5.) SUBMISSION DOCUMENTS

RESPONSE TO

REQUEST FOR PROPOSAL #22-014a

###### NEW YORK STATE EDUCATION DEPARTMENT

**Title: American Rescue Plan - Homeless Children and Youth Technical Assistance Center**

To respond to the RFP, which is noted above, you must complete all the documents that are contained in this package, signing each individual document as required. Attach any other pertinent information that responds to the information requested in the RFP and email the documents to ensure the documents are received by the due date that is stated on the cover of the RFP:

Submit each of the following documents as a separate file:

|  |
| --- |
| Submission Documents labeled **[name of bidder] Submission Documents RFP #22-014a** |
| Technical Proposal labeled **[name of bidder]** **Technical Proposal RFP #22-014a** |
| Cost Proposal labeled **[name of bidder]** **Cost Proposal RFP #22-014a** |
| M/WBE Documents labeled **[name of bidder] M/WBE Documents RFP #22-014a** |

To: [cau@nysed.gov](mailto:cau@nysed.gov)

Subject line: "BID SUBMISSION RFP 22-014a"

**All bids must be received by 3:00 pm Eastern Time on the date specified in the RFP to be considered.**

1. As indicated in the RFP, 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 in 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:
4. handwritten signatures on faxed or scanned documents
5. e-signatures that have been authenticated by a third-party digital software, such as DocuSign and Adobe Sign
6. stored copies of the images of signatures that are placed on a document by copying and pasting or otherwise inserting them into the documents
7. Unacceptable forms of e-signatures include:
8. a typed name, including a signature created by selecting a script or calligraphy font for the typed name of the person “signing”
9. 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."
10. In order to ensure the timely receipt of your bid, please use the subject line "BID SUBMISSION RFