

REQUEST FOR PROPOSAL (RFP)

RFP # 164

NEW YORK STATE EDUCATION DEPARTMENT

**Title: Civics Education, Religious Tolerance, and New York State History of Diversity
Curricular Resources**

The New York State Education Department (NYSED) Office of Diversity, Equity, and Inclusion is seeking proposals for 1) the development of curricular materials and professional development resources related to civics education and values, New York State's shared history of diversity, and the role of religious tolerance in the United States; and 2) the creation of a digital platform for this resource repository. Services provided will include the development and digital publication of student- and teacher-facing resources aligned to the New York State Learning Standards, the Social Studies Framework, the Culturally Responsive-Sustaining (CR-S) Education Framework and the Social-Emotional Learning Benchmarks.

Subcontracting will be limited to thirty percent (30%) of the total contract budget. Subcontracting is defined as non-employee direct personal services and related incidental expenses, including travel.

NYSED will award up to two (2) contracts pursuant to this RFP. The contract(s) resulting from this RFP will be for a term anticipated to begin January 1, 2026, and to end December 31, 2027. Bidders may pursue either one contract or both (as listed above) in their technical proposals. Separate Technical and Cost Proposals must be submitted if bidding on both contracts.

Bidders are required to comply with NYSED's Minority and Women-Owned Business Enterprises (M/WBE) participation goals for this RFP through one of three methods. Compliance methods are discussed in detail in the Minority/Women-Owned Business Enterprise (M/WBE) Participation Goals section below.

Mandatory Requirements: See Mandatory Requirements section of the RFP.

Components contained in RFP 164 are as follows:

- 1.) Description of Services to Be Performed
- 2.) Submission
- 3.) Evaluation Criteria and Method of Award
- 4.) Assurances
- 5.) Submission Documents (separate document)

Questions regarding the request must be submitted via [online form](#) no later than the close of business **October 17, 2025**. A Questions and Answers Summary will be posted to [NYSED's Procurement website](#) no later than October 29, 2025. The following are the designated contacts for this procurement:

Program Matters: Sarah Epstein
Fiscal Matters: Thomas McBride
MWBE Matters: Thomas McBride

Bidders are requested to submit their bids electronically. The following documents, as detailed in the Submission section of this RFP, must be received via [online form](#) no later than **November 19, 2025**.

1. Submission Documents labeled **<name of bidder> Submission Documents RFP 164**
2. Technical Proposal labeled **<name of bidder> Technical Proposal RFP 164, Contract 1 or Contract 2**
3. Cost Proposal labeled **<name of bidder> Cost Proposal RFP 164, Contract 1 or Contract 2**
4. M/WBE Documents labeled **<name of bidder> M/WBE Documents RFP 164, Contract 1 or Contract 2**

Instructions for Submitting an Electronic Bid:

1. The technical and cost proposal documents should be submitted in Microsoft Office. PDF files that are editable and Optical Character Recognition (OCR) searchable are acceptable. Please do not submit the technical or cost proposal as a scanned PDF.
2. Submission documents requiring a signature must be signed using one of the methods listed below and may be submitted as a Microsoft Office, PDF, or JPG document. A scanned PDF is acceptable for these documents.
3. The following forms of e-signatures are acceptable:
 - a. handwritten signatures on faxed or scanned documents.
 - b. e-signatures that have been authenticated by a third-party digital software, such as DocuSign and Adobe Sign.
 - c. stored copies of the images of signatures that are placed on a document by copying and pasting or otherwise inserting them into the documents.
4. Unacceptable forms of e-signatures include:
 - a. a typed name, including a signature created by selecting a script or calligraphy font for the typed name of the person "signing."
5. To identify the signer and indicate that the signer understood and intended to agree to the terms of the signed document, the signer will sign beside or provide by email the following attestation: "I agree, and it is my intent, to sign this document by <describe the signature solution used> and by electronically submitting this document to <name of recipient individual or entity>. I understand that my signing and submitting this document is the legal equivalent of having placed my handwritten signature on the submitted document and this attestation. I understand and agree that by electronically signing and submitting this document I am affirming to the truth of the information contained therein."
6. To ensure receipt of your bid, please ensure that the RFP number (**164**) and title listed on page 1 are accurately entered into the fields "Procurement No" and "Procurement Title/Name" on the [online form](#). Failure to include this information may result in the bid not being received by the deadline or considered for award.

1.) **Description of Services to be Performed**

Work Statement and Specifications

This section of the bid package details the services and products to be acquired. Please note that the contract process also includes general New York State administrative terms and conditions, as well as terms and conditions required by New York State law. These terms and conditions address issues related to both the submission of bids and any subsequent contract; they are included separately in this bid package for your information. Please review all terms and conditions.

Mandatory Requirement

The eligible bidder must agree to the Mandatory Requirement found below and must submit the Mandatory Requirements Certification Form located in 5.) Submission Documents. This required form must be signed by an authorized person. **Bids that do not comply with the Mandatory Requirements will be disqualified.**

Bidders for Contract 1 (development of curricular materials and professional development resources related to civics education and values, New York State's shared history of diversity, and the role of religious tolerance in the United States) must be entities with experience creating at least one project that includes both student materials and adult professional development resources.

Minority and Women-Owned Business Enterprise (M/WBE) Participation Goals Pursuant to Article 15-A of the New York State Executive Law

For purposes of this procurement, NYS Education Department hereby establishes an overall goal of 30% of the total contract amount for M/WBE participation, 17% for Minority-Owned Business Enterprises ("MBE") participation and 13% for Women-Owned Business Enterprises ("WBE") participation based on the current availability of qualified MBEs and WBEs. All bidders must document good faith efforts to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of this Contract. Minority and Women-Owned Business Enterprise (M/WBE) participation includes any and all services, materials or supplies purchased from New York State certified minority and women-owned firms. Utilization of certified Minority and Women-Owned firms will be applied toward the goals. Bidders can achieve compliance with NYSED's Minority and Women-Owned Business Enterprise goals as described below.

ACHIEVE FULL COMPLIANCE WITH PARTICIPATION GOALS (PREFERRED)

Bidders should submit subcontracting/supplier forms that meet or exceed NYSED's participation goals for this procurement. All subcontracting/supplier forms must be submitted with the bid proposal. In addition, bidders must complete and submit M/WBE 100: Utilization Plan, M/WBE 102: Notice of Intent to Participate and EEO 100: Staffing Plan. Instructions and copies of these forms are located in the Submission Documents. All firms utilized must be certified with the NYS Division of Minority and Women Business Development before beginning any work on this contract. For additional information and a listing of currently certified M/WBEs, see the [NYS Directory of Certified Minority and Women-Owned Business Enterprises](#).

The contact person on M/WBE matters is available throughout the application and procurement process to assist bidders in meeting the M/WBE goals. NYSED reserves the right to approve the addition or deletion of subcontractors or suppliers to enable bidders to comply with the M/WBE goals, provided such addition or deletion does not impact the technical proposal and/or increase the total cost of the bid proposal.

DOCUMENTATION OF GOOD FAITH EFFORTS

Bidders must undertake a good faith effort to solicit NYS Certified M/WBE firms as subcontractors and/or suppliers in fulfillment of this procurement. Means of solicitation may include but are not limited to: advertisements in minority centered publications; solicitation of vendors found in the [NYS Directory of Certified Minority and Women-Owned Business Enterprises](#); and the solicitation of minority and women-oriented trade and labor organizations. Bidders will be required to certify and attest to their good faith efforts by completing NYSED's Certification of Good Faith Efforts (Form M/WBE 105). See the M/WBE Submission Documents for detailed examples of and required forms to document good faith efforts.

NYSED reserves the right to reject any bid for failure to document "good faith efforts" to comply with the stated M/WBE goals.

IN THE EVENT BIDDERS CANNOT COMPLY WITH NYSED DESIGNATED PARTICIPATION GOALS, SAID BIDDERS MUST DOCUMENT THEIR "GOOD FAITH EFFORTS" TO COMPLY AND SUBMIT ONE OF THE FOLLOWING REQUESTS:

REQUEST A PARTIAL WAIVER OF PARTICIPATION GOALS

In order to request a partial waiver of the participation goals for this procurement, Bidders must provide documentation of their good faith efforts to obtain the use of certified M/WBE enterprises along with their bid proposal forms. The subcontracting forms must include the participation percentage(s) for which they seek approval. Bidders will be required to certify and attest to their good faith efforts. Bidders should submit a request for a partial waiver (Form M/WBE 101) and document their Good Faith Efforts (Form M/WBE 105) at the same time as the bid is submitted. Bidders must also complete and submit M/WBE 100: Utilization Plan, M/WBE 102: Notice of Intent to Participate and EEO 100: Staffing Plan. The M/WBE Coordinator is available throughout the procurement process to assist in all areas of M/WBE compliance.

REQUEST A COMPLETE WAIVER OF PARTICIPATION GOALS

In order to request a complete waiver of the participation goals for this procurement, Bidders must provide documentation of their Good Faith Efforts to obtain the use of certified M/WBE enterprises along with their bid proposal forms. Bidders will be required to certify and attest to their good faith efforts. Bidders should submit a request for a complete waiver on Form M/WBE 101 and document their Good Faith Efforts (Form M/WBE 105) at the same time as they submit their bid. The M/WBE Coordinator is available throughout the procurement process to assist in all areas of M/WBE compliance.

All payments to Minority and Women-Owned Business Enterprise subcontractor(s) must be reported to NYSED M/WBE Program Unit using M/WBE 103 Quarterly M/WBE Compliance Report. This report must be submitted on a quarterly basis and can be found at NYSED's [M/WBE Forms and Compliance Forms webpage](#).

Service-Disabled Veteran-Owned Business (SDVOB) Participation Goals Pursuant to Article 3 of the Veterans' Services Law

[Article 3 of the Veterans' Services Law](#) allows eligible Veteran business owners to get certified as a New York State Service-Disabled Veteran-Owned Business (SDVOB). The goal of Article 3 is to encourage and support eligible SDVOBs to play a greater role in the state's economy by increasing their participation in New York State's contracting opportunities. To this end, NYSED strongly encourages bidders to make maximum possible use of SDVOBs as subcontractors and/or suppliers under this contract, consistent with the requirements of State Finance Law and State procurement guidelines, as well as NYSED policies and procedures. Bidders should consider fulfilling the requirements of this contract through the participation of SDVOBs at a rate of 6%. For additional information about this program, including a list of SDVOBs, please visit the [Office of General Services, Division of Service-Disabled Veterans' Business Development website](#).

Background

The New York State Education Department (NYSED) is responsible for ensuring that schools comprehensively educate students on civic education and values, New York's shared history of diversity, and religious tolerance in alignment with the state's commitment to uplift all students. Section 801 of New York State Education Law requires schools to provide instruction in "civic education and values, our shared history of diversity, [and] the role of religious tolerance in this country." Accordingly, the New York State K-12 Social Studies Framework incorporates these principles within its key ideas.

As outlined in the NYSED [Civic Readiness Initiative](#):

"The New York State Board of Regents is committed to civic education that empowers all students to make informed decisions for the public good as members of a culturally diverse, democratic society in an interdependent world. Civic education facilitates the development of civic competencies, which are needed for a democratic society to flourish. Through civic education, students learn how to identify and address problems in their community or school community. Students also learn how to demonstrate respect for the rights of others, respectfully disagree with other viewpoints, and provide evidence for a counterargument. Civic education can strengthen the relationships of schools and students with parents, families, civic leaders, and organizations and community partners."

Civic readiness is developed throughout students' prekindergarten through 12th grade education, with the Social Studies Learning Standards and the New York State K-12 Social Studies Framework targeting specific civic ideals and practices in every grade. The New York State Board of Regents has a demonstrated commitment to civic education beyond the standards and key ideas, offering high school students the opportunity to pursue the [Seal of Civic Readiness](#), a formal recognition that a student has attained a high level of proficiency in terms of the four domains of civic readiness: civic knowledge, civic skills and actions, civic mindsets, and civic experiences. Expanding access to high-quality civics instructional materials is crucial for accomplishing the state's goal of strengthening civics education, values, and readiness.

NYSED is also committed to supporting schools in creating inclusive and affirming environments for all students. Instruction on the history of diversity in New York State is embedded throughout the Social Studies Framework at all grade levels, and NYSED has a particular commitment to ensuring that students learn about the histories and experiences of historically marginalized communities, particularly those that have built and contributed to the growth of New York State. It is critical for students to receive

RFP #164

instruction about the state's shared history of diversity to see themselves represented and learn about communities that have historically been forgotten in curricula.

Religious tolerance is similarly integrated throughout students' education from prekindergarten through 12th grade. New York State schools serve a diverse student body representing a variety of religious affiliations. As such, the state is committed to ensuring that all students gain a deep understanding of religion, world faiths, the commonalities across cultures, and the importance of learning about and accepting religious differences. As we continue to become a more diverse nation, it is more critical than ever that schools provide students with the knowledge and skills necessary to navigate their communities with empathy, respect, and appreciation for religious diversity.

To further support educators in teaching civics, the history of diversity, and religious tolerance, the state is appropriating funds to create a digital platform of high-quality, accessible curricular resources for districts, schools, and educators. Currently, the responsibility for developing and/or finding and reviewing effective instruction on these topics lies with individual districts, schools, and educators. NYSED is seeking to create a digital platform of well-researched, expert-developed learning activities, and all related resources that educators can utilize in the classroom, as well as professional development resources to support implementation. NYSED intends to contract with up to two vendors, one to create the curricular resources and one to host the online library.

Finally, the New York State [Culturally Responsive-Sustaining \(CR-S\) Education Framework](#) serves as a guide for educators in uplifting all students and families. The Framework is intended to help education stakeholders create student-centered learning environments that affirm cultural identities; foster positive academic outcomes; develop students' abilities to connect across lines of difference; elevate historically marginalized voices; empower students as agents of social change; and contribute to individual student engagement, learning, growth, and achievement through the cultivation of critical thinking. The CR-S Education Framework guides all aspects of education and instruction in New York schools and is critical to ensure that all students have access to a high-quality, empowering, well-rounded education. All materials must align with the [Culturally Responsive-Sustaining \(CR-S\) Education Framework](#), the [New York State K-12 Learning Standards](#), and the [Social-Emotional Learning Benchmarks](#).

By expanding access to high-quality curricular resources from diverse perspectives, educators across New York State will enhance their capacity to instruct students in ways that promote the development of compassion, empathy, responsibility, acceptance of others, and active participation in their communities.

Deliverables and/or Project Description

This RFP is designed to identify two vendors. The first vendor should have expertise in the areas of civics, diversity, religious tolerance, and culturally responsive education as well as experience developing curricular resources and professional development materials. The second vendor should demonstrate the ability to host the developed resources in a digital platform accessible to all New York State educators.

This scope of work provides a clear framework to ensure the projects stay on track while incorporating regional expertise and aligning educational materials with statewide initiatives like [NY Inspires](#).

Editorial Control: NYSED will have final educational approval and control of all materials produced.

The activities and deliverables to be conducted under this RFP include the following:

Deliverable A: Curricular Resources (applies to Contract 1)

The vendor will develop and/or review turnkey student curricular resources, including learning activities, slide decks, handouts, videos/other multi-media, graphics, articles, case studies, suggested assessments, etc. This list is not exhaustive of all resources that may be requested as part of this project.

A.1. Curricular Resource Topics

A.1.1. Religious Tolerance Curricular Resources, Aligned to Program Goals

- **Goal 1:** Promote empathy and understanding in students and provide support to prepare students for living in a diverse global community.
- **Goal 2:** Support educators in providing high-quality instruction around religious tolerance for students in grades K-12.

A.1.2. Civics Education and Values Curricular Resources, Aligned to Program Goals

- **Goal 1:** Empower students with the necessary knowledge and skills to become active, responsible participants of their local and global communities, in alignment with Social Studies Learning Standard 5.
 - Students will use a variety of intellectual skills to demonstrate their understanding of the necessity for establishing governments; the governmental system of the United States and other nations; the United States Constitution; the basic civic values of American constitutional democracy; and the roles, rights, and responsibilities of citizenship, including avenues of participation.
- **Goal 2:** Support educators in providing high-quality instruction around civics for students in grades K-12.

A.1.3. New York State's Shared History of Diversity Curricular Resources, Aligned to Program Goals

- **Goal 1:** Strengthen education around the diverse populations in New York from a historical perspective, inclusive of communities from marginalized backgrounds who have often been absent from curricula
 - This goal supports the mission of the CR-S Education Framework's core principles, including inclusive curriculum and assessment, which aims to "elevate historically marginalize voices" and provide "opportunities to learn about power and privilege in the context of various communities."
- **Goal 2:** Support educators in providing high-quality instruction around New York's shared history of diversity for students in grades K-12

A.2. Curricular Resource Specifications

A.2.1 Utilize Research-Based Instructional Strategies

- All learning activities and additional resources should utilize strategies that, at the time of publishing, are supported by evidence-based research.

A.2.2 Align to New York State (NYS) Learning Standards

RFP #164

- The vendor will provide documentation in the form of a crosswalk that will demonstrate the alignment between the lesson plans, activities, and any curricular materials and the New York State Learning Standards for Social Studies and English Language Arts, and the K-12 Social Studies Framework for all grades, kindergarten through 12.
- The vendor will identify the targeted standards on all individual lesson plans.

A.2.3 Align to the Culturally Responsive-Sustaining (CR-S) Education Framework

- The vendor will provide documentation that will demonstrate the alignment between the learning activities and additional resources and the CR-S Education Framework (the form of this documentation will be determined by the NYSED Project Coordinator)

A.2.4 Include Accessibility Modifications for all Materials

- The vendor, either directly or by subcontracting with an outside vendor, will:
 - Include accommodations/modifications/supports for Students with Disabilities and English Language Learners (ELLs), referencing the [Blueprint for English Language Learner/ Multilingual Learner Success](#), the [Blueprint for Improved Results for Students with Disabilities](#) and [the Guide to Quality Individualized Education Program \(IEP\) Development and Implementation](#)
 - Provide translation for materials as needed.
 - Create closed captioning for all visual resources.

A.2.5 Additional Content/Functionality

- The following additional items may be requested of the vendor:
 - Links to all sources utilized in curricular materials.
 - The vendor is responsible for obtaining all copyright use permissions for all resources.
 - Downloadable activities for students, by grade and/or content/skill/standard, which can be completed offline, on paper.
 - Web-based activities and/or suggestions for use of online platforms such as Padlet, Nearpod, etc.
 - Compatibility with Google Classroom/Google Suite, Microsoft Office, or additional platforms.
 - Suggestions about opportunities for cross-collaboration with other grade-level subjects.
 - Lesson extension ideas for teachers.
 - Resources for educators, including teacher versions of lessons and exemplar student responses for assessments and short-answer response, as described in Deliverable B.2.

Deliverable B: Professional Development Materials (applies to Contract 1)

The vendor will develop and/or review turnkey professional development resources to enhance teacher capacity to implement student resources on civics, the history of diversity, religious tolerance, and culturally responsive education.

B.1 Professional Development Topics

- The vendor will develop professional development resources for teachers to support implementation of the following:
 - Best practices for teaching civics education, in addition to guidance on implementation of materials provided on the digital platform.
 - Best practices for teaching religious tolerance, in addition to guidance on implementation of materials provided on the digital platform.

- Best practices for teaching New York State's shared history of diversity, in addition to guidance on implementation of materials provided on the digital platform.
- Guidance on effective implementation of strategies offered in the Culturally Responsive-Sustaining (CR-S) Education Framework.

B.2 Professional Development Materials Specifications

- The vendor will develop the following for each topic:
 - Turnkey presentations to support educators.
 - Self-guided asynchronous modules for teachers.
 - Guidance documents to support teachers in implementing student resources, including suggested pacing guides.
 - Teacher versions of all lessons with answer keys and exemplar student responses.
- The vendor will collaborate with SED on determining a component of this project that will involve student leadership in the implementation and understanding of these resources.

Deliverable C: Digital Platform (applies to Contract 2)

The vendor will create a digital platform to host all resources related to civics education, religious tolerance, history of diversity and the CR-S Education Framework, including both student resources and professional development materials.

C.1 Online Resource Library Capabilities

- The vendor's website/platform and all curricular resources and professional development materials must always be available to educators, if the device is connected to the internet, with no cost to educators or schools.
- The product must have the capacity to filter and/or search for learning activities by multiple categories, including but not limited to grade level, standard, and key idea.
 - Search functionality should return relevant results.

C.2. System Requirements

- The vendor's platform should be optimized on multiple platforms to meet the needs of educators. The vendor's website/platform should function as expected on the following:
 - Windows desktop/laptop (Windows OS 8.1+).
 - Apple desktop/laptop (Mac OS 10.10+).
 - Chromebook (Chrome OS v59+).
 - iPad (iOS 11.2.5+).
- The product must run at optimal performance on the most current version of, at minimum, one of the following browsers: Chrome, Microsoft Edge, Firefox, and Safari.
- The vendor will provide full technical specifications and requirements for their product in the proposal, including the browser(s) with which it is compatible or which browsers should be used for optimal performance.
- The vendor should ensure:
 - The product is current with all security updates.
 - Content is delivered over secure https.
 - It has the capacity to serve a significant number of simultaneous users.
- The vendor will provide technical assistance with digital platform as needed.

C.3. Online Resource Library Design and Usability

- The platform needs to meet all NYSED accessibility standards.
- The platform should be designed in a visually appealing and functional manner to ensure ease of use, with the use of a graphic designer, if needed.

Deliverable D: Ongoing Communication with NYSED Staff, Advisory Board, and Second Vendor, if Applicable (applies to both contracts)

- Both vendors will communicate with NYSED staff, the advisory board consisting of a range of stakeholders (to be determined by NYSED Project Coordinator), and each other throughout the duration of the contract.
 - The vendors will communicate with NYSED Office of Diversity, Equity, and Inclusion, including attending regular meetings with Project Coordinator and other NYSED staff, as deemed appropriate.
 - NYSED Project Coordinator and additional Office of Diversity, Equity, and Inclusion staff will determine avenues of communication that will ensure timely project efficiency and completion.
 - The vendors will coordinate with the Advisory Board that represents stakeholder groups throughout New York State.
 - The vendors will collaborate throughout completion of the project to ensure alignment toward project goals.

Deliverable E: Resources Communication and Dissemination to the Field (applies to both contracts)

- Both vendors will assist NYSED in dissemination of information about the digital platform to districts.
 - The vendors will co-facilitate 1-2 virtual training sessions for representatives from BOCES and designated Big 5 districts upon digital publication of the platform. Recording of the sessions will be determined by NYSED.
 - The vendors will participate in a live question-and-answer session with district representatives to answer questions about the digital platform after completion of the virtual presentation.
 - The vendors will co-create materials to promote usage of the digital platform, including a how-to document and FAQ document to support usage.

Staffing Requirements and Responsibilities

Project Manager

Each vendor must identify a project manager who will be the central point of contact with NYSED and the other vendor for the duration of the contract. The vendors are expected to demonstrate that the individual identified as the project manager has sufficient authority and experience across departments within the organization to ensure that the work of the contract has the necessary priority to be completed with the highest quality and on time.

It is required that the project manager possess the following:

- A minimum of a bachelor's degree.
- At least three years' experience managing large-scale projects from conception through completion.
- Demonstrated knowledge of the New York State Learning Standards, the Culturally Responsive-Sustaining (CR-S) Education Framework, and the Social-Emotional Learning Benchmarks.
- Strong organizational, leadership, and communication skills.

The project manager's responsibilities will include, but not be limited to:

- Travel to New York City or Albany (to be determined through discussions between NYSED and vendors) to meet with NYSED staff at the start of the contract period.
 - An introductory meeting of one full day, or as otherwise mutually agreed upon, shall be held in New York City or Albany within thirty days of contract approval.
 - NYSED may request additional in-person meetings up to three times per year, if deemed necessary.
- Coordinate and participate in bi-weekly virtual meetings with NYSED Project Coordinator and additional NYSED staff as deemed necessary.
- Coordinate and participate in quarterly virtual meetings with project Advisory Council.
- Provide NYSED with the minutes of all meetings for NYSED's review and approval prior to dissemination to appropriate team members.
- Communicate via email with NYSED staff assigned to this project, to discuss the status of the work on the contract and any related issues, on an as-needed basis.
- Develop and submit an annual project plan and/or schedule to NYSED for review and signoff.
- Submit monthly status reports to NYSED that include: a detailed list of all work and activities completed, in progress, and upcoming; corresponding dates on all phases of the development and implementation; a list of all information needed from NYSED to proceed with work; and external factors, if any, that may affect the schedule, and the degree to which it would affect the schedule.
- Submit all deliverables and other work products to NYSED in the manner designated by NYSED for review and approval. Materials must be submitted in accordance with the general timeline outlined in this RFP and the specific mutually agreed-upon timeline at the beginning of the collaboration between vendor and Project Coordinator.
- Maintain accurate, up-to-date information on the status of all contractor and subcontractor(s) work on the project and communicate to NYSED at the time of monthly status reports.

It is expected that the project manager will cooperate fully with designated NYSED staff in the performance of all activities. The contractor must notify NYSED promptly if there is a need to replace the designated project manager. Such replacement is subject to approval by NYSED.

The staffing plan should provide a clear demonstration that there is a sufficient number of people with the requisite skills assigned to the project to complete all work described in this RFP.

Format for materials

All electronic copies and files submitted to NYSED should be compatible with Microsoft Office Suite Software.

- Curricular resources must be provided in electronic format, suitable for printing and/or copying to a flash drive.
- All materials should be professionally proofread for accuracy in spelling and grammar.

Payments and Reports

Payments will be made to the contractor upon completion of deliverables.

The vendor will be required to submit monthly status reports as outlined in the "Project Manager's Responsibilities" section of this RFP. Payment will be made to the vendor upon completion of each deliverable when the project deliverables are determined to be accurate in accordance with properly

RFP #164

submitted invoices. All invoices submitted for payment must include dates of services and an itemized list of activities and costs. Payment(s) to subcontractor(s) should be indicated on the invoice and should list the subcontractors' names, payment amount, and nature of services provided. Invoices with incomplete information will be returned to the vendor. Invoices should reflect only the deliverables that have been completed and submitted to NYSED. Payments will be made upon 100% completion of each deliverable and approval by NYSED.

Cloud Service Provider Compliance

Any Cloud Service Provider (CSP) under consideration must have in place a baseline of data protection security configurations implemented along with documentation that demonstrates annual testing of the same. CSP must also, have a compliance process within their environment to ensure proper access control. The compliance process will encompass auditable access and timely access termination procedures. This applies to any cloud services that contains any NYSED data. This includes but not limited to Infrastructure as a Service (IaaS), Software as a Service (SaaS), and Platform as a Service (PaaS).

Accessibility of Web-Based Information and Applications

Any documents, web-based information and applications, or programming delivered pursuant to this contract or procurement, will comply with New York State Education Department Web Accessibility Policy, [NYSED-WEBACC-001](#), as such policy may be amended, modified or superseded. The policy 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 a NYSED employee or contractor, and the results of such testing must be satisfactory to NYSED before web-based information and applications will be considered an acceptable deliverable under the contract or procurement.

Subcontracting Limit

Subcontracting will be limited to 30% of the total contract budget. Subcontracting is defined as non-employee direct personal services and related incidental expenses, including travel.

For vendors using subcontractors, a Vendor Responsibility Questionnaire and a NYSED vendor responsibility review are required for a subcontractor when:

- the subcontractor is known at the time of the contract award.
- the subcontractor is not an entity that is exempt from reporting by OSC.
- the subcontract will equal or exceed \$100,000 over the life of the contract.

For additional information about Vendor Responsibility, see the **Vendor Responsibility** section contained in **3.) Evaluation Criteria and Method of Award** of this RFP.

If the vendor proposes to change subcontractors during the contract period, NYSED must be notified prior to the change. NYSED reserves the right to reject any replacement subcontractors proposed by the vendor and reserves the right to approve all changes in subcontractors. The Subcontracting Form located in the Submission Documents must be updated annually and submitted to NYSED. Using this form, the vendor must also report to NYSED, on an annual basis, actual expenditures incurred for all subcontractors and indicate which subcontracting costs are associated with M/WBE.

Staff Changes

The contractor will maintain continuity of staff throughout the course of the contract. All changes in staff will be subject to NYSED approval. The replacement staff with comparable skills will be provided at the same or lower hourly rate.

Contract Period

NYSED will award up to **two (2)** contracts pursuant to this RFP. The contract(s) resulting from this RFP will be for a term anticipated to begin January 1, 2026, and to end December 31, 2027.

Electronic Processing of Payments

In accordance with a directive dated January 22, 2010, by the Director of State Operations - Office of Taxpayer Accountability, all state agency contracts, grants, and purchase orders executed after February 28, 2010, shall contain a provision requiring that contractors and grantees accept electronic payments.

M/WBE and Equal Employment Opportunities Requirements: Contractor Requirements and Obligations under New York State Executive Law, Article 15-A (Participation by Minority Group Members and Women with Respect to State Contracts)

In an effort to eradicate barriers that have historically impeded access by minority group members and women in State contracting activities, Article 15-A, of the New York State Executive Law §310-318, (Participation By Minority Group Members and Women With Respect To State Contracts) was enacted to promote equality of economic opportunities for minority group members and women.

The New York State Education Department ("NYSED") has enacted its policies Equal Opportunity, Non-Discrimination and Affirmative Action and on Minority and Women-Owned Business Enterprise Procurements consistent with the requirements as set forth under the provisions of Article 15-A (the "Article") incorporated by reference, requiring Contracting Agencies to implement procedures to ensure that the "Contractor" (as defined under Article 15-A, §310.3 shall mean an individual, a business enterprise, including a sole proprietorship, a partnership, a corporation, a not-for-profit corporation, or any other party to a state contract, or a bidder in conjunction with the award of a state contract or a proposed party to a state contract, complies with requirements to ensure Equal Employment Opportunities for Minority Group Members and Women, in addition to providing Opportunities for Minority and Women-Owned Business Enterprises on all covered state contracts.

In keeping with the intent of the Law, it is the expectation of the Commissioner and the responsibility of all contractors participating in and/or selected for procurement opportunities with NYSED, to fulfill their obligations to comply with the requirements of the Article and its implementing regulations.

In accordance with these requirements, the contractor hereby agrees to make every good faith effort to promote and assist the participation of certified Minority and Women-Owned Business Enterprises ("M/WBE") as subcontractors and suppliers on this project for the provision of services and materials in an amount at least equal to the M/WBE goal (Included in the procurement document) as a percentage of the total dollar value of this project. In addition, the contractor shall ensure the following:

RFP #164

1. All state contracts and all documents soliciting bids or proposals for state contracts contain or make reference to the following provisions:
 - a. The contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability, marital status, gender, religion, veteran status, sexual orientation, genetic disposition or carrier status and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination.

For purposes of the Article, affirmative action shall mean recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff or termination and rate of pay or other forms of compensation.

 - b. The contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability, marital status, gender, religion, veteran status, sexual orientation, genetic disposition or carrier status and that such union or representative will affirmatively cooperate in the implementation of the contractor's obligation herein.
 - c. The contractor shall state in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability, marital status, gender, religion, veteran status, sexual orientation, genetic disposition or carrier status.
2. The contractor will include the provisions of subdivision one of this section in every subcontract as defined under §310.14, except as provided under §312.6 of the Article, in such a manner that the provisions will be binding upon each subcontractor as to work in connection with the State contract.
3. Contractors or subcontractors shall comply with the requirements of any federal law concerning equal employment opportunity, which effectuates the purpose of this section.
4. Contractors and subcontractors shall undertake programs of affirmative action and equal employment opportunity as required by this section¹. In accordance with the provision of the Article, the bidder will submit, with their proposal, Staffing Plan (EEO 100).
5. Certified businesses (as defined under Article 15-A, §310.1 means a business verified as a minority or women-owned business enterprise pursuant to §314 of the Article) shall be given the opportunity for meaningful participation in the performance of this contract, to actively and affirmatively promote and assist their participation in the performance of this contract, so as to facilitate the award of a fair share of this contract to such businesses.
6. Contractor shall make a good faith effort to solicit active participation by enterprises identified in the [Empire State Development \("ESD"\) directory of certified businesses](#). The contractor must document its good faith efforts as set forth in 5 NYCRR 142.8. This document, Contractors Good Faith Efforts, can be found in the M/WBE Submission Documents.

¹ Notice – Contractors are provided with notice herein, NYSED may require a contractor to submit proof of an equal opportunity program after the proposal opening and prior to the award of any contract. In accordance with regulations set forth under Article 15-A §312.5, contractors and/or subcontractors will be required to submit compliance reports relating to the contractor's and/or subcontractor's program in effect as of the date the contract is executed.

RFP #164

7. Contractor shall agree, as a condition of entering into said contract, to be bound by the provisions of Article 15-A, §316.

8. Contractor shall include the provisions set forth in paragraphs (6) and (7) above in every subcontract in a manner that the provisions will be binding upon each subcontractor as to work in connection with this contract.

9. Contractor shall comply with the requirements of any federal law concerning opportunities for M/WBEs that effectuates the purpose of this section.

10. Contractor shall submit all necessary M/WBE documents and/or forms as described above as part of their proposal in response to NYSED procurement.

