

STATE OF NEW YORK MASTER CONTRACT FOR GRANTS FACE PAGE

<p>STATE AGENCY (Name & Address):</p> <p style="margin-left: 40px;">NYS Education Department 89 Washington Avenue Room 503W - EB Albany, NY 12234</p>	<p>BUSINESS UNIT/DEPT. ID: SED01/3300390</p> <p>CONTRACT NUMBER: «ContractNumb»</p> <p>CONTRACT TYPE:</p> <div style="margin-left: 20px;"> <input checked="" type="checkbox"/> Multi-Year Agreement <input type="checkbox"/> Simplified Renewal Agreement <input type="checkbox"/> Fixed Term Agreement </div>
<p>CONTRACTOR SFS PAYEE NAME:</p> <p>«LegalVendorName»</p>	<p>TRANSACTION TYPE:</p> <div style="margin-left: 20px;"> <input checked="" type="checkbox"/> New <input type="checkbox"/> Renewal <input type="checkbox"/> Amendment </div>
<p>CONTRACTOR DOS INCORPORATED NAME:</p> <p>«LegalVendorName»</p>	<p>PROJECT NAME:</p> <p>Arthur O. Eve Higher Education Opportunity Program</p>
<p>CONTRACTOR IDENTIFICATION NUMBERS:</p> <p>NYS Vendor ID Number: «SfsVendorID» Federal Tax ID Number: «FederalID» DUNS Number (if applicable):</p>	<p>AGENCY IDENTIFIER:</p> <p>GC24-001</p> <p>CFDA NUMBER (Federally Funded Grants Only):</p>
<p>CONTRACTOR PRIMARY MAILING ADDRESS:</p> <p>«Address» «Address2» «City», «State» «Zip»</p> <p>CONTRACTOR PAYMENT ADDRESS:</p> <div style="margin-left: 20px;"> <input checked="" type="checkbox"/> Check if same as primary mailing address </div> <p>CONTRACT MAILING ADDRESS:</p> <div style="margin-left: 20px;"> <input checked="" type="checkbox"/> Check if same as primary mailing address </div>	<p>CONTRACTOR STATUS:</p> <div style="margin-left: 20px;"> <input type="checkbox"/> For Profit <input type="checkbox"/> Municipality, Code: <input type="checkbox"/> Tribal Nation <input type="checkbox"/> Individual <input checked="" type="checkbox"/> Not-for-Profit </div> <p>Charities Registration Number:</p> <p>«CharityNumber»</p> <p>Exemption Status/Code:</p> <div style="margin-left: 40px;"> <input type="checkbox"/> Sectarian Entity </div>

STATE OF NEW YORK MASTER CONTRACT FOR GRANTS FACE PAGE

<p>CURRENT CONTRACT TERM:</p> <p>From: July 1, 2024 To: June 30, 2029</p> <p>CURRENT CONTRACT PERIOD</p> <p>From: July 1, 2024 To: June 30, 2029</p> <p>AMENDED TERM:</p> <p>From: To:</p> <p>AMENDED PERIOD</p> <p>From: To:</p>	<p>CONTRACT FUNDING AMOUNT</p> <p>(<i>Multi-year</i> – enter total projected amount of the contract; <i>Fixed Term/Simplified Renewal</i> – enter current period amount):</p> <p>CURRENT: «Amount»</p> <p>AMENDED:</p> <p>FUNDING SOURCE (S)</p> <p> <input checked="" type="checkbox"/> State <input type="checkbox"/> Federal <input type="checkbox"/> Other </p>
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FOR MULTI-YEAR AGREEMENTS ONLY – CONTRACT PERIOD AND FUNDING AMOUNT:
 (Out years represent projected funding amounts)

#	CURRENT PERIOD	CURRENT AMOUNT	AMENDED PERIOD	AMENDED AMOUNT
1	7/1/24 – 6/30/25			
2	7/1/25 – 6/30/26			
3	7/1/26 – 6/30/27			
4	7/1/27 – 6/30/28			
5	7/1/28 – 6/30/29			

ATTACHMENTS PART OF THIS AGREEMENT:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Attachment A: | <input checked="" type="checkbox"/> A-1 Program Specific Terms and Conditions
<input type="checkbox"/> A-2 Federally Funded Grants |
| <input checked="" type="checkbox"/> Attachment B: | <input checked="" type="checkbox"/> B-1 Expenditure Based Budget
<input type="checkbox"/> B-2 Performance Based Budget
<input type="checkbox"/> B-3 Capital Budget
<input type="checkbox"/> B-1 (A) Expenditure Based Budget (Amendment)
<input type="checkbox"/> B-2 (A) Performance Based Budget (Amendment)
<input type="checkbox"/> B-3 (A) Capital Budget (Amendment) |
| <input checked="" type="checkbox"/> Attachment C: Work Plan
<input checked="" type="checkbox"/> Attachment D: Payment and Reporting Schedule
<input checked="" type="checkbox"/> Attachment R: Data Privacy Appendix for Grant Contracts | |

IN WITNESS THEREOF, the parties hereto have executed or approved this Master Contract on the dates below their signatures.

CONTRACTOR:

«LegalVendorName»

By: _____

Printed Name

Title: _____

Date: _____

THE PEOPLE OF THE STATE OF NEW YORK

Betty A. Rosa
Commissioner of Education

By: _____

Julia Patane or Aaron Baldwin
Authorized Contract Officers

Date: _____

STATE OF NEW YORK

County of _____

On the ____ day of _____, _____, before me personally appeared _____, to me known, who being by me duly sworn, did depose and say that he/she resides at _____, that he/she is the _____ of the _____, the contractor described herein which executed the foregoing instrument; and that he/she signed his/her name thereto as authorized by the contractor named on the face page of this Master Contract.

(Notary) _____

ATTORNEY GENERAL'S SIGNATURE

STATE COMPTROLLER'S SIGNATURE

Printed Name

Printed Name

Title: _____

Title: _____

Date: _____

Date: _____

STATE OF NEW YORK MASTER CONTRACT FOR GRANTS

This State of New York Master Contract for Grants (Master Contract) is hereby made by and between the State of New York acting by and through the applicable State Agency (State) and the public or private entity (Contractor) identified on the face page hereof (Face Page).

WITNESSETH:

WHEREAS, the State has the authority to regulate and provide funding for the establishment and operation of program services, design or the execution and performance of construction projects, as applicable and desires to contract with skilled parties possessing the necessary resources to provide such services or work, as applicable; and

WHEREAS, the Contractor is ready, willing and able to provide such program services or the execution and performance of construction projects and possesses or can make available all necessary qualified personnel, licenses, facilities and expertise to perform or have performed the services or work, as applicable, required pursuant to the terms of the Master Contract;

NOW THEREFORE, in consideration of the promises, responsibilities, and covenants herein, the State and the Contractor agree as follows:

STANDARD TERMS AND CONDITIONS

I. GENERAL PROVISIONS

A. Executory Clause: In accordance with Section 41 of the State Finance Law, the State shall have no liability under the Master Contract to the Contractor, or to anyone else, beyond funds appropriated and available for the Master Contract.

B. Required Approvals: In accordance with Section 112 of the State Finance Law (or, if the Master Contract is with the State University of New York (SUNY) or City University of New York (CUNY), Section 355 or Section 6218 of the Education Law), if the Master Contract exceeds \$50,000 (or \$85,000 for contracts let by the Office of General Services, or the minimum thresholds agreed to by the Office of the State Comptroller (OSC) for certain SUNY and CUNY contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount including, but not limited to, changes in amount, consideration, scope or contract term identified on the Face Page (Contract Term), it shall not be valid, effective or binding upon the State until it has been approved by, and filed with, the New York Attorney General Contract Approval Unit (AG) and OSC. If, by the Master 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, and filed with, the AG and OSC.

Budget Changes: An amendment that would result in a transfer of funds among program activities or budget cost categories that does not affect the amount, consideration, scope or other terms of such contract may be subject to the approval of the AG and OSC where the amount of such modification is, as a portion of the total value of the contract, equal to or greater than ten percent for contracts of less than five million dollars, or five percent for contracts of more than

five million dollars; and, in addition, such amendment may be subject to prior approval by the applicable State Agency as detailed in Attachment D (Payment and Reporting Schedule).

C. Order of Precedence:

In the event of a conflict among (i) the terms of the Master Contract (including any and all attachments and amendments) or (ii) between the terms of the Master Contract and the original request for proposal, the program application or other attachment that was completed and executed by the Contractor in connection with the Master Contract, the order of precedence is as follows:

1. Standard Terms and Conditions
2. Modifications to the Face Page
3. Modifications to Attachment A-2¹, Attachment B, Attachment C and Attachment D
4. The Face Page
5. Attachment A-2², Attachment B, Attachment C and Attachment D
6. Modification to Attachment A-1
7. Attachment A-1
8. Other attachments, including, but not limited to, the request for proposal or program application

D. Funding: Funding for the term of the Master Contract shall not exceed the amount specified as “Contract Funding Amount” on the Face Page or as subsequently revised to reflect an approved renewal or cost amendment. Funding for the initial and subsequent periods of the Master Contract shall not exceed the applicable amounts specified in the applicable Attachment B form (Budget).

E. Contract Performance: The Contractor shall perform all services or work, as applicable, and comply with all provisions of the Master Contract to the satisfaction of the State. The Contractor shall provide services or work, as applicable, and meet the program objectives summarized in Attachment C (Work Plan) in accordance with the provisions of the Master Contract, relevant laws, rules and regulations, administrative, program and fiscal guidelines, and where applicable, operating certificate for facilities or licenses for an activity or program.

F. Modifications: To modify the Attachments or Face Page, the parties mutually agree to record, in writing, the terms of such modification and to revise or complete the Face Page and all the

¹ To the extent that the modifications to Attachment A-2 are required by Federal requirements and conflict with other provisions of the Master Contract, the modifications to Attachment A-2 shall supersede all other provisions of this Master Contract. See Section I(V).

² To the extent that the terms of Attachment A-2 are required by Federal requirements and conflict with other provisions of the Master Contract, the Federal requirements of Attachment A-2 shall supersede all other provisions of this Master Contract. See Section I(V).

appropriate attachments in conjunction therewith. In addition, to the extent that such modification meets the criteria set forth in Section I.B herein, it shall be subject to the approval of the AG and OSC before it shall become valid, effective and binding upon the State. Modifications that are not subject to the AG and OSC approval shall be processed in accordance with the guidelines stated in the Master Contract.

G. Governing Law: The Master Contract shall be governed by the laws of the State of New York except where the Federal Supremacy Clause requires otherwise.

H. Severability: Any provision of the Master Contract that is held to be invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, shall be ineffective only to the extent of such invalidity, illegality or unenforceability, without affecting in any way the remaining provisions hereof; provided, however, that the parties to the Master Contract shall attempt in good faith to reform the Master Contract in a manner consistent with the intent of any such ineffective provision for the purpose of carrying out such intent. If any provision is held void, invalid or unenforceable with respect to particular circumstances, it shall nevertheless remain in full force and effect in all other circumstances.

I. Interpretation: The headings in the Master Contract are inserted for convenience and reference only and do not modify or restrict any of the provisions herein. All personal pronouns used herein shall be considered to be gender neutral. The Master Contract has been made under the laws of the State of New York, and the venue for resolving any disputes hereunder shall be in a court of competent jurisdiction of the State of New York.

J. Notice:

1. All notices, except for notices of termination, shall be in writing and shall be transmitted either:
 - a) by certified or registered United States mail, return receipt requested;
 - b) by facsimile transmission;
 - c) by personal delivery;
 - d) by expedited delivery service; or
 - e) by e-mail.
2. Notices to the State shall be addressed to the Program Office designated in Attachment A-1 (Program Specific Terms and Conditions).
3. Notices to the Contractor shall be addressed to the Contractor's designee as designated in Attachment A-1 (Program Specific Terms and Conditions).
4. 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 e-mail, upon receipt.

5. The parties may, from time to time, specify any new or different e-mail address, facsimile number or address in the United States as their address for purpose of receiving notice under the Master Contract by giving fifteen (15) calendar days prior 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 the Master Contract. Additional individuals may be designated in writing by the parties for purposes of implementation, administration, billing and resolving issues and/or disputes.

K. 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. The Contractor shall have thirty (30) calendar days after service hereunder is complete in which to respond.

L. 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 the Master Contract up to any amounts due and owing to the State with regard to the Master Contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of the Master 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 OSC.

M. Indemnification: The Contractor shall be solely responsible and answerable in damages for any and all accidents and/or injuries to persons (including death) or property arising out of or related to the services to be rendered by the Contractor or its subcontractors pursuant to this Master Contract. The Contractor shall indemnify and hold harmless the State and its officers and employees from claims, suits, actions, damages and cost of every nature arising out of the provision of services pursuant to the Master Contract.

N. Non-Assignment Clause: In accordance with Section 138 of the State Finance Law, the Master Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet, or otherwise disposed of without the State's previous written consent, and attempts to do so shall be considered to be 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 State Agency and with the concurrence of OSC, where the original contract was subject to OSC'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 the merged contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless the Master Contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

O. Legal Action: No litigation or regulatory action shall be brought against the State of New York, the State Agency, or against any county or other local government entity with funds provided under the Master 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 any of the State of New York, the State Agency, or any county, or other local government entity. The term “regulatory action” shall include commencing or threatening to commence a regulatory proceeding, or requesting any regulatory relief from any of the State of New York, the State Agency, or any county, or other local government entity.

P. No Arbitration: Disputes involving the Master 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.

Q. Secular Purpose: Services performed pursuant to the Master Contract are secular in nature and shall be performed in a manner that does not discriminate on the basis of religious belief, or promote or discourage adherence to religion in general or particular religious beliefs.

R. Partisan Political Activity and Lobbying: Funds provided pursuant to the Master Contract shall not be used for any partisan political activity, or for activities that attempt to influence legislation or election or defeat of any candidate for public office.

S. Reciprocity and Sanctions Provisions: The Contractor is hereby notified that if its 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 it offers shall 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 it be denied contracts which it would otherwise obtain.³

T. Reporting Fraud and Abuse: Contractor acknowledges that it has reviewed information on how to prevent, detect, and report fraud, waste and abuse of public funds, including information about the Federal False Claims Act, the New York State False Claims Act, and whistleblower protections.

U. Non-Collusive Bidding: By submission of this bid, the Contractor and each person signing on behalf of the Contractor certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his or her knowledge and belief that its bid was arrived at independently and without collusion aimed at restricting competition. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive binding certification on the Contractor’s behalf.

V. Federally Funded Grants and Requirements Mandated by Federal Laws: All of the Specific Federal requirements that are applicable to the Master Contract are identified in Attachment A-2 (Federally Funded Grants and Requirements Mandated by Federal Laws) hereto. To the extent

³As of October 9, 2012, the list of discriminatory jurisdictions subject to this provision includes the states of Alaska, Hawaii, Louisiana, South Carolina, West Virginia and Wyoming. Contact NYS Department of Economic Development for the most current list of jurisdictions subject to this provision.

that the Master Contract is funded, in whole or part, with Federal funds or mandated by Federal laws, (i) the provisions of the Master Contract that conflict with Federal rules, Federal regulations, or Federal program specific requirements shall not apply and (ii) the Contractor agrees to comply with all applicable Federal rules, regulations and program specific requirements including, but not limited to, those provisions that are set forth in Attachment A-2 (Federally Funded Grants and Requirements Mandated by Federal Laws) hereto.

