



New York State
Office of Children and Family Services



REQUEST FOR PROPOSALS

Child Care Subsidy Program Integrity



Andrew M. Cuomo
Governor

Gladys Carrión, Esq.
Commissioner



**New York State
Office of Children and Family Services
Child Care Subsidy
Program Integrity**



PROPOSAL SUBMISSIONS SHOULD BE ADDRESSED TO:

Technical Proposal:
NYS OCFS
Division of Child Care Services
Attn: Jim Hart
Room 309 South Building
52 Washington Street
Rensselaer, NY 12144

Financial Proposal:
NYS OCFS
Bureau of Contract Management
Attn: Tim O'Brien
Room 202 South Building
52 Washington Street
Rensselaer, NY 12144

TIMETABLE OF KEY EVENTS

See Introduction of this RFP for further information.

Release of RFP	9/7/2012
Bidders Conference	9/25//2012 1:30 P.M. EST
Final Date for Receipt of Questions	9/28/2012
Official Responses to Questions	10/5 /2012
Letter of Intent Received	10/9/2012
Proposal Due Date	10/23/2012 3 P.M. EST
Vendor Presentations	11/12/2012
Anticipated Notification of Awards	12/14/2012
Projected Contract Start Date	02/01/2013

INQUIRIES:

From the issuance of this RFP until contractors are selected, all contacts with OCFS personnel, except as otherwise specified herein, concerning this RFP must be authorized through the OCFS Point of Contact for this RFP:

Jim Hart at ocfs.sm.dccs.Fraud.rfp.mailbox@ocfs.state.ny.us

Online Bidder's List

The OCFS Online Bidder's List (OBL) is maintained electronically and can be found at <https://apps.ocfs.ny.gov/obl/>. If you wish to receive announcements of future OCFS procurement opportunities and be able to download solicitation documents you must register on the OBL. Questions and Answers will also be posted to the OBL. If you choose to register you will be prompted to provide certain demographic information about yourself and the organization or government agency you represent along with identifying the service categories in which you are interested.

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1. Introduction and Overview

This Request for Proposal seeks responses from all interested parties who can provide solutions for improving program integrity in New York State's Child Care Subsidy Program by integrating and analyzing New York State Office of Children and Family Services (OCFS, the Agency) data and reducing or eliminating fraud, waste and abuse.

OCFS has oversight responsibilities for the provision of child care subsidies funded under the New York State (NYS) Child Care Block Grant for over 210,000 children annually. In addition, OCFS oversees the licensing and registration of over 19,000 child care providers and the enrollment of over 50,000 legally-exempt child care providers (please refer to Section 1.1.2 Background, for more information about child care services). Charged with these responsibilities, OCFS has increasingly focused on ways to promote program integrity in the child care program, eliminate improper child care subsidy payments to families and child care providers, and maintain the health and safety of children in child care. Over the past several years, NYS allocated more than \$700 million dollars annually to local social services districts for child care subsidies. The U.S. Department of Health and Human Services has estimated that nationally, between 15 to 20 percent of subsidy payments are fraudulent or otherwise improper. Given these national estimates, OCFS anticipates that implementing a successful initiative to combat child care subsidy fraud, waste and abuse will help direct public funds to those who are eligible and intended to receive the services, rather than those engaged in fraudulent activity.

1.1. Procurement Objectives

1.1.1. Our Vision

OCFS is seeking a program integrity solution that combines technology and services to provide actionable information allowing both OCFS and local social services district staff to see that government funds are spent appropriately, accurately, and for their intended purpose.

The goal is to allocate subsidies to the intended recipients while reducing dollars lost to fraud and waste, and reduce administrative costs expended to predict and identify fraud, waste and abuse. The initial allocation for the development and deployment of the Program Integrity solution will be up to \$1,000,000. There will be the possibility of additional monies for enhancement and expansion.

The Agency's expectation is that the winning vendor will engage with OCFS to provide a high level of service through bringing to bear "best of breed" technical expertise and technology tools.

Initially focused on the Child Care Subsidy Program, the program integrity solution will, in the future, be extensible to applicable programs and data in other agencies, and or third parties, where funds are at risk from fraud, waste and abuse. The solution will provide accurate information to staff in a timely manner, to facilitate better use of limited agency resources through a combination of detection, prevention and correction.

OCFS requires a solution that incorporates a numerical scoring mechanism that generates a risk rating. The solution should rank cases based on risk indicators and allow appropriate staff to quickly prioritize potential fraud cases for investigation. Proposed solutions of most interest to the agency will include:

- integration of disparate internal data sources;
- integration with external data sources (e.g., to verify SSN and address information);
- rules management (including incorporation of customized rule sets);
- anomaly detection (including validation of parties and transactional testing);
- predictive modeling;
- data visualization;
- social network analysis;
- forensic review; and
- fraud case management.

The solution must offer continuous refinement of predictive models and rules including the ability to "self-learn." The ability to drill down into the details behind a case identified as "at-risk" is also of critical importance. Staff must have ready access to the indicators that lead to a rating of "at-risk."

Because of the sensitive nature of program data, it is anticipated that data will remain in State data environments. However, technology components of proposed solutions may be permitted to operate remotely.

1.1.2. Background

NYS OCFS Division of Child Care Services 2011 Fact Sheet

Regulated Child Care in New York State, including NYC Group Child Care Programs (Day Care Centers)*

- 4,089 child care centers (capacity: 273,289 children)
- 6,810 family child care homes (capacity: 51,536 children)
- 7,789 group family child care homes (capacity: 115,208 children)
- 2,570 school-age child care programs (capacity: 239,648 children)

Total: 21,258 regulated providers (capacity 679,681)

Subsidized Child Care in New York State*

In FFY 2011 over 246,000 children received child care subsidies. Of these:

- 34% were cared for in licensed child care centers or registered school age child care programs
- 27% were cared for in regulated family child care homes, including group family child care
- 39% were cared for in legally-exempt, almost exclusively home-based setting
- 51,103 legally-exempt providers served 95,887 subsidized children

Provider Numbers by Modality and Region*

	DCC	FDC	GFDC	SACC	Total
NYC	2,103	3,041	4,875	1,265	11,284
ROS	1,986	3,769	2,914	1,305	9,974
Total	4,089	6,810	7,789	2,570	21,258

Capacity by Modality and Region

	DCC	FDC	GFDC	SACC	Total
NYC	116,168	21,942	71,388	147,081	356,579
ROS	157,121	29,594	43,820	92,567	323,102
Total	273,289	51,536	115,208	239,648	679,681

KEY:

- DCC = Day Care Center
- FDC = Family Day Care Program
- GFDC = Group Family Day Care Program
- SACC = School Age Child Care Program
- NYC = New York City
- ROS = Rest of State

*Data as of 1/1/12

1.1.3. Business Issues

1.1.3.1. Fraud, Waste and Abuse Identification

OCFS seeks a solution that can help identify provider fraud, recipient fraud and fraud involving collusion (e.g., among providers, recipients, and case workers), as well as help identify situations involving waste and abuse. OCFS has begun to identify a number of potential “predictors”, that is, data points that could be indicative of a higher risk of fraudulent activity. These indicators may vary by modality of care, geographic location, and age group of children served. These include but are not limited to:

Indicators related to data to be provided during the Acceptance Test (see section 3.4.1.2):

- Attendance exceeds licensed capacity by a predetermined threshold relative to licensed capacity (CCFS, CCTA)*
- Providers billing for children with perfect or above average attendance rates for extended periods of time (CCTA)
- Programs that are never closed (open on holidays, etc.) (CCTA)
- Excessive number of hours billed on a daily basis (e.g., billing for more than a standard shift of care) (CCTA)
- Analysis of the distance between the provider’s and the child’s home (excessive travel between the two points) (CCFS, CCTA)
- Excessive numbers of provider overrides of entries in the Child Care Time and Attendance system (CCTA)
- Children’s sign-in/sign-out times are consistently the same (CCTA)
- Same child being billed at multiple locations at the same/similar time (CCFS, CCTA)
- Multiple Family/Group Family Day Care programs operated by the same legal entity (CCFS)
- Checks mailed to a correctional facility (any correctional facility in the State of New York)

Indicators related to data to be provided after project initiation (see section 5.1):

- Inconsistent data---names, dates of birth, addresses, social security numbers, etc. (WMS, CCTA, CCFS, BICS)
- Parents employed by providers (WMS, CCFS)
- Checks mailed to providers when they were not eligible for payment (CCFS, BICS)
- Providers and families with the same phone numbers/addresses/dates of birth (and possibly social security numbers) (CCTA, CCFS, WMS)
- Total value of payments to a provider exceed a predetermined threshold (based on a licensed capacity x dollar amount formula) (BICS)
- Payments that are sent to Post Office boxes or commercial mailboxes (e.g., UPS store) (BICS)
- Disproportionate caseworker authorizations (higher than average referrals to one program by worker or higher than average volume identifying eligible children) (WMS)
- Providers disqualified from the Child and Adult Care Food Program (CACFP) (NYS DOH, CACFP)

Solutions that can automate the process of identifying these and other data points that may be indicative of fraudulent activity, waste or abuse are desired. OCFS seeks a solution that can assign a numerical “score” or risk assessment rating that indicates the degree of likelihood that fraud is occurring.

***Please see Attachment 1 for descriptions of these systems.**

1.1.3.2. Existing Applications

Attachment 1– provides information about the type of data currently available to the Agency to facilitate fraud analysis. The ability for proposed solutions to accommodate additional data sources as they evolve is important to the Agency. Not all applications are owned by OCFS, but data sharing agreements exist with the owners of other applications that are of relevance.

OCFS is aware of certain deficiencies related to these data systems that may inhibit the ability to use the data to detect fraud. The following deficiencies are known to exist:

- **Lack of or unknown integration points between source systems** - not all of the identified application systems have been reviewed for integration points. Those fields that are known, such as Client Identification Number (CIN), have not been analyzed to determine how well data can be matched across applications.

- **Not all data sources are modeled for analysis and reporting** - several of the applications have either flat file extracts or replicated portions of the application database available via the data warehouse for purposes of reporting. Not all data is readily available for analysis.
- **Some areas are lacking history** - many of the data sources are full refreshes of the application database. These data sources contain only the history that is built into the application. No versioning of the data is in place.
- **Lack of “master” tables** - currently the data warehouse is not maintaining any master tables that assist applications in managing and maintaining a common set of core data elements (person, facility, etc.) for OCFS.
- **Social Security numbers are not validated and are not available for all cases.**

1.1.4. Current State of Child Care Subsidy Program Integrity

Currently, each local social services district is required by regulation to have a front end detection system, commonly referred to as FEDS. The purpose of each FEDS is to refer, investigate and resolve questionable information on applications before a case is opened in order to prevent the payment of child care subsidies to ineligible applicants. Within each county, applications are referred by the Eligibility Unit to the Investigations Unit based on whether the application and information submitted meets one of the FEDS indicators selected by the county.

Each district is also required by regulation to have a sampling methodology to determine which cases require verification of applicants’ or recipients’ continued need for child care, including verification of participation in employment, education, or other required activities.

Each district is also required to have a sampling methodology for reviewing providers of subsidized child care services who are enrolled in the Child and Adult Care Food Program (CACFP). The review compares child care providers’ attendance forms and CACFP inspection forms to verify that child care actually was provided on the days listed on the child care providers’ attendance forms.

Each district has the ability to conduct site visits when appropriate and some districts have established hotlines to report suspected child care subsidy fraud.

1.2. Term of Contract

Contracts with successful bidders will be for a 36-month period which is anticipated to begin spring 2013 and end spring 2016, with the option of two subsequent 12-month extensions, based upon the availability of funds.

1.3. Qualification of Offerors

The Offeror must:

- be incorporated or eligible to do business in the State of New York;
- possess the technical qualifications to develop, implement, and operate the program/project as defined in this RFP;
- have a strong background in managing staff at levels to achieve the purpose of this RFP;
- be a financially stable entity with resources adequate to support the efforts required under this RFP;
- be able to begin work for the purpose of this RFP as soon as the contract is executed by the Office of the State Comptroller.

1.4. Contract Readiness

It is expected that all Offerors awarded a contract will negotiate with the State in good faith and cooperatively work with the awarding agency to move from an award to an approved contract prior to the start date. It is expected that this process will be expedited and awardees will need to be available and prepared to respond in required time frames. Awardees who cannot meet prescribed timeframes for contract development and/or signature will, at OCFS discretion, and barring extenuating circumstances, lose funds awarded.

Prior to submitting a bid, Offerors are responsible for various verifications which validate their capacity and organizational authority to receive public funding and operate a business in the State of New York. All suppliers of goods and services to the State must be registered in the New York Statewide Financial System (SFS) Central Vendor Registry file and provide their identification number at the time of contracting. For additional information on the Vendor File, contact http://www.osc.state.ny.us/vendor_management/index.htm.

2. Administrative Criteria

2.1. Issuing Office

This RFP is issued by the New York State Office of Children and Family Services for the State of New York.

2.2. Questions Regarding This Procurement

All questions regarding this procurement, to be given consideration by the State, must be received in writing via e-mail to ocfs.sm.dccs.Fraud.rfp.mailbox@ocfs.state.ny.us no later than 9/28/2012. Questions must be received in accordance with the timetable in section 2.3 of this RFP. Each question should, to the degree possible, cite the specific RFP section and paragraph number to which it refers. The State will distribute its official answers to all organizations that have requested a copy of this RFP by 10/5/2012.

2.3. Timetable

Release of RFP	9/7/2012
Bidders Conference*	9/25/2012 1:30 P.M. EST
Final Date for Receipt of Questions	9/28/2012
Official Responses to Questions	10/5/2012
Letter of Intent Received **	10/9/2012
Proposal Due Date	10/23/2012 3 P.M. EST
Vendor Presentations***	11/12/2012
Anticipated Notification of Awards	12/14/2012
Projected Contract Start Date	02/01/2013

*The Bidders Conference is mandatory and is limited to 3 representatives per prospective bidder. All prospective bidders must bring a business card. The location will be:

NYS OCFS
Room 102, South Building
52 Washington St.
Rensselaer, NY 12144

**The Letter of Intent is a mandatory requirement. The Letter of Intent may be submitted by email to ocfs.sm.dccs.Fraud.rfp.mailbox@ocfs.state.ny.us or by US Postal Service to Jim Hart, NYS OCFS, Room 309, South Building, 52 Washington Street, Rensselaer, NY, 12144.

***For top scorers.

2.4. Submission of Proposals

- Proposals must be signed by an official authorized to bind the Offeror to its provisions.
- Offerors mailing their responses must allow sufficient mail delivery time to ensure receipt of their proposals within the time frames indicated in section 2.3.
- The Technical Proposal and the Financial Proposal must be separately bound and sent to the appropriate office. Each Offeror must submit its proposal so that update pages can be easily incorporated into the original proposal. The following information must appear on the outside front cover of each copy and display on the exterior of the packaging:
 - Offeror's name and address
 - OCFS Child Care Subsidy Program Integrity RFP
 - Part I: Technical Proposal or Part II: Financial Proposal
 - Date
- Offerors assume all risks for timely, properly submitted deliveries. Offerors are strongly encouraged to arrange for delivery of bids to OCFS prior to the bid due date and time referenced in the "Time Table of Key Events" in section 2.3. LATE BIDS will be rejected. E-mail bid submissions are not acceptable and will not be considered.
- Technical Proposal - Seven (7) hard copies and one (1) electronic copy on CD-ROM (in Microsoft Word/Excel/Project format) must be mailed or delivered to the individual noted below.

Technical Proposal
NYS OCFS

Division of Child Care Services
Attn: Jim Hart
Room 309 South Building
52 Washington Street
Rensselaer, NY 12144

- Financial Proposal - Five (5) hard copies and one (1) electronic copy on CD-ROM (in Microsoft Word/Excel/Project format) must be mailed or delivered to the individual noted below. Proposals must be received by the individuals noted below by the due date and time identified in section 2.3:

Financial Proposal
NYS OCFS
Bureau of Contract Management
Attn: Tim O'Brien
Room 202, South Building
52 Washington Street
Rensselaer, NY 12144

- By submitting a proposal, the Offeror warrants that it has carefully reviewed the needs of the State as described in this RFP, the attachments to the RFP, and other communications related to this RFP; has familiarized itself with the specifications and requirements of this RFP; and can provide such products and services as represented in the Offeror's proposal. The Offeror agrees that it will perform all of its obligations in the resultant Contract in accordance with all applicable federal, state, and local laws, regulations and policies now or hereafter in effect. The Offeror affirms that the terms of this RFP do not violate any contracts or agreements to which the Offeror is a party, and that its other contractual obligations will not adversely influence its capabilities to perform under the Contract.
- All proposals and accompanying documentation become the property of the State and will not be returned.

2.5. OCFS Rights

OCFS reserves the right to:

1. Place a monetary cap on the funding amount made in each contract award.
2. Change any of the schedule dates stated in this RFP.
3. Request all Offerors who submitted proposals to present supplemental information clarifying their proposals either in writing or by formal presentation.
4. Require that Offerors demonstrate, to the satisfaction of the OCFS, any feature(s) present as a part of their proposal which may include an oral presentation of their proposal, and may be considered in the evaluation of the proposal.
5. Direct all Offerors who submitted proposals to prepare modifications addressing RFP amendments and/or amend any part of this RFP with notification to all Offerors. These actions are without liability to any Offeror or other party, for expenses incurred in the preparation of any proposals or modifications submitted in response to this RFP.
6. Make funding decisions that maximize compliance with and address the outcomes identified in this RFP.
7. Fund only one portion, or selected activities, of the selected Offeror's proposal; and/or adopt all or part of the selected Offeror's proposal based on Federal and State requirements.
8. Eliminate any RFP requirements unmet by all Offerors, upon notice to all parties that submitted proposals.
9. Waive procedural technicalities, or modify minor irregularities, in proposals received, after notification to the Offeror involved.
10. Correct any arithmetic errors in any proposal, or make typographical corrections to proposals, with the concurrence of the Offeror.
11. Negotiate with the selected Offeror(s) prior to contract award.
12. Award contract to the next highest Offeror, if contract negotiations with the selected Offeror(s) cannot be accomplished within an acceptable time frame. No Offeror will have any rights against OCFS arising from such actions.
13. Award contracts to more than one Offeror, or to other than the lowest Offeror, or to no Offeror.
14. Require that all proposals be held valid for a minimum of 180 days from the closing date for receipt of proposals, unless otherwise expressly provided for in writing.
15. Fund any or all of the proposals received in response to this RFP. However, issuance of this RFP does not commit OCFS to fund any proposals. OCFS can reject any proposals submitted and reserves the right to withdraw or postpone this RFP, without notice, and without liability, to any Offeror, or other party, for expenses incurred in the preparation of any proposals submitted in response to this RFP, and may exercise these rights at any time.

16. Use the proposal submitted in response to this RFP as part of an approved contract. At the time of contract development, awardees may be requested to provide additional budget and program information for the final contract.
17. Make additional awards based on the remaining proposals submitted in response to this RFP and/or to provide additional funding to awardees if additional funds become available.
18. Make inquiries of third parties, including but not limited to Offerors' references, with regard to the applicants' experience, or other matters deemed relevant to the proposal by OCFS. By submitting a proposal in response to this RFP the applicant gives its consent to any inquiry made by OCFS.
19. Require contractors to participate in a formal evaluation of the program to be developed by OCFS. Contractors may be required to collect data for these purposes. The evaluation design will maintain confidentiality of participants and recognize practical constraints of collecting this kind of information.
20. Consider Statewide distribution and regional distribution within New York City, including borough distribution methodology, in evaluating proposals.
21. Suspend the Prompt Contracting time frames set forth at Article XI-B of the State Finance Law at the sole discretion of OCFS, for up to four and one-half months to accommodate the intricacies of contract development and finalization. Offerors are hereby advised that if they are selected for award, they will receive further written notice, setting forth the specifics and period of suspension anticipated. Prompt Contracting time frames may also be suspended for more than four and one-half months where significant and substantive differences exist between OCFS and the successful Offeror, or when the successful Offeror fails to negotiate in good faith.

2.6. Incurred Costs

The State of New York shall not be liable for any costs incurred by an Offeror in the preparation and production of a proposal. The State of New York shall not be liable for any cost incurred by the Contractor in preparation for or prior to the approval of an executed contract by the Comptroller of the State of New York. Additionally, no cost will be incurred by the State for the Contractor's participation in any pre-contract award activity or for any work performed prior to the issuance of a fully executed task order by the State to the Contractor.

2.7. Content of Proposals

To be considered responsive, an Offeror must submit complete proposals, which satisfy all the requirements stated in this RFP. Proposals not conforming to the outline content and sequence as specified in section 3 will be rejected as nonconforming. The Offeror's proposals must include a statement that the proposal will remain valid for a period of 180 days.

2.8. Security, Nondisclosure and Confidentiality Agreement

The content of each Offeror's proposal will be held in strict confidence by the State during the bid evaluation process and will not be disclosed except to the evaluation panels, and to the NYS Attorney General's Office and the Office of the State Comptroller as may be necessary to obtain the approvals of those agencies for the final Contract and except as required by law. The successful Offeror's proposal and a copy of the specifications will be made a part of the Contract.

Public inspection of a proposal is regulated by the Freedom of Information Law (Article 6 of the New York Public Officer's Law hereinafter "FOIL"). Proposals are presumptively available for public inspection. If this would be unacceptable to Offerors, they should apply to the NYS Division of the Budget (DOB) for trade secret protection for their bid.

Confidential, trade secret or proprietary materials as defined by the laws of the State of New York must be clearly marked and identified as such upon submission by the Offeror. Marking the bid as "confidential" or "proprietary" on its face or in the document header or footer shall not be considered to be sufficient without specific justification as to why disclosure of particular information in the bid would cause substantial injury to the competitive position of the Offeror.

Offerors/Contractors intending to seek an exemption from disclosure of these materials under the Freedom of Information Law must request the exemption in writing, setting forth the reasons for the claimed exemption. Acceptance of the claimed materials does not constitute a determination on the exemption request, which determination will be made in accordance with statutory procedures.

The Public Officers' Code of Ethics (Section 74 of the Public Officers Law) sets the standard that no officer or employee of a State agency shall disclose confidential information that he/she acquires during the course of his/her official duties. These standards control the confidentiality of a Offeror's proposal unless DOB grants a petition for records access in accordance with the Freedom of Information Law.

Offerors should be advised that the confidentiality of their proposals is founded upon statute, as described above. A nondisclosure agreement, whether prescribed by DOB or the Offeror, would not alter the rights and responsibilities of

either party under the Freedom of Information Law. Offerors should not propose a nondisclosure agreement for DOB employees, for that would be legally ineffective to alter any responsibility under the Freedom of Information Law or the Code of Ethics.

The provisions of the Freedom of Information Law will also govern the confidentiality of any and all products or services supplied by the successful Offeror.

Please see section 10, Required Forms of this RFP for completion of the "Security, Nondisclosure and Confidentiality Agreement.

2.9. Omnibus Procurement Act

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 on the Internet at www.empire.state.ny.us. For additional information and assistance, contact:

NYS Empire State Development Corporation
Division of Minority and Women-Owned Business Development
30 South Pearl Street
Albany, NY 12245
Phone: (518) 292-5250 Fax: (518) 292-5803

OR

633 Third Avenue
New York, New York 10017
Phone: (212) 803-2414 Fax: (212) 803-2459

NOTE: Companies requesting lists of potential subcontractors and suppliers are encouraged to identify the SIC code, size and location of vendors.

A directory of minority and women-owned business enterprises is available on the Internet at www.empire.state.ny.us. For additional information and assistance, contact either of the above listed offices.

The Omnibus Procurement Act of 1992 requires that by signing a bid proposal, contractors certify that whenever the total bid amount is greater than \$1 million:

1. The contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors on this project, and has retained the documentation of these efforts to be provided upon request to the State.
2. Document their efforts to encourage the participation of New York State business enterprises as suppliers and subcontractors by showing that they have:
 - o Solicited bids, in a timely and adequate manner, from New York State Empire State Development business enterprises including certified minority/ women-owned businesses, or
 - o Contacted the New York State Empire State Development to obtain listings of New York State business enterprises and MWBEs, or
 - o Placed notices for subcontractors and suppliers in newspapers, journals or other trade publications distributed in New York State, or
 - o Participated in bidder outreach conferences.
 - o If the contractor determines that New York State business enterprises are not available to participate on the contract as subcontractors or suppliers, the contractor shall provide a statement indicating the method by which such determination was made.
 - o If the contractor does not intend to use subcontractors, the contractor shall provide a statement verifying such.
3. The contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-961), as amended.
4. The contractor will be required to notify New York State residents of employment opportunities through listing any such positions with Community Services Division of the New York State Department of Labor, providing for such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The agency agrees to document these efforts and to provide said documentation to OCFS upon request.

5. Bidders located in a foreign country are notified that the State may assign or otherwise transfer offset credits to third parties located in New York State, and the bidders shall be obligated to cooperate with the State in any and all respects in making such assignment or transfer, including, but not limited to, executing any and all documents deemed by the State to be necessary or desirable to effectuate such assignment or transfer, and using their best efforts to obtain the recognition and accession to such assignment or transfer by any applicable foreign government.
6. Bidders are hereby notified that state agencies and authorities are prohibited from entering into contracts with businesses whose principle place of business is located in a discriminatory jurisdiction. "Discriminatory jurisdiction" is defined as a state or political subdivision which employs a preference or price distorting mechanism to the detriment of or otherwise discriminates against a New York State business enterprise in the procurement of commodities and services by the same or a non-governmental entity influenced by the same. A list of discriminatory jurisdiction is maintained by the Commissioner of the New York State Empire State Development.

2.10. Minority and/or Women-Owned Business Enterprise (MWBE) – Requirements and Procedures

This section outlines Contractor requirements and procedures for business participation opportunities for New York State certified Minority and Women-Owned Business Enterprises (MWBE), and equal opportunities for minority group members and women. See Section 2.11 below for further information relating to the required Forms outlined in this section.

New York State Law

Pursuant to New York State Executive Law Article 15-A, The New York State Office of Children and Family Services (OCFS) 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 OCFS 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 OCFS establishes goals for maximum feasible participation of New York State Certified minority and women – owned business enterprises ("MWBE") and the employment of minority group members and women in the performance of New York State contracts. In order to be recognized as a certified MWBE, a vendor must be for-profit and certified by Empire State Development.

Business Participation Opportunities for MWBEs – OCFS Established Goals

For purposes of this solicitation, OCFS hereby establishes an overall goal of 22.5% for MWBE participation, 9.5% for Minority-Owned Business Enterprises ("MBE") participation and 13% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs). A Contractor must document good faith efforts to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract, and Contractor agrees that OCFS may withhold payment pending receipt of the required MWBE documentation. The directory of New York State Certified MWBEs can be viewed at: <http://www.esd.ny.gov/mwbe.html>. For guidance on how OCFS will determine a Contractor's "good faith efforts", refer to 5 NYCRR §142.8 at the following website: http://www.esd.ny.gov/MWBE/Data/122210_MWBE15-ARegs.pdf

In accordance with 5 NYCRR §142.13 (Provisions in Contracts; Violations), Contractor acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such finding constitutes a breach of Contract and OCFS may withhold or recover payment from the Contractor as liquidated or other damages, as well as impose other such remedies as determined necessary. Such liquidated damages shall be calculated up to an amount equaling the difference between: (1) all sums

identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and (2) all sums actually paid to MWBEs for work performed or materials supplied under the Contract.

Required Documentation

It is expected that all Contractors make a good-faith effort to utilize Minority and/or Women Owned Businesses M/WBEs when there is an opportunity to subcontract or purchase supplies to carry out a contract with the New York State Office of Children and Family Services.

By submitting this proposal, Bidder agrees to complete and submit the following forms, documents and/or information, as required, as evidence of compliance with the foregoing:

- [OCFS-4631 – Subcontracting/Suppliers Utilization Form](#)
Submit with proposal - Any modifications or changes to the Subcontracting/Suppliers Utilization Form after a Contract is awarded and/or during the term of a Contract must be reported on a revised Subcontracting/Suppliers Utilization Form and submitted to (Program contact name, division and bureau, address). At the proposal stage, OCFS will review the submitted [OCFS-4631 – Subcontracting/Suppliers Utilization Form](#) and, if warranted, issue the Bidder a “Notice of Deficiency” within 30 days of receipt.
- [Notice of Deficiency \(If warranted by OCFS\)](#)
A Notice of Deficiency is issued to the Bidder, if warranted by OCFS, after OCFS’ review of the completed [OCFS-4631 – Subcontracting/Suppliers Utilization Form](#). If OCFS issues a Notice of Deficiency, the Bidder shall respond to the Notice within seven (7) business days of receipt, by submitting a written remedy to (Program contact name, division and bureau, address). If the written remedy submitted is not timely or is found by OCFS to be inadequate, OCFS shall notify and direct the Bidder to submit an [OCFS-4442 - M/WBE Request for Waiver Form](#) within five (5) business days, requesting either a partial or total waiver of MWBE participation goals. Failure to file the Request for Waiver Form in a timely manner may be grounds for disqualification of the bid or proposal.
- [OCFS-4442 - M/WBE Request for Waiver Form](#) (if requested by OCFS)
Submit at request of OCFS - This form should be completed and submitted by the Bidder only at the request of OCFS, and only after a determination has been made deeming it necessary, as noted above.
- [OCFS-4630 - Subcontractors and Suppliers Letter of Intent to Participate Form](#)
Submit with proposal – This form is to be completed by the proposed M/WBE Subcontractors/Suppliers, and attached to the [OCFS-4631 – Subcontracting/Suppliers Utilization Form](#) for each certified Minority or Women-Owned Business Enterprise the Bidder proposes to utilize as subcontractors, service providers or suppliers. If the MBE or WBE proposed for a portion of this proposal/contract is a part of a joint venture or other temporarily-formed business arrangement, the name and address of the joint venture or the temporarily formed business entity should be indicated. If the subcontractors/suppliers are unknown at the time of the proposal, enter Prime Contractor Information and write “unknown” in the “subcontractor/supplier” section
- [OCFS-4629 - Project Staffing Plan Form](#)
Submit with proposal - This form should be completed by the Bidder and submitted as part of their proposal identifying the anticipated work force to be utilized on the Contract. Any modifications or changes to the Project Staffing Plan Form after a Contract is awarded must be reported on a revised Project Staffing Plan Form, on a quarterly basis, and submitted to (*Program contact name, division and bureau, address*). If there are no personal service dollars committed to the contract then the Project Staffing Plan form is not required.
- [OCFS-4441 - M/WBE Quarterly Report Form](#) (Applies to Contract Awardees ONLY)
This form applies to contract awardees only and should be completed by Contractor and submitted to (Program contact name, division and bureau, address) within 10 days following the end of each applicable reporting quarter.
- [OCFS-3460 – MWBE – Equal Employment Opportunity Policy Statement](#) (Applies to Contract Awardees ONLY)
This form applies to contract awardees only. If awarded the contract, per the provisions of Article 15-A, the contractor, will be required to submit an EEO policy statement to OCFS. More information on the EEO Policy Statement can be found in Appendix MWBE, located in [Section 7, Required Forms](#).

OCFS may disqualify a Bidder as being non-responsive if a Bidder fails to submit the following documents:

- OCFS-4631 - Subcontracting/Supplier Utilization Form;
- Response (written remedy) to a Notice of Deficiency;
- OCFS-4442 - MWBE Request for Waiver Form;

OR

- If OCFS determines that the Bidder has failed to document good faith efforts.

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

Contractors are required to submit an [OCFS-4441 - M/WBE Quarterly Report Form](#) by the 10th day following each end of quarter, over the term of the Contract, documenting the progress made toward achievement of the MWBE goals of the Contract. The form should be submitted to (Program contact name, division and bureau, address).

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 any subcontractors awarded a subcontract over \$100,000 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.

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

If awarded the contract, per the provisions of Article 15-A, the contractor, will be required to submit an EEO policy statement to OCFS.

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.

2.11. *Minority and/or Women-Owned Business Enterprise (M/WBE) – Forms*

It is expected that all Contractors make a good-faith effort to utilize Minority and/or Women Owned Business Enterprises (M/WBEs) when there is an opportunity to subcontract or purchase supplies to carry out a contract with the New York State Office of Children and Family Services. See Section 4.1 below for New York State Law and Agency requirements, related to Certified M/WBEs and equal opportunities for minority group members and women.

[OCFS-4630 - Subcontractors and Suppliers Letter of Intent to Participate Form](#)

This form is to be completed by the proposed M/WBE Subcontractor/Supplier. It is to be submitted with proposal/bid attached to the "OCFS-4631 Subcontracting/Suppliers Utilization Form" for each certified M/WBE the Bidder proposes to utilize as subcontractors, service providers or suppliers. If the MBE or WBE proposed for a

portion of this proposal/contract is a part of a joint venture or other temporarily-formed business arrangement, the name and address of the joint venture or the temporarily formed business entity should be indicated. If the subcontractors are unknown at the time of the proposal, enter Prime contractor information and write “unknown” in the “subcontractor/supplier” section.

[OCFS-4631 – Subcontracting/Suppliers Utilization Form](#)

This form is to be completed by the Bidder and submitted as part of their proposal for the purpose of identifying projected M/WBE utilization. It must also be completed by the Contractor after a contract is awarded and/or during the term of a contract, to report actual M/WBE participation goals achieved.

[OCFS-4629 - Project Staffing Plan Form](#)

This form should be completed by the Bidder and submitted as part of their proposal identifying the anticipated work force to be utilized on the Contract. Any modifications or changes to the Project Staffing Plan Form after a Contract is awarded must be reported on a revised Project Staffing Plan Form, on a quarterly basis, and submitted to *(Program contact name, division and bureau, address)*. If there are no personal service dollars committed to the contract then the Project Staffing Plan form is not required.

[OCFS-4441 - M/WBE Quarterly Report Form](#) (Applies to Contract Awardees ONLY)

This form applies to contract awardees only and should be completed and submitted by Contractor within 10 days following the end of each applicable reporting quarter.

[OCFS-4442 - M/WBE Request for Waiver Form](#)

This form should be completed by the Bidder only at the request of OCFS, and only after a determination has been made deeming it necessary. The determination is based on review of the Bidders completed OCFS-4631 Subcontracting/Suppliers Utilization Form; if warranted, OCFS will issue a “Notice of Deficiency” in which the Bidder must respond to. The Bidder’s response will determine if OCFS will direct the Bidder to request a partial or total waiver of MWBE participation goals. More information on the “Notice of Deficiency” and “Request for Waiver Form” is outlined in Section 4.1 below.

[OCFS-3460 – MWBE – Equal Employment Opportunity Policy Statement](#) (Applies to Contract Awardees ONLY)

This form applies to contract awardees only. If awarded the contract, per the provisions of Article 15-A, the contractor, will be required to submit an EEO policy statement to OCFS. More information on the EEO Policy Statement can be found in Appendix MWBE, located in [Section 6.7 of this RFP](#).

2.12. Anti-Kickback Act

The Contractor understands that it must comply with federal Executive Order 11246, the Copeland “Anti-Kickback Act” (18 USC 874), Section 508 of the federal Clean Air Act, Section 306 of the federal Clean Water Act, and that it must certify that neither it nor its principals are debarred or suspended from federal financial assistance programs and activities and to complete and return in pursuit of such certification any appropriate form required by the State (see federal Executive Order 12549 and 7 CFR Part 3017).

2.13. Contractor Responsibility

In the event the selected Offeror’s proposal includes services provided by another firm, it shall be mandatory for the selected Offeror to assume full responsibility for the delivery for such items offered in the proposal. Should the selected Offeror seek external financing, the State reserves the right to approve the assignment of the contract for financing purposes. In any event, the State will contract only with an Offeror, not the Offeror’s financing institution or subcontractors. The State shall consider the selected Offeror to be the sole responsible contact with regard to all provisions of the contract resulting from this RFP. Should a bidder wish to subcontract its responsibilities under this solicitation, OCFS requests that the prime contractor/vendor obtain approval.

2.14. Performance Bond

The Offeror must furnish a Performance Bond in the amount of \$1,000,000 for this project award. Such Performance Bond shall be obtained twenty (20) business days before the start of the work and shall exist for the duration of the Agreement and for three months thereafter, or until OCFS declares to the surety in writing that the Offeror's obligations to OCFS are discharged. The Performance Bond shall contain a provision wherein the surety makes an irrevocable undertaking to, whenever OCFS declares the Offeror in default of the Agreement, without objection, reservation, delay or recourse, promptly pay OCFS the amount or amounts required by OCFS to remedy the Offeror's default and complete the work according to its terms and conditions, up to a total not exceeding the amount of the Bond. The Performance Bond shall also state that it is subject to the laws of New York State.

2.15. Contract

Any Offeror issued an award as a result of this RFP will be expected to enter into a contract with OCFS. A copy of the terms and conditions of the contract are attached to this RFP in section 10.

Any contract resulting from this RFP, if any, will not be effective until approved by the NYS Office of the Attorney General and Office of the State Comptroller.

2.16. Multi-Agency Use

The contract entered into pursuant to an award resulting from this RFP shall contain a provision which grants the option to extend the terms and conditions of such contract to any other State agency or municipality in New York State.

2.17. Contacts with Employees

1. From the release date of this RFP until the resultant contract(s) are approved by the Office of the State Comptroller, all Offeror contacts related to this procurement must be authorized by the OCFS point of contact, Jim Hart at (518)473-1790 or ocfs.sm.dccs.Fraud.rfp.mailbox@ocfs.state.ny.us
2. Prospective Offerors shall not approach State personnel with offers of employment during the procurement period or risk being disqualified from the procurement. Any Offeror who is aware of a State employee who is considering employment with the Offeror must advise the State forthwith.

2.18. Procurement Lobbying Act

Pursuant to State Finance Law §§139-j and 139-k, this procurement imposes certain restrictions on communications between the State and a vendor during the procurement process. Vendors are restricted from making oral, written or electronic contacts with New York State employees until Office of the State Comptroller (OSC) Contract approval other than to the point of contact as identified above. Statutory exceptions to vendor contact with other than the designated point of contact are listed below:

1. Submission of a written proposal in response to this procurement;
2. Submission of written questions prior to the proposal due date; (note: the Procurement Lobbying Act does not allow the hiring manager to schedule interviews)
3. Complaints filed by a vendor stating that the designated point of contact has failed to respond in a timely manner;
4. Negotiations following task order award;
5. Debriefings to vendors that were not award recipients; and
6. Filing of an appeal or protest.

New York State employees other than the designated point of contact who are contacted by a vendor are required to obtain and record certain information when contacted that could result in a finding of non-responsibility against the vendor. Such a finding can result in a rejection of a task order award and in the event of two findings within a 4-year period, the vendor would become debarred from obtaining New York State contracts. Further information about these requirements can be found at <http://www.ogs.state.ny.us/aboutOgs/regulations/defaultAdvisoryCouncil.html>

The Procurement Lobbying Act also requires that every procurement over \$15,000 include a certification by the vendor that all information provided to the agency is complete, true, and accurate with regard to prior non-responsibility determinations within the past four years based on (i) impermissible contacts or other violations of State Finance Law Section 139-j, or (ii) the intentional provision of false or incomplete information to a governmental entity. See OCFS-4822-Procurement Lobbying Act – Offeror Certification Form in section 11, Required Forms, of this RFP.

The State reserves the right to terminate the award resulting from this procurement in the event it is found that the certification filed by the Offeror in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, the State may exercise its termination right by providing written notification to the award recipient.

2.19. Public Officers Law

All Offerors and their employees must be aware of and comply with the requirements of the New York State Public Officers Law, and all other appropriate provisions of New York State Law and all resultant codes, rules and regulations from State laws establishing the standards for business and professional activities of State employees and governing the conduct of employees of firms, associations and corporations in business with the State. In signing the proposal, each Offeror guarantees knowledge and full compliance with those provisions for any dealings, transactions, sales, contracts, services, offers, relationships, etc. involving the State and/or State employees. Failure to comply with those provisions may result in disqualification from the bidding process and in other civil or criminal proceedings as required by law.

Additional information can be found at http://www.tenant.net/Other_Laws/Pubofc/puboftoc.html

2.20. Office of Information Technology Services Review

Prior to award selection, this RFP and all responses thereto may be subject to review by the New York State Office of Information Technology Services.

2.21. Vendor Responsibility

New York State Finance Law requires that State agencies award contracts to responsible contractors including but not limited to not-for-profit and for-profit vendors. Vendor Responsibility will be determined based on the information provided by the Offeror on the "Vendor Responsibility Questionnaire Form", and a review of the most recently issued independently audited annual financial reports, that must be included with each bid. OCFS will review the Questionnaire, the audited financial statements and the information provided before making an award. OCFS reserves the right to reject any proposal if in the sole discretion of OCFS, it determines the Offeror is not a responsible vendor, or is not, or may not be, during the life of the contract, a stable financial entity. All proposals are subject to vendor responsibility determination before the award is made and such determination can be revisited at any point up to the final approval of the contract by OSC. (See section 11, Required Forms).

Prior to executing a subcontract agreement the Contractor agrees to provide the information OCFS needs to determine whether a proposed Subcontractor is a responsible vendor.

Vendors are invited to file the required Vendor Responsibility Questionnaire online through the Office of the State Comptroller (OSC) New York State VendRep System or may choose to complete and submit a paper questionnaire "OCFS-7050 Vendor Responsibility Questionnaire Form" (Not-for-Profit Business Entity) or "OCFS-7049 Vendor Responsibility Form" (For-Profit Business Entity).

Vendors are also encouraged to have subcontractors that are substantially involved with the project to file the required Vendor Responsibility Questionnaire online through OSC to provide for complete information.

To enroll in and use the OSC New York State VendRep System all vendors may view the VendRep System Instructions available at www.osc.state.ny.us/vendrep or go directly to the VendRep System online at <https://portal.osc.state.ny.us>. For direct VendRep System user assistance, the OSC Help Desk may be reached at 866-370-4672 or 518-408-4672 or by email at helpdesk@osc.state.ny.us For-Profit Questionnaires can be found in section 10, Required Forms, of this RFP.

The Online VendRep System offers the following benefits:

1. The Questionnaire is valid for all State agencies and only needs to be completed once every six (6) months, unless there is a change in the questionnaire responses.
2. Ease of completion, filing, access to and submission of the vendor responsibility questionnaire. Efficiencies are multiplied for vendors who bid and contract with the State frequently or with multiple State agencies.
3. Questionnaire updates are easily filed by changing only those responses that require a change from the previously saved questionnaire.
4. The stored questionnaire responses information as – address, contacts, Federal ID - eliminates the need to re-enter data for each subsequent questionnaire submission.
5. Reduction of costs associated with paper documents including copying, delivery and filing.
6. Questionnaire information is secure and accessible online only to authorized vendor users. State agencies can only view certified and finalized questionnaires.
7. VendRep questions prompts ensure that the correct forms are completed.

Vendors opting to file a paper questionnaire, please see section 11, Required Forms, of this RFP. For-Profit bidders must complete the for-profit Vendor Responsibility Questionnaire (form 7049) located on the OCFS Internet Website at <http://www.ocfs.state.ny.us/main/forms/contracts/>

Please note that there are separate Vendor Responsibility Forms depending on the contractor status. The “OCFS-7049 Vendor Responsibility Form” must be used by For-Profit Vendors.

Vendor Responsibility Questionnaire Instructions

It is important that every Vendor Responsibility Questionnaire question is responded to in a complete manner. There are questions that require written explanation; responses must be thorough, complete and current. The on-line Questionnaire which is completed through the New York State VendRep System must be certified by the individual designated by the bidder as eligible to certify (sign on-line) the Questionnaire. A copy of the VendRep Form Overview Page that includes the Certification date must be included with the proposal. If the paper copy is completed, the owner or officer of the bidding organization must be sure the Certification page of the form is signed and notarized. Note: All Vendor Responsibility Questionnaires must be dated within six (6) months of the proposal due date. If the bidder is successful, any subcontractors under that proposed contract must also complete a Vendor Responsibility Questionnaire. Please note that any subcontract where the services are a material factor in the award, the subcontractor must complete a Vendor Responsibility Questionnaire at the proposal stage. Refer to the above Section for information about general Vendor Responsibility Questionnaire Requirements and the automated New York State VendRep System.

Both the For-Profit and Not-For-Profit Vendor Responsibility Questionnaire forms can be found in Section 10, Required Forms, of this RFP.

2.22. New York State Sales and Compensating Use Taxes

Tax Law Section 5-a, which was added to the Tax Law under Part N of Chapter 60 of the Laws of 2004, imposes upon certain contractors the obligation to certify whether or not the contractor and its affiliates are required to register to collect state sales and compensating use tax. Where required to register, the contractor must also certify that it is, in fact, registered with the New York State Department of Taxation and Finance (DTF). The law prohibits the New York State Comptroller, or other approving agency, from approving a contract awarded to an Offeror meeting the registration requirements but who is not so registered in accordance with the law.

Pursuant to Tax Law Section 5-a, the contractor, upon award, will be required to complete and sign, under penalty of perjury, the Contractor Certification Form ST-220-TD and ST-220-CA. The contractor must also submit a copy of the Certificate of Authority, if available, for itself and any affiliates required to register to collect state sales and compensating use tax. If Certificates of Authority are unavailable, the contractor, affiliate, subcontractor or affiliate of subcontractor must represent that it is registered and that it has confirmed such status with DTF.

The above-noted ST-220-TD and ST-220-CA forms, and additional information regarding NYS Sales and Compensating Use Taxes can be found at the following websites:

Publication 223

http://www.tax.state.ny.us/pdf/publications/sales/pub223_507.pdf

ST-220-CA

http://www.tax.state.ny.us/pdf/2006/fillin/st/st220ca_606_fill_in.pdf

ST-220-TD

http://www.tax.state.ny.us/pdf/2007/fillin/st/st220td_507_fill_in.pdf

2.23. Contractor Employee Background and Confidentiality Certification Forms

OCFS is responsible for maintaining the safety of the youth in its care. State Law requires that any client identifiable information be kept confidential. Any contractor who will provide goods and/or services to a residential facility or programs operated by OCFS must require all of its employees and volunteers who will have the potential for regular and substantial contact with youth in the care or custody of OCFS to complete and sign the Contractor Employee Background Certification and Contractor Employee Confidentiality Certification forms. These forms must be completed before any such employees and/or volunteers are permitted access to youth in care or custody of OCFS, and/or any client identifiable information concerning such youth. The forms should be completed after the Offeror has been awarded funding and during the contract development. For additional information see Appendix A-1 in section 10 of this document, section 6 Confidentiality and Protection of Human Subjects.

The Contractor Employee Background Certification and Contractor Employee Confidentiality Certification Forms can be found in section 10, Required Forms, of this RFP.

2.24. Consultant Disclosure Requirements

Chapter 10 of the Laws of 2006 requires collection and reporting of consulting services contracts by New York State vendors and State Agencies during the April 1 through March 31 State Fiscal Year. The Law took effect June 19, 2006.

- Initial Report Requirements

State Contractors are required to disclose by employment category, the number of persons projected to be employed who will provide services under a contract for consulting services, the number of hours that they will work, and the amount they will be paid working under the State contract. This will include information on any persons working under any subcontracts with the State contractor.

To comply with these reporting requirements, State contractors must complete and submit Form OCFS-4842 State Consultant Services-Contractor's Planned Employment to their OCFS contract manager with applicable contract documents.

- Annual Report Requirements

State contractors must also report each year on the actual employment information described above, including work performed by subcontractors. The report must include employment information for the period ending March 31st of each year. To comply with the annual reporting requirement, State contractors must complete Form OCFS-4843 State Consultant Services – Contractors Annual Employment Record. The form must be submitted by April 30th of each year to the following offices:

Bureau of Contract Management
New York State Office of Children and Family Services
52 Washington Street, South Building, Room 202
Rensselaer, New York 12144

New York State Office of the State Comptroller
Bureau of Contracts
110 State Street, 11th Floor
Albany, New York 12236
Attn: Consultant Reporting

New York State Department of Civil Service
Alfred E. Smith Office Building
Counsel's Office, 8th Floor
80 South Swan Street
Albany, New York 12239

To obtain either form OCFS-4842 or OCFS-4843, you can click on the above-noted direct links individually, or you can visit the OCFS Internet, Contracts and Grants Forms Page, at the following website address: <http://www.ocfs.state.ny.us/main/forms/contracts/>

Pursuant to Chapter 10 of the Laws of 2006, New York State Office of Children and Family Services (OCFS) must require all contractors, including sub-contractors, to submit an annual report. As a result of these changes in law, State contractors are required to disclose, by employment category; the number of persons employed to provide services under a contract for consulting services, the number of hours worked, and the amount paid to the contractor by the State as compensation for work performed by these employees. Be reminded that this includes information on any persons working under a subcontract with the State contractor. The Office of the State Comptroller (OSC) has a prescribed format for reporting. The information can be reported on Form OCFS-4842 State Consultant Services-Contractor's Planned Employment.

2.25. Procedure for Handling Protests/Appeals of Bid Specifications and Proposed Awards

OCFS Procedure for Handling of Protests/Appeals of Bid Requirements and Proposed Awards

- Section 1: Applicability
- Section 2: Definitions
- Section 3: Informal Complaints or Protests
- Section 4: Formal Protest Procedure

Section 5: Appeal of Formal Protest Decision

Section 1: Applicability

The intent and purpose of these guidelines is to set forth the procedure to be utilized when an interested party challenges a contract award by OCFS. These guidelines shall apply to all contract awards by OCFS.

Section 2: Definitions

1. Interested party” means a participant in the procurement process and those whose participation in the procurement process has been foreclosed by OCFS.
2. “Contract award” is a written determination from OCFS to an Offeror indicating that OCFS has accepted the Offeror’s bid or offer.
3. “Protest” shall mean a written challenge to a contract award by OCFS.
4. “Procurement” shall mean any method used to solicit or establish a contract. (i.e., invitation for bid, request for proposal, single/sole source, etc.)
5. “Protesting party” is the party who is filing a protest to the bid, contract award or other aspect of a procurement.

Section 3: Informal Complaints or Protests

In order to reduce the administrative burden and to be responsive to interested parties other than as provided below, OCFS staff will be receptive to and attempt to resolve issues, inquiries, questions and complaints on an informal basis, whenever possible. Information provided informally by any interested party will be fully reviewed by the OCFS program division responsible for the Procurement. Matters that are identified by the interested party as containing, or that OCFS perceives to contain, potentially confidential or trade secret information, may be shared internally within OCFS as necessary. OCFS staff will document the subject matter and results of any informal complaints and inquiries. OCFS’s response to the informal complaint or inquiry will indicate the existence of a formal protest policy available to the interested party should the informal process fail to resolve the matter.

Final OCFS determinations or recommendations for award may be reconsidered only in the context of a formal written protest.

Section 4: Formal Protest Procedure

Any interested party who believes that there are errors or omissions in the procurement process, who believes they have been aggrieved in the drafting or issuance of a bid solicitation, or who believe they have been treated unfairly in the application, evaluation, bid award, or contract award phases of the procurement, may present a formal protest to the OCFS and request administrative relief concerning such action.

A. Submission of Bid or Award Protests

1. Deadline for Submission

- a Concerning Alleged Errors, Omissions or Prejudice in the Bid Specifications or Documents: Formal protests which concern alleged errors in the drafting of bid specifications must be received by OCFS at least ten (10) calendar days before the date set in the solicitation for receipt of bids.
- b Concerning Proposed Contract Award: Formal protests concerning a pending contract award must be received within five (5) business days after the protesting party knows or should have known of the facts which form the basis of the protest. Formal protests will not be accepted by OCFS concerning a contract award after the contract between OCFS and the offeror who received the contract award has been approved by the Office of the State Comptroller.

B. Review and Final Determination

1. Formal protests must be filed with the OCFS Associate Commissioner of Administration. Any protests filed with the OCFS Program Division responsible for the procurement will be advanced to the Associate Commissioner of Administration. Copies of all protests will be provided by the Associate Commissioner of Administration to the OCFS Division of Legal Affairs and other necessary parties within OCFS, as determined by the Associate Commissioner of Administration.
 - a Formal protests shall be resolved through written correspondence; however, either the protesting party or OCFS may request a meeting to discuss a formal protest. Where further formal resolution is required, the Program Division responsible for the procurement may designate a State employee not involved in the procurement action ("designee") to determine and undertake the initial resolution or settlement of any protest.
 - b The OCFS Program Division responsible for the procurement will conduct a review of the records involved in the protest, and provide a memorandum to the Associate Commissioner of Administration or the Associate Commissioner’s designee summarizing the facts, an analysis of the substance of the protest, and a preliminary recommendation including: (a) an evaluation of the findings and recommendations, (b) the materials presented by the protesting party and/or any materials required of or submitted by other bidders,

(c) the results of any consultation with the OCFS Division of Legal Affairs, and (d) a draft response to the protest.

- c A copy of the final protest decision, stating the reason(s) upon which it is based and informing the protesting party of the right to appeal an unfavorable decision to the OCFS Executive Deputy Commissioner, shall be sent to the protesting party or its agent within thirty (30) business days of receipt of the protest, except that upon notice to the protesting party such period may be extended. The final protest determination will be recorded and included in the procurement record, or otherwise forwarded to the Office of the State Comptroller (OSC).

C. Appeals

- 1 The final protest determination shall be deemed a final and conclusive agency determination unless a written notice of appeal is received by the OCFS Executive Deputy Commissioner no more than fifteen (15) business days after the date the final protest decision is sent to the protesting party.
- 2 The Executive Deputy Commissioner or his or her designee shall hear and make a final determination on all appeals.
- 3 An appeal may not introduce new facts unless responding to facts or issues unknown to the protesting party prior to the final protest determination.

D. Reservation of Rights and Responsibilities of OCFS

- 1 OCFS reserves the right to waive or extend the time requirements for protest submissions, decisions and appeals herein prescribed when, in its sole judgment, circumstances so warrant to serve the best interests of the State.
- 2 If OCFS determines that there are compelling circumstances, including the need to proceed immediately with contract award and development of final contracts in the best interests of the State, then these protest procedures may be suspended and such determination shall be documented in the procurement record.
- 3 OCFS will consider all information relevant to the protest, and may, at its discretion, suspend, modify, or cancel the protested procurement action, including solicitation of bids, or withdraw the recommendation of contract award prior to issuance of a formal protest decision.
- 4 OCFS will continue procurement and contract award activity prior to the final protest determination. The receipt of a formal bid protest will not stop action on the procurement and award of the contract(s) or on the development of final contracts.
 - a The procurement record and awarded contract(s) will be forwarded to OSC, and a notice of the receipt of a protest and any appeal will be included in the procurement record. If a final protest determination, or a final decision on an appeal, has been reached prior to transmittal of the procurement record and the contract(s) to OSC, a copy of the final determination or decision will be included in the procurement record and with the contract(s).
 - b If a final protest determination is made after the transmittal of the procurement record and contract(s) to OSC, but prior to OSC approval, a copy of the final OCFS determination will be forwarded to OSC when issued, along with a letter either: a) confirming the original OCFS recommendation for award(s); b) modifying the proposed award recommendation; or c) withdrawing the original award recommendation.
- 5 All records related to formal protests and appeals shall be retained for at least one (1) year following resolution of the protest. All other records concerning the procurement shall be retained according to the applicable requirements for records retention.

Section 5: Appeal of Formal Protest Decision

If the protesting party is still not satisfied with the result of its protest after the conclusion of the appeal to the OCFS Executive Deputy Commissioner, the protesting party may file an appeal with OSC. The protest to the OSC Bureau of Contracts must be in writing and must contain specific factual and/or legal allegations setting forth the basis on which the protesting party challenges the contract award by OCFS. Such appeal must be filed with the Director of the Bureau of Contracts at the Office of the State Comptroller, 110 State Street, 11th Floor, Albany, NY 12236.

For more information see OSC Bulletin G-232 http://www.osc.state.ny.us/agencies/gbull/g_232.htm

2.26. Iran Divestment Act

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a new provision has been added to the State Finance Law (SFL), § 165-a, effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) will be developing a list (prohibited entities list) of “persons” who are engaged in “investment activities in Iran” (both are defined terms in the law). Pursuant to SFL § 165-a(3)(b), the initial list is expected to be issued no later than 120 days after the Act’s effective date, at which time it will be posted on the OGS website.

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 once the prohibited entities list is posted on the OGS website, it will not utilize on such Contract any subcontractor that is identified on the prohibited entities list.

Additionally, Bidder/Contractor is advised that once the list is posted on the OGS website, any Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to the solicitation, must certify at the time the Contract is renewed, extended or assigned that it is not included on the prohibited entities list.

During the term of the Contract, should OCFS receive information that a person is in violation of the above-referenced certification, OCFS will offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then OCFS shall take such action as may be appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

OCFS reserves the right to reject any bid or request for assignment for an entity that appears on the prohibited entities list prior to the award 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.

2.27. Debriefing Sessions

Unsuccessful Offerors will be notified in writing and may request the opportunity for a debriefing session. Such sessions will be limited to discussions of evaluation results as they apply to the Offeror receiving the debriefing and will be scheduled at the State's convenience.

2.28. Application Development or Programming

Any web-based intranet and Internet information and applications development, or programming delivered pursuant this procurement must comply with New York State Enterprise IT Policy NYS-P08-005 (<http://www.oft.state.ny.us/Policy/NYS-P08-005.pdf>), Accessibility Web-Based Information and Applications, and New York State Enterprise IT Standard NYS-S08-005 (http://accessibility.gtri.gatech.edu/sitid/stateDocs_printable.php?state=32), Accessibility of Web-Based Information Applications, as such policy or standard may be amended, modified or superseded, which requires that state agency web-based intranet and Internet information and applications are accessible to person with disabilities. Web content must conform to New York State Enterprise IT Standards NYS-S08-005, as determined by quality assurance testing. Such quality assurance testing will be conducted by OCFS and the results of such testing must be satisfactory to OCFS before web content will be considered a qualified deliverable under the contract or procurement.

3. Evaluation Process and Criteria

3.1. Overview

All proposals received shall be subject to an evaluation by OCFS, assisted by such other personnel as deemed appropriate, for the purpose of selecting the Offeror with whom an agreement will be negotiated. The Offeror scoring the highest in overall points will be awarded the contract.

Only proposals judged to be responsive to the submission requirements set forth in this RFP will be evaluated.

3.2. Evaluation Philosophy

OCFS is committed to a fair and impartial evaluation process characterized by:

- Requirements based upon OCFS's substantiated needs.
- Evaluation by a structured impartial process.

3.3. Proposal Evaluation Criteria

Offerors may be requested to clarify proposal contents. Other than to provide such information as may be requested, no Offeror will be allowed to alter its proposal or add new information after the filing date. The State reserves the right to verify information presented in the proposal through the clarification process, as well as interviews with key staff, and reserves the right to reduce scores or disqualify any firm based upon information brought to the attention of the State through such interviews or clarification process.

3.4. Selection Methodology

The weighting percentages will be 30% financial and 70% technical for ranking/scoring as described below. The offeror achieving the highest overall point total (technical and financial), and thus considered the proposal offering the best value to OCFS, will, subject to successful completion of the Acceptance Test (see 3.4.1.2 below), be selected to enter into contract negotiations.

3.4.1. Technical Proposal Evaluation Methodology

Within each general category, noted below, detailed criteria will be scored by each evaluation team member. The scores of all evaluators will be added and averaged to determine the proposal score for each of the 4 factors listed below. The sum of these averages will be the overall Technical Proposal score up to a maximum of 70 points.

3.4.1.1. Technical Proposal (Written)

- Offeror's ability to fulfill the requirements defined in sections 5, 6 and 8 of the RFP (i.e., how does the Offeror propose that each requirement will be met). Scored to a maximum of 35 points.
- Offeror's experience in developing, deploying, and supporting a web-based Program Integrity system similar to the one described in the RFP as evidenced by the Offeror's response to Requirement 7.3. Scored to a maximum of 15 points.
- The organizational structure, resource assignments, and the relevant skills and experience of the Offeror's key project staff as evidenced by the Offeror's response to Requirement 7.2. Scored to a maximum of 5 points.
- Offeror's project plan as evidenced by the Offeror's response to Requirements 7.1. Scored to a maximum of 5 points.

Proposals receiving at least 35 (out of 60 points) will move on to the next step of the process, the scoring of the cost proposal. Proposals with a score of less than 35 points in the Technical Proposal (Written) section will be eliminated from further consideration.

3.4.1.2. Interview/Presentation

Top scoring Offerors may be invited to OCFS for a mandatory interview/presentation. This will be scored out to a maximum of 10 points.

3.4.1.3. Acceptance Test

The Offeror achieving the highest overall point total will be subject to an acceptance test. This test will be assessed on a pass/fail basis. Successful completion of the test will result in the Offeror entering into contract negotiation. The Offeror will be provided with data sets from the Child Care Time and Attendance system (CCTA) and the Child Care Facility System (CCFS). Detailed information about these data sets is provided in **Attachments 2.1 and 2.2** (data from New York City will be excluded - only data from the rest of NYS will be included in the data sets). Within 30 calendar days of receipt of data, the vendor will be expected to deliver an initial assessment to OCFS that:

- Verifies that indicators (as defined in section 1.1.3.1 Fraud, Waste and Abuse Identification) are being identified properly; and
- Identifies “low hanging fruit” i.e. immediate opportunities to mitigate the possibility of fraud, waste and abuse and provide cases to begin preliminary investigations.
- This assessment shall provide OCFS with a basis for determining the likely value of the project.

*In the event that the Offeror with the highest overall point total fails the acceptance test, then the Offeror with the next highest overall point total would subsequently be required to complete an acceptance test.

Note: It is anticipated that the vendor will conduct this initial analysis in its own data hosting facility. The facility must comply with all relevant requirements as expressed in Section 6 of this RFP.

3.4.2 Financial Proposal Evaluation Methodology

The financial evaluation will be completed independently of the technical evaluation and will comprise 30 percent of the total evaluation score.

The basis for the financial proposal score will be allocated as follows:

- 24 points for the proposal with the lowest Total Program Integrity Application Deployment Cost. Remaining proposals will receive a proportional number of points equal to the $\frac{\text{Lowest Total Program Integrity Application Deployment Cost}}{\text{Total Program Integrity Application Deployment Cost of Proposal Being Reviewed}} \times 24$.
- 4 points for the proposal with the lowest Total Ongoing Support Cost to complete the project to its fully operational state through TBD. Remaining proposals will receive a proportional number of points equal to the $\frac{\text{Lowest Total Ongoing Support Cost}}{\text{Total Ongoing Support Cost of Proposal Being Reviewed}} \times 4$.
- 2 points for the proposal with the lowest Average Hourly Rate bid for ancillary services. Remaining proposals will receive a proportional number of points equal to the $\frac{\text{Lowest Average Hourly Rate}}{\text{Average Hourly Rate of Proposal Being Reviewed}} \times 2$.

All points as calculated above from the Cost Proposal Worksheet, Form 10.22, will be combined to determine the total points awarded.

In the case of a tie score, the Offeror among the tied group with the lowest cost will be ranked higher.

3.5. Proposal Requirements

3.5.1. Overview

In the first phase of the evaluation, the Offeror's Financial Proposal will be examined, on a pass/fail basis, to determine its compliance with RFP format and content requirements. Failure to meet any format and content requirement specified in this RFP may result in an Offeror's removal from further consideration.

For the purposes of evaluation, each proposal must be submitted in two (2) parts. Part 1 consists of the Technical Proposal. Part II consists of the Financial Proposal. Each part must be complete in itself in order that the evaluation of each part can be accomplished independently and can be made strictly on the basis of its merits. Financial information is **not** to be included in the Technical Proposal. Both parts must be **sealed separately** and sent to the offices noted in section 2.4.

