

**Revised Guidelines for Determining and Reporting Depreciation of a Capital Project
Standards of Payment Program Manual (Revision to Chapter 4, Section C)**

Account 38 - Use Charges: Reimbursement in the maximum State aid rate for the use of owned property (i.e., for buildings, for capital improvements, for equipment, and for other capitalized items), as well as for leasehold improvements, will be made through depreciation.

- Assets having a cost of \$1,000 or more and a useful life of 2 years or more must be depreciated. Conversely, items having a unit cost less than \$1,000 or a useful life of less than 2 years may be expensed.

APPLICABLE REGULATION (the following references in this regulation to “department” should be interpreted to mean “OCFS”, which is the successor agency to the State Department of Social Services):

442.4 Buildings and equipment.

(a) Definitions. As used in this section, the following definitions shall apply:

- (1) Building means a structure.
- (2) Construction means the erection of a new structure.
- (3) Addition means extension or increase in area, height or equipment of an existing structure.
- (4) Substantial modification means any alteration, change, rearrangement or reconstruction to an existing structure or equipment except for ordinary repairs and maintenance.
- (5) Equipment means fixtures or articles affixed to the structure.
- (6) Occupancy means use of a building, structure or premises; abandonment or vacating a building or a major part of a building shall be considered a change in occupancy.

(b) Construction, addition, substantial modification and change in occupancy.

- (1) Except for buildings or parts of building used in the operation of a child caring institution, in substantial compliance with applicable requirements on October 31, 1964, on and after November 1, 1964, no building and no part of a building shall be used for the care of children except with the approval in writing of the department. To qualify for approval by the department, the building or part thereof to be used must be in substantial compliance with the appropriate provisions of the State Building Construction Code relating to institutions, the regulations of the department, and all other applicable provisions of State and local laws, ordinances, rules and regulations.
- (2) There shall be no construction, addition, substantial modification or change in occupancy of buildings or parts of buildings used or to be used in the operation of a child caring institution, except on plans and designs approved in writing by the department. Plans shall be submitted for approval in accordance with the procedure prescribed by the department thereof. To qualify for approval by the department, plans and specifications must be in substantial compliance with the appropriate provisions of the State Building Construction Code relating to institutions, the

regulations of the department and all other applicable provisions of State and local laws, ordinances, rules and regulations.

- (3) No changes or modifications shall be made to approved plans or specifications without the approval of the department.
- (4) The approval of the department shall become void one year after given unless a contract for the approved construction or reconstruction shall have been entered into.

(c) **Exceptions.** The department may grant an exception to compliance with one or more of the provisions of this section upon finding that compliance will result in undue hardship to an institution, that, but for the exception, the facility is in substantial compliance with such provisions, and that granting the exception will not create any hazardous conditions which could impair the health or safety of the children; provided however, that the facility otherwise complies with any alternate requirements which the department may consider necessary for the protection of the health or safety of the children.

Proposals for construction, addition, or substantial modification, as those terms are defined above, and including the acquisition of buildings, must be submitted to the OCFS Regional Office and the OCFS Rate Setting Unit for review and approval.

Costs of facility acquisition or construction shall be depreciated over the expected useful life of the facility per the rules and guidelines specified below. The cost of facility acquisition or major renovation includes architect and inspection fees, which should be included in the cost of the building for depreciation purposes. Renovations or alterations that are considered to be directly related to the program and therefore reimbursable through depreciation charges over the estimated useful life of the renovation or alteration may include: the installation of safety devices, such as fire exits, alarms or smoke detectors in existing buildings; the replacement of roofs, boilers, plumbing systems, or other renovations needed to protect the agency's physical plant, or to protect the health or safety of children, or to satisfy compliance with applicable New York State standards.

For cost reporting purposes, the submission of back-up details regarding depreciation expenses for assets such as buildings, equipment and vehicles are not required. However, the service provider is required to maintain depreciation schedules that include the following minimum information:

- Description of Asset
- Date of Acquisition
- Cost at Acquisition
- Government Grants for Asset
- Salvage Value
- Depreciation Method
- Useful Life Used for Depreciation Purposes
- Annual Depreciation Amount
- Accumulated Depreciation

Charges for depreciation must be supported by adequate property records, and physical inventories must be taken at least once every two years (a statistical sampling basis is acceptable) to ensure that assets exist and

are usable and needed. When the depreciation method is followed, adequate depreciation records indicating the amount of depreciation taken each period must also be maintained.

General Rules Regarding the Calculation of Depreciation: The following general rules shall apply for the calculation and reporting of depreciation expenses:

- The computation of depreciation must be based on the acquisition cost of the assets involved. The acquisition cost of a donated asset must be its fair market value at the time of the donation.
- The computation of depreciation will exclude:
 - the cost of land;
 - any portion of the cost of buildings and equipment borne by or donated by the Federal Government irrespective of where title was originally vested or where it presently resides; and
 - any portion of the cost of buildings and equipment contributed by or for the non-profit organization in satisfaction of a statutory matching requirement.
- **The period of useful service (useful life) for purposes of establishing a depreciation schedule must take into consideration the following factors:**
 - **type of construction and nature of use;**
 - **nature of the equipment used;**
 - **technological developments in the particular program area; and**
 - **the renewal and replacement policies followed for the individual items or classes of assets involved.**
- Group purchases of like items should be treated as a single purchase. Group purchases of unlike items must be treated as if each item was purchased individually. Telephone systems and computer systems should be treated as a group purchase.
- The depreciable base would be calculated by taking the total cost of the asset and by subtracting the salvage value and the amount funded by government grants. For example, if 100 percent of the cost of an asset is separately financed with State or Federal grants, the asset cannot be depreciated in the SOP report for purposes of establishing the State aid rate for an associated program. This would need to be a reconciling item between the SOP and the service provider's financial statements. The portion of the cost of building construction, acquisition, or renovation funded by a government grant cannot be reimbursed again through depreciation of these costs. The asset cost must be reduced by the amount of the grant(s) and the balance depreciated in accordance with the guidelines specified below.
- Depreciating assets that are shared among programs/sites or among program/sites and administration should be allocated by a reasonable basis. Documentation for the allocation basis must be available

upon request. The “straight line method” of depreciation must be used for all classes of assets. Use of the one-month, six-month, or full-year convention is acceptable. When assets are shared by multiple programs funded by more than one New York State agency, the rules of majority funding shall dictate.

- Depreciation based on reappraisals designed to increase the cost basis for depreciation **is not reimbursable**. Accumulated depreciation on assets transferred due to a change in legal status of the owner, such as incorporation, **is not reimbursable**. Accumulated depreciation on property owned by a division, subsidiary or affiliate of an entity prior to acquisition by the entity will not be reimbursed to the program after acquisition. The remaining non-depreciated cost of the prior entity must be reimbursed over the remaining useful life of the asset as if no ownership change occurred.
- Depreciation charged for assets acquired through approved Dormitory Authority of the State of New York (DASNY) construction/renovation projects must be reported in a separate cost center, inasmuch as it **is not reimbursable** within the regular program cost center for rate setting purposes.
- During the construction phase of a capital project, only loan interest and amortization of closing costs will be reimbursable in the maximum State aid rate established by OCFS. After the agency takes occupancy of the building, depreciation of the total capital project would be reimbursable in the rate, within the context of the approved rate base.

Depreciation periods for assets acquired on or after July 1, 2005:

When calculating depreciation of an asset, the useful life minimums specified below will apply, though longer depreciation periods may be appropriate within the context of the projected useful life and the annual reimbursement available through the maximum State aid rate. Exceptions to the minimums are also possible where the service provider can justify that an alternative is more appropriate.

For example, when calculating depreciation of a building (which could include construction, addition, or substantial modification, as those terms are defined above, a composite approach may be used as the basis for requesting an alternative to the standard specified below. This means, a building's shell may be segregated from each building component (e.g., plumbing system, heating, and air conditioning system, etc.) and each item depreciated over its estimated useful life; or the entire building (i.e., the shell and all components) may be treated as a single asset and depreciated over a single useful life. As stated above, documentation regarding useful lives used in the determination of depreciation schedules must be maintained by the agency and must be available upon request.

Capitalized Items

Useful Life Minimums

Buildings

- Masonry/Concrete 25 years
- Other Materials 20 years

Land Improvements

- Utilities / Land Management Systems 20 years
- Landscaping / Paving 10 years

Equipment	
▪ Fixed (affixed to the structure)	10 years
▪ Movable	5 years
Furniture	5 years
Vehicles	3 years
Technology	3 years

Amortization

For cost reporting purposes, the submission of back-up details regarding the amortization of assets related to intangible assets, leasehold improvements, and mortgage expenses are not required. However, the service provider is required to maintain amortization schedules that include the following minimum information:

- Description of Item
- Beginning Date of Amortization
- Length of Amortization
- Costs to be Amortized
- Accumulated Amortization
- Current Year Amortization

The following general rules apply for the calculation and reporting of amortization expense:

- Leasehold improvements that are the responsibility of the service provider under the terms of a lease should be amortized over the useful life of the improvements or the remaining term of the lease, whichever is shorter.
- Mortgage expenses for purchasing or constructing a facility such as attorney’s fees, recording costs, transfer taxes, and service charges such as finder’s fees and placement fees, should be amortized over the term of the mortgage.

Depreciation periods for assets acquired prior to July 1, 2005:

The following guidelines, as previously specified in the Standards of Payment Manual, will continue to be applicable to assets acquired prior to July 1, 2005.

Buildings:

- | | |
|---|----------|
| ▪ Institutions and Group Residences | 40 years |
| ▪ Group Homes and Agency Boarding Homes | 25 years |

Land Improvements	20 years
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Furniture and Equipment
Vehicles
Leasehold

10 years
3 to 5 years
5 to 15 years

CHAPTER 472 OF THE LAWS OF 2004 OVERVIEW OF TAX EXEMPT FINANCING PROCESS

Chapter 472 of the Laws of 2004 of the State of New York (“Chapter 472”) authorizes the Dormitory Authority of the State of New York (“Authority”), to issue a total of up to \$30,000,000 in bonds for the purpose of financing the renovation, equipping or replacement of existing residential facilities for children. The purpose of this summary is to provide potential applicants (referred to as “borrowers”) with a general overview of the debt issuance process and the specific requirements of Chapter 472 related to the issuance of debt.

