



DIVISION OF FINANCIAL ADMINISTRATION

**Addendum No. 1**

**To**

**RFQ No. 1866**

Date: January 29, 2014

Subject: Clarification of Language, Revision of Cost Proposal and Change to Key Events

Title: New York State Office of General Services – Instructor-Led Strategic Sourcing Basic Training

Group: 73003 - Class Code: 80 & 86

**Proposal Due Date: February 7, 2014**

Address Bid Inquiries to the Designated Contact:

T.J. Karl – Contract Management Specialist 1  
NYS Office of General Services  
Corning Tower, 40<sup>th</sup> Floor  
Empire State Plaza  
Albany, New York 12242  
Phone: 518-474-5981  
Email: [thomas.karl@ogs.ny.gov](mailto:thomas.karl@ogs.ny.gov)

Please replace the existing language in RFQ No. 1866 with the following revised **bolded and underlined** language:

### Section 3.2 Specific Training Requirements and Expectations

The following requirements apply:

- Provide and complete two (2) three (3) day training intensive sessions on “Strategic Sourcing Basic Training”;
- Both training sessions must be completed by March 31, 2014.
- Each session will have a maximum capacity of 25 students (OGS guarantees a minimum of 20 students per class) per session;
- Classes must be conducted during the work day of 9:00 a.m. to 5:00 p.m. ET;
- Curriculum **will** build upon strategic sourcing concepts and methodologies as they apply to procurement, contract management and supply chain management concepts in non-manufacturing/industrial organizations, preferably public sector.
- **All training materials/content becomes the unrestricted property of OGS.**
- **OGS reserves the right to videotape all training sessions for future use and viewing.**

### Section 3.3 Course Outline and Module Detail

The three (3) day course curriculum for this intensive training program will consist of discussions of the nine (9) fundamental concepts and steps for strategic sourcing and meet the requirements outlined below. If the Proposer's course curriculum is different or includes additional topic areas, the Proposer must identify how a deviation from the nine (9) fundamental concepts and steps for strategic sourcing would be beneficial to OGS. **OGS has final approval of all course materials and curriculum.**

### Section 6.3 Cost Proposal

**Proposers are to bid an all-inclusive per training session fee.** All rates bid are inclusive of all expenses, fees, ancillary costs, including travel expenses.

**Proposer is responsible for providing all written and electronic course materials for up to 25 students per training session. OGS will provide the training location and up to 6 easels with paper for trainer use.** A projector can be made available to the instructor, if requested. The Proposer's session fee cost must be submitted using Attachment D - Cost Proposal Document.

Please note the changes in **bold and underlined** in the Calendar of Events (RFQ #1866 Section 2):

OGS Issues Request for Quote (RFQ) #1866	January 10, 2014
<b><u>Deadline for Submission of Proposals</u></b>	<b><u>February 7, 2014 @ 2:00 PM</u></b>
<b><u>Anticipated Notification of Contract Award</u></b>	<b><u>February 12, 2014</u></b>
Anticipated Commencement of Contract	Upon Contract Approval by OGS

**If submitting a proposal, this Addendum No. 1 for RFQ No. 1866 must contain an original signature, be dated, attached to, and made a part of your proposal.**

**If you have already submitted a proposal, you still need to complete and submit this addendum and any attachments. If you wish to modify an already submitted proposal, you may do so, however, any such revision must be clearly identified as a revised proposal superseding the previously submitted proposal.**

**Please sign below and submit Addendum No. 1 with your bid package.**

Company Name \_\_\_\_\_

Address (include City, State, Zip) \_\_\_\_\_

Bidders Name (please print) \_\_\_\_\_

Title \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_



**REQUEST FOR QUOTES (RFQ) #1866 SOLICITED BY THE  
NEW YORK STATE OFFICE OF GENERAL SERVICES  
FOR INSTRUCTOR-LED TRAINING SERVICES  
FOR STRATEGIC SOURCING BASIC TRAINING  
BID DUE DATE: February 4, 2014 @ 2:00 PM**

**Issue Date: January 10, 2014**

**Primary Contact:**

T.J. Karl  
Voice: 518-474-5981

E-mail: [thomas.karl@ogs.ny.gov](mailto:thomas.karl@ogs.ny.gov)

**Alternate Contact:**

Diane Robinson  
Voice: 518-474-5981

E-mail: [diane.robinson@ogs.ny.gov](mailto:diane.robinson@ogs.ny.gov)

**Alternate Contact #2:**

Beth Maus  
Voice: 518-474-5981  
E-mail: [beth.maus@ogs.ny.gov](mailto:beth.maus@ogs.ny.gov)

## Table of Contents

<b>1. GENERAL INFORMATION .....</b>	<b>4</b>
1.1 Method of Award .....	4
1.2 Term .....	4
1.3 Designated Contact .....	4
<b>2. CALENDAR OF EVENTS.....</b>	<b>6</b>
<b>3. SCOPE OF SERVICES.....</b>	<b>7</b>
3.1 Background .....	7
3.2 Specific Training Requirements and Expectations .....	7
3.3 Course Outline and Module Detail .....	8
3.3.1 Step1: Mobilization and Start-up of a Sourcing Project.....	9
3.3.2 Step 2: Development of Internal and External Spend Analysis.....	9
3.3.3 Step 3: Establishing Strategies to Determine Contract Length and Approach .....	10
3.3.4 Step 4: Determine Selection Factors/Gaining .....	10
Approval of Recommended Strategy and Method for Procurement .....	10
3.3.5 Step 5: Conducting a Competitive Event .....	10
3.3.6 Step 6: Conducting Value Proposition and Award.....	10
3.3.7 Step 7: Implementation and Communication of Award .....	11
3.3.8 Step 8: Managing Contract Performance and Measuring Results .....	11
3.3.9 Step 9: Supplier Relationship Management.....	11
<b>4. MANDATORY REQUIREMENTS.....</b>	<b>12</b>
4.1 Company Requirement .....	12
4.2 Instructor Requirements.....	12
4.3 Course Requirements .....	12
<b>5. ADMINISTRATIVE INFORMATION.....</b>	<b>13</b>
5.1 State Finance Law §139-j, State Finance Law §139-k.....	13
5.1.1 State Finance Law §139-j .....	13
5.1.2 State Finance Law §139-k .....	13
5.1.3 Pursuant to §139-j and 139-k of the State Finance Law .....	13
5.2 Errors and Omissions .....	14
5.3 Confidentiality of Proposals.....	14
<b>6. PROPOSAL CONTENT.....</b>	<b>15</b>
6.1 Technical Proposal.....	15
6.1.1 Table of Contents.....	15
6.1.2 Transmittal Letter .....	15
6.1.3 Company Experience Form – Attachment A.....	15
6.1.4 Instructor Qualifications and Experience Form – Attachment B.....	15
6.1.5 Course-Specific Information – Attachment C .....	15
6.2 Administrative Proposal .....	16
6.3 Cost Proposal .....	16

<b>7. PROPOSAL SUBMISSION .....</b>	<b>18</b>
7.1 Submission of Technical Proposals .....	18
7.2 Submission of Cost Proposals .....	19
<b>8. ENGAGEMENT TERMS AND CONDITIONS.....</b>	<b>20</b>
8.1 Administrative Requirements .....	20
8.2 Billing .....	20
8.2.1 Method of Payment .....	20
8.2.2 Electronic Payments .....	20
8.3 Contractor Status .....	21
8.4 Staff Hours .....	21
<b>9. CONTRACT CLAUSES AND REQUIREMENTS.....</b>	<b>22</b>
9.1 Appendix A / Order of Precedence .....	22
9.2 Procurement Lobbying Requirement.....	22
9.3 Contractor Insurance Requirements .....	22
9.4 MWBE & EEO REQUIREMENTS .....	26
9.5 Encouraging Use of New York State Businesses in Contract Performance.....	27
9.6 Freedom of Information Law / Trade Secrets.....	28
9.7 General Requirements.....	28
9.8 Contract Terms .....	29
9.9 Subcontractors.....	30
9.10 Procurement Rights.....	30
9.11 Dispute Resolution .....	31
9.12 Termination.....	31
9.13 Iran Divestment Act.....	32
9.14 Force Majeure.....	32
9.15 Indemnification.....	33
9.16 Employee Information To Be Reported By Certain Consultant Contractors.....	33

Appendix A.....Standard Clauses for New York State Contracts (dated November 2013)

Appendix B.....Proposer Certification/Acknowledgements

Appendix C.....New York State Finance Law §139-j and §139k

Appendix D.....Sample Contract

Attachment A.....Company Experience Form

Attachment B.....Instructor Qualifications and Experience Form

Attachment C.....Course Curriculum Description Form

Attachment D.....Cost Proposal Form

Attachment E.....Consultant Forms A and B

## **1. GENERAL INFORMATION**

---

The New York State (NYS) Office of General Services (OGS) is requesting proposals from qualified Contractors to develop content and provide training in a variety of procurement topics and skill areas which are defined in Section 3.3 of this document.

This Project Definition outlines the terms and conditions and all applicable information required for submission of a proposal. Applicants should pay strict attention to the Deadline for Submission of Proposals, as defined in Section 2.0, Calendar of Events, to prevent disqualification. Proposers should follow the format and instructions contained in this document to ensure compliance with the Project Definition requirements and to prevent possible disqualification.

### **1.1 Method of Award**

The successful proposer will be the vendor that represents the best value to the State of New York. Best Value will be based upon how well the vendor understands the requirements of this project, the experience and skills of the staff to be assigned to work on this project, and the overall proposed cost of services.

A committee of OGS employees will review all responsive submissions and select the best value proposal based on the criteria above. Upon determination of the best value proposal, a contract (a sample of which is attached hereto as Attachment E) will be completed with the successful proposer's information and appended to this RFQ, along with the successful proposal, to form the contract between the parties. This finalized contract will then be presented to the proposer for execution and subsequently returned to the issuing office for necessary State approvals. A fully executed contract will be delivered to the contractor.

### **1.2 Term**

This contract will commence upon approval by OGS and will be in effect for one year or until the awarded contract value (not-to-exceed \$50,000.00) is reached, whichever occurs first.

The State of New York retains the right to cancel this contract for convenience, provided that the Contractor is given at least thirty (30) days written notice of OGS' intent to cancel. Any cancellation by OGS under this section shall in no event constitute or be deemed a breach of any contract resulting from this RFQ and no liability shall be incurred by or arise against OGS, its agents and employees therefore for lost profits or any other damages resulting there from. This provision should not be understood as waiving the State's right to terminate the contract for cause or stop work immediately for unsatisfactory work, but is supplementary to that provision. See Section 9.14 Termination.

### **1.3 Designated Contact**

In compliance with the New York State Procurement Lobbying Law, State Finance Law Section 139-j, T.J. Karl, Contract Management Specialist 1) has been designated as the PRIMARY designated contact for this procurement solicitation and may be reached by e-mail, voice or fax for all inquiries regarding this solicitation.

**RFQ #1842**  
**Instructor-Led Training Services**  
**For Strategic Sourcing Basic Training**

---

T.J. Karl, Contract Management Specialist I  
NYS Office of General Services  
Financial Administration, Contract Unit  
Corning Tower, 40<sup>th</sup> Floor, ESP  
Albany, New York 12242  
Voice: 518-474-5981  
E-mail: [thomas.karl@ogs.ny.gov](mailto:thomas.karl@ogs.ny.gov)

In the event the PRIMARY designated contact is not available, the alternate designated contacts are:

Beth Maus, Contract Management Specialist I  
NYS Office of General Services  
Financial Administration, Contract Unit  
Corning Tower, 40th Floor, ESP  
Albany, New York 12242  
Voice: 518-474-5981  
E-mail: [beth.maus@ogs.ny.gov](mailto:beth.maus@ogs.ny.gov)

Diane Robinson, Contract Management Specialist II  
NYS Office of General Services  
Financial Administration, Contract Unit  
Corning Tower, 40th Floor, ESP  
Albany, New York 12242  
Voice: 518 474 5981  
Email: [diane.robinson@ogs.ny.gov](mailto:diane.robinson@ogs.ny.gov)

For inquires related specifically to Minority Women-Owned Business Enterprises (MWBE) provisions of this procurement solicitation, the designated contact is:

Anuola Surgick, Compliance Specialist 1  
NYS Office of General Services  
MWBE and Community Relations  
Corning Tower, Empire State Plaza  
Albany, NY 12242  
Voice: 518-486-6866  
Fax: 518-486-9285  
E-mail: [anuola.surgick@ogs.ny.gov](mailto:anuola.surgick@ogs.ny.gov)

## 2. CALENDAR OF EVENTS

---

<b>OGS Issues Request for Quote (RFQ) #1866</b>	<b>January 10, 2014</b>
<b>Deadline for Submission of Proposals</b>	<b>February 4, 2014 @ 2:00 PM</b>
<b>Anticipated Notification of Contract Award</b>	<b>February 10, 2014</b>
<b>Anticipated Commencement of Contract</b>	<b>Upon Contract Approval by OGS</b>

### **3. SCOPE OF SERVICES**

---

#### **3.1 Background**

After taking office, Governor Cuomo launched several major initiatives to transform how New York State operates. As part of this effort, the Office of General Services (OGS) has been tasked with developing and implementing a comprehensive restructuring of procurement operations. With this, New York has joined a growing number of states looking to transform their procurement and contracting policies, practices, and procedures in order to create a more efficient model that delivers cost savings and administrative efficiency to its customers.

