3: PROPOSAL SUBMISSION REQUIREMENTS**

A Bidder’s proposal shall address the Bidder’s ability and methodology for providing SUNY with the requested services. To be deemed “responsive” to this RFP, a Bidder must meet all mandatory requirements and qualifications and its written proposal must address all points and questions appearing in this RFP. In the event a Bidder’s proposal is determined by SUNY to be “non-responsive,” SUNY is required by its contracting procedures to disqualify the proposal. A disqualified proposal will not be further evaluated or considered for contract award. To facilitate SUNY’s review of
proposals, Bidders must address all points and questions that appear in this RFP, and should do so in the order that they appear. Responses should be labeled to correspond to the numbers/letters of the sections and subsections of this RFP.

A. **Proposal Submission Requirements**

1. Prepare a clearly readable proposal that includes: (a) a cover letter indicating that the RFP instructions are understood; (b) that the firm is committed to servicing SUNY's needs in the required time period; and (c) that all information required by this RFP has been included in the bidder's proposal.

2. Bidders must submit all information requested by SUNY in written form. Proposals must be complete, accurate, and in the form requested. Omissions, inaccuracies or misstatements will be sufficient cause for the rejection of a proposal.

3. Indicate any deviations from the technical specifications and if necessary, attach separate documents and/or explanation.

4. Proposals should be submitted in sealed packages clearly labeled on the exterior with the RFP number and title. Proposals not labeled as instructed risk being opened prior to the proposal opening date, which may result in the proposal being rejected. All proposals and accompanying documentation shall become the property of SUNY and shall not be returned.

5. No telephone, facsimile, emailed or otherwise electronically submitted proposals will be accepted.

6. The proposal must be fully and properly executed by an authorized person, and the authorized person's signature must be notarized. By signing, you certify (1) your express authority to sign on behalf of yourself, your company, or other entity; (2) your full knowledge and acceptance of this RFP, Exhibit A (State University of New York Standard Contract Clauses), Exhibit A-1 (State University of New York Affirmative Action Clauses), State Finance Law §139-j and §139-k (Procurement Lobbying Certification); and (3) that all information provided is complete, true and accurate. By signing you further affirm that you understand and agree to comply with the procedures on permissible contacts relating to this procurement as required by State Finance Law §139-j (3) and §139-j (6) (b). These procedures may be accessed at: Procurement Lobbying: [http://www.ogs.state.ny.us/aboutOgs/regulations/defaultAdvisoryCouncil.html](http://www.ogs.state.ny.us/aboutOgs/regulations/defaultAdvisoryCouncil.html)

7. **Submit ten (10) hard copies of your proposal to the address provided below.** Proposals must be received in the office identified below by the due date and time provided on the Summary Information Form on Page 1 of this RFP. Bidders mailing their proposals must allow sufficient time to ensure receipt by the due date and time. Bidders are cautioned that even when using a trackable mailing/courier/messenger service, proposals must be received by the due date and time. While proposals may be signed for by personnel at SUNY prior to the due date and time, this does not guarantee that the identified office will receive the proposal by the due date and time.

8. **Address for submission of proposal:**

   Jordan Lohre, Senior contract Manager
   Office of Business Operations & Procurement, S112
   State University of New York
   State University Plaza
   Albany, New York 12246

9. Bidders unable or unwilling to submit a proposal are asked to complete and submit the Summary Information Form on Page 1 of this RFP and check the box indicating that no proposal is being submitted.
10. All prices and conditions must be included in the original proposal. Prices and conditions not included in the original proposal will be rejected.

11. Bidders must identify the name and address of all proposed subcontractors and describe the portion of the work that the proposed subcontractors are to perform. Bidders must also provide information that the proposed subcontractors have the necessary skill, experience and financial resources to provide the services requested in this RFP. Please use Attachment 7: NYS Subcontractor Identification Form.

12. The submission of a proposal constitutes a nonrevocable, binding offer to perform and provide said services. Such binding offer shall be firm and not revocable for a period of sixty (60) days from proposal opening. After sixty (60) days, the proposal may remain in effect, subject to withdrawal communicated in writing signed by the Bidder. If this RFP is for the sale of goods pursuant to §2-205 of New York State Uniform Commercial Code, the proposal shall be firm, binding and not revocable for a period of ninety (90) days.