Tax-exempt financing is subject to the requirements of state law, as well as both federal tax and securities law and as a result, can be extremely complex for those not familiar with the process. Even though these requirements will not apply to the initial application process, your agency will be required to comply with them if it is determined to be eligible for financing under this program. Therefore, we thought it would helpful to give you a brief overview of these requirements.

Official Intent Requirement

Federal tax law provides that a recipient of tax-exempt bond proceeds may not use the proceeds of the bonds to reimburse itself for expenditures incurred prior to the issuance of the bonds unless certain requirements are satisfied. One of these requirements is that a borrower declare it’s “official intent” to reimburse itself from bond proceeds before the expenditures are made. A declaration of official intent typically takes the form of a resolution of the board of directors of a borrower and need only contain a general functional description of the applicable project.

It is strongly recommended that any agency interested in applying for a loan under Chapter 472 not incur any significant expenditures until it has first adopted a declaration of official intent. For those agencies that have already incurred expenditures for which they expect to be reimbursed, it will be necessary for the Authority’s bond counsel to review your agency’s resolution (or other evidence of intent) and supporting data to determine whether the requirements of federal tax law are satisfied.

Tax Questionnaire

The Authority’s bonds will be issued as tax-exempt “qualified 501(c)(3) bonds” under federal tax law. Therefore, bond counsel must conclude that each borrower is a 501(c)(3) organization and that the project costs are “qualifying” costs under the Internal Revenue Code. To confirm that the requirements of tax law are satisfied, bond counsel will require each borrower to complete a “tax questionnaire.” Among other things, this questionnaire will elicit information and supporting documentation from the borrowers regarding their corporate formation and governance as well as the character and use of its facilities (including any contracts or other agreements that permit their use by third parties).

SEQRA

The authorization of bonds by the Authority to fund projects of the borrowers constitutes an “action” under the State Environmental Quality Review Act (“SEQRA”). Therefore, the Authority must comply with requirements of SEQRA before its board adopts financing documents.

In order for the Authority to initiate the SEQRA review, each borrower must complete an environmental assessment form (“EAF”) for each project to be financed. The review process for minor renovations is generally quite simple and requires the completion of a Short EAF. For new construction projects, or where otherwise deemed appropriate by the Authority, the completion of a Long EAF is required. It may be possible to simplify the SEQRA review process if another governmental agency, such as a local planning or zoning board, will also be required to conduct a SEQRA review in connection with the project and that agency and the Authority coordinate their respective reviews.

Official Statement / Due Diligence

In order to enable the Underwriter to market bonds to potential investors, the Authority is required to prepare an Official Statement. The Official Statement will include a description of the bonds and the purposes for which they are being issued.

The preparation of the Official Statement is the responsibility of the Authority. The borrowers, however, will have responsibility for providing certain information required to be included in this document. Specifically, the borrowers must provide the Authority with a short description of their programs, sources of funding and certain financial information. Each borrower will also be required to disclose any litigation, investigation or other proceeding that could materially adversely affect its operations. Each borrower must provide the Authority with its most recent audited financial statements and its auditor’s consent to publish the audited financial statements in the Official Statement. Also, depending on the nature of the financial information included in the Official Statement, the borrower, working with the underwriter’s counsel, may be required to obtain a “procedures letter” from its auditor regarding the auditor’s review of the borrower’s financial information in the Official Statement.

The Underwriter’s counsel will also request various documents from the borrowers (some of which will also be requested in the tax questionnaire) as part of its “due diligence” process. The Underwriter and their counsel will also meet with the borrowers, either by phone or in person, to conduct due diligence interviews.

TEFRA Hearing

A portion of the Internal Revenue Code, known as the “Tax Equity and Fiscal Responsibility Act” or “TEFRA” requires the Authority to conduct a public hearing prior to the issuance of qualified 501(c)(3) bonds. Pursuant to the Code, a notice must be published in one or more newspapers at least 14 days prior to the date of the hearing.

The preparation of this “TEFRA notice” requires each borrower to properly identify, by street address (or other description sufficient under federal tax law), each project to be financed or refinanced with bond proceeds. Under federal tax law, proceeds of the bonds may only be expended for projects identified in the TEFRA notice.

Dormitory Authority Board Action

The Dormitory Authority may issue its bonds only upon receiving authorization from its 11-member board. Generally, obtaining this approval involves a two-step process. At the first board meeting, the board adopts a resolution authorizing staff to proceed with the transaction and engage the necessary professionals, such as bond counsel, to prepare the financing documents. At the second meeting, the board adopts the resolutions authorizing the issuance of the bonds. These board meetings are held on a monthly basis.