In November, 2010, the Division of the Budget on behalf of the Executive Chamber contracted with a leading consultant in procurement transformation to assist the State in identifying and adopting best practices to create efficiencies and achieve savings. A comprehensive review of the State's procurement organization, processes and technology was conducted and the results benchmarked against leading industry practices. The State was introduced to the "strategic sourcing" procurement methodology, which utilizes a structured, market-based approach to gather data, conduct quantitative analysis and apply expert qualitative judgments to leverage the State's substantial buying power and secure the best value in purchasing. In 2011, the State piloted the first of several strategic sourcing waves to achieve \$755 million in cumulative All Funds savings for the state over the next five years. In 2012, it began the organizational transformation of its procurement service group into New York State Procurement (NYSPRO).

In order to deliver budgetary savings, maximize knowledge transfer and complete its organizational transformation, OGS immediately identified training gaps and began developing a comprehensive training program for its procurement professionals. Under the auspices of the Workforce Initiatives Program, OGS is partnering with the NYS Governor's Office of Employee Relations (GOER) and the Public Employees Federation (PEF) to develop and launch a statewide pilot training program titled "Strategic Sourcing Basic Training". The first of its kind in New York State, the pilot training program will center on and incorporate the modern concepts and methodologies of strategic sourcing and supply chain management. The intent of the training program is to provide employees the opportunities to become knowledgeable about key industry subject areas necessary for them to succeed in a modern day public procurement environment.

"Strategic Sourcing Basic Training" is one component of a more comprehensive educational training program being developed for New York State procurement professionals. It is anticipated that this training will help create a core group of State employees who share common Strategic Sourcing knowledge and techniques and who can be drawn upon for major contracting efforts, serving as mentors and key resources for other employees within OGS NYSPRO and other state agencies.

#### **3.2 Specific Training Requirements and Expectations**

OGS is seeking to partner with a qualified vendor to develop content for and deliver two (2) intensive, instructor-led training courses for procurement professionals in the concepts and methodologies of strategic sourcing as further described in the course description section (Section 3.3 – Course Outline and Module Detail).

The primary objective of "Strategic Sourcing Basic Training" is to offer OGS employees within NYSPRO and other state procurement professionals an opportunity to learn modern procurement concepts and methodologies. The rigorous training is expected to provide state procurement

professionals with a holistic understanding of the key concepts and methodologies of strategic sourcing. The three (3) day training is expected to involve 24 hours of concentrated class time encompassing nine (9) course topic areas that cover the fundamental steps and concepts of strategic sourcing. Training should include readings and assignment preparation outside of the classroom and incorporate real world application activities that will allow instructors to determine student comprehension. A mandatory written assessment should be administered to participants at the end of the three (3) day session. Additionally, a course evaluation designed to measure the quality, applicability and relevancy of the material covered in the “Basic Training” to New York State procurement should be distributed to participants for their feedback. Finally, class notes should be provided at the end of the course that concisely summarize key concepts and processes.

The nine (9) course topic areas should focus on the following core concepts and steps found in strategic sourcing methodology: 1) Mobilization and Start-up of a Sourcing Project; 2) Development of Internal/External Spend Analysis; 3) Establishing Strategies to Determine Contract Length and Approach; 4) Gaining Approval of Recommended Strategy and Method for Procurement; 5) Conducting a Competitive Event; 6) Conducting Value Proposition and Award; 7) Implementation and Communication of Award; 8) Managing Contract Performance and Measuring Results; and 9) Supplier Relationship Management.

It is OGS’ intention that the proposed training will be held at OGS facilities in Albany, New York.

**The following requirements apply:**

- Provide and complete two (2) three (3) day training intensive sessions on “Strategic Sourcing Basic Training”;
- Both training sessions must be completed by March 31, 2014.
- Each session will have a maximum capacity of 25 students (OGS guarantees a minimum of 20 students per class) per session;
- Classes must be conducted during the work day of 9:00 a.m. to 5:00 p.m. ET;
- Curriculum should build upon strategic sourcing concepts and methodologies as they apply to procurement, contract management and supply chain management concepts in non-manufacturing/industrial organizations, preferably public sector.
- In addition to the two full sessions above, the contractor may also be required to conduct additional training sessions as part of a train-the trainer component.

Written course materials must be provided for student reference and must include exercises; case studies and hands-on activities related to strategic sourcing and are appropriate for reinforcing course learning content. Class notes should be provided at the end of the course that concisely summarizes key concepts and processes.

### **3.3 Course Outline and Module Detail**

OGS desires that the three (3) day course curriculum offered for this intensive training program consist of discussions of the nine (9) fundamental concepts and steps for strategic sourcing and meet the requirements outlined below. If the Proposer's course curriculum is

different or include additional topic areas then the proposals the proposer must identify how a change in curriculum can benefit the program.

OGS is interested in the bidder's suggestions for ensuring that the nine (9) course topics provide a rich developmental experience in the procurement topic field within the constraints of time allocated. Enhancements to the core content are welcome in the proposals as long as it is demonstrated that the core content described below will be adequately and effectively covered.

### **3.3.1 Step1: Mobilization and Start-up of a Sourcing Project**

The objective of the Mobilization and Start-Up step is to confirm the potential value of conducting strategic sourcing on a targeted category and begin engaging the relevant stakeholders. Basic concepts and topics covered in this area should include:

- Development of a Project Charter (includes pro forma Benefits Case)
- Development of a Sourcing Project Work Plan
- Development of a Category Analysis Plan
- Conducting Data Collection and Analysis
- How to Identify Team and Mobilize Project

### **3.3.2 Step 2: Development of Internal and External Spend Analysis**

The objective of the Develop Internal Profile step is to develop a deeper understanding of what customers are buying, their business requirements, and the components of the total cost of ownership. Basic concepts and topics covered in this area should include:

- Summarizing of Historical / Estimated Spend
- Summarizing of Existing Contracts
- Documentation of Customer Values
- Collecting Cost Reduction Ideas
- Mapping of As-Is Procurement Flow
- Understanding the Total Cost of Ownership (TCO ) Model Components
- Building a Baseline TCO
- Collecting of Cost Reduction Ideas

The objective of the Develop External Profile step is to develop a deeper understanding of trends in the market and summarize/communicate the impact to the specific category. Basic concepts and topics covered in this area should include:

- How to determine Industry Structure
- Understanding Industry Financials
- Identifying Industry Trends/Dynamics
- Identifying Industry Leading Practices
- Identifying Major Suppliers
- Collecting Cost Reduction Ideas

### **3.3.3 Step 3: Establishing Strategies to Determine Contract Length and Approach**

The objective of the Establish Strategy step is to use the internal and external profile information to determine the recommended course of action to achieve the targeted outcomes (i.e., savings to the state). Activities covered in this topic area include:

- Determine appropriate focus for category (transaction versus relationship)
- Develop Category Strategy
- Identify method of procurement (e.g., RFR, RFQ, reverse auction)
- Gain approval of recommended Category Strategy and method of procurement

### **3.3.4 Step 4: Determine Selection Factors/Gaining Approval of Recommended Strategy and Method for Procurement**

The objective of the Determine Selection Factors and Gaining Approval Step is to identify the specific factors that will be used in the competitive event to determine the best fit suppliers for the State; to develop the basis for award; and to build scoring tables. Basic concepts and topics covered in this area should include:

- How to Select an Evaluation Committee
- Identifying relevant selection criteria
- Conducting a “10-4” process
- Selecting final criteria
- Rank and weighting of final criteria
- Creating a Supplier Evaluation Criteria Matrix
- Conducting RFI (if needed)

The objective of Conducting Vendor Screenings in this step is to understand what the supply base is capable of doing. For example, this helps set requirements for an event and can also help define regions. Activities covered in this topic area include:

### **3.3.5 Step 5: Conducting a Competitive Event**

The objective of the Conduct a Competitive Event step (i.e., auction, IFB, RFP, RFQ, etc) is to score supplier responses according to a complete set of total cost decision criteria and develop a short list of the most qualified suppliers to move to a possible Best and Final Offer (BAFO) stage. Activities covered in this topic area include:

- Develop Solicitation Documents
- Gain Approvals to Issue Solicitation
- Issue Approved Solicitation
- Manage Communications
- Collect and Evaluate Responses
- Verify and Analyze Capabilities
- Determine short list of suppliers to move to BAFO stage (if applicable)

### **3.3.6 Step 6: Conducting Value Proposition and Award**

The objective of the Conduct Value Proposition and Award Step is to prepare for and conduct final negotiations with the short list suppliers to reach the desired outcomes. Activities covered in this topic area include:

- Prepare Fact Based Negotiation Packages
- Conduct Negotiations with Short List Suppliers
- Receive BAFO from Short List Suppliers
- Analyze BAFO responses
- Develop preliminary Sourcing Project Results Summary
- Make sourcing award recommendation
- Receive approval of sourcing award recommendation
- Finalize Sourcing Project Results Summary based on approved award

### **3.3.7 Step 7: Implementation and Communication of Award**

The objective of the Implementation Step is to plan and execute all of the necessary activities to enable eligible users of the new statewide contract to be aware of and use the new agreement. Basic concepts and topics covered in this area should include::

- Development and finalization of Implementation Plan
- Development of a Communication Strategy
- Defining a Supplier Performance Management approach
- Executing Implementation Plan and Communication Strategy
- Tracking implementation status through completion

### **3.3.8 Step 8: Managing Contract Performance and Measuring Results**

As a part of the Implementation step, the approach that will be used to manage the suppliers' performance during the contract should be documented and implemented. Leading practice procurement organizations use a consistent, rigorous approach to provide a common view of the benefits being delivered to stakeholders through strategic sourcing. Basic concepts and topics covered in this area should include:

- Supplier Performance Management
- Supplier Scorecard
- Benefits Measurement
- Savings Tracking

### **3.3.9 Step 9: Supplier Relationship Management**

Leading practice procurement organizations segment their suppliers based on financial impact and level of complexity factors, and then manage each segment differently. Basic concepts and topics covered in this area should include:

- Periodic Business Review meetings
- Procurement Balanced Scorecard

## **4. MANDATORY REQUIREMENTS**

---

To be considered for this award, the Contractor must propose a curriculum that provides a comprehensive view of the core concepts of strategic sourcing and its methodologies and is taught by instructors who meet the mandatory requirements as defined in this RFQ. The Proposer must have successfully provided this type of instruction to clients for the minimum time frames as described below.

The Company information must be submitted on Attachment A: Company Experience Form. The Instructor(s) information must be submitted using Attachment B: Instructor Qualifications and Experience Form. Attachment B should be completed for each instructor that will be delivering training. The course information must be submitted using Attachment C: Course Curriculum.

### **4.1 Company Requirement**

The Proposer must have at least five (5) years' experience providing training to clients and be able to provide a client listing including dates of service that demonstrates this experience.

### **4.2 Instructor Requirements**

All Instructors must: Possess a Bachelor's Degree and have at least three (3) years' experience teaching an area directly related to the topic the instructor will be teaching, which should be in one or more of the following areas: 1) Mobilization and Start-up of a Sourcing Project; 2) Development of Internal/External Spend Analysis; 3) Establishing Strategies to Determine Contract Length and Approach; 4) Gaining Approval of Recommended Strategy and Method for Procurement; 5) Conducting a Competitive Event; 6) Conducting Value Proposition and Award; 7) Implementation and Communication of Award; 8) Managing Contract Performance and Measuring Results; and 9) Supplier Relationship Management.