13. Bidder is responsible for all costs that it incurs, direct or indirect, related to the preparation and submission of a proposal in response to this RFP.

14. Each copy of the proposal must be accompanied by the following:
   - Summary Information Form (page 1 of this RFP)
   - Attachment 1: Notary Acknowledgement Form
   - Attachment 2: Proposal Submission Checklist and the documents indicated thereon.
   - Attachment 3: Submission Identification Form
   - Attachment 4: Cost Proposal Worksheet (do not modify)
   - Attachment 5: Procurement Lobbying Act Certification
   - Attachment 6: Non-Collusive Bidding Certification
   - Attachment 7: NYS Subcontractor Identification Form
   - Vendor Responsibility Questionnaire as set forth in Section 6(17).
   - Minority and Women-Owned Business forms as set forth in Section 6(11).
   - Equal Employment Opportunity forms as set forth in Section 6(12).

Section 5: GENERAL INFORMATION

A. Electronic RFP

Electronic copies of this RFP and related forms are available at www.nyscr.ny.gov.
B. **SUNY’S Reserved Rights**

SUNY reserves the right to:

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

C. **Bidder Questions**

If a Question and Answer period is provided for in this solicitation, the schedule will be shown in the Key Events section of the Summary Information Form on page 1 of this RFP. All questions must be submitted in writing,
citing the particular RFP page, section, and paragraph numbers where applicable. Questions must be EMAILED to arrive no later than the time and date indicated on page 1 and should be directed to the Designated Contacts shown on the Summary Information Form. Only written answers are official. All Questions and Answers will be provided to all potential Bidders.

D. **Contract Award**

Receipt of this RFP does not indicate that SUNY has predetermined Bidder’s qualifications to receive a contract award. A contract award, if made, shall be based on evaluation of the proposal in accordance with the criteria set forth in this RFP.

E. **Post Award Procedures**

Bidders wishing to participate in a debriefing may make a request in writing within 5 business days of SUNY’s notification of the contract award. The written request shall be submitted to the email address specified for Questions and Answers in this RFP. SUNY will endeavor to schedule a debriefing within 10 business days of its receipt of the request. Bidders’ written request must state whether Bidder will be attending with counsel, to allow SUNY to arrange for SUNY counsel attendance if so determined. Bidders wishing to file a bid protest may do so in accordance with SUNY’s procedures, available at: http://www.suny.edu/sunypp/documents.cfm?doc_id=699.

### Section 6: GENERAL TERMS AND CONDITIONS

1. **Free and Open Competition**

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

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

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

3. **No Claims or Rights**

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

4. **Conflict of Interest**

Bidder may be requested to provide evidence that the award of a contract will not result in (1) a conflict of interest with regard to other work performed by Bidder; or (2) a potential conflict of interest among Bidder’s staff.

5. **Bidder’s Terms and/or Conditions**

Bidder’s standard terms and conditions will not be considered relevant to its proposal or to the contract awarded and should not be included with its proposal. Any additional Bidder terms and conditions attached to or referenced in Bidder’s proposal shall not be considered part of the proposal, but shall be deemed included for informational purposes only. No extraneous terms or conditions will be incorporated into the contract awarded
unless approved in writing by the SUNY Office of General Counsel. Acceptance and/or processing of a Bidder’s proposal shall not constitute acceptance of a Bidder’s extraneous terms and conditions.

6. **Acceptance of RFP Content**

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

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 additional costs other than the costs for the services outlined herein, or for any work performed that has not been properly authorized in writing by SUNY.