The Authority may adopt the financing documents only if there has been compliance with the requirements of SEQRA and TEFRA as discussed above. In addition, because the State's Public Authorities Control Board ("PACB") must approve all bonds issued by the Authority, the Authority will not adopt any financing documents unless the approval of PACB has been obtained. The PACB, which meets on a monthly basis, is comprised of representatives of the Division of Budget, the State Senate and the State Assembly.

In addition to the declaration of intent discussed above, the Authority also requires that each borrower adopt its own board resolution authorizing the borrowing of money from the Authority as a condition to the Authority's approval of the financing documents.

The financing documents approved by the Authority will include bond resolutions authorizing the issuance of the bonds and the form of loan agreement and other agreements to be entered into by the Authority and the borrowers. The borrowers and their counsel will need to thoroughly review drafts of the resolutions and loan agreement prior to action by the Authority board.

Bond Sale and Closing

After a preliminary version of the Official Statement has been distributed to potential investors, the Authority will sell the bonds to the Underwriter for re-sale to investors. The loans to the borrowers will be made with the proceeds from the sale of the bonds. The bonds will be sold in accordance with a Bond Purchase Agreement, in reliance upon a Letter of Representation from each borrower. The Letter of Representations, in effect, is the borrower's assurance that the information contained in the Official Statement relative to the borrower is accurate and complete. The Letter of Representation also recites that the borrower will defend and indemnify the Authority and the Underwriter from any losses sustained by them as a result of claims based upon inaccurate or incomplete information provided by the borrower.

The Authority will thereafter issue the bonds and the "closing" will take place. At that time, the borrower will be required to sign and deliver numerous documents, including the Loan Agreement, various security documents and agreements requiring the borrower to comply with disclosure obligations under federal securities laws as well as requirements imposed by federal tax laws. Counsel to each borrower will be required to deliver an opinion covering such things as corporate existence and authorization, 501(c)(3) status, enforceability of the financing documents and compliance with governmental requirements. As the financing progresses, the borrowers and their counsel will be expected to thoroughly review drafts of these documents and collaborate in their preparation.

Financial Covenants

It is expected that the Authority's bonds will be secured by a municipal bond insurance policy. As a condition

to the issuance of its insurance policy, the bond insurer may impose conditions on participation (e.g., historical achievement of specified financial benchmarks) as well as ongoing financial covenants. These covenants may also restrict the ability of the borrower to issue debt in the future unless certain financial tests are satisfied

Lock-Box and Revenue Pledge

Chapter 472 requires that each borrower establish an account with a bank or trust company acceptable to the Authority into which the borrower must deposit all amounts received from any school district, social service district or any other payor on account of the residential services provided by the borrower ("Lock Box Account"). Each borrower is further required by Chapter 472 to grant the Authority a security interest in the Account. It also provides that the moneys on deposit in the Lock Box Account shall be subject to withdrawal by the borrower only after payment of amounts then due to the Authority. As a practical matter, the borrower will be able to access funds in the Lock Box Account without action by the Authority or another party provided that it has paid the amounts due under the Loan Agreement.

In addition, Chapter 472 provides that each borrower include in each of its respective contracts with a social service district, school district or any other payor, a provision requiring that the borrower deposit all of its "maintenance rate payments" from such social service district or school district or other payor into the Lock Box Account. In the event of a failure by the applicable social services district or school district to make a "maintenance rate payment" to the borrower, the State Comptroller is required to withhold state reimbursement to the applicable social services district or school district in an amount equal to the unpaid obligation for the "capital financing add on rate" and pay over such sum to the Authority or the Bond Trustee upon certification of the Commissioner of the Office of Children and Family Services or the State Education Department, as applicable.

Loan Documentation, Prior Pledges and Payoff Letters

Borrowers and their counsel will need to carefully review any existing loan documents for loans currently outstanding in order to ensure that they obtain any required consents or waivers from their existing lenders to borrow funds in this program. The borrowers and their counsel will likewise be required to identify any prior pledges of the borrowers' revenues and provide a comprehensive list of existing liens. Each borrower's counsel will eventually need to provide searches of county and state records, which will identify any outstanding liens or restrictions.

Mortgage

Chapter 472 requires each borrower to grant to the Authority either a mortgage on the real property used by the borrower to provide residential services or such other interest in real property as is acceptable to the Authority. In connection with the granting of a mortgage to the Authority, a policy of title insurance and a current survey of the mortgaged property may be required..

Costs of Issuance

There are various costs associated with the issuance of tax-exempt bonds in general and an Authority bond issue in particular. These costs include such items as Authority fees, Trustee fees, the Underwriter's discount,

a bond insurance premium, bond issuance fees, rating agency fees, Bond Counsel fees, and printing and publication costs. If a series of bonds is issued for the benefit of more than borrower, these costs will be allocated among the borrowers on a pro-rata or other equitable basis. Each borrower will be required to pay or finance its own costs of obtaining title insurance and surveys in connection with the granting of its mortgage and to pay the fees of their counsel and financial advisor (if any).