II. TERM, TERMINATION AND SUSPENSION

A. Term: The term of the Master Contract shall be as specified on the Face Page, unless terminated sooner as provided herein.

B. Renewal:

1. General Renewal: The Master Contract may consist of successive periods on the same terms and conditions, as specified within the Master Contract (a “Simplified Renewal Contract”). Each additional or superseding period shall be on the forms specified by the State and shall be incorporated in the Master Contract.

2. Renewal Notice to Not-for-Profit Contractors:

a) Pursuant to State Finance Law §179-t, if the Master Contract is with a not-for-profit Contractor and provides for a renewal option, the State shall notify the Contractor of the State’s intent to renew or not to renew the Master Contract no later than ninety (90) calendar days prior to the end of the term of the Master Contract, unless funding for the renewal is contingent upon enactment of an appropriation. If funding for the renewal is contingent upon enactment of an appropriation, the State shall notify the Contractor of the State’s intent to renew or not to renew the Master Contract the later of: (1) ninety (90) calendar days prior to the end of the term of the Master Contract, and (2) thirty (30) calendar days after the necessary appropriation becomes law. Notwithstanding the foregoing, in the event that the State is unable to comply with the time frames set forth in this paragraph due to unusual circumstances beyond the control of the State (“Unusual Circumstances”), no payment of interest shall be due to the not-for-profit Contractor. For purposes of State Finance Law §179-t, “Unusual Circumstances” shall not mean the failure by the State to (i) plan for implementation of a program, (ii) assign sufficient staff resources to implement a program, (iii) establish a schedule for the implementation of a program or (iv) anticipate any other reasonably foreseeable circumstance.

b) Notification to the not-for-profit Contractor of the State’s intent to not renew the Master Contract must be in writing in the form of a letter, with the reason(s) for the non-renewal included. If the State does not provide notice to the not-for-profit Contractor of its intent not to renew the Master Contract as required in this Section and State Finance Law §179-t, the Master Contract shall be deemed continued until the date the State provides the necessary notice to the Contractor, in accordance with State Finance Law §179-t. Expenses incurred by the not-for-profit Contractor during such extension shall be reimbursable under the terms of the Master Contract.

C. Termination:

1. Grounds:

- a) Mutual Consent: The Master Contract may be terminated at any time upon mutual written consent of the State and the Contractor.
- b) Cause: The State may terminate the Master Contract immediately, upon written notice of termination to the Contractor, if the Contractor fails to comply with any of the terms and conditions of the Master Contract and/or with any laws, rules, regulations, policies, or procedures that are applicable to the Master Contract.
- c) Non-Responsibility: In accordance with the provisions of Sections IV(N)(6) and (7) herein, the State may make a final determination that the Contractor is non-responsible (Determination of Non-Responsibility). In such event, the State may terminate the Master Contract at the Contractor's expense, complete the contractual requirements in any manner the State deems advisable and pursue available legal or equitable remedies for breach.
- d) Convenience: The State may terminate the Master Contract in its sole discretion upon thirty (30) calendar days prior written notice.
- e) Lack of Funds: If for any reason the State or the Federal government terminates or reduces its appropriation to the applicable State Agency entering into the Master Contract or fails to pay the full amount of the allocation for the operation of one or more programs funded under this Master Contract, the Master Contract may be terminated or reduced at the State Agency's discretion, provided that no such reduction or termination shall apply to allowable costs already incurred by the Contractor where funds are available to the State Agency for payment of such costs. Upon termination or reduction of the Master Contract, all remaining funds paid to the Contractor that are not subject to allowable costs already incurred by the Contractor shall be returned to the State Agency. In any event, no liability shall be incurred by the State (including the State Agency) beyond monies available for the purposes of the Master Contract. The Contractor acknowledges that any funds due to the State Agency or the State of New York because of disallowed expenditures after audit shall be the Contractor's responsibility.
- f) Force Majeure: The State may terminate or suspend its performance under the Master Contract immediately upon the occurrence of a "force majeure." For purposes of the Master Contract, "Force majeure" shall include, but not be limited to, natural disasters, war, rebellion, insurrection, riot, strikes, lockout and any unforeseen circumstances and acts beyond the control of the State which render the performance of its obligations impossible.

2. Notice of Termination:

- a) Service of notice: Written notice of termination shall be sent by:
 - (i) personal messenger service; or

(ii) certified mail, return receipt requested and first class mail.

b) Effective date of termination: The effective date of the termination shall be the later of (i) the date indicated in the notice and (ii) the date the notice is received by the Contractor, and shall be established as follows:

(i) if the notice is delivered by hand, the date of receipt shall be established by the receipt given to the Contractor or by affidavit of the individual making such hand delivery attesting to the date of delivery; or

(ii) if the notice is delivered by registered or certified mail, by the receipt returned from the United States Postal Service, or if no receipt is returned, five (5) business days from the date of mailing of the first class letter, postage prepaid, in a depository under the care and control of the United States Postal Service.

3. Effect of Notice and Termination on State's Payment Obligations:

a) Upon receipt of notice of termination, the Contractor agrees to cancel, prior to the effective date of any prospective termination, as many outstanding obligations as possible, and agrees not to incur any new obligations after receipt of the notice without approval by the State.

b) The State shall be responsible for payment on claims for services or work provided and costs incurred pursuant to the terms of the Master Contract. In no event shall the State be liable for expenses and obligations arising from the requirements of the Master Contract after its termination date.

4. Effect of Termination Based on Misuse or Conversion of State or Federal Property:

Where the Master Contract is terminated for cause based on Contractor's failure to use some or all of the real property or equipment purchased pursuant to the Master Contract for the purposes set forth herein, the State may, at its option, require:

a) the repayment to the State of any monies previously paid to the Contractor; or

b) the return of any real property or equipment purchased under the terms of the Master Contract; or

c) an appropriate combination of clauses (a) and (b) of Section II(C)(4) herein.

Nothing herein shall be intended to limit the State's ability to pursue such other legal or equitable remedies as may be available.

D. Suspension: The State may, in its discretion, order the Contractor to suspend performance for a reasonable period of time. In the event of such suspension, the Contractor shall be given a formal written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor shall comply with the particulars of the notice. The State shall have no obligation to reimburse Contractor's expenses during such suspension period. Activities may resume at such time

as the State issues a formal written notice authorizing a resumption of performance under the Master Contract.

III. PAYMENT AND REPORTING

A. Terms and Conditions:

1. In full consideration of contract services to be performed, the State Agency agrees to pay and the Contractor agrees to accept a sum not to exceed the amount noted on the Face Page.
2. The State has no obligation to make payment until all required approvals, including the approval of the AG and OSC, if required, have been obtained. Contractor obligations or expenditures that precede the start date of the Master Contract shall not be reimbursed.
3. Contractor must provide complete and accurate billing invoices to the State in order to receive payment. Provided, however, the State may, at its discretion, automatically generate a voucher in accordance with an approved contract payment schedule. Billing invoices submitted to the State must contain all information and supporting documentation required by Attachment D (Payment and Reporting Schedule) and Section III(C) herein. The State may require the Contractor to submit billing invoices electronically.
4. Payment for invoices submitted by the Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the head of the State Agency, in the sole discretion of the head of such State Agency, due to extenuating circumstances. Such electronic payment shall be made in accordance with OSC's procedures and practices to authorize electronic payments.
5. If travel expenses are an approved expenditure under the Master Contract, travel expenses shall be reimbursed at the lesser of the rates set forth in the written standard travel policy of the Contractor, the OSC guidelines, or United States General Services Administration rates. No out-of-state travel costs shall be permitted unless specifically detailed and pre-approved by the State.
6. Timeliness of advance payments or other claims for reimbursement, and any interest to be paid to Contractor for late payment, shall be governed by Article 11-A of the State Finance Law to the extent required by law.
7. Article 11-B of the State Finance Law sets forth certain time frames for the Full Execution of contracts or renewal contracts with not-for-profit organizations and the implementation of any program plan associated with such contract. For purposes of this section, "Full Execution" shall mean that the contract has been signed by all parties thereto and has obtained the approval of the AG and OSC. Any interest to be paid on a missed payment to the Contractor based on a delay in the Full Execution of the Master Contract shall be governed by Article 11-B of the State Finance Law.

B. Advance Payment and Recoupment:

1. Advance payments, which the State in its sole discretion may make to not-for-profit grant recipients, shall be made and recouped in accordance with State Finance Law Section 179(u), this Section and the provisions of Attachment D (Payment and Reporting Schedule).
2. Initial advance payments made by the State to not-for-profit grant recipients shall be due no later than thirty (30) calendar days, excluding legal holidays, after the first day of the Contract Term or, if renewed, in the period identified on the Face Page. Subsequent advance payments made by the State to not-for-profit grant recipients shall be due no later than thirty (30) calendar days, excluding legal holidays, after the dates specified in Attachment D (Payment and Reporting Schedule).
3. For subsequent contract years in multi-year contracts, Contractor will be notified of the scheduled advance payments for the upcoming contract year no later than 90 days prior to the commencement of the contract year. For simplified renewals, the payment schedule (Attachment D) will be modified as part of the renewal process.
4. Recoupment of any advance payment(s) shall be recovered by crediting the percentage of subsequent claims listed in Attachment D (Payment and Reporting Schedule) and Section III(C) herein and such claims shall be reduced until the advance is fully recovered within the Contract Term. Any unexpended advance balance at the end of the Contract Term shall be refunded by the Contractor to the State.
5. If for any reason the amount of any claim is not sufficient to cover the proportionate advance amount to be recovered, then subsequent claims may be reduced until the advance is fully recovered.

C. Claims for Reimbursement:

1. The Contractor shall submit claims for the reimbursement of expenses incurred on behalf of the State under the Master Contract in accordance with this Section and the applicable claiming schedule in Attachment D (Payment and Reporting Schedule).

Vouchers submitted for payment shall be deemed to be a certification that the payments requested are for project expenditures made in accordance with the items as contained in the applicable Attachment B form (Budget) and during the Contract Term. When submitting a voucher, such voucher shall also be deemed to certify that: (i) the payments requested do not duplicate reimbursement from other sources of funding; and (ii) the funds provided herein do not replace funds that, in the absence of this grant, would have been made available by the Contractor for this program. Requirement (ii) does not apply to grants funded pursuant to a Community Projects Fund appropriation.

2. Consistent with the selected reimbursement claiming schedule in Attachment D (Payment and Reporting Schedule), the Contractor shall comply with the appropriate following provisions:
 - a) Quarterly Reimbursement: The Contractor shall be entitled to receive payments for work, projects, and services rendered as detailed and described in Attachment C (Work Plan).

The Contractor shall submit to the State Agency quarterly voucher claims and supporting documentation. The Contractor shall submit vouchers to the State Agency in accordance with the procedures set forth in Section III(A)(3) herein.

b) Monthly Reimbursement: The Contractor shall be entitled to receive payments for work, projects, and services rendered as detailed and described in Attachment C (Work Plan).

The Contractor shall submit to the State Agency monthly voucher claims and supporting documentation. The Contractor shall submit vouchers to the State Agency in accordance with the procedures set forth in Section III(A)(3) herein.

c) Biannual Reimbursement: The Contractor shall be entitled to receive payments for work, projects, and services rendered as detailed and described in Attachment C (Work Plan).

The Contractor shall submit to the State Agency biannually voucher claims and supporting documentation. The Contractor shall submit vouchers to the State Agency in accordance with the procedures set forth in Section III(A)(3) herein.

d) Milestone/Performance Reimbursement:⁴ Requests for payment based upon an event or milestone may be either severable or cumulative. A severable event/milestone is independent of accomplishment of any other event. If the event is cumulative, the successful completion of an event or milestone is dependent on the previous completion of another event.

Milestone payments shall be made to the Contractor when requested in a form approved by the State, and at frequencies and in amounts stated in Attachment D (Payment and Reporting Schedule). The State Agency shall make milestone payments subject to the Contractor's satisfactory performance.

e) Fee for Service Reimbursement:⁵ Payment shall be limited to only those fees specifically agreed upon in the Master Contract and shall be payable no more frequently than monthly upon submission of a voucher by the contractor.

f) Rate Based Reimbursement:⁶ Payment shall be limited to rate(s) established in the Master Contract. Payment may be requested no more frequently than monthly.

g) Scheduled Reimbursement:⁷ The State Agency shall generate vouchers at the frequencies and amounts as set forth in Attachment D (Payment and Reporting Schedule), and service

⁴ A milestone/ performance payment schedule identifies mutually agreed-to payment amounts based on meeting contract events or milestones. Events or milestones must represent integral and meaningful aspects of contract performance and should signify true progress in completing the Master Contract effort.

⁵ Fee for Service is a rate established by the Contractor for a service or services rendered.

⁶ Rate based agreements are those agreements in which payment is premised upon a specific established rate per unit.

⁷ Scheduled Reimbursement agreements provide for payments that occur at defined and regular intervals that provide for a specified dollar amount to be paid to the Contractor at the beginning of each payment period (i.e. quarterly, monthly or bi-annually). While these payments are related to the particular services and outcomes defined in the Master Contract, they are not dependent upon particular services or expenses in any one payment period and provide the Contractor with a defined and regular payment over the life of the contract.

reports shall be used to determine funding levels appropriate to the next annual contract period.

h) Interim Reimbursement: The State Agency shall generate vouchers on an interim basis and at the amounts requested by the Contractor as set forth in Attachment D (Payment and Reporting Schedule).

i) Fifth Quarter Payments:⁸ Fifth quarter payment shall be paid to the Contractor at the conclusion of the final scheduled payment period of the preceding contract period. The State Agency shall use a written directive for fifth quarter financing. The State Agency shall generate a voucher in the fourth quarter of the current contract year to pay the scheduled payment for the next contract year.

3. The Contractor shall also submit supporting fiscal documentation for the expenses claimed.
4. The State reserves the right to withhold up to fifteen percent (15%) of the total amount of the Master Contract as security for the faithful completion of services or work, as applicable, under the Master Contract. This amount may be withheld in whole or in part from any single payment or combination of payments otherwise due under the Master Contract. In the event that such withheld funds are insufficient to satisfy Contractor's obligations to the State, the State may pursue all available remedies, including the right of setoff and recoupment.
5. The State shall not be liable for payments on the Master Contract if it is made pursuant to a Community Projects Fund appropriation if insufficient monies are available pursuant to Section 99-d of the State Finance Law.
6. All vouchers submitted by the Contractor pursuant to the Master Contract shall be submitted to the State Agency no later than thirty (30) calendar days after the end date of the period for which reimbursement is claimed. In no event shall the amount received by the Contractor exceed the budget amount approved by the State Agency, and, if actual expenditures by the Contractor are less than such sum, the amount payable by the State Agency to the Contractor shall not exceed the amount of actual expenditures.
7. All obligations must be incurred prior to the end date of the contract. Notwithstanding the provisions of Section III(C)(6) above, with respect to the final period for which reimbursement is claimed, so long as the obligations were incurred prior to the end date of the contract, the Contractor shall have up to ninety (90) calendar days after the contract end date to make expenditures; provided, however, that if the Master Contract is funded, in whole or in part, with Federal funds, the Contractor shall have up to sixty (60) calendar days after the contract end date to make expenditures.

D. Identifying Information and Privacy Notification:

⁸ Fifth Quarter Payments occurs where there are scheduled payments and where there is an expectation that services will be continued through renewals or subsequent contracts. Fifth Quarter Payments allow for the continuation of scheduled payments to a Contractor for the first payment period quarter of an anticipated renewal or new contract.