The rules established for proposal content and format will be enforced. Variations from the rules prescribed herein may subject the respondent to outright disqualification. It is in the best interest of the respondent to become familiar with the requirements imposed on the proposal so that the evaluation process can proceed in a timely manner.

Failure by an Offeror to respond to a requirement stated in this RFP may cause the proposal to be declared unresponsive. Proposals must list and clearly explain any and all exceptions and/or caveats to any item contained in this RFP in a separate section of the Financial Proposal.

All proposals and accompanying documentation will become the property of the State of New York and will not be returned. The content of each bidder's proposal will be held in strict confidence during the bid evaluation process, and no details of any proposal will be discussed outside the evaluation process. The successful bidder's proposal and a copy of the specification will be made part of the contract. Therefore, an official authorized to bind the Offeror to a contract must sign the proposal.

3.6. General Proposal Appearance

3.6.1. Binding of Proposal

The Technical Proposal and the Financial Proposal must be separately bound. Each Offeror must submit its proposal so that update pages can be easily incorporated into the original proposal. The official name of the organization must appear on the outside front cover of each copy.

3.6.2. Table of Contents

The Technical Proposal must incorporate a table of contents. It is through this table of contents that OCFS will evaluate conformance to uniform proposal content and format.

3.6.3. Index Tabs

The Technical Proposal must have all major sections labeled with index tabs that completely identify the titles of the major sections as they are named in the table of contents.

3.6.4. Page Numbering

Each page of the Technical Proposal must be numbered consecutively from the beginning of the proposal (Executive Summary) through all appended material. Consecutive numbering of pages within consecutively numbered sections of the proposal is an acceptable alternative.

3.6.5. Errata and Addenda Sheets

Upon written notification by the Offeror and agreement by OCFS, pen and ink changes will be made by OCFS when corrections are minimal.

3.7. Technical Proposal

Each Offeror's Technical Proposal must include separate responses to the following requirements. Such responses shall be placed in the Technical Proposal in the same order as shown below. The responses shall cite clearly the Reference Number (Ref. #) of the appropriate Proposal Response Requirement.

Proposal Section 1 - Executive Summary

An Executive Summary (succinct Statement) that describes the Offeror's understanding of the requirements presented in the RFP, the approach and how the Offeror can assist in accomplishing this effort. In addition, the Executive Summary must state the Offeror's name, address, phone and fax numbers, and e-mail address as well as designating the individual authorized to negotiate any contract that might result from this RFP. All subcontractors to be utilized are to be identified and each subcontractor is required to complete a Vendor Responsibility Questionnaire.

Proposal Section 2- Technical Approach

Each Offeror must address each of the Proposal Response Requirements specified in sections 5 through 8 of the RFP.

3.8. Financial Proposal

The information requested will be held in confidence and will not be revealed to or discussed with competitors, except as required by Federal and State Law. The Offeror's Proposals must include:

- A transmittal letter signed by an official authorized to bind the Offeror.
- A statement that the proposal remains valid for a minimum of 180 days from the proposal due date.
- A comprehensive listing of the Offeror's exceptions to the terms and conditions of this RFP.

- The Offeror must be a financially stable entity with resources adequate to support the efforts required under this procurement. If publicly traded, the Offeror must include in its proposal its last two annual reports. If not publicly traded, the Offeror must include in its proposal its two most recently issued independently audited annual financial reports.
- A completed set of forms including each of the following forms from section 10:
 - 10.1 MacBride Fair Employment Principles In Northern Ireland
 - 10.2 Non-Collusive Bidding Certification Required by Section 139D of the State Finance Law
 - 10.3 Security, Nondisclosure and Confidentiality Agreement
 - 10.4 Non-Discrimination Non-Sectarian Compliance (OCFS-4555)
 - 10.5 Board of Directors Profile (OCFS-4552)
 - 10.6 MWBE Subcontractors and Suppliers – Letter of Intent to Participate (OCFS-4630)
 - 10.7 Subcontracting/Suppliers Utilization Form (OCFS-4631)
 - 10.8 Project Staffing Plan Form (OCFS-4629)
 - 10.9 MWBE Quarterly Report Form (OCFS-4441)
 - 10.10 MWBE Request for Waiver Form (OCFS-4442)
 - 10.11 Minority and Women-Owned Business Enterprises (MWBE) Equal Employment Opportunity (EEO) Policy Statement
 - 10.12 Procurement Lobbying Act – Offeror Certification Form (OCFS-4822)
 - 10.13 State Consultant Services – Contractors Planned Employment (OCFS-4842)
 - 10.14 State Consultant Services – Contractors Annual Employment (OCFS-4843)
 - 10.15 Vendor Responsibility Questionnaire (**For-Profit**) - see section 2.22
 - 10.16 Vendor Responsibility Questionnaire (**Not For-Profit**) (OCFS-7050) - see section 2.22
 - 10.17 ST-220-TD (NYS Tax Department) Contractor Certification*
 - 10.18 ST-220-CA (NYS Tax Department) Contractor Certification to Covered Agency*
 - 10.19 Contractor Employee Background Certification (OCFS-4716)*
 - 10.20 Contractor Employee Confidentiality Certification*
 - 10.21 Contract Management System Authorization Form
 - 10.22 Cost Proposal Worksheet
 - 10.23 Vendor Experience Form
 - 10.24 Confidentiality/Non-Disclosure Agreement

* Forms 10.16, 10.17, 10.18, and 10.19 are not required to be submitted with the RFP. These will be required upon successful contract negotiations.

The Financial Proposal should be complete, accurate, well-documented and in the format required. Cost information is not to be included in the Part 1 Technical Proposal. All bids must be inclusive of all costs necessary or incidental for proper performance under this contract.

The Offeror awarded the contract from this RFP must provide all services required by this RFP within the Total Project Cost Bid. Failure to provide specific service items or cover all requirements may result in liquidated damages.

4. Project Milestones, Payment Schedule, Performance Standards, and Penalties

4.1. Project Milestones and Payment Schedule

The projected payment schedule for reaching various milestones is outlined below. The date in the first column represents the latest date that is acceptable to OCFS for completion of the milestone. In the event that the contractor delivers a milestone earlier, OCFS may elect to process the designated payment at the earlier date.

Date no later than	Deliverable/Milestone	Requirements	Percent Payment*
Contract start date + 3 months	Program Integrity Application Design	5.1, 5.2, 5.3 through 5.10, 7.1	10%
Contract start date + 6 months	Program Integrity Application – Version 1.0 (Available in New York State Data Center)	5.11, Section 6	20%
Contract start date + 9 months	Program Integrity Application – Version 1.0 - Pilot (Deployed to OCFS in New York State Data Center) – Pilot	5.12	20%
Contract start date + 12 months	Program Integrity Application – Version 1.0 (Deployed to OCFS in New York State Data Center) – Full Roll Out	5.13, 8.1, 8.2, 8.3	35%
Full Roll Out + 9 months	First evaluation of how Version 1.0 responds to and learns from user input regarding cases that were flagged as potentially involving fraud. Criteria for this evaluation to be mutually agreed by OCFS and the contractor.	5.14	10%
Full Roll Out + 18 months	Second evaluation of how Version 1.0 responds to and learns from user input regarding cases that were flagged as potentially involving fraud. Criteria for this evaluation to be mutually agreed by OCFS and the contractor.	5.14	5%
	Forensic Services	5.15	Time and Materials Billed monthly
	Ongoing Support	8.4 through 8.10	Annual cost Billed quarterly
	One-off license fees		Billed at time of purchase

*Percent payment of total fixed price

4.2. Liquidated Damages Associated with Project Deliverables and/or Project Timeline

Liquidated Damages may be imposed by OCFS at its sole discretion for Contractor's failure to perform in accordance with the Project Deliverables and/or Project Timeline outlined in section 4.1 of the RFP.

In the event that Liquidated Damages are imposed, OCFS will provide Contractor with a notice which informs Contractor of its failure to perform in accordance with a Project Deliverable and/or Project Timeline, and which sets forth the amount of Liquidated Damages imposed due to such failure, in each case with reasonable detail relating thereto ("Notice of Liquidated Damages").

OCFS may provide, at its sole discretion, a cure period during which Contractor may cure a Project Deliverable and/or meet the Project Timeline as identified in a Notice of Liquidated Damages. If OCFS prescribes a cure period, OCFS will impose Liquidated Damages for such Deficiency only if the Deficiency is not corrected upon the expiration of the cure period.

OCFS shall have the right to impose Liquidated Damages retroactive to the date of the initial occurrence of the Deficiency, in the event such Program Deficiency is not corrected upon the expiration of the cure period. OCFS shall be reasonable in exercising its discretion relating to applicability of a cure period as the situation arises.

Payment of Liquidated Damages - If Liquidated Damages are assessed, and OCFS declares the Contractor in default of the Deliverable or of meeting the Project Timeline, OCFS may request from the Surety of the performance bond, payment for such damages as determined by OCFS.

Remedial Action

- (a) In the event that OCFS informs Contractor in a Notice of Liquidated Damages or other notification that a Deficiency exists, then the following shall occur, at no additional cost to OCFS:
 - (i) If requested by OCFS, representatives from all parties shall meet promptly thereafter to determine in good faith the appropriate actions to be taken and resources to be committed by Contractor to eliminate the Deficiency.
 - (ii) Contractor shall commit the resources necessary to eliminate or alleviate such Deficiency expeditiously.
 - (iii) Contractor shall provide to OCFS complete and accurate written status reports and action plans concerning the Deficiency as often as OCFS shall reasonably request.
 - (iv) OCFS shall make reasonable efforts to inform Contractor expeditiously as to whether it concurs or disagrees that a Deficiency has been eliminated. Concurrence, disagreement, or lack of response shall have no effect if the Deficiency has not in fact been eliminated.
- (b) In the event that the Contractor fails to cooperate with OCFS with regard to a Deficiency, or in the event that a Deficiency is otherwise not eliminated or alleviated to OCFS's reasonable satisfaction within a reasonable period of time after Contractor has been notified of such Deficiency, then OCFS shall have the right to resort to the remedies provided for in the fully executed Contract Agreement, including notifying Contractor that a "Material Breach" has occurred and contract termination with a recovery of funds spent as a possible remedy.

4.3. Liquidated Damages and Penalties Associated with Performance Standards

Performance Standards are an important tool in the success of a project and its continued operation because such standards set boundaries and expectations for the Contractor and OCFS. OCFS has defined the required performance standards and reserves the right to impose liquidated damages and other penalties when these standards are not met, as described in the sections below.

Ref #	Standard	Penalty
4.3.1	<p>Software Version Currency</p> <p>The contractor must maintain version currency for the components of the Program Integrity Application for which it is deemed responsible. The contractor must maintain compatibility with new versions of commonly used Web browsers including Internet Explorer, Safari, and Firefox and with the State's system interfaces. During the term on the contract, the contractor must support all web browsers which have over 5% market share (as measured by industry metrics).</p> <p>Additionally, all third party software must be supported and, unless otherwise directed by OFCS, the latest version is to be deployed.</p> <p>Once OCFS directs the contractor to upgrade the current version of the software, the upgrade must be completed at a schedule agreed to by OCFS.</p>	<p>Liquidated damages of \$500 may be imposed for each day that the contractor is late in delivering the updated software version(s).</p> <p>Liquidated damages of \$500 for each day that unsupported third-party software is used.</p> <p>The daily maintenance fee is equal to the annual maintenance fee / 365 days.</p>

Ref #	Standard	Penalty
<u>4.3.2</u>	<p><u>System Modification, Enhancement and Maintenance</u></p> <p>The contractor must meet any time schedules and quality standards agreed to during planning of data and production system modifications. This includes enhancements and maintenance and their implementations that impact the Program, whether initiated by the contractor or by OCFS. The contractor must work with OCFS to test and certify such system modifications, enhancements, and maintenance prior to implementation.</p>	Liquidated Damages may be assessed by OCFS for any expenses associated with the failure to meet the standard. OCFS may assess liquidated damages of \$500 for each day that agreed-to maintenance, modifications, and enhancements are not successfully deployed by the dates of the agreed-to schedule.
<u>4.3.3</u>	<p><u>Accessibility</u></p> <p>The system must comply with Section 508 (29 USC 794d) accessibility requirements throughout the life of the contract. See section 6.6 of this RFP for link.</p>	The failure of the contractor to comply with this requirement will result in a penalty of \$50 per day, per item until resolved.
<u>4.3.4</u>	<p><u>Software Performance</u></p> <p>The contractor must cooperate with the New York State Data Center to ensure that the software is not inoperative for more than a total of one (1) hour during the core business hours of 8 AM EST – 5 PM EST, Monday to Friday not including holidays, in any 30-day period. The contractor will not be held responsible for performance failures that are the responsibility of the data center.</p>	For downtime in excess of 1 hour per 30 days, penalties of up to \$500 per hour will accrue. OCFS reserves the right to collect, at its discretion, liquidated damages, and/or credit for the cost of needed enhancements.
<u>4.3.5</u>	<p><u>Customer Support Response Time</u></p> <p>The contractor must track phone calls and resolve and respond to at least 90% of all calls within 24 hours of receipt of a phone call. The remaining calls are to be resolved within 72 hours of receipt.</p>	Response rate will be evaluated monthly. If the response rate falls below the 90% resolution level, liquidated damages may be assessed at \$1,000 x (90% minus the actual resolution percentage).
<u>4.3.6</u>	<p><u>System/Program Documentation</u></p> <p>All documentation related to the required services must be complete, accurate and available for OCFS review upon request.</p>	Liquidated damages of \$250 may be assessed for each occurrence of documentation that is incomplete, inaccurate, or late based upon the agreed upon schedule.
<u>4.3.7</u>	<p><u>Escalation</u></p> <p>The contractor must adhere to the agreed-to escalation protocol as described in Section 6.10.</p>	Liquidated damages of \$125 per instance may be assessed for failure to follow the escalation protocol.
<u>4.3.8</u>	<p><u>Security and Confidentiality</u></p> <p>The contractor must implement and maintain the agreed upon security and confidentiality measures as required by this RFP (see Section 6.8) and as described in its Technical Proposal response.</p> <p>The contractor acknowledges that violation(s) of the confidentiality provisions may subject them to civil and/or criminal action, and that OCFS may seek all possible legal remedies.</p>	<p>Damages may include civil and/or criminal action if the contractor violates any of these requirements.</p> <p>The contractor will be responsible for all associated costs related to a breach.</p>

Ref #	Standard	Penalty
	<p>The contractor must agree to support OCFS efforts to investigate and/or criminally prosecute anyone who has violated any of the confidentiality or non-disclosure provisions of this process.</p> <p>The contractor must comply with the 'NYS Information Security Breach and Notification Act' and will be liable for any costs related to a breach. Details of the 'NYS Information Security Breach and Notification Act' are at the following website: http://www.dhSES.ny.gov/ocs/breach-notification/</p> <p>Contractor shall indemnify and hold harmless OCFS, as well as the State of New York from any and all claims, suits, damages, and costs of any kind including attorney fees and causes of action arising out of or in any way related to a data breach or Contractor's breach of any of the terms of this Agreement.</p>	

5. Program Integrity Solution Requirements

Ref #	Requirement	Response Requirement
<u>5.1</u>	<p><u>Data Integration</u></p> <p>The contractor must use appropriate tools and methodologies to integrate the data¹ to the degree necessary to execute the requirements indicated below.</p> <p>As appropriate the contractor must integrate the data sources provided by OCFS with external data sources that support social network analysis (e.g. to verify SSN and address information).</p> <p>Note: Storage of SSNs is subject to State guidance. Refer to NYS Information Technology Policy P10-004 – “Guidance for the use of SSNs by State Government Entities” which can be found at: http://www.cio.ny.gov/policy/NYS-P10-004.pdf</p>	<p><u>Mandatory Requirement</u></p> <p>Describe the plan for integrating data sources.</p> <p>Describe any external data sources that will be accessed to support social network analysis and identity verification. Describe how these data sources will be accessed.</p>
<u>5.2</u>	<p><u>Program Integrity Application Design</u></p> <p>The contractor must conduct analysis sessions with OCFS staff in order to produce the design that will implement the Program Integrity Application as an operational tool, available to authorized users through a browser-based Graphical User Interface (GUI), accessed from the New York State Data Center.</p> <p>Once built and deployed, authorized users will be able to execute the tool on an ongoing basis at whatever intervals are deemed appropriate by OCFS.</p> <p>Executing the tool will result in the generation of a list of “at risk” cases. Cases will be ranked on the basis of a numerical value, generated by the Program Integrity Application, indicating the likelihood that the case is suspected of involving fraud. The tool will provide the ability to execute at the district or regional level, as well as at the state level.</p> <p>The Program Integrity Application will provide the ability to capture data about the outcome of a particular case, namely allow the input of information that confirms (or refutes) that the case was fraudulent.</p> <p>The contractor must bring to bear its own expertise in defining rules/tests and will incorporate into the Program Integrity Application the following types of analytical approaches as necessary to ensure the highest level of confidence in the risk rankings for</p>	<p><u>Mandatory Requirement</u></p> <p>Describe how the analysis will be conducted and the design produced.</p>

¹ At this stage in the project, the contractor will be provided with additional data sets as described in **Attachments 2.3 and 2.4**. Data from New York City will be excluded; only data from the rest of NYS will be included in the data sets.

Ref #	Requirement	Response Requirement
	<p>potential fraud:</p> <ul style="list-style-type: none"> • predictive analysis; • rules management (including incorporation of customized rule sets); • anomaly detection (including validation of parties and transactional testing); • data visualization; and • social network analysis. <p>The following requirements provide more specificity as to how OCFS envisages the Program Integrity Application will function.</p>	
5.3	<p><u>Report Requirements</u></p> <p>The Program Integrity application must provide reporting capabilities. Reports shall be designed to provide and support investigative workers with various risk reporting analyses based on risk indicators.</p> <p>Reporting information will be related to different subject types to include: Provider; Parent/Child; and Local District Social Services worker.</p> <p>Reports shall be made available by: District, Multiple District and statewide.</p> <p>At a minimum, the following reports must be available:</p> <p>Report 1 (See Attachment 3.1) - Display on screen and/or be able to export into MS Excel or PDF, the following information:</p> <ul style="list-style-type: none"> • Subject Demographic Information (Address/phone) • Overall Risk Score for each Subject • Raw Score for each Indicator & the weight of each indicator • Investigative Status <p>Report 2 (See Attachment 3.2) – Overall Report. Display on screen and/or be able to export into MS Excel or PDF, the following information:</p> <ul style="list-style-type: none"> • Subject demographic information • Overall Risk Score • Listing of 3 highest scoring risk indicators (Truncated text) • Investigative Status • Owner/contact information <p>Report 3 (See Attachment 3.3) - Subject Detail. – Display on screen and/or be able to export into MS Excel or PDF, the following information:</p> <ul style="list-style-type: none"> • Subject information • Overall Risk score • For each identified risk indicator: <ul style="list-style-type: none"> ○ Risk Description ○ Why is it an indicator 	<p><u>Mandatory Requirement</u></p> <p>Describe how the reporting capabilities will be achieved.</p>

Ref #	Requirement	Response Requirement
	<ul style="list-style-type: none"> ○ Links to other appropriate information on other subjects involved • Investigative Status <p><u>Administrative Reports</u></p> <p>These reports shall report on each of the investigative stages and/or Status of any provider or family flagged as possibly being involved in fraud, waste and/or abuse. Will include aggregate reports of totals for administrative purposes.</p>	
5.4	<p><u>Search Capability</u></p> <p>The system must provide the ability to search by the following criteria:</p> <ul style="list-style-type: none"> • Child/Family • Provider • Worker • Investigative Status 	<p><u>Mandatory Requirement</u></p> <p>Describe how this capability will be achieved.</p>
5.5	<p><u>Drilldown Capability</u></p> <p>The system must have drilldown capability allowing end users to access the underlying data that led to the case being flagged as at risk for fraud.</p>	<p><u>Mandatory Requirement</u></p> <p>Describe how this capability will be achieved.</p>
5.6	<p><u>History and Audit</u></p> <p>The system must maintain history of all risk rankings generated.</p> <p>The system shall have audit capability for all changes made to the system.</p>	<p><u>Mandatory Requirement</u></p> <p>Describe how this capability will be achieved.</p>
5.7	<p><u>Linking various associated cases</u></p> <p>The system must allow a means to link related cases.</p>	<p><u>Mandatory Requirement</u></p> <p>Describe how this capability will be achieved.</p>
5.8	<p><u>Fraud Case Outcome Monitoring</u></p> <p>The system must provide a means for Fraud Case Outcome Monitoring.</p> <p>At a minimum, the system shall provide the ability to capture, track and display the following information:</p> <ul style="list-style-type: none"> • Investigative case notes • Flagged cases • Cases currently being worked on • Investigator(s) currently working on the case • Outcome of the case • Monies recovered • Start and end dates of investigation • Type of fraud – e.g. undisclosed income, no actual care being provided, fictitious children etc. 	<p><u>Mandatory Requirement</u></p> <p>Describe how this capability will be achieved.</p>

Ref #	Requirement	Response Requirement
5.9	<p><u>Risk Ranking Thresholds and Weightings</u></p> <p>The system must allow authorized system administrators to change threshold and weightings used to define risk categories.</p>	<p><u>Mandatory Requirement</u></p> <p>Describe how this capability will be achieved.</p>
5.10	<p><u>Role Based Access Controls</u></p> <p>The system must provide role-based access controls that allow system administrators to create user roles and assign access to the user roles.</p> <p>The system must allow users to be assigned to single, multiple or all districts. Access to information shall be restricted to the district(s) to which the user is assigned. Investigators need to be able to see all cases from their district even if the fraud appears to be taking place in another county.</p>	<p><u>Mandatory Requirement</u></p> <p>Describe how this capability will be achieved.</p>
5.11	<p><u>Program Integrity Application – Version 1.0 (Available in New York State Data Center)</u></p> <p>Because of the inclusion of data sets that are owned by an agency external to OCFS, namely the New York State Office of Temporary and Disability Assistance (OTDA), it will be necessary for the Program Integrity Application to be developed and hosted in the New York State Data Center in a development environment to be provided jointly by OCFS and the Office for Information Technology Services – OITS - (formerly the Office for Technology).</p> <p>The contractor must work with OCFS and OITS staff to ensure the Program Integrity Application is developed and deployed in the New York State Data Center.</p> <p>Initially the implementation of the Program Integrity Application will be available to a restricted group of key OCFS staff.</p>	<p><u>Mandatory Requirement</u></p> <p>Describe how the Program Integrity Application will be developed.</p> <p>Describe how the Program Integrity Application will “self-learn” based on repeated execution of the tool.</p> <p>Describe in detail the hardware and software requirements necessary to support the solution in the New York State Data Center.</p>
5.12	<p><u>Program Integrity Application – Version 1.0 (Deployed to OCFS in New York State Data Center) - PILOT</u></p> <p>The contractor must assist OCFS in deploying the Program Integrity Application to a limited number of field staff in local district offices on a Pilot basis for three months.</p> <p>The Pilot will be subject to OCFS approval.</p>	<p><u>Mandatory Requirement</u></p> <p>Describe how the Program Integrity Application will be piloted.</p> <p>Describe the testing processes to be used to ensure full testing of the Program Integrity Application.</p>
5.13	<p><u>Program Integrity Application – Version 1.0 (Deployed to OCFS in New York State Data Center) – FULL ROLL OUT</u></p> <p>The contractor must assist OCFS in deploying the Program Integrity Application to all field staff in local district offices (refer to section 8 – Training and Ongoing Support Requirements).</p>	<p><u>Mandatory Requirement</u></p> <p>Describe how the Program Integrity Application will be deployed to all field staff.</p> <p>Describe the testing processes to be used to ensure full testing of the Program Integrity Application.</p>

Ref #	Requirement	Response Requirement
	Deployment to all field staff will not occur until the contractor has fully tested the tool and its graphical user interface. Deployment will be subject to OCFS approval.	
5.14	<p><u>Program Integrity Application Evaluation</u></p> <p>OCFS will work with the contractor to evaluate how Version 1.0 responds to and learns from user input regarding cases that were flagged as potentially involving fraud. Criteria for this evaluation will be mutually agreed by OCFS and the contractor.</p>	<p><u>Mandatory Requirement</u></p> <p>Describe the criteria expected to be used to evaluate that the Program Integrity Application is responding to and learning from.</p>
5.15	<p><u>Forensic Review Services</u></p> <p>At OCFS's option, the contractor must provide forensic review services for cases that the model predicts are at risk.</p>	<p><u>Mandatory Requirement</u></p> <p>Describe the forensic review services and the benefits that these services would bring to OCFS's Child Care Program Integrity initiative.</p>

6. System/Technical Requirements

	<u>Requirements</u>	<u>Response Requirement</u>
6.1	<p><u>Service-Oriented Architecture</u></p> <p>The system must be a Service-Oriented Architecture (SOA) of 3 tiers to facilitate the interoperability of the application with other systems. The tiers are:</p> <ul style="list-style-type: none"> • Web tier (for user presentation), • Application tier (for application), and • Database tier (the database base can be either Oracle (11g or higher) or SQL Server (2008 or higher). Oracle is preferred. <p>The contractor is to maintain version currency on the tiers and must upgrade the application to the subsequent version of the supported web browsers and database.</p> <p>The application must be 64 bit and be capable of functioning on the Windows Operating System 2008 or higher. The application must be capable of interfacing with Computer Associate's Site Minder product.</p>	<p><u>Mandatory Requirement</u></p> <p>Identify whether or not this is a Service-Oriented Architecture (SOA) application. Provide an architectural diagram of the system to demonstrate how it complies with this requirement.</p> <p>Indicate if the application is 64 bit and capable of functioning on Windows OS 2008 or higher.</p> <p>Indicate commitment to perform upgrades as required.</p>
6.2	<p><u>Web Browser Compatibility</u></p> <p>The contractor must maintain compatibility with new versions of commonly used Web browsers including Internet Explorer, Safari, and Firefox and with the State's system interfaces. During the term of the contract, the contractor must support all web browsers which have over 5% market share (as measured by industry metrics).</p>	<p><u>Mandatory Requirement</u></p> <p>Identify which web browser versions are supported.</p>
6.3	<p><u>Web-based and Written in .NET</u></p> <p>The web-tool components of the system must be web-based and written in .NET 3.51 or higher. State and District employee Access to the system will be provided through HSEN. All connections to the system should be made via https, using TLS 1.0/SSL 3.1 or later. The contractor is to provide and maintain all needed security certificates and will upgrade as needed to meet best practice security standards set out by the NYS Office of Cyber Security and industry security standard.</p> <p>In addition, over the term of the contract, the contractor must upgrade the application to all subsequent releases of .Net. Once OCFS directs the contractor to upgrade the application, the upgrade must be completed within the jointly agreed-to schedule.</p> <p>Software upgrades to the initial application are to be appropriately documented and numbered. The contractor will maintain all versions of the application and designated OCFS staff will have electronic access to all software versions.</p>	<p><u>Mandatory Requirement</u></p> <p>Indicate the language(s) (with versions) used for this application. Indicate what percentage of the code is written in the .NET language(s). Describe the plan for software upgrade and versioning.</p> <p>Indicate commitment to perform upgrades as required.</p>
6.4	<p><u>Portable Application</u></p>	<p><u>Mandatory Requirement</u></p>

	Requirements	Response Requirement
	<p>The application must be portable. Users must be able to fully access the application using a laptop or notebook via an https broadband card. Ability for users to have secure access to the application via a web-enabled cell phone or Apple product (e.g., iPad) is recommended.</p>	<p>Provide details on application portability.</p>
6.5	<p><u>Hosted at New York State Data Center</u></p> <p>Once the appropriate point in the project is reached (see Section 5 above), all software to support the Program Integrity Application and browser-based graphical user interface will run in computing facilities maintained and operated by the State and will be accessed using the HSEN. The provision of hardware is beyond the scope of this RFP. Detailed information regarding datacenter requirements may be found in:</p> <ul style="list-style-type: none"> • Attachment 4.1 - State Data Center Multi-Tier Architecture • Attachment 4.2 - State Data Center Server Platform Technical Infrastructure Architecture • Attachment 4.3 - NYS Directory Services Specifications 	<p><u>Mandatory Requirement</u></p> <p>Describe how the system will conform to the State's technical standards and infrastructure.</p>
6.6	<p><u>Accessibility</u></p> <p>The system must comply with Section 508 (29 USC 794d) accessibility requirements.</p> <p>The information is available for Section 508 compliance at the following URL: http://www.section508.gov/</p> <p>The user interface of the proposed system must conform in all aspects to the New York State policy "Accessibility of Web-Based Information and Applications" which can be found at the following URL: http://www.cio.ny.gov/policy/NYS-P08-005.pdf</p>	<p><u>Mandatory Requirement</u></p> <p>Describe how the application fully supports and complies with Section 508 (29 USC 794d) and NYS accessibility requirements.</p>
6.8	<p><u>Internal Controls, Security and Confidentiality</u></p> <p>Note: The following is applicable for the phases of the project where the contractor is responsible for hosting the data in its own facility as described in Section 5.</p> <p>The contractor must be able to ensure the security, confidentiality and integrity of OCFS data in accordance with federal and State laws, regulations and guidelines, as well as generally accepted information security policies, procedures and standards. See the following link to the New York State Office of Cyber Security for required standards. http://www.dhSES.ny.gov/ocs/resources/documents/Cyber-Security-Policy-P03-002-V3.4.pdf http://www.dhSES.ny.gov/ocs/resources/documents/Cyber-Security-Standard-S10-006-V1.1-Cryptographic-</p>	<p><u>Mandatory Requirement</u></p> <p>Describe each of the following in detail:</p> <ul style="list-style-type: none"> • The existing internal controls and security and confidentiality procedures, including the procedure to monitor compliance (e.g., internal audit controls and/or independent audit programs); • The security tools (e.g., locks, alarms, badges, cameras, etc.) which will be used to ensure that physical security is maintained; • The screening process for staff hired by the contractor,

	Requirements	Response Requirement
	<p data-bbox="228 149 375 176">Controls.pdf</p> <p data-bbox="228 197 862 407">The contractor may view detailed information in Appendix I, "Cyber Security Standard SO5-001 - Information Security Standards" regarding the "Systems Development and Maintenance Policy" section of the Cyber Security Standard document which is NOT available to the public, if they agree to the following:</p> <p data-bbox="266 422 862 842">The contractor acknowledges (1) that the contractor and all staff of the contractor must maintain the confidentiality of information relating to individuals in conformity with all applicable State and federal laws and regulations, (2) that violation(s) of the confidentiality provisions of this document will subject the contractor and the staff who violate confidentiality to civil and/or criminal action, and (3) that in the event of a breach of confidentiality by the contractor or a member of the contractor's staff, OCFS may seek all possible legal remedies against the contractor and staff member, including but not limited to immediate termination of this contract.</p> <p data-bbox="228 856 862 1129">The contractor (and its employees and associates who have access to the system, server, or data) must sign confidentiality and non-disclosure agreements (see Form 10.24). In addition, the contractor must have policies, procedures, controls, and software in place which ensure both physical security and data security, minimize the risk of loss, destruction or theft of physical assets, and prevent unauthorized access to information.</p> <p data-bbox="228 1144 862 1417">The system must provide controls which restrict access to information in two ways: first, user roles need to be established so only those employees who require access to such information to perform job related functions can access it; and second, each district's data must be available only to that district and to the State. The data access policy must be one of least access – only the access necessary to do one's job is allowed.</p> <p data-bbox="228 1432 537 1459">The contractor must have:</p> <ul data-bbox="266 1474 862 1929" style="list-style-type: none"> <li data-bbox="266 1474 862 1642">• Documented procedures and logical data access controls which restrict access to information stored within the computer system to only those employees who require access to such information to perform job related functions; <li data-bbox="266 1663 862 1768">• Documented information security policies that address the security, confidentiality, integrity, and availability of the contractor's information systems; <li data-bbox="266 1789 862 1929">• Documented procedures and physical security controls which limit access to the data center and/or the area where computer hardware is located to only those employees with job functions that require access to such areas 	<p data-bbox="964 149 1312 239">as well as for any other persons having access to the system and site;</p> <ul data-bbox="927 254 1321 1929" style="list-style-type: none"> <li data-bbox="927 254 1321 365">• The process for presenting the nondisclosure and confidentiality provisions to employees for signature; <li data-bbox="927 386 1321 659">• The prevention of unauthorized access to physical site(s) and systems (i.e., code and data), record keeping of such attempts, the methods used to address these attempts by the contractor, and the method to communicate them to OCFS; <li data-bbox="927 680 1321 1037">• The strategy and implementation protocol to guard against and respond to Internet viruses, denial of service attacks, jamming tactics, and any other malware; identify controls or programs such as virus protection, intrusion detection systems, and firewall rules that protect the systems from unauthorized access; <li data-bbox="927 1058 1321 1163">• The internal controls that prevent unauthorized access to data from other counties or for other job functions; <li data-bbox="927 1184 1321 1352">• The method used to record access to systems and data, including supervisory data capture overrides, and, how long these records are maintained; <li data-bbox="927 1373 1321 1520">• Identification and designation of high risk areas and any unique internal control and security procedures used to mitigate this risk; <li data-bbox="927 1541 1321 1793">• The process and procedure which conforms to federal and State law requirements for controlled destruction of system output or other data containing confidential information (e.g., name, address, identification numbers, etc.); <li data-bbox="927 1814 1321 1841">• Compliance with FIPS 140-2; <li data-bbox="927 1862 1321 1929">• The process for provisioning and de-provisioning users