11. The percentage goals established for this RFP are based on the overall availability of M/WBEs certified in the particular areas of expertise identified under this RFP. These goals should not be construed as rigid and inflexible quotas that must be met, but as targets reasonably attainable by means of applying every good faith effort to make all aspects of the entire Minority and Women-Owned Business Program work.

12. Contractor shall ensure that enterprises have been identified (M/WBE 102) within the Utilization Plan, and the contractor shall attempt, in good faith, to utilize such enterprise(s) at least to the extent indicated in the plan, as to what measures and procedures contractor intends to take to comply with the provisions of the Article.

13. Upon written notification from NYSED M/WBE Program Unit as to any deficiencies and required remedies thereof, the contractor shall, within the period of time specified, submit compliance reports documenting remedial actions taken and other information relating to the operation and implementation of the Utilization Plan.

14. Where it appears that a contractor cannot, after a good faith effort, comply with the M/WBE participation requirements, contractor may file a written application with NYSED M/WBE Program Unit requesting a partial or total waiver (M/WBE 101) of such requirements setting forth the reasons for such contractor's inability to meet any or all of the participation requirements, together with an explanation of the efforts undertaken by the contractor to obtain the required M/WBE participation.

For purposes of determining a contractor's good faith efforts to comply with the requirements of this section or be entitled to a waiver, NYSED shall consider at the least the following:

I. Whether the contractor has advertised in general circulation media, trade association publications and minority-focused and women-focused media and, in such event:

a. Whether or not the certified M/WBEs which have been solicited by the contractor exhibited interest in submitting proposals for a particular project by attending a pre-bid conference; and

b. Whether certified businesses solicited by the contractor responded in a timely fashion to the contractor's solicitations for timely competitive bid quotations prior to the contracting agency's deadline for submission of proposals.

II. Whether there has been written notification to appropriate certified M/WBEs that appear in the [Empire State Development website](#).

RFP #164

All required Affirmative Action, EEO, and M/WBE forms to be submitted along with bids and/or proposals for NYSED procurements are attached hereto. Bidders must submit subcontracting forms that:

- 1) fully comply with the participation goals specified in the RFP.
- 2) partially comply with the participation goals specified in the RFP, and include a request for partial waiver, and document their good faith efforts to fully comply with the percentage goals specified in the RFP.
- 3) do not include certified M/WBE subcontractors or suppliers, and include a request for a complete waiver, and document their good faith efforts to fully comply with the participation goals specified in the RFP.

All M/WBE firms are required to be certified by Empire State Development (ESD). Online Certification can be found at the [New York State Contract System website](#).

Failure to comply with the requirements of Article 15-A as set forth under this procurement and in conjunction with the corresponding contract, will result in the withholding of associated funds and other enforcement proceedings set forth under Article 15-A.

2.) Submission

Documents to be submitted with this proposal

This section details the submission document or documents that are expected to be transmitted by the respondent to the State Education Department in response to this RFP. New York State Education Department shall own all materials, processes, and products (software, code, documentation and other written materials) developed under this contract. Materials prepared under this contract shall be in a form that will be ready for copyright in the name of the New York State Education Department. Any subcontractor is also bound by these terms. The submission will become the basis on which NYSED will judge the respondent's ability to perform the required services as laid out in the RFP.

Project Submission

The proposal submitted in response to this RFP must include the following documents submitted via the [online form](#) in Microsoft Office or editable PDF per the electronic proposal submission procedures outlined above, preferably with each of the following sets of documents uploaded as a single file:

1. Submission Documents/Certifications bearing signatures
2. Technical Proposal/Narrative and Workplan
3. Cost Proposal/Budget
4. M/WBE Package bearing signatures

The proposal must be received by the due date.

Proposals should be prepared simply and economically, avoiding the use of elaborate promotional materials beyond those sufficient to provide a complete presentation. If supplemental materials are a necessary part of the proposal, the bidder should reference these materials in the technical proposal, identifying the document(s) and citing the appropriate section and page(s) to be reviewed.

The proposal must communicate an understanding of the deliverables of the RFP, describe how the tasks are to be performed and identify potential problems in the conduct of the deliverables and methods to identify and solve such problems.

Bidders should specify all details and dates required to evaluate the technical proposal and should limit aspects of the project plan that are to be determined only after the award of a contract. No optional deliverables to be provided only at an additional cost should be included and will not be considered in the evaluation of the technical proposal. Contractual terms, conditions and assumptions are inappropriate for inclusion in the proposal.

Any proprietary material considered confidential by the bidder will specifically be so identified, and the basis for such confidentiality will be specifically set forth in the proposal by submitting the form "Request for Exemption from Disclosure Pursuant to the Freedom of Information Law," located in 5) Submission Documents.

Technical Proposal (70 points)

The completed Technical Proposal should be labeled **<name of bidder> Technical Proposal – RFP 164, Contract 1 or Contract 2** and include the following:

Please specify whether your bid is for **Contract 1** (development of curricular materials and professional development resources related to civics education and values, New York State's shared history of diversity, and the role of religious tolerance in the United States) or **Contract 2** (creation of a digital platform). If bidding for both contracts, you must submit a separate Technical Proposal for each, as bids for each contract will be scored differently.

Submit bids via the [online form](#).

Bids for Contract 1:

- A. Organizational Capacity and Experience (30 points)
- B. Project Workplan (10 Points)
- C. Project Description: Deliverables (30 points)

A. Organizational Capacity and Experience (30 points)

The proposal should show evidence of adequate human, organizational, technical, and professional resources, and associated abilities to meet the needs of this RFP.

The proposal should provide detailed information explaining the bidder's experience and expertise in areas specific to the services and support to be provided, and its capacity to successfully undertake the scope of work this project entails, as described in Services to be Performed.

A response that meets the standard for this section will provide comprehensive, detailed information on the following:

- A description of the bidder's organization, including mission/vision, number of years in business, areas of expertise, awards/accolades, partnerships/endorsements, and other relevant information to demonstrate how the bidder's organization compares with other vendors offering similar products and services (10 points)
- Evidence and indications of the ability to perform tasks as described in Description of Services to be Performed, including experience gained and products produced through work on similar projects (5 points):
 - A minimum of three (3) current and accurate professional letters of reference that include the names, titles, organization names, addresses, telephone numbers and email addresses of the references (do not use NYSED or Regents Research Foundation staff as references).
- A detailed staffing plan that includes the names, qualifications, and responsibilities of key staff members: for each key staff member associated with this project, the staffing plan should include a resume (10 points).
 - The staffing plan should provide a clear demonstration that there is a sufficient number of people with the requisite skills assigned to the project to complete all work described in this RFP.
 - If the bidder is working with subcontractor(s), the staffing plan should include all subcontractors proposed for this RFP, including:
 - A description of the services provided by the subcontractor(s), their location, and the percentage of work performed by the subcontractor(s).
 - A signed MOU including the names and specific responsibilities of each subcontractor.

- The name of a project manager who will be the central point of contact with NYSED and the second vendor for the duration of this contract: proposals should include the project manager's current resume that outlines experience and expertise that are congruent with all aspects of the project manager's responsibilities and skills listed in the Staffing Requirements and Responsibilities section of the RFP
 - The staffing plan should demonstrate that the individual identified as a project manager has sufficient authority and experience across departments within the organization, in order to ensure that the work outlined in the contract has the necessary priority to be completed with the highest quality and on time.
 - It is required that the project manager possess the following:
 - a minimum of a bachelor's degree
 - at least three years' experience managing large-scale projects from conception through completion.
- A description of how the bidder will ensure continuity of project staff for the entire contract period and A description of how the bidder has and will maintain adequate resources to offer the product and services proposed – at the same or higher quality-level proposed—throughout the length of the contract period (5 points)

B. Project Workplan (10 points)

The proposal should include a realistic and rational two-year detailed workplan/timeline that describes as clearly, specifically, and completely as possible how the bidder intends to implement the project and manage the work requirements of the RFP as described in the Description of Services to be Performed (5 points).

The plan should include a division of the project's work activities into work areas or work packages, and should outline, in detail, who among the key staff members will perform each activity, and where this will occur. The plan should include the percent of total time for each key staff member, including that of any subcontractor staff, to be allocated to the project (5 points).

C. Project Description (30 points)

C.1 Deliverable A: Curricular Resources (15 points)

The proposal should describe the bidder's vision and goals for how its curricular resources are aligned to the New York State Education Department's standards and goals for all students. The plan should provide a clear explanation of how the proposed approach will align with and advance the commitments and values of relevant Board of Regents and NYSED policies, frameworks, and standards.

A response that meets the standard for this section will align with all program requirements and provide detailed information on the following:

- Description of how the product and content will meet the goals outlined in this RFP, including (5 points):
 - Promoting empathy and understanding in students and prepare them for living in a diverse global community.
 - Strengthening education around the diverse populations in New York from a historical perspective, inclusive of communities from marginalized backgrounds who have often been absent from curricula.

- Empowering all students in New York State with the necessary knowledge and skills to become active, responsible participants of their local and global communities.
- Description of how the vendor will ensure curricular materials utilize current, research-based strategies for instruction and incorporate up-to-date learning resources that clearly indicate how this resource can be used for students with diverse learning needs (5 points)
- Description of how the vendor will ensure curricular materials align to New York State Learning Standards and the CR-S Education Framework (5 points)

C.2. Deliverable B: Professional Development (10 points)

The proposal should describe the bidder's vision and goals for how its professional development resources enhance teacher capacity to implement student resources on civics, religious tolerance, and culturally responsive education. The plan should provide a clear explanation of how the proposed approach will align with and advance the commitments and values of relevant Board of Regents and NYSED policies, frameworks, and standards. (5 points)

The proposal should also include a proposed structure of professional development materials, including a vision for educator-guided sessions and asynchronous sessions. (5 points)

C.3 Deliverable E: Resource Communication and Dissemination to the Field (5 points)

The proposal should describe a comprehensive plan to support districts with usage of the digital platform.

A response that meets the standard for this section will align with program requirements and provide detailed information on the following:

- Proposed structure for virtual training for representatives from BOCES and designated Big 5 districts upon publication of the digital platform.
- Proposed format for resources to support educator use of the digital platform.

Bids for Contract 2:

- A. Organizational Capacity and Experience (30 points)
- B. Project Workplan (10 Points)
- C. Project Description: Deliverables (30 points)

A. Organizational Capacity and Experience (30 points)

The proposal should show evidence of adequate human, organizational, technical, and professional resources, and associated abilities to meet the needs of this RFP.

The proposal should provide detailed information explaining the vendor's experience and expertise in areas specific to the services and support to be provided, and its capacity to successfully undertake the scope of work this project entails, as described in Services to be Performed.