8. **Standard Contract Clauses**

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

9. **Binding Effect**

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

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

    All proposals submitted for SUNY’s consideration will be held in confidence and will become the property of SUNY. However, the resulting contract is subject to the New York State Freedom of Information Law (FOIL), contained in Article 6 of the New York State Public Officer’s Law. Therefore, if a Bidder believes that any information in its proposal constitutes a trade secret, should be treated as confidential and should not be disclosed upon a request pursuant to FOIL, Bidder shall submit with its proposal a separate letter addressed to: Casey Vattimo, Records Access Officer, State University of New York, State University Plaza, Albany, NY 12246 specifically (1) identifying the page number(s), line(s) or other appropriate designation(s) containing such information; (2) explaining in detail why such information is a trade secret or confidential; and (3) formally request that such information be held as confidential. Bidder’s failure to submit such a letter with its proposal will constitute a waiver by the Bidder of any rights it may have under Section 89(5) of the Public Officers’ Law relating to protection of trade secrets. The proprietary nature of the information designated confidential by the Bidder may be subject to disclosure if ordered by a court of competent jurisdiction. A request that an entire proposal be kept confidential is not advisable, because a proposal cannot reasonably consist exclusively of proprietary information.

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

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

    For purposes of this solicitation, SUNY hereby establishes an overall goal of 30% for MWBE participation, 15% for Minority-Owned Business Enterprises (“MBE”) participation and 15% for Women-Owned Business Enterprises (“WBE”) participation (based on the current availability of qualified MBEs and WBEs). For additional
information please refer to the MWBE requirements outlined in MWBE Prospective Bidder’s Notice (Form 7557-121).

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

12. **Equal Employment Opportunity Requirements**

By submission of a bid or proposal in response to this solicitation, the Bidder agrees with all of the terms and conditions of SUNY Exhibit A-1 including Clause 12 - Equal Employment Opportunities for Minorities and Women. The Contractor is required to ensure that it and any subcontractors awarded a subcontract over $25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the “Work”) except where the Work is for the beneficial use of the Contractor, shall undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (1) work, goods, or services unrelated to the Contract; or (2) employment outside New York State.

Bidder further agrees, where applicable, to submit with the proposal an EEO staffing plan (utilizing MWBE form 108) to **identify the anticipated work force to be utilized on the Contract**. Forms are available in SUNY Procurement Policies and Procedures Document 7557 online at: [http://www.suny.edu/sunypp/documents.cfm?doc_id=611](http://www.suny.edu/sunypp/documents.cfm?doc_id=611). 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.

Further, pursuant to Article 15 of the Executive Law (the “Human Rights Law”), all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

In addition, Bidder must submit with their proposal their firm’s **Equal Employment Opportunity Policy Statement (which conforms to the provisions of Exhibit A-1); utilizing (utilizing MWBE Form 104)**. Forms are available in SUNY Procurement Policies and Procedures Document 7557 online at: [http://www.suny.edu/sunypp/documents.cfm?doc_id=611](http://www.suny.edu/sunypp/documents.cfm?doc_id=611). Please Note: Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions or enforcement proceedings as allowed by the Contract.

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

New York State businesses have a substantial presence in SUNY contracts and strongly contribute to the economies of New York and the nation. In recognition of their economic activity and leadership in doing business in New York State, Bidders/Proposers/Contractors for this contract for commodities, services or technology are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the contract. Such partnering may be as subcontractors, suppliers, protégés or other supporting roles.
Bidders/Proposers/Contractors need to be aware that to the maximum extent practical and consistent with legal requirements, they are strongly encouraged to use responsible and responsive New York State businesses in purchasing commodities that are of equal quality and functionality and in utilizing services and technology. Furthermore, Bidders/Proposers/Contractors are reminded that they must continue to utilize small, minority and women-owned businesses, consistent with current State law.

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

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

14. **Office of Federal Contract Compliance Programs**

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

15. **Governing Law**

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


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

NYS Empire State Development  
Division for Small Business  
625 Broadway  
Albany, New York 12207  
Phone: 1-800-782-8369  
Email: esd@empire.state.ny.us  
Website: http://www.empire.state.ny.us