Most if not all of the costs of issuance described above may be financed with bond proceeds. However, where the bonds to be issued are “qualified 501(c)(3) bonds,” the Internal Revenue Code prohibits the financing of costs of issuance in excess of two percent of the proceeds of tax-exempt bonds. Therefore, to the extent that the costs of issuance exceed this limit, the borrowers will need to arrange for their payment from their own funds or from the proceeds of taxable bonds.

NEW YORK STATE
OFFICE OF CHILDREN AND FAMILY SERVICES

VENDOR RESPONSIBILITY QUESTIONNAIRE
COMPLETED BY THE VENDOR

Vendor Responsibility Summary

Procurement laws and guidelines require the award of State contracts to responsible vendors. Vendor responsibility generally means that a vendor has the integrity to justify the award of public dollars and the capacity to fully perform the requirements of the contract. It is the State Agency's responsibility to evaluate the responsibility of a prospective contractor/vendor. A responsibility determination, wherein the State determines that it has reasonable assurances that a contractor/vendor is responsible, is an important part of the procurement process, promoting fairness in contracting and protecting a contracting Agency and the State against failed contracts.

Notes:

- **This Questionnaire is being required by OCFS for purposes of supporting an agency's application for capital project financing of a congregate care facility for which OCFS establishes a State aide maintenance rate pursuant to Section 398-a of Social Services Law and Section 4405 of Education Law.**
- **An applicant agency must submitted a completed and signed Vendor Questionnaire as part of its initial application for capital financing.**
- **Where the applicant agency is now completing the comprehensive application, the agency will only be required to submit an entirely new Vendor Questionnaire where circumstances have changed. Where circumstances have not changed, the applicant agency may attach a signed and notarized Affidavit of No Change Form (attached) along with the most recent copy of its previously submitted Vendor Questionnaire.**
- **All references in this Questionnaire to "contract agency" or "contractor" should be interpreted to mean the voluntary agency submitting an application for capital financing, either through the Dormitory Authority of the State of New York or through a waiver of the property parameter of the applicant agency's Maximum State Aid Rate.**

The following factors are considered in making a responsibility determination:

- Legal Authority to do business in New York State
- Integrity
- Capacity – both organization and financial
- Previous performance

A contracting Agency is required to conduct a review of a prospective contractor to provide reasonable assurances that the vendor is responsible. This Questionnaire is designed to provide information to assist a contracting Agency in assessing a vendor's responsibility prior to entering into a contract with the vendor.

Prospective contractors must answer every question contained in this Questionnaire. Each “Yes” response requires additional information. The vendor must attach a written response that adequately details each affirmative response. The completed Questionnaire and attached responses will become part of the procurement record. Please number each response to match the Questionnaire.

It is imperative that the person completing the Vendor Responsibility Questionnaire be knowledgeable about the proposing contractor’s business and operations as the Questionnaire information must be attested to by an owner or officer of the vendor. **Please read the certification requirement at the end of this Questionnaire carefully. The certification must be notarized.**

1. VENDOR IS: <input type="checkbox"/> PRIME CONTRACTOR <input type="checkbox"/> SUB-CONTRACTOR		
2. VENDOR’S LEGAL BUSINESS NAME		3. IDENTIFICATION NUMBERS a) FEDERAL EMPLOYER ID # b) FEDERAL DUNS #
4. D/B/A – Doing Business As (if applicable) & COUNTY FILED:		5. WEBSITE ADDRESS (if applicable)
6. ADDRESS OF PRIMARY PLACE OF BUSINESS/EXECUTIVE OFFICE		7. TELEPHONE NUMBER
9. ADDRESS OF PRIMARY PLACE OF BUSINESS/EXECUTIVE OFFICE IN NEW YORK STATE , if different from above		10. TELEPHONE NUMBER
12. PRIMARY PLACE OF BUSINESS IN NEW YORK STATE IS: <input type="checkbox"/> Owned <input type="checkbox"/> Rented If rented, please provide landlord’s name, address, and telephone number below:		8. FAX NUMBER
13. AUTHORIZED CONTACT FOR THIS QUESTIONNAIRE Name Title Telephone Number Fax Number e-mail		11. FAX NUMBER
14. VENDOR’S BUSINESS ENTITY IS (please check appropriate box and provide additional information):		
a) <input type="checkbox"/> Business Corporation	Date of Incorporation	State of Incorporation*
b) <input type="checkbox"/> Sole Proprietor	Date Established	
c) <input type="checkbox"/> General Partnership	Date Established	
d) <input type="checkbox"/> Not-for-Profit Corporation	Date of Incorporation	State of Incorporation*
Charities Registration Number To verify number click on link http://fairchild.oag.state.ny.us/online_forms/search_charities.jsp		
e) <input type="checkbox"/> Limited Liability Company (LLC)	Date Established	
f) <input type="checkbox"/> Limited Liability Partnership	Date Established	
g) <input type="checkbox"/> Other – Specify:	Date Established	Jurisdiction Filed (if applicable)
* If not incorporated in New York State, please provide a copy of authorization to do business in New York.		