### **4.3 Course Requirements**

Any proposal that fails to meet the mandatory requirements listed below will be found non-responsive and may be eliminated from further consideration.

- 1) Two training sessions must be completed by March 31, 2014.
- 2) A complete course outline covering all topical areas identified in Section 3.3 of this document must be provided for each session of training.

## **5. ADMINISTRATIVE INFORMATION**

---

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

### **5.1 State Finance Law §139-j, State Finance Law §139-k**

It is the policy of OGS to comply with the provisions of the procurement lobbying law, established by Chapter 1 of the Laws of 2005. In pertinent part, Chapter 1 adds two new sections to the State Finance Law effective January 1, 2006: State Finance Law §139-j, Restrictions on Contacts during the Procurement Process, and State Finance Law §139-k, Disclosure of Contacts and Responsibility of Offerers. OGS is also required to develop and maintain a listing on its Web site setting forth those offerers who have been determined to be non-responsible or debarred due to violations of State Finance Law §139-j.

#### **5.1.1 State Finance Law §139-j**

Prohibits lobbying on the governmental procurements of governmental entities (i.e., state agencies, the Legislature, the Unified Court System, and public authorities, including local industrial development agencies and local public benefit corporations). This section provides that OGS in undertaking a governmental procurement shall: (a) designate with regard to each governmental procurement a person to be responsible for communications relative to the procurement who may be contacted by bidders or potential bidders; and (b) undertake the procurement in a manner that is consistent with procurement principles set out in the State Finance Law and free from any conduct violative of Public Officers Law ethics provisions. Further, offerers who contact OGS about procurement shall be required to contact only designated personnel subject to some statutory exceptions.

#### **5.1.2 State Finance Law §139-k**

Provides for disclosure of contacts between contractors and OGS. Specifically, this section requires contractors to disclose prior findings of non-responsibility and penalizes contractors that fail to disclose prior findings of non-responsibility or that provide false and incomplete information by disqualifying them from being awarded the procurement contract. Further, this section requires OGS employees to record in the procurement record certain information about the persons who appear before them on governmental procurements.

#### **5.1.3 Pursuant to §139-j and 139-k of the State Finance Law**

This solicitation includes and imposes certain procurement lobbying limitations. Bidders/Offerers are restricted from making contacts from issuance of the solicitation through approval of the contract by the Office of the State Comptroller ("restricted period") to other than designated staff unless it is a contact that is included among certain statutory exceptions (referred to as permissible contacts). Staff identified on the first page of this solicitation are the "designated contacts." OGS employees are also required to obtain certain information when there are communications during the restricted period that constitute a "contact" as defined in the statute and make a determination of the responsibility of the Bidder/Offerer pursuant to these two statutes. Findings of non-responsibility result in rejection for contract award and in the event of two findings within a four-year period, results in a finding of Bidder/Offerer being

ineligible to submit a proposal on or be awarded any procurement contract for four years from the date of the second finding of non-responsibility. Further information about these requirements can be found on the OGS Web site: <http://www.ogs.state.ny.us/aboutOgs/regulations/defaultAdvisorvCouncil.html>

## **5.2 Errors and Omissions**

OGS may modify any part of this RFQ prior to the Deadline for Submission of Proposals by issuance of an addendum to all Contractors who received access to this RFQ.

If the Contractor discovers any ambiguity, conflict, discrepancy, omission, or other error in this RFQ, the Contractor shall immediately notify OGS (See Section 5.1, Procurement Integrity/Restrictions on Communications) of such error in writing and request clarification or modification of the document.

Prior to the Deadline for Submission of Proposals, OGS may provide such clarifications by email notification to all Contractors who received access to this RFQ. These clarifications will be made by addenda. Any addendum issued by OGS will become part of the RFQ and subsequent contract. If, prior to the final proposal filing date, a Proposer fails to notify the contracting officer of a known error or an error that reasonably should have been known, the Proposer shall assume the risk of proposing. If awarded the contract, the Proposer shall not be entitled to additional compensation by reason of the error or its correction.

## **5.3 Confidentiality of Proposals**

The content of each proposal and all communications will be held in confidence and no details will be divulged to any other Proposer during evaluation. Upon approval of the agreement by OGS, the agreement becomes available to the public as required by State law.

## **6. PROPOSAL CONTENT**

---

The following includes the required format and information to be provided by each Proposer. Proposers responding to this RFQ must satisfy all requirements stated in this RFQ document.

### **6.1 Technical Proposal**

The purpose of the Technical Proposal is to demonstrate that the Proposer and its instructors have the qualifications to meet the mandatory requirements and demonstrate that they can provide the best training to meet the needs of this RFQ.

The following outlines the required information to be provided, in the following order, by the Proposer. While additional information may be presented to strengthen the proposal, the following must be included. Failure to follow these instructions may result in disqualification.

#### **6.1.1 Table of Contents**

#### **6.1.2 Transmittal Letter**

A signed letter of transmittal by an individual authorized to contractually bind the firm, briefly stating the Proposer's understanding of the work to be done, their understanding of the project timeframe, the commitment to perform the work to OGS' satisfaction and a statement that the proposal is a firm and irrevocable offer for a minimum of 90 days. The letter should certify that the Proposer will be able to start the training in accordance with the needs expressed in the RFQ. Include a statement that the firm accepts the Standard Clauses for Contracts (Appendix A). State the names, titles, addresses, telephone numbers, and email addresses of the persons authorized to make representations for the firm and bind the firm if other than the contact person identified on the title page. The firm's federal identification number must be included in the transmittal letter. A statement must be included that agrees with the course schedule, as stated in Section 3.2.

#### **6.1.3 Company Experience Form – Attachment A**

Provide detailed information and at least two (2) references to demonstrate the experience of the Proposing Contractor as it relates to capabilities to successfully deliver the training requested in Section 3.3 and the mandatory requirements stated in Section 4.0.

#### **6.1.4 Instructor Qualifications and Experience Form – Attachment B**

Provide detailed information on the education, work, and training experience for each proposed instructor. Also for each instructor, include at least two (2) references who have directly observed or experienced the instructor's performance. In all responses, include information specifically related to the work experience and training services related to the course requirements in Section 3.3 and the requirements defined in Section 4.0. Include a complete resume for each proposed instructor to support the information provided on Attachment B.

#### **6.1.5 Course-Specific Information – Attachment C**

A Description of the course curriculum for each class proposed must be submitted using Attachment C - Course Curriculum Description Form.

Provide detailed information on each of the course modules proposed to cover the topics listed in Section 3.3 including, but not limited to, the following for each course:

- 1) Provide a detailed course curriculum that includes identification of how the criteria in Section 3.3 will be covered by the course.
- 2) Provide a proposed schedule for courses including the number of hours and days required for each proposed module. The schedule may be subject to change based upon OGS staff availability and training room logistics.
- 3) Provide a listing of materials to be provided to students.
- 4) Provide a list and a brief description of the case studies, exercises and/or hands-on activities.
- 5) Provide at least one sample student manual for one of the course modules listed in Section 3.3.

## 6.2 Administrative Proposal

The Administrative Proposal should contain all requirements listed below. A proposal that is incomplete in any material respect may be eliminated from consideration. The information requested should be provided in the prescribed format. Responses that do not follow the prescribed format may be eliminated from consideration. All responses to the RFQ will be subject to verification for accuracy.

Please provide the forms in the same order in which they are requested. Your proposal must contain sufficient information to assure OGS of its accuracy.

- Proposer's Certifications/Acknowledgements – Appendix B
- State Finance Law Lobbying Forms - Appendix C
- The selected vendor will be required to provide Certificates of Insurance evidencing compliance with all requirements contained in this Contract (Section 9.3 Contractor Insurance Requirements).

## 6.3 Cost Proposal

OGS is recommending a three (3) day intensive training course schedule; however, OGS will allow vendors to vary the number of days required for completion of the course from 3-5 days based upon the curriculum. No training session should be less than the allotted three (3) days outlined in Section 3.2.

Proposers are to bid an *all-inclusive per student per training course* fee. All rates bid are inclusive of all expenses, including travel expenses.

Proposer is responsible for providing all the course materials at no additional cost. OGS will pay for up to 25 students per training session and will provide the location and up to 6 newsprint stands. A projector can be made available to the instructor, if requested. **The cost information must be submitted using Attachment D - Cost Proposal Document.**

The following includes the required format and information to be provided by the Proposer in the cost proposal. A proposal shall comply with all mandatory formats and content requirements as detailed in this document. Failure to comply with the mandatory format and content requirements may result in disqualification.

The Cost Proposal (Attachment D) must include the following:

- 1) Name of the Proposer's Firm

RFQ #1842  
Instructor-Led Training Services  
For Strategic Sourcing Basic Training

---

- 2) OGS RFQ #1866
- 3) Proposed all-inclusive per-student fee for each training session.
- 4) Signature of an individual authorized to contractually bind the firm and the date.

**NOTE: OGS will not be responsible for expenses incurred in preparing and submitting the Technical, Administrative, or Cost proposals.**

## 7. PROPOSAL SUBMISSION

---

All proposals are requested in hard copy and received by the date and time indicated for Deadline for Submission of Proposals as specified in Section 2.0 - Calendar of Events. Proposals received after the final proposal filing date and time may be rejected.

Two (2) copies each of Technical Proposals, Administrative Proposals, and Cost Proposals must be submitted to:

T.J. Karl  
Contract Management Specialist 1  
New York State Office of General Services  
Financial Administration  
40<sup>th</sup> Floor, Corning Tower Bldg.  
Empire State Plaza  
Albany, New York 12242

The received time of bids will be determined by OGS at the clock at the above noted location.  
**PROPOSALS WILL NOT BE ACCEPTED BY FAX OR EMAIL.**

**Mailed Bids:** Bidders mailing their bid/proposal must allow sufficient mail delivery time to ensure receipt of their proposal no later than the specified date and time in Section 2.0 - Calendar of Events.

**Delivered Bids:** Security procedures are in effect at the Corning Tower. While Empire State Plaza procedures govern both parking and admittance to buildings, the new Corning Tower procedures require turnstile security access. Photo identification is required. All visitors must register for building access, including vendors attending bid openings or delivering bids. Vendors are encouraged to pre-register by contacting the OGS' Training Office at (518) 472-3716 at least 24 hours prior to the bid opening. Pre-registered visitors are to report to the visitor desk located at the Concourse level of the Corning Tower. Upon presentation of appropriate photo identification, the visitor will be allowed access to the building.

Upon arrival at the visitor desk, visitors that have not pre-registered will be directed to a designated phone to call the OGS Finance Office. The Finance Office will then enter the visitor's information into the security system. Access will not be allowed until the security system has been updated. Visitors are encouraged to pre-register to ensure timely access to the building.

Vendors who intend to deliver bids or conduct business with OGS should allow extra time to comply with the security procedures. These security procedures may change or be modified at any time.

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

### 7.1 Submission of Technical Proposals

Each Proposer must submit one (1) paper original and three (3) paper copies of the Technical Proposal and one (1) copy on compact disc (CD). The preferred format is Microsoft Word. The original proposal should be clearly marked "original" on the cover page. Submit the original, copies, and the CD in a sealed package separate from the Cost Proposal and Administrative Proposal.

**RFQ #1842**  
**Instructor-Led Training Services**  
**For Strategic Sourcing Basic Training**

---

Clearly mark the outside of the sealed proposal and each original, photocopy, and CD as "RFQ #1866 Instructor-Led Training Services for Strategic Sourcing Basic Training - Proposal Submitted by (Proposer's name)."

## **7.2 Submission of Cost Proposals**

Each Proposer must submit one (1) paper original and three (3) paper copies of the Cost Proposal and one (1) copy on compact disc (CD). The original proposal should be clearly marked "original" on the cover page. A company official authorized to bind the prospective Proposer shall sign the Cost Proposal.

Clearly mark the outside of your Cost Proposal and each original, photocopy, and CD as "RFQ #1866 Instructor-Led Training Services for Strategic Sourcing Basic Training - Proposal Submitted by (Proposer's name)."

## 8. ENGAGEMENT TERMS AND CONDITIONS

---

### 8.1 Administrative Requirements

OGS will provide the training site to conduct the required training in the Albany, New York area. The specific site is yet to be determined. If computers are required to conduct this class, OGS must be contacted prior to this engagement.

The selected Proposer shall be required to comply with all applicable facility and information security policies and procedures (both present and future) of OGS and the State in performing the scope of work under this engagement.