17. **Determination of Vendor Responsibility**

New York State procurement law requires that state agencies award contracts only to responsible contractors. Additionally, the New York State Comptroller must be satisfied that a proposed contractor is responsible before approving a contract award under Section 112 of the State Finance Law. Section 163 of the New York State Finance Law (“SFL”) requires that contracts for services and commodities be awarded on the basis of lowest price or best value “to a responsive and responsible bidder.” Section 163 (9)f of the SFL requires that prior to making a contract award, each contracting agency shall make a determination of responsibility of the proposed contractor.
In accordance with these procurement laws, SUNY will conduct an affirmative review of vendor responsibility for all organizations or firms with which it conducts business. In doing so, bidders are required to file the required Vendor Responsibility Questionnaire online via the New York State VendRep System or may choose to complete and submit a paper questionnaire. To enroll in and use the VendRep System, see the VendRep System Instructions on the Office of State Comptroller (OSC) website, available at: www.osc.state.ny.us/vendrep or go directly to the VendRep System online at https://portal.osc.state.ny.us. For VendRep System user assistance, the OSC Help Desk may be reached at 866-370-4672 or 518-408-4672 or by email at helpdesk@osc.state.ny.us. Bidders opting to file a paper questionnaire may 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.

18. **Requirements of New York State’s Recycling Program**

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

19. **State Consultant Services Reporting**

State Finance Law Sections 8 and 163 require that Contractors annually report certain employment information to the contracting agency, the Department of Civil Service and Office of the State Comptroller. 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.

20. **Electronic Payment Authorization**

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

21. **Timeliness of Payment and Interest**

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

22. **Exhibits**

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

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. This RFP
d. The Successful Bidder’s proposal
e. The Successful Bidder’s cost proposal

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

23. **Independent Contractor**

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

24. **Subcontracting**

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

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

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

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

The Contractor shall be solely responsible to the extent of its subcontract. No subcontractor shall be permitted to work until it has furnished satisfactory evidence to SUNY of the insurance required by law.

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

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

26. Indemnification
a. Successful Bidder (Contractor)

The Successful Bidder (Contractor) shall 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: 1) personal injury, damage to real or personal tangible property; 2) negligence, either active or passive; and 3) infringement of any law or of a United States Letter Patent, with respect to Products and Services furnished under this Agreement, or of any copyright, trademark, trade secret or intellectual proprietary rights, provided that SUNY shall give Contractor: (a) prompt written notice of any action, claim, or threat of infringement suit, or other suit, promptness of which, shall be established by SUNY upon the furnishing of written notice and verified receipt, (b) the opportunity to take over, settle or defend such action, claim or suit at Contractor’s sole expense, and (c) assistance in the defense of any such action is at the expense of the Contractor. Where a dispute or claim arises relative to a real or anticipated infringement, SUNY may require the Contractor, at its sole expense, to submit such information and documentation, including formal patent attorney opinions, as SUNY shall require. New York State reserves the right to join such action, at its sole expense, when it determines there is an issue involving a significant public interest.
b. **SUNY**

Subject to the availability of lawful appropriations pursuant to Section 41 of New York State Finance Law and 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.

27. **Liability**

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

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

28. **Insurance**

During the term of the awarded contract, the Successful Bidder (Contractor) must obtain and maintain insurance coverage at its own expense as provided in this paragraph, and shall deliver Certificates of Insurance in a form satisfactory to SUNY before commencing any work under this contract. Certificates shall reference the Contract Number. Certificates of Insurance must indicate the applicable deductible/self-insured retention on each policy. Certificates shall be mailed to: Kathleen Rowe, Office of Business Operations & Procurement, State University of New York, State University Plaza, Albany, New York 12246

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

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

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

a. A professional liability policy (errors and omissions) in the amount of One Million Dollars ($1,000,000), which shall be maintained for a period of three (3) years after completion of this contract. If said policy is
issued on a claims-made policy form, the policy shall be purchased with extended Discovery Clause coverage of up to three (3) years after work is completed if coverage is cancelled or not renewed.

b. Workers Compensation 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.

c. General Liability Insurance with limits no less than One Million Dollars ($1,000,000) per claim and Two Million Dollars ($2,000,000) 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.

d. Business Automobile Liability insurance covering liability arising out of the use of any motor vehicle in connection with the work, including owned, leased, hired and non-owned vehicles bearing, or under the circumstances under which they are being used, required by the Motor Vehicle Laws of the State of New York to bear, license plates. Such policy shall have a combined single limit for Bodily Injury and Property Damage of at least One Million Dollars ($1,000,000) and shall name the State University of New York as additional insured. The limits may be provided through a combination of umbrella/excess liability policies.