15. PRIMARY BUSINESS ACTIVITY - (Please identify the primary business categories, products or services provided by your business)			
16. NAME OF WORKERS' COMPENSATION INSURANCE CARRIER:			
17. LIST ALL OF THE VENDOR'S PRINCIPAL OWNERS AND THE THREE OFFICERS WHO DIRECT THE DAILY OPERATIONS OF THE VENDOR (Attach additional pages if necessary):			
a) NAME (print)	TITLE	b) NAME (print)	TITLE
c) NAME (print)	TITLE	d) NAME (print)	TITLE

18.	<p>Is the vendor certified in New York State as a (check please): <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Minority Business enterprise (MBE) <input type="checkbox"/> Women's Business Enterprise (WBE) <input type="checkbox"/> Disadvantaged Business Enterprise (DBE)?</p> <p>Please provide a copy of any of the above certifications that apply.</p>
19.	<p>Does the vendor use, or has it used in the past ten (10) years, any other Business Name, FEIN, or D/B/A other than those listed in items 2-4 above? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>List all other business name(s), Federal employer Identification Number(s) or any D/B/A names and the dates that these names or numbers were/are in use. Explain the relationship to the vendor.</p>
20.	<p>Are there any individuals now serving in a managerial or consulting capacity to the vendor, including principal owners and officers, who now serve or in the past three (3) years have served as:</p> <p>a. An elected or appointed public official or officers? <input type="checkbox"/> Yes <input type="checkbox"/> No List each individual's name, business title, the name of the organization and position elected or appointed to, and dates of service.</p> <p>b. A full or part-time employee in a New York State agency or as a consultant, in their individual capacity, to any New York State agency? <input type="checkbox"/> Yes <input type="checkbox"/> No List each individual's name business title or consulting capacity and the New York State agency name, and employment position with applicable service dates.</p> <p>c. If yes to item #20b, did this individual perform services related to the solicitation, negotiation, operation and/or administration of public contracts for the contracting agency? <input type="checkbox"/> Yes <input type="checkbox"/> No List each individual's name, business title or consulting capacity and the New York State agency name, and consulting/advisory position with applicable service dates. List each contract name and assigned NYS number.</p> <p>d. An officer of any political party organization in New York State, whether paid or unpaid? <input type="checkbox"/> Yes <input type="checkbox"/> No List each individual's name, business title or consulting capacity and the official political party position held with applicable service dates.</p>

<p>21.</p>	<p>Within the past five (5) years, has the vendor, any individuals serving in managerial or consulting capacity, principal owners, officers, major stockholder(s) (10% or more of the voting shares for publicly traded companies, 25% or more of the shares for all other companies), affiliate¹ or any person involved in the bidding or contracting process:</p> <p>a)</p> <ol style="list-style-type: none"> 1. been suspended, debarred or terminated by a local, state or federal authority in connection with a contract or contracting process; <input type="checkbox"/> Yes <input type="checkbox"/> No 2. been disqualified for cause as a bidder or any permit, license, concession franchise or lease; <input type="checkbox"/> Yes <input type="checkbox"/> No 3. entered into an agreement to a voluntary exclusion from bidding/contracting; <input type="checkbox"/> Yes <input type="checkbox"/> No 4. had a bid rejected on a New York State contract for failure to comply with the MacBride Fair Employment Principles; <input type="checkbox"/> Yes <input type="checkbox"/> No 5. had a bid rejected on a local, state or federal contract for failure to meet statutory affirmative action or M/WBE requirements on a previously held contract; <input type="checkbox"/> Yes <input type="checkbox"/> No 6. had status as a Women's Business Enterprise, Minority Business enterprise or Disadvantaged Business Enterprise denied, de-certified, revoked or forfeited; <input type="checkbox"/> Yes <input type="checkbox"/> No 7. been subject to an administrative proceeding or civil action seeking specific performance or restitution in connection with any local, state or federal government contract; <input type="checkbox"/> Yes <input type="checkbox"/> No 8. been denied an award of a local, state or federal government contract, had a contract suspended or had a contract terminated for non-responsibility; <input type="checkbox"/> Yes <input type="checkbox"/> No 9. had a local, state or federal government contract suspended or terminated for cause prior to the completion of the term of the contract; or <input type="checkbox"/> Yes <input type="checkbox"/> No 10. had a license to provide services revoked or suspended? <input type="checkbox"/> Yes <input type="checkbox"/> No
	<p>Question 21 Continued</p> <p>b) been indicted, convicted, received a judgment against them or a grant of immunity for any business-related conduct constituting a crime under local, state or federal law including but not limited to, fraud, extortion, bribery, racketeering, price-fixing, bid collusion or any crime related to truthfulness and/or business conduct? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>
	<p>c) been issued a citation, notice, violation order, or are pending an administrative hearing or proceeding or determination for violations of:</p> <ol style="list-style-type: none"> 1. federal, state or local health laws, rules or regulations, including but not limited to Occupational Safety & Health Administration (OSHA) or New York State labor law; <input type="checkbox"/> Yes <input type="checkbox"/> No 2. state or federal environmental laws; <input type="checkbox"/> Yes <input type="checkbox"/> No 3. unemployment insurance or workers' compensation coverage or claim requirements; <input type="checkbox"/> Yes <input type="checkbox"/> No 4. Employee Retirement Income Security Act (ERISA); <input type="checkbox"/> Yes <input type="checkbox"/> No 5. federal, state or local human rights laws; <input type="checkbox"/> Yes <input type="checkbox"/> No 6. civil rights laws; <input type="checkbox"/> Yes <input type="checkbox"/> No 7. federal or state security laws; <input type="checkbox"/> Yes <input type="checkbox"/> No 8. federal Immigration and Naturalization Services (INS) and Alienage laws; <input type="checkbox"/> Yes <input type="checkbox"/> No 9. state or federal anti-trust laws; or <input type="checkbox"/> Yes <input type="checkbox"/> No 10. charity or consumer laws? <input type="checkbox"/> Yes <input type="checkbox"/> No <p><i>For any of the above, detail the situation(s), the date(s), the name(s), title(s), address(es) of any individuals involved and, if applicable, any contracting agency, specific details related to the situation(s) and any corrective action(s) taken by the vendor.</i></p>