### 8.2 Billing

Upon the completion of each class, payment will be made on the basis of rates bid in the cost proposal.

#### 8.2.1 Method of Payment

Invoices for payment shall be submitted at the end of each session on a company invoice or New York State Standard Voucher for services satisfactorily completed. This invoice or voucher will contain the Contract ID number (i.e.: CMSXXXX) and, either in its body or as an attachment, will itemize work completed.

These invoices will be processed in accordance with established procedures of the New York State Office of General Services and the Office of the State Comptroller.

All invoices or vouchers are to be submitted for payment to:

BSC/Accounts Payable  
Empire State Plaza Station  
P.O. Box 2117  
Albany, New York 12220-0117  
E-mail: [AccountsPayable@ogs.ny.gov](mailto:AccountsPayable@ogs.ny.gov)

**MANDATORY:** A copy of the invoice must also be forwarded to New York State Procurement, along with copies of all course evaluations.

New York State Office of General Services  
New York State Procurement  
37th Floor, Corning Tower Building  
Empire State Plaza Albany, NY 12242  
Attn: Karyn T. Andrade, PhD  
E-mail: [Karyn.Andrade@ogs.ny.gov](mailto:Karyn.Andrade@ogs.ny.gov)

#### 8.2.2 Electronic Payments

Contractor shall provide complete and accurate billing invoices in order to receive payment. Billing invoices submitted must contain all information and supporting documentation required by the contract, the agency, and the State Comptroller. Payment for invoices submitted by the contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the Commissioner, in the Commissioner's sole discretion, due to extenuating

circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. The Contractor shall comply with the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the State Comptrollers website at [www.osc.state.ny.us/epay/index.htm](http://www.osc.state.ny.us/epay/index.htm), by e-mail at [epunit@osc.state.ny.us](mailto:epunit@osc.state.ny.us), or by phone 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 State Comptroller's electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

Please note that in conjunction with New York State's implementation of a new Statewide Financial System (SFS), the Office of the State Comptroller (OSC) requires all vendors doing business with New York State agencies to complete a substitute W-9 form. Vendors registering for electronic payment can complete the W-9 form when they register. Vendors already registered for electronic payment are requested to go to the above website and complete the Substitute W-9 form and submit following the instructions provided.

### **8.3 Contractor Status**

The relationship of the Contracting Firm to OGS shall be that of an independent Contractor. In accordance with such status as an independent Contractor, the Contracting Firm covenants and agrees to act consistently with such status.

With respect to any contract or employment as an independent Contractor, the Contracting Firm hereby covenants and represents that there is no conflict as to hours required to be worked or duties required to be performed pursuant to the terms of this proposal.

OGS reserves the right to request removal of any Contractor employee from the engagement without cause. All substitutes must be pre-approved by OGS.

### **8.4 Staff Hours**

The instructors will present training in the Albany, New York area. The actual site is yet to be determined. Classes are to begin at 9:00 a.m. and end at 5:00 p.m. ET (with a one-half hour lunch break).

## **9. CONTRACT CLAUSES AND REQUIREMENTS**

---

### **9.1 Appendix A / Order of Precedence**

Appendix A — Standard Clauses for New York State Contracts, dated November 2013 attached hereto, is hereby expressly made a part of this solicitation document as fully as if set forth at length herein.

The agreement resulting from a successful award will include the following documents. Conflicts between these documents will be resolved in the following descending order of precedence:

1. Appendix A (dated November 2013)
2. Contract
3. OGS Request for Proposal No. 1866 (this document) with any addendum(a)
4. Selected Contractor's Bid

### **9.2 Procurement Lobbying Requirement**

Pursuant to State Finance Law §§139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between OGS and an Offerer/Bidder during the procurement process. An Offerer/Bidder is restricted from making contacts from the earliest notice of intent to solicit offers/bids through final award and approval of the Procurement Contract by OGS and, if applicable, the Office of the State Comptroller (“restricted period”) to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law §139-j (3) (a). Designated staff, as of the date hereof, is identified on the first page of this solicitation. OGS employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the Offerer/Bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four-year period; the Offerer/Bidder is debarred from obtaining governmental Procurement Contracts. Further information about these requirements can be found on the OGS website:

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

### **9.3 Contractor Insurance Requirements**

Prior to the commencement of the work to be performed by the Contractor hereunder, the Contractor shall file with The People of the State of New York, Office of General Services (hereinafter referred to as “OGS”), Certificates of Insurance (hereinafter referred to as “Certificates”), evidencing compliance with all requirements contained in this Contract. Such Certificates shall be of a form and substance acceptable to OGS.

Certificate acceptance and/or approval by OGS does not and shall not be construed to relieve Contractor of any obligations, responsibilities or liabilities under the Contract.

All insurance required by the Contract shall be obtained at the sole cost and expense of the Contractor; shall be maintained with insurance carriers licensed to do business in New York State, and acceptable to OGS; shall be primary and non-contributing to any insurance or self

**RFQ #1842**  
**Instructor-Led Training Services**  
**For Strategic Sourcing Basic Training**

---

insurance maintained by OGS; shall be endorsed to provide written notice be given to OGS, at least thirty (30) days

prior to the cancellation, non-renewal, or material alteration of such policies, which notice, evidenced by return receipt of United States Certified Mail; shall be sent to Office of General Services, Tower Building, G.N.A.R. 40th Floor, Empire State Plaza, Albany, New York 12242 and shall name The People of the State of New York, Empire State Development Corp. and Moynihan Station Development Corp. and their officers, agents, and employees as additional insureds there under (General Liability Additional Insured Endorsement shall be on Insurance Service Office's (ISO) form number CG 20 26 11 85 and a copy of the endorsement should accompany the certificate). The additional insured requirement does not apply to Workers Compensation, Disability or Employee Dishonesty Coverage.

The Contractor shall be solely responsible for the payment of all deductibles and self-insured retentions to which such policies are subject. Deductibles and self-insured retentions must be approved by OGS. Such approval shall not be unreasonably withheld.

The Contractor shall require that any subcontractors hired, carry insurance with the same limits and provisions provided herein.

Each insurance carrier must be rated at least "A-" Class "VII" in the most recently published Best's Insurance Report. If, during the term of the policy, a carrier's rating falls below "A-" Class "VII", the insurance must be replaced no later than the renewal date of the policy with an insurer acceptable to OGS and rated at least "A-" Class "VII" in the most recently published Best's Insurance Report.

The Contractor shall cause all insurance to be in full force and effect as of the commencement date of this Contract and to remain in full force and effect throughout the term of this Contract and as further required by this Contract. The Contractor shall not take any action, or omit to take any action that would suspend or invalidate any of the required coverages during the period of time such coverages are required to be in effect.

Not less than thirty (30) days prior to the expiration date or renewal date, the Contractor shall supply to OGS updated replacement Certificates of Insurance, and amendatory endorsements.

The Contractor, throughout the term of this Contract, or as otherwise required by this Contract, shall obtain and maintain in full force and effect, the following insurance with limits not less than those described below and as required by the terms of this Contract, or as required by law, whichever is greater (limits may be provided through a combination of primary and umbrella/excess policies):

a) Commercial General Liability Insurance with a limit of not less than \$2,000,000 each occurrence. Such liability shall be written on the ISO occurrence form CG 00 01, or a substitute form providing equivalent coverages and shall cover liability arising from premises operations, independent contractors, products-completed operations, broad form property damage, personal & advertising injury, cross liability coverage, liability assumed in a contract (including the tort liability of another assumed in a contract) and explosion, collapse & underground coverage.

1. If such insurance contains an aggregate limit, it shall apply separately on a per-job or per-project basis.

2. Coverage for the use of reasonable force to protect persons and property must be included.

b) Commercial Business Automobile Liability Insurance with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of any automobile including owned, leased, hired and non-owned automobiles.

c) WORKERS' COMPENSATION / DISABILITY INSURANCE:

Workers' Compensation, Employer's Liability, and Disability Benefits meeting all New York State statutory requirements are required. If coverage is obtained from an insurance company through an insurance policy, the policy shall provide coverage for all states of

operation that apply to the performance of the contract. In addition, if employees will be working on, near or over navigable waters, coverage provided under the US Longshore and Harbor Workers' Compensation Act must be included. Also, if the contract is for temporary services, or involves renting equipment with operators, the Alternate Employer Endorsement, WC 00 03 01A, must be included on the policy naming the People of the State of New York as the alternate employer.

PROOF of COMPLIANCE WITH WORKERS' COMPENSATION COVERAGE REQUIREMENTS:

ACORD forms are NOT acceptable proof of workers' compensation coverage.

In order to provide proof of compliance with the requirements of the Workers' Compensation Law pertaining to workers' compensation coverage, contractors shall:

A) Be legally exempt from obtaining workers' compensation insurance coverage;

Or

B) Obtain such coverage from insurance carriers;

Or

C) Be a Board-approved self-insured employer or participate in an authorized self-insurance plan.

Contractors seeking to enter into contracts with the State of New York shall provide one of the following forms to the Office of General Services at the time of bid submission or shortly after the opening of bids:

A) Form CE-200, Certificate of Attestation for New York Entities With No Employees and Certain Out of State Entities, That New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is Not Required which is available on the Workers' Compensation Board's website ([www.wcb.state.ny.us](http://www.wcb.state.ny.us));

Or

B) Certificate of Workers' Compensation Insurance:

1) Form C-105.2 (9/07) if coverage is provided by the contractor's insurance carrier, contractor must request its carrier to send this form to the New York State Office of General Services;

**RFQ #1842  
Instructor-Led Training Services  
For Strategic Sourcing Basic Training**

---

Or

2) Form U-26.3 if coverage is provided by the State Insurance Fund, contractor must request that the State Insurance Fund send this form to the New York State Office of General Services;

Or

C) Certificate of Workers' Compensation Self-Insurance - Form SI-12, available from the New York State Workers' Compensation Board's Self-Insurance Office;

Or

D) Certificate of Participation in Workers' Compensation Group Self-Insurance Form GSI-105.2, available from the contractor's Group Self-Insurance Administrator.

**PROOF of COMPLIANCE WITH DISABILITY BENEFITS COVERAGE REQUIREMENTS:**

In order to provide proof of compliance with the requirements of the Workers' Compensation Law pertaining to disability benefits, contractors shall:

A) Be legally exempt from obtaining disability benefits coverage;

Or

B) Obtain such coverage from insurance carriers;

Or

C) Be a Board-approved self-insured employer.

Contractors seeking to enter into contracts with the State of New York shall provide one of the following forms to the Office of General Services at the time of bid submission or shortly after the opening of bids:

A) Form CE-200, Certificate of Attestation for New York Entities With No Employees and Certain Out of State Entities, That New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is Not Required which is available on the Workers' Compensation Board's website ([www.wcb.state.ny.us](http://www.wcb.state.ny.us));

Or

B) Form DB-120.1, Certificate of Disability Benefits Insurance. Contractor must request its business insurance carrier to send this form to the New York State Office of General Services;

Or

C) Form DB-155, Certificate of Disability Benefits Self-Insurance. The Contractor must call the Board's Self-Insurance Office at 518-402-0247 to obtain this form.

All forms must name the Office of General Services – Financial Administration, 40th Floor, Mayor Erastus Corning 2nd Tower, Empire State Plaza, Albany NY 12242, as the Entity Requesting Proof of Coverage (Entity being listed as the Certificate Holder).

Contractor acknowledges that failure to obtain and/or keep in effect any or all required insurance on behalf of OGS constitutes a material breach of contract and subjects it to liability

for damages, indemnification and all other legal remedies available to OGS. Contractor's failure to obtain and/or keep in effect any or all required insurance shall also provide the basis for OGS' immediate termination of any contract resulting from this RFQ, subject only to a five (5) business day cure period. Any termination by OGS under this section shall in no event constitute or be deemed a breach of any contract resulting from this solicitation and no liability shall be incurred by or arise against the Office of General Services, its agents and employees therefore for lost profits or any other damages.

## **9.4 MWBE & EEO REQUIREMENTS**

CONTRACTOR REQUIREMENTS AND PROCEDURES FOR EQUAL EMPLOYMENT AND BUSINESS PARTICIPATION OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND NEW YORK STATE CERTIFIED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES

### **New York State Law**

Pursuant to New York State Executive Law Article 15-A, OGS 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 OGS contracts.