1. Every voucher or New York State Claim for Payment submitted to a State Agency by the Contractor, 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 Contractor's Vendor Identification Number assigned by the Statewide Financial System, and any or all of the following identification numbers: (i) the Contractor's Federal employer identification number, (ii) the Contractor's Federal social security number, and/or (iii) DUNS number. Failure to include such identification number or numbers may delay payment by the State to the Contractor. Where the Contractor does not have such number or numbers, the Contractor, on its voucher or Claim for Payment, must provide the reason or reasons for why the Contractor does not have such number or numbers.

2. 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 principle 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. The personal information is requested by the purchasing unit of the State Agency contracting to purchase the goods or services or lease the real or personal property covered by the Master Contract. This 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.

E. Refunds:

1. In the event that the Contractor must make a refund to the State for Master Contract-related activities, including repayment of an advance or an audit disallowance, payment must be made payable as set forth in Attachment A-1 (Program Specific Terms and Conditions). The Contractor must reference the contract number with its payment and include a brief explanation of why the refund is being made. Refund payments must be submitted to the Designated Refund Office at the address specified in Attachment A-1 (Program Specific Terms and Conditions).

2. If at the end or termination of the Master Contract, there remains any unexpended balance of the monies advanced under the Master Contract in the possession of the Contractor, the Contractor shall make payment within forty-five (45) calendar days of the end or termination of the Master Contract. In the event that the Contractor fails to refund such balance the State may pursue all available remedies.

F. Outstanding Amounts Owed to the State: Prior period overpayments (including, but not limited to, contract advances in excess of actual expenditures) and/or audit recoveries associated with the Contractor may be recouped against future payments made under this Master Contract to Contractor. The recoupment generally begins with the first payment made to the Contractor following identification of the overpayment and/or audit recovery amount. In the event that there are no payments to apply recoveries against, the Contractor shall make payment as provided in Section III(E) (Refunds) herein.

G. Program and Fiscal Reporting Requirements:

1. The Contractor shall submit required periodic reports in accordance with the applicable schedule provided in Attachment D (Payment and Reporting Schedule). All required reports or other work products developed pursuant to the Master Contract must be completed as provided by the agreed upon work schedule in a manner satisfactory and acceptable to the State Agency in order for the Contractor to be eligible for payment.

2. Consistent with the selected reporting options in Attachment D (Payment and Reporting Schedule), the Contractor shall comply with the following applicable provisions:

a) If the Expenditure Based Reports option is indicated in Attachment D (Payment and Reporting Schedule), the Contractor shall provide the State Agency with one or more of the following reports as required by the following provisions and Attachment D (Payment and Reporting Schedule) as applicable:

(i) *Narrative/Qualitative Report*: The Contractor shall submit, on a quarterly basis, not later than the time period listed in Attachment D (Payment and Reporting Schedule), a report, in narrative form, summarizing the services rendered during the quarter. This report shall detail how the Contractor has progressed toward attaining the qualitative goals enumerated in Attachment C (Work Plan). This report should address all goals and objectives of the project and include a discussion of problems encountered and steps taken to solve them.

(ii) *Statistical/Quantitative Report*: The Contractor shall submit, on a quarterly basis, not later than the time period listed in Attachment D (Payment and Reporting Schedule), a detailed report analyzing the quantitative aspects of the program plan, as appropriate (e.g., number of meals served, clients transported, patient/client encounters, procedures performed, training sessions conducted, etc.)

(iii) *Expenditure Report*: The Contractor shall submit, on a quarterly basis, not later than the time period listed in Attachment D (Payment and Reporting Schedule), a detailed expenditure report, by object of expense. This report shall accompany the voucher submitted for such period.

(iv) *Final Report*: The Contractor shall submit a final report as required by the Master Contract, not later than the time period listed in Attachment D (Payment and Reporting Schedule) which reports on all aspects of the program and detailing how the use of funds were utilized in achieving the goals set forth in Attachment C (Work Plan).

(v) *Consolidated Fiscal Report (CFR)*: The Contractor shall submit a CFR, which includes a year-end cost report and final claim not later than the time period listed in Attachment D (Payment and Reporting Schedule).

b) If the Performance-Based Reports option is indicated in Attachment D (Payment and Reporting Schedule), the Contractor shall provide the State Agency with the following reports as required by the following provisions and Attachment D (Payment and Reporting Schedule) as applicable:

- (i) *Progress Report*: The Contractor shall provide the State Agency with a written progress report using the forms and formats as provided by the State Agency, summarizing the work performed during the period. These reports shall detail the Contractor's progress toward attaining the specific goals enumerated in Attachment C (Work Plan). Progress reports shall be submitted in a format prescribed in the Master Contract.
- (ii) *Final Progress Report*: Final scheduled payment is due during the time period set forth in Attachment D (Payment and Reporting Schedule). The deadline for submission of the final report shall be the date set forth in Attachment D (Payment and Reporting Schedule). The State Agency shall complete its audit and notify the Contractor of the results no later than the date set forth in Attachment D (Payment and Reporting Schedule). Payment shall be adjusted by the State Agency to reflect only those services/expenditures that were made in accordance with the Master Contract. The Contractor shall submit a detailed comprehensive final progress report not later than the date set forth in Attachment D (Payment and Reporting Schedule), summarizing the work performed during the entire Contract Term (i.e., a cumulative report), in the forms and formats required.

3. In addition to the periodic reports stated above, the Contractor may be required (a) to submit such other reports as are required in Table 1 of Attachment D (Payment and Reporting Schedule), and (b) prior to receipt of final payment under the Master Contract, to submit one or more final reports in accordance with the form, content, and schedule stated in Table 1 of Attachment D (Payment and Reporting Schedule).

H. Notification of Significant Occurrences:

1. 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 or other program requirements, the Contractor agrees to submit to the State Agency within three (3) calendar days of becoming aware of the occurrence or of such problem, a written description thereof together with a recommended solution thereto.
2. The Contractor shall immediately notify in writing the program manager assigned to the Master Contract of any unusual incident, occurrence, or event that involves the staff, volunteers, directors or officers of the Contractor, any subcontractor or program participant funded through the Master Contract, including but not limited to the following: death or serious injury; an arrest or possible criminal activity that could impact the successful completion of this project; any destruction of property; significant damage to the physical plant of the Contractor; or other matters of a similarly serious nature.

IV. ADDITIONAL CONTRACTOR OBLIGATIONS, REPRESENTATIONS AND WARRANTIES

A. Contractor as an Independent Contractor/Employees:

1. The State and the Contractor agree that the Contractor is an independent contractor, and not an employee of the State and may neither hold itself out nor claim to be an officer, employee, or subdivision of the State nor make any claim, demand, or application to or for any right based upon any different status. Notwithstanding the foregoing, the State and the Contractor

agree that if the Contractor is a New York State municipality, the Contractor shall be permitted to hold itself out, and claim, to be a subdivision of the State.

The Contractor shall be solely responsible for the recruitment, hiring, provision of employment benefits, payment of salaries and management of its project personnel. These functions shall be carried out in accordance with the provisions of the Master Contract, and all applicable Federal and State laws and regulations.

2. The Contractor warrants that it, its staff, and any and all subcontractors 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 or work, as applicable, pursuant to the Master Contract and/or any subcontract entered into under the Master Contract. The Contractor further agrees that such required licenses, approvals, and certificates shall be kept in full force and effect during the term of the Master Contract, 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 or work, as applicable, under the Master Contract, Contractor shall immediately notify the State.

B. Subcontractors:

1. If the Contractor enters into subcontracts for the performance of work pursuant to the Master Contract, the Contractor shall take full responsibility for the acts and omissions of its subcontractors. Nothing in the subcontract shall impair the rights of the State under the Master Contract. No contractual relationship shall be deemed to exist between the subcontractor and the State.

2. If requested by the State, the Contractor agrees not to enter into any subcontracts, or revisions to subcontracts, that are in excess of \$100,000 for the performance of the obligations contained herein until it has received the prior written permission of the State, which shall have the right to review and approve each and every subcontract in excess of \$100,000 prior to giving written permission 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 the Master Contract, (2) that nothing contained in the subcontract shall impair the rights of the State under the Master Contract, and (3) that nothing contained in the subcontract, nor under the Master Contract, shall be deemed to create any contractual relationship between the subcontractor and the State. In addition, subcontracts shall contain any other provisions which are required to be included in subcontracts pursuant to the terms herein.

3. If requested by the State, prior to executing a subcontract, the Contractor agrees to require the subcontractor to provide to the State the information the State needs to determine whether a proposed subcontractor is a responsible vendor.

4. If requested by the State, when a subcontract equals or exceeds \$100,000, the subcontractor shall submit a Vendor Responsibility Questionnaire (Questionnaire).

5. If requested by the State, upon the execution of a subcontract, the Contractor shall provide detailed subcontract information (a copy of subcontract will suffice) to the State within fifteen (15) calendar days after execution. The State may request from the Contractor copies of subcontracts between a subcontractor and its subcontractor.

6. The Contractor shall require any and all subcontractors to submit to the Contractor all financial claims for Services or work to the State agency, as applicable, rendered and required supporting documentation and reports as necessary to permit Contractor to meet claim deadlines and documentation requirements as established in Attachment D (Payment and Reporting Schedule) and Section III. Subcontractors shall be paid by the Contractor on a timely basis after submitting the required reports and vouchers for reimbursement of services or work, as applicable. 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.

C. Use Of Material, Equipment, Or Personnel:

1. The Contractor shall not use materials, equipment, or personnel paid for under the Master Contract for any activity other than those provided for under the Master Contract, except with the State's prior written permission.

2. Any interest accrued on funds paid to the Contractor by the State shall be deemed to be the property of the State and shall either be credited to the State at the close-out of the Master Contract or, upon the written permission of the State, shall be expended on additional services or work, as applicable, provided for under the Master Contract.

D. Property:

1. Property is real property, equipment, or tangible personal property having a useful life of more than one year and an acquisition cost of \$1,000 or more per unit.

a) If an item of Property required by the Contractor is available as surplus to the State, the State at its sole discretion, may arrange to provide such Property to the Contractor in lieu of the purchase of such Property.

b) If the State consents in writing, the Contractor may retain possession of Property owned by the State, as provided herein, after the termination of the Master Contract to use for similar purposes. Otherwise, the Contractor shall return such Property to the State at the Contractor's cost and expense upon the expiration of the Master Contract.

c) In addition, the Contractor agrees to permit the State to inspect the Property and to monitor its use at reasonable intervals during the Contractor's regular business hours.

d) The Contractor shall be responsible for maintaining and repairing Property purchased or procured under the Master Contract at its own cost and expense. The Contractor shall procure and maintain insurance at its own cost and expense in an amount satisfactory to the State Agency, naming the State Agency as an additional insured, covering the loss, theft or destruction of such equipment.

- e) A rental charge to the Master Contract for a piece of Property owned by the Contractor shall not be allowed.
 - f) The State has the right to review and approve in writing any new contract for the purchase of or lease for rental of Property (Purchase/Lease Contract) operated in connection with the provision of the services or work, as applicable, as specified in the Master Contract, if applicable, and any modifications, amendments, or extensions of an existing lease or purchase prior to its execution. If, in its discretion, the State disapproves of any Purchase/Lease Contract, then the State shall not be obligated to make any payments for such Property.
 - g) No member, officer, director or employee of the Contractor shall retain or acquire any interest, direct or indirect, in any Property, paid for with funds under the Master Contract, nor retain any interest, direct or indirect, in such, without full and complete prior disclosure of such interest and the date of acquisition thereof, in writing to the Contractor and the State.
2. For non-Federally-funded contracts, unless otherwise provided herein, the State shall have the following rights to Property purchased with funds provided under the Master Contract:
- a) For cost-reimbursable contracts, all right, title and interest in such Property shall belong to the State.
 - b) For performance-based contracts, all right, title and interest in such Property shall belong to the Contractor.
3. For Federally funded contracts, title to Property whose requisition cost is borne in whole or in part by monies provided under the Master Contract shall be governed by the terms and conditions of Attachment A-2 (Federally Funded Grants and Requirements Mandated by Federal Laws).
4. Upon written direction by the State, the Contractor shall maintain an inventory of all Property that is owned by the State as provided herein.
5. The Contractor shall execute any documents which the State may reasonably require to effectuate the provisions of this section.

E. Records and Audits:

1. General:

- a) The Contractor shall establish and maintain, in paper or electronic format, complete and accurate books, records, documents, receipts, accounts, and other evidence directly pertinent to its performance under the Master Contract (collectively, Records).
- b) The Contractor agrees to produce and retain for the balance of the term of the Master Contract, and for a period of six years from the later of the date of (i) the Master Contract and (ii) the most recent renewal of the Master Contract, any and all Records necessary to substantiate upon audit, the proper deposit and expenditure of funds received under the Master Contract. Such Records may 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:

(i) personal service expenditures: cancelled checks and the related bank statements, time and attendance records, payroll journals, cash and check disbursement records including copies of money orders and the like, vouchers and invoices, records of contract labor, any and all records listing payroll and the money value of non-cash advantages provided to employees, time cards, work schedules and logs, employee personal history folders, detailed and general ledgers, sales records, miscellaneous reports and returns (tax and otherwise), and cost allocation plans, if applicable.

(ii) payroll taxes and fringe benefits: cancelled checks, copies of related bank statements, cash and check disbursement records including copies of money orders and the like, invoices for fringe benefit expenses, miscellaneous reports and returns (tax and otherwise), and cost allocation plans, if applicable.

(iii) non-personal services expenditures: original invoices/receipts, cancelled checks and related bank statements, consultant agreements, leases, and cost allocation plans, if applicable.

(iv) receipt and deposit of advance and reimbursements: itemized bank stamped deposit slips, and a copy of the related bank statements.

c) The OSC, AG and any other person or entity authorized to conduct an examination, as well as the State Agency or State Agencies involved in the Master Contract that provided funding, shall have access to the Records during the hours of 9:00 a.m. until 5:00 p.m., Monday through Friday (excluding State recognized holidays), 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.

d) The State shall protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law 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 Section 87 of the Public Officers Law, is reasonable.

e) Nothing contained herein shall diminish, or in any way adversely affect, the State's rights in connection with its audit and investigatory authority or the State's rights in connection with discovery in any pending or future litigation.

2. Cost Allocation:

a) For non-performance based contracts, the proper allocation of the Contractor's costs must be made according to a cost allocation plan that meets the requirements of OMB Circulars A-87, A-122, and/or A-21. Methods used to determine and assign costs shall conform to generally accepted accounting practices and shall be consistent with the method(s) used by the Contractor to determine costs for other operations or programs. Such accounting standards and practices shall be subject to approval of the State.

b) For performance based milestone contracts, or for the portion of the contract amount paid on a performance basis, the Contractor shall maintain documentation demonstrating that milestones were attained.

3. **Federal Funds:** For records and audit provisions governing Federal funds, please see Attachment A-2 (Federally Funded Grants and Requirements Mandated by Federal Laws).

F. Confidentiality: The Contractor agrees that it shall use and maintain personally identifiable information relating to individuals who may receive services, and their families pursuant to the Master Contract, or any other information, data or records marked as, or reasonably deemed, confidential by the State (Confidential Information) only for the limited purposes of the Master Contract and in conformity with applicable provisions of State and Federal law. The Contractor (i) has an affirmative obligation to safeguard any such Confidential Information from unnecessary or unauthorized disclosure and (ii) must 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).

G. Publicity:

1. Publicity includes, but is not limited to: news conferences; news releases; public announcements; advertising; brochures; reports; discussions or presentations at conferences or meetings; and/or the inclusion of State materials, the State's name or other such references to the State in any document or forum. Publicity regarding this project may not be released without prior written approval from the State.

2. Any publications, presentations or announcements of conferences, meetings or trainings which are funded in whole or in part through any activity supported under the Master Contract may not be published, presented or announced without prior approval of the State. Any such publication, presentation or announcement shall:

a) Acknowledge the support of the State of New York and, if funded with Federal funds, the applicable Federal funding agency; and

b) 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, interpretations or policy of the State or if funded with Federal funds, the applicable Federal funding agency.

3. Notwithstanding the above, (i) if the Contractor is an educational research institution, the Contractor may, for scholarly or academic purposes, use, present, discuss, report or publish any material, data or analyses, other than Confidential Information, that derives from activity under the Master Contract and the Contractor agrees to use best efforts to provide copies of any manuscripts arising from Contractor's performance under this Master Contract, or if requested by the State, the Contractor shall provide the State with a thirty (30) day period in which to review each manuscript for compliance with Confidential Information requirements; or (ii) if the Contractor is not an educational research institution, the Contractor may submit for publication, scholarly or academic publications that derive from activity under the Master Contract (but are not deliverable under the Master Contract), provided that the Contractor first

submits such manuscripts to the State forty-five (45) calendar days prior to submission for consideration by a publisher in order for the State to review the manuscript for compliance with confidentiality requirements and restrictions and to make such other comments as the State deems appropriate. All derivative publications shall follow the same acknowledgments and disclaimer as described in Section IV(G)(2) (Publicity) hereof.

H. Web-Based Applications-Accessibility: Any web-based intranet and Internet information and applications development, or programming delivered pursuant to the Master Contract or procurement shall 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 shall be conducted by the State Agency and the results of such testing must be satisfactory to the State Agency before web content shall be considered a qualified deliverable under the Master Contract or procurement.

I. Non-Discrimination Requirements: Pursuant to 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 and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex (including gender expression), 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. 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 the Master Contract shall be performed within the State of New York, the 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 the Master Contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, the 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 the Master Contract. The Contractor shall be subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 of the Labor Law.

J. Equal Opportunities for Minorities and Women; Minority and Women Owned Business Enterprises: In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if the Master Contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting State 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 State Agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting State 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 Contractor certifies and affirms that (i) it is subject to Article 15-A of the Executive Law which includes, but is not limited to, those provisions concerning the maximizing of opportunities for the participation of minority and women-owned business enterprises and (ii) the following provisions shall apply and it is Contractor's equal employment opportunity policy that:

1. The Contractor shall not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status;
2. The Contractor 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;
3. The Contractor shall 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;
4. At the request of the State, 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 shall not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative shall affirmatively cooperate in the implementation of the Contractor's obligations herein; and
5. The Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants shall be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

The Contractor shall include the provisions of subclauses 1 – 5 of this Section (IV)(J), in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (Work) except where the Work is for the beneficial use of the Contractor. Section 312 of the Executive Law does not apply to: (i) work, goods or services unrelated to the Master Contract; or (ii) employment outside New York State. The State shall consider compliance by the Contractor or a subcontractor with the requirements of any Federal law concerning equal employment opportunity which effectuates the purpose of this section. The State 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 State shall waive the applicability of Section 312 of the Executive Law to the extent of such duplication or conflict. The Contractor shall comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

K. 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.

1. If the total dollar amount of the Master Contract is greater than \$1 million, the Omnibus Procurement Act of 1992 requires that by signing the Master Contract, the Contractor certifies the following:

a) The Contractor has made reasonable efforts to encourage the participation of 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 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 the Master Contract and agrees to cooperate with the State in these efforts.

L. Workers' Compensation Benefits:

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

2. If a Contractor believes they are exempt from the Workers Compensation insurance requirement they must apply for an exemption.

M. Unemployment Insurance Compliance: The Contractor shall remain current in both its quarterly reporting and payment of contributions or payments in lieu of contributions, as applicable, to the State Unemployment Insurance system as a condition of maintaining this grant.

The Contractor hereby authorizes the State Department of Labor to disclose to the State Agency staff only such information as is necessary to determine the Contractor's compliance with the State Unemployment Insurance Law. This includes, but is not limited to, the following:

1. any records of unemployment insurance (UI) contributions, interest, and/or penalty payment arrears or reporting delinquency;

2. any debts owed for UI contributions, interest, and/or penalties;

3. the history and results of any audit or investigation; and
4. copies of wage reporting information.

Such disclosures are protected under Section 537 of the State Labor Law, which makes it a misdemeanor for the recipient of such information to use or disclose the information for any purpose other than the performing due diligence as a part of the approval process for the Master Contract.

N. Vendor Responsibility:

1. If a Contractor is required to complete a Questionnaire, the Contractor covenants and represents that it has, to the best of its knowledge, truthfully, accurately and thoroughly completed such Questionnaire. Although electronic filing is preferred, the Contractor may obtain a paper form from the OSC prior to execution of the Master Contract. The Contractor further covenants and represents that as of the date of execution of the Master Contract, there are no material events, omissions, changes or corrections to such document requiring an amendment to the Questionnaire.
2. The Contractor shall provide to the State updates to the Questionnaire if any material event(s) occurs requiring an amendment or as new information material to such Questionnaire becomes available.
3. The Contractor shall, in addition, promptly report to the State the initiation of any investigation or audit by a governmental entity with enforcement authority with respect to any alleged violation of Federal or state law by the Contractor, its employees, its officers and/or directors in connection with matters involving, relating to or arising out of the Contractor's business. Such report shall be made within five (5) business days following the Contractor becoming aware of such event, investigation, or audit. Such report may be considered by the State in making a Determination of Vendor Non-Responsibility pursuant to this section.
4. The State reserves the right, in its sole discretion, at any time during the term of the Master Contract:
 - a) to require updates or clarifications to the Questionnaire upon written request;
 - b) to inquire about information included in or required information omitted from the Questionnaire;
 - c) to require the Contractor to provide such information to the State within a reasonable timeframe; and
 - d) to require as a condition precedent to entering into the Master Contract that the Contractor agree to such additional conditions as shall be necessary to satisfy the State that the Contractor is, and shall remain, a responsible vendor; and
 - e) to require the Contractor to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity. By signing the Master Contract, the Contractor agrees

to comply with any such additional conditions that have been made a part of the Master Contract.

5. The State, in its sole discretion, reserves the right to suspend any or all activities under the Master Contract, at any time, when it discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor shall be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the State issues a written notice authorizing a resumption of performance under the Master Contract.

6. The State, in its sole discretion, reserves the right to make a final Determination of Non-Responsibility at any time during the term of the Master Contract based on:

- a) any information provided in the Questionnaire and/or in any updates, clarifications or amendments thereof; or
- b) the State's discovery of any material information which pertains to the Contractor's responsibility.

7. Prior to making a final Determination of Non-Responsibility, the State shall provide written notice to the Contractor that it has made a preliminary determination of non-responsibility. The State shall detail the reason(s) for the preliminary determination, and shall provide the Contractor with an opportunity to be heard.

O. Charities Registration: If applicable, the Contractor agrees to (i) obtain not-for-profit status, a Federal identification number, and a charitable registration number (or a declaration of exemption) and to furnish the State Agency with this information as soon as it is available, (ii) be in compliance with the OAG charities registration requirements at the time of the awarding of this Master Contract by the State and (iii) remain in compliance with the OAG charities registration requirements throughout the term of the Master Contract.

P. Consultant Disclosure Law:⁹ 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.

Q. 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

⁹ Not applicable to not-for-profit entities.

prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

ATTACHMENT A-1-A

AGENCY SPECIFIC TERMS AND CONDITIONS FOR
NEW YORK STATE EDUCATION DEPARTMENT GRANT CONTRACTS

General

- A. In the event that the Contractor shall receive, from any source whatsoever, sums the payment of which is in consideration for the same costs and services provided to the State, the monetary obligation of the State hereunder shall be reduced by an equivalent amount provided, however, that nothing contained herein shall require such reimbursement where additional similar services are provided and no duplicative payments are received.
- B. This agreement is subject to applicable Federal and State Laws and regulations and the policies and procedures stipulated in the NYS Education Department Fiscal Guidelines found at <http://www.nysed.gov/cafe/>.
- C. For each individual for whom costs are claimed under this agreement, the contractor warrants that the individual has been classified as an employee or as an independent contractor in accordance with 2 NYCRR 315 and all applicable laws including, but not limited to, the Internal Revenue Code, the New York Retirement and Social Security Law, the New York Education Law, the New York Labor Law, and the New York Tax Law. Furthermore, the contractor warrants that all project funds allocated to the proposed budget for Employee Benefits, represent costs for employees of the contractor only and that such funds will not be expended on any individual classified as an independent contractor.
- D. Funds provided by this contract may not be used to pay any expenses of the State Education Department or any of its employees.

Safeguards for Services and Confidentiality

- A. Notwithstanding Standard Terms and Conditions IV (G) (3), any copyrightable work produced pursuant to said agreement shall be the sole and exclusive property of the New York State Education Department. The material prepared under the terms of this agreement by the Contractor shall be prepared by the Contractor in a form so that it will be ready for copyright in the name of the New York State Education Department. Should the Contractor use the services of consultants or other organizations or individuals who are not regular employees of the Contractor, the Contractor and such organization or individual shall, prior to the performance of any work pursuant to this agreement, enter into a written agreement, duly executed, which shall set forth the services to be provided by such organization or individual and the consideration therefor. Such agreement shall provide that any copyrightable work produced pursuant to said agreement shall be the sole and exclusive property of the New York State Education Department and that such work shall be prepared in a form ready for copyright by the New York State Education Department. A copy of such agreement shall be provided to the State.
- B. All reports of research, studies, publications, workshops, announcements, and other activities funded as a result of this proposal will acknowledge the support provided by the State of New York.
- C. No failure to assert any rights or remedies available to the State under this agreement shall be considered a waiver of such right or remedy or any other right or remedy unless such waiver is contained in a writing signed by the party alleged to have waived its right or remedy.
- D. No fees shall be charged by the Contractor for training provided under this agreement.
- E. Nothing herein shall require the State to adopt the curriculum developed pursuant to this agreement.
- F. All inquiries and requests regarding this agreement shall be directed to the Program Contact or Fiscal Contact shown on the Grant Award included as part of this agreement.
- G. This agreement, including all appendices, is, upon signature of the parties and the approval of the Attorney General and the State Comptroller, a legally enforceable contract. Therefore, a signature on behalf of the Contractor will bind the Contractor to all the terms and conditions stated therein.
- H. The parties to this agreement intend the foregoing writing to be the final, complete, and exclusive expression of all the terms of their agreement.

ATTACHMENT B-1 – Expenditure Based Budget

**The University of the State of New York
THE STATE EDUCATION DEPARTMENT**
(see instructions for mailing address)

**PROPOSED BUDGET FOR A
FEDERAL OR STATE PROJECT
FS-10 (03/15)**

Local Agency Information

Funding Source: _____

Report Prepared By: _____

Agency Name: _____

Mailing Address: _____

Street		
City	State	Zip Code

Telephone #: _____ County: _____

E-Mail Address: _____

Project Operation Dates: _____ / _____ / _____
Start End

INSTRUCTIONS

- ❖ **Submit the original budget and the required number of copies along with the completed application directly to the appropriate State Education Department office as indicated in the application instructions for the grant program for which you are applying. DO NOT submit this form to the Grants Finance.**
- ❖ Enter whole dollar amounts only.
- ❖ Prior approval by means of an approved budget (FS-10) or budget amendment (FS-10-A) is required for:
 - Personnel positions, number and type
 - Equipment items having a unit value of \$5,000 or more, number and type
 - Minor remodeling
 - Any increase in a budget subtotal (professional salaries, purchased services, travel, etc.) by more than 10 percent or \$1,000, whichever is greater
 - Any increase in the total budget amount.
- ❖ Certification on page 8 must be signed by Chief Administrative Officer or properly authorized designee.
- ❖ High quality computer generated reproductions of this form may be used.
- ❖ For further information on budgeting, please refer to the Fiscal Guidelines for Federal and State Aided Grants which may be accessed at www.oms.nysed.gov/cafe/ or call Grants Finance at (518) 474-4815.

SALARIES FOR PROFESSIONAL STAFF: Code 15

Include only staff that are employees of the agency. Do not include consultants or per diem staff. Do not include central administrative staff that are considered to be indirect costs, e.g., business office staff. One full-time equivalent (FTE) equals one person working an entire week each week of the project. Express partial FTE's in decimals, e.g., a teacher working one day per week equals .2 FTE.

Specific Position Title	Full-Time Equivalent	Annualized Rate of Pay	Project Salary
Subtotal - Code 15			

SALARIES FOR SUPPORT STAFF: Code 16

Include salaries for teacher aides, secretarial and clerical assistance, and for personnel in pupil transportation and building operation and maintenance. Do not include central administrative staff that are considered to be indirect costs, e.g., account clerks.

Specific Position Title	Full-Time Equivalent	Annualized Rate of Pay	Project Salary
Subtotal - Code 16			

PURCHASED SERVICES: Code 40

Include consultants (indicate per diem rate), rentals, tuition, and other contractual services. Copies of contracts may be requested by the State Education Department. Purchased Services from a BOCES, if other than applicant agency, should be budgeted under Purchased Services with BOCES, Code 49.

Description of Item	Provider of Services	Calculation of Cost	Proposed Expenditure
Subtotal - Code 40			

SUPPLIES AND MATERIALS: Code 45

Beginning with the 2005-06 year include computer software, library books and equipment items under \$5,000 per unit.

For earlier years include computer software, library books and equipment items under 1,000 per unit.

Description of Item	Quantity	Unit Cost	Proposed Expenditure
Project Number: # _____ of 7. Attachment B-1. Expenditure Based Budget			Subtotal - Code 45

TRAVEL EXPENSES: Code 46

Include pupil transportation, conference costs and travel of staff between instructional sites. Specify agency approved mileage rate for travel by personal car or school-owned vehicle.

Position of Traveler	Destination and Purpose	Calculation of Cost	Proposed Expenditures
Subtotal - Code 46			

EMPLOYEE BENEFITS: Code 80

Rates used for project personnel must be the same as those used for other agency personnel.

Benefit		Proposed Expenditure
Social Security		
Retirement	New York State Teachers	
	New York State Employees	
	Other	
Health Insurance		
Worker's Compensation		
Unemployment Insurance		
Other (Identify)		
Subtotal – Code 80		

- | | |
|----|-----|
| \$ | (A) |
| % | (B) |
| \$ | (C) |

Description of Services	Name of BOCES	Calculation of Cost	Proposed Expenditure
Subtotal – Code 49			

Description of Work To be Performed	Calculation of Cost	Proposed Expenditure
Subtotal – Code 30		

EQUIPMENT: Code 20

Beginning with the 2005-06 year all equipment to be purchased in support of this project with a unit cost of \$5,000 or more should be itemized in this category. Equipment items under \$5,000 should be budgeted under Supplies and Materials, Code 45. Repairs of equipment should be budgeted under Purchased Services, Code 40.

For earlier years the threshold for reporting equipment purchases was \$1,000 or more. Equipment items under \$1,000 should be budgeted under Supplies and Materials.

Description of Item	Quantity	Unit Cost	Proposed Expenditure
Subtotal – Code 20			

BUDGET SUMMARY

FS-10 Page 8

SUBTOTAL	CODE	PROJECT COSTS
Professional Salaries	15	
Support Staff Salaries	16	
Purchased Services	40	
Supplies and Materials	45	
Travel Expenses	46	
Employee Benefits	80	
Indirect Cost	90	
BOCES Services	49	
Minor Remodeling	30	
Equipment	20	
Grand Total		

CHIEF ADMINISTRATOR'S CERTIFICATION

By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements, and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal (or State) award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil, or administrative penalties for fraud, false statements, false claims, or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812).