	<p>d) been issued a citation, notice, violation order, or are pending an administrative hearing or proceeding or determination for violations of:</p> <p>11. federal, state or local health laws, rules or regulations, including but not limited to Occupational Safety & Health Administration (OSHA) or New York State labor law; <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>12. state or federal environmental laws; <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>13. unemployment insurance or workers' compensation coverage or claim requirements; <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>14. Employee Retirement Income Security Act (ERISA); <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>15. federal, state or local human rights laws; <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>16. civil rights laws; <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>17. federal or state security laws; <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>18. federal Immigration and Naturalization Services (INS) and Alienage laws; <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>19. state or federal anti-trust laws; or <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>20. charity or consumer laws? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>For any of the above, detail the situation(s), the date(s), the name(s), title(s), address(es) of any individuals involved and, if applicable, any contracting agency, specific details related to the situation(s) and any corrective action(s) taken by the vendor.</p>
	<p>e) been issued a citation, notice, violation order, or are pending an administrative hearing or proceeding or determination for violations of:</p> <p>21. federal, state or local health laws, rules or regulations, including but not limited to Occupational Safety & Health Administration (OSHA) or New York State labor law; <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>22. state or federal environmental laws; <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>23. unemployment insurance or workers' compensation coverage or claim requirements; <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>24. Employee Retirement Income Security Act (ERISA); <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>25. federal, state or local human rights laws; <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>26. civil rights laws; <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>27. federal or state security laws; <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>28. federal Immigration and Naturalization Services (INS) and Alienage laws; <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>29. state or federal anti-trust laws; or <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>30. charity or consumer laws? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>For any of the above, detail the situation(s), the date(s), the name(s), title(s), address(es) of any individuals involved and, if applicable, any contracting agency, specific details related to the situation(s) and any corrective action(s) taken by the vendor.</p>
22.	<p>In the past three (3) years, has the vendor or its affiliates¹ had any claims, judgments, injunctions, liens, fines or penalties secured by any governmental agency? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Indicate if this is applicable to the submitting vendor or affiliate. State whether the situation(s) was a claim, judgment, injunction, lien or other with an explanation. Provide the name(s) and address(es) of the agency, the amount of the original obligation and outstanding balance. If any of these items are open, unsatisfied, indicate the status of each item as "open" or "unsatisfied."</p>
23.	<p>Has the vendor (for profit and not-for profit corporations) or its affiliates¹, in the past three (3) years, had any governmental audits that revealed material weaknesses in its system of internal controls, compliance with contractual agreements and/or laws and regulations or any material disallowances? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Indicate if this is applicable to the submitting vendor or affiliate. Detail the type of material weakness found or the situation(s) that gave rise to the disallowance, any corrective action taken by the vendor and the name of the auditing agency.</p>

24.	Is the vendor exempt from income taxes under the Internal Revenue Code? <i>Indicate the reason for the exemption and provide a copy of any supporting information.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
25.	During the past three (3) years, has the vendor failed to: a) file returns or pay any applicable federal, state or city taxes? <i>Identify the taxing jurisdiction, type of tax, liability year(s), and tax liability amount the vendor failed to file/pay and the current status of the liability.</i> b) file returns or pay New York State unemployment insurance? <i>Indicate the years the vendor failed to file/pay the insurance and the current status of the liability.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No
26.	Have any bankruptcy proceedings been initiated by or against the vendor or its affiliates ¹ within the past seven (7) years (whether or not closed) or is any bankruptcy proceeding pending by or against the vendor or its affiliates regardless of the date of filing? <i>Indicate if this is applicable to the submitting vendor or affiliate. If it is an affiliate, include the affiliate's name and FEIN. Provide the court name, address and docket number. Indicate if the proceedings have been initiated, remain pending or have been closed. If closed, provide the date closed.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
27.	Is the vendor currently insolvent, or does vendor currently have reason to believe that an involuntary bankruptcy proceeding may be brought against it? <i>Provide financial information to support the vendor's current position, for example, Current Ratio, Debt Ratio, Age of Accounts Payable, Cash Flow and any documents that will provide the agency with an understanding of the vendor's situation.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
28.	In the past five (5) years, has the vendor or any affiliates ¹ : a) defaulted or been terminated on, or had its surety called upon to complete, any contract (public or private) awarded; b) received an overall unsatisfactory performance assessment from any government agency on any contract; or c) had any liens or claims over \$25,000 filed against the firm which remain undischarged or were unsatisfied for more than 90 days? <i>Indicate if this is applicable to the submitting vendor or affiliate. Detail the situation(s) that gave rise to the negative action, any corrective action taken by the vendor and the name of the contracting agency.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No
29.	Has the vendor been a contractor or subcontractor on any contract with any Government agency in the past five (5) years? <i>List the agency name, contract effective dates, contract amount, contract number and Government contact information on the attached contract List.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No