A response that meets the standard for this section will provide comprehensive, detailed information on the following:

- A description of the bidder's organization, including mission/vision, number of years in business, areas of expertise, awards/accolades, partnerships/endorsements, and other relevant information to demonstrate how the bidder's organization compares with other vendors offering similar products and services (10 points)

- Evidence and indications of the ability to perform tasks as described in Description of Services to be Performed, including experience gained and products produced through work on similar projects (5 points)
 - A minimum of three (3) current and accurate professional letters of reference that include the names, titles, organization names, addresses, telephone numbers and email addresses of the references (do not use NYSED or Regents Research Foundation staff as references)
- A detailed staffing plan that includes the names, qualifications, and responsibilities of key staff members. For each key staff member associated with this project, the staffing plan should include a resume (10 points)
 - The staffing plan should provide a clear demonstration that there is a sufficient number of people with the requisite skills assigned to the project to complete all work described in this RFP.
 - If the bidder is working with subcontractor(s), the staffing plan should include all subcontractors proposed for this RFP, including:
 - A description of the services provided by the subcontractor(s), their location, and the percentage of work performed by the subcontractor(s)
 - A signed MOU including the names and specific responsibilities of each subcontractor.
 - The name of a project manager who will be the central point of contact with NYSED and the other vendor for the duration of the contract period: proposals should include the project manager's current resume that outlines experience and expertise that are congruent with all aspects of the project manager's responsibilities and skills listed in the [Staffing Requirements and Responsibilities](#) section of this RFP
 - The staffing plan should demonstrate that the individual identified as a project manager has sufficient authority and experience across departments within the organization, in order to ensure that the work outlined in the contract has the necessary priority to be completed with the highest quality and on time.
 - It is required that the project manager possess the following:
 - a minimum of a bachelor's degree.
 - at least three years' experience managing large-scale projects from conception through completion.
- A description of how the bidder will ensure continuity of project staff for the entire contract period and A description of how the bidder has and will maintain adequate resources to offer the product and services proposed – at the same or higher quality-level proposed—throughout the length of the contract period (5 points)

B. Project Workplan (10 points)

The proposal should include a realistic and rational two-year detailed workplan/timeline that describes as clearly, specifically, and completely as possible how the bidder intends to implement the project and manage the work requirements of the RFP as described in the [Description of Services to be Performed](#) (5 points).

The plan should include a division of the project's work activities into work areas or work packages, and should outline, in detail, who among the key staff members will perform each activity, and where

this will occur. The plan should include the percent of total time for each key staff member, including that of any subcontractor staff, to be allocated to the project (5 points).

C. Project Description (30 points)

C.1 Deliverable C: Digital Platform (25 points)

The proposal should describe the bidder's vision and goals for the digital platform that will host all curricular resources and professional development materials related to civics education, religious tolerance, diversity, and the CR-S Education Framework. The proposal should include relevant experience hosting resources and web design.

A response that meets the standard for this section will align with all program requirements and provide detailed information on the following:

- Proposed plan for the final product, including:
 - Site design (visual appeal) (5 points)
 - Organization of materials (categories and modules) (5 points)
- Description of how site will be developed to ensure ease of teacher use (5 points)
- Description of process for administering technical assistance as needed (5 points)
- Description of system capabilities, including compatible platforms and browsers (5 points)

C.2 Deliverable E: Resource Communication and Dissemination to the Field (5 points)

The proposal should describe a comprehensive plan to support districts with usage of the digital platform.

A response that meets the standard for this section will align with program requirements and provide detailed information on the following:

- Proposed structure for virtual training for representatives from BOCES and designated Big 5 districts upon publication of the digital platform.
- Proposed format for resources to support educator use of the digital platform.

Cost Proposal (30 points)

The completed Cost Proposal should be labeled **<name of bidder> Cost Proposal – RFP 164, Contract 1 or Contract 2** and include the following:

- 1.) 2-Year Budget Summary
- 2.) Subcontracting Form
- 3.) M/WBE Purchases Form

Separate Cost Proposal forms for each contract are posted with the RFP. Please submit separate Cost Proposals if your organization is bidding on both contracts. Factor all costs associated with each deliverable, including salaries and benefits, purchased services, supplies and materials, and travel.

The Financial Criteria portion of the RFP will be scored based upon the grand total of the 2-year budget summary.

M/WBE Documents

The original completed M/WBE Documents should be labeled **<name of bidder> M/WBE Documents – RFP 164, Contract 1 or Contract 2**. Please return the documents listed for the compliance method bidder has achieved:

Full Participation-No Request for Waiver

1. M/WBE Cover Letter, **Signatures Required**
2. **M/WBE 100** Utilization Plan
3. **M/WBE 102** Notice of Intent to Participate
4. **EEO 100** Staffing Plan

Partial Participation-Request for Partial Waiver

1. M/WBE Cover Letter, **Signatures Required**
2. **M/WBE 100** Utilization Plan
3. **M/WBE 102** Notice of Intent to Participate
4. **EEO 100** Staffing Plan
5. **M/WBE 101** Request for Waiver
6. **M/WBE 105** Contractor's Good Faith Efforts

No Participation-Request for Complete Waiver

1. M/WBE Cover Letter, **Signatures Required**
2. **EEO 100** Staffing Plan
3. **M/WBE 101** Request for Waiver
4. **M/WBE 105** Contractor's Good Faith Efforts

3.) Evaluation Criteria and Method of Award

This section begins with the criteria the agency will use to evaluate bids and closes with the “method of award,” or how the contractor will be selected. This will be followed by various terms and conditions that reflect the specific needs of this project as well as New York State contract guidelines and requirements.

Criteria for Evaluating Bids

All eligible proposals received by the deadline will be reviewed using the following criteria and ratings. Applicants must ensure that all components of this application request have been addressed, the required number of copies has been provided, all forms and assurances have been completed, and the original signatures are included as required.

An evaluation committee will complete a review of all proposals submitted. The committee will review each proposal based upon the submitted proposal and the requirements of the RFP only. Bidders should not assume that committee review members will be familiar with the current program or have any previous experience with the bidder. Appropriate description should be included to inform review committee members about the bidder’s qualifications and capacity to perform all required deliverables.

The committee will review each proposal to determine compliance with the requirements described in the RFP. NYSED retains the right to determine whether any deviation from the requirements of this RFP is substantial in nature and may reject in whole or in part any and all proposals, waive minor irregularities and conduct discussions with all responsible bidders.

Technical Criteria (70 Points)

Contract 1:

- A. Organizational Capacity and Experience (30 points)
- B. Project Workplan (10 Points)
- C. Project Description: Deliverables (30 points)

Contract 2:

- A. Organizational Capacity and Experience (30 points)
- B. Project Workplan (10 Points)
- C. Project Description: Deliverables (30 points)

Financial Criteria (30 Points)

The Financial Criteria portion of this RFP will be scored based upon the grand total for the 2-year budget summary.

Separate Cost Proposal forms for each contract are posted with the RFP. Please submit the Cost Proposal form that matches your Technical Proposal. Please submit separate Cost Proposals if your organization is bidding on both contracts. Factor all costs associated with each deliverable, including salaries and benefits, purchased services, supplies and materials, and travel.

The **financial portion** of the proposal represents 30 points of the overall score and will be awarded up to 30 points pursuant to a formula. This calculation will be computed by the Contract Administration Unit upon completion of the technical scoring by the technical review panel.

The submitted budget will be awarded points pursuant to a formula that awards the highest score of 30 points to the budget that reflects the lowest overall cost. The remaining budgets will be awarded points based on a calculation that computes the relative difference of each proposal against the lowest budget submitted. The resulting percentage is then applied to the maximum point value of 30 points.

NYSED reserves the right to request best and final offers. In the event NYSED exercises this right, all responsive bidders will be asked to provide a best and final offer. The Contract Administration Unit will recalculate the financial score.

Method of Award

The aggregate score of all the criteria listed will be calculated for each proposal received.

The contract issued pursuant to this proposal will be awarded to the vendor whose aggregate technical and cost score is the highest among all the proposals rated. **If NYSED exercises the right to request best and final offers, the contract must be issued to the vendor with the highest aggregate technical and financial score that results from the best and final offer.**

If more than one proposal obtains the highest aggregate score, the contract will be awarded to the vendor in that group of highest aggregate scores whose budget component reflects the lowest overall cost.

NYSED's Reservation of Rights

NYSED reserves the right to: (1) reject any or all proposals received in response to the RFP; (2) withdraw the RFP at any time, at the agency's sole discretion; (3) make an award under the RFP in whole or in part; (4) disqualify any bidder whose conduct and/or proposal fails to conform to the requirements of the RFP; (5) seek clarifications of proposals; (6) use proposal information obtained through site visits, management interviews and the state's investigation of a bidder's qualifications, experience, ability or financial standing, and any material or information submitted by the bidder in response to the agency's request for clarifying information in the course of evaluation and/or selection under the RFP; (7) prior to the bid opening, amend the RFP specifications to correct errors or oversights, or to supply additional information, as it becomes available; (8) prior to the bid opening, direct bidders to submit proposal modifications addressing subsequent RFP amendments; (9) change any of the scheduled dates; (10) waive any requirements that are not material; (11) negotiate with the successful bidder within the scope of the RFP in the best interests of the state; (12) conduct contract negotiations with the next responsible bidder, should the agency be unsuccessful in negotiating with the selected bidder; (13) utilize any and all ideas submitted in the proposals received; (14) unless otherwise specified in the solicitation, every offer is firm and not revocable for a period of 90 days from the bid opening; (15) require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of an offerer's proposal and/or to determine an offerer's compliance with the requirements of the solicitation; (16) request best and final offers.

Post Selection Procedures

Upon selection, the successful bidder will receive a proposed contract from NYSED. The selected bidder may be given an opportunity to reduce its cost proposal in accordance with the agency's right to negotiate a final best price. The contents of this RFP, any subsequent correspondence during the proposal evaluation period, and such other stipulations as agreed upon may be made a part of the final

contract prepared by NYSED. Successful bidders may be subject to audit and should ensure that adequate controls are in place to document the allowable activities and expenditure of State funds.

Debriefing Procedures

In accordance with section 163 of the NY State Finance Law, NYSED, upon request, must provide a debriefing to any unsuccessful bidder regarding the reasons their proposal was not selected for an award.

1. All unsuccessful bidders may request a debriefing within fifteen (15) calendar days of receiving notice from NYSED of non-award. Bidders may submit a request for debriefing through the [online form](#).
2. Upon receipt of a timely written request from the unsuccessful bidder, NYSED will schedule the debriefing to occur within a reasonable time following receipt of the request. Debriefings will be conducted in person, unless NYSED and the bidder mutually agree to utilize other means, including but not limited to telephone, videoconferencing or other types of electronic communication.
3. The debriefing will include: a) the reasons that the proposal submitted by the unsuccessful bidder was not selected for an award; b) the qualitative and quantitative analysis employed by NYSED in assessing the relative merits of the proposals; c) the application of the selection criteria to the unsuccessful bidder's proposal; and d) when the debriefing is held after the final award, the reasons for the selection of the winning proposal. The debriefing will also provide, to the greatest extent practicable, general advice and guidance to the unsuccessful bidder concerning potential ways that their future proposals could be more responsive.

Contract Award Protest Procedures

Bidders who receive a notice of non-award or disqualification may protest the NYSED award decision subject to the following:

1. The protest must be in writing and must contain specific factual and/or legal allegations setting forth the basis on which the protesting party challenges the contract award by NYSED.
2. The protest must be filed within ten (10) business days of receipt of a debriefing or disqualification letter. The protest letter must be filed with the Contract Administration Unit via [online form](#).
3. The NYSED Contract Administration Unit (CAU) will convene a review team that will include at least one staff member from each of NYSED's Office of Counsel, CAU, and the Program Office. The review team will review and consider the merits of the protest and will decide whether the protest is approved or denied. Counsel's Office will provide the bidder with written notification of the review team's decision within ten (10) business days of the receipt of the protest. The original protest and decision will be filed with OSC when the contract procurement record is submitted for approval and CAU will advise OSC that a protest was filed.
4. The NYSED Contract Administration Unit (CAU) may summarily deny a protest that fails to contain specific factual or legal allegations, or where the protest only raises issues of law that have already been decided by the courts.