	Requirements	Response Requirement
	<p>(e.g., computer operations staff, quality control, systems programmers, etc.);</p> <ul style="list-style-type: none"> • Network security controls that ensure the contractor's information systems and all data transmissions are protected from unauthorized access from outside the contractor's network; • An auditable login function to be able to track who had access to what data and when. <p>OCFS shall have the right to send its employees or designees into the facilities of the contractor for inspection of the facilities and operations utilized in the performance of any work under the contract. On the basis of such inspection, specific measures may be required in cases where the contractor is found to be noncompliant with any applicable security controls/procedures/requirements, etc.</p> <p>The contractor must disclose to OCFS representatives any material breach of security or internal control within 24 hours from the point when the violation becomes known. A violation includes, but is not limited to: employee and/or associate accessing system information not required by their job's responsibility, misappropriation of department assets, unauthorized access to the site facilities, and unauthorized destruction of department assets and/or information. The contractor shall provide OCFS with any reports or findings from independent auditors relating to internal controls, security, and system/data controls as they relate to the services under the contract.</p> <p>Access to data is as follows:</p> <ul style="list-style-type: none"> • Designated State staff can see all data; • Designated district staff can only see the data related to the providers with which the district contracts. <p>The system must display a login banner which warns users not to continue to access the system if they are not authorized to view the confidential data stored in the system. Unauthorized access to the system may result in civil liability and/or criminal prosecution. The warning must also explain that there is no expectation of privacy and access for authorized purposes only. Data transmissions from the contractor's data center and the OFT network must comply with the following standard:</p> <p>http://www.dhSES.ny.gov/ocs/resources/documents/Cyber-Security-Standard-S10-006-V1.1-Cryptographic-Controls.pdf</p> <p>as directed by the OCFS Information Security Officer.</p>	<p>who have access to the data.</p>
6.9	<p>User IDs and Passwords</p> <p>Access control must comply with all State standards.</p> <p>The system must interface with Computer Associate's Site Minder product. The interface must include:</p>	<p>Mandatory Requirement</p> <p>Affirm agreement.</p> <p>Describe how the system will interface with Site Minder.</p>

	Requirements	Response Requirement
	<ul style="list-style-type: none"> • Assignment of user roles to IDs • Logging per NYS OCS Requirements • Authentication must meet appropriate trust level per NYS OCS REQUIREMENTS and OFT TECHNOLOGY POLICY • Compliance with the Identity and Access Management Trust model: G07-001 <p>Note: This Trust Model is applicable to all systems and networks owned and operated by or on behalf of State entities (SE) and other New York State (NYS) government agencies that choose to comply. It applies to SE, staff and all others, including outsourced third parties, local government staff, which have access to or manage SE information. Where conflicts exist between this Trust Model and a SE's policy standard, the more restrictive will take precedence. This Trust Model encompasses all systems for which the State has administrative responsibility, including systems managed or hosted by third parties on behalf of the SE. It addresses all information, regardless of the form or format, which is created or used in support of business activities of state entities. This Trust Model must be communicated to all staff and all others who have access to or manage SE information.</p>	
6.10	<p><u>Problem Escalation Criteria</u> (Also see related Section 8.7 below) The contractor must provide an escalation protocol for support issues, which meets or exceeds those defined below: The response and resolution levels of support are stored and tracked by the stated priorities as described in the support section below.</p> <p><u>Support Priority</u> The following are the levels of support prioritization. All remediation actions will be done with either the permission of OCFS or notification by the contractor to OCFS of the actions taken. <u>High</u> – <i>Examples of a high priority situation include but are not limited to:</i></p> <ul style="list-style-type: none"> - System workflow is inoperative and an entire business process or an entire functional program is impacted. Work-around is possible. - The system is operative and some staff can process work, but others cannot. - The system is processing any functional program or business process information incorrectly. - Mandatory information cannot be input or retrieved from the system within the required deadline of a lower priority. <p>The following action will be taken in the case of a High Priority support request:</p> <ul style="list-style-type: none"> • The defect must be documented in the standard defect tracking application. The priority level for the defect must be marked High. 	<p><u>Mandatory Requirement</u> Describe the processes, software, and staff to support the problem escalation criteria.</p>

	Requirements	Response Requirement
	<ul style="list-style-type: none"> • The environment in which the defect occurred must be left online. • The support team must address the defect in the development environment and unit test the fix. • A build must be created as soon as possible and must be deployed to the testing environment. The build must be tested in the testing environment by quality assurance resources. • When the quality assurance resources certify the build, a build must be scheduled for the target environment. <p><i>Low – This is the lowest level of problem. It covers any problem that is not assigned a higher priority. The following action must be taken in the case of a Low Priority support request:</i></p> <ul style="list-style-type: none"> • The defect must be documented in the standard defect tracking application. The priority level for the defect will be marked Low. • The environment in which the defect occurred must be left online. • The support team must address the defect in the development environment and unit test the fix. The development team must address this issue in order of priority. High priority defects will be addressed first. • A build must be created according to the regular build and deployment schedule. • The build must follow the scheduled testing plan and must be deployed as described by the regular deployment schedule. <p><u>Response time for Problem Log</u> “Response time” is defined as confirmation that an entry has been made in the problem log. If the contractor is contacted outside of the standard support hours and is not available, a return call/receipt must be provided upon the resumption of business. This ensures that the problem is understood, logged, and assigned to a resource. The following is maximum response for problem call receipt:</p> <ul style="list-style-type: none"> • High – 4 hours • Low – 8 hours <p>Support must acknowledge receipt of a problem, log the problem and attempt to contact the submitter to ensure the problem is understood. Once logged, if unresolved via the phone, appropriate people must be assigned the task of resolving the problem. Following notification that a problem exists, the</p>	

	Requirements	Response Requirement
	<p>contractor must respond within the support hours specified in Section 8.7.</p> <p><u>Resolution time for Problem Log Entries</u> “Resolution Time” is defined as the time it takes to completely resolve a problem and provide the fix during normal business hours. The following is the maximum time allowed:</p> <ul style="list-style-type: none"> • High – 1 day • Low – 2 days <p><u>The above-stated resolution times should be considered general estimates for reference when classifying defects upon discovery. Priorities for resolution established by OCFS may not reflect realistic turnaround times required for development, testing, and deployment. Resolution times for problem log entries will be based on the estimated turnaround time of the defect. The amount of time between when the defect is addressed and a deployment to production is completed depends on the complexity of the defect, the regular build schedule, and the ability of OCFS staff to test and deploy the fix. For example, low priority defects will be fixed and deployed to production according to the regular build schedule (given the time required to fix the defect conforms to the schedule). If the regular build schedule is, or becomes, longer than the period(s) specified above, then the resolution of the defect will fall under the next scheduled build period, subject to OCFS approval. If the scheduled build period is not sufficient for the resolution of the defect, then the defect should be reprioritized to a higher level, or a build and UAT/deployment must be made outside of the regular build schedule.</u></p>	
<u>6.11</u>	<p><u>Document Destruction</u></p> <p>OCFS requires that when records maintained by the contractor on behalf of OCFS in connection with these programs become obsolete (as determined by OCFS) such records shall be securely destroyed. An officer or principal of the contractor shall certify to OCFS, in writing and under penalty of perjury, that such destruction has been completed in accordance with OCFS direction.</p> <p>Documents and information retained electronically on devices that are being decommissioned should be purged in accordance with the Department of Defense standard 5220.22 M. Alternatively, the data storage device may be degaussed prior to disposal.</p>	<p><u>Mandatory Requirement</u></p> <p>Describe how both physical paper documents and electronically stored information will be destroyed.</p>
<u>6.12</u>	<p><u>Cooperation with Department/State Investigations</u></p> <p>The contractor must be prepared to cooperate with any lawful State and federal investigations and audits.</p>	<p><u>Mandatory Requirement</u></p> <p>Affirm agreement.</p>

7. Organization, Planning, and Implementation Requirements

	<i>Requirements</i>	<i>Response Requirement</i>
<p><u>7.1</u></p>	<p><u>Project Plan and Milestones</u></p> <p>OCFS follows standard project management methodology and expects a detailed project plan that minimally include the following:</p> <ul style="list-style-type: none"> • Communication Plan • Risk Mitigation Plan • Quality Assurance Plan • Project Schedule <p>These plans must be developed with and approved by OCFS at the start of the project.</p> <p>The project plan must include a schedule of activities, including dates and resources. The plan must incorporate all milestones and dates identified in section 4.1.</p> <p>Minimally, the schedule must include activities for the required activities defined in Section 5. Program Integrity Solution Requirements and Section 8.1 below.</p>	<p><u>Mandatory Requirement</u></p> <p>Provide a project plan and schedule that supports the contractor's complete proposal for all project phases defined in this requirement.</p>
<p><u>7.2</u></p>	<p><u>Organizational Structure and Staffing</u></p> <p>The contractor must provide its organizational structure, both at a high level and with specific respect to this project.</p> <p>The contractor must demonstrate the appropriate level of expertise to successfully deliver and support this project.</p> <p>The contractor must demonstrate that it will commit the appropriate level of resources to successfully deliver and support this project.</p>	<p><u>Mandatory Requirement</u></p> <p>Demonstrate appropriate levels of staff expertise and sufficient resources to support the project plan and schedule. To accomplish this, minimally:</p> <ul style="list-style-type: none"> • Provide an organizational chart for the overall corporation and, within that, show the organizational chart that pertains to this project. • Provide the names and resumes of individuals who will play significant roles in this project. Indicate the percentage of time each individual will devote to the required activities of the project and also to the training and ongoing support portions. • Indicate the resource commitments for each major activity in the plan and indicate which individual named above will manage each group of resources. Resource levels should indicate the total staff count and also indicate the total days of committed resource time to complete the activity (estimated effort to complete the task, given the

		activity duration in the schedule).
7.3	<p><u>Vendor Experience</u></p> <p>The contractor must demonstrate sufficient organizational experience with developing, deploying, and supporting the type of tool as described in Section 5 and in delivering such tools on time and within budget.</p> <p>Specifically the vendor must demonstrate experience of the following types:</p> <ul style="list-style-type: none"> - Evidence of an established practice in the area of fraud detection that includes dedicated staff and an ongoing research capability (e.g. research center). - Evidence that the vendor is a recognized authority in the area of detection of fraud, waste and abuse. Evidence may include: <ul style="list-style-type: none"> o Peer reviewed articles o Published books (or chapter(s)) o Magazine articles - Significant experience with rules management (including incorporation of customized rule sets). - Significant experience with anomaly detection (including validation of parties and transactional testing). - Significant experience with predictive analysis. - Significant experience with data visualization. - Significant experience with social network analysis. - Significant experience with forensic review. 	<p><u>Mandatory Requirement</u></p> <p>Using the Vendor Experience Form in section 10.23 describe all relevant Program Integrity projects that were implemented by the organization over the past five years. Other types of projects may be optionally included to demonstrate other relevant experience. If a project was not delivered on time and/or within budget, indicate the reasons why this occurred.</p> <p>Additionally, using the Vendor Experience Form in section 10.23, describe all projects that were initiated by the organization over the past five years, but that were cancelled by the client or otherwise failed to be implemented. Indicate the reason for the project cancellation or failure to be implemented.</p> <p>Vendors must describe their research capabilities in the area of fraud, waste and abuse detection.</p> <p>Vendors must provide documentation that substantiates the experience requested in the column to the left.</p>

8. Training and Ongoing Support Requirements

Ref #	Requirement	Response Requirement
8.1	<p><u>Regional “Train-the-Trainer” Training Sessions</u></p> <p>The contractor must provide “train-the-trainer” sessions in each of the six regions (the six regional offices are located in Albany, Buffalo, Central Islip, Rochester, Syracuse and Spring Valley). Up to two sessions of up to three hours in duration must be provided per region. Training sessions will be in the form of a presentation. OCFS staff members are not expected to interface directly with the system for the sessions.</p> <p>The training sessions will be focused on providing regional and district staff with the necessary knowledge of the system to be able to conduct end-user trainings. Specifically the training sessions should address:</p> <ul style="list-style-type: none"> • Methodology and concepts for fraud detection (e.g., social networking, predictive analysis etc.); and • Practicalities of using the browser-based GUI. <p>OCFS will provide a venue (training room) for each regional session. The contractor will be responsible for providing the following:</p> <ul style="list-style-type: none"> • Computer with all necessary software to run the Program Integrity Application; • A training database containing unidentifiable data; and • An overhead projector; 	<p><u>Mandatory Requirement</u></p> <p>Fully describe how each requirement will be met.</p>
8.2	<p><u>Training Curriculum and Training Materials</u></p> <p>The contractor must provide the following :</p> <ul style="list-style-type: none"> • Training curriculum for the “train-the-trainer” sessions; • Training curriculum for the trainers to use to deliver end-user training; • “Train-the-Trainer” training manual (in PDF format); and • End-User training manual (in PDF format). 	<p><u>Mandatory Requirement</u></p> <p>Provide OCFS with examples of training materials used for current/past clients.</p>
8.3	<p><u>Recorded Training Session</u></p> <p>The contractor must provide a recorded version of the end-user training (combined audio and video to be made available in a standard format such as MP4 or WMV). OCFS will be responsible for making the recording available to end-users.</p>	<p><u>Mandatory Requirement</u></p> <p>Provide OCFS with examples of recorded trainings developed for current/past clients.</p>
8.4	<p><u>Live Webinars</u></p> <p>The contractor must provide four live webinars over the course of the first year post deployment. Each webinar may be up to three hours in duration and be accessible by up to 50 end-users. The contractor</p>	<p><u>Mandatory Requirement</u></p> <p>Describe the mechanism for conducting the live webinars.</p>

Ref #	Requirement	Response Requirement
	will be responsible for providing the mechanism for end-users to access the webinar and must provide a minimum of one consultant to host the webinar.	
8.5	<p><u>Customer Service Evaluation</u></p> <p>The contractor must participate in an independent annual customer service evaluation regarding customer satisfaction from the points of view of the State, Local Social Services District staff, and Regional Office staff.</p>	<p><u>Mandatory Requirement</u></p> <p>Describe the processes for evaluating and promoting customer satisfaction from the points of view of the State, the Local Districts and the Regional Offices.</p>
8.6	<p><u>User Support Toll Free Number and Hours</u></p> <p>The contractor must provide user support services to all system users via a toll-free number, available from 8 A.M. to 5 P.M. EST, 5 days a week (Monday through Friday) not including holidays.</p>	<p><u>Mandatory Requirement</u></p> <p>Provide a schedule that demonstrates the staffing capability to meet this requirement. Indicate what the plans are for providing a toll-free number.</p>
8.7	<p><u>Customer Service Response Time</u></p> <p>The contractor must track all customer contacts (e.g., phone calls, emails etc.) and respond to 100% of all contacts within 1 business day of receipt of customer contact and resolve 100% within 2 business days.</p> <p>A dedicated e-mail mailbox for purpose of receiving emails must be set up.</p> <p><i>Resolution is defined as complete closure of issues raised, in that the caller is satisfied with the response and needs no further assistance on said issue, or the caller has been referred to appropriate alternative resources or given appropriate next steps should further action be required.</i></p>	<p><u>Mandatory Requirement</u></p> <p>Describe the tracking system to be used and the plan to achieve the performance measures indicated in this requirement.</p>
8.8	<p><u>Customer Service/ Log and Reports</u></p> <p>The contractor must provide and maintain a high level of customer service to all stakeholders who interface with and rely on information, reports, and processes of the system.</p> <ul style="list-style-type: none"> • The contractor and OCFS will develop mutually agreed upon criteria for measuring customer satisfaction, and these criteria will be evaluated quarterly. <p>The contractor must maintain a log of all phone calls pertaining to technical assistance questions and submit to OCFS a monthly report of calls received including, but not limited, to:</p> <ul style="list-style-type: none"> • The number of contacts; • Time and date call or email is received; • Response times as measured in 8.7; • Content/nature of contacts; • Number/percentage of calls escalated; • Other information that may be specified by OCFS. <p>The history logs must be maintained for one year</p>	<p><u>Mandatory Requirement</u></p> <p>Describe the steps to be taken to provide a high level of customer service to all stakeholders who interface with and rely on information, reports, and processes of the system.</p> <p>Describe the method to be used to maintain a log of all phone calls and describe how it would track the information for the monthly report as stated in this requirement.</p>

Ref #	Requirement	Response Requirement
	and OCFS must be able to electronically access these logs.	
<u>8.9</u>	<p><u>Navigation Tree</u></p> <p>The contractor must develop and test voice messages and navigation trees to assure their clarity and ease of use. OCFS reserves the right to review and approve changes to the voice messages and navigation tree.</p>	<p><u>Mandatory Requirement</u></p> <p>Describe the proposed process to develop and test voice messages and navigation trees to assure their clarity and ease of use.</p>
<u>8.10</u>	<p><u>Ongoing Support - Customer Service</u></p> <p>The contractor must affirm that requested changes to the automated response messages must be made without charge.</p>	<p><u>Mandatory Requirement</u></p> <p>Indicate commitment to provide necessary changes in the automated response messages without charge.</p>

9. Contract Terms and Conditions

Upon selection, the successful Offeror will be invited to enter into an Agreement with the OCFS (hereinafter also referred to as the State). The contents of the selected Contractor's proposal, together with this RFP and any formal questions and answers passed during the bidding process, will be made a part of the final Agreement. Should the selected Offeror fail to enter into an Agreement with the State following notification of award, the State reserves the right to select another firm and commence negotiations.

The clauses contained in this Section will form the basis of the Agreement between the State and the eventual Contractor.

Contract Cover Page and Agreement

State Agency (Name and Address) New York State Office of Children and Family Services Capital View Office Park 52 Washington Street South Building, Room 202 Rensselaer, New York 12144	New York State Comptroller's Number: Originating Agency Code: 25000																											
Contractor (Name and Address):	Type of Program(s):																											
Charities Registration Number: If exempt, enter reason: Contractor has <input checked="" type="checkbox"/> or <input type="checkbox"/> has not filed all required periodic or annual written reports with the Attorney General's Charities Bureau.	Initial Contract Period: From: To: Funding Amount for Initial Period:																											
Federal Tax Identification Number: Municipality Number (if applicable):	Multi-Year Term (if applicable): From: To:																											
Contractor Status: Contractor is <input type="checkbox"/> is not X a Sectarian Entity Contractor is X is not <input type="checkbox"/> a Not-For-Profit Organization																												
<p style="text-align: center;">Appendices Attached and Part of this AGREEMENT:</p> <table border="0"> <tr> <td><input checked="" type="checkbox"/></td> <td>Appendix A</td> <td>Contract Terms and Conditions</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Appendix A1</td> <td>Standard Clauses as required by the Attorney General for all State Contracts</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Appendix B</td> <td>Agency-specific clauses</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Appendix C</td> <td>Budget</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Appendix D</td> <td>Payment and Reporting Schedule</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Appendix D</td> <td>Project Workplan</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Appendix X</td> <td>Modification Agreement Form (to accompany modified appendices for changes in term or consideration on an existing period or for renewal periods).</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Other (Identify)</td> <td></td> </tr> <tr> <td><input type="checkbox"/></td> <td>Other (Identify)</td> <td>_____</td> </tr> </table>		<input checked="" type="checkbox"/>	Appendix A	Contract Terms and Conditions	<input checked="" type="checkbox"/>	Appendix A1	Standard Clauses as required by the Attorney General for all State Contracts	<input checked="" type="checkbox"/>	Appendix B	Agency-specific clauses	<input checked="" type="checkbox"/>	Appendix C	Budget	<input checked="" type="checkbox"/>	Appendix D	Payment and Reporting Schedule	<input checked="" type="checkbox"/>	Appendix D	Project Workplan	<input checked="" type="checkbox"/>	Appendix X	Modification Agreement Form (to accompany modified appendices for changes in term or consideration on an existing period or for renewal periods).	<input type="checkbox"/>	Other (Identify)		<input type="checkbox"/>	Other (Identify)	_____
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AGREEMENT

between

The New York State Office of Children and Family Services having its principal offices at 52 Washington Street, Rensselaer, New York 12144 (hereinafter "OCFS" or the "State"), and Contractor _____

_____ located at Address _____

_____ (hereinafter "the Contractor").

WHEREAS, The OCFS initiated a Procurement (Invitation for Bid/Request for Proposal/single source/sole source) to contractually secure services; and

WHEREAS, the Contractor submitted a proposal; and

WHEREAS, the OCFS, selected the Contractor as a successful respondent to the Procurement to provide services and desires to engage the Contractor to fulfill OCFS's needs under the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual covenants and provisions contained herein, the parties agree as follows:

Article 1: Agreement Duration and Amendment

- A. This Agreement shall commence on Start Date and continue until End Date unless renewed according to the renewal provisions, if any, as stated in Appendix C.
- B. The State shall have the right to renegotiate the terms and conditions of this Agreement in the event applicable New York State (State) or Federal policy, rules, regulations and guidelines are altered from those existing at the time of this Agreement in order to be in continuous compliance therewith. This Agreement is subject to amendment only upon mutual consent of the parties, reduced to writing and approved by the Comptroller of the State of New York.

Article 2: Executory Provision

- A. The State Finance Law of the State of New York, Section 112, requires that any contract made by a State Agency which exceeds fifty thousand dollars (\$50,000) in amount be first approved by the Comptroller of the State of New York before becoming effective. The parties recognize that this Agreement is wholly executory until and unless approved by the Comptroller of the State of New York.
- B. The State of New York is not liable for any cost incurred by the Contractor in preparation for or prior to the approval of an executed contract by the Comptroller of the State of New York. Additionally, no cost will be incurred by the State for the Contractor's participation in any pre-contract award activity.
- C. This Agreement and the Exhibits and Appendices, attached hereto and incorporated by reference herein, constitute the entire agreement between the parties with respect to the subject matter; all other prior agreements, representations, Statements, negotiations and undertakings are superseded hereby. The terms, provisions, representations and warranties contained in this Agreement shall survive performance hereunder. It is understood that unless the context clearly indicates otherwise, all references herein to this Agreement shall be deemed to include the Exhibits and Appendices attached hereto and incorporated by reference herein.

Article 3: Standard Contract Provisions

- A. Standard New York State Contract Appendix A, attached hereto as Appendix A, is hereby fully incorporated into this Agreement.
- B. The parties agree that this Agreement shall be construed and interpreted in accordance with the Laws of the State of New York. The Contractor shall be required to bring any legal proceeding against the State arising from this Agreement in New York State courts.
- C. Should any provision of this Agreement be declared or found to be illegal, unenforceable, ineffective or void, then each party shall be relieved of any obligation arising from such provision; the balance of this Agreement, if capable of performance, shall remain in full force and effect.
- D. No term or provision of this Agreement shall be deemed waived and no breach consented to, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by a party to, or waiver of, a breach under this Agreement shall not constitute or consent to, a waiver of, or excuse for any other, different or subsequent breach.
- E. It shall be understood that the Contractor is an independent contractor, and the Contractor, its agents, officers and employees, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees of the State.

Article 4: Assurances

- A. The Contractor warrants that it has carefully reviewed the needs of the State for products and services, as described in the Procurement and its attachments and otherwise communicated in writing by the State to the Contractor, that it has familiarized itself with the specifications, and it warrants that it can provide such products and services as represented in its Proposal and the other documents incorporated into this Agreement.

- B. The Contractor agrees that it will perform its obligations hereunder in accordance with all applicable laws, rules and regulations now or hereafter in effect.
- C. The Contractor warrants and affirms that the terms of this Agreement do not violate any contracts or agreements to which it is a party and that its other contractual obligations will not adversely influence its capabilities to perform under this Agreement.

Article 5: Contractor Requirements

- A. The Contractor agrees to assume complete responsibility for the cost effective and timely accomplishment of all activities and duties required by this Agreement and to carry out those activities and duties in a competent and timely manner. The Contractor also agrees to perform in accordance with the specifications contained in the Procurement, as well as its proposal.
- B. The Contractor accepts sole and complete responsibility for the timely accomplishment of all activities required under this Agreement. Contractor shall also:
 - 1. Maintain an adequate administrative organizational structure sufficient to discharge its contractual responsibilities.
 - 2. Provide for normal day-to-day communications and maintain the level of liaison and cooperation with the State as necessary for proper performance of all contractual responsibilities.
 - 3. Replace any employee whose continued presence would be detrimental to the success of the State's efforts with an employee of equal or better qualifications. The State Project Director will exercise exclusive judgment in this matter and will be required to make such a request in writing only upon written request of the Contractor.
 - 4. Notify the State in writing of any changes in the persons designated to bind the Contractor.
 - 5. Ensure that all contacts by Contractor personnel with other external organizations, to fulfill the objectives of this Agreement, are cleared and coordinated by the State. The State will fulfill this role promptly, so as not to impede the Contractor's timely performance hereunder.
 - 6. Assume responsibility for the accomplishment of all activities and duties required by this Agreement and carry out those activities and duties in a competent and timely manner.
 - 7. Notify the State within three business days, in writing, of each problem that threatens the success of the project, including a recommendation for resolution whenever possible.
 - 8. Agree that no aspect of Contractor performance under this Agreement will be contingent upon State personnel or the availability of State resources with the exception of 1) Those activities specifically identified in this Agreement as requiring State acquisition, approval, policy decisions, or policy approvals, 2) The normal cooperation which can be expected in a contractual relationship. Such actions by the State will not be unreasonably delayed, and except as stated specifically herein, the State shall not be liable for any damages for delays.
 - 9. Reasonably cooperate with any other contractors who may be engaged by the State to carry out responsibilities associated with this Agreement and immediately take into account changes mandated by Federal regulatory agencies and the State due to changes in policies, regulations, statutes or judicial interpretations, which the State and/or the Contractor may become aware of.
 - 10. Recognize and agree that any and all work performed outside the scope of this Agreement shall be deemed by the State to be gratuitous and not subject to charge by the Contractor, unless such work has been requested by the State and is being provided in accordance with Article 8, Change Order.
 - 11. Implement changes within the scope of work of this Agreement, in accordance with a State approved schedule, including changes in policy, regulation, statute or judicial interpretation.
- C. The Contractor agrees that it and its personnel will at all times comply with all security regulations in effect at the State's premises, or any premises assigned, and externally for materials belonging to the State or to the Project.
- D. For the term of this Agreement, and for three months after its termination, each party agrees not to offer employment to any employee of the other party, except as required by Law, unless mutually agreed to by the State and the Contractor for an employee under consideration.
- E. The Contractor agrees to secure and keep in effect during the term of this agreement a policy of comprehensive liability insurance covering services to be performed pursuant to this agreement and to provide OCFS with a certificate of insurance indicating such coverage is in effect. Such certificate shall name OCFS as an additional insured and shall state that the policy will not be cancelled or changed without 10 days prior written notice to OCFS.
- F. The Contractor shall secure and keep in effect during the term of this agreement workers compensation and disability benefits coverage as required by law. The Contractor shall provide to OCFS certificates of such coverage, or proof that such coverage is not required, in such form as required by the Worker's Compensation Board.

Article 6: Nonassignability

- A. Full responsibility for the delivery of services provided by another firm acting as a subcontractor to the Contractor under this Agreement shall be assumed by the Contractor. Should the Contractor seek external financing, the State reserves the right to approve the assignment of the contract for financing purposes. The State shall consider the prime contractor to be sole contact with regard to all provisions of this Agreement.
- B. Nothing contained in this Agreement, expressed or implied, is intended to confer upon any person, corporation or other entity, other than the parties hereto and their successors in interest and assigns, any rights or remedies under or by reason of this Agreement.
- C. Subcontracting or assignment of the Contractor's duties and responsibilities will not be allowed without prior written approval of the State as specified in Appendix A. The Contractor shall furnish to the State the following:
 - (1) A description of the supplies or services to be provided under the proposed subcontract;
 - (2) Identification of the proposed subcontractor, including protected class status; and
 - (3) Any other reasonable information or documentation requested by the State.

Article 7: Charges

- A. *Payment to the Contractor shall be based on invoices submitted by the Contractor or on a Standard New York State Voucher in a form acceptable to the State and the Comptroller of the State of New York. The State will make best efforts to process all vouchers within thirty (30) days of their receipt; however, failure to make payment within said timeframe shall not be considered a breach of contract.*
- B. *Payment shall be made at the rates, frequency and manner as set forth in Appendix C attached hereto.*
- C. *The State shall not be liable for the payment of any taxes under this Agreement however designated, levied or imposed. The State represents that the Contractor is not liable for the payment of any transfer taxes including, but not limited to, sales taxes upon goods or services purchased for or provided to the State.*

Article 8: Performance Standards and Liquidated Damages

- A. *Processing Standards:*
Per specification requirements indicated in Appendix D.

Article 9: Change Order

- A. The parties agree that this Agreement, including the Procurement and the Contractor's proposal, fairly delineate the scope of work to be performed under this Agreement at a fixed price. However, they further agree that in the event OCFS alters the scope of work or reallocates functions, which OCFS in its sole discretion may do at any time during the term of this Agreement, and thereby causes a substantial increase or decrease in the required effort of the Contractor, they will enter into good faith negotiations in order to reach agreement on the actions, if any, to be taken in order to achieve an equitable adjustment to the terms of this Agreement.
- B. The following change order procedure will be utilized by the parties hereto except in those instances where both parties have mutually agreed in writing to those clarifications/modifications of the project specifications which do not affect the project's cost.
- C. The Contractor shall provide additional services following receipt of specifications, transmitted by the State, detailing additional needs. The Contractor's written response to such specifications, returned within 15 days to the State Project Director for approval and sign-off, will include the following:
- Details of Contractor's products/ services affected by the State's request(s).
 - Total charges related to the specific actions requested. Contractor shall submit detailed pricing information to support any cost increase consistent with the pricing detail contained in Contractor's Financial Proposal.

Subject to submission to and approval by the Office of the State Comptroller, specifications contained in State requests accepted by the Contractor will hereby be considered part of this Agreement's original set of specifications for purposes of the Contractor's support of the project as specified herein.

Article 10: Public Officer's Law

- A. The Contractor agrees not to engage in any conduct which the Contractor knows would violate or would assist an employee of the State in violating Sections 73 and 74 of the Public Officers' Law.
- B. The Contractor further recognizes that an administrative or judicial finding that a Contractor has violated any of the statutes specified in the Contractor/Subcontractor Background Questionnaire completed prior to the award of this contract may entitle the State to terminate the contract, at its discretion, within thirty days after the Contractor notifies the State of such finding or the State notifies the Contractor that it has become aware of such finding.
- C. Any termination of the contract by the State under this Article shall be deemed to be a termination of the contract for cause. The remedies set forth in this section shall be in addition to any other remedy available to the State under this contract or under any other provisions of law.