In 2006, the State of New York commissioned a disparity study to evaluate whether minority and women-owned business enterprises had a full and fair opportunity to participate in state contracting. The findings of the study were published on April 29, 2010, under the title "The State of Minority and Women-Owned Business Enterprises: Evidence from New York" ("Disparity Study"). The report found evidence of statistically significant disparities between the level of participation of minority and women-owned business enterprises in state procurement contracting versus the number of minority and women-owned business enterprises that were ready, willing and able to participate in state procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the statewide certified minority and women-owned business enterprises program. The recommendations from the Disparity Study culminated in the enactment and the implementation of New York State Executive Law Article 15-A, which requires, among other things, that OGS establishes goals for maximum feasible participation of New York State Certified minority and women-owned business enterprises ("MWBE") and the employment of minority groups members and women in the performance of New York State contracts.

### **Equal Employment Opportunity Requirements**

By submission of a bid or proposal in response to this solicitation, the Bidder/Contractor agrees with all of the terms and conditions of Appendix A including Clause 12 - Equal Employment Opportunities for Minorities and Women. The Contractor is required to ensure that it and any subcontractors awarded a subcontract over \$25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor, shall undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement

does not apply to: (i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.

Bidder further agrees to submit with the bid a staffing plan on Form EEO 100 identifying the anticipated work force to be utilized on the Contract and if awarded a Contract, will, upon request, submit to OGS, 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 subcontractors 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.

### **Business Participation Opportunities for MWBEs**

For purposes of this procurement, OGS has conducted a comprehensive search and has determined that the contract does not offer sufficient opportunities to set goals for participation by MWBEs as subcontractors, service providers and suppliers to the awarded contractors. Contractors are however encouraged to make every good faith effort to promote and assist the participation of New York State Certified Minority and Women-owned Business Enterprises (MWBE) on this contract for the provision of services and materials. To locate New York State Certified MWBEs, the directory of Certified Businesses can be viewed at: <http://www.empire.state.ny.us/MWBE/directorySearch.html>

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.

ALL FORMS ARE AVAILABLE AT: <http://www.ogs.ny.gov/MWBE/Forms.asp>

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

New York State businesses have a substantial presence in State contracts and strongly contribute to the economies of the state and the nation. In recognition of their economic activity and leadership in doing business in New York State, bidders/proposers 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 need to be aware that all authorized users of this contract will be strongly encouraged, to the maximum extent practical and consistent with legal requirements, 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 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 State 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 the 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. The State 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 the State and its taxpayers.

## **9.6 Freedom of Information Law / Trade Secrets**

During the evaluation process, the content of each bid/bid will be held in confidence and details of any bid/bid will not be revealed (except as may be required under the Freedom of Information Law or other State law). The Freedom of Information Law provides for an exemption from disclosure for trade secrets or information the disclosure of which would cause injury to the competitive position of commercial enterprises. This exception would be effective both during and after the evaluation process.

SHOULD YOU FEEL YOUR FIRM'S BID/BID CONTAINS ANY SUCH TRADE SECRETS OR OTHER CONFIDENTIAL OR PROPRIETARY INFORMATION, YOU MUST SUBMIT A REQUEST TO EXCEPT SUCH INFORMATION FROM DISCLOSURE. SUCH REQUEST MUST BE IN WRITING, MUST STATE THE REASONS WHY THE INFORMATION SHOULD BE EXEMPTED FROM DISCLOSURE AND MUST BE PROVIDED AT THE TIME OF SUBMISSION OF THE SUBJECT INFORMATION.

REQUESTS FOR EXEMPTION OF THE ENTIRE CONTENTS OF A BID/BID FROM DISCLOSURE HAVE GENERALLY NOT BEEN FOUND TO BE MERITORIOUS AND ARE DISCOURAGED. KINDLY LIMIT ANY REQUESTS FOR EXEMPTION OF INFORMATION FROM DISCLOSURE TO BONA FIDE TRADE SECRETS OR SPECIFIC INFORMATION, THE DISCLOSURE OF WHICH WOULD CAUSE A SUBSTANTIAL INJURY TO THE COMPETITIVE POSITION OF YOUR FIRM.

## **9.7 General Requirements**

- The Bidder agrees to adhere to all State and Federal laws and regulations in connection with the contract.
- The Bidder agrees to notify the Office of General Services of any changes in the legal status or principal ownership of the firm, forty five (45) days in advance of said change.
- The Bidder agrees that in any contract resulting from this RFQ it shall be completely responsible for its work, including any damages or breakdowns caused by its failure to take appropriate action.
- The Bidder agrees that any contract resulting from this RFQ may not be assigned, transferred, conveyed or the work subcontracted without the prior written consent of the Commissioner of General Services.

- For reasons of safety and public policy, in any contract resulting from this RFQ, the use of illegal drugs and/or alcoholic beverages by the Contractor or its personnel shall not be permitted while performing any phase of the work herein specified.
- For purposes of any contract resulting from this RFQ, the State will not be liable for any expense incurred by the Contractor for any parking fees or as a consequence of any traffic infraction or parking violations attributable to employees of the Contractor.
- The Commissioner's interpretation of specifications shall be final and binding upon the Contractor.
- The Commissioner of General Services will make no allowance or concession to the Bidder for any alleged misunderstanding because of quantity, quality, character, location or other conditions.
- Should it appear that there is a real or apparent discrepancy between different sections of specifications concerning the nature, quality or extent of work to be furnished, it shall be assumed that the Bidder has based its bid on the more expensive option. Final decision will rest with the Commissioner of General Services.
- INSPECTION – For purposes of any contract resulting from this RFQ, the quality of service is subject to inspection and may be made at any reasonable time by the State of New York. Should it be found that quality of services being performed is not satisfactory and that the requirements of the specifications are not being met, the Commissioner of the Office of General Services may terminate the contract and employ another contractor to fulfill the requirements of the contract. The existing Contractor shall be liable to the State of New York for costs incurred on account thereof.
- STOP WORK ORDER - The Commissioner of General Services reserves the right to stop the work covered by this RFQ and any contract(s) resulting there from at any time that it is deemed the successful Bidder is unable or incapable of performing the work to the state's satisfaction. In the event of such stopping, the Office of General Services shall have the right to arrange for the completion of the work in such manner as it may deem advisable and if the cost thereof exceeds the amount of the bid, the existing Contractor shall be liable to the State of New York for any such costs on account thereof. In the event that the Office of General Services issues a stop work order for the work as provided herein, the Contractor shall have ten (10) working days to respond thereto before any such stop work order shall become effective.
- It is the Contractor's responsibility to maintain all equipment and materials provided for the work consistent with applicable public safety and health codes.
- The Office of General Services reserves the right to reject any employee hired by the Contractor.

## 9.8 Contract Terms

All provisions and requirements of, Appendix A - Standard Clauses for New York State Contracts (dated November 2013), which is attached hereto and forms a part hereof, will be incorporated into any contract resulting from this RFQ, and will be binding upon the parties to such contract.

All provisions and requirements, which are attached hereto and form a part hereof, will be incorporated into any contract resulting from this RFQ, and will be binding upon the parties to such contract.

It is stipulated and agreed by the parties that the law of the State of New York shall solely and in all respects govern with relation to any dispute, litigation, or interpretation arising out of or connected with any contract resulting from this RFQ.

## **9.9 Subcontractors**

The State will contract only with the successful Bidder who is the Prime Contractor. The Issuing Office considers the Prime Contractor, the sole Contractor with regard to all provisions of the solicitation and the contract resulting from the solicitation. When bidding, any known / planned use of subcontractors must be disclosed in detail with bid submission. If subcontractors are to be used, it shall be understood that the bid price includes the cost of the subcontractor and no additional markups will be allowed. The total of all Subcontractor work during the term of the Contract, exclusive of MWBE subcontracted work as established in the approved utilization plan, shall not exceed 10% of the total contract value.

No subcontract entered into by the Contractor shall relieve the Contractor of any liabilities or obligations in this RFQ or the resultant contract. The Contractor accepts full responsibility for the actions of any employee or subcontractor/subcontractor's employee(s) who carry out any of the provisions of any contract resulting from this RFQ.

The Contractor's use of subcontractors shall not diminish the Contractor's obligations to complete the work in accordance with the contract. The Contractor shall coordinate and control the work of the subcontractors.

The Contractor shall be responsible for informing the subcontractors of all terms, conditions, and requirements of the contract documents.

During the term of the Contract, before any part of the contract shall be sublet, the Contractor shall submit to Trent Graham, NYS OGS Employee Development Office, 29<sup>th</sup> Floor, Corning Tower, Empire State Plaza, Albany, New York 12220, in writing, the name of each proposed subcontractor and obtain written consent to such subcontractor. The names shall be submitted in ample time to permit acceptance or rejection of each proposed subcontractor without causing delay in the work of this contract. The Contractor shall promptly furnish such information as the OGS may require concerning the proposed subcontractor's ability and qualifications.

## **9.10 Procurement Rights**

The State of New York reserves the right to:

1. Reject any and all proposals received in response to this Solicitation.
2. Disqualify a Proposer from receiving the award if the Proposer, or anyone in the Proposer's employ, has previously failed to perform satisfactorily in connection with public bidding or contracts.
3. Correct Proposers' mathematical errors and waive or modify other minor irregularities in proposals received, after prior notification to the Proposer.

4. Adjust any Proposer's expected costs of the bid price based on a determination of the evaluation committee that the selection of the said Proposer will cause the State to incur additional costs.
5. Utilize any and all ideas submitted in the proposals received.
6. Negotiate with Proposers responding to this Solicitation within the Solicitation requirements to serve the best interests of the State.
7. Begin contract negotiations with another bidding Contractor(s) in order to serve the best interests of the State of New York should the State of New York be unsuccessful in negotiating a contract with the selected Contractor within 21 days of selection notification.
8. Waive any non-material requirement not met by all Proposers.
9. Not make an award from this Solicitation.
10. Make an award under this Solicitation in whole or in part.
11. Make multiple contract awards pursuant to the Solicitation.
12. Have any service completed via separate competitive bid or other means, as determined to be in the best interest of the State.
13. Seek clarifications of proposals.
14. If two or more offers are found to be substantially equivalent, the Commissioner of OGS, at his sole discretion, will determine award.
15. All materials designed by the contractor and used in these training sessions may be used by OGS for future training exercises.

Please Note: The State is not liable for any cost incurred by a Proposer in the preparation and production of a proposal or for any work performed prior to the issuance of a contract.

## **9.11 Dispute Resolution**

It is the policy of the Office of General Services' Financial Administration to provide vendors with an opportunity to administratively resolve disputes, complaints or inquiries related to proposal solicitations, contract awards, and contract administration. OGS Financial Administration encourages vendors to seek resolution of disputes informally, through consultation with OGS Financial Administration staff, prior to commencing a formal dispute process. All such matters will be accorded full, impartial and timely consideration. A copy of the OGS Financial Administration Dispute Resolution Procedures for Vendors may be obtained by contacting the designated contact person identified in the solicitation.

## **9.12 Termination**

### **A. Termination**

The Office of General Services may, upon thirty (30) days notice, terminate the contract resulting from this RFQ in the event of the awarded Bidder's failure to comply with any of the proposal's requirements unless the awarded Bidder obtained a waiver of the requirement. In

addition, OGS may also terminate any contract resulting from this RFQ upon ten (10) days written notice if the Contractor makes any arrangement or assignment for the benefit of the creditors.

Furthermore, OGS shall have the right, in its sole discretion, at any time to terminate a contract resulting from this RFQ, or any unit portion thereof, with or without cause, by giving thirty (30) days written notice of termination to the Contractor. Any termination by OGS under this Section shall in no event constitute or be deemed a breach of any contract resulting from this RFQ and no liability shall be incurred by or arise against the Office of General Services, its agents and employees therefore for lost profits or any other damages.

## **B. Procurement Lobbying Termination**

The Office of General Services reserves the right to terminate this Agreement in the event it is found that the certification filed by the Contractor in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, the Office of General Services may exercise its termination right by providing written notification to the Contractor in accordance with the written notification terms of this Agreement.

## **9.13 Iran Divestment Act**

By submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, Bidder/Contractor (or any assignee) certifies 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” list (“Prohibited Entities List”) posted on the OGS website at: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf> and further certifies that it will not utilize on such Contract any subcontractor that is identified on the Prohibited Entities List. Additionally, Bidder/Contractor is advised that should it seek to renew or extend a Contract awarded in response to the solicitation, it must provide the same certification at the time the Contract is renewed or extended.

During the term of the Contract, should OGS receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, OGS 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 OGS shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, seeking compliance, recovering damages, or declaring the Contractor in default.