29. Travel
SUNY will not reimburse travel expenses incurred by Contractor.

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

a. Convenience of SUNY: The contract may be terminated at any time upon receipt of thirty (30) days prior written notice given by SUNY for whatever reason.

b. Event of default: The contract may be terminated in the event of breach of any of its provisions by the Contractor, or if the Contractor’s Services are deemed unsatisfactory in SUNY’s sole discretion, due to Contractor’s fault or negligence, or that of its officers, employees, subcontractors, agents, licensees, licensors, or affiliates. In such event, SUNY will send a written cure notice in accordance with the Notice provisions of the contract, and Contractor shall have thirty (30) days to correct the deficiencies noted. If the deficiencies are not corrected, SUNY may terminate this contract immediately upon written notice.

c. Deficient Certifications: If the awarded contract has a value greater than $15,000, SUNY shall have the right to terminate in the event the State Finance Law sections 139-j and 139-k certifications executed by the Contractor are found to be intentionally false or incomplete. If the contract has a value of greater than $100,000 and Contractor’s sales for the immediately preceding four quarters were greater than $300,000, or if the contract has a value of $125,000 or greater, SUNY shall have the right to terminate in the event the successful bidder’s Department of Taxation and Finance Contractor Certification form, ST 220-CA, statements are found to be false or incomplete.

d. Lack of Funds: If for any reason the State of New York terminates or reduces its appropriations to SUNY, the awarded contract may be terminated or reduced at SUNY’s discretion, provided that no such reduction or termination shall apply to allowable costs already incurred by the Contractor where funds are available to the SUNY for payment of such costs. In any event, no liability shall be incurred by the State (including SUNY) beyond monies available for the purposes of the awarded contract.
31. **Procurement Lobbying Act – State Finance Law §§ 139-j and 139-k**

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

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

Each Bidder shall submit with its proposal a written affirmation of its understanding of SUNY’s procurement lobbying procedures and agreement to comply with such procedures. The requisite form is provided at Attachment 5. It may also be accessed online at: [http://www.suny.edu/sunypp/documents.cfm?doc_id=282](http://www.suny.edu/sunypp/documents.cfm?doc_id=282)

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

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

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

33. **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.

34. 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.
Attachment 1: 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 COMPLETED, SIGNED AND NOTORZIED AND THE ORIGINAL DOCUMENT MUST  
ACCOMPANY EACH COPY OF YOUR PROPOSAL.
## Attachment 2: Proposal Submission Checklist

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**Vendor Responsibility:**

File either the required Vendor Responsibility Questionnaire online via the New York State VendRep System or complete and submit a paper questionnaire.

**Select one:**

- completed online questionnaire
- paper copy of questionnaire included in Proposal

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<th>MWBE Form 104: Equal Opportunity Policy Statement</th>
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<td>MWBE Form 107: Utilization Form</td>
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<td>MWBE Form 108: EEO Staffing Plan</td>
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YOU ARE INVITED TO SUBMIT A PROPOSAL TO THE STATE UNIVERSITY OF NEW YORK. BIDDERS MUST SUBMIT THE FOLLOWING:

1. This page, along with all the forms and information as requested in both Parts 1 and 2 of this IFB/RFP.

PLEASE RESPOND TO THE FOLLOWING:

1. Is the price quoted the same as or lower than that quoted other corporations, institutions or governmental agencies for similar services and/or like equipment or supplies?  
   YES ☐ NO ☐
   If no, explain. __________________________________________________________

2. Does your firm agree that all presentations and materials will be free of racial, religious or sexual bias?  
   YES ☐ NO ☐

3. Are you a New York State (NYS) resident business?  
   YES ☐ NO ☐

4. Total number of people employed by firm:_________

5. Total number of people employed by firm in NYS:_________

6. Is your firm a: NYS Minority-owned Business?  
   YES ☐ NO ☐
   NYS Certified?  
   YES ☐ NO ☐

7. Is your firm a: NYS Women-owned Business?  
   YES ☐ NO ☐
   NYS Certified?  
   YES ☐ NO ☐

8. Please indicate on the reverse side of this form if you or any officer of your organization, or any party owning or controlling more than ten (10) percent of your stock if you are a corporation, or any member if you are a firm or association, is an officer or employee of the State of New York or of a public benefit corporation of the State of New York.