____/____/____

Date

Signature

Contract Number: #

Page 7 of 7, Attachment B-1, Expenditure Based Budget

Agency
Code:

--	--	--	--	--	--	--	--	--	--	--	--

Project #:
(If pre-assigned)

--	--	--	--	--	--	--	--	--	--	--

Contract #:

--	--	--	--	--	--	--	--

Federal Employer ID #:
(New non-municipal agencies only)

--	--	--	--	--	--	--	--	--	--

Agency Name: _____

FOR DEPARTMENT USE ONLY

Funding Dates: ____/____/____ From ____/____/____ To ____/____/____

Program Approval: _____ Date: _____

Fiscal Year

Amount Budgeted

First Payment

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

Voucher #

First Payment

Finance:

--

Log

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Approved

--

MIR

ATTACHMENT C

WORK PLAN, PART 1

A. Description of Program

This program, as amended, is designed to support the screening, testing, counseling, tutoring, teaching, and partial financial assistance of New York State residents who:

1. Are graduates of an approved high school or have obtained a high school equivalency diploma or its equivalent;
2. Have potential for the successful completion of a higher education program; and
3. Are economically and educationally disadvantaged.

See section Student Eligibility below for detailed eligibility criteria.

Program Objectives

1. Provide access to postsecondary education to eligible students.
2. Identify, evaluate, and recruit eligible students and enable them to complete a higher education experience.
3. Improve the retention and graduation rates of disadvantaged students.

Full-time Higher Education Opportunity Programs

Students enrolled full-time in HEOP must carry a minimum of 12 credit hours or the equivalent per semester; therefore, the FTE for the program is calculated as follows:

Total credits for the program year for all students for all semesters (including the special sessions) in the program divided by 24.

A student enrolling for 12 or more credits in a term is using up one semester, or one-half (1/2) a year, of program eligibility.

Semesters of eligibility:

1. Two-year associate degree program: A student is allowed six semesters or equivalent of opportunity program eligibility.
2. Four-year baccalaureate program: A student is allowed ten semesters or equivalent of opportunity program eligibility.
3. Five-year baccalaureate program: if a HEOP student is enrolled in a five-year registered academic program with NYSED requiring five years to complete (such as architecture, pharmacy, and engineering), the student is eligible for up to 12 semesters of HEOP assistance.

The funds allocated by the Legislature are intended to supplement and expand, not supplant, existing efforts.

New York State Tuition Assistance Program (TAP): For students who participate in TAP, eligibility for five years is provided under Section 145-2.7 of the Commissioner's Regulations.

If, at any point during the program, a HEOP student loses TAP eligibility, that loss has no bearing on HEOP eligibility or funding. Eligibility for HEOP and eligibility for TAP are different and separate.

Part-time student in a full-time program: It is expected that all HEOP students enrolled in a program funded to serve full-time students will begin with a full-time academic course load. However, due to documented extenuating circumstances, a student may have to register for less than a full-time course load. Some examples include students with disabilities, medical problems, or family responsibilities.

The extenuating circumstances requiring less than full-time enrollment must be approved by the institution and the documentation kept on file. If the qualified student needs to be on part-time status for more than four semesters in a four-year baccalaureate program (two semesters for an associate degree), the remaining eligibility will be calculated according to the part-time schedule below. HEOP students attending part-time in a full-time program must enroll for at least six semester hours or the equivalent per term, except for graduating HEOP students in their last term when they can enroll for fewer hours than the minimum previously stated.

When requesting HEOP funds, both current and start-up program applicants must base the FTE number in their budget request on the number of students enrolled in the first year of the funding cycle. Start-up programs must include the projected FTEs for years 2-5, as these FTEs will be used to calculate budget awards for years 2-5. The total number of FTEs expected each year for current programs shall remain the same for the duration of the grant. For start-up programs, the total FTEs may steadily increase every year, as additional students enroll each year, until FTEs level off in the fourth year of funding.

Special Sessions

1. NYSED funds are available for continuing students to attend a special academic session only with justification to NYSED prior to such session and each such student must be preapproved by NYSED. It is the joint responsibility of the HEOP director and of an institutional financial aid officer to verify that all HEOP students attending a special session have a legitimate reason to do so. The institution is responsible and will be held accountable for this documentation.
2. If a student takes 12 or more credits or the equivalent during the special session, the student will have used one semester of eligibility.
3. Students are not using HEOP eligibility in a special session if:
 - a. The academic support services and financial assistance received by the students are funded by the institution and/or other sources only, and
 - b. The students are not reported on the HEOP roster for a special session.

Part-time Opportunity Programs

For part-time students enrolled in HEOP part-time the FTE is calculated as follows:

Part-time students FTE = Total credits attempted for the program year for all PT students in the program divided by 15.

Students part-time in HEOP must enroll for at least six semester hours or the equivalent per term. All academic terms for the program calendar year (July 1 – June 30) will be counted.

Part-time students in a part-time program can be enrolled in *special sessions* for 3 or more credits only in certain extenuating circumstances such as: students with disabilities, medical problems, or family responsibilities. This can happen for up to two semesters during their HEOP tenure as part-time students in a part-time program.

Credit hours of eligibility for part-time students:

1. Two-year associate degree program: A student is allowed 90 semester hours of eligibility.
2. Four-year baccalaureate program: A student is allowed 150 semester hours of eligibility.
3. Five-year baccalaureate program: A student is allowed 195 semester hours of eligibility.

Summer Program (Academic Entry Program)

An annual summer program is a mandatory requirement of HEOP. First-time HEOP students must be enrolled in a HEOP summer program. A HEOP summer program must be completed prior to the

beginning of an institution's fall semester. It is strongly recommended that the summer program commence in early July and conclude by the middle of August. No applicant may have a proposal that includes a stipulation to allow first-time students to enroll in HEOP without attending the summer program.

An IHE may offer a supplemental academic entry program during a special session due to documented extenuating circumstances with NYSED's approval. A timely request (4 weeks before the special session) must be submitted to NYSED each time the IHE intends to offer such a program and must be preapproved by NYSED at least a month before such session is offered. The supplemental academic entry program must meet all the requirements of the summer program, including completion before the start of an academic term.

HEOP Integration into the IHE Academic Community

HEOP is designed for economically and educationally disadvantaged students and must be an integral part of the college academic community. It must not be a peripheral activity segregated from other college programs. HEOP is an academic opportunity program and must be closely coordinated with the academic affairs at the institution.

The special economic and educational needs of HEOP students must be met. While admission and retention policies for HEOP students are expected to be flexible, institutions must determine a point at which the HEOP student will be subject to the same policies (such as academic probation or dismissal) as the general admit student population. Expectations for HEOP students must, however, not be less than the minimums on the institution's standard of academic progress chart filed with the NY State Education Department after the mid-point (i.e., 5 semesters for a four-year degree).

Supportive Academic Services

HEOP students must be academically supported through screening, pre-testing and post-testing evaluation, counseling, and tutoring. This includes instruction in, but not limited to, study skills and computer literacy, which can be achieved through workshops, seminars, and developmental and/or remedial courses. These services and/or strategies must be sufficiently tailored to meet the needs of HEOP students.

HEOP Office Organization and Administration

All programs must have a HEOP director. NYSED considers the role of the director pivotal to the implementation of a successful Higher Education Opportunity Program. The HEOP director is required to be a minimum of 0.5 FTE dedicated to HEOP. See Appendix 1 (page 60) for HEOP staffing guidelines. HEOP Directors from the previous grant cycle may continue at their approved FTE in the new HEOP cycle. However, should the directorship change, the new HEOP Director shall be 0.5 FTE or greater. HEOP funds or a combination of HEOP & institutional funds can be used to pay for the HEOP director's salary.

The HEOP director is responsible for providing leadership to HEOP and for the management of the contract and all related HEOP activities.

These activities include but are not limited to: on-site management of HEOP; management of the budget and amendments; planning, development, implementation and evaluation of programs and services; the hiring and supervision of staff; coordination of internal and external partnerships (e.g. IHE departments, high schools, community-based organizations, et cetera); HEOP student recruitment, admissions and financial aid processes including student eligibility determination; data collection and reporting; and public relations.

The HEOP director must report to a senior level administrator of the institution. A senior level administrator is one who directly reports to either the institution's President, Chief Academic Officer, and/or governing board. The institutions are strongly encouraged to have the HEOP director report to a Chief Academic Officer (e.g., provost or Vice President of Academic Affairs).

The institution must clearly demonstrate how the program's organizational reporting will be integrated with the academic practices, policies, and personnel of the institution.

Any change in the structure or reporting relationship of the HEOP or the HEOP director must be reviewed and approved by NYSED prior to its implementation.

1. **HEOP Salary and Benefits:** Salaries are negotiated by the institution with HEOP personnel; salaries and benefits must be equivalent to those paid to other campus employees with commensurate levels of training, skills, and responsibilities. HEOP staff is expected to receive treatment identical to other institutional officers of similar rank with respect to salary increases and employee benefits, including but not limited to tuition reimbursement, holiday and vacation leave, and health insurance coverage. Hourly paid educational assistants paid from HEOP funds must earn no less than the minimum wage in New York State.

It should be noted that salary increases may be requested for HEOP staff members from HEOP funds.

If HEOP personnel have non-HEOP responsibilities, institutional and/or other resources will also be required for their salaries. The institution's coverage of a portion of a salary for non-HEOP duties should not be reflected in the institutional match.

2. **Institutional Officers:** When HEOP funds are requested for regular line or staff officers of the institution (e.g., Financial Aid officer, Admissions officer), a job description is required detailing the duties to be performed that exceed what is normally expected of a person in such a position. This person must work under the direct supervision and guidance of the HEOP director for the HEOP specific duties.
3. **Vacation and Holidays:** In the absence of the institution's HEOP Director, NYSED requires that participating HEOP institutions designate professional staff that are involved with and knowledgeable about the institution's HEOP functions and will be available to answer internal and/or external HEOP-related inquiries. This may include but is not limited to an HEOP assistant director or the senior staff member to whom the HEOP director reports.
4. **Educational Assistants:** These are paraprofessionals who are hourly or salaried workers and provide counseling, tutorial services and/or other academic support services to students. This category is not limited to undergraduate or graduate students but may include full or part-time institutional employees.
5. **Staffing Guidelines** are provided in Appendix 1 (page 60): These guidelines are strongly recommended levels necessary to ensure that the HEOP students are appropriately served. Final determinations must consider the funds made available by the enacted state budget, the institution, and other sources.

B. Student Eligibility

An eligible new HEOP student must be a NYS resident and meet the following requirements upon admission:

Educational Disadvantage

Each institution shall establish its own criteria for educationally disadvantaged status, which shall include, but not be limited to, the following factors: predicting a student's probability of academic success, and non-admissibility, by the college's **regular admissions standards**, to the college at the matriculated status in a degree program. Further proof of educational eligibility is non-admissibility to a degree program for which application is made (e.g., a student could be admissible for general admission to the IHE but not meet the requirements to a specialized degree program such as nursing, engineering, computer science, etc.).

Moreover, IHEs that have entered into a contract are expected to give priority for admission into HEOP to the most educationally disadvantaged students based on each institution's established criteria.

Recipients of Regents scholarships for academic excellence are not eligible.

Criteria for determining educational eligibility for HEOP includes but is not limited to the following:

1. Test scores (e.g., SAT, ACT, Regents Exams)
2. High School average/GPA
3. Class Rank
4. Diploma type (e.g., Regents diploma, GED/TASC)
5. Letters of recommendation
6. Personal interviews
7. Pre-testing
8. Attendance in a high school designated as a Comprehensive Support Improvement (CSI), Targeted Support Improvement (TSI) or Additional Targeted Support and Improvement Schools (ATSI) as noted at: <https://data.nysed.gov/files/essa/21-22/2022-23NYSAccountabilityStatuses.xlsx> and/or in a High Needs Resource Schools – <https://www.p12.nysed.gov/irs/accountability/2011-12/NeedResourceCapacityIndex.pdf>
9. The admissions process must be designed to assess the applicant's potential for successful completion of a post-secondary academic program in accordance with this RFP. The decision to admit each applicant should be based on a complete evaluation of the applicant's educational profile. The verification of educational eligibility and the decision to admit an applicant as a HEOP student are the joint responsibilities of the HEOP Director and the Admissions Officer.

A HEOP student must be a recipient of an approved high school diploma or must have obtained a New York State high school equivalency diploma (general equivalency diploma) or its equivalent as presented below:

1. A New York State high school diploma received pursuant to Section 100.5 of the Regulations of the Commissioner of Education, or
2. For students who were residents in another state during high school, a high school diploma issued by another U.S. state, or by a high school recognized by another U.S. state as equivalent to high school graduation as a resident in that state.
3. An approved state high school equivalency diploma is a diploma received pursuant to Section 100.7 of this Title.

An approved general equivalency diploma is defined as one of the following:

1. Successful passage of the GED® Test Battery; or
2. Test Assessing Secondary Completion (TASC); or
3. A New York State High School Equivalency Diploma conferred under the procedure outlined in Commissioner's Regulation section 100.7.

Note that NYSED does not recognize a correspondence/on-line high school diploma as meeting the requirements for a secondary education in New York State for NYS residents.

Post-secondary credit-bearing certificate or degree and college courses while in high school:

1. Students who earned a post-secondary credit-bearing certificate or degree while in high school, excluding NYS P-TECH participants, are ineligible.
2. Students must not have earned more than 15 college credits while in high school except if those credits were earned while the student attended any of the following NYS sponsored pre-collegiate opportunity programs:
 - a. Science and Technology Entry Program (STEP)
 - b. Liberty Partnerships Program (LPP)
 - c. NYS My Brother's Keeper (MBK)
 - d. Smart Scholars Early College High School Program (SS ECHS)
 - e. NYS Pathways in Technology Early College High School (NYS P-TECH)

The acceptance of these students in HEOP is not automatic; they may be accepted if they meet the HEOP eligibility requirements and at the discretion of the IHE. See Appendix 2 for sample educational and economic eligibility forms. These forms must be kept in students admission files and presented to NYSED upon request.

Economic Disadvantage

A student is economically disadvantaged if he or she is a member of a household where the total annual income of such household is equal to or less than 185 percent of the amount under the annual United States Department of Health and Human Services poverty guidelines for the applicant's family size for the applicable year. Federal poverty guidelines are published annually by the Department of Health and Human Services in the Federal Register. Moreover, IHEs that have entered into a contract are expected to give priority to the recruitment and enrollment of applicants whose life patterns are characterized by historical economic and educational disadvantage.

1. Indicators of historical economic and educational disadvantage may include evidence that the student or the student's family has endured long-term economic deprivation, membership in a group underrepresented in higher education, a history of high unemployment rates, a record of poor academic performance, and/or little or no accumulation of assets. Other indicators may include that the applicant or the applicant's family are unable to provide for more than the basic needs of family members and may be dependent on public assistance.
2. Loss of employment, or the separation, divorce, or death of a wage earner in the calendar year prior to the academic year for which eligibility is being established and a resulting decrease in family income below income guidelines is not sufficient to establish historical economic disadvantage. Such cases must be reviewed carefully to determine longer term past patterns of economic disadvantage.
3. A maximum of 15 percent of the total number of HEOP students enrolled by an institution at any given time may come from households whose income exceeds 185 percent of the amount under the annual United States Department of Health and Human Services poverty guidelines for the applicant's family size for the applicable year, provided such institution has established to the satisfaction of the commissioner or his/her designee that unusual and extenuating circumstances as defined in this paragraph, exist for each such student.