Article 11: Rights of the State

- A. **LICENSE/OWNERSHIP/TITLE OF PRODUCTS FURNISHED** - contractor warrants full ownership, clear title or perpetual license rights to any and all tangible or intangible products furnished, used or modified by the Contractor or third parties on behalf of the State, and Contractor shall be solely liable for the full cost of acquisition associated therewith. Contractor shall provide the State with appropriate documentation indicating the vesting of such rights in Contractor, and/or the right to transfer or transfer of such rights, as requested by the State. The cost of obtaining such rights for continued perpetual use of such product(s) by the State upon Project completion shall be deemed to have been included by Contractor in its proposal. Such products include, without limitation, all hardware, commodities, custom programming or third party software, training modules, printed materials, source codes, or any other products or services furnished pursuant to this Agreement. The Contractor fully indemnifies the State for any loss, damages or actions arising from a breach of said warranty without limitation. The State and Federal awarding agency reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes: (a) The copyright in any work developed under a grant, subgrant, or contract under a grant or subgrant; and (b) Any rights of copyright to which a grantee, subgrantee or a contractor purchases ownership with grant support.
- B. **TITLE TO PROPRIETARY INFORMATION FURNISHED FOR TESTING PURPOSES**- Any and all proprietary written documentation, information, object or source code and software provided to the State for use in conjunction with an evaluation, shall remain the property of Contractor. In such event, Contractor hereby grants the State and its Authorized Users a personal, non-transferable and non-exclusive license to use all such documentation, technical information, confidential business information and all software and related documentation, in whatever form recorded (all hereinafter designated "property"), which are furnished to the State for testing purposes only.
- C. **OWNERSHIP/TITLE TO CUSTOM PRODUCTS/PROGRAMMING DELIVERABLES** - All custom products, including custom programming or any other deliverables, including, without limitation: software source code, object code, user or training manuals, programming, reports, and any other materials, preliminary, final and otherwise, prepared, written or developed for the State in the performance of services under this Agreement (hereinafter "Custom Products") shall be furnished to and shall become the sole and exclusive property of the State and shall be treated as confidential with the reciprocal proprietary obligations in the foregoing paragraph B of Article 11 imposed upon the Contractor, its subcontractors and partners. The State retains ownership rights to modifications developed for the State pursuant to this Agreement, including modifications made or incorporating third party proprietary components, or components transferred under perpetual license to the State pursuant to paragraph A of Article 11. In all such events, Contractor shall be deemed to have granted or secured a perpetual license to the State for Contractor or third party product being furnished and modified, in accordance with the provisions of paragraph A of Article 11. Contractor hereby agrees to take all necessary and appropriate steps to ensure that the custom products, including custom programming or any other deliverables, when completed and delivered to the State are protected against unauthorized copying, reproduction and marketing by or through Contractor.

Article 12: Document Incorporation and Order of Precedence

- A. This Agreement consists of:
 - (1) The body of this Agreement (i.e., that portion preceding the signatures of the parties in execution);
 - (2) The Exhibits attached to this Agreement body; and
 - (3) The Appendices attached to or incorporated by reference in this Agreement body.
- B. In the event of any inconsistency in or conflict among the document elements of this Agreement identified in this Section, such inconsistency or conflict shall be resolved by giving precedence to the document elements in the following order:
 - (1) First, Appendix A;
 - (2) Second, body of this Agreement and the Exhibits;
 - (3) Third, the Procurement documents; and
 - (4) Fourth, the Contractor's Proposal.
- C. This Agreement as defined in this Section constitutes the entire agreement between the parties with respect to the subject matter; all prior agreements, representations, Statements, negotiations and undertakings are superseded hereby. The terms, provisions, representations and warranties contained in this Agreement shall survive performance hereunder.

Article 13: Interpretation and Disputes

- A. This Agreement shall be construed and interpreted in accordance with the Laws of the State of New York. Except as otherwise provided for in the Agreement, any dispute which is not disposed of by agreement shall be submitted in writing to and decided by the Commissioner of the Office of Children and Family Services (Commissioner) or his/her duly authorized representative(s) or designee(s).
- B. If the Contractor is unwilling to accept the decision of the Commissioner or a decision is not made in ninety (90) days, it may then pursue its normal legal remedies de nova, but it is specifically agreed that any and all reports made by the Commissioner upon the disagreement at issue shall be admissible as evidence in any court action taken with respect to the matter. Pending conclusion of any dispute or disagreement by whatever procedure, the interpretation placed upon the Agreement by the STATE shall govern operation thereunder and the Contractor shall continue to perform under the Contract. The Contractor shall be required to bring all legal proceedings relating to this Agreement against the OCFS or the State of New York in the Courts of the State of New York.

Article 14: Indemnification of the State

- A. In performance of its duties pursuant to this Agreement, Contractor shall fully indemnify and save harmless the State from suits, actions, damages and costs relating to personal injury, damage to real or personal tangible or intangible property, or any other claim for direct damages arising as a result of acts or omissions of Contractor, its officers, employees, subcontractors, partners or agents.
- B. The State and OCFS may, in addition to other remedies available to them at law, retain such monies from amounts due Contractor, or may proceed against any performance and payment bond under this Agreement, as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against them; provided, however, that the Contractor shall not indemnify to the extent that any claim, loss or damage arising hereunder is caused by the solely negligent act or failure to act of the State.
- C. As a condition to the foregoing indemnity obligations under this Article, the State shall provide the Contractor with prompt notice of any claims for which indemnification may be sought hereunder, shall reasonably cooperate with Contractor in connection with any such claim and shall be responsible for its compliance with any laws and regulations associated with any deliverables supplied by Contractor hereunder.

Article 15: Force Majeure

Neither party shall be liable or deemed to be in default for any delay or failure in performance beyond its control under this Agreement resulting directly or indirectly from acts of God, civil or military authority not within the control of the State, acts of public enemy, wars, riots, civil disturbances, insurrections, accidents, fire, explosions, earthquakes or flood, or acts of omission or commission of individuals not under the respective parties' control except as specifically stated elsewhere in this Agreement. The parties are required to use best efforts to eliminate or minimize the effect of such events during performance of this Agreement.

Article 16: Record Retention

- A. The Contractor agrees to preserve all Agreement-related records in accordance with the provisions of Paragraph 10 of Appendix A for the term of this Agreement. Records involving matters in litigation shall be kept for a period of not less than three (3) years following the termination of the litigation. Microfilm copies of any Agreement-related documents may be substituted for the originals with the prior written approval of the State, provided that the microfilming procedures are accepted by the State as reliable and are supported by an adequate retrieval system.
- B. The Contractor shall be responsible for assuring that the provisions of this Section shall apply to any subcontract related to performance under this Agreement.

Article 17: Access to And Audit of Agreement Records

- A. All records and information obtained by the State pursuant to the provisions of this Agreement, whether by audit or otherwise, shall be usable by the State solely for the purpose of performing this Agreement in any manner, in its sole discretion, as it deems appropriate and the Contractor shall have no right of confidentiality or proprietary interest in such records or information. Notwithstanding the preceding sentence and in addition to the provisions set forth in Appendix A, the State agrees, in those instances in which it has discretion, not to disclose outside those Government agencies involved in the performance of this Agreement and then only to the personnel who are involved in the performance, the following data:
 - (1) Any resume or other description of qualifications which includes the name of the individual;
 - (2) Any individual's actual salary;
 - (3) The Contractor's indirect rates including labor overhead, General and Administrative (G&A) and fee; and
 - (4) The methodology for calculating those indirect rates including the allocation base.
 - (5) The Contractor's corporate financial Statements.
- B. The Contractor shall promptly notify the State of any request by anyone for access to any records maintained pursuant to this Agreement. Access by Federal or State bank regulatory agents, or Contractor's regular outside auditors to Contractor's financial records, pursuant to regularly

scheduled or routine audits or inspection of Contractor, shall not require notification to the State provided that rights of confidentiality or proprietary interests are preserved.

- C. The Contractor shall be responsible for assuring that the provisions in this Section shall apply to any subcontract related to performance under this Agreement.

Article 18: Confidentiality of Information

The Contractor, its officers, agents and employees and subcontractors, shall treat all information, with particular emphasis on information relating to recipients and providers, which is obtained by it through its performance under this Agreement, as confidential information to the extent required by the Laws of the State of New York and of the United States and any regulations promulgated there-under.

1. Individually identifiable information relating to any eligible recipient or provider shall be held confidential and shall not be disclosed by the Contractor, its officers, agents and employees or subcontractors, without the prior written approval of the Commissioner or a designee.
2. The use of information obtained by the Contractor in the performance of its duties under this Agreement shall be limited to purposes directly connected with such duties.
3. The Contractor shall promptly advise the State of all requests made to Contractor for information described in paragraph 1., above.
4. The Contractor shall be responsible for assuring that any agreement between the Contractor and any of its officers, agents and employees or subcontractors contains a provision which strictly conforms to the provisions of this subsection.

Article 19: Affirmative Action

The Contractor agrees to comply with all applicable Federal and State nondiscrimination statutes including: The Civil Rights Act of 1964, as amended; Executive Order No. 11246 entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor Regulation 41 CFR Part 60; Executive Law of the State of New York, Sections 290-299 thereof, and any rules or regulations promulgated in accordance therewith; Section 504 of the Rehabilitation Act of 1973 and the Regulations issued pursuant thereto contained in 45 CFR Part 84 entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Reviewing or Benefiting from Federal Financial Assistance"; and the Americans with Disabilities Act (ADA) of 1990, 42 USC Section 12116, and regulations issued by the Equal Employment Opportunity Commission which implement the employment provisions of the ADA, set forth at 29 CFR Part 1630.

The Contractor is required to demonstrate effective affirmative action efforts, and to ensure employment of protected class members. The Contractor must possess and may upon request be required to submit to the State a copy of an Affirmative Action Plan which is in full compliance with applicable requirements of Federal and State statutes.

1. Contractors and subcontractors shall undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability, sexual orientation or marital status. For these purposes, affirmative action shall apply in the areas of recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.
2. Prior to the award of a State contract, the Contractor shall submit an Equal Employment Opportunity (EEO) Policy Statement to the contracting agency within the time frame established by that agency.
3. The Contractor's EEO Policy Statement shall contain, but not necessarily be limited to, and the Contractor, as a precondition to entering into a valid and binding State contract, shall, during the performance of the State contract, agree to the following:
 - a. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability, sexual orientation or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and 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.
 - b. 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, sexual orientation or marital status.
 - c. At the request of the contacting 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, sexual orientation or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.
4. Except for construction contracts, prior to an award of a State contract, the Contractor shall submit to the contracting agency a staffing plan of the anticipated work force to be utilized on the State contract or, where required, information on the Contractor's total work force, including apprentices, broken down by specified ethnic background, gender, and Federal Occupational Categories or other appropriate categories specified by the contracting agency. The form of the staffing plan shall be supplied by the contracting agency.
5. After an award of a State contract, the Contractor shall submit to the contracting agency a work force utilization report, in a form and manner required by the agency, of the work force actually utilized on the State contract, broken down by specified ethnic background, gender, and Federal Occupational Categories or other appropriate categories specified by the contracting agency.

In the event that the Contractor is found through an administrative or legal action, whether brought in conjunction with this contract or any other activity engaged in by the Contractor, to have violated any of the laws recited herein in relation to the Contractor's duty to ensure equal employment to protected class members, the State may, in its discretion, determine that the Contractor has breached this agreement.
6. *Additionally, the Contractor and any of its subcontractors shall be bound by the applicable provisions of Article 15-A of the Executive Law, including Section 316 thereof, and any rules or regulations adopted pursuant thereto. The Contractor also agrees that any goal percentages contained in this contract are subject to the requirements of Article 15-A of the Executive Law and regulations adopted pursuant thereto. For purposes of this contract the goals established for subcontracting/purchasing with Minority and Women-Owned business enterprises are 0% to 5%; and the employment goal for the hiring of protected class persons is 0% to 5%.*
7. *The Contractor shall be required to submit reports as required by the STATE concerning the Contractor's compliance with the above provisions, relating to the procurement of services, equipment and or commodities, subcontracting, staffing plans and for achievement of employment goals. The format of such reports shall be determined by the State. The Contractor agrees to make available to the State, upon request, the information and data used in compiling such reports.*

8. It is the policy of the State to encourage the employment of qualified applicants/recipients of public assistance by both public organizations and private enterprises who are under contractual agreement to the State for the provision of goods and services. The State may require the Contractor to demonstrate how the Contractor has complied or will comply with the aforesaid policy.

Article 20: Termination of the Agreement

The Agreement shall be subject to the following termination provisions:

- A. All or any part of this Agreement may be terminated by mutual written agreement of the contracting parties.
- B. All or any part of this Agreement may be terminated by the State in the event of failure of the Contractor to perform within the time requirements set forth in this Agreement.
- C. All or any part of this Agreement may be terminated by the State for cause upon the failure of the Contractor to comply with the terms and conditions of this Agreement, including the attachments hereto, provided that the State shall give the Contractor written notice via registered or certified mail, return receipt requested, or shall deliver same by hand-receiving Contractor's receipt therefore, such written notice to specify the Contractor's failure and the termination of this Agreement. Termination shall be effective ten (10) business days from receipt of such notice, established by the receipt returned to the State. The Contractor agrees to incur no new obligations nor to claim for any expenses made after receipt of the notification of termination.
- D. This Agreement may be terminated if the State deems that termination would be in the best interest of the State provided that the State shall give written notice to the Contractor not less than thirty (30) days prior to the date upon which termination shall become effective, such notice to be made via registered or certified mail, return receipt requested or hand-delivered with receipt made. The date of such notice shall be deemed to be the date of postmark in the case of mail or the date of Contractor's receipt for notice in the case of hand delivery. In the case of termination under this subsection, the State agrees to pay the Contractor for reasonable and appropriate expenses incurred in good faith. The Contractor, on its part, agrees to incur no new obligations after receipt of notification of termination and to cancel as many outstanding obligations as possible.
- E. This Agreement may be deemed terminated immediately at the option of the State upon the filing of a petition in bankruptcy or insolvency, by or against the Contractor. Such termination shall be immediate and complete, without termination costs or further obligations by the State to the Contractor.
- F. Should the State determine that Federal and State funds are unavailable, the State may terminate the Agreement immediately upon notice to the Contractor. If the initial notice is oral notification, the STATE shall follow this up immediately with written notice. The State will be obligated to pay the Contractor only for the expenditures made and obligations incurred by the Contractor until such time as notice of termination is received either orally or in writing by the Contractor from the State.
- G. In the event of termination for any reason, the Contractor shall not incur new obligations for the terminated portion and the Contractor shall cancel as many outstanding obligations as possible. Contractor shall take all reasonable measures to mitigate any damages for which the State may be liable.
- H. If this Agreement is terminated for cause, the State shall have the right to award a new contract to a third party. In such event, the Contractor shall be responsible for damages, and for all additional costs incurred in reassigning the contract.
- I. It is understood that the State reserves the right to suspend or reduce Contractor services during the term of the Agreement or during a task order period. Such action(s) by the State shall not be considered a breach of this Agreement or otherwise give rise to damages on the part of the Contractor, provided, however, that Contractor is given written notification of such action.
- J. The State reserves the right to terminate the award resulting from this procurement in the event it is found that the certification filed by the Offeror in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, The State may exercise its termination right by providing written notification to the award recipient.

Article 21: Patent/Copyright Indemnification

Contractor will indemnify, defend and hold the State harmless from and against all Damages, expenses, including reasonable attorney's fees), claims, judgments, liabilities and costs which may be finally assessed against the State in any action for infringement of a United States Letter Patent with respect to the products furnished, or of any copyright, trademark, trade secret or other third party proprietary right, provided that the State shall give the Contractor: (i) prompt written notice of any action, claim or threat of infringement suit, or other suit; (ii) the opportunity to take over, settle or defend such action, claim or suit at Contractor's sole expense; and (iii) assistance in the defense of any such action at the expense of the Contractor.

If the use of any item(s) or part(s) thereof shall be enjoined for any reason or if Contractor believes that it may be enjoined, Contractor shall have the right, at its own expense and sole discretion to take action in the following order of precedence: (i) to procure for the State the right to continue using such item(s) or part(s) thereof, as applicable; (ii) to modify the component so that it becomes non-infringing equipment of at least equal quality and performance; or (iii) to replace said item(s) or part(s) thereof, as applicable, with non-infringing components of at least equal quality and performance.

The foregoing provisions shall not apply to any infringement occasioned by modification by the State of any tangible or intangible products without Contractor's approval or the use of any equipment with any adjunct device added by the State without the consent of the Contractor.

In the event that an action at law or in inequity is commenced against the State arising out of a claim that the State's use of a product under this Agreement infringes any patent, copyright or proprietary right and Contractor is of the opinion that the allegations in such action in whole or in part are not covered by the indemnification and defense provisions set forth in this Agreement, Contractor shall immediately notify the State and the Office of the Attorney General in writing and shall specify to what extent the Contractor believes it is obligated to defend and indemnify under the terms and conditions of this Agreement. Contractor shall in such event protect the interests of the State and secure a continuance to permit the State to appear and defend its interests in cooperation with Contractor as is appropriate, including any jurisdictional defenses the State may have.

Article 22: Lobbying Certification

Section 1352 of Title 31 of the U.S. Code requires that funds appropriated to a Federal agency be subject to a requirement that any Federal Contractor or grantee (such as the State) must be required to certify that no Federal funds will be used to lobby or influence a Federal officer or a Member of Congress. The certification the State has been required to sign for HHS provides that the language of this certification (shall) be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly. The certification also requires the completion of Federal lobbying reports and the imposition of a

civil penalty of \$10,000 to \$100,000 for failing to make a required report. As a sub-recipient, the Contractor understands and agrees to the Federal requirements for certification and disclosure.

Article 23: Notification

- A. Any notice or other communication required by or pertaining to this Agreement shall be sent to the destinations indicated by the State's designated Project Director or the Contractor's designated Project Director. If no destination has been so indicated, such notices or communications may be directed to the address(es) or destination(s) at which the parties to this Agreement were located when this Agreement was executed or to the last known address or destination for such party. Contractor shall be responsible for notifying the State of any change of address or destination to which notices and communications should be sent.
- B. Except as otherwise specified elsewhere in this Agreement, notices or communications may be given orally or in writing and shall be effective when received. To remain effective, oral notifications must be confirmed in writing, transmitted in a manner to be received no later than ten (10) working days after the oral notification. Notices or communications may be transmitted by personal delivery, ordinary U.S. Mail, registered or certified mail, overnight delivery service, telegram, telephone, facsimile device, electronic means or any other means of transmission that results in the fixation of the information transmitted in a tangible medium of expression.
- C. Notices or communications shall be considered received on the day such receipt is acknowledged by a signed receipt or by any other means of verification that is recorded in a tangible medium of expression. Notices or communications from the State to the Contractor shall also be considered received as follows:
 1. Oral notifications shall be considered received on the date indicated as the date of conversation in any written confirmation or on the day sworn in an affidavit to be the date of such conversation, unless contested.
 2. Notices or communications by ordinary, registered or certified U.S. Mail shall also be considered received on the first working day after five (5) days following the day the transmittal is postmarked or following the day sworn in an affidavit to be the date the transmittal was deposited in a post office or an official depository.
 3. Notices or communications dispatched by overnight delivery service shall be considered received one (1) working day after having been dispatched.
 4. Transmissions by facsimile device or electronic means shall be considered received, upon the receipt by the State of a signal from the equipment of the Contractor indicating that the transmission was received.
 5. Notices or communications transmitted by personal delivery shall be considered received on the day the transmission is delivered to an agent of the Contractor.
 6. Any other transmissions shall be considered received no later than five (5) working days after transmission by the STATE is completed.

Article 24: Conflict of Interest

- A. *For the term of this Agreement, and for three months after its termination, the Contractor agrees not to offer employment to any employee of the State without the express written consent of the State.*
- B. If during the term of this Agreement and any extension thereof the Contractor becomes aware of an actual or potential relationship which may be considered a conflict of interest, the Contractor shall notify the State in writing immediately. Should the Contractor engage any current or former New York State employee as its own employee or as an independent contractor because of such employee's knowledge of New York State finances, operations or knowledge of the State's programs, or any current or former State employee who in the course of his State employment had frequent contact with Management level Contractor employees, the Contractor shall notify the State, in writing, immediately; should the State thereafter determine that such employment is inconsistent with State or Federal Law, the State shall so advise the Contractor, in writing, specifying its basis for so determining, and may require that the contractual or employment relationship be terminated.

Article 25: Other Agency Use

The Contractor must extend the terms and conditions to any State agency in New York State. It must also extend the terms and conditions to (1) County Agencies in New York State providing human services such as income maintenance, job training, employment and social services or health related services as well as (2) Local Social Services Districts in New York State including New York City, which is considered a single LSSD, consisting of the Human Resources Administration, The Administration for Children's Services, and the Department of Homeless Services.

Article 26: Warranty for Deliverables/ Workmanship

Contractor guarantees that any required deliverables, tangible or intangible, regardless of form, shall be unconditionally guaranteed for the full contract term. This warranty will be voided by the misuse, accident, operation in other than the specified operating environment, unauthorized modification of the source code or failure caused by a product for which the Contractor is not responsible.

Article 27: Vendor Responsibility

By signing this contract, the contractor certifies that within the past three years the contractor has engaged in no actions that would establish a basis for a finding by OCFS that the contractor is a non-responsible vendor or, if the contractor has engaged in any such action or actions, that all such actions have been disclosed to OCFS prior to entering into this contract. The actions that would potentially establish a basis for a finding by OCFS that the contractor is a non-responsible vendor include:

- The contractor has had a license or contract suspended, revoked or terminated by a governmental agency.
- The contractor has had a claim, lien, fine, or penalty imposed or secured against the contractor by a governmental agency.
- The contractor has initiated a bankruptcy proceeding or such a proceeding has been initiated against the contractor.

- The contractor has been issued a citation, notice, or violation order by a governmental agency finding the contractor to be in violation of any local, state or federal laws.
- The contractor has been advised by a governmental agency that a determination to issue a citation, notice or violation order finding the contractor to be in violation of any local, state or federal laws is pending before a governmental agency.
- The contractor has not paid all due and owed local, state and federal taxes to the proper authorities.
- The contractor has engaged in any other actions of a similarly serious nature.

Where the contractor has disclosed any of the above to OCFS, OCFS may require as a condition precedent to entering into the contract that the contractor agree to such additional conditions as will be necessary to satisfy OCFS that the vendor is and will remain a responsible vendor. By signing this contract, the contractor agrees to comply with any such additional conditions that have been made a part of this contract.

By signing this contract, the contractor also agrees that during the term of the contract, the contractor will promptly notify OCFS if the contractor engages in any actions that would establish a basis for a finding by OCFS that the contractor is a non-responsible vendor, as described above.

Article 28: State Tax Law Section 5-a

By signing this contract, the contractor agrees to comply with the State Tax Law section 5-a.

Article 29: Consultant Disclosure

Pursuant to Chapter 10, New York State Office of Children and Family Services (OCFS) must require all contractors, including sub-contractors, to submit an annual report. As a result of these changes in law, State contractors are required to disclose, by employment category; the number of persons employed to provide services under a contract for consulting services, the number of hours worked, and the amount paid to the contractor by the State as compensation for work performed by these employees. Be reminded that this includes information on any persons working under a subcontract with the State contractor. The Office of the State Comptroller (OSC) has a prescribed format for reporting.

The legislation also expands the definition of contracts for consulting services to include any contract entered into by a State Agency including: analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal, or similar services. Additional information can be found in Bulletin No. G-226 issued by OSC. The Bulletin details the requirements under the Consultant Disclosure Legislation. This bulletin can be accessed at: <http://www.osc.state.ny.us/agencies/gbull/g-226.htm>.

The Legislation requires that contractors complete OSC **Form B - State Consultant Services-Contractor's Annual Employment Report** for consultant services for State Fiscal year **2006-07**, indexed as form **OCFS-4843**. Contractors are required to report for the period starting **April 1, 2006** or the contract start date, whichever is later, to March 31, 2007 and annually thereafter for the duration of the contract.

This Consultant Employment Report provides a format for reporting the actual number of employees providing services on the contract or through subcontracts, and is due to OCFS, OSC and the NYS Department of Civil Service, at the addresses identified below, by May 15, 2007 and annually thereafter. A separate **Form B** must be submitted for each contract. Please submit a copy of this form to each of the following:

Mr. Kevin Sweet
 NYS Office of Children and Family Services
 Bureau of Contract Management
 52 Washington Street South Building, Room 202
 Rensselaer, New York 12144

and:

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

and:

NYS Department of Civil Service
 Alfred E. Smith Office Building
 Counsel's Office, 8th Floor
 80 South Swan Street
 Albany, New York 12239

Appendix A
Standard Clauses for All
New York State Contracts
(Revised December 2011)

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

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

2. NON-ASSIGNMENT CLAUSE. In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred conveyed, sublet or otherwise disposed of without the previous consent, in writing, of the State and any attempts to assign the contract without the State's written consent 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 payment 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).

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, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital 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 3a 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 REQUIREMENT. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor warrants, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further warrants 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 there-under. 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 contractors 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, 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, upgrading, 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 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 XI-A of the State Finance Law to the extent required by law.

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

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

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

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §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 of Minority and Women's Business Development
30 South Pearl Street – 7th Floor

Albany, New York 12245
Telephone: 518-292-5250

Fax: 518-292-5884

<http://www.empire.state.ny.us>

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
30 South Pearl Street – 7th Floor
Albany, New York 12245
<http://www.empire.state.ny.us>

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 the Department of Economic Development, Division for Small Business, 30 South Pearl Street; Albany New York 12245, for a current list of jurisdictions subject to this provision

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 A-1
STANDARD CLAUSES FOR ALL
NEW YORK STATE OFFICE OF CHILDREN AND FAMILY SERVICES CONTRACTS

(Revised 05-2012)

1. PERSONNEL

- a. The Contractor agrees to be solely responsible for the recruitment, hiring, provision of employment benefits, payment of salaries and management of its project personnel, which shall be as shown in the APPENDICES. These functions shall be carried out in accordance with the provisions of this AGREEMENT, and all applicable Federal and State laws and regulations.
- b. It is the policy of the Office to encourage the employment of qualified applicants for, or recipients of public assistance by both public organizations and private enterprises who are under contractual AGREEMENT to the Office for the provision of goods and services. Contractors will be expected to make best efforts in this area.
- c. The Contractor agrees to identify, in writing, the person(s) who will be responsible for directing the work to be done under this AGREEMENT. No change or substitution of such responsible person(s) will be made without prior approval in writing from the Office, to the degree that such change is within the reasonable control of the Contractor.

2. NOTICES

- a. All notices permitted or required hereunder shall be in writing and shall be transmitted either:
 - By certified or registered United States mail, return receipt requested;
 - By facsimile transmission;
 - By personal delivery;
 - By expedited delivery service; or
 - By e-mail.

Notices to the Office shall be addressed to the Program Manager assigned to this contract at the Address, Telephone Number, Facsimile Number or E-Mail Address provided to the Contractor during contract development, or to such different Program Manager as the Office may from time-to-time designate.

Notices to the Contractor shall be addressed to the Contractor's designee as shown on the Cover Page in Appendix D, or to such different designee as the Contractor may from time-to-time designate.

- b. Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or email, upon receipt.
- c. The parties may, from time to time, specify any new or different address in the United States as their address for purpose of receiving notice under this Agreement by giving fifteen (15) days written notice to the other party sent in accordance herewith. The parties agree to mutually designate individuals as their respective representatives for the purposes of receiving notices under this Agreement. Additional individuals may be designated in writing by the parties for purposes of implementation and administration/billing, resolving issues and problems and/or for dispute resolution.

3. OFFICE SERVICES

- a. The Contractor shall be responsible for the provision of necessary equipment and services for Contractor's staff, pursuant to and described in the narratives and budgets contained in the APPENDICES.
- b. For Federally funded contracts, title to real property and non-expendable personal property whose requisition cost is borne in whole or in part by monies provided under this AGREEMENT shall be determined between the Contractor and the Office, pursuant to Federal regulations 45 CFR 92 unless such authority is otherwise inappropriate. Title to all equipment, supplies and material purchased with funds under this AGREEMENT under contracts which are not Federally funded shall be in the State of New York and the property shall not be transferred, conveyed, or disposed of without written approval of the Office. Upon expiration or termination of this AGREEMENT, all property purchased with funds under this AGREEMENT shall be returned to the Office, unless the Office has given direction for, or approval of, an alternative means of disposition in writing.
- c. Upon written direction by the Office, the Contractor shall maintain an inventory of those properties that are subject to the provisions of sub-paragraph b of this section.

4. GENERAL TERMS AND CONDITIONS

- a. The Contractor agrees to comply in all respects with the provisions of this AGREEMENT and the attachments hereto. The Contractor specifically agrees to perform services according to the objectives, tasks, work plan and staffing plan contained in the APPENDICES. Any modifications to the tasks or workplan contained in Appendix D must be mutually agreed to by both parties in writing before the additional or modified tasks or workplan shall commence.
- b.i. If any specific event or conjunction of circumstances threatens the successful completion of this project, in whole or in part, including where relevant, timely completion of milestones, the Contractor agrees to submit to the Office within three days of occurrence or perception of such problem, a written description thereof together with a recommended solution thereto.
- b.ii. The Contractor immediately shall notify in writing the OCFS Program Manager assigned to this contract of any unusual incident, occurrence or event that involves the staff, volunteers or officers of the Contractor, any subcontractor or Program participant funded through this contract, including but not limited to the following: death or serious injury; an arrest or possible criminal activity; any destruction of property; significant damage to the physical plant of the Contractor; or other matters of a similarly serious nature.
- c. In providing these services, the Contractor hereby agrees to be responsible for designing and operating these services, and otherwise performing, so as to maximize Federal financial participation to the Office under the Federal Social Security Act.
- d. If funds from this contract will be used to pay any costs associated with the provision of legal services of any sort, the following shall apply:
- No litigation shall be brought against the State of New York, the New York State Office of Children and Family Services, or against any county or other local government or local social services district with funds provided under this contract. The term "litigation" shall include commencing or threatening to commence a lawsuit, joining or threatening to join as a party to ongoing litigation, or requesting any relief from either the State of New York, the New York State Office of Children and Family Services or any county or other local government or local social services district, based upon any agreement between such agency in litigation with another party and such party, during the pendency of the litigation.
 - Opinions prepared by consultant law firms construing the statutes or Constitution of the State of New York do not constitute the view of the State unless the prior written approval of the Attorney General is obtained. Requests for said approval shall be submitted to the Solicitor General, Division of the Appeals and Opinions Bureau, Department of Law, The Capitol, Albany, New York 12224.
 - The contractor shall provide to the New York State Office of Children and Family Services in a format provided by the Office such additional information concerning the provision of legal services as the Office shall require.
- e. The Office will designate a Contract Manager who shall have authority relating to the technical services and operational functions of this AGREEMENT and activities completed or contemplated there under. The Contract Manager and those individuals designated by him/her in writing shall have the prerogative to make announced or unannounced on-site visits to the project. Project reports and issues of interpretation or direction relating to this AGREEMENT shall be directed to the Contract Manager.
- f. Except where the Office otherwise authorizes or directs in writing, the Contractor agrees not to enter into any subcontracts, or revisions to subcontracts, for the performance of the obligations contained herein until it has received the prior written approval of the Office, which shall have the right to review and approve each and every subcontract prior to giving written approval to the Contractor to enter into the subcontract. All AGREEMENTS between the Contractor and subcontractors shall be by written contract, signed by individuals authorized to bind the parties. All such subcontracts shall contain provisions for specifying (1) that the work performed by the subcontractor must be in accordance with the terms of this AGREEMENT, (2) that nothing contained in the subcontract shall impair the rights of the Office under this AGREEMENT, (3) that nothing contained in the subcontract, nor under this AGREEMENT, shall be deemed to create any contractual relationship between the subcontractor and the Office, and (4) incorporating all provisions regarding the rights of the Office as set forth in Section 9 of this Appendix A-1 and in Appendix A-3, where applicable. The Contractor specifically agrees that the Contractor shall be fully responsible to the Office for the acts and omissions of subcontractors and of persons either directly or indirectly employed by them, as it is for the acts and omissions of persons directly employed by the Contractor
- g. The contractor warrants that it, its staff and any and all Subcontractors which must be approved by the Office, have all the necessary licenses, approvals and certifications currently required by the laws of any applicable local, state or federal government to perform the services pursuant to this AGREEMENT and/or subcontract entered into under this AGREEMENT. The Contractor further agrees such required licenses, approvals and certificates will be kept in full force and effect during the term of this Agreement, or any extension thereof, and to secure any new licenses, approvals or certificates within the required time frames and/or to require its staff and Subcontractors to obtain the requisite licenses, approvals or certificates. In the event the Contractor, its staff, and/or Subcontractors are notified of a denial or revocation of any license, approval or certification to perform the services under the AGREEMENT, Contractor will immediately notify Office.
- h. Prior to executing a subcontract agreement the Contractor agrees to provide to the Office the information the Office needs to determine whether a proposed Subcontractor is a responsible vendor. The determination of vendor responsibility will be

made in accordance with Section 3 m. of this Appendix A-1.