Vendor Responsibility

State law requires that the award of state contracts be made to responsible vendors. Before an award is made to a not-for-profit entity, a for-profit entity, a private college or university or a public entity not exempted by the Office of the State Comptroller (OSC), NYSED must make an affirmative responsibility determination. The factors to be considered include legal authority to do business in New York State; integrity; capacity – both organizational and financial; and previous performance. Before an award of \$100,000 or greater can be made to a covered entity, the entity will be required to complete and submit a [Vendor Responsibility Questionnaire](#). School districts, Charter Schools, BOCES, public colleges and universities, public libraries, and the Research Foundation for SUNY and CUNY are some of the exempt entities. A [complete list of exempt entities](#) can be viewed at the Office of the State Comptroller's website.

NYSED recommends that vendors file the required Vendor Responsibility Questionnaire online via the New York State VendRep System. To enroll in and use the New York State VendRep System, see the [VendRep System Instructions](#) or go directly to the [VendRep System on the Office of the State Comptroller's website](#).

Vendors must provide their New York State Vendor Identification Number when enrolling. To request assignment of a Vendor ID or for VendRep System assistance, contact the [Office of the State Comptroller's Help Desk](#) at 866-370-4672 or 518-408-4672 or by email at ITServiceDesk@osc.ny.gov.

Vendors opting to complete and submit a paper questionnaire can obtain the appropriate questionnaire from the [VendRep website](#) or may contact NYSED or the Office of the State Comptroller's Help Desk for a copy of the paper form.

Subcontractors:

For vendors using subcontractors, a Vendor Responsibility Questionnaire and a NYSED vendor responsibility review are required for a subcontractor where:

- the subcontractor is known at the time of the contract award.
- the subcontractor is not an entity that is exempt from reporting by OSC.
- the subcontract will equal or exceed \$100,000 over the life of the contract.

Note: Bidders must acknowledge their method of filing their questionnaire by checking the appropriate box on the Response Sheet for Bids (5. Submission Documents).

Procurement Lobbying Law

Pursuant to State Finance Law §§139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between the New York State Education Department ("NYSED") and an Offerer/bidder during the procurement process. An Offerer/bidder is restricted from making contacts from the earliest notice of the solicitation through final award and approval of the Procurement Contract by NYSED and, if applicable, Office of the State Comptroller ("restricted period") to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law §139-j(3)(a). Designated staff, as of the date hereof, is identified below. NYSED employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the Offerer/bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four-year period, the Offerer/bidder is debarred from obtaining governmental

Procurement Contracts. Further information about these requirements can be found at [NYSED's Procurement Lobbying Law Policy Guidelines webpage](#).

Designated Contacts for NYSED
Program Office – **Sarah Epstein**
Contract Administration Unit – **Thomas McBride**
M/WBE – **Thomas McBride**

Consultant Disclosure Legislation

Effective June 19, 2006, new reporting requirements became effective for State contractors, as the result of an amendment to State Finance Law §§ 8 and 163. As a result of these changes in law, State contractors will be required to disclose, by employment category, the number of persons employed to provide services under a contract for consulting services, the number of hours worked and the amount paid to the contractor by the State as compensation for work performed by these employees. This will include information on any persons working under any subcontracts with the State contractor.

Chapter 10 of the Laws of 2006 expands the definition of contracts for consulting services to include any contract entered into by a State agency for analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal, or similar services.

To enable compliance with the law, State agencies must include in the Procurement Record submitted to OSC for new consultant contracts, the State Consultant Services Contractor's Planned Employment from Contract Start Date Through the End of the Contract Term (Form A). The completed form must include information for all employees providing service under the contract whether employed by the contractor or a subcontractor. Please note that the form captures the necessary planned employment information ***prospectively from the start date of the contract through the end of the contract term***.

[Form A](#) is available on OSC's website.

Please note that although this form is not required as part of the bid submission, NYSED encourages bidders to include it in their bid submission to expedite contract execution if the bidder is awarded the contract. Note also that only the form listed above is acceptable.

Chapter 10 of the Laws of 2006 mandates that State agencies must now require State contractors to **report annually** on the employment information described above, including work performed by subcontractors. The legislation mandates that the annual employment reports are to be submitted by the contractor to the contracting agency, to OSC and to the Department of Civil Service. State Consultant Services Contractor's Annual Employment Report (Form B) is to be used to report the information for all procurement contracts above \$15,000. Please note that, in contrast to the information to be included on Form A, which is a one-time report of planned employment data for the entire term of a consulting contract on a projected basis, ***Form B will be submitted each year the contract is in effect and will capture historical information, detailing actual employment data for the most recently concluded State fiscal year (April 1 – March 31).***

[Form B](#) is available on OSC's website.

For more information, please visit [OSC Guide to Financial Operations](#).

Public Officer's Law Section 73

All bidders must comply with Public Officer's Law Section 73 (4)(a), as follows:

4. (a) No statewide elected official, state officer or employee, member of the legislature, legislative employee or political party chairman or firm or association of which such person is a member, or corporation, ten per centum or more of the stock of which is owned or controlled directly or indirectly by such person, shall (i) sell any goods or services having a value in excess of twenty-five dollars to any state agency, or (ii) contract for or provide such goods or services with or to any private entity where the power to contract, appoint or retain on behalf of such private entity is exercised, directly or indirectly, by a state agency or officer thereof, unless such goods or services are provided pursuant to an award or contract let after public notice and competitive bidding. This paragraph shall not apply to the publication of resolutions, advertisements or other legal propositions or notices in newspapers designated pursuant to law for such purpose and for which the rates are fixed pursuant to law.

(i) The term "state officer or employee" shall mean:

(i) heads of state departments and their deputies and assistants other than members of the board of regents of the university of the state of New York who receive no compensation or are compensated on a per diem basis

(ii) officers and employees of statewide elected officials.

(iii) officers and employees of state departments, boards, bureaus, divisions, commissions, councils or other state agencies other than officers of such boards, commissions or councils who receive no compensation or are compensated on a per diem basis.

(iv) members or directors of public authorities, other than multistate authorities, public benefit corporations and commissions at least one of whose members is appointed by the governor, who receive compensation other than on a per diem basis, and employees of such authorities, corporations and commissions.

Review [Public Officer's Law Section 73](#).

NYSED Substitute Form W-9

Any payee/vendor/organization receiving Federal and/or State payments from NYSED must complete the NYSED Substitute Form W-9 if they are not yet registered in the Statewide Financial System centralized vendor file.

The NYS Education Department (NYSED) is using the NYSED Substitute Form W-9 to obtain certification of a vendor's Tax Identification Number in order to facilitate a vendor's registration with the SFS centralized vendor file and to ensure accuracy of information contained therein. We ask for the information on the NYSED Substitute Form W-9 to carry out the Internal Revenue laws of the United States.

Workers' Compensation Coverage

New York State Workers' Compensation Law (WCL) has specific coverage requirements for businesses contracting with New York State.

PROOF OF COVERAGE REQUIREMENTS

Please note – an ACORD form is not acceptable proof of New York State workers' compensation or disability benefits insurance coverage.

Proof of Workers' Compensation Coverage

NYSED must ensure all awardees/contractors who are required to carry workers' compensation insurance have an active policy. NYSED must obtain **one** of the following forms before a contract can be approved:

- **Form C-105.2** – Certificate of Workers' Compensation Insurance issued by private insurance carriers, or **Form U-26.3** issued by the State Insurance Fund.
- **Form SI-12** – Certificate of Workers' Compensation Self-Insurance; or **Form GSI-105.2** Certificate of Participation in Workers' Compensation Group Self-Insurance.
- **CE-200** – Certificate of Attestation of Exemption from NYS Workers' Compensation and/or Disability Benefits Coverage.

Proof of Disability and Paid Family Leave Benefits Coverage

NYSED must ensure all awardees/contractors who are required to carry Disability and Paid Family Leave benefits insurance have an active policy. NYSED must obtain **one** of the following forms before a contract can be approved:

- **Form DB-120.1** – Certificate of Disability Benefits Insurance.
- **Form DB-155** – Certificate of Disability Benefits Self-Insurance.
- **CE-200** – Certificate of Attestation of Exemption from New York State Workers' Compensation and/or Disability Benefits Coverage.

For additional information regarding workers' compensation and disability benefits requirements, please refer to the [New York State Workers' Compensation Board website](#).

Please note that although these forms are not required as part of the bid submissions, NYSED encourages bidders to include them in their bid submission to expedite contract execution if the bidder is awarded the contract. Note also that only the forms listed above are acceptable.

Sales and Compensating Use Tax Certification (Tax Law, § 5-a)

Tax Law § 5-a requires contractors awarded State contracts for commodities or services valued at more than \$100,000 over the full term of the contract to certify to the New York State Department of Taxation and Finance ("DTF") that they are registered to collect New York State and local sales and compensating use taxes, if they made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000, measured over a specific period of time. The registration requirement applies if the contractor made a cumulative total of more than \$300,000 in sales during the four completed sales tax quarters which immediately precede the sales tax quarter in which the certification is made. Sales tax quarters are June – August, September – November, December – February, and March – May. In addition, contractors must certify to DTF that each affiliate and subcontractor of such contractor exceeding such sales threshold during a specified period is registered to collect New York State and local sales and compensating use taxes. Contractors must also certify to the procuring State entity that they filed the certification with the DTF and that it is correct and complete.

The selected bidder must file a properly completed Form ST-220-CA (with NYSED as the Contracting Agency) and Form ST-220-TD (with the DTF). These requirements must be met before a contract may

take effect. Further information can be found at the [New York State Department of Taxation and Finance's website](#). Forms are available through these links:

- [ST-220 CA](#)
- [ST-220 TD](#)

Please note that although these forms are not required as part of the bid submissions, NYSED encourages bidders to include them with their bid submissions to expedite contract execution if the bidder is awarded the contract.

4.) Assurances

The State of New York Agreement, Appendix A (Standard Clauses for all New York State Contracts), Appendix A-1 (Agency-Specific Clauses), and **WILL BE INCLUDED** in the contract that results from this RFP. Vendors who are unable to complete or abide by these assurances should not respond to this request.

The documents listed below are included in **5.) Submission Documents**, which must be signed by the Chief Administrative Officer. Please review the terms and conditions. Certain documents will become part of the resulting contract that will be executed between the successful bidder and the NYS Education Department.