OGS 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.

## **9.14 Force Majeure**

Neither party hereto will be liable for losses, defaults, or damages under any contract resulting from this solicitation which result from delays in performing, or inability to perform, all or any of the obligations or responsibilities imposed upon it pursuant to the terms and conditions of this solicitation, due to or because of acts of God, the public enemy, acts of government, earthquakes, floods, strikes, civil strife, fire or any other cause beyond the reasonable control of

the party that was so delayed in performing or so unable to perform provided that such party was not negligent and shall have used reasonable efforts to avoid and overcome such cause. Such party will resume full performance of such obligations and responsibilities promptly upon removal of any such cause.

## 9.15 Indemnification

The Contractor shall assume all risks of liability for its performance, or that of any of its officers, employees, subcontractors or agents, of any contract resulting from this solicitation and shall be solely responsible and liable for all liabilities, losses, damages, costs or expenses, including attorney's fees, arising from any claim, action or proceeding relating to or in any way connected with the performance of this Agreement and covenants and agrees to indemnify and hold harmless the State of New York, its agents, officers and employees, from any and all claims, suits, causes of action and losses of whatever kind and nature, arising out of or in connection with its performance of any contract resulting from this solicitation, including negligence, active or passive or improper conduct of the Contractor, its officers, agents, subcontractors or employees, or the failure by the Contractor, its officers, agents, subcontractors or employees to perform any obligations or commitments to the State or third parties arising out of or resulting from any contract resulting from this solicitation. Such indemnity shall not be limited to the insurance coverage herein prescribed.

## 9.16 Employee Information To Be Reported By Certain Consultant Contractors

Chapter 10 of the Laws of 2006 amended the Civil Service Law and the State Finance Law, relative to maintaining certain information concerning contract employees working under State agency service and consulting contracts. State agency consultant contracts are defined as "contracts entered into by a state agency for *analysis, evaluation, research, training, data processing, computer programming, engineering, environmental health and mental health services, accounting, auditing, paralegal, legal, or similar services*" ("covered consultant contract" or "covered consultant services"). The amendments also require that certain contract employee information be provided to the state agency awarding such contracts, the Office of the State Comptroller (OSC), the Division of the Budget and the Department of Civil Service (CS). The effective date of these amendments is June 19, 2006. The requirements will apply to covered contracts awarded on and after such date.

To meet these new requirements, the Contractor agrees to complete:

Form A - the Contractor's Planned Employment Form upon bid/quote submittal.

Form B - the Contractor's Annual Employment Report throughout the term of the Contract by May 1<sup>st</sup> of each year. The following information must be reported:

**For each covered consultant contract in effect at any time between the preceding April 1<sup>st</sup> through March 31<sup>st</sup> fiscal year or for the period of time such contract was in effect during such prior State fiscal year:**

- 1.Total number of employees employed to provide the consultant services, by employment category.**
- 2.Total number of hours worked by such employees.**
- 3.Total compensation paid to all employees that performed consultant services under such Contract.\***

(Information must be reported on the Contractor's Annual Employment Report (Form B) or other format stipulated by OGS.)

**\*NOTE: The information to be reported is applicable only to those employees who are directly providing services or directly performing covered consultant services. However, such information shall also be provided relative to employees of Subcontractors who perform any part of the service contract or any part of the covered consultant contract. This information does not have to be collected and reported in circumstances where there is ancillary involvement of an employee in a clerical, support, organizational or other administrative capacity.**

Contractor agrees to simultaneously report such information via Form B to the Department of Civil Service, the Office of the State Comptroller and the Office of General Services as designated below:

Department of Civil Service  
Alfred E. Smith Office Building  
Albany, NY 12239  
Attn: Consultant Reporting

NYS Office of the State Comptroller  
Bureau of Contracts  
110 State St, 11<sup>th</sup> floor  
Albany, NY 12236

NYS Office of General Services  
Financial Administration-Purchasing Unit  
40<sup>th</sup> Floor – Corning Tower  
Empire State Plaza  
Albany, New York 12242

Contractor is advised herein and understands that this information is available for public inspection and copying pursuant to §87 of the New York State Public Officers Law (Freedom of Information Law). In the event individual employee names or social security numbers are set forth on a document, the state agency making such disclosure is obligated to redact both the name and social security number prior to disclosure.

APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

PLEASE RETAIN THIS DOCUMENT  
FOR FUTURE REFERENCE.

TABLE OF CONTENTS

	<b>Page</b>
<b>1. Executory Clause</b>	<b>3</b>
<b>2. Non-Assignment Clause</b>	<b>3</b>
<b>3. Comptroller's Approval</b>	<b>3</b>
<b>4. Workers' Compensation Benefits</b>	<b>3</b>
<b>5. Non-Discrimination Requirements</b>	<b>3</b>
<b>6. Wage and Hours Provisions</b>	<b>3</b>
<b>7. Non-Collusive Bidding Certification</b>	<b>4</b>
<b>8. International Boycott Prohibition</b>	<b>4</b>
<b>9. Set-Off Rights</b>	<b>4</b>
<b>10. Records</b>	<b>4</b>
<b>11. Identifying Information and Privacy Notification</b>	<b>4</b>
<b>12. Equal Employment Opportunities For Minorities and Women</b>	<b>4-5</b>
<b>13. Conflicting Terms</b>	<b>5</b>
<b>14. Governing Law</b>	<b>5</b>
<b>15. Late Payment</b>	<b>5</b>
<b>16. No Arbitration</b>	<b>5</b>
<b>17. Service of Process</b>	<b>5</b>
<b>18. Prohibition on Purchase of Tropical Hardwoods</b>	<b>5-6</b>
<b>19. MacBride Fair Employment Principles</b>	<b>6</b>
<b>20. Omnibus Procurement Act of 1992</b>	<b>6</b>
<b>21. Reciprocity and Sanctions Provisions</b>	<b>6</b>
<b>22. Compliance with New York State Information Security Breach and Notification Act</b>	<b>6</b>
<b>23. Compliance with Consultant Disclosure Law</b>	<b>6</b>
<b>24. Procurement Lobbying</b>	<b>7</b>
<b>25. Certification of Registration to Collect Sales and Compensating Use Tax by Certain State Contractors, Affiliates and Subcontractors</b>	<b>7</b>

## STANDARD CLAUSES FOR NYS CONTRACTS

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

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

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

**3. COMPTROLLER'S APPROVAL.** In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law Section 163.6-a). However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.

**4. WORKERS' COMPENSATION BENEFITS.** In accordance with Section 142 of the State Finance Law, this

contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

**5. NON-DISCRIMINATION REQUIREMENTS.** To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment 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 the State of

any State approved sums due and owing for work done upon the project.

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

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

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

**10. RECORDS.** The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this

contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

**11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.**

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

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

**12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.**

In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00,

whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

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

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

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

Contractor will include the provisions of "a", "b", and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment

opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

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

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

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

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

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

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

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

**19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES.**

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

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

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

NYS Department of Economic Development  
Division for Small Business  
Albany, New York 12245  
Telephone: 518-292-5100  
Fax: 518-292-5884  
email: [opa@esd.ny.gov](mailto:opa@esd.ny.gov)

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

NYS Department of Economic Development  
Division of Minority and Women's Business Development  
633 Third Avenue  
New York, NY 10017  
212-803-2414  
email: [mwbecertification@esd.ny.gov](mailto:mwbecertification@esd.ny.gov)  
<http://esd.ny.gov/MWBE/directorySearch.html>

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 the State;

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

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

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

**21. RECIPROcity AND SANCTIONS PROVISIONS.**

Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

**22. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT.**

Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

**23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW.**

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

the contract, the Department of Civil Service and the State Comptroller.

**24. PROCUREMENT LOBBYING.** To the extent this agreement is a "procurement contract" as defined by State Finance Law 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.

**25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.**

To the extent this agreement is a contract as defined by Tax Law 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 the covered agency, as defined by Tax Law 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

**APPENDIX B**

**PROPOSER'S CERTIFICATION/ACKNOWLEDGEMENTS**

*Proposer is required to complete and sign all sections.*

**NON-COLLUSIVE BIDDING CERTIFICATION**

By Submission of this proposal, each Proposer and each person signing on behalf of any Proposer certifies, and in the case of a joint proposal each party thereto certifies as to its own organization, under penalty, that to the best of his/her knowledge and belief:

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

\_\_\_\_\_  
(Proposers Signature)

\_\_\_\_\_  
(Name of Business)

ACKNOWLEDGEMENT PAGE

The bid must be fully and properly executed by an authorized person

**INDIVIDUAL, CORPORATION, PARTNERSHIP, OR LLC ACKNOWLEDGMENT**

STATE OF \_\_\_\_\_ }  
: \_\_\_\_\_ SS.:  
COUNTY OF \_\_\_\_\_ }

On the \_\_\_\_ day of in the year 20\_\_, before me personally appeared \_\_\_\_\_, known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that \_he resides at \_\_\_\_\_,

Town of \_\_\_\_\_,  
County of \_\_\_\_\_, State of \_\_\_\_\_: and further that:

**[Check One]**

**If an individual**): \_he executed the foregoing instrument in his/her name and on his/her own behalf.

**If a corporation**): \_he is the \_\_\_\_\_ of \_\_\_\_\_, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, \_he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, \_he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.

**If a partnership**): \_he is the \_\_\_\_\_ of \_\_\_\_\_, the partnership described in said instrument; that, by the terms of said partnership, \_he is authorized to execute the foregoing instrument on behalf of the partnership for purposes set forth therein; and that, pursuant to that authority, \_he executed the foregoing instrument in the name of and on behalf of said partnership as the act and deed of said partnership.

**If a limited liability company**): \_he is a duly authorized member of \_\_\_\_\_, LLC, the limited liability company described in said instrument; that \_he is authorized to execute the foregoing instrument on behalf of the limited liability company for purposes set forth therein; and that, pursuant to that authority, \_he executed the foregoing instrument in the name of and on behalf of said limited liability company as the act and deed of said limited liability company.

\_\_\_\_\_  
**Notary Public**  
**Registration No.**

**APPENDIX C**

**Offerer's Affirmation of Understanding of, and Agreement pursuant  
to New York State Finance Law §139-j (3) and §139-j (6) (b)**

New York State Finance Law §139-j (6) (b) provides that:

Every Governmental Entity shall seek written affirmations from all Offerers as to the Offerer's understanding of, and agreement to comply with the Governmental Entity's procedures relating to permissible contacts during a Governmental Procurement pursuant to subdivision three of this section.

Offerer affirms that it understands and agrees to comply with the procedures of the Government Entity relative to permissible contacts as required by New York State Finance Law §139-j (3) and §139-j (6) (b).

By: \_\_\_\_\_ Date: \_\_\_\_\_

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

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

Contractor Name: \_\_\_\_\_

Contractor Address: \_\_\_\_\_

\_\_\_\_\_

## **Offerer Disclosure of Prior Non-Responsibility Determinations**

### **Background:**

New York State Finance Law §139-k (2) obligates a Governmental Entity to obtain specific information regarding prior non-responsibility determinations with respect to State Finance Law§139-j. This information must be collected in addition to the information that is separately obtained pursuant to State Finance Law §163(9). In accordance with State Finance Law §139-k, an Offerer must be asked to disclose whether there has been a finding of non-responsibility made within the previous four (4) years by any Governmental Entity due to: (a) a violation of State Finance Law§139-j or (b) the intentional provision of false or incomplete information to a Governmental Entity.

The terms "Offerer" and "Governmental Entity" are defined in State Finance Law§ 139-k (1). State Finance Law §139-j sets forth detailed requirements about the restrictions on Contacts during the procurement process. A violation of State Finance Law §139-j includes, but is not limited to, an impermissible Contact during the restricted period (for example, contacting a person or entity other than the designated contact person, when such contact does not fall within one of the exemptions).

As part of its responsibility determination, State Finance Law §139-k(3) mandates consideration of whether an Offerer fails to timely disclose accurate or complete information regarding the above non- responsibility determination. In accordance with law, no Procurement Contract shall be awarded to any Offerer that fails to timely disclose accurate or complete information under this section, unless a finding is made that the award of the Procurement Contract to the Offerer is necessary to protect public property or public health safety, and that the Offerer is the only source capable of supplying the required Article of Procurement within the necessary timeframe. See State Finance Law §§139-j (10) (b) and 139-k (3).