- i. If the Contractor intends to use materials, equipment or personnel paid for under this contract in a revenue generating activity, the Contractor shall report such intentions to the Office forthwith and shall be subject to the direction of the Office as to the disposition of such revenue.
- j. Any interest accrued on funds paid to the Contractor by the Office shall be deemed to be the property of the Office and shall either be credited to the Office at the closeout of this AGREEMENT or expended on additional services provided for under this AGREEMENT.
- k. The Contractor ensures that the grounds, structures, buildings and furnishings at the program site(s) used under this AGREEMENT are maintained in good repair and free from any danger to health or safety and that any building or structure used for program services complies with all applicable zoning, building, health, sanitary, and fire codes.
- l. The Contractor agrees to produce, and retain for the balance of the calendar year in which produced, and for a period of six years thereafter, any and all records necessary to substantiate upon audit, the proper deposit and expenditure of funds received under this contract. Such records shall include, but not be limited to, original books of entry (e.g., cash disbursements and cash receipts journal), and the following specific records (as applicable) to substantiate the types of expenditures noted:
 - Payroll Expenditures: cancelled checks and the related bank statements, time and attendance records, payroll journals, employee personal history folders, and cost allocation plans, if applicable.
 - Payroll Taxes and Fringe Benefits: cancelled checks, copies of related bank statements, reporting forms, and invoices for Fringe Benefit expenses.
 - Non-Personal Services Expenditures: original invoices/receipts, cancelled checks and related bank statements, consultant agreements, leases, and cost allocation plans, if applicable.
 - Receipt and Deposit of Advance and Reimbursements: Itemized bank stamped deposit slips, and a copy of the related bank statements.

Although not required, the Office recommends that the Contractor retain records directly pertinent to this contract for a period of ten (10) years after the end of the calendar year in which they were made, as the statute of limitations for the New York False Claims Act is ten years.

- m. By signing this contract, the contractor certifies that within the past three years the contractor has engaged in no actions that would establish a basis for a finding by OCFS that the contractor is a non-responsible vendor or, if the contractor has engaged in any such action or actions, that all such actions have been disclosed to OCFS prior to entering into this contract. The actions that would potentially establish a basis for a finding by OCFS that the contractor is a non-responsible vendor include:
 - The contractor has had a license or contract suspended, revoked or terminated by a governmental agency.
 - The contractor has had a claim, lien, fine, or penalty imposed or secured against the contractor by a governmental agency.
 - The contractor has initiated a bankruptcy proceeding or such a proceeding has been initiated against the contractor.
 - The contractor has been issued a citation, notice, or violation order by a governmental agency finding the contractor to be in violation of any local, state or federal laws.
 - The contractor has been advised by a governmental agency that a determination to issue a citation, notice or violation order finding the contractor to be in violation of any local, state or federal laws is pending before a governmental agency.
 - The contractor has not paid all due and owed local, state and federal taxes to the proper authorities.
 - The contractor has engaged in any other actions of a similarly serious nature.

Where the contractor has disclosed any of the above to OCFS, OCFS may require as a condition precedent to entering into the contract that the contractor agree to such additional conditions as will be necessary to satisfy OCFS that the vendor is and will remain a responsible vendor. By signing this contract, the contractor agrees to comply with any such additional conditions that have been made a part of this contract.

By signing this contract, the contractor also agrees that during the term of the contract, the contractor will promptly notify OCFS if the contractor engages in any actions that would establish a basis for a finding by OCFS that the contractor is a non-responsible vendor, as described above.

- n. By signing this contract, the contractor agrees to comply with State Tax Law section 5-a.

- o. If additional funds become available for the same purpose as described in the original procurement, OCFS reserves the right to modify the AGREEMENT to provide additional funding to the Contractor for provision of additional mutually agreed upon services and/or to extend the provision of services under the AGREEMENT. This additional funding can be provided within an existing period, or in conjunction with a change in the original term. Any changes in the amount or changes in period and amount are subject to the approval of the Office of the State Comptroller.
- p. Any web-based intranet and Internet information and applications development, or programming delivered pursuant to the contract or procurement will comply with New York State Enterprise IT Policy NYS-P08-005, Accessibility Web-Based Information and Applications, and New York State Enterprise IT Standard NYS-S08-005, Accessibility of Web-Based Information Applications, as such policy or standard may be amended, modified or superseded, which requires that state agency web-based intranet and Internet information and applications are accessible to person with disabilities. Web content must conform to New York State Enterprise IT Standards NYS-S08-005, as determined by quality assurance testing. Such quality assurance testing will be conducted by OCFS and the results of such testing must be satisfactory to OCFS before web content will be considered a qualified deliverable under the contract or procurement.
- q. Contractors must maintain Workers Compensation Insurance in accordance with the Workers Compensation Law. If a contractor believes they are exempt from the Workers Compensation insurance requirement then they must apply for an exemption. Contractors can apply for the exemption online through the New York State Workers Compensation Board website at :
http://www.wcb.state.ny.us/content/ebiz/wc_db_exemptions/wc_db_exemptions.jsp
- r. All organizations that receive Federal financial assistance under social service programs are prohibited from discriminating against beneficiaries or prospective beneficiaries of the social service programs on the basis of religion or religious belief. Accordingly, organizations, in providing services supported in whole or in part with Federal financial assistance, and in their outreach activities related to such services, are not allowed to discriminate against current or prospective program beneficiaries on the basis of religion, a religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice.

Organizations that engage in explicitly religious activities (including activities that involve overt religious content such as worship, religious instruction, or proselytization) must perform such activities and offer such services outside of programs that are supported with direct Federal financial assistance (including through prime awards or sub-awards), separately in time or location from any such programs or services supported with direct Federal financial assistance, and participation in any such explicitly religious activities must be voluntary for the beneficiaries of the social service program supported with such Federal financial assistance.

5. REPORTS AND DELIVERABLES

The Contractor shall prepare and submit all reports, documents, and projects required by this AGREEMENT to the Office's Contract Manager for review and approval. These reports shall be in such substance, form, and frequency as required by the Office and as necessary to meet State and Federal requirements.

6. CONFIDENTIALITY AND PROTECTION OF HUMAN SUBJECTS

- a. The Contractor agrees to safeguard the confidentiality of financial and/or client information relating to individuals and their families who may receive services in the course of this project. The Contractor shall maintain the confidentiality of all such financial and/or client information with regard to services provided under this AGREEMENT in conformity with the provisions of applicable State and Federal laws and regulations. Any breach of confidentiality by the Contractor, its agents or representatives shall be cause for immediate termination of this AGREEMENT.
- b. Any contractor who will provide goods and/or services to a residential facility or program operated by OCFS agrees to require all of its employees and volunteers who will have the potential for regular and substantial contact with youth in the care or custody of OCFS to sign the Employee Confidentiality Certification and Employee Background Certification before any such employees and volunteers are permitted access to youth in the care or custody of OCFS and any financial and/or client identifiable information concerning such youth. Additionally, OCFS will require a database check of the Statewide Central Register of Child Abuse and Maltreatment (SCR) of each employee and volunteer of the contractor who has the potential for regular and substantial contact with children in the care or custody of OCFS. Any other contractor whose employees and volunteers will have access to financial and/or client identifiable information concerning youth in the care or custody of OCFS agrees to require all such employees and volunteers to sign the Employee Confidentiality Certification before any such employees and volunteers are permitted access to any financial and/or client identifiable information concerning such youth.

7. PUBLICATIONS AND COPYRIGHTS

- a. The results of any activity supported under this AGREEMENT may not be published without prior written approval of the Office, which results (1) shall acknowledge the support of the Office and the State of New York and, if funded with federal funds, the applicable federal funding agency, and (2) shall state that the opinions, results, findings and/or interpretations of data contained therein are the responsibility of the Contractor and do not necessarily represent the opinions, interpretation or policy of the Office or the State of New York.
- b. The Office and the State of New York expressly reserve the right to a royalty-free, non-exclusive and irrevocable license to reproduce, publish, distribute or otherwise use, in perpetuity, any and all copyrighted or copyrightable material resulting from this AGREEMENT or activity supported by this AGREEMENT. All publications by the Contractor covered by this AGREEMENT shall expressly acknowledge the Office's right to such license.
- c. All of the license rights so reserved to the Office and the State of New York under this paragraph are equally reserved to the United States Department of Health and Human Services and subject to the provisions on copyrights contained in 45 CFR 92 if the AGREEMENT is federally funded.
- d. The Contractor agrees that at the completion of any scientific or statistical study, report or analysis prepared pursuant to this AGREEMENT, it will provide to the Office at no additional cost a copy of any and all data supporting the scientific or statistical study, report or analysis, together with the name(s) and business address(es) of the principal(s) producing the scientific or statistical study, report or analysis. The Contractor agrees and acknowledges the right of the Office, subject to applicable confidentiality restrictions, to release the name(s) and business address(es) of the principal(s) producing the scientific or statistical study, report or analysis, together with a copy of the scientific or statistical study, report or analysis and all data supporting the scientific or statistical study, report or analysis.

8. PATENTS AND INVENTIONS

The Contractor agrees that any and all inventions, conceived or first actually reduced to practice in the course of, or under this AGREEMENT, or with monies supplied pursuant to this AGREEMENT, shall be promptly and fully reported to the Office. Determination as to ownership and/or disposition of rights to such inventions, including whether a patent application shall be filed, and if so, the manner of obtaining, administering and disposing of rights under any patent application or patent which may be issued, shall be made pursuant to all applicable law and regulations.

9. TERMINATION

- a. This AGREEMENT may be terminated by the Office upon thirty (30) days prior written notice to the Contractor. Such notice is to be made by way of registered or certified mail return receipt requested or hand delivered with receipt granted by the Contractor. The date of such notice shall be deemed to be the date the notice is received by the Contractor established by the receipt returned, if delivered by registered or certified mail, or by the receipt granted by the Contractor, if the notice is delivered by hand. The Office agrees to pay the Contractor for reasonable and appropriate expenses incurred in good faith before the date of termination of this AGREEMENT.
- b. If the Contractor fails to use any real property or equipment purchased pursuant to this AGREEMENT for the purposes set forth in this AGREEMENT, or if at any time during the term of this AGREEMENT the Contractor ceases to provide the services specified in the AGREEMENT for which the equipment was purchased, the Office may terminate this AGREEMENT upon thirty (30) days written notice to the Contractor, where the Contractor has failed to cure as set forth hereafter. Said notice of breach shall be sent by way of registered or certified mail return receipt requested, or shall be delivered by hand, receiving Contractor's receipt therefore. Said notice shall specify the Contractor's breach and shall demand that such breach be cured. Upon failure of the Contractor to comply with such demand within thirty (30) days, or such longer period as may be specified therein, the Office may, upon written notice similarly served, immediately terminate this AGREEMENT, termination to be effective upon the date of receipt of such notice established by the receipt returned to the Office. Upon such termination, the Office may require a) the repayment to the Office of any monies previously paid to the Contractor, or b) return of any real property or equipment purchased under the terms of this AGREEMENT or an appropriate combination of a) and b), at the Office's option.
- c. To the extent permitted by law, this AGREEMENT shall be deemed in the sole discretion of the Office terminated immediately upon the filing of a petition in bankruptcy or insolvency, by or against the Contractor. Such termination shall be immediate and complete, without termination costs or further obligation by the Office to the Contractor.
- d. Should the Office determine that Federal or State funds are limited or become unavailable for any reason, the Office may reduce the total amount of funds payable to the Contractor, reduce the contract period or deem this contract terminated immediately. The Office agrees to give notice to the Contractor as soon as it becomes aware that funds are unavailable, in the event of termination under this paragraph. If the initial notice is oral notification, the Office shall follow this up immediately with written notice. The Office will be obligated to pay the Contractor only for the expenditures made and obligations incurred by the Contractor until such time as notice of termination is received either orally or in writing by the Contractor from the Office. For Legislative and other special purpose grants funded from a State Community Projects Fund (State Finance Law § 99-d) account, the state shall not be liable for payments under this agreement made pursuant to an appropriation to the account if insufficient monies are available for transfer to the account, after any required transfers are made pursuant to State Finance

Law § 99-d (3).

- e. The Contractor shall provide to the Office such information as is required by the Office in order that the Office may determine whether the Contractor is a responsible vendor for purposes of compliance with Section 163 of the State Finance Law and requirements of the Office of the State Comptroller established thereunder. If there is any change in any of the vendor responsibility information provided to the Office by the Contractor at any time during the term of this AGREEMENT, the Contractor shall be required to immediately notify the Office so that the Office may assess whether the Contractor continues to be a responsible vendor. Should the Contractor fail to notify the Office of any change in the vendor responsibility information or should the Office otherwise determine that the Contractor has ceased to be a responsible vendor for the purposes of this AGREEMENT, the Office may terminate this AGREEMENT upon thirty (30) days written notice to the Contractor. Said notice of termination shall be sent by way of registered or certified mail return receipt requested, or shall be delivered by hand, receiving Contractor's receipt therefore. Said notice shall specify the reason(s) that the Contractor has been found to no longer be a responsible vendor.

Upon determination that the Contractor is no longer a responsible vendor the Office may, in its discretion and as an alternative to termination pursuant to this paragraph, notify the Contractor of the determination that the Contractor has ceased to be a responsible vendor and set forth the corrective action that will be required of the Contractor to maintain the contact. Should the Contractor fail to comply with the required corrective action within thirty (30) days of the date of notification, or such longer period as may be specified therein, the Office may, upon written notice similarly served, immediately terminate this AGREEMENT, termination to be effective upon the date of receipt of such notice established by the receipt returned to the Office. Upon such termination, the Office may require (a) the repayment to the Office of any monies previously paid to the Contractor, (b) return of any real property or equipment purchased under the terms of this AGREEMENT, or an appropriate combination of (a) and (b), at the Office's option.

10. CONTRACTOR COMPLIANCE

The Office shall have the right to audit or review the Contractor's performance and operations as related to this AGREEMENT and/or to retain the services of qualified independent auditors or investigators to perform such audit and review on the Office's behalf. If the review indicates that the Contractor has violated or is in non-compliance with any of the terms of the AGREEMENT, or has abused or misused the funds paid to the Contractor, the Contractor agrees to pay to the Office any costs associated with the review.

If the review indicates that the Contractor has violated or is in non-compliance with any of the terms of the AGREEMENT, or has abused or misused funds paid to the Contractor, or if the Contractor has violated or is in non-compliance with any term of any other AGREEMENT, or has abused or misused funds paid to the Contractor under any other AGREEMENT with the Office, the rights of the Office shall include, but not be limited to:

- Recovery of any funds expended in violation of the AGREEMENT;
- Suspension of Payments
- Termination of the AGREEMENT; and/or
- Employment of another entity to fulfill the requirements of the AGREEMENT.

The Contractor shall be liable for all reasonable costs incurred on account thereof, including payment of any cost differential for employing such entity. The Contractor will assist the Office in transferring the operation of the contracted services to any other entity selected by the Office in a manner that will enable the Office or clients to continue to receive services in an on-going basis, including, but not limited to, notifying clients of the new entity to which the services will be transferred and the effective date of the transfer, providing the new entity promptly and at no charge with a complete copy of the clients' and all other records necessary to continue the provision of the transferred services, and transferring any equipment purchased with funds provided under this AGREEMENT.

Nothing herein shall preclude the Office from taking actions otherwise available to it under law including but not limited to the State's "Set-Off Rights" and "Records" provisions contained in Appendix A (Standard Clauses for all New York State Contracts).

The Contractor agrees to cooperate fully with any audit or investigation the Office or any agent of the Office may conduct and to provide access during normal business hours to any and all information necessary to perform its audit or investigation. The Contractor shall also allow the NYS Attorney General, State Comptroller, the Office, and any representatives specifically directed by the State Comptroller or the Office to take possession of all books, records and documents relating to this AGREEMENT without prior notice to the Contractor. The Office will return all such books, records and documents to the Contractor upon completing the official purposes for which they were taken.

The Contractor agrees that all AGREEMENTS between the Contractor and a subcontractor or consultants for the performance of any obligations under the AGREEMENT will be by written contract (subcontract) which will contain provisions including, but not limited to, the above specified rights of the Office.

11. FISCAL SANCTION

In accordance with the OCFS Fiscal Sanction policy, contractors may be placed on fiscal sanction when the Office identifies any of

the following issues:

- The contractor has received an Advance, overpayment or other funds under this or another agreement that has not been refunded to OSCF within the established timeframe;
- An OCFS, Office of the State Comptroller, or other audit identifies significant fiscal irregularities and/or that funds are due to OCFS;
- The Contractor has not provided satisfactory services as required under the terms of this or another OCFS agreement;
- The contractor has not provided fiscal or program reports as required under the terms of this or another OCFS agreement;
- A local, State or federal prosecutorial or investigative agency identifies possible criminal activity, or significant fiscal or programmatic irregularities on the part of the contractor;
- The contractor is not in compliance with State or federal statutes or regulations, or applicable OCFS guidelines, policies and/or procedures; or
- Unsafe physical conditions exist at a program site operated by the contractor and funded under an agreement with OCFS.

Once the contractor has been placed on Fiscal Sanction, payments on all open contracts and any new awards, amendments or contract renewals will not be processed until the issues have been satisfactorily resolved. The contractor will be notified in advance of any proposed Fiscal Sanction and will be provided a timeframe within which the issues must be resolved in order to avoid a Fiscal Sanction. Issues that are not resolved within the timeframe established by OCFS may be referred to the Attorney General (AG) for collection or legal action. If a contract is referred to the AG a collection fee will be added to the amount owed. In addition, interest will be due on any amount not paid in accordance with the timeframes established by the AG. The contractor will remain on Fiscal Sanction until the amount owed, including any collection fee and interest is paid.

12. PROCUREMENT LOBBYING LAW

The Contractor will comply with all New York State and Office procedures relative to the permissible contacts and disclosure of contacts as required by State Finance Law Sections 139-j and 139-k and Office procedures and will affirmatively certify that all information provided pursuant to those provisions is complete, true and accurate. This certification is included in the Offerer's Certification and Affirmation of Understanding and Agreement pursuant to State Finance Law Sections 139-j and 139-k.

The Office reserves the right to terminate this contract if the Offerer's Certification filed by the Contractor in accordance with the New York State Finance Law Section 139-k was intentionally false or intentionally incomplete. Upon such a determination by the Office, the Office may exercise its termination right by providing written notification to the Contractor in accordance with the written notification terms of this contract. Nothing herein shall preclude or otherwise limit the Office's right to terminate this contact as set forth at Paragraph 8 of this Appendix A-1.

13. REQUIRED REPORTS – CONTRACTS FOR CONSULTING SERVICES

If consulting services (including services for analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal, or similar services) are provided, the contractor must submit on or before May 15th of each year for the annual period ending March 31st, Form OCFS-4843, State Consultant Services – Contractor's Annual Employment Record. This form must report information for all employees who provided services under the contract whether employed by the contractor or a subcontractor. This form will be available for public inspection and copying under the Freedom of Information Law with any individual employee names and social security numbers redacted.

Contractors can obtain this form from their Contract Manager or through the Internet at the following site:
<http://ocfs.state.nyenet/admin/Forms/Contracts/word2000/OCFS-4843%20State%20Consultant%20Services-Contractors%20Annual%20Employment%20Record.doc>

The contractor must submit a completed Form OCFS-4843, State Consultant Services – Contractor's Annual Employment Record, to each of the following addresses:

New York State Office of Children and Family Services
Bureau of Contract Management
52 Washington Street, South Building, Room 202
Rensselaer, New York 12144

New York State Office of the State Comptroller
Bureau of Contracts
110 State Street, 11th Floor
Albany, New York 12236
Attn: Consultant Reporting

New York State Department of Civil Service
Alfred E. Smith Office Building
8th Floor Counsel's Office
Albany, New York 12239

14. ADDITIONAL ASSURANCES

- a. The Office and Contractor agree that Contractor is an independent contractor, and not an employee of the Office. The Contractor agrees to indemnify the State of New York for any loss the State of New York may suffer when such losses result from claims of any person or organization (excepting only the Office) injured by the negligent acts or omission of Contractor, its officers and/or employees or subcontractors. Furthermore, The Contractor agrees to indemnify, defend, and save harmless the State of New York, and its officers, agents, and employees from any and all claims and losses occurring or resulting to any and all contractors, subcontractors, and any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of the contract, and from all claims and losses occurring or resulting to any person, firm, or corporation who may be injured or damaged by the Contractor in the performance of the contract, and against any liability, including costs and expenses, for violation of proprietary rights, copyrights, or rights of privacy, arising out of the publication, translation, reproduction, delivery, performance, or use, or disposition of any data furnished under the contract or based on any libelous or other unlawful matter contained in such data or written materials in any form produced pursuant to this contract.
- b. The Contractor agrees that Modifications and/or Budget Revisions that do not affect any change in the amount of consideration to be paid, or change the term, will be in accordance with Appendix C.
- c. Expectation of Insured: The Contractor, if a municipal corporation, represents that it is a self-insured entity. If a not-for-profit corporation or entity other than a self-insured municipal corporation, the Contractor agrees to obtain and maintain in effect a general policy of liability insurance in an appropriate amount. The Contractor agrees that it will require any and all Subcontractors with whom it subcontracts pursuant to this contract to obtain and maintain a general policy of liability insurance in an appropriate amount.
- d. Notwithstanding the provisions of Article 14 of this contract, to the extent the contractor provides health care and treatment or professional consultation to residents of facilities operated by OCFS, in conformance with Executive Law §522 the provisions of paragraphs A, B and C of Article 14 (Article 14 A., B. and C.) shall not apply. In such cases, the provisions of Public Officers Law §17, to the extent provided by Executive Law §522, shall apply instead.

15. RENEWAL NOTICE TO NOT-FOR-PROFIT CONTRACTORS

With respect to contracts that include a renewal option, if the Office does not provide notice to Contractor of its intent to not renew this contract by the date by which such notice is required by §179-t (1) of the State Finance Law, this contract shall be deemed continued until the date that the Office provides the notice required by §179-t (1), and the expenses incurred during such extension shall be reimbursable under the terms of this contract.

Appendix C
Payment and Reporting Terms and Conditions
Performance Based
(Revised 6 2012)

- This Contract is funded with non-Federal funds only
- This contract is funded in whole or in part with Federal funds (see Appendix A3, Paragraph 14, for federal audit information)
- OCFS has determined that the Contractor IS NOT a Subrecipient
- OCFS has determined that the Contractor IS a Subrecipient
- The Federal funds for this contract are from Catalog of Federal Domestic Assistance (CFDA Number(s):

I. PAYMENT TERMS AND CONDITIONS

In consideration of the services to be performed by the Contractor pursuant to this AGREEMENT, the Office of Children and Family Services (OCFS) agrees to pay and the Contractor agrees to accept a sum not to exceed the amount set forth in Appendix C-1 which is attached hereto for the period of time indicated therein. Payments under this AGREEMENT are conditional upon the continued availability of funds for this purpose and upon approval by the New York State Division of the Budget. Should funds become unavailable the Contractor shall be relieved of any obligation to continue this project beyond the period for which funds were available. Payments and future funding are contingent on the availability of funding for the activities to be conducted in accordance with this AGREEMENT.

Funds cannot be expended until the contract is approved by the Office of the State Comptroller (OSC). Expenditures cannot precede the proposed contract start date. If the Contractor makes expenditures subsequent to the proposed contract start date, but prior to OSC approval of the contract, they do so at their own risk. In the event that OSC does not approve the contract, OCFS shall have no obligation to pay the Contractor for any such expenditures made subsequent to the proposed contract start date.

See Appendix C-1 for any additional program-specific Payment Terms and Conditions applicable to this AGREEMENT. To the extent that there is a conflict between any Payment Terms and Conditions set forth in this Appendix and in Appendix C-1, the Payment Terms and Conditions in Appendix C-1 will supersede the Payment Terms and Conditions in Appendix C.

Contractor shall provide complete and accurate billing invoices to the Office in order to receive payment. Billing invoices submitted to OCFS must contain all information and supporting documentation required by this AGREEMENT, OCFS and OSC. Payment for invoices submitted by the Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the Commissioner of the Office, 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 OSC's procedures to authorize electronic payments. Authorization forms are available at OSC's website at www.osc.state.ny.us/epay/index.htm, by email at epunit@osc.state.ny.us, or by telephone at 518-474-4032. Contractor acknowledges that it will not receive payment on any invoices submitted under this AGREEMENT if it does not comply with OSC's electronic payment procedures, except where the Commissioner of the Office has expressly authorized payment by paper check as set forth above.

II. ADVANCE PAYMENT AND RECOUPMENT

- a. To the extent permitted by applicable laws and regulations, OCFS may, solely at its own discretion, make advance payment(s) to the Contractor, up to of the annual period amount, upon the submission by the Contractor of sufficient justification therefor. Any advance may be eligible for payment only upon approval of this AGREEMENT by the Attorney General and by OSC and upon the submission to OCFS by the Contractor of a properly executed State of New York Claim for Payment (AC 3523-S), or on-line claim submitted through the OCFS Contract Management System (CMS), in a form acceptable to OCFS and to OSC.
- b. Recoupment of any advance payment(s) shall be recovered by crediting as specified in Appendix C-1. If for any reason the amount of any claim is not sufficient to cover the proportionate advance amount to be recovered, then subsequent claims will be reduced until the advance is fully recovered. Any unexpended advance balance at the end of the AGREEMENT period will be refunded by the Contractor to OCFS. In the event either party terminates the AGREEMENT prior to its expiration, the Contractor agrees to refund to OCFS immediately any advance balance then outstanding.
- c. An initial advance, if determined to be payable to the Contractor, shall be payable thirty days from the start date of services within the contract period or thirty (30) days from the submission of a properly executed State of New York Claim for Payment (AC 3523-S), or on-line claim submitted through CMS, in a form acceptable to OCFS and to OSC, whichever is later.
- d. For purposes of interest determinations pursuant to Article XI-B of the State Finance Law, claims for payment of advances are payable 30 days from the start date of services within the contract period if deemed acceptable by OCFS and OSC. If the Contractor's claim for payment or on-line claim submitted through CMS, is not received within 30 calendar days of the contract becoming fully executed, no additional interest shall accrue after such thirtieth day.

III. CLAIMS FOR SERVICES

- a. The Contractor shall submit claims for payment under this AGREEMENT within fifteen (15) days after the end of each claiming period or as otherwise specified in Appendix C-1.
- b. The Contractor shall submit a New York State Claim for Payment (AC 3523-S) or on-line claim submitted through CMS within fifteen (15) days after the end of each claiming period as identified in Appendix C-1. The Contractor shall also submit the appropriate supporting documentation for the services provided. The final claim shall be submitted within thirty (30) days after the expiration of each annual contract period or the early termination of this AGREEMENT or as otherwise specified in Appendix C-1
- c. OCFS agrees to pay the Contractor for services provided in behalf of fulfilling this AGREEMENT, according to the schedule contained in Appendix C-1 and upon the submission of a properly executed State of New York Claim for Payment (AC 3523-S), or on-line claim submitted through CMS, in a form acceptable to OCFS and to OSC and the submission of the required program reports. OCFS agrees to submit each approved claim to OSC for payment, unless it shall have notified the Contractor of its disapproval of payment, in writing, together with a justification therefor.
- d. Claims for Payment other than those for payment of advances are payable on the 45th day after the end of the claiming period (monthly or quarterly as defined in this agreement) if deemed acceptable by OCFS and OSC, and if the Contractor's claim for payment or on-line claim submitted through CMS is received within 15 days after the end of said period. If the Contractor's claim for pay is received later than 15 days after the end of said period, then the claim for payment or on-line claim submitted through CMS will be payable 30 days after receipt if deemed acceptable by OCFS and OSC.
- e. For purposes of interest determinations pursuant to Article XI-B of the State Finance Law, claims for payment or on-line claims submitted through CMS other than those for the payment of advances are payable 30 days after the end of the claiming period (monthly or quarterly as defined in this agreement) if deemed acceptable by OCFS and OSC. If the Contractor's claim for payment or on-line claim submitted through CMS is not received within 30 calendar days of the contract becoming fully executed, no additional interest shall accrue after such thirtieth day.

- f. OCFS reserves the right to withhold up to ten percent (10%) of the total amount of the contract as security for the faithful completion of services under this AGREEMENT. OCFS will or will not withhold up to 10% of the total amount of this contract. This amount may be withheld in whole or in part from any single payment or combination of payments otherwise due under this AGREEMENT. The amount withheld will be paid to the Contractor upon the receipt of all required reports, including the final programmatic and fiscal reports, all products of the project as provided in the AGREEMENT as detailed in Appendix D, a final claim for payment or on-line claim submitted through CMS, the accounting for any advance payment(s) made pursuant to this AGREEMENT, and upon certification by the Contractor that it has completed its obligations and duties under this AGREEMENT.
- g. OCFS will not be liable for payments on any contract, grant or agreement made pursuant to an appropriation if insufficient monies are available.
- h. The Contractor shall require any and all subcontractors to submit all claims for services rendered and required supporting documentation and reports necessary to complete the claim in sufficient time for said information to be received by the Contractor no later than ten (10) days following the final day of the claiming period. Subcontractors shall be informed by the Contractor of the possibility of non-payment or rejection by the Contractor of claims that do not contain the required information and/or are not received by the Contractor by said due date. Subcontractors shall be paid on a timely basis after submitting the required reports and vouchers for reimbursement of services.
- i. Subcontracts should not be signed by Contractor prior to OCFS approving the subcontract and OSC approving the contract. Subcontracts cannot have start dates prior to the contract start date. If Contractor obtains signature on a subcontract subsequent to the start date, but prior to OSC approval of the contract, they do so at their own risk.

IV. AUDIT AND RECORDS RETENTION

The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this AGREEMENT (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. OSC, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this AGREEMENT, 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; (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. If the Records are in any way relevant to audit findings, litigation or claims and the audit findings, litigation, or claims are not resolved within a period of six (6) years after the end or termination of this AGREEMENT, the Contractor will retain such records until notified in writing by OCFS to dispose of them.

V. REFUNDS

In the event that the contractor must make a refund to OCFS for contract related activities (repayment of an advance, an audit disallowance, or for any other reason), payment must be made in the form of a check or money order payable to "New York State Office of Children and Family Services". The contractor must include with the payment a brief explanation of why the refund is being made and reference the contract number. Refund payments together with such explanation must be submitted to:

NYS Office of Children and Family Services
Attention: Contract Cash Receipts
Bureau of Contract Management
Capital View Office Park
52 Washington Street

VI. PROGRAM REPORTING REQUIREMENTS

- a. The Contractor shall submit a Program Report on the schedule stated in Appendix C-1.
- b. In addition to the periodic reports stated above, the Contractor shall, as applicable, prior to receipt of final payment under this AGREEMENT, submit a final program report satisfactory to OCFS no later than thirty (30) days following the termination of this contract or the completion of expenditures, whichever is sooner or as otherwise specified in Appendix C-1.