Documentation shall be kept on file by the institution at which such students were enrolled, and shall be corroborated by a disinterested, reliable party. For purposes of this paragraph, unusual and extenuating circumstances shall be limited to the following:

1. Serious mismanagement of the household income with little accruing to the interest of the student; or
2. A one-time fluctuation in household income where there is a history of low income. Satisfactory evidence that a household's income in the three calendar years immediately prior to the calendar year used for determining the student's economic eligibility fell within the limits of the applicable household income scale shall be sufficient to establish the existence of a one-time fluctuation in household income; or
3. Households with substantial long-term non-reimbursed medical obligations; or
4. Families which must maintain two households to maintain employment if there is satisfactory documentation of a history of low income.

Reference to the household income scale need not be made if the student falls into one of the following categories, and documentation is available:

1. The student's family is the recipient of family assistance program aid or safety net assistance through the New York State Office of Temporary and Disability Assistance or a county department of social services; or is the recipient of family day-care payments through the New York State Office of Children and Family Services or a county department of social services or their successor offices;
2. The student is living with foster parents who do not provide support for college, and no monies are provided from the natural parents; or
3. The student is a ward of the State or a county.

The eligibility standards set forth in this section apply only at the time of admission as a first-time freshman to a program. Once admitted, a student will continue to receive supportive services as needed, even if the family income rises above the current eligibility standards. However, a student's economic status shall be reviewed under a recognized needs analysis system each year and appropriate adjustments made in the student's financial aid package; students may only borrow more than the maximum loan amount to cover an amount equivalent to the Estimated Family Contribution. The following shall be acceptable documentation of income:

1. Documentation of all income, earned dividends, and interest: signed copy of appropriate year's tax return (I.R.S. form 1040 or 1040a or 1040EZ, or 4506).
2. Documentation of no income: a copy of I.R.S. form 4506-T which has been filed by the student or family with the Internal Revenue Service or its successor office indicating that the student or parent did not file a return.
3. Documentation of pension, annuity, or unemployment benefits: letter from the applicable agency showing appropriate year's total award (if not reported on I.R.S. form 1040, 1040a or 1099).
4. Documentation of social security, supplemental security income or Veterans Administration noneducational benefits: letter from the applicable agency showing applicable year's total award for each member of the household or I.R.S. form 1099 for each member of the household.
5. Documentation of social services payments: verification from a branch of the Office of Temporary and Disability Assistance or Office of Children and Family Services or their successor offices, showing year of benefits received and names of recipients.
6. Documentation of child support and/or alimony: court order, affidavit, or student's financial aid form.

7. Documentation of additional members in household: birth certificates, marriage certificates, third-party verification, or similar documentation acceptable to the commissioner.
8. Income means all taxable and nontaxable funds which are received by the household. Such funds may be derived from sources including but not limited to wages, dividends, interest, social security, disability pensions, veterans' benefits, and unemployment benefits. The following shall not constitute income:
 - a. Monies received specifically for educational purposes from sources such as social security, veterans' cost of education benefits, and education grants from the Office of Vocational Rehabilitation or its successor office.
 - b. Social services or public assistance payments received through the family assistance program, safety net assistance, and the family day-care program, or social security supplemental income.
9. All HEOP students must file a Free Application for Federal Student Aid (FAFSA) with the United States Department of Education or its successor for the academic year in which benefits pursuant to Section 6451 of the Education Law are sought.

Eligibility Documentation Policy

Each institution which has entered into a contract pursuant to section 6451 of the Education Law shall maintain on file a record of each student's completed grant and FAFSA applications and other documents establishing the student's educational and economic eligibility status for the program, by no later than 30 days from the commencement of the academic term. The institution may require having the applicants whose parents are self-employed certify that the income they are reporting to the institution is correct by submitting a notarized affidavit.

All student eligibility documentation is subject to review by NYSED and the Office of the State Comptroller (OSC) and/or other NYS auditors. If, during review, any students are found to have incomplete files, the institution will be notified in writing as to missing documentation that must be obtained and placed in the students' folders either as hard copy or stored electronically.

If NYSED staff finds during a documentation review that any student is ineligible for HEOP, NYSED reserves the right to ask for the student to be removed from the HEOP roster.

If the student is responsible for misreporting income and/or educational data, the student will be removed from the program/roster with no liability for the institution. If the IHE is responsible for admitting the student in violation of HEOP economic and/or educational eligibility requirements, the IHE is then responsible for the costs incurred and will be found liable, too. In these instances, the IHE will be informed in writing and enrollment reports and payments will be adjusted accordingly.

Certification forms, with signatures of the Chief Executive Officer, the Chief Financial Aid Officer and the HEOP Director, will attest to the educational disadvantage and economic eligibility of each program student. These forms must be submitted as part of the HEOP reports as described in the Reports section. See Appendix 2 for a sample educational and economic eligibility forms.

Equity and Non-Discrimination Policy

Students must be selected without regard to age, color, religion, creed, disability, marital status, veteran status, national origin, race, sex (including pregnancy), gender, genetic predisposition or carrier status, transgender status, or sexual orientation.

All HEOP students, including those with disabilities, must be provided the same level of

accommodations as general admit students in all areas pertaining to their education including but not limited to on or off campus housing, food services, participation at conferences and workshops, and computer and laboratory access.

Wherever possible, institutions that provide on-campus housing must provide a mix of residential and non-residential opportunities for HEOP students consistent with the general population. All majors (restricted or otherwise – including those with additional costs) offered by the IHE to general admit students must be available to HEOP students. While the students may have to meet additional academic criteria as prescribed by that major, they cannot be restricted based on extra cost of attendance.

HEOP funds may not be used to support programs that are segregated on any basis, including admissions policy, housing arrangements, classroom facilities, and allocation of financial aid.

Open Admissions

HEOP students selected under open admissions should be tested for academic preparedness and, if necessary, be required to undertake remedial work and receive other supportive services necessary to do college-level work. To be considered for HEOP eligibility at an open admissions institution, a student must meet acceptable academic criteria that differentiate the HEOP student from general admitted students (e.g., lower test scores, lower GED/TASC scores than other admitted students). These criteria must be clearly described in the proposal.

Admissible students also need to meet one of the following eligibility criteria:

1. Possesses a high school diploma; or
2. Possesses a high school equivalency diploma; or
3. Is seeking a high school equivalency diploma under Commissioner's Regulations Section 100.7

Opportunity Transfer Students

Only students transferring from opportunity programs funded under Section 6451 or 6452 (Higher Education Opportunity Program, Educational Opportunity Program, Search for Education, Elevation, and Knowledge, College Discovery) of the New York State Education Law are eligible to transfer into HEOP.

The HEOP Director and the Admissions Officer must be aware of and adhere to the following in making decisions about prospective transfers: The semesters a transfer student has spent in any previous NYS opportunity program(s) will be used to calculate the student's remaining semesters of eligibility. The acceptance of these students in HEOP at a certain IHE is not automatic; they need to apply, be considered for transfer, and may be accepted at the discretion of the IHE if they meet the school's requirements at the time of transfer and if there is space available in that program.

All HEOP IHEs general transfer applications must contain an option for transfer applicants to identify themselves as opportunity transfer students (HEOP/EOP/SEEK/CD) and it has to be a part of the IHE proposal to this RFP. A copy must be attached to their file. An opportunity transfer student must also complete a specific HEOP transfer application detailing the number of semesters and of credits attempted at any other opportunity institution (HEOP/EOP/SEEK/CD).

A NYS-Opportunity program student who is transferring to a HEOP Institution must be made aware of the availability of space within the IHE's program as there is no waitlist for the Higher Education Opportunity Program transfer admissions.

It is the responsibility of the IHE's Admissions and HEOP offices to make sure that NYS-opportunity program transfer students are admitted to the IHE as HEOP students. NYS-opportunity students should not be transferred in as "general admit" students when applying to a HEOP Institution.

However, in the extenuating circumstance that a NYS-Opportunity program student chooses to accept transfer/admission and enrolls in an IHE as a general admit student, after being notified by the IHE that there are no seats available in HEOP, the student cannot be “moved” from general admit category into the IHE’s HEOP if a space becomes available later.

This will prevent NYS-Opportunity program students from being put at a disadvantage by simultaneously taking loans above the limits prescribed and by not having any HEOP support for one or more semesters during which they may be on a “waitlist.”

NYS Opportunity students who have been made aware that there are no seats available in that Institution’s HEOP and choose to enroll as a general admit student forfeit their right to a seat in that IHE’s HEOP when they accept admission as general admit transfers. However, such a student does not lose eligibility as an NYS-Opportunity student and may transfer to another NYS-Opportunity institution and resume the use of eligibility.

All IHE’s must retain a completed and signed HEOP Transfer Student Certification Form (Appendix 3). Copies of transfer certification forms must be retained by the IHE that the student is transferring from and by the institution that the student is transferring to. NYSED reserves the right to request copies of transfer applications and transfer certification forms.

C. Full Need Packaging

The process of making financial aid determinations to ensure full need packaging must be documented and maintained by the HEOP director or institutional Financial Aid officer. The cost of attendance for HEOP students must include realistic subsistence costs, in addition to institutional charges. First-time HEOP Students attending the HEOP summer program cannot be charged for their attendance.

Financial Aid Award Letter and Revisions

1. Institutions must send a financial aid award letter to each HEOP student that clearly estimates a student's total need, by expense category, and the federal and state financial aid available for the student, by source.
2. All financial aid award letters should be mailed or sent electronically, and copies placed in the students' files in the HEOP office within a month of the start of the Fall term, or, if the student is a Spring semester admit, within a month of the start of the Spring term.

A revised financial aid award letter should be placed in the student’s file prior to the end of the program year.

Maximum Allowable Loans

1. The maximum cumulative loan for a resident HEOP student to complete a baccalaureate program is \$30,000 and the maximum cumulative loan for a commuter HEOP student to complete a baccalaureate degree program is \$24,000 while the maximum cumulative loan for a resident HEOP student to complete an Associate’s degree program is \$18,000 and the maximum cumulative loan for a commuter HEOP student to complete an Associate’s degree program is \$14,400 for all students who start in the 2024-2029 RFP cycle.
2. It is strongly recommended that first-time HEOP students not be packaged with loans. However, if a first-time HEOP student is packaged with loans the student may not be packaged with more than \$6,000 per year for residential students and \$4,800 per year for commuter students.
3. An allowance of \$600 per semester in loans is permitted for NYC IHE resident students (for a total of \$36,000 for a resident HEOP student to complete a baccalaureate program in NYC and a total of \$21,600 for a resident HEOP student to complete an Associate’s degree program).

4. The loan limits established in this RFP apply to all students who start within the 2024-2029 period and continue until the student graduates, provided that the student continues their enrollment in consecutive years.

D. Prorating Loans and Exceptions to the maximum allowable loans

For students who are transferring from other NYS opportunity programs (SEEK/CD/EOP), the IHE should assess the amount of loans the student has taken while in another opportunity program and package the student with no more than \$6,000 for residential students and \$4,800 for commuter students for each year the student is enrolled.

Example: Students who transfer to an IHE in their junior year and have two years to graduate can accrue up to \$6,000 in loans per year if they are resident HEOP students and up to \$4,800 in loans per year if they are commuter HEOP students at the new IHE.

If an opportunity student transfers out of the IHE to an institution without an opportunity program and then returns to a HEOP institution, the loan limits at the receiving IHE are not impacted by the loans taken by the opportunity student while attending an institution that does not offer a NYS opportunity program. Transfer NYS opportunity students must be packaged with no more than \$6,000 in loans for residential students and \$4,800 in loans for commuter students for each year the student is enrolled. Exceptions can be made for students who need to take loans to cover no more than the expected family contribution (EFC). In the rare case of unusual and extraordinary circumstances where it is necessary for students to take out loans above the mandatory loan limits, IHEs must submit a written request to NYSED with documentation justifying packaging additional loans. This justification must be submitted and approved by NYSED before packaging a student with loans that exceed the loan limits. IHEs must not allow students to take out additional loans without prior approval. HEOP and Financial Aid offices at the IHE must work in conjunction to monitor HEOP students' financial aid and ensure compliance with this mandate. Institutions found not complying with this mandate will be required to adjust students' accounts to meet the above-mentioned loan maximums including but not limited to refunds and credits to the students.

E. Expenditures

Allowable Expenditures

Section 6451 of the Education Law and Section 152-1.5 of the Commissioner's Regulations specifically provide the only areas for which HEOP funds may be expended. Higher Education Opportunity Program funds must be spent only for:

1. Special testing, counseling and guidance services while screening potential enrollees.
2. Remedial courses, developmental or compensatory courses and summer classes for such students.
3. Special tutoring, counseling, and guidance services for such enrolled students.
4. Any necessary supplemental financial assistance, which may include the cost of books and necessary maintenance for such enrolled students.
5. Partial reimbursement for tuition for regular academic courses – up to 50%.
6. Student travel for academic activities or conferences as well as travel abroad as part of their program of studies.

7. Expenses related to helping students apply for and prepare for graduate or professional school, including preparation materials, guides, classes, fees for exams for graduate and professional schools and for professional licensure, and travel to and from test centers for graduate and professional schools and for professional licensure.
8. The hiring of HEOP enrolled students in a HEOP work-study program, such as peer tutoring, peer counseling, peer mentoring and activities related to HEOP and/or the administration of HEOP at the institution.

Non-Allowable Expenditures

HEOP funds may not be used to supplant funding of other existing programs. HEOP funds cannot be used for those expenditures made from Federal or other already available funds. If specific costs are deemed unreasonable or unnecessary in a proposal, NYSED, in collaboration with the HEOP Director, will modify the proposed budget to include only allowable expenses.

The following costs are non-allowable:

1. Rental of office or meeting space, storage facilities, equipment, fixtures, or communication cost (phone, postage, and/or electronic communication cost), clerical assistance, and staff travel.
2. Indirect costs (e.g., administration, office, security, utilities).
3. Salary or stipend of the HEOP Director's Supervisor or someone designated as a Principal Investigator for the grant contract.
4. Items which previously have been assumed by the institution.

Funds from NYSED sponsored programs

1. When several state funded programs for disadvantaged students exist on a campus (e.g., CSTEP), it is NYSED's recommendation to encourage cooperation and, where possible, joint programming.
2. "Double counting" of students for reimbursement for the same activity from more than one program will not be permitted.

When an institution offers multiple support programs, fiscal accountability for HEOP funds must be maintained by prorating the cost of services. The cost charged to HEOP funds must reflect the percentage of HEOP students in the total population served. Using these "shared services," HEOP students need not be served exclusively by HEOP-supported personnel, and HEOP supported personnel need not serve exclusively HEOP students, provided the overall program budget reflects the prorating concept and permits separate accounting of HEOP funds. Institutional documentation of the prorating methods and related data must be maintained as part of HEOP records.

F. Institutional Obligation

All HEOP students must be provided the same level of accommodations as general admit students in all areas pertaining to their education including but not limited to: on-campus residential housing, food services, attendance to conferences and workshops, computer and laboratory access, access to online courses with supportive services, sufficient office space, classroom space, study space, space for commuter students, etc., based upon the number of students served and the type of academic support services provided and other support for the program to be effective.