### **Instructions:**

A Governmental Entity must include a disclosure request regarding prior non-responsibility determinations in accordance with State Finance Law §139-k in its solicitation of proposals or bid documents or specifications or contract documents, as applicable, for procurement contracts. The attached form is to be completed and submitted by the individual or entity seeking to enter into a Procurement Contract. It shall be submitted to the Governmental Entity conducting the Governmental Procurement.

# Offerer Disclosure of Prior Non-Responsibility Determinations

Name of Individual or Entity Seeking to Enter into the Procurement Contract: \_\_\_\_\_

Address: \_\_\_\_\_

Name and Title of Person Submitting this Form: \_\_\_\_\_

Contract Procurement Number: \_\_\_\_\_

Date: \_\_\_\_\_

1. Has any Governmental Entity made a finding of non-responsibility regarding the individual or entity seeking to enter into the Procurement Contract in the previous four years? (Please circle):  
No Yes

If yes, please answer the next questions:

2. Was the basis for the finding of non-responsibility due to a violation of State Finance Law §139-j (Please circle):  
No Yes

3. Was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a Governmental Entity? (Please circle):  
No Yes

4. If you answered yes to any of the above questions, please provide details regarding the finding of non-responsibility below.

Governmental Entity: \_\_\_\_\_

Date of Finding of Non-Responsibility: \_\_\_\_\_

Finding of Non-Responsibility: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Add additional pages as necessary)

5. Has any Governmental Entity or other governmental agency terminated or withheld a Procurement Contract with the above-named individual or entity due to the intentional provision of false or incomplete information? (Please circle):  
No Yes

6. If yes, please provide details below.

Governmental Entity: \_\_\_\_\_

Date of Termination of Withholding Contract: \_\_\_\_\_

Basis of Termination or Withholding: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Add additional pages as necessary)

Offerer certifies that all information provided to the Government Entity with respect to State Finance Law §139-k is complete, true and accurate.

By: \_\_\_\_\_ Date: \_\_\_\_\_  
(signature)

**Offerer's Certification of Compliance  
with State Finance Law §139-k(S)**

New York State Finance Law §139-k(S) requires that every Procurement Contract award subject to the provisions of State Finance Law §§139-k or 139-j shall contain a certification by the Offerer that all information provided to the Office of General Services with respect to State Finance Law §139-k is complete, true and accurate.

**Offerer Certification:**

*I certify that all information provided to the Office of General Services with respect to State Finance Law §139- k is complete, true and accurate.*

By: \_\_\_\_\_ Date: \_\_\_\_\_

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

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

Contractor Name: \_\_\_\_\_

Contractor Address: \_\_\_\_\_

**Procurement Lobbying Termination**

The Office of General Services reserves the right to terminate this contract in the event it is found that the certification filed by the Offerer in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, the Office of General Services may exercise its termination right by providing written notification to the Offerer in accordance with the written notification terms of this contract.

**ATTACHMENT A**

**PROPOSAL N0.1866 - LIVE (INSTRUCTOR-LED) TRAINING SERVICES  
COMPANY EXPERIENCE FORM**

Proposer Name: \_\_\_\_\_

The Proposer must complete this form as described in Section 4.1 of the RFQ describing their training experience. Proposer may attach additional sheets if necessary.

**Company Information**

1. Provide a descriptive overview of the company summarizing background, core capabilities, services and products and location(s).

2. **Proposer must demonstrate at least five (5) years' experience providing training to clients in the specific areas of:** Mobilization and Start-up of a Sourcing Project; Development of Internal/External Spend Analysis; Establishing Strategies to Determine Contract Length and Approach; Gaining Approval of Recommended Strategy and Method for Procurement; Conducting a Competitive Event; Conducting Value Proposition and Award; Implementation and Communication of Award; Managing Contract Performance and Measuring Results; and Supplier Relationship Management.

**Provide a client listing that demonstrates past history and dates of service meeting the five-year training requirement. The description of training experience must include dates and location of all relevant service.**

**ATTACHMENT B**

**PROPOSAL N0.1866 - LIVE (INSTRUCTOR-LED) TRAINING SERVICES  
INSTRUCTOR QUALIFICATIONS AND EXPERIENCE FORM**

The Proposer should copy this form as needed and must complete this form as described in Section 4.2 of this Mini-Bid for each of the proposed instructors. In addition to completing this form, an instructor resume should be attached. Proposer must include instructor resumes. Proposer may attach additional sheets if necessary.

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

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

**Courses to be conducted by this Instructor:**

- |  |  |
|--|--|
| <input type="checkbox"/> Mobilization and Start-up of a Sourcing Project                     | <input type="checkbox"/> Conducting Value Proposition and Award              |
| <input type="checkbox"/> Development of Internal/External Spend Analysis                     | <input type="checkbox"/> Implementation and Communication of Award           |
| <input type="checkbox"/> Establishing Strategies to Determine Contract Length and Approach   | <input type="checkbox"/> Managing Contract Performance and Measuring Results |
| <input type="checkbox"/> Gaining Approval of Recommended Strategy and Method for Procurement | <input type="checkbox"/> Supplier Relationship Management                    |
| <input type="checkbox"/> Conducting a Competitive Event                                      | <input type="checkbox"/> Other Courses _____                                 |
|  | _____  |
|  | _____  |

**Educational Background**

1. Candidate must have a Bachelor's Degree (4-year degree).  
**Note: This is a mandatory requirement as described in Section 4.0.**

College or University: \_\_\_\_\_

Year of graduation: \_\_\_\_\_

4-year degree obtained in: \_\_\_\_\_

Additional Higher Education: \_\_\_\_\_

**Work Experience**

2. Proposed Instructor must demonstrate that they have at least three (3) years' experience working in an area directly related to the topics the Instructor will be responsible for which should include one or more of the following areas: Mobilization and Start-up of a Sourcing Project; Development of Internal/External Spend Analysis; Establishing Strategies to Determine Contract Length and Approach; Gaining Approval of Recommended Strategy and Method for Procurement; Conducting a Competitive Event; Conducting Value Proposition and Award; Implementation and Communication of Award; Managing Contract Performance and Measuring Results; and Supplier Relationship Management.

Please highlight the relevant teaching experience in each course area this person would be responsible for teaching. Include dates and location of all relevant service.

**Proposer Reference #1:**

Company Name: \_\_\_\_\_

Contact Name and Title: \_\_\_\_\_

Contact Telephone Number: \_\_\_\_\_

Oates of Experience: From \_\_\_\_\_ through \_\_\_\_\_

Brief Description of Instruction Provided:

**Proposer Reference #2:**

Company Name: \_\_\_\_\_

Contact Name and Title: \_\_\_\_\_

Contact Telephone Number: \_\_\_\_\_

Oates of Experience: From \_\_\_\_\_ through \_\_\_\_\_

Brief Description of Instruction Provided:

**Proposer's Certification:** I, \_\_\_\_\_ certify that all information concerning company and instructors' experience presented on the Technical Proposal Forms is accurate. I understand that knowingly making a false written statement on these forms, or any attachments, may result in disqualification. OGS' discovery of false information subsequent to candidate engagement may result in dismissal from this engagement. I agree to accept this condition and hereby certify that all statements made on this application or any attachments are true and complete, to the best of my knowledge.

\_\_\_\_\_

Date

\_\_\_\_\_

Signature

\_\_\_\_\_

Typed or Printed Name

**Note to Proposer:**

Experience may be verified. Any firm submitting inaccurate or misleading information may be disqualified and reported to the Office of General Services. If specific firms continue to submit inaccurate or misleading information, such firms may be inactivated or removed from the list of eligible firms until further notice.



Please highlight other relevant work experience as it relates to the content of the course.

**Instructor Reference #1:**

Company Name: \_\_\_\_\_

Contact Name and Title: \_\_\_\_\_

Contact Telephone Number: \_\_\_\_\_

Oates of Experience: From \_\_\_\_\_ through \_\_\_\_\_

Brief Description of work performed or services provided:

**Instructor Reference #2:**

Company Name: \_\_\_\_\_

Contact Name and Title: \_\_\_\_\_

Contact Telephone Number: \_\_\_\_\_

Oates of Experience: From \_\_\_\_\_ through \_\_\_\_\_

Brief Description of work performed or services provided:

**ATTACHMENT D**

**PROPOSAL NO. 1866 - LIVE (INSTRUCTOR-LED) TRAINING SERVICES  
COST PROPOSAL FORM**

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

Cost Per Student Per Class = \_\_\_\_ x 25 (Students) x 2 (Class Sessions) = Total Training Cost

**Total Training Cost =** \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

\_\_\_\_\_  
Printed or Typed Name and Title of Authorized Signatory

\_\_\_\_\_  
Date

# Appendix D

## Sample Contract

### Solicitation No. 1866

SAMPLE

**STATE OF NEW YORK**  
**OFFICE OF GENERAL SERVICES**  
**AGREEMENT FOR**  
**INSTRUCTOR-LED STRATEGIC SOURCING BASIC TRAINING**  
**IN ALBANY, NY**  
**WITH**  
**(CONTRACTOR)**  
**CONTRACT # C00XXXX**

**THIS AGREEMENT**, made this \_\_\_\_ day of \_\_\_\_\_, 2014 by and between the People of the State of New York, acting by and through the Commissioner of General Services, whose office is on the 41st Floor, Corning Tower Building, the Governor Nelson A. Rockefeller Empire State Plaza, Albany, New York 12242 (hereinafter "Commissioner", "OGS" or "State"), and (Company Name), (hereinafter "Contractor"), with an office at \_\_\_\_\_.

**WITNESSETH:**

**WHEREAS**, the OGS is responsible for the Instructor-Led Strategic Sourcing Basic Training at the (XXX XXXX State Office Building located at 123 XXXX, XXXX, NY (hereinafter the "State Office Building") and in fulfilling its responsibility deems it necessary to obtain Instructor-Led Strategic Sourcing Basic Training therefore, and

**WHEREAS**, OGS has determined after having solicited proposals from proposers willing to supply these services, that the Contractor submitted the proposal affording the State the best value for such services and that the Contractor possesses the necessary capacity, experience and expertise for provision of Instructor-Led Strategic Sourcing Basic Training, and that Contractor is ready, willing and able to perform such services on the terms hereinafter set forth.

**NOW THEREFORE**, in consideration of the mutual covenants herein contained, the parties do hereby agree as follows:

**1. CONSIDERATION**

OGS shall pay the Contractor for all Instructor-Led Strategic Sourcing Basic Training fees and other fees and expenses in accordance with the amounts and rates put forth in the Contractor's proposal attached hereto as Appendix "C", which Appendix C is hereby incorporated by reference and made a part hereof as fully as if set forth as length herein. This contract will be established with a not to exceed value of \$50,000. Services performed beyond this amount will not be compensated.

## **2. TERM**

This Agreement shall commence upon OSC approval and will be in effect for one (1) year, unless sooner terminated as herein specified.

## **3. SERVICES**

The Contractor agrees to perform this Agreement and to furnish the services, labor and materials required in connection therewith in accordance with all the specifications, conditions, covenants and representations contained in the Request for Quotes No. 1866, which is annexed as Appendix "B" hereto, and the Contractor's proposal, annexed as Appendix "C" hereto, except as such Appendices B and C have been revised by the terms hereof. Appendix B is hereby incorporated by reference and made a part hereof with the same force and effect as if set forth at length herein.

## **4. TERMINATION**

This Agreement may be terminated in accordance with the termination provisions set forth in the solicitation attached hereto as Appendix B hereof.

### **A) Termination**

The Office of General Services may, upon thirty (30) days notice, terminate the contract resulting from this solicitation in the event of the awarded Bidder's failure to comply with any of the proposal's requirements unless the awarded Bidder obtained a waiver of the requirement. In addition, OGS may also terminate any contract resulting from this solicitation upon ten (10) days written notice if the Contractor makes any arrangement or assignment for the benefit of the creditors.

Furthermore, OGS shall have the right, in its sole discretion, at any time to terminate a contract resulting from this solicitation, or any unit portion thereof, with or without cause, by giving thirty (30) days written notice of termination to the Contractor.

Any termination by OGS under this Section shall in no event constitute or be deemed a breach of any contract resulting from this solicitation and no liability shall be incurred by or arise against the Office of General Services, its agents and employees therefore for lost profits or any other damages.

### **B.) Procurement Lobbying Termination**

The Office of General Services reserves the right to terminate this Agreement in the event it is found that the certification filed by the Contractor in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, the Office of General Services may exercise its termination right by providing written notification to the Contractor in accordance with the written notification terms of this Agreement.