VII. REPORTING SCHEDULE

All periodic reports as identified in Appendix C-1 shall be submitted in accordance with the schedule provided unless otherwise designated in writing by the Program Officer. All periodic reports must be submitted no later than fifteen (15) days after the end of the reporting period or as otherwise specified in Appendix C-1.

VIII. DESIGNATED PAYMENT OFFICE

Designated Payment Office information is contained in Appendix C-1.

Appendix MWBE

Participation by Minority Group Members and Women with Respect to State Contracts: Requirements and Procedures

July 2012

I. General Provisions

- a. The Office of Children and Family Services (“OCFS”) 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 to the subject Contract (the “Contractor” and the “Contract,” respectively) agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to the New York State OCFS , to fully comply and cooperate with OCFS 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 certified Minority and Women-Owned Business Enterprises (“MWBE”). 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. 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.
- d. 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 VIII of this Appendix, or enforcement proceedings as allowed by the Contract.

II. Contract Goals

- a. For purposes of this Contract, OCFS hereby establishes an overall goal of 22.5% for MWBE participation, 9.5% for Minority-Owned Business Enterprises (“MBE”) participation and 13% for Women-Owned Business Enterprises (“WBE”) participation (based on the current availability of qualified MBEs and WBEs).
- b. For purposes of providing meaningful participation by MWBEs on the Contract and achieving the Contract Goals established in Section II.a. hereof, Contractor should reference the directory of New York State Certified MBWEs found at the following internet address:
<http://www.esd.ny.gov/mwbe.html>

Additionally, Contractor is encouraged to contact the Division of Minority and Woman Business Development (DMWBD) to discuss additional methods of maximizing participation by MWBEs on the Contract. DMWBD contact numbers: (518) 292-5250; (212) 803-2414; or (716) 846-8200).

- c. Where MWBE goals have been established herein, pursuant to 5 NYCRR §142.8, Contractor must document “good faith efforts” to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract. In accordance with Section 316-a of Article 15-A and 5 NYCRR §142.13, the Contractor acknowledges that if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such a finding constitutes a breach of contract and the Contractor shall be liable to OCFS for liquidated or other appropriate damages, as set forth herein.

III. Equal Employment Opportunity (EEO)

[OCFS-3460 – MWBE – Equal Employment Opportunity Policy Statement](#)

- a. Contractor agrees to be bound by and comply with the provisions of Article 15-A and the MWBE Regulations promulgated by the DMWBD. If any of these terms or provisions conflict with applicable law or regulations, such laws and regulations shall supersede these requirements.

Contractor shall comply with the following provisions of Article 15-A:

- b. Contractor and Subcontractors shall undertake or continue existing Equal Employment Opportunity (EEO) programs to ensure that minority group members and women are afforded employment opportunities without discrimination 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. 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.
- c. The Contractor shall submit an EEO Policy Statement to OCFS within 3 (three) business days after the notice of award by OCFS to the Contractor.
- d. If Contractor or Subcontractor does not have an existing EEO Policy Statement, OCFS may provide a model Policy Statement [OCFS-3460 – MWBE – Equal Employment Opportunity Policy Statement](#)
- e. The Contractor's EEO Policy Statement shall include the following language:
 - i. The Contractor and/or Subcontractor 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; 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.
 - ii. The Contractor and/or Subcontractor 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 (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.
 - iii. The Contractor and/or Subcontractor 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 (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; and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.
 - iv. The Contractor shall comply with the provisions of the Human Rights Law, and all other State and Federal statutory and constitutional non-discrimination provisions. Contractor and Subcontractor 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.

- v. The Contractor and/or Subcontractor will include the above-noted language provisions outlined in numbers i. through iv., which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements in the language will be binding upon each subcontractor as to work in connection with the Contract.

IV. Project Staffing Plan Form

[OCFS-4629 - Project Staffing Plan Form](#)

- a. To ensure compliance with the Equal Employment Opportunity (EEO) Section above, the Contractor shall submit a Project Staffing Plan to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. Contractors shall complete the Staffing plan form and submit it as part of their bid or proposal.
- b. Once a contract has been awarded, and during the term of Contract, Contractor will, on a quarterly basis, submit to OCFS any modifications or changes to the Project Staffing Plan Form. The Contractor's Project Staffing Plan Form will only include workforce data for staff utilized on the prime contract, and should not include data on staff performing work under any subcontracts. In limited instances, Contractor may not be able to separate out the workforce utilized in the performance of the Contract from Contractor's and/or subcontractor's total workforce. When a separation can be made, Contractor shall submit the Project Staffing Form and indicate that the information provided related to the actual workforce utilized on the Contract. When the workforce to be utilized on the contract cannot be separated out from Contractor's and/or subcontractor's total workforce, Contractor shall submit the Project Staffing Form and indicate that the information provided is Contractor's total workforce during the subject time frame, not limited to work specifically under the contract.

V. Subcontracting/Suppliers Utilization Form

[OCFS-4631 – Subcontracting/Suppliers Utilization Form](#)

- a. The Contractor represents and warrants that Contractor has submitted a Subcontracting/Supplier Utilization Form prior to the execution of the contract.
- b. Contractor agrees to use such Subcontracting/Supplier Utilization Form for the performance of MWBEs on the Contract pursuant to the prescribed MWBE goals set forth in Section II.a. of this Appendix.
- c. Contractor further agrees that failure to submit and/or use such Subcontracting/Suppliers Utilization Form may constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, OCFS shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsiveness.

VI. M/WBE Subcontractors & Suppliers Letter of Intent to Participate Forms

[OCFS-4630 - Subcontractors and Suppliers Letter of Intent to Participate Form](#)

The OCFS-4630 Subcontractor and Suppliers Letter of Intent to Participate Form is to be completed by the proposed M/WBE Subcontractor/Supplier. It is to be submitted prior to the execution of the contract, attached to the OCFS-4631 Subcontracting/Suppliers Utilization Form, for each certified Minority or Women-Owned Business Enterprise the Bidder proposes to utilize as subcontractors, service providers or suppliers. If the MBE or WBE proposed for a portion of this Contract is a part of a joint venture or other temporarily-formed business arrangement, the name and address of the joint venture or the temporarily formed business entity should be indicated.

VII. Waivers

[OCFS-4442 - M/WBE Request for Waiver Form](#)

For Waiver Requests, Contractor should use the OCFS-4442 MWBE Request for Waiver Form.

- a. If the Contractor, after making good faith efforts, is unable to comply with MWBE goals, the Contractor may submit an OCFS-4442 MWBE Request for Waiver Form documenting good faith efforts by the Contractor to meet such goals. If the documentation included with the waiver request is complete, OCFS shall evaluate the request and issue a written notice of acceptance or denial within twenty (20) days of receipt.
- b. If OCFS, upon review of the OCFS-4631 Subcontracting/Suppliers Utilization Form and updated OCFS-4441 MWBE Quarterly Reports, determines that Contractor is failing or refusing to comply with the Contract goals and no waiver has been issued in regards to such non-compliance, OCFS may issue a Notice of Deficiency to the Contractor. The Contractor must respond to the Notice of Deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

VIII.MWBE Quarterly Report

[OCFS-4441 - M/WBE Quarterly Report Form](#)

Contractor is required to submit an MWBE Quarterly Report to OCFS with 10 days following the end of each applicable reporting quarter over the term of the Contract, documenting the progress made towards achievement of the MWBE goals.

IX. Liquidated Damages - MWBE Participation

- a. Where OCFS determines that the Contractor is not in compliance with the requirements of the Contract concerning participation by minority and women-owned business enterprises, and that such failure to comply was willful and intentional, or that Contractor refused to comply with such requirements after being notified by OCFS of non-compliance with such requirements, Contractor shall be obligated to pay liquidated damages to OCFS.
- b. Such liquidated damages shall be calculated up to amount equaling the difference between:
 - i. All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and
 - ii. All sums actually paid to MWBEs for work performed or materials supplied under the Contract.
- c. In the event a determination has been made which requires the Contractor pay liquidated damages and the identified sums of liquidated damages has not been withheld by the OCFS from any payments due to the Contractor, the Contractor shall pay such liquidated damages as have not been withheld to the OCFS within sixty (60) days after the Contractor is notified by the OCFS that the Contractor is required to pay such damages unless, prior to the end of the sixtieth day, the Contractor has filed a complaint with the Director of the Division of Minority and Woman Business Development (Director) pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the liquidated damages shall be payable within 30 days after issuance of Director's decision if the Director renders a decision in favor of the OCFS.

Required Electronic Payments and Substitute Form W-9

The Governor's Office of Taxpayer Accountability has issued a directive that all State Agency and Authority contracts, grants and purchase orders executed after February 28, 2010 shall require vendors, contractors and grantees to accept electronic payment (epay).

Additionally as New York State proceeds with implementing the new Statewide Financial System, the Office of the State Comptroller (OSC) is preparing a centralized vendor file. To assist OSC in this project, vendors are directed to provide a Substitute Form W-9 which includes the taxpayer identification number, business name, and business contact person. This data is critical to ensure the vendor file contains information State Agencies need to contract with and pay vendors.

Please note that the contractor payee name and address provided to OSC for the epay program must match exactly the contractor name and address contained in the contractor's contract with the New York State Office of Children and Family Services. If these do not match, then a check is printed and mailed to the payee. Note that limited exemptions may be granted for extenuating circumstances.

Vendors should also file a Substitute Form W-9 with their Electronic Payment Authorization Form.

More information concerning these new requirements, including forms and contacts for questions, can be found at the following links:

<http://www.osc.state.ny.us/agencies/gbull/g240.htm>

<http://www.osc.state.ny.us/epay/how.htm>

10. Required Forms

The following is a list of required forms/documents to be completed; **Most** can be accessed in hard copy attached below, in this RFP document, **or in some cases**, by clicking the direct link provided next to each applicable form. Additionally, please note most of these forms can be accessed on the OCFS Internet forms website at the following address: <http://www.ocfs.state.ny.us/main/forms/contracts/>

The forms in the Financial Proposal are designed to facilitate proposal evaluation and to standardize responses to this RFP. The Offeror must submit them in their proposal to streamline the evaluation process.

10.1 - MacBride Fair Employment Principles in Northern Ireland

10.2 - Non-Collusive Bidding Certification Required by Section 139D of the State Finance Law

10.3 - Security, Nondisclosure, Confidentiality and Press Release Agreement

10.4 Non-Discrimination Non-Sectarian Compliance (OCFS-4555)

<http://www.ocfs.state.ny.us/main/Forms/Contracts/OCFS-4555%20Non-Discrimination,%20Non-Sectarian%20Compliance.doc>

10.5 Board of Directors Profile (OCFS-4552)

<http://www.ocfs.state.ny.us/main/forms/contracts/ocfs-4552%20Board%20of%20Directors%20Profile.dot>

10.6 - MWBE Subcontractors and Suppliers – Letter of Intent to Participate (OCFS-4630)

<http://www.ocfs.state.ny.us/main/Forms/Contracts/OCFS-4630%20MWBE%20Subcontractors%20and%20Suppliers%20-%20Letter%20of%20Intent%20to%20Participate.doc>

10.7 - Subcontracting Utilization Form (OCFS-4631)

..... <http://www.ocfs.state.ny.us/main/Forms/Contracts/OCFS-4631%20Subcontracting-Suppliers%20Utilization%20Form.dot>

10.8 - Subcontractors and Suppliers Letter of Intent to Participate Form (OCFS-4630)

<http://www.ocfs.state.ny.us/main/forms/contracts/ocfs-4630%20MWBE%20Subcontractors%20and%20Suppliers%20-%20Letter%20of%20Intent%20to%20Participate.doc>

10.9 - M/WBE Quarterly Report Form (OCFS-4441)

10.10 - Project Staffing Plan Form (OCFS-4629)

<http://www.ocfs.state.ny.us/main/forms/contracts/ocfs-4629%20Project%20Staffing%20Plan.doc>

10.11 - Minority and Women-Owned Business Enterprises (MWBE) Equal Employment Opportunity (EEO) Policy Statement (OCFS-3460)

<http://www.ocfs.state.ny.us/main/Forms/Contracts/OCFS-3460%20Minority%20and%20Women-Owned%20Business%20Enterprises%20-MWBE%20Equal%20Employment%20Opportunity%20-%20EEO%20Policy%20Statement.dot>

10.12 - Procurement Lobbying Act – Offerer Certification Form (OCFS-4822)

<http://www.ocfs.state.ny.us/main/Forms/Contracts/OCFS-4822%20Procurement%20Lobbying%20Act%20-%20Offerer%20Certification%20Form.doc>

10.13 - State Consultant Services – Contractors Planned Employment (OCFS-4842)

<http://www.ocfs.state.ny.us/main/Forms/Contracts/OCFS-4842%20State%20Consultant%20Services-Contractors%20Planned%20Employment.doc>

10.14 - State Consultant Services – Contractors Annual Employment Record (OCFS-4843)

<http://www.ocfs.state.ny.us/main/Forms/Contracts/OCFS-4843%20State%20Consultant%20Services-Contractors%20Annual%20Employment%20Record.doc>

10.15 - Vendor Responsibility Questionnaire (For-Profit)

<https://portal.osc.state.ny.us/>

10.16 - Vendor Responsibility Questionnaire (Not-For-Profit) (OCFS-7050) (if applicable)

<http://www.ocfs.state.ny.us/main/Forms/Contracts/Vendor%20Responsibility%20Questionnaire%20-%20Not-for-Profit%20Business%20Entity%20OCFS-7050.doc>

10.17 - **ST-220-TD** (NYS Tax Department Form) Contractor Certification (if applicable)
http://www.tax.ny.gov/pdf/2007/killin/st/st220td_507_fill_in.pdf

10.18 - **ST-220-CA** (NYS Tax Department Form) Contractor Certification to Covered Agency (if applicable)
http://www.tax.ny.gov/pdf/2006/killin/st/st220ca_606_fill_in.pdf

For more information on ST-220 Forms, see
Publication 223
http://www.tax.ny.gov/pdf/publications/sales/pub223_507.pdf

10.19 - Contractor Employee Background Certification (**OCFS-4716**) (if applicable)
<http://www.ocfs.state.ny.us/main/forms/contracts/OCFS-4716%20Contractor%20Employee%20Background%20Certification.dot>
Please note that these forms should be completed after the bidder has been awarded funding and during the contract development

10.20 - Contractor Employee Confidentiality Certification (**OCFS-4715**) (if applicable)
<http://www.ocfs.state.ny.us/main/forms/contracts/OCFS-4715%20Contractor%20Employee%20Confidentiality%20Certification.dot>
Please note that these forms should be completed after the bidder has been awarded funding and during the contract development

10.21 Contract Management System Authorization Form

10.22 Cost Proposal Worksheet

10.23 Vendor Experience Form

10.24 Confidentiality/Non-Disclosure Agreement

10.1. *Macbride Fair Employment Principles*

Non-discrimination in Employment in Northern Ireland

In accordance with section 165 of the State Finance Law, the bidder, by submission of this bid certifies that it or any individual or legal entity in which the bidder holds a 10 percent or greater ownership interest, or any individual or legal entity that holds a 10 percent or greater ownership in the bidder, either: (answer yes or no to one or both of the following, as applicable),

- (1) has business operations in Northern Ireland;

Yes _____ No _____

if yes:

- (2) shall take lawful steps in good faith to conduct any business operations that it has in Northern Ireland in accordance with the MacBride Fair Employment Principles relating to nondiscrimination in employment and freedom of workplace opportunity regarding such operations in Northern Ireland, and shall permit independent monitoring of their compliance with such Principles.

Yes _____ No _____

Signature

Typed/Printed Name and Title

10.2. NON-COLLUSIVE BIDDING CERTIFICATION

NEW YORK STATE
OFFICE OF CHILDREN AND FAMILY SERVICES

NON-COLLUSIVE BIDDING CERTIFICATION REQUIRED BY SECTION 139-D OF THE STATE FINANCE LAW

➤ **SECTION 1 39-D. Statement of Non-Collusion in bids to the State:**

By Submission of this Bid, Bidder and each person signing on behalf of Bidder certifies, and in the case of Joint Bid, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his/her knowledge and belief:

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

A Bid shall not be considered for award nor shall any award be made where 1., 2., and 3. above have not been complied with; provided however, that if in any case, the Bidder(s) cannot make the foregoing certification, the Bidder shall so state and shall furnish below a signed statement which sets forth in detail the reasons therefore:

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

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

➤ **If Bidder(s) (are) a Partnership, complete the following:**

Names of Partners or Principals

Legal Residence

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

**NON-COLLUSIVE BIDDING CERTIFICATION REQUIRED BY
SECTION 139-D OF THE STATE FINANCE LAW (Continued)**

➤ If Bidder(s) (are) a Corporation, complete the following:

Names

Legal Residence

President

Secretary

Treasurer

President

Secretary

Treasurer

Identifying Data

Potential Contractor: _____

Street Address: _____

City, State, Zip Code: _____

Title / Telephone #: _____ (_____) _____
Area Code

If applicable, Responsible Corporate Officer

Name: _____

Title / Telephone #: _____ (_____) _____
Area Code

Signature

Typed/Printed Name and Title

**NON-COLLUSIVE BIDDING CERTIFICATION REQUIRED BY
SECTION 139-D OF THE STATE FINANCE LAW (Continued)**

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

Legal name of person, firm or corporation

Legal name of person, firm or corporation

By:

Name

Name

Title

Title

Address:

Street

Street

City, State, Zip Code

City, State, Zip Code

10.3. Security, Nondisclosure, and Confidentiality Agreement

NEW YORK STATE
OFFICE OF CHILDREN AND FAMILY SERVICES

Security, Nondisclosure, and Confidentiality Agreement

The Contractor shall maintain the security, nondisclosure and confidentiality of all information in accordance with the following clauses in performance of its activities under this Agreement.

A. Security Procedures

Contractor agrees to comply fully with all security procedures of the State in relation to providing services and agrees that its officers, agents, employees and subcontractors shall be required to undergo the same security clearances as are required of the employees of the State. Specifically, each prospective and current employee of Contractor designated to work under this Agreement with the State may be required to submit identifying information and be fingerprinted. The State shall arrange for the scheduling of such fingerprinting activities on State premises. Contractor shall pay the fee prescribed by the Division of Criminal Justice Services for processing such fingerprint card, subject to waiver at the discretion of the State.

B. Nondisclosure and Confidentiality

Except as may be required by applicable law or a court of competent jurisdiction, the Contractor, its officers, agents, employees, and subcontractors shall maintain strict confidence with respect to any Confidential Information to which the Contractor, its officers, agents, employees, and subcontractors have access. This representation shall survive termination of this Agreement. For purposes of this Agreement, all State information of which Contractor, its officers, agents, employees, and subcontractors becomes aware during the course of performing services for the State shall be deemed to be Confidential Information (oral, visual or written). Notwithstanding the foregoing, information which falls into any of the following categories shall not be considered Confidential Information:

- (a) information that is previously rightfully known to the receiving party without restriction on disclosure;
- (b) information that becomes, from no act or failure to act on the part of the receiving party, generally known in the relevant industry or is in the public domain; and
- (c) information that is independently developed by Contractor without use of Confidential Information of the State.

Contractor shall hold the State harmless from any loss or damage to the State resulting from the disclosure by the Contractor, its officers, agents, employees, and subcontractors of such confidential information.

PRESS RELEASES: Contractor agrees that no brochure, news/media/press release, public announcement, memorandum or other information of any kind regarding this Agreement shall be disseminated in any way to the public, nor shall any presentation be given regarding this Agreement without the prior written approval by the undersigned or the undersigned's designee from the State, which written approval shall not be unreasonably withheld or delayed provided, however, that Contractor shall be authorized to provide copies of this Agreement and answer any questions relating thereto to any State or Federal regulators or, in connection with its financial activities, to financial institutions for any private or public offering.

PUBLIC INFORMATION: Disclosure of items related to this Agreement shall be permitted consistent with the laws of the State of New York and specifically the Freedom of Information Law (FOIL) contained in Section 87 of the Public Officers Law. The State shall take reasonable steps to protect from public disclosure any of the records relating to this procurement that are otherwise exempt from disclosure under that statute. Information constituting trade secrets, for purposes of FOIL, must be clearly marked and identified as such upon submission. If the Contractor intends to seek an exemption from disclosure of these materials under FOIL, the Contractor shall, at the time of submission, request the exemption in writing and provide an explanation of why the disclosure of the identified information would cause substantial injury to the competitive position of the Contractor. Acceptance of the identified information by the State does not constitute a determination that the information is exempt from disclosure under FOIL. Determinations as to the availability of the identified information will be made in accordance with FOIL at the time a request for such information is received by the State.

Signature

Date

Typed/Printed Name and Title

10.4. Non-Discrimination/Non-Sectarian Compliance

OCFS-4555 (Rev. 04/2007)

New York State
Office of Children and Family Services

Agency Name (enter above)

- | | <u>Yes</u> | <u>No</u> |
|--|--------------------------|--------------------------|
| a. According to the Certificate of Incorporation, are the organization's purposes sectarian? (For example, is the organization a corporation organized under the religious corporation law or a corporation which has a corporate purpose to serve a particular religious group or to promote the doctrine of a particular religion in general?) | <input type="checkbox"/> | <input type="checkbox"/> |
| b. Are any of the proposed services in your project sectarian in nature? | <input type="checkbox"/> | <input type="checkbox"/> |
| c. Does the organization have as its goal the furthering of any sectarian purpose? | <input type="checkbox"/> | <input type="checkbox"/> |
| d. Are the services to be provided by sectarian staff? (e.g. Clergy) | <input type="checkbox"/> | <input type="checkbox"/> |
| e. Are services being delivered in a building owned by a sectarian organization? | <input type="checkbox"/> | <input type="checkbox"/> |
| f. Are services direct educational services in connection with a school? | <input type="checkbox"/> | <input type="checkbox"/> |
| g. Will the proposed services be provided on the basis of race, religion, color, national origin or sex? | <input type="checkbox"/> | <input type="checkbox"/> |

h. What is the target population of the organization?

i. What will the organization do if individuals who are not part of your target population ask for services?

j. Will the organization serve, either through direct services or referrals, all who request assistance?

If the answer(s) to any of the questions a-e, or g, are "yes", then justify why you should be funded below.

ORGANIZATION INFORMATION

For statistical purposes, check yes or no for each of the following items as it relates to your organization.

- | | | | | | |
|-------------------------|------------------------------|-----------------------------|----------------------|------------------------------|-----------------------------|
| Non-Profit Organization | Yes <input type="checkbox"/> | No <input type="checkbox"/> | Women-Owned Business | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| Minority Business | Yes <input type="checkbox"/> | No <input type="checkbox"/> | Municipality | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| Small Business | Yes <input type="checkbox"/> | No <input type="checkbox"/> | | | |

10.5. BOARD OF DIRECTORS PROFILE

OCFS-4552 (Rev. 1/2011) FRONT

New York State
OFFICE OF CHILDREN AND FAMILY SERVICES

Must be completed, signed by the Board Chairperson, and included in application
See Instructions on Page 2 of this form.

AGENCY _____

Name, Address, and E-Mail	Current Occupation and Current Employer	Length of Service & Position on the Board
1.		
2.		
3.		
4.		
5.		
6.		
7.		

The number of directors constituting the entire Board must not be less than five/Not-for-Profit Corp. L. s702sub (a). The Office advises a manageable number of Board Directors to assure maximum working effectiveness. Of this number, the Office recommends Board composition to include individuals with experience in, or access to, legal matters, financial management, real estate knowledge, and administrative capability and “consumer” representation.

Date

Chairperson, Board of Directors

**BOARD OF DIRECTORS PROFILE
Not-For-Profit Organizations**

Instructions for Board of Directors Profile Form

The Board of Directors Profile Form OCFS-4552, must be completed. This includes Name, Address, E-mail, Current Occupation and Employer, Length of Service and Position on the Board and Board Chairperson's signature and date.

The outlined points noted below must be followed with regard to the Board of Directors for Not-For-Profit Organizations.

- **For the purposes of this Request for Proposal, the number of members on the Board of Directors must not be less than five (5).** OCFS has determined that a five member board is necessary to show the maturity and depth of the organization as well as the capacity of the organization and the board to properly provide services and oversee the administration of the grant. The added board members show that the organization has a broad base of community support, and enhance the ability of the board to comprehensively oversee the functions and activities of the organization. The additional board members also protect against the problem that can arise when a board member unexpectedly leaves the board, as the Not-for-Profit Corporation Law requires that a not-for-profit corporation have at least three board members. The extra board members enable the corporation to continue to function properly under the law in the interval between the departure of a board member and the appointment of a replacement. Please attach minutes and attendance lists from the organizations last three board of directors meetings.
- Be sure ALL columns are filled in for each Board Member; list both occupation and employer for each Board Member. If one or more Board Members are retired, or otherwise not employed (ex.: "Community Volunteer", or "Homemaker"), please note that status in the second column as well as their previous or current occupation. If the Board Member is self-employed, the name and nature of their business must be included.
- Where the corporation is licensed by OCFS to operate residential facilities for victims of domestic violence, no board member (including non-voting, ex-officio members) of the corporation may be a paid employee of the applicant organization. This provision is non-waivable, and applies even if the contract in question is for an activity other than the operation of a residential facility for victims of domestic violence. If the Board of Directors Profile submitted lists a paid employee as a member of the Board of Directors, the contract cannot be approved until that individual is removed from the Board of Directors Profile.
- Only the chief executive officer (CEO) of a voluntary child-caring agency may serve as a non-voting member of the Board; other paid employees are subject to the same prohibition. No paid employee of a corporation requiring OCFS approval to incorporate may sit on the agency's Board, unless the individual is the CEO of a voluntary child-caring agency. There is no waiver available for this scenario. If the Board of Directors Profile for a voluntary child-caring agency submitted lists a paid employee other than the CEO as a member of the Board of Directors, the contract cannot be approved until that individual is removed from the Board of Directors Profile.
- Board members must avoid transactions involving the applicant organization in which they personally benefit or which create the appearance that they could personally benefit. Board members who are employed by government organizations must avoid situations in which they could use their official position or capacity for the benefit of the applicant organization or which create the appearance that they could use their official position or capacity for the benefit of the applicant organization. As such, social services district or other county employees, membership on a corporation's Board of Directors will be examined. OCFS will determine whether a conflict of interest or appearance of impropriety exists, and how, if at all, it can be rectified such that the individual can remain on the Board of Directors.
- For any board member employed by the local social services district or other county government agency whose Board of Directors services presents a potential conflict of interest or appearance of impropriety, a letter must be submitted with this application from the County Ethics Board, County Attorney or other appropriate local entity, stating that their service on the board does not constitute a conflict or otherwise violate applicable ethics provisions. OCFS will review the information submitted and advise the applicant organization accordingly. OCFS may request additional information in instances in which the potential for a conflict of interest or appearance of impropriety arises.
- You can attach a board listing, using a different form, as long as you use the OCFS form as your first page, entering "See Attached List": under number 1, and entering your agency name, date, and Board Chairperson's signature on the OCFS form.
- If you attach a board listing, using a different form, make sure all the required information on the OCFS form is conveyed on the attached form.

10.6. M/WBE SUBCONTRACTORS AND SUPPLIERS LETTER OF INTENT TO PARTICIPATE FORM

OCFS-4630 (Rev. 4/2003)

Page 1 of 2

New York State
Office of Children and Family Services

Prime Contractor Information	
Contractor Name: (Prime Contractor Business Name)	Address:
Proposal/Contract Number:	Federal ID Number:
Contract Scope of Work: (Enter services, supplies, commodities to be provided or purchased)	

M/WBE Subcontractor/Supplier Information	
M/WBE Name: (Subcontractor Business Name)	Contact Person:
	Federal ID Number (If Applicable)
Address:	Telephone () -
Designation (Check any that Apply)	
<input type="checkbox"/> MBE – Subcontractor	<input type="checkbox"/> MBE – Supplier
<input type="checkbox"/> WBE – Subcontractor	<input type="checkbox"/> WBE – Supplier
Are you a NYS M/WBE Certified by the NYS Empire State Development Corp?	
<input type="checkbox"/> Yes <input type="checkbox"/> No	

Joint Venture Section (Complete ONLY if you are in a Joint Venture)	
Name:	Federal ID Number:
Address:	<input type="checkbox"/> MBE <input type="checkbox"/> WBE

Work/Services to be Provided by M/WBE Subcontractor/Supplier

Please specify in detail below, the particular items of work or services to be performed, and the materials or supplies to be purchased, including the cost for each, and the expected Contract start and completion dates for such work.

- Work/services to be performed:

Cost:

- Materials/Supplies to be purchased:

Cost:

- Date Supplies Ordered:
- Date Supplies Delivered:
- Date Proposal/Contract to Start:
- Date Proposal/Contract to Complete:

M/WBE Subcontractor/Supplier "Agreement/Signature" Section

This is to certify that the undersigned will enter into a formal agreement with the Prime Contractor to provide the work/services, at the cost and start/completion dates stated in the above **"Work/Services To Be Provided"** Section. The undersigned will enter into a formal agreement for the above work with the Contractor, ONLY upon the Contractor's execution of a contract with the OCFS. The above work will not be further subcontracted without the express written permission of the Contractor, and notification to OCFS.

Signature of M/WBE Subcontractor/Supplier

Date

Printed/Typed Name of M/WBE Subcontractor/Supplier

10.7. SUBCONTRACTING/SUPPLIERS UTILIZATION FORM

OCFS-4631 (Rev 6/2012)

NEW YORK STATE
OFFICE OF CHILDREN AND FAMILY SERVICES

To Be Completed By Contractor	
Contractor Name:	Contact Person:
Address:	Telephone No:
Project Name/RFP Title:	Contract Amount:
Project Location:	
Description of Goods/Services/Supplies to be Provided:	

Subcontracting/Purchasing with Majority Vendors:
(Enter anticipated total % of dollar amount to be spent with majority vendors (non-minority))

Participation Goals Anticipated:
(Enter anticipated total % of dollar amount to be spent with identified MBEs and/or WBEs at the start of the Contract)

Participation Goals Achieved:
(Enter actual total % of dollar amount to be spent with identified MBEs and/or WBEs at the close of the Contract)

List of Subcontractors/Suppliers:

Firm Name and Address	Description of Services/Supplies	Amount	Date of Subcontract	Identify whether MBE or WBE and if NYS Certified.
				<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> NYS Certified
				<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> NYS Certified
				<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> NYS Certified

Contractors Agreement:
My firm proposes to use the M/WBEs listed above.