Staffing for HEOP must be consistent with the staffing levels for other institutionally based academic support services. Each institution's HEOP is required to commit to having a HEOP director on staff who

serves as the administrative head of HEOP and is responsible for the day-to-day program management duties, program planning responsibilities, and program reporting.

Each institution is also responsible for providing sufficient academic support and clerical staff to meet the needs of the institution's HEOP students.

Because of limited state allocated HEOP funds, institutions are urged to use all available outside resources and all possible institutional resources to maintain the effort in support of HEOP.

Maintenance of effort means that institutions should provide at least the same level of program support and student financial aid per student as in the previous year of funding.

Public Relations & Attribution of HEOP Funding

To ensure the continued support and the commitment of resources of an IHE to Arthur O. Eve HEOP, there must be public awareness of the program's positive impact on the lives of HEOP participants and their families, schools, and communities. Positive publicity and community awareness also help to ensure that those who are eligible and who could benefit from participation are informed of your program's existence.

To facilitate public awareness, all HEOP funded Institutions must ensure that all public relations materials and activities, such as institutional brochures and award ceremonies, as well as web postings on the institution's own and associated web sites and on Facebook, Twitter, Instagram, Tik-Tok, and any other social media outlets, acknowledge that the institution's HEOP and its activities are supported, in whole or in part, by the New York State Education Department. Also, when local, statewide, or national media report on the achievements or honors received by HEOP students or staff, the New York State Education Department's funding must be acknowledged. In addition, the HEOP director must submit copies of all local, statewide, or national media stories about their program and/or the program participants and staff to the State Education Department at the following email address RFPGC24-001@nysed.gov. The foregoing publicity requirements are subject to any additional terms and conditions that are defined in the master grant contract.

Institutional Matching funds

A minimum of 25% match of the requested HEOP grant is required from the institution's own resources. Institutional accounts must be structured to reflect this contribution by appropriate line item.

HEOP funds cannot be used for indirect costs. Further, federal and state grant funds may not be used for matching purposes. Indirect expenses which may be included as an institutional match, shall not exceed twenty percent (20%) of the total institutional matching funds.

Each institution participating in HEOP is responsible for maintenance of effort which means providing at least the same level of tuition assistance, academic support services, and supplemental financial assistance per student in each consecutive year of the funding cycle (2024 – 2029).

Allowable direct costs include the following:

Academic support services

Including HEOP administrative direction, counseling, academic guidance, remedial/developmental education, summer academic programs, tutoring, academic support, and similar academic activities related to special testing, counseling, and guidance services during the screening of potential enrollees.

1. Salaries for Professional Staff, including the HEOP Director, as well as salaries for assistant directors, counselors, faculty, professional tutors, and professional counselors, should be recorded under Code 15 Professional Salaries.
2. The pay for HEOP students employed as a HEOP work-study program, Educational Assistants, and part-time tutors and counselors should be recorded under Code 16 Support Staff Salaries.
3. Costs of consultants and other contractual services should be recorded under Code 40 Purchased Services.
4. Other Academic Support Services deemed allowable under sec. 6451 of the Education Law and Section 152-1.5 of the Commissioner's Regulations for HEOP, including special testing, tutoring or guidance services, should be recorded under the appropriate FS-10 category.
 - a. Fee waivers may be granted by the test examining agency for low-income-family/students. Waivers should be sought before using HEOP funds for testing services.
 - b. Payments related to helping students apply for and prepare for graduate or professional school are allowed. This includes preparation materials, guides, classes, fees for exams for graduate and professional schools and for professional licensure. It is necessary to retain waivers on file as well as receipts for expenditures in this category consistent with the accounting and purchasing procedures of institutional policy, along with all agreements between the institution and contractor(s) and reports provided by the contractor.
 - c. The rate for fringe benefits cannot exceed the actual rate paid by the institution and should be recorded under Code 80 Employee Benefits.

Remedial, Developmental, Compensatory, and Summer Courses

1. Section 6451 of Education Law allows for HEOP funding of "remedial courses, developmental or compensatory courses and summer classes."
2. Institutions may request HEOP funding of tuition charges for remedial and developmental courses as required and budgeted under Code 40 Purchased Services.
3. If the HEOP grant and/or institution budget is paying the salary of the course instructor as recorded under Code 15 Professional Staff, HEOP and/or institution funds must not be used to pay for tuition for that course.
4. If the HEOP grant and/or institution budget is paying the salary of the course instructor, as recorded under Code 15 Professional Staff, the institution must not charge tuition for such a course or list tuition as an institutional contribution.
5. When both HEOP and non-HEOP students are enrolled in a remedial or developmental course, the salary of the instructor paid by HEOP funds must be prorated accordingly.
6. If a student is enrolled in a remedial or developmental course in which a tuition charge is based only on the credit portion of the course, HEOP funds may be requested for the costs of the remaining portion of the course (under code 40 Purchased Services).
Example: A student enrolls in a developmental English course meeting four contact hours/week (fifteen-week semester) for three credits. The student is charged tuition based on the three credits. HEOP funds may be requested for the actual costs of instructional time for the remaining hour of the course.
7. If HEOP pays an instructor's salary for coursework used to generate a student's tuition charges, the student's tuition must be reduced by a proportionate amount.

Example: If a full-time matriculated student is taking 12 hours in a semester of which 3 hours are in a remedial or a developmental course (where remedial/developmental tuition or the instructor's salary is paid for by HEOP), the student may only be charged $\frac{3}{4}$ of the total regular tuition charge for that semester.

Tuition Assistance

1. Under the provisions of Section 6451 of the Education Law and 152-1.8 of the Commissioner's Regulations, such funds must be limited to the costs of developmental, remedial, and compensatory courses; and to reimburse the institutions for no more than 50 percent of the tuition charged for the regular academic program (courses must be related to the student's program of study).
2. Grantees may request tuition reimbursement on a schedule that is consistent with the institution's standard tuition collection processes. For example, if a grantee collects tuition from students prior to the start of each semester, and after the end of the previous semester, that institution will request tuition reimbursement for that semester during that same time period. Budgeted tuition costs must be based upon the actual student FTE of HEOP students currently enrolled in the institution for that semester or the projected FTE of HEOP students for new programs.
3. Tuition Assistance should be recorded on the FS-10 budget form under category Code 40 Purchased Services.

Supplemental Financial Assistance

Under the provisions of section 6451 of the Education Law, such funds are limited to:

1. Room and board for resident students and meals for commuter students or a portion thereof should be recorded on the FS-10 under category Code 40 Purchased Services.
2. Travel to and from the student's home, for both residential and commuter students, including study abroad as deemed necessary by the academic course of study is permitted as well as student travel for academic activities or conferences, and travel to and from test centers for graduate and professional schools and for professional licensure; travel expenses should be recorded under Code 46 Travel Expenses.
3. Textbooks and instructional materials as deemed necessary by the program of study should be recorded under Code 45 Supplies and Materials.
4. Personal expenses, with a limitation of \$1,000 per year, should be recorded under Code 45 Supplies and Materials.
5. Medical, vision and dental insurance should be recorded on the FS-10 under category Code 40 Purchased Services.

Transfer of Funds

1. Consistent with the [Fiscal Guidelines for Federal and State Grants](#), budget transfers must be requested using Form FS-10-A: Proposed Amendment for a Federal or State Project. HEOP Directors must first email their NYSED liaison and make a request to amend their budget. After receiving an emailed request, the liaison will send an invitation to the Director to complete an FS-10-A.
After drafting the FS-10-A, the HEOP Director needs to inform the corresponding NYSED liaison that the budget amendment is ready to be reviewed. After review, the liaison may request corrections or more information. When the liaison determines that the FS-10-A is satisfactory, an email confirmation will be sent. Any budget amendments that do not follow this procedure may not be reviewed and may cause delays in amending budgets.

2. For years 1 through 4 (2024-2028), FS-10-A forms must be submitted anytime between the start date of any funding year and May 1st of that year. For the last year (2028-2029) in the program cycle (2024-2029), the deadline for the request for approval of transfer of funds is April 15th for the budget period.
3. Funds must not be expended until the budget amendment has been approved in writing by the Grants Finance Office, and if applicable, approved by the Office of the State Comptroller.
4. A formal contract amendment will be required if a budget amendment results in transfer of funds between budget categories of more than ten percent of the total contract value for contracts under \$5 million, or five percent of the total contract value for contracts over \$5 million. This contract amendment will require the approval of the Attorney General and the Office of the State Comptroller, in addition to SED.
5. Failure to follow the procedures outlined above may result in the disallowance of all expenditures not previously approved by SED.

G. Reporting

Grantees must submit performance reports as described below. The performance reports should demonstrate that substantial progress has been made toward meeting the project goals and the program performance indicators. Additional information about the annual performance reports will be made available to grantees by SED after grant awards are made.

Awards will be subject to the availability of funds and satisfactory performance of the grantee in previous academic years, including but not limited to meeting 95% of the contracted number of FTEs and having HEOP students meet at least 90% of the overall retention and graduation rates at that IHE. IHEs not meeting the 95% threshold for contracted FTEs can only ask for the reimbursement of funds congruent with the actual enrollment (e.g., if only 80% of the contracted FTEs were served during the year, the IHE can only be reimbursed for 80% of the allocated funds).

1. Each institution receiving a HEOP award will be required to submit to NYSED two program reports annually: an interim report and a final report.
2. The interim report is due every year on the third Friday of November. This report specifies the participating HEOP students in the Summer Session (by name) and the headcount and FTE for the students enrolled that Fall in a form and manner prescribed by NYSED. The student FTE reported on the interim report will be used to ensure that the institution has met its contracted number of FTEs. Certification forms, with signatures of the Chief Executive Officer, the Chief Financial Aid Officer and the HEOP Director, will attest to the educational disadvantage and economic eligibility of each program student.
3. The HEOP final programmatic reports are due on July 30th after each program year. This programmatic report, in a form and manner prescribed by NYSED, outlines the institution's expenditures and activities in HEOP for the program year and provides:
 - a. An analysis of program operation in terms of the stated objectives and the extent to which the objectives were achieved.
 - b. An analysis of the progress of students served by the program with a comparison to other students enrolled by the institution.
 - c. An itemization of the institution's support of such program during the contract period including the use of outside (Federal, State, and local) funds.
 - d. Plans for program change, expansion, and development.

- e. The extent and nature of faculty, staff, student, and community involvement and participation in program development and implementation to improve retention and graduation rates.
- f. As indicated, the institution's program reports will be reviewed upon receipt by NYSED for accuracy and completeness. The institution will be notified if its submission is incomplete and/or requires additional information.
- g. Extensions of programmatic report deadlines must be requested and approved in writing by the program office prior to the deadlines. Acceptable written notification may include email, regular mail, or fax. All communication relating to an extension of reporting deadlines must be copied to the President of the IHE or his/her designee. An extension may only be approved for a maximum of 10 business days after which, if the report is not finalized, the HEOP funds will not be released until it is finalized; if the report is not finalized within 30 business days, then all NYSED funds to the institution will not be released.

H. Monitoring

NYSED intends to perform one technical support and site visit per five-year grant cycle for each grant recipient in a form and manner prescribed by NYSED. Desk reviews of student records will be performed before such a visit. Documentation must be sent securely as prescribed by NYSED and not by email.

Maintenance of HEOP Records

1. Fiscal records, including those identifying the expense of HEOP funds, must be maintained for seven full years, or longer if required by institutional policy or practice.
2. Student records must be maintained for six years after the student graduates.
3. If a student withdraws from the institution prior to graduation, the student's HEOP record must be maintained for six years from the end of the academic term in which the student withdrew, or longer if required by institutional policy or practice.

Audit or litigation will "freeze the clock" for records retention purposes. Supporting documentation related to an issue under audit or litigation must be retained until resolved or the above general rule for record retention, whichever is longer. This also applies to institutions that are phased out from HEOP.

Probation for HEOP Institutions

Circumstances in which the IHEs will be put on probation:

1. Not meeting a 90% threshold for contracted FTEs for two (2) consecutive years.
2. Non-compliance with RFP requirements (e.g., consistently submitting delinquent reports and budgets, exceeding maximum loan limits).
3. Retention and/or Graduation Rates for HEOP students less than 90% of the IHE's overall students' rates for two (2) consecutive years.

IHEs on probation will be required to submit to a performance improvement plan and will be subject to receiving a site visit at NYSED's discretion. An IHE not meeting the above requirements for the last year of the previous RFP cycle may be put on probation in the first year of the upcoming cycle should they apply for and be awarded a grant.

Phase-out procedures

Funds will be prioritized to support currently enrolled HEOP students in projects that phase out, subject to availability of funding.

1. Phase out due to institutional decision to stop participating in HEOP

Institutions funded in the 2024-29 RFP that decide to stop participating in HEOP will be phased out from HEOP. The phase-out plan between SED and the IHE must continue to include full-need packaging to allow remaining HEOP students to be supported for up to four years beyond the end of the initial contract period or until all remaining HEOP students graduate/transfer/exhaust eligibility, whichever is sooner. During the phase-out period, the institution must still provide all support services mandated by the RFP and may continue to use HEOP funds for this purpose, if approved by SED as part of the phase-out plan. During this period an institution cannot recruit any new students; however, they can accept returning students with NYSED's prior approval, provided that the students can graduate within the phase-out period.

2. Phase out due to insufficient improvement during probationary period

Institutions that have been on probation for two or more consecutive years with insufficient improvement may be phased out from HEOP. Institutions being phased out for probationary reasons will only receive funding for full-need packaging for their HEOP students; however, funds cannot be used towards administrative expenses, such as staffing, or any other support services. The phase-out period will be up to four years beyond the end of the initial contract period or until all remaining HEOP students graduate/transfer/exhaust eligibility, whichever is sooner. The institution must still provide all support services mandated by the RFP during the phase-out period; however, HEOP funds cannot be used for this purpose. During the initial probation period these institutions can add students to allow them to meet the contracted FTEs. Once a determination has been made that an institution will be phased out, it cannot recruit any new students, however, they can accept returning students with NYSED's prior approval, provided that the students can graduate within the phase-out period. An IHE that was phased out due to insufficient improvement during probationary period of the 2019-24 RFP cannot apply for the 2024-29 RFP.

3. Phase out due to unsuccessful reapplication

Current HEOP IHEs that are unsuccessful in their reapplication in the next round of 2024-2029 funding cycle will be phased out from HEOP. Institutions being phased out for unsuccessful applications will only receive funding for full-need packaging for their HEOP students; however, funds cannot be used towards administrative expenses, such as staffing, or any other support services. The phase-out period will be up to four years beyond the end of the initial contract period or until all remaining HEOP students graduate/transfer/exhaust eligibility, whichever is sooner. The institution must still provide all support services mandated by the RFP; however, HEOP funds cannot be used for this purpose. During this period an institution cannot recruit any new students, however, they can accept returning students with NYSED's prior approval, provided that the students can graduate within the phase-out period.

Accessibility of Web-Based Information and Applications

Any documents, web-based information and applications development, or programming delivered pursuant to the contract or procurement, will comply with New York State Education Department IT Policy NYSED-WEBACC-001, Web Accessibility Policy as such policy may be amended, modified, or superseded, which requires that state agency web-based information, including documents, and applications are accessible to persons with disabilities. Documents, web-based information, and applications must

conform to NYSED-WEBACC-001 as determined by quality assurance testing. Such quality assurance testing will be conducted by NYSED employee or contractor, and the results of such testing must be satisfactory to NYSED before web-based information and applications will be considered a qualified deliverable under the contract or procurement.