FIRM'S NAME: __________________________________________________________

ADDRESS: _____________________________________________________________

FEDERAL ID NUMBER: _______________ NYS VENDOR ID NUMBER: _____________

PHONE NUMBER: (_____) ___________________ E-MAIL ADDRESS: _________________

BIDDER'S NAME / TITLE _____________________________________________________

BIDDER'S SIGNATURE: ____________________________ DATE: _______________
1. DO NOT deviate from the format of this document or modify the document.

2. DO NOT provide a range of rates.

3. DO NOT leave this Cost Proposal Worksheet blank. Bidders must propose a percentage or flat fee.

A firm’s Professional Fee should be based on an estimated first-year annual salary of $600,000.

The Professional Fee must include the firm’s cost of doing business, such as postage, shipping, telephone, fax, photo copying, candidate background checks and research, travel and other general office expenses.

The University will make no reimbursement for the firm’s travel or travel-related expenses.

The Professional Fee may be a percentage of the first-year compensation or it may be a flat fee.

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<th>PROFESSIONAL FEE</th>
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<td>Percentage of first-year compensation:</td>
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<td>OR</td>
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<tr>
<td>Flat Fee:</td>
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</table>

Bidder’s Signature __________________________________________________________

Print Name and Title __________________________________________________________

Company Name ______________________________________________________________

Date __________________________________________________________

The State University of New York will make no reimbursement for travel or travel-related expenses.
Attachment 5: Procurement Lobbying Act Certification

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

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

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


Please complete the following:

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

2. Has a governmental entity terminated or withheld a procurement contract with the Offeror because of violations of State Finance Law §§ 139-j or the intentional provision of false or incomplete information with respect to previous determinations of non-responsibility?   NO ☐ YES ☐ If yes, attach explanation

CERTIFICATION:

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

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<th>Firms Name and Address:</th>
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<td>Fax Number: (__<em>) <em><strong>-</strong></em></em></td>
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<tr>
<td>Email Address:</td>
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<tr>
<td>Bidder’s Name and Title:</td>
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<tr>
<td>Bidder’s Signature:</td>
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<td>Date:</td>
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Attachment 6: Non-Collusive Bidding Certification

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

1. The prices of this proposal 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 proposal 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 to not to submit a proposal for the purpose of restricting competition.

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

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

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

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

NAMES OF PARTNERS OR PRINCIPALS LEGAL RESIDENCE

________________________________________________________

________________________________________________________

________________________________________________________

________________________________________________________
IF BIDDER(S) (ARE) A CORPORATION, COMPLETE THE FOLLOWING:
NAME LEGAL RESIDENCE

___________________________________________ _____________________________
President:

___________________________________________ _____________________________
Secretary:

___________________________________________ _____________________________
Treasurer:

___________________________________________ _____________________________
President:

___________________________________________ _____________________________
Secretary:

___________________________________________ _____________________________
Treasurer

Identifying Data

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<th>Potential Contractor</th>
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<th>Name of Responsible Corporate Officer</th>
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<tr>
<th>Title of Responsible Corporate Officer</th>
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| Signature: | |
|------------|
|            |

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

________________________________________________________________________
Legal name of person, firm or corporation

By _____________________________
Name: _____________________________
Title: _____________________________
Address: ____________________________
Encouraging the use of New York State Businesses in Contract Performance

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

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

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

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

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

*Will New York State Businesses be used in the performance of this contract?*

*Please check:* **YES** ____ **NO** ____

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

This form, along with accompanying information as required above, must be completed and submitted with your proposal.
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 Except for the assignment of its right to receive payments subject to Article 5-A of the State Finance Law, the Contractor selected to perform the services herein are prohibited in accordance with Section 138 of the State Finance Law from assigning, transferring, conveying, subletting or otherwise disposing of its rights, title or interest in the contract without the prior written consent of SUNY and attempts to do so are null and void. Notwithstanding the foregoing, SUNY may, with the concurrence of the New York Office of State Comptroller, waive prior written consent of the assignment, transfer, conveyance, sublease or other disposition of a contract let pursuant to Article XI of the State Finance Law if the assignment, transfer, conveyance, sublease or other disposition is due to a reorganization, merger or consolidation of Contractor’s its business entity or enterprise and Contractor so certifies to SUNY. SUNY retains the right, as provided in Section 138 of the State Finance Law, to accept or reject an assignment, transfer, conveyance, sublease or other disposition of the contract, and to require that any Contractor demonstrate its responsibility to do business with SUNY.