## **5. RECORDS**

The Contractor will maintain accurate records and accounts of services performed and monies expended under this Agreement. Such records will be maintained for six (6) years following the close of the State fiscal year to which they pertain and will be made available to representatives of OGS or the New York State Comptroller, as may be necessary for auditing purposes, upon request.

**6. TAXES**

The Contractor will be responsible for all applicable Federal, State and Local taxes and all FICA contributions.

**7. INDEPENDENT CONTRACTOR**

It is understood and agreed that the legal status of the Contractor, its subcontractors, agents, officers and employees is that of an independent contractor and in no manner shall they be deemed employees or agents of the State of New York and, therefore, are not entitled to any of the benefits associated with such employment or designation.

**8. APPENDIX A**

Appendix A, Standard Clauses for New York State Contracts, attached hereto, is hereby expressly made a part of this Agreement as fully as if set forth at length herein.

**9. ASSIGNMENT**

Contractor agrees that it will not assign this Agreement, or any interest therein without the prior written consent of the Commissioner of General Services.

**10. LAW**

This Agreement shall be governed by the laws of the State of New York.

**11. CONDITIONS PRECEDENT**

This Agreement shall not be deemed executed, valid or binding unless and until approved in writing by the Attorney General and the State Comptroller.

**12. ENTIRE AGREEMENT**

This Agreement constitutes the entire Agreement between the parties hereto and no statement, promise, condition, understanding, inducement or representation, oral or written, expressed or implied, which is not contained herein shall be binding or valid and this Agreement shall not be changed, modified or altered in any manner except by an instrument in writing executed by both

parties hereto.

**13. EXECUTORY CLAUSE**

This Agreement shall be deemed executory only to the extent of money available to the State for performance of the terms hereof and no liability on account thereof shall be incurred by the State of New York beyond moneys available for purposes thereof.

**14. INCONSISTENCIES**

In the event of any discrepancy, disagreement or ambiguity between this contract agreement and Appendix B "Solicitation" and/or Appendix C "Proposal", or between any Appendices, the documents shall be given preference in the following order to interpret and to resolve such discrepancy, disagreement or ambiguity:

- (i) Appendix A
- (ii) This contract agreement
- (iii) Appendix B – Solicitation #1866 including Addenda
- (iv) Appendix C – Contractor's Proposal

The parties understand and agree that any and all deviations or exceptions taken by Contractor to the State's Request for Proposal are hereby withdrawn except only to the extent that such exceptions or deviations have been explicitly incorporated into this contract agreement.

**15. FORCE MAJEURE**

Neither party hereto will be liable for losses, defaults, or damages under this Agreement which result from delays in performing, or inability to perform, all or any of the obligations or responsibilities imposed upon it pursuant to the terms and conditions of this Agreement, due to or because of acts of God, the public enemy, acts of government, earthquakes, floods, strikes, civil strife, fire or any other cause beyond the reasonable control of the party that was so delayed in performing or so unable to perform provided that such party was not negligent and shall have used reasonable efforts to avoid and overcome such cause. Such party will resume full performance of such obligations and responsibilities promptly upon removal of any such cause.

**16. ASSIGNMENT BY STATE**

The State agrees not to assign this Agreement without prior notice to and reasonable consent of the Contractor provided, however, that this Agreement may be assigned without such consent to another agency or subdivision of the State pursuant to a governmental reorganization or assignment of functions under which the pertinent functions of OGS as an agency are transferred to a successor agency or subdivision of the State.

## **17. NOTICES**

All notices, demands, designations, certificates, requests, offers, consents, approvals and other instruments given pursuant to this Agreement shall be in writing and shall be validly given when mailed by registered or certified mail, overnight carrier or hand delivered, (i) if to the State, addressed to the State at its address set forth above, and (ii) if to Contractor, addressed to Contractor at its address set forth above. The parties may from time to time, specify any address in the United States as its address for purpose of notices under this Agreement by giving fifteen (15) days written notice to the other party. The parties agree to mutually designate individuals as their respective representatives for the purposes of this Agreement.

## **18. CAPTIONS**

The captions contained in this Agreement are intended for convenience and reference purposes only and shall in no way be deemed to define or limit any provision thereof.

## **19. SEVERABILITY**

In the event that any one or more of the provisions of this Agreement shall for any reason be declared unenforceable under the laws or regulations in force, such provision will not have any effect on the validity of the remainder of this Agreement, which shall then be construed as if such unenforceable provision had never been written or was never contained in this Agreement.

## **20. IRAN DIVESTMENT ACT**

By entering into this Contract, Contractor certifies 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” list (“Prohibited Entities List”) posted on the OGS website at: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf> and further certifies that it will not utilize on such 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 the Contract will be required to certify that it is not on the Prohibited Entities List before OGS may approve a request for Assignment of Contract.

During the term of the Contract, should OGS receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, OGS 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 OGS shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, seeking compliance, recovering damages, or declaring the Contractor in default.

OGS reserves the right to reject any request for renewal, extension, or assignment for an entity that appears on the Prohibited Entities List prior to the renewal, extension, or assignment of the Contract, and to pursue a responsibility review with Contractor should it appear on the Prohibited Entities List hereafter.

## 21. INFORMATION SECURITY BREACH

In accordance with the Information and Security Breach Notification Act (ISBNA) (Chapter 442 of the Laws of 2005, as amended by Chapter 491 of the Laws of 2005), a Contractor with OGS shall be responsible for all applicable provisions of the ISBNA and the following terms herein with respect to any private information (as defined in the ISBNA) received by or on behalf of OGS under this Agreement.

- Contractor shall supply OGS with a copy of its notification policy, which shall be modified to be in compliance with this provision, as well as OGS's notification policy.
- Contractor must encrypt any database fields and backup tapes that contain private data elements, as set forth in the ISBNA.
- Contractor must ensure that private data elements are encrypted in transit to / from their systems.
- In general, contractor must ensure that private data elements are not displayed to users on computer screens or in printed reports; however, specific users who are authorized to view the private data elements and who have been properly authenticated may view/receive such data.
- Contractor must monitor for breaches of security to any of its systems that store or process private data owned by OGS.
- Contractor shall take all steps as set forth in ISBNA to ensure private information shall not be released without authorization from OGS.
- In the event a security breach occurs as defined by ISBNA Contractor shall immediately notify OGS and commence an investigation in cooperation with OGS to determine the scope of the breach.
- Contractor shall also take immediate and necessary steps needed to restore the information security system to prevent further breaches.
- Contractor shall immediately notify OGS following the discovery that OGS's system security has been breached.
- Unless the Contractor is otherwise instructed, Contractor is to first seek consultation and receive authorization from OGS prior to notifying the individuals whose personal identity information was compromised by the breach of security, the State Office of Cyber Security and Critical Infrastructure Coordination, the State Consumer Protection Board, the Attorney General's Office or any consuming reporting agencies of a breach of the

information security system or concerning any determination to delay notification for law enforcement investigations.

- Contractor shall be responsible for providing all notices required by the ISBNA and for all costs associated with providing said notices.
- This policy and procedure shall not impair the ability of the Attorney General to bring an action against the Contractor to enforce all provisions of the ISBNA or limit the Contractor's liability for any violations of the ISBNA.

## **22. MWBE/EEO**

### **I. General Provisions**

- A. OGS is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 142-144 ("MWBE Regulations") for all State contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.
- B. The Contractor agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to OGS, to fully comply and cooperate with OGS in the implementation of New York State Executive Law Article 15-A. These requirements include equal employment opportunities for minority group members and women ("EEO") and contracting opportunities for New York State Certified minority and women-owned business enterprises ("MWBEs"). Contractor's demonstration of "good faith efforts" pursuant to 5 NYCRR §142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the "Human Rights Law") or other applicable federal, state or local laws.
- C. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the withholding of funds or such other actions, liquidated damages pursuant to Section VII of this Appendix or enforcement proceedings as allowed by the Contract.

### **II. Contract Goals**

- A. For purposes of this procurement, OGS has conducted a comprehensive search and has determined that the contract does not offer any opportunities for participation by MWBEs.

### **III. Equal Employment Opportunity (EEO)**

- A. Contractor agrees to be bound by the provisions of Article 15-A and the MWBE Regulations promulgated by the Division of Minority and Women's Business Development of the Department of Economic Development (the "Division"). If any of these terms or provisions conflict with applicable law or regulations, such laws and regulations shall supersede these requirements.
- B. Contractor shall comply with the following provisions of Article 15-A:
1. Contractor and Subcontractors shall undertake or continue existing EEO 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, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.
  2. The Contractor shall certify and affirm that the text set forth in clause 12 of Appendix A, attached hereto and made a part hereof is Contractor's equal employment opportunity policy.
  3. The Contractor's EEO policy statement shall include the following language:
    - a) The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.
    - b) The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the 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.
    - c) The Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.

- d) The Contractor will include the provisions of Subdivisions (a) through (c) of this Subsection 3 and Paragraph "E" of this Section II, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Contract.
- C. To ensure compliance with this Section, the Contractor shall submit Form EEO 100-Staffing Plan to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. Contractors shall complete the Staffing plan form and submit it as part of their contract.
- D. Form EEO 102 - Workforce Employment Utilization Report ("Workforce Report")
- Contractor and OGS agree that Contractor is unable to separate out the workforce utilized in the performance of the Contract from Contractor's and/or subcontractor's total workforce and that the information provided on the previously submitted Staffing Plan is Contractor's total workforce during the subject time frame, not limited to work specifically under the contract.
- E. Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

## **23. CONTRACTOR RESPONSIBILITY**

The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Commissioner of OGS 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.

The Commissioner of OGS or her designee, in his or her sole discretion, reserves the right to suspend any or all activities under this Contract, 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 Commissioner of OGS or her designee issues a written notice authorizing a resumption of performance under the Contract.

Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate OGS officials or staff, the Contract may be terminated by the Commissioner of OGS or her designee at the Contractor's expense where the Contractor is determined by the Commissioner of OGS or her designee to be non-responsible. In such event, the Commissioner of OGS 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.

In no case shall such termination of the Contract by the State be deemed a breach thereof, nor shall the State be liable for any damages for lost profits or otherwise, which may be sustained by the Contractor as a result of such termination.

SAMPLE

**CONTRACT NO. C00XXXX**

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement as of the day and year first above written.

**Agency Certification**

"In addition to the acceptance of this Contract, I also certify that original copies of this signature page will be attached to all other exact copies of this contract."

**(Company Name)**

**THE PEOPLE OF THE STATE OF NEW YORK**

By: \_\_\_\_\_  
Name:  
Title:  
Federal I.D. No.:  
Date:

By: \_\_\_\_\_  
Name:  
Title:  
Date:

**APPROVED AS TO FORM**  
Eric Schneiderman  
Attorney General

**APPROVED**  
Thomas P. DiNapoli  
State Comptroller

**INDIVIDUAL, CORPORATION, PARTNERSHIP, OR LLC ACKNOWLEDGMENT**

**STATE OF** \_\_\_\_\_ }

: **SS.:**

**COUNTY OF** \_\_\_\_\_ }

On the \_\_\_\_ day of \_\_\_\_\_ in the year 20 \_\_ , before me personally appeared \_\_\_\_\_, known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that he resides at \_\_\_\_\_, Town of \_\_\_\_\_, County of \_\_\_\_\_, State of \_\_\_\_\_; and further that:

**[Check One]**

**If an individual):** \_he executed the foregoing instrument in his/her name and on his/her own behalf.

**If a corporation):** \_he is the \_\_\_\_\_ of \_\_\_\_\_, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, \_he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, \_he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.

**If a partnership):** \_he is the \_\_\_\_\_ of \_\_\_\_\_, the partnership described in said instrument; that, by the terms of said partnership, \_he is authorized to execute the foregoing instrument on behalf of the partnership for purposes set forth therein; and that, pursuant to that authority, \_he executed the foregoing instrument in the name of and on behalf of said partnership as the act and deed of said partnership.

**If a limited liability company):** \_he is a duly authorized member of \_\_\_\_\_, LLC, the limited liability company described in said instrument; that \_he is authorized to execute the foregoing instrument on behalf of the limited liability company for purposes set forth therein; and that, pursuant to that authority, \_he executed the foregoing instrument in the name of and on behalf of said limited liability company as the act and deed of said limited liability company.

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

**Registration No.** \_\_\_\_\_ **State of:** \_\_\_\_\_