_____ (Signature of Contractor) _____ (Printed Name) _____ (Date)

To be Completed by OCFS Contract Manager		
OCFS Contract Manager:	Telephone:	
Contract Number:	Contract Amount:	
Date of Bid: (date RFP submitted)	Date Let: (date RFP awarded contract)	Completion Date: (Contract end date)

Reviewed By: _____	FOR EODD USE ONLY	M/WBE Firms: <input type="checkbox"/> Certified <input type="checkbox"/> Not Certified
	Date: _____	

10.8. Project Staffing Plan

OCFS 4629 (Rev. 4/2003)

NEW YORK STATE
OFFICE OF CHILDREN AND FAMILY SERVICES

DATE:

--	--	--

Company/Grantee Information					
Company/Agency Name:	Contact Person:				
Address:	Title: Telephone:				
Is Agency Not-For-Profit? <input type="checkbox"/> Yes <input type="checkbox"/> No	Federal ID#/NYS Payee ID# Contract #: Prime Contract <input type="checkbox"/> Sub-Contract <input type="checkbox"/>				
Reporting Period: From: <table border="1" style="display: inline-table; vertical-align: middle;"><tr><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px;"></td></tr></table> To: <table border="1" style="display: inline-table; vertical-align: middle;"><tr><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px;"></td></tr></table>					OCFS Program Area:

Staffing Plan Information

NOTE: Determination of ethnicity of staff can be made by observation – Use your professional judgment in terms of where staff fall into the below listed categories

TITLE CATEGORY	TOTAL WORK FORCE	TOTAL WORK FORCE BY:		BLACK		HISPANIC		ASIAN/PACIFIC ISLANDER		ALASKAN/NATIVE AMERICAN		WHITE (NOT OF HISPANIC ORIGIN)		DISABLED		VIETNAM ERA VETERAN	
		M	F	M	F	M	F	M	F	M	F	M	F	M	F		
Officials/Administrators																	
Professionals																	
Technicians																	
Para-Professionals																	
Administrative Support (Clerical)																	
Skilled Craftworkers																	
Service Maintenance																	
Total																	
Total By Percentage	N/A	%	%	%	%	%	%	%	%	%	%	%	%	%	%	%	%

10.9. M/WBE Quarterly Report Form

OCFS-4441 (May 2012)

Page 1 of 2

New York State
Office of Children and Family Services

Is this a final report? Yes No

Contract Number _____

Project Name/Number _____

The following information indicates the payment amounts made by the grantee/contractor to the NYS Certified M/WBE subcontractor/supplier on this project. The payments below shown as "Total Payment Made to Date" are in compliance with contract documents for the above referenced Contract/Project.

Contractors Name and Address _____ _____		Vendor ID# _____	Goals / \$ Amt. MBE _____ % = \$ _____ WBE _____ % = \$ _____		Reporting Period (State Fiscal Year): (see Pg 2 of Form) <input type="checkbox"/> 1 st Quarter (04/01-06/30) <input type="checkbox"/> 3 rd Quarter (10/01-12/31) <input type="checkbox"/> 2 nd Quarter (07/01-09/30) <input type="checkbox"/> 4 th Quarter (01/01-03/31)					
		Project Completion Date _____	Project Location (City) _____		Paid to Contractor This Quarter: \$ _____ Total Paid to Contractor To Date: \$ _____					
M/WBE Subcontractor/Vendor	Product Code (Pg. 2)	Work Status-This Report	Total Subcontractor Contract Amount		Payments this Quarter		Previous Payments		Total Payment Made to Date	
			MBE	WBE	MBE	WBE	MBE	WBE	MBE	WBE
Name:		<input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Complete	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Vendor ID#:										
Name:		<input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Complete	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Vendor ID#:										
Name:		<input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Complete	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Vendor ID#:										
Name:		<input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Complete	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Vendor ID#:										
Total			\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____

Date: _____ Printed Name: _____ Title: _____ Signature: _____

OCFS-4441 (May 2012)

Page 2 of 2

New York State
Office of Children and Family Services
M/WBE Quarterly Report Form

(Failure to submit this Form may result in non-compliance – Completion of this form is only applicable to Contract Awardees)

Certification: In order to be recognized as a certified MWBE, a vendor must be for-profit and certified by Empire State Development.

Note: **Reporting Period (State Fiscal Year) – Page 1 of Form**

The Reporting period is arranged to correspond to the State Fiscal Year. When completing this section, be careful to only account for MWBE dollars spent during requested quarters (corresponding timeframes) regardless of contract period.

Due Date: No later than 10 days after the end of each reporting quarter.

PRODUCT KEY CODE

- A = Agriculture/ Landscaping (e.g., all forms of landscaping services)
- B = Mining (e.g., geological investigations)
- C = Construction
- C15 = Building Construction – General Contractors
- C16 = Heavy Construction (e.g., highway, pipe laying)
- C17 = Special Trade Contractors (e.g., plumbing, heating, electrical, carpentry)
- D = Manufacturing
- E = Transportation, Communication and Sanitary Services (e.g., delivery services, warehousing, broadcasting and cable systems)
- F/G = Wholesale/Retail Goods (e.g. hospital supplies and equipment, food stores, computer stores, office supplies)
- G52 = Construction Materials (e.g., lumber, paint, law supplies)
- H = Financial, Insurance and Real Estate Services
- I = Services
- I73 = Business Services (e.g., copying, advertising, secretarial, janitorial, rental services of equipment, computer programming, security services)
- I81 = Legal Services
- I82 = Education Services (e.g., AIDS education, automobile safety, tutoring, public speaking)
- I83 = Social Services (Counselors, vocational training, child care)
- I87 = Engineering, architectural, accounting, research, management and related services

10.10. M/WBE Request for Waiver Form

OCFS-4442 (May 2012)

Page 1 of 2

New York State
Office of Children and Family Services

(Instructions: See page 2 of this Form for Requirements and Document Submission Instructions)

Offeror/Contractor Name:	Vendor ID Number:	
Address:	Solicitation/Contract No.:	
City, State, Zip Code:	M/WBE Goals: MBE % WBE %	
<p>By submitting this form and the required information, the Offeror/Contractor certifies that every good faith effort has been taken to promote M/WBE participation pursuant to the M/WBE requirements set forth under the contract.</p>		
<p>Contractor is requesting:</p> <p>1. <input type="checkbox"/> MBE Waiver – A waiver of the MBE Goal for this procurement is requested. <input type="checkbox"/> Total <input type="checkbox"/> Partial</p> <p>2. <input type="checkbox"/> WBE Waiver – A waiver of the WBE Goal for this procurement is requested. <input type="checkbox"/> Total <input type="checkbox"/> Partial</p> <p>3. <input type="checkbox"/> Waiver Pending ESD Certification – (Check here if subcontractors or suppliers of Contractor are not certified M/WBE, but an application for certification has been filed with Empire State Development.) Date of such filing with Empire State Development: _____</p>		
<p>Prepared by (Signature):</p> <p>Date:</p> <p>Printed Name and Title of Preparer:</p>	<p>Submission of this form constitutes the Offeror/Contractor's acknowledgement and agreement to comply with the M/WBE Requirements set forth under NYS Executive Law, Article 15-a and 5 NYCRR Part 143. Failure to submit complete and accurate information may result in a finding of non-compliance and/or termination of the Contract.</p>	
Telephone Number:	Email Address:	
Submit this form with the bid or proposal, or if submitting after award submit to:	***** FOR M/WBE USE ONLY *****	
	Reviewed By:	Date:

certified M/WBE participation goals.

9. Provide any other information you deem relevant which may help us in evaluating your request for a waiver.
10. Provide the name, title, address, telephone number, and email address of Offeror/Contractor's representative authorized to discuss and negotiate this waiver request.
11. Copy of notice of application receipt issued by Empire State Development (ESD).

Note: Unless a Total Waiver has been granted, the Offeror/Contractor will be required to submit all reports and documents pursuant to the provisions set forth in the Contract, as deemed appropriate by OCFS, to determine M/WBE compliance.

NEW YORK STATE
OFFICE OF CHILDREN AND FAMILY SERVICES

10.11. Minority and Women-Owned Business Enterprises (MWBE) Equal Employment Opportunity (EEO) Policy Statement

By signing and submitting this Policy Statement, the below noted awardee/contractor (authorized representative) agrees to adopt the following policies with respect to the project/program being developed or services rendered, at the location noted on this form. See page 2 for required signatures.

M/WBE

This organization will, and will cause its contractors and subcontractors to, take good faith actions to achieve the M/WBE contract participation goals set by the State for that area in which the State-funded project is located, by taking the following steps:

- i. Actively and affirmatively solicit bids for contracts and subcontracts from qualified State certified MBEs or WBEs, including solicitations to M/WBE contractor associations.
- ii. Request a list of State-certified M/WBEs from AGENCY and solicit bids from them directly.
- iii. Ensure that plans, specifications, request for proposals and other documents used to secure bids will be made available in sufficient time for review by prospective M/WBEs.
- iv. Where feasible, divide the work into smaller portions to enhanced participations by M/WBEs and encourage the formation of joint venture and other partnerships among M/WBE contractors to enhance their participation.
- v. Document and maintain records of bid solicitation, including those to M/WBEs and the results thereof. Contractor will also maintain records of actions that its subcontractors have taken toward meeting M/WBE contract participation goals.
- vi. Ensure that progress payments to M/WBEs are made on a timely basis so that undue financial hardship is avoided, and that bonding and other credit requirements are waived or appropriate alternatives developed to encourage M/WBE participation.

EEO

- i. This organization 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; will undertake or continue existing programs of affirmative action to ensure that minority group members are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on state contracts.
- ii. This organization shall state in all solicitation 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 (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.
- iii. At the request of the contracting agency, this organization 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 (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; and that such union or representative will affirmatively cooperate in the implementation of this organization's obligations herein.
- iv. 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.
- v. Contractor will include the provisions listed above in EEO sections i. through iv. in every subcontract in such a manner that the requirements will be binding upon each subcontractor as to work in connection with the State contract.

**MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES (MWBE)
EQUAL EMPLOYMENT OPPORTUNITY (EEO) POLICY STATEMENT**

M/WBE Contract Goals

22.5% Minority and Women’s Business Enterprise Participation

9.5% Minority Business Enterprise Participation

13% Women’s Business Enterprise Participation

Required Signatures

Organization
Name: _____

Location of
Services: _____
(City)

Printed
Name: _____
(Authorized Representative)

Title: _____

Signature: _____

Minority Business Enterprise Liaison

(Person responsible for administering the Minority and Women-Owned Business Enterprises – Equal Employment Opportunity Program (M/WBE-EEO))

Note: If the “Authorized Representative” above is also responsible for administering the M/WBE – EEO Program, duplicate signature below is not required)

Printed
Name: _____
(M/WBE-EEO Liaison)

Title: _____

Signature: _____

NEW YORK STATE
Office of Children and Family Services

10.12. Procurement Lobbying Act – Offerer Certification Form

- **Disclosure of Prior Non-Responsibility Determinations**
- **Affirmation of Understanding and Agreement**
- **Certification of Compliance**

NAME OF INDIVIDUAL OR ENTITY SEEKING TO ENTER INTO THE PROCUREMENT CONTRACT:
ADDRESS:
CONTRACT PROCUREMENT NUMBER:

1. Has any Governmental Entity made a finding of non-responsibility pursuant to State Finance Law Section 163-(9)(f) regarding the individual or entity seeking to enter into the Procurement Contract in the previous four years?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If you answered Yes to question number 1, please answer questions 2 and 3. If not, skip to question 4.		
2. Was the basis for the finding of non-responsibility due to a violation of State Finance Law §139-j?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
3. Was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a Governmental Entity?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
4. Has any Governmental Entity or other Government agency terminated or withheld a Procurement Contract with the above-named individual or entity due to the intentional provision of false or incomplete information?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
5. If you answered yes to any of the questions above, please provide the following details regarding the finding of non-responsibility, termination, or withholding of a contract.		
Government Entity:		
Date of Finding of Non-Responsibility, Termination or Withholding of Contract:		
Basis of Finding of Non-Responsibility, Termination or Withholding of Contract <u>(Add additional pages if/as necessary)</u> :		
Offerer affirms that he/she understands and agrees to comply with the New York State procedures relative to permissible contacts as required by State Finance Law §139-j.		
Offerer certifies that all information provided to the Governmental Entity with respect to State Finance Law §139-k is complete, true and accurate.		
By: _____		Date: _____
(Signature)		
PRINT NAME:		
PRINT TITLE:		

INSTRUCTIONS

Background

Offerer Disclosure of Prior Non-Responsibility Determinations

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) which relates to vendor responsibility for a broader range of reasons. 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 a 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).

Offerer’s Certification and Affirmation of Understanding of and Agreement pursuant to State Finance

Law Section 139-j and k:

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’s Certification of Compliance with State Finance Law §139-k(5):

New York State Finance Law §139-k(5) 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 procuring governmental entity with respect to State Finance Law §139-k is complete, true and accurate.

OSC Use Only:	
Reporting Code:	_____
Category Code:	_____
Date Contract Approved:	_____

NEW YORK STATE
OFFICE OF CHILDREN AND FAMILY SERVICES

10.13. State Consultant Services - Contractor's Planned Employment
FROM CONTRACT START DATE THROUGH THE END OF THE CONTRACT TERM

FORM A

State Agency Name: <u>NYS Office of Children and Family Services</u>		Agency Code: <u>25000</u>	
Contractor Name: _____		Contract Number: _____	
Contract Start Date: <u> / /</u>		Contract End Date: <u> / /</u>	
Employment Category http://www.onetcodeconnector.org/	Number of Employees	Number of hours to be worked	Amount Payable Under the Contract
Total this page			\$
Grand Total			\$

Name of person who prepared this report: _____

Title: _____ Phone #: _____

Preparer's Signature: _____

Date Prepared: / /

(Use additional pages, if necessary) Page of

OSC Use Only:
Reporting Code: _____
Category Code: _____
Date Contract Approved: _____

NEW YORK STATE
Office of Children and Family Services

10.14. State Consultant Services - Contractor's Annual Employment Record

Report Period: April 1, 20 _____ to March 31, 20 _____

FORM B

Contracting State Agency Name: <u>NYS Office of Children and Family Services</u>	Agency Code: <u>25000</u>
Contract Number: _____	
Contract Term: ____ / ____ / ____ to ____ / ____ / ____	
Contractor Name: _____	
Contractor Address: _____	
Description of Services Being Provided: _____	

Scope of Contract (Choose one that best fits):

<input type="checkbox"/> Analysis	<input type="checkbox"/> Evaluation	<input type="checkbox"/> Research	<input type="checkbox"/> Training
<input type="checkbox"/> Data Processing	<input type="checkbox"/> Computer Programming	<input type="checkbox"/> Other IT consulting	<input type="checkbox"/> Engineering
<input type="checkbox"/> Architect Services	<input type="checkbox"/> Surveying	<input type="checkbox"/> Environmental Services	<input type="checkbox"/> Health Services
<input type="checkbox"/> Mental Health Services	<input type="checkbox"/> Accounting	<input type="checkbox"/> Auditing	<input type="checkbox"/> Paralegal
<input type="checkbox"/> Legal	<input type="checkbox"/> Other Consulting		

Employment Category http://www.onetcodeconnector.org/	Number of Employees	Number of Hours Worked During Reporting Period	Amount Paid During Reporting Period
Total this page	0	0	\$ 0.00
Grand Total			

Name of person who prepared this report: _____

Title: _____ Phone #: _____

Preparer's Signature: _____

10.15. Vendor Responsibility Questionnaire (For-Profit Business Entity)

<https://portal.osc.state.ny.us/>

10.16. Vendor Responsibility Questionnaire (Not-For-Profit Business Entity)

<http://www.ocfs.state.ny.us/main/forms/contracts/Vendor%20Responsibility%20Questionnaire%20Not-For-Profit%20Business%20Entity-OCFS-7050.doc>

10.17. ST-220-TD (NYS Tax Department) Contractor Certification

10.18. ST-220-CA (NYS Tax Department) Contractor Certification to Covered Agency

Because the above-noted forms are slightly revised each year by the Tax Department, please visit the following Tax Department Website to access them. Also provided is a link to the Publication 223 which is a Questions and Answers Guide relating to the NYS Sales and Compensating Use Taxes Requirement.

ST-220-CA

http://www.tax.state.ny.us/pdf/2006/fillin/st/st220ca_606_fill_in.pdf

ST-220-TD

http://www.tax.state.ny.us/pdf/2007/fillin/st/st220td_507_fill_in.pdf

www.nystax.gov

Publication 223

http://www.tax.state.ny.us/pdf/publications/sales/pub223_507.pdf

NEW YORK STATE
OFFICE OF CHILDREN AND FAMILY SERVICES

10.19. Contractor Employee Background Certification

(Initials are required in space provided for paragraphs 1 and 2 below)

I Certify to the best of my knowledge and belief that:

_____ 1. I have not been convicted of a crime in New York State or any other jurisdiction except as follows:

Crime	Conviction Date	Court

_____ 2. I have no criminal charges pending against me in New York State or any other jurisdiction except as follows:

Crime	Arrest Date	Court

I understand that my failure to certify truthfully and accurately to the above statements may constitute grounds for denial of any contact with youth in OCFS custody. In addition, OCFS may take such other actions as it deems necessary and appropriate.

(Signature)

(Printed Name)

(Address)

Sworn to before me this _____ day of _____, 20__.

Notary Public - State of New York

My Commission Expires

NEW YORK STATE
OFFICE OF CHILDREN AND FAMILY SERVICES

10.20. Contractor Employee Confidentiality Certification

(Initials are required in space provided for paragraphs 1-3 below)

- _____ 1. I acknowledge and agree that all records, information and knowledge of financial and/or client identifiable information that I may obtain during my work as an employee of the [Enter name of Contractor] (hereinafter referred to as the Contractor) with respect to any financial and/or client identifiable information received from the Office of Children and Family Services (hereinafter referred to as "OCFS") or any of its' facilities shall be kept strictly confidential. I understand that client identifiable information includes but is not limited to verbal, written and electronic information or other system generated and maintained client specific information relating to juvenile justice services, child protective services, preventive services, foster care, and/or adoption services whether or not client identifiers have been removed from the information. I will comply with all applicable federal and State statutes and regulations relating to the maintenance and dissemination of client information, including but not limited to, sections 372, 422, 444, 459-g and 473-e of the Social Services Law; section 501-c of the Executive Law; Article 27-F of the Public Health Law; 9 NYCRR 164.7 and 168.7; and 18 NYCRR 357.3, 423.7, 431.7, 432.7, 452.10, 457.16 and 465.1. Violation of this certification may result in denial of further access to OCFS offices and facilities in addition to such other action as OCFS deems necessary.
- _____ 2. I agree, outside of my official duties as a employee of the Contractor, I will not disclose any financial and/or client-identifiable information that comes into my possession during my employment with respect to youth in the custody of OCFS.
- _____ 3. I agree to maintain the physical integrity of all financial and/or client-identifiable information that comes into my possession. I will return all written and/or system supported financial and/or client-identifiable information that comes into my possession to a person designated by my Contractor or OCFS upon termination of my work.

I understand that my violation of this certification or failure to maintain financial or client identifiable information as confidential may constitute grounds for denial of further access to me of such records. In addition, OCFS may take such other actions as it deems necessary and appropriate.

(Signature)

(Printed Name)

(Address)

STATE OF NEW YORK)
) ss.:
COUNTY OF)

On the _____ day of _____, 20__ before me personally came , to me personally known and known to me to be the person described in and who executed the foregoing agreement, and he/she acknowledged to me that he/she executed the same.

Notary Public - State of New York

My Commission Expires

New York State Office of Children and Family Services

10.21. Contract Management System (CMS) Authorization Form

- The purpose of this form is to add, inactivate and modify users with online CMS accounts.
- Sign-on ID #s and temporary passwords will be e-mailed to individual staff receiving CMS role designations.

Today's Date:		Contract Number(s):	
<p align="center"><i>*Please note that the authorization for CMS accounts is not contract specific. If you would like to designate the below user(s) as a primary user for the indicated role, add the contract number and a brief narrative in the space provided.</i></p>			
Organization Information			
Legal Name			
Doing Business As (DBA) Name (if applicable)			
Federal Id		Muni Code (if applicable)	OSC Vendor ID (if applicable)
Street Address 1			
Street Address 2			
City		State	Zip
Definition of Roles			
<p>Contract, Program Report, Claim Developer [CONUSER] - Responsible for many contract related data entry tasks, such as completing online program reports and/or entering claim information online (<i>*Claim Developer is not an authorized signer for claims or contracts</i>).</p> <p>Contract Signatory [CONSIG] - Responsible for signing contracts on behalf of your organization.</p> <p>Contract Claim Signatory [CLAIMSIG] - Responsible for signing claims on behalf of your organization and submitting them to OCFS.</p> <p>Contract Viewer [CONVIEWER] – This role gives users basic read-only access to contract specific information.</p>			
Contractor User Role Designation			
1. Name		Title	<input type="checkbox"/> Check here if this individual already has a CMS account
Email Address*		Phone Number	
<input type="checkbox"/> Activate user Check this box to create a CMS user account <input type="checkbox"/> Inactivate user Check this box to disable a CMS user account <input type="checkbox"/> Archive Staff in the CMS Vendor File Check this box if a person is no longer with your agency		Check all that apply: <input type="checkbox"/> Contract, Program Report or Claim Developer [CONUSER] <input type="checkbox"/> Contract Signatory [CONSIG] <input type="checkbox"/> Contract Claim Signatory [CLAIMSIG] <input type="checkbox"/> Contract Viewer [CONVIEWER]	
2. Name		Title	<input type="checkbox"/> Check here if this individual already has a CMS account
Email Address*		Phone Number	
<input type="checkbox"/> Activate user Check this box to create a CMS user account <input type="checkbox"/> Inactivate user Check this box to disable a CMS user account <input type="checkbox"/> Archive Staff in the CMS Vendor File Check this box if a person is no longer with your agency		Check all that apply: <input type="checkbox"/> Contract, Program Report or Claim Developer [CONUSER] <input type="checkbox"/> Contract Signatory [CONSIG] <input type="checkbox"/> Contract Claim Signatory [CLAIMSIG] <input type="checkbox"/> Contract Viewer [CONVIEWER]	
<p>This section is to be completed by the Head of the Organization or Chief Administrative Officer (i.e. Executive Director/CEO). I hereby authorize the Contract Developer identified above to develop contracts online using CMS (or to be disabled as indicated), the identified Claim Signatory identified above to electronically log and sign contract claims (or be disabled as indicated) and also authorize the Contract Signatory identified above to electronically sign contracts (or to be disabled as indicated) on behalf of our organization.</p>			
Name of Head of Agency			
Title			
Email Address*			
Phone Number			
Signature			
Date			

* This should be an individual email address. Confidential User Id information will be emailed to this address.

New York State Office of Children and Family Services Instructions for completing the Authorization Form for the On-line Contract Management System (CMS)

Organization Information

All fields on the form must be completed; the only exceptions are the DBA Name and Muni Code.

An organization chart must be submitted which indicates where the organization head or the Chief Administrative Officer and the contract developer and signatory appear in relation to the Board of Directors and the organization.

- ✓ Muni Code - The municipal code is used only for municipal organizations. If it does not apply, the box would be left blank. Questions regarding municipal codes should be directed to the OCFS Contract Manager.
- ✓ OSC Vendor ID – If available, enter your organization’s OSC Vendor ID. This ID is issued by the Vendor Management Unit (VMU) as part of the OSC vendor registration process.
- ✓ Legal Name – Enter as it appears on the Articles of Incorporation or Business Certification.
- ✓ Federal ID – Enter your 9 digit federal ID; please do not enter any dashes (-).
- ✓ State – New York is automatically filled in by default. If different, delete and enter appropriate State.

Contract Developer, Contract Signatory and Claim Signatory, Contract Viewer Information

- ✓ Email Address – This should be an individual email address. The confidential username will be emailed to this address. The password will be provided separately. A company email address accessible by multiple persons should not be used. Confidential communication between OCFS and the Contract Developer and Contract Signatory regarding this account will be sent to this address.
- ✓ Phone Number – Mandatory. If there is a problem with the email address, OCFS will call this number to resolve any issues with the account.
- ✓ Please designate the user role(s). Check the Contract Developer, Contract Signatory, Contract Claim Signatory, and/or Contract Viewer box to indicate the type of account(s) you are authorizing OCFS to create or inactivate. Note that OCFS recommends that at least two Contract Developers, Contract Signatories, and Contract Claim Signatories be assigned for each organization.
- ✓ Check the appropriate box to either activate an account (create a user role), inactivate an account (terminate user access), and/or archive a staff person from the CMS vendor file (i.e. If a person is no longer with your organization).

Signed Authorization Form(s) must be received before an organization can use CMS; please return the Authorization Form(s) with your proposed submittal.

10.22. Cost Proposal Worksheet

The offeror must complete the Cost Proposal Worksheet provided as an Excel spreadsheet. The offeror must sign below to attest to the accuracy of the information provided in the worksheet.

Company Name of Offeror _____

Signature of Authorized Individual

Date

10.23. Vendor Experience Form

See separate document.

10.24. Confidentiality /Non-Disclosure Agreement

See separate document.

11. Attachments

11.1. *Attachment 1 – Existing Applications*

See separate document.

11.2. *Attachment 2 – Application Data Dictionaries*

11.2.1. Attachment 2.1 - CCTA Elements

See separate document.

11.2.2. Attachment 2.2 - CCFS Tables/Columns

See separate document.

11.2.3. Attachment 2.3 - BICS Data Dictionary

See separate document.

11.2.4. Attachment 2.4 - WMS SOS Data Dictionary

See separate document.

11.2.5. Attachment 2.5 - WMS SOS History of Data

See separate document.

11.3. *Attachment 3 – Reporting Requirements – Sample Reports*

11.3.1. Attachment 3.1 – Report 1 – Overall Risk Ratings

See separate document.

11.3.2. Attachment 3.2 – Report 2 – Family Top 2 Risk Ratings

See separate document.

11.3.3. Attachment 3.3 – Report 3 – Provider Details

See separate document.

11.4. Attachment 4 – State Data Center Architecture Documents

11.4.1. Attachment 4.1 - State Data Center Multi-Tier Architecture

See separate document.

11.4.2. Attachment 4.2 – Server Platform Technical Infrastructure Architecture

See separate document.

11.4.3. Attachment 4.3 – New York State Directory Services Specifications

See separate document.

12. Glossary

The following is a list of words and acronyms used in this document for your easy reference:

A

ACH

Automated Clearinghouse.

B

BICS

Benefit Issuance and Control Subsystems. The mainframe-based system responsible for the issuance of payments for publicly-funded programs and services administered by the Office of Children and Family Services. NYC does not use BICS.

C

CCFS

Child Care Facility System. A database and tracking system for all child care facilities operated under the auspices of New York State. This is the system of record for all licensed and registered programs, as well as all enrolled legally-exempt child care providers.

Child Care Services Unit

Parent/Caretaker family unit.

Child Day Care

Child day care means care for a child on a regular basis provided away from the child's residence for less than 24 hours per day by someone other than the parent, step-parent, guardian or relative within the third degree of consanguinity of the parents or step-parents of such child. A relative within the third degree of consanguinity of the parent or step-parent includes: the grandparents of the child; the great-grandparents of the child; the great-great-grandparents of the child; the aunts and uncles of the child, including the spouses of the aunts and uncles; the great-aunts and great uncles of the child, including the spouses of the great-aunts and great-uncles; the siblings of the child; and the first cousins of the child, including the spouses of the first cousins.

CIN

Client Identification Number. A unique identifier for anyone identified in WMS as part of a services case.

CMS

Contract Management System. The comprehensive, web-based automated system used by OCFS to manage contract development, claiming, and program reporting processes for OCFS.

OCSCIC

NYS Office of Cyber Security. This NYS agency has responsibility for establishing security protocols for automated systems.

D

Day Care Center

Child day care center means a program or facility which is not a residence in which child day care is provided on a regular basis to more than six children for more than three hours per day per child for compensation or otherwise, except those programs providing care as a school-age child care program as defined in this Section. The name, description or form of the entity which operates a child day care center does not affect its status as a child day care center.

DCCS

Division of Child Care Services. This division of the NYS Office of Children and Family Services has responsibility for all child care regulation in NYS, except for group day care centers in NYC.

District

Local Social Services District. 58 districts in New York State are responsible for providing temporary assistance to individuals and families with social services and economic needs. See 'LDSS'.

E

Enrollment

This is the formal approval process. Providers who are referred to as being “Enrolled” refers to providers who have been approved to provide legally-exempt child care.

EA

Legally-exempt Enrollment Agency

Enterprise-wide

Software used by an entire corporation (e.g., New York State) with a minimum user base of 500.

F**Family Day Care**

Family day care home means a residence in which child day care is provided on a regular basis for more than three hours per day per child for three to eight children for compensation or otherwise, except as provided below. The name, description or form of the entity which operates a family day care home does not affect its status as a family day care home.

G**Group Family Day Care**

Group family day care home means a residence in which child day care is provided on a regular basis for more than three hours per day per child for seven to sixteen children for compensation or otherwise, except as provided below. Such home must be operated by a provider and have at least one assistant present during the hours that care is provided. The name, description or form of the entity which operates a group family day care home does not affect its status as a group family day care home.

I**In-Home Child Care**

Legally-exempt child care that is given in a private, personal residence of the subsidized child.

L**LDSS**

Local Department of Social Services. See ‘District’.

Legally-Exempt Family Child Care

Child care for one or two children in a residence that is not the child's own home provided outside the child's own home; child care for more than two children outside the child's own home where such care is provided for less than three hours per day; or child care provided by a relative within the third degree of consanguinity of the parent(s) or step-parent(s).

Legally-Exempt Group Child Care

Care provided by those caregivers which are not required to be licensed or registered either OCFS or the City of New York; these programs could be operating under the auspices of another agency such as NYS Education Department, NYS Health Department, US Government or Tribal entities. These include, but are not limited to Pre-Kindergarten and nursery school programs; programs operated during non-school hours for school-age children where such programs are operated by a school district or school; summer day camps operated in accordance with State Sanitary Code; and child care programs operated on tribal or Federal property.

Legally-Exempt In-Home Child Care

See In-Home Child Care

N**Non-Service Support (Payments in BICS system)**

Support provided to families who are on Temporary Assistance.

NYCRR

New York State Code of Rules & Regulations

NYS

New York State

O

OCFS

Office of Children and Family Services. This office of the Department of Family Assistance provides a system of family support, juvenile justice, child care and child welfare services that promote the safety and well-being of children and adults.

OFT

Office for Technology, the office of the NYS Chief Information Officer. CIO/OFT is a NYS agency that provides statewide technology direction and centralized technology policies and services to other NYS governmental entities.

OTDA

Office of Temporary Disability Assistance. This office of the Department of Family Assistance is responsible for supervising programs that provide temporary cash assistance and support to eligible families and individuals through food stamps, heating assistance, homeless housing, assistance to immigrant populations, and determination of aspects of disability eligibility.

P

POS

Purchase of Service. This line item in WMS is necessary for subsidy payments to occur and represents the authorization of the maximum number of hours for which child care can be subsidized.

Provider Type

18 NYCRR, Part 415 recognizes six provider types. These are: Licensed Day Care Center, (Registered) Family Day Care, Licensed Group Family Day Care, Registered School Age Child Care, Legally-Exempt Family and Legally Exempt Group, and In-Home Child Care. Regulations vary by provider type.

S

School Age Child Care

School-age child care program means a program or facility which is not a residence in which child day care is provided to an enrolled group of seven or more children under 13 years of age during the school year before and/or after the period such children are ordinarily in school or during school lunch periods. School-age child care programs also may provide care during school holidays and those periods of the year in which school is not in session, including summer vacation. Such programs must operate consistent with the local school calendar. The name, description or form of the entity which operates a school-age child care program does not affect its status as a school-age child care program.

SCR

Statewide Central Register for Child Abuse and Maltreatment.

Service Support (Payments in BICS system)

Support provided to families who are not on Temporary Assistance

Single Issuance

A one-time only subsidy payment made for one of the following reasons:

Payment correction

Payment for temporary placements

Retroactive payments

State Income Standard

The most recent Federal income official poverty line by family size, as defined and annually revised by the US Department of Health and Human Services under the authority of 44 USC 9902(2). Federal poverty guidelines for 2009 may be found at:

<http://aspe.hhs.gov/poverty/index.shtml>

T

TA

Temporary Assistance. The full name of this program is Temporary Assistance for Needy Families (TANF). This program, administered on the local level by local districts, provides temporary financial assistance to individuals and families unable to find a job or whose job does not pay enough to provide adequate food or shelter. Child Care subsidy may be one of the services for which individuals receiving TA may be eligible.

TANF

Temporary Assistance for Needy Families. See 'TA'.

W**Waiver**

In the context of the Local Districts and subsidy, a waiver refers to the special situation where a Local District and the State have both agreed to terms where that specific district agreed to meet the same regulatory requirement in a different manner. The specific terms of each waiver vary and can be unique to a particular district.

WMS

Welfare Management System. The system in which all DSS cases are created and in which purchase of service lines are recorded. Without a WMS record and corresponding CIN number, no payment for services can be made. NYC does not use WMS.