1. Non-Collusion Certification
2. MacBride Certification
3. Certification-Omnibus Procurement Act of 1992
4. Certification Regarding Lobbying; Debarment and Suspension; and Drug-Free Workplace Requirements
5. Offerer Disclosure of Prior Non-Responsibility Determinations
6. NYSED Substitute Form W-9 (If bidder is not yet registered in the SFS centralized vendor file.)
7. Iran Divestment Act Certification
8. Sexual Harassment Policy Certification
9. Certification Under Executive Order No. 16

M/WBE Documents – **(the forms below are included in 5.) Submission Documents)**

Please return the documents listed for the compliance method bidder has achieved:

Full Participation-No Request for Waiver

1. M/WBE Cover Letter
2. **M/WBE 100** Utilization Plan
3. **M/WBE 102** Notice of Intent to Participate
4. **EEO 100** Staffing Plan

Partial Participation-Request for Partial Waiver

1. M/WBE Cover Letter
2. **M/WBE 100** Utilization Plan
3. **M/WBE 102** Notice of Intent to Participate
4. **EEO 100** Staffing Plan
5. **M/WBE 101** Request for Waiver
6. **M/WBE 105** Contractor's Good Faith Efforts

No Participation-Request for Complete Waiver

1. M/WBE Cover Letter
2. **EEO 100** Staffing Plan
3. **M/WBE 101** Request for Waiver
4. **M/WBE 105** Contractor's Good Faith Efforts

STATE OF NEW YORK AGREEMENT

This AGREEMENT is hereby made by and between the People of the State of New York, acting through Dr. Betty A. Rosa, Commissioner of Education of the State of New York, party of the first part, hereinafter referred to as the (STATE) and the public or private agency (CONTRACTOR) identified on the face page hereof.

WITNESSETH:

WHEREAS, the STATE has the authority to regulate and provide funding for the establishment and operation of program services and desires to contract with skilled parties possessing the necessary resources to provide such services; and

WHEREAS, the CONTRACTOR is ready, willing and able to provide such program services and possesses or can make available all necessary qualified personnel, licenses, facilities and expertise to perform or have performed the services required pursuant to the terms of this AGREEMENT;

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

I. Conditions of Agreement

A. This AGREEMENT may consist of successive periods (PERIOD), as specified within the AGREEMENT or within a subsequent Modification Agreement(s) (Appendix X). Each additional or superseding PERIOD shall be on the forms specified by the particular State agency and shall be incorporated into this AGREEMENT.

B. Funding for the first PERIOD shall not exceed the funding amount specified on the face page hereof. Funding for each subsequent PERIOD, if any, shall not exceed the amount specified in the appropriate appendix for that PERIOD.

C. This AGREEMENT incorporates the face pages attached and all of the marked appendices identified on the face page hereof.

D. For each succeeding PERIOD of this AGREEMENT, the parties shall prepare new appendices, to the extent that any require modification, and a Modification Agreement (The attached Appendix X is the blank form to be used). Any terms of this AGREEMENT not modified shall remain in effect for each PERIOD of the AGREEMENT.

To modify the AGREEMENT within an existing PERIOD, the parties shall revise or complete the appropriate appendix form(s). Any change in the amount of consideration to be paid, or change in the term, is subject to the approval of the Office of the State Comptroller. Any other modifications shall be processed in accordance with agency guidelines as stated in Appendix A1.

E. The CONTRACTOR shall perform all services to the satisfaction of the STATE. The CONTRACTOR shall provide services and meet the program objectives summarized in the Program

Workplan (Appendix D) in accordance with: provisions of the AGREEMENT; relevant laws, rules and regulations, administrative and fiscal guidelines; and where applicable, operating certificates for facilities or licenses for an activity or program.

F. If the CONTRACTOR enters into subcontracts for the performance of work pursuant to this AGREEMENT, 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 this AGREEMENT. No contractual relationship shall be deemed to exist between the subcontractor and the STATE.

G. Appendix A (Standard Clauses as required by the Attorney General for all State contracts) takes precedence over all other parts of the AGREEMENT.

II. Payment and Reporting

A. The CONTRACTOR, to be eligible for payment, shall submit to the STATE's designated payment office (identified in Appendix C) any appropriate documentation as required by the Payment and Reporting Schedule (Appendix C) and by agency fiscal guidelines, in a manner acceptable to the STATE.

B. The STATE shall make payments and any reconciliations in accordance with the Payment and Reporting Schedule (Appendix C). The STATE shall pay the CONTRACTOR, in consideration of contract services for a given PERIOD, a sum not to exceed the amount noted on the face page hereof or in the respective Appendix designating the payment amount for that given PERIOD. This sum shall not duplicate reimbursement from other sources for CONTRACTOR costs and services provided pursuant to this AGREEMENT.

C. The CONTRACTOR shall meet the audit requirements specified by the STATE.

III. Terminations

A. This AGREEMENT may be terminated at any time upon mutual written consent of the STATE and the CONTRACTOR.

B. The STATE may terminate the AGREEMENT immediately, upon written notice of termination to the CONTRACTOR, if the CONTRACTOR fails to comply with the terms and conditions of this AGREEMENT and/or with any laws, rules, regulations, policies or procedures affecting this AGREEMENT.

C. The STATE may also terminate this AGREEMENT for any reason in accordance with provisions set forth in Appendix A1.

D. Written notice of termination, where required, shall be sent by personal messenger service or by certified mail, return receipt requested. The termination shall be effective in accordance with the terms of the notice.

E. 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.

F. The STATE shall be responsible for payment on claims pursuant to services provided and costs incurred pursuant to terms of the AGREEMENT. In no event shall the STATE be liable for expenses and obligations arising from the program(s) in this AGREEMENT after the termination date.

IV. Indemnification

A. 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 AGREEMENT. The CONTRACTOR shall indemnify and hold harmless the STATE and its officers and employees from claims, suits, actions, damages and costs of every nature arising out of the provision of services pursuant to this AGREEMENT.

B. The CONTRACTOR is an independent contractor 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.

V. Property

Any equipment, furniture, supplies or other property purchased pursuant to this AGREEMENT is deemed to be the property of the STATE except as may otherwise be governed by Federal or State laws, rules or regulations, or as stated in Appendix A1.

VI. Safeguards for Services and Confidentiality

A. Services performed pursuant to this AGREEMENT 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.

B. Funds provided pursuant to this AGREEMENT shall not be used for any partisan political activity, or for activities that may influence legislation or the election or defeat of any candidate for public office.

C. Information relating to individuals who may receive services pursuant to this AGREEMENT shall be maintained and used only for the purposes intended under the contract and in conformity with applicable provisions of laws and regulations or specified in Appendix A1.

Appendix A
STANDARD CLAUSES FOR NYS
CONTRACTS

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

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

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

3. COMPTROLLER'S APPROVAL. In accordance with Section 112 of the State Finance Law, if this contract exceeds \$50,000 (or \$75,000 for State University of New York or City University of New York contracts for goods, services, construction and printing, and \$150,000 for State University Health Care Facilities) or if this is an amendment for any amount to a contract which,

as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$25,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services, either for itself or its customer agencies by the Office of General Services Business Services Center, is required when such contracts exceed \$85,000. Comptroller's approval of contracts established as centralized contracts through the Office of General Services is required when such contracts exceed \$125,000, and when a purchase order or other procurement transaction issued under such centralized contract exceeds \$200,000.

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

5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment, nor subject any individual to harassment, because of age, race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status or because the individual has opposed any practices forbidden under the Human Rights Law or has filed a complaint, testified, or assisted in any proceeding under the Human Rights Law. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of

New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

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

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section

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

8. INTERNATIONAL BOYCOTT PROHIBITION.

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

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

off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, the "Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

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

Payment, must give the reason or reasons why the payee does not have such number or numbers.

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

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. In accordance with Section 312 of the Executive Law and 5 NYCRR Part 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition,

replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

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

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

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

Contractor will include the provisions of "(a), (b) and (c)" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does

not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this clause. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

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

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

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

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

17. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or

undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

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

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

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

20. OMNIBUS PROCUREMENT ACT OF 1992.

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

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

NYS Department of Economic Development
Division for Small Business and Technology Development
625 Broadway
Albany, New York 12245
Telephone: 518-292-5100

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

NYS Department of Economic Development
Division of Minority and Women's Business Development
633 Third Avenue 33rd Floor
New York, NY 10017
646-846-7364
email: mwbusinessdev@esd.ny.gov
[NYS M/WBE Directory](#)

The Omnibus Procurement Act of 1992 (Chapter 844 of the Laws of 1992, codified in State Finance Law § 139-i and Public Authorities Law § 2879(3)(n)–(p)) requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority- and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

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

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

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

21. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively, codified in State Finance Law § 165(6) and Public Authorities Law § 2879(5)) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 2023, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii.

22. COMPLIANCE WITH BREACH NOTIFICATION AND DATA SECURITY LAWS. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law §§ 899-aa and 899-bb and State Technology Law § 208).

23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW. If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4)(g) of the State Finance Law (as amended by Chapter 10 of the

Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

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

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

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

26. IRAN DIVESTMENT ACT. By entering into this Agreement, Contractor certifies in accordance with State Finance Law § 165-a that it is not on the “Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012” ([“Prohibited Entities List”](#)).

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at

the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

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

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

27. ADMISSIBILITY OF REPRODUCTION OF CONTRACT. Notwithstanding the best evidence rule or any other legal principle or rule of evidence to the contrary, the Contractor acknowledges and agrees that it waives any and all objections to the admissibility into evidence at any court proceeding or to the use at any examination before trial of an electronic reproduction of this contract, in the form approved by the State Comptroller, if such approval was required, regardless of whether the original of said contract is in existence.

(June 2023)

APPENDIX A-1

Agency-specific Clauses

Payment and Reporting

- A. In the event that 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. Variations in each budget category not exceeding ten percent (10%) of such category may be approved by the Commissioner of Education. Any such variations shall be reflected in the final expenditure report and filed in the Office of the State Comptroller. Variations in each budget category which do exceed ten percent (10%) of such category must be submitted to the Office of the State Comptroller for approval.
- 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.

Terminations

- A. The State may terminate this Agreement without cause by thirty (30) days prior written notice. In the event of such termination, the parties will adjust the accounts due and the Contractor will undertake no additional expenditures not already required. Upon any such termination, the parties shall endeavor in an orderly manner to wind down activities hereunder.
- B. SED reserves the right to terminate this Agreement in the event it is found that the certification by the Contractor in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, SED may exercise its termination right by providing written notification to the Contractor in accordance with the written notification terms of this Agreement.
- C. The confidentiality and Data Privacy Provisions in this Agreement of Contractor shall survive termination of this Agreement and will continue for as long as Contractor and/or its Subcontractors retain access to Confidential Information.

Responsibility Provisions

- A. General Responsibility Language
The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Commissioner of Education or his or her designee, to present evidence

of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

B. Suspension of Work (for Non-Responsibility)

The Commissioner of Education or his or her designee, in his or her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when he or she discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of Education or his or her designee issues a written notice authorizing a resumption of performance under the Contract.

C. Termination (for Non-Responsibility)

Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate SED officials or staff, the Contract may be terminated by the Commissioner of Education or his or her designee at the Contractor's expense where the Contractor is determined by the Commissioner of Education or his or her designee to be non-responsible. In such event, the Commissioner or his or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

Property

- A. The Contractor shall maintain a complete inventory of all realty, equipment and other non-expendable assets including, but not limited to, books, paintings, artifacts, rare coins, antiques and other collectible items purchased, improved or developed under this agreement. The term "nonexpendable assets" shall mean for the purposes of this agreement any and all assets which are not consumed during the term of this agreement and which have a cost of One Thousand Dollars (\$1,000) or more.

Inventories for non-expendable assets must be submitted with the final expenditure report. In addition to or as part of whatever rights the State may have with respect to the inspection of the Contractor, the State shall have the right to inspect the inventory without notice to the Contractor.