3. COMPTROLLER’S APPROVAL. (a) In accordance with Section 112 of the State Finance Law, Section 355 of New York State Education Law, and 8 NYCRR 316, Comptroller’s approval is not required for the following contracts: (i) materials; (ii) equipment and supplies, including computer equipment; (iii) motor vehicles; (iv) construction; (v) construction-related services; (vi) printing; and (vii) goods for State University health care facilities, including contracts for goods made with joint or group purchasing arrangements.

(b) Comptroller’s approval is required for the following contracts: (i) contracts for services not listed in Paragraph (3)(a) above made by a State University campus or health care facility certified by the Vice Chancellor and Chief Financial Officer, if the contract value exceeds $250,000; (ii) contracts for services not listed in Paragraph (3)(a) above made by a State University campus not certified by the Vice Chancellor and Chief Financial Officer, if the contract value exceeds $50,000; (iii) contracts for services not listed in Paragraph (3)(a) above made by health care facilities not certified by the Vice Chancellor and Chief Financial Officer, if the contract value exceeds $50,000; (iv) contracts whereby the State University agrees to give something of more value than money, when the value or reasonably estimated value of such consideration exceeds $10,000; (v) contracts for real property transactions if the contract value exceeds $50,000; (vi) all other contracts not listed in Paragraph (3)(a) above, if the contract value exceeds $50,000, e.g. SUNY acquisition of a business and New York State Finance Article 11-B contracts and (vii) amendments for any amount to contracts not listed in Paragraph (3)(a) above, when as so amended, the contract exceeds the threshold amounts stated in Paragraph (b) herein. 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.

(c) Any contract that requires Comptroller approval shall not be valid, effective or binding upon the State University until it has been approved by the Comptroller and filed in the Comptroller’s office.

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 because of race, creed, color, sex, (including gender identity or expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristics, marital status or domestic violence victim status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of $50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

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

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based on the submission of competitive bids, Contractor affirms, under penalty of perjury, and each person signing on behalf of Contractor, 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 its knowledge and belief 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 it 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 139-h of the State Finance Law, if this contract exceeds $5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract’s execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction.
determination or disposition of appeal (2 NYCCR 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 amount 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 or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State, 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 SUNY and its representatives and entities 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 87 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.

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

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State University of New York is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the State University of New York 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.

(a) In accordance with Section 312 of the Executive Law and 5 NYCCR §43, 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:

(i) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(ii) 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

(3) 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.

(b) Contractor will include the provisions of “1”, “2” and “3”, 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 section. 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 certification, 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 Contractor and any individual or legal entity in which the Contractor holds a ten percent or greater ownership interest and any individual or legal entity that holds a ten percent or greater ownership interest in the Contractor either (a) have 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(5) of the State Finance Law), and shall permit independent monitoring of compliance with such principles.


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
30 South Pearl St., 7th Floor
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: mwbrecertification@esd.ny.gov

https://ny.newnycontracts.com/寻FrontEnd/Vendo
rSearchPublic.asp

The Omnibus Procurement Act of 1992 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 Job Search 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 SUNY may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with SUNY 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 shall be substantially produced or performed outside New York State, the Omnibus Procurement Act of 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. Contact the NYS Department of Economic Development, Division for Small Business, 30 South Pearl Street, Albany, New York 12245, for a current list of jurisdictions subject to this provision.


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

26. Certification of Registration to Collect Sales and Compensating Use Tax by Certain State Contractors, Affiliates and Subcontractors. To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the Contractor fails to make the certification required by Tax Law Section 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 agreement, if SUNY determines that such action is in the best interests of the State.

27. Iran Divestment Act. By entering into this Agreement, Contractor certifies in accordance with State Finance Law §165-a that it is not on the “Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012” (“Prohibited Entities List”) posted at: http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf

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

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

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

The following provisions shall apply only to those contracts to which a hospital or other health service facility is a party

28. 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.

29. (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.