Requirements of Education Law Section 2-d

The Contractor agrees to comply with FERPA and New York State Education Law § 2-d. The NYS Education Department (NYSED) is required to ensure that all contracts with a third-party contractor that has access to or receives information include a Data Privacy and Security Plan, pursuant to Education Law § 2-d and § 121.6 of the Regulations of the Commissioner of Education. NYSED's Data Privacy Appendix (Attachment R), annexed to this RFP, the terms of which are incorporated herein by reference, shall also be part of the Contract.

<Applicant Narrative will be incorporated into the contract Attachment C, Part 2.>

ATTACHMENT D
PAYMENT AND REPORTING SCHEDULE

I. PAYMENT PROVISIONS

In full consideration of contract services to be performed the State Agency agrees to pay and the contractor agrees to accept a sum not to exceed the amount noted on the face page hereof. All payments shall be in accordance with the budget contained in the applicable Attachment B form (Budget), which is attached hereto.

A. Initial Payment and Recoupment Language (if applicable): Not applicable for For-Profits.

1. The State agency will make an initial payment to the Contractor in the amount of twenty-five percent (25%) of the annual budget as set forth in the most recently approved applicable Attachment B form (Budget). This payment will be made no later than 90 days after the beginning of the budget period.
2. Recoupment of any initial payment shall be recovered by crediting (100%) of subsequent claims and such claims will be reduced until the initial payment is fully recovered within the contract period.
3. Scheduled interim payments shall be due in accordance with an approved payment schedule as follows:

Period: _____ Amount: _____ Due Date: _____

Period: _____ Amount: _____ Due Date: _____

Period: _____ Amount: _____ Due Date: _____

Period: _____ Amount: _____ Due Date: _____

B. Interim and/or Final Claims for Reimbursement

Claiming Schedule (select applicable frequency):

☐ Quarterly Reimbursement
Due date _____

☐ Monthly Reimbursement
Due date _____

☐ Biannual Reimbursement
Due date _____

☐ Fee for Service Reimbursement
Due date _____

☐ Rate Based Reimbursement
Due date _____

- ☐ Milestone/Performance Reimbursement
Due date/Frequency _____
- ☐ Scheduled Reimbursement
Due date/Frequency _____
- ☒ Interim Reimbursement as Requested by Contractor _____

To receive interim payments, the Contractor will submit form FS-25 REQUEST FOR FUNDS FOR A FEDERAL OR STATE PROJECT to the address shown below. Requests for interim payments made by Not-for-Profit Contractors may only represent actual expenditures plus anticipated expenditures during the next month in accordance with the FS-10 for the budget period. For-Profit Contractors may request interim payments that represent only actual expenditures.

Up to 90% of the total approved budget amount for each budget period will be reimbursed through the interim payment process.

Final Payment:

To receive final payment for a budget period, the Contractor will submit form FS 10-F FINAL EXPENDITURES FOR A FEDERAL OR STATE PROJECT to the address shown below. Final payment shall be made upon satisfactory statement of expenditures consistent with the approved budget and any approved budget amendments on a properly completed form. Final payments are also contingent upon submission of all required program reports.

If the Contractor has received payment in excess of the approved amount in Form FS-10-F, the Contractor shall return to the State any excess payment within thirty (30) days of the termination of this budget period. Alternatively, the State may use the amount of any excess payment to offset costs associated with a subsequent budget period. Payment by the State will be made in the ordinary course of State business upon receipt of the properly completed forms.

Forms FS-25 and FS-10-F should be submitted to:

New York State Education Department
Grants Finance
Room 510W EB
89 Washington Avenue
Albany, New York 12234

II. REPORTING PROVISIONS

A. Expenditure-Based Reports *(select the applicable report type):*

- ☐ Narrative/Qualitative Report

The Contractor will submit, on a quarterly basis, not later than _____ days from the end of the quarter, the report described in Section III(G)(2)(a)(i) of the Master Contract

☐ Statistical/Quantitative Report

The Contractor will submit, on a quarterly basis, not later than ____ days from the end of the quarter, the report described in Section III (G)(2)(a)(ii) of the Master Contract.

☐ Expenditure Report

The Contractor will submit, on a quarterly basis, not later than ____ days after the end date for which reimbursement is being claimed, the report described in Section III(G)(2)(a)(iii) of the Master Contract.

☒ Final Report

The Contractor will submit the final report as described in Section III(G)(2)(a)(iv) of the Master Contract, not later than 30 days after the end of the contract period.

☐ Consolidated Fiscal Report (CFR)¹

The Contractor will submit the CFR on an annual basis, in accordance with the time frames designated in the CFR manual. For New York City contractors, the due date shall be May 1 of each year; for Upstate and Long Island contractors, the due date shall be November 1 of each year.

B. Progress-Based Reports

1. Progress Reports

The Contractor shall provide the report described in Section III(G)(2)(b)(i) of the Master Contract in accordance with the forms and in the format provided by the State Agency, summarizing the work performed during the contract period (see Table 1 below for the annual schedule).

2. Final Progress Report

Final scheduled payment will not be due until ____ days after completion of agency's audit of the final expenditures report/documentation showing total grant expenses submitted by vendor with its final invoice. Deadline for submission of the final report is _____. The agency shall complete its audit and notify vendor of the results no later than _____. The Contractor shall submit the report not later than ____ days from the end of the contract.

C. Other Reports

The Contractor shall provide reports in accordance with the form, content and schedule as set forth in Table 1.

¹The Consolidated Fiscal Reporting System is a standardized electronic reporting method accepted by Office of Alcoholism & Substance Services, Office of Mental Health, Office of Persons with Developmental Disabilities and the State Education Department, consisting of schedules which, in different combinations, capture financial information for budgets, quarterly and/or mid-year claims, an annual cost report, and a final claim. The CFR, which must be submitted annually, is both a year-end cost report and a year-end claiming document.

TABLE I – REPORTING SCHEDULE

PROGRESS REPORT #	PERIOD COVERED	DUE DATE

ATTACHMENT R
NEW YORK STATE EDUCATION DEPARTMENT'S
DATA PRIVACY APPENDIX FOR GRANT CONTRACTS

ARTICLE I: DEFINITIONS

As used in this Data Privacy Appendix ("DPA"), the following terms shall have the following meanings:

- 1. Access:** The ability to view or otherwise obtain, but not copy or save, data arising from the on-site use of an information system or from a personal meeting.
- 2. Breach:** The unauthorized Access, acquisition, use, or Disclosure of Personal Information that is (a) accomplished in a manner not permitted by New York State and federal laws, rules, and regulations, or in a manner that compromises its security or privacy, (b) executed by or provided to a person not authorized to acquire, access, use, or receive it, or (c) a Breach of Contractor's or Subcontractor's security that leads to the accidental or unlawful destruction, loss, alteration, Access to or Disclosure of, Personal Information.
- 3. Disclose or Disclosure:** The intentional or unintentional release, transfer, or communication of Personal Information by any means, including oral, written, or electronic.
- 4. Personal Information:** Information concerning a natural person which, because of name, number, personal mark, or other identifier, can be used to identify such natural person.
- 5. Services:** Services provided by Contractor pursuant to this Contract with the New York State Education Department ("NYSED") to which this DPA is attached and incorporated.
- 6. Subcontractor:** Contractor's non-employee agents, consultants, volunteers, including student interns, who is engaged in the provision of Services pursuant to an agreement with or at the direction of the Contractor.

ARTICLE II: PRIVACY AND SECURITY OF PERSONAL INFORMATION

1. Compliance with Law.

When providing Services pursuant to this Contract, Contractor may receive and/or have Access to Personal Information regulated by one or more New York and/or federal laws and regulations, including, but not limited to, the Family Educational Rights and Privacy Act at 12 U.S.C. § 1232g (34 CFR Part 99); Children's Online Privacy Protection Act at 15 U.S.C. §§ 6501-6502 (16 CFR Part 312); Protection of Pupil Rights Amendment at 20 U.S.C. § 1232h (34 CFR Part 98); the Individuals with Disabilities Education Act at 20 U.S.C. § 1400 et seq. (34 CFR Part 300); the New York Education Law at § 2-d (8 NYCRR Part 121); the New York General Business Law at article 39-F; and the New York Personal Privacy Protection Law at Public Officers Law article 6-A. Contractor agrees to maintain the confidentiality and security of Personal Information in accordance with applicable New York, federal and local laws, rules and regulations.

2. Data Privacy and Security.

- (a) Contractor agrees and understands that Contractor has no property, licensing, or ownership rights or claims to Personal Information Accessed by or Disclosed to Contractor for the purpose of providing Services, and Contractor shall not use Personal Information for any purpose other than to provide Services. Contractor will ensure that its Subcontractors agree and understand that neither the Subcontractor nor Contractor has any property, licensing or ownership rights or claims to Personal Information received or Accessed by or Disclosed to Subcontractor for the purpose of assisting Contractor in providing Services.
- (b) Contractor shall adopt and maintain reasonable safeguards to protect the security, confidentiality, and integrity of Personal Information in a manner that complies with General Business Law section 899-bb and other applicable New York State, federal and local laws, rules and regulations.
- (c) Upon NYSED's request, Contractor may be required to undergo an audit of its privacy and security safeguards, measures, and controls, or in lieu of performing an audit, provide NYSED with an industry standard independent audit report on Contractor's privacy and security practices that is no more than twelve months old.

3. Contractor's Employees and Subcontractors.

- (a) Access to or Disclosure of Personal Information shall only be provided to Contractor's employees and Subcontractors who need to know the Personal Information to provide the Services and such Access and/or Disclosure of Personal Information shall be limited to the extent necessary to provide such Services. Contractor shall ensure that all such employees and Subcontractors comply with the terms of this DPA.
- (b) Contractor must ensure that each Subcontractor performing Services where the Subcontractor will have Access to and/or receive Disclosed Personal Information is contractually bound by a written agreement that includes confidentiality and data security obligations equivalent to, consistent with, and no less protective than, those found in this DPA.
- (c) Contractor shall examine the data privacy and security measures of its Subcontractors. If at any point a Subcontractor fails to materially comply with the requirements of this DPA, Contractor shall (i) notify NYSED, (ii) as applicable, remove such Subcontractor's Access to Personal Information; and (iii) as applicable, retrieve all Personal Information received or stored by such Subcontractor and/or ensure that such Personal Information has been securely deleted or securely destroyed in accordance with this DPA. In the event there is an incident in which Personal Information held, possessed, or stored by the Subcontractor is compromised, unlawfully Accessed, or unlawfully Disclosed, Contractor shall follow the Data Breach reporting requirements set forth in Section 5 of this DPA.
- (d) Contractor shall take full responsibility for the acts and omissions of its employees and Subcontractors.
- (e) Other than Contractor's employees and Subcontractors who have a need to know the Personal Information, Contractor must not provide Access to or Disclose Personal Information to any other party unless such Disclosure is required by statute, court order or

subpoena, and Contractor notifies NYSED of the court order or subpoena no later than the time the Personal Information is Disclosed, unless such Disclosure to NYSED is expressly prohibited by the statute, court order or subpoena. Notification shall be made in accordance with the Notice provisions of this r Contract and shall also be provided to the Office of the Chief Privacy Officer, NYS Education Department, 89 Washington Avenue, Albany, New York 12234.

- (f) Contractor shall ensure that its Subcontractors know that they cannot provide Access to or Disclose Personal Information to any other party unless such Disclosure is required by statute, court order or subpoena. If a Subcontractor is required to provide Access to or Disclose Personal Information pursuant to a court order or subpoena, the Subcontractor shall, unless prohibited by statute, court order or subpoena, notify Contractor no later than two (2) days before any Personal Information is Disclosed. Upon receipt of notice from a Subcontractor, Contractor shall provide notice to NYSED no later than the time that the Subcontractor is scheduled to provide Access to or Disclose the Personal Information.
- (g) Contactor shall ensure that all its employees and Subcontractors who will receive Personal Information will be trained on the federal and state laws governing confidentiality of such data prior to receipt.

4. Data Return and Destruction of Data.

- (a) Contractor is prohibited from retaining Disclosed Personal Information or continuing to Access Personal Information, including any copy, summary or extract of Personal Information, on any storage medium (including, without limitation, hard copies, and storage in secure data centers and/or cloud-based facilities) beyond the term of the this Contract unless such retention is expressly authorized by the this Contract, necessary for purpose of facilitating the transfer of Personal Information to NYSED, or expressly required by law. As applicable, upon expiration or termination of this Contract, Contractor shall transfer Personal Information to NYSED in a format agreed to by the Parties.
- (b) When the purpose that necessitated Contractor's Access to and/or Disclosure of Personal Information has been completed or Contractor's authority to have Access to Personal Information and/or retain Disclosed Personal Information has expired, Contractor shall ensure that, as applicable, (1) all privileges providing Access to Personal Information are revoked, and (2) all Personal Information (including without limitation, all hard copies, archived copies, electronic versions, electronic imaging of hard copies) retained by Contractor and/or its Subcontractors, including all Personal Information maintained on behalf of Contractor or its Subcontractors in a secure data center and/or cloud-based facilities is securely deleted and/or destroyed in a manner that does not allow it to be retrieved or retrievable, read, or reconstructed. Hard copy media must be shredded or destroyed such that Personal Information cannot be read, or otherwise reconstructed, and electronic media must be securely cleared, purged, or destroyed such that the Personal Information cannot be retrieved, read, or reconstructed. When Personal Information is held in paper form, destruction of such Personal Information, and not redaction, will satisfy the requirements for data destruction. Redaction is specifically excluded as a means of data destruction.

- (c) Upon request by NYSED, Contractor may be required to provide NYSED with a written certification of (1) revocation of Access to Personal Information granted by Contractor and/or its Subcontractors, and (2) the secure deletion and/or secure destruction of Personal Information held by the Contractor or Subcontractors, at the address for notifications set forth in this Contract.
- (d) To the extent that Contractor and/or its Subcontractors continue to be in possession of any de-identified data (i.e., data that has had all direct and indirect identifiers removed), Contractor agrees that it will not attempt to re-identify de-identified data and/or transfer de-identified data to any person or entity, except as provided in subsection (a) of this section and that it will prohibit its Subcontractors from the same.

5. Breach.

- (a) Contractor shall promptly notify NYSED of any Breach of Personal Information, regardless of whether the Contractor or a Subcontractor suffered the Breach, without delay and in the most expedient way possible, but in no circumstance later than seven (7) calendar days after discovery of the Breach. Notifications shall be made in accordance with the notice provisions of this contract and shall also be provide to the office of the Chief Privacy Officer, NYS Education Department, 89 Washington Avenue, Albany, New York 12234 and must include a description of the Breach that identifies the date of the incident, the date of discovery, the types of Personal Information affected and the number of records affected; a description of Contractor's investigation; and the name of a point of contact.
- (b) Contractor and its Subcontractors will cooperate with NYSED, and law enforcement where necessary, in any investigations into a Breach. Any costs incidental to the required cooperation or participation of the Contractor or its Subcontractors will be the sole responsibility of the Contractor if such Breach is attributable to Contractor or its Subcontractors.
- (c) Contractor shall promptly notify the affected individuals of any Breach, regardless of whether Contractor or a Subcontractor suffered the Breach. Such notice shall be made using one of the methods prescribed by § 899-aa (5) of the New York General Business Law. If Contractor requires information from NYSED to perform such notifications, Contractor shall reimburse NYSED for the cost of assembling and providing such information to Contractor.

6. Termination.

The confidentiality and data security obligations of Contractor under this DPA shall survive any termination of this Contract to which this DPA is attached and shall continue for as long as Contractor or its Subcontractors retain Access to Personal Information.