The Contractor shall not at any time sell, trade, convey or otherwise dispose of any non-expendable assets having a market value in excess of Two Thousand Dollars (\$2,000) at the time of the desired disposition without the express permission of the State. The Contractor may seek permission in writing by certified mail to the State.

The Contractor shall not at any time use or allow to be used any non-expendable assets in a manner inconsistent with the purposes of this agreement.

- B. If the Contractor wishes to continue to use any of the non-expendable assets purchased with the funds available under this agreement upon the termination of this agreement, it shall request permission from the State in writing for such continued use within twenty-five (25) days of the termination of this agreement. The Contractor's request shall itemize the non-expendable assets for which continued use is sought. The State may accept, reject or accept in part such request. If the request for continued use is allowed to any degree, it shall be conditioned upon the fact that said equipment shall continue to be used in accordance with the purposes of this agreement.

If after the State grants permission to the Contractor for "continued use" as set forth above the non-expendable assets are not used in accordance with the purposes of this agreement, the State in its

discretion may elect to take title to such assets and may assert its right to possession upon thirty (30) days prior written notice by certified mail to the Contractor. The State upon obtaining such non-expendable assets may arrange for their further use in the public interest as it in its discretion may decide.

- C. Upon termination of this agreement, the State in its discretion may elect to take title and may assert its right to possession of any non-expendable assets upon thirty (30) days prior written notice by certified mail to the Contractor. The State's option to elect to take title shall be triggered by the termination of this agreement or by the State's rejection of continued use of non-expendable assets by the Contractor as set forth herein. The State upon obtaining such non-expendable assets may arrange for their further use in the public interest as it in its discretion may decide.
- D. The terms and conditions set forth herein regarding non-expendable assets shall survive the expiration or termination, for whatever reason, of this agreement.

Safeguards for Services and Confidentiality

- A. 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. Required Web Accessibility of Delivered Documents and Applications. If applicable, all documentation, 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, which requires that documents, web-based information and applications are accessible to persons with disabilities. All delivered documentation 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 documents and applications will be considered a qualified deliverable under the contract or procurement.
- C. The Contractor agrees that all data, including any backups, metadata, or derivative data created, processed, stored, or transmitted under this Agreement, shall be physically housed and remain within the Continental United States (CONUS). The Contractor shall not allow data to be stored, hosted, or accessed from outside CONUS without the express prior written consent of the Department. Contractor shall ensure that all subcontractors, cloud providers, and other third parties engaged in the handling or storage of such data are contractually bound to comply with this CONUS requirement. Any violation of this provision may constitute a material breach of this Agreement and shall entitle the State to pursue all available legal or equitable remedies, including termination of the Agreement.

- D. 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.
- E. This agreement cannot be modified, amended, or otherwise changed except by a writing signed by all parties to this contract.
- F. 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.
- G. Expenses for travel, lodging, and subsistence shall be reimbursed at the per diem rate in effect at the time for New York State Management/Confidential employees.
- H. No fees shall be charged by the Contractor for training provided under this agreement.
- I. Partisan Political Activity and Lobbying. Funds provided pursuant to this Agreement shall not be used for any partisan political activity or for activities that may influence legislation or the election or defeat of any candidate for public office.
- J. Nothing herein shall require the State to adopt the curriculum developed pursuant to this agreement.
- K. 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.

Data Privacy Provisions

A. Definitions

- a. **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.
- b. **Breach:** The unauthorized Access, acquisition, use, or Disclosure of Confidential 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, Confidential Information.
- c. **Confidential Information:** Means (a) Personal Information; (b) information, the disclosure of which is regulated under one of the laws or regulations cited in Subsection B of this section; (c) information determined to be proprietary by the New York State Education Department (NYSED); and (d) any information so designated within the terms of this Agreement.
- d. **Disclose or Disclosure:** The intentional or unintentional release, transfer, or communication of Confidential Information by any means, including oral, written, or electronic.
- e. **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.
- f. **Services:** Services provided by Contractor pursuant to this Agreement.
- g. **Subcontractor:** Contractor's non-employee agents, consultants, and volunteers (including student interns) who are engaged in the provision of Services pursuant to an agreement with or at the direction of the Contractor.

- B. Contractor may receive and/or have Access to Confidential 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); New York Education Law § 2-d (8 NYCRR Part 121); Article 39-F of the New York General Business Law; the New York Personal Privacy Protection Law at Public Officers Law article 6-A; Article 2 of the New York State Technology Law; Article 39-F of the New York General Business Law; New York Public Health Law §§ 2134 and 2782 pertaining to human immunodeficiency virus (HIV); New York Mental Health Law §33.13 pertaining to mental health records; New York Education Law § 3012-d regarding annual professional performance review (APPR); and the Health Insurance Portability and Accountability Act (HIPPA) of 1996, Pub. L. 104-191 (45 CFR Part 160). Contractor agrees to maintain the confidentiality and security of Confidential Information in accordance with applicable New York, federal and local laws, rules and regulations.
- C. Contractor agrees and understands that Contractor has no property, licensing, or ownership rights or claims to Confidential Information Accessed by or Disclosed to Contractor for the purpose of providing Services, and Contractor shall not use Confidential 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 Confidential Information received or Accessed by or Disclosed to Subcontractor for the purpose of assisting Contractor in providing Services.
- D. Contractor shall adopt and maintain reasonable safeguards to protect the security, confidentiality, and integrity of Confidential 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.
- E. Upon NYSED’s request and at Contractor’s expense, 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.
- F. Subcontractors
- a. Access to or Disclosure of Confidential Information shall only be provided to Contractor’s employees and Subcontractors who need to know the Confidential Information to provide the Services and such Access and/or Disclosure of Confidential Information shall be limited to the extent necessary to provide such Services.
 - i. Contractor must ensure that each Subcontractor performing Services where the Subcontractor will have Access to and/or receive Disclosed Confidential 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 Agreement.

G. Data Return and Destruction of Data

- a. Contractor is prohibited from retaining Disclosed Confidential Information or continuing to

Access Confidential Information, including any copy, summary or extract of Confidential 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 this Contract, necessary for purpose of facilitating the transfer of Confidential Information to NYSED, or expressly required by law. As applicable, upon expiration or termination of this Contract, Contractor shall transfer Confidential Information to NYSED in a format agreed to by the Parties.

- i. Contractor will ensure all Confidential Information is securely destroyed in a manner that does not allow it to be retrieved or retrievable, read, or reconstructed. Redaction and obfuscation are specifically excluded as a means of data destruction.
- ii. Upon request by NYSED, Contractor may be required to provide NYSED with a written certification of secure destruction of Confidential Information held by the Contractor and Subcontractors.

H. Breach

- a. Contractor shall promptly notify NYSED of any Breach of Confidential 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 provided 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 Confidential Information affected; the number of records affected; a description of Contractor's investigation; and the name of a point of contact.
- b. When a Breach of Information is attributable to Contractor and/or its Subcontractors, Contractor shall pay for or promptly reimburse NYSED the full cost of NYSED's notification to Parents, Eligible Students, teachers, and/or principals, in accordance with Education Law § 2-d and 8 NYCRR Part 121. NYSED will be reimbursed by Contractor within 30 days of a demand for payment under this section. Violations of these terms may be subject to penalties under Education Law § 2-d.
- c. Contractor and its Subcontractors will cooperate with NYSED, and law enforcement where necessary, in any investigations into a Breach.
- d. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208). Contractor shall be liable for the costs associated with such breach if caused by Contractor's negligent or willful acts or omissions, or the negligent or willful acts or omissions of Contractor's agents, officers, employees or subcontractors.

I. Termination

The foregoing data privacy provisions of shall survive any termination of this Agreement and shall continue for as long as Contractor or its Subcontractors retain Access to Confidential Information.

The parties to this agreement intend the foregoing writing to be the final, complete, and exclusive expression of all the terms of their agreement.

Certifications

- A. Contractor certifies that it has met the disclosure requirements of State Finance Law §139-k and that all information provided to the State Education Department with respect to State Finance Law §139-k is complete, true and accurate.
- B. Contractor certifies that it has not knowingly and willfully violated the prohibitions against impermissible contacts found in State Finance Law §139-j.
- C. Contractor certifies that no governmental entity has made a finding of nonresponsibility regarding the Contractor in the previous four years.
- D. Contractor certifies that no governmental entity or other governmental agency has terminated or withheld a procurement contract with the Contractor due to the intentional provision of false or incomplete information.
- E. Contractor affirms that it understands and agrees to comply with the procedures of the STATE relative to permissible contacts as required by State Finance Law §139-j (3) and §139-j (6)(b).
- F. Contractor certifies that it is in compliance with NYS Public Officers Law, including but not limited to, §73(4)(a).

Notices

Any written notice or delivery under any provision of this AGREEMENT shall be deemed to have been properly made if sent by certified mail, return receipt requested to the address(es) set forth in this Agreement, except as such address(es) may be changed by notice in writing. Notice shall be considered to have been provided as of the date of receipt of the notice by the receiving party.

Miscellaneous

- A. If required by the Office of State Comptroller ("OSC") Guide to Financial Operations, XI.18.C Consultant Disclosure and State Finance Law §§ 8 and 163, Contractor agrees to submit an initial planned employment data report on Form A and an annual employment report on Form B.
- B. State will furnish Form A and Form B to Contractor if required.

The initial planned employment report must be submitted at the time of approval of this Agreement. The annual employment report on Form B is due by May 15th of each year and covers actual employment data performed during the prior period of April 1st to March 31st. Copies of the report will be submitted to the NYS Education Department, OSC and the NYS Department of Civil Service at the addresses below.

Reports may be submitted to OSC by either method listed below:

By email (preferred method): Please send a signed, scanned copy to CDMOST@osc.ny.gov with "Consultant Disclosure Form B" in the subject line, or,

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

Reports may be submitted to DCS by either method listed below:

By email (preferred method): Please send a signed, scanned copy to SubmitformB@cs.ny.gov with "Consultant Disclosure Form B" in the subject line, or,

By mail: NYS Department of Civil Service
Alfred E. Smith Office Building
Albany, NY 12239
Attn: Executive Office

Reports may be submitted to NYSED by either method listed below:

By email (preferred method): Please send a signed, scanned copy to CAU@nysed.gov with "Consultant Disclosure Form B" in the subject line, or,

By mail: NYS Education Department
Contract Administration Unit
Room 505 W EB
Albany, NY 12234

- C. Consultant Staff Changes. If this is a contract for consulting services, Contractor will maintain continuity of the consultant team staff throughout the course of the contract. All changes in staff will be subject to STATE approval. The replacement consultant(s) with comparable skills will be provided at the same or lower hourly rate.
- D. Order of Precedence. In the event of any discrepancy, disagreement, conflict or ambiguity between the various documents, attachments and appendices comprising this contract, they shall be given preference in the following order to resolve any such discrepancy, disagreement, conflict or ambiguity:
1. Appendix A - Standard Clauses for all State Contracts
 2. State of New York Agreement
 3. Appendix A-1 – Agency-Specific Clauses
 4. Appendix X - Sample Modification Agreement Form (where applicable)
 5. Appendix A-3 - Minority/Women-owned Business Enterprise Requirements (where applicable)
 6. Appendix B - Budget
 7. Appendix C - Payment and Reporting Schedule
 8. Appendix R –Security and Privacy Plan (where applicable)
 9. Appendix D - Program Work Plan