¹ "Affiliate" meaning: (a) any entity in which the vendor owns more than 50% of the voting stock; (b) any individual, entity or group of principal owners or officers who own more than 50% of the voting stock of the vendor; or (c) any entity whose voting stock is more than 50% owned by the same individual, entity or group described in clause (b). In addition, if a vendor owns less than 50% of the voting stock of another entity, but directs or has the right to direct such entity's daily operations, that entity will be an "affiliate" for purposes of this questionnaire.

Public Agency Contracts Lists

For all contracts and subcontracts with any Government Agency during the last 5 years, please provide the information requested below. **(Photocopy and attach additional pages as necessary)**

Public Agency Name:	
Contract Number:	
Contract Amount:	
Program Name:	
Contract Term:	
Government Contact Person:	
Telephone Number:	
Email Address:	
Public Agency Name:	
Contract Number:	
Contract Amount:	
Program Name:	
Contract Term:	
Government Contact Person:	
Telephone Number:	
Email Address:	
Public Agency Name:	
Contract Number:	
Contract Amount:	
Program Name:	
Contract Term:	
Government Contact Person:	
Telephone Number:	
Email Address:	
Public Agency Name:	
Contract Number:	
Contract Amount:	
Program Name:	
Contract Term:	
Government Contact Person:	
Telephone Number:	
Email Address:	
Public Agency Name:	
Contract Number:	
Contract Amount:	
Program Name:	
Contract Term:	
Government Contact Person:	
Telephone Number:	
Email Address:	
Public Agency Name:	
Contract Number:	
Contract Amount:	
Program Name:	
Contract Term:	
Government Contact Person:	
Telephone Number:	
Email Address:	

CERTIFICATION:

The undersigned recognizes that this questionnaire is submitted for the express purpose of assisting the State of New York or its agencies or political subdivisions in making a determination regarding **an applicant agency's application for capital project financing of a congregate care program**, an award of contract or approval of a subcontract; acknowledges that the State or its agencies and political subdivisions may in its discretion, by means which it may choose, verify the truth and accuracy of all statements made herein; acknowledges that intentional submission of false or misleading information may constitute a felony under Penal Law Section 210.40 or a misdemeanor under Penal Law Section 210.35 or Section 210.45, and may also be punishable by a fine and/or imprisonment of up to five years under 18 USC Section 1001 and may result in contract termination; and states that the information submitted in this questionnaire and any attached pages is true, accurate and complete.

The undersigned certifies that he/she:

- Has not altered the content of the questions in the Questionnaire in any manner;
- Has read and understands all of the items contained in the Questionnaire and any pages attached by the submitting vendor;
- Has supplied full and complete responses to each item therein to the best of his/her knowledge, information and belief;
- Is knowledgeable about the submitting vendor's business and operations;
- Understands that New York State will rely on the information supplied in this Questionnaire when responding to the agency's request for funding; and
- Is under a duty to notify the procuring State Agency of any material changes to the vendor's responses herein prior to the State's response to the agency's funding request.

Applicant Agency:

(Legally Incorporated Name)

(Signature)

(Title)

(Date)

NOTARIZATION:

STATE OF NEW YORK

COUNTY OF () SS.:

On this _____ day of _____, 20____, before me personally came

_____ to me known, who being sworn did depose and say that he/she

resides in _____; that he/she is the _____

_____ of _____

Corporation described herein and which executed the above instrument; and that he/she signed his/her name thereto by like order of the Board of Directors of said Corporation.

(Notary Public)

My Commission Expires _____

(Date)

AFFIDAVIT OF NO CHANGE

VOLUNTARY AGENCY: _____

The undersigned, being duly sworn, deposes and says:

1. I am an officer of _____

(hereinafter the "Agency"), which is currently requesting OCFS approval of Capital Project financing of a congregate care facility operated by said Agency.

2. The Agency previously submitted a Vendor Questionnaire prior to the date hereof to

in connection with an initial application to OCFS for capital project financing of a congregate care facility.

3. Attached is an accurate and true copy of such previously submitted Vendor Questionnaire.

4. I hereby certify that there has been no material change in any of the information pertaining to the Vendor Questionnaire:

NAME

TITLE

Sworn before me this

_____ day of _____, _____

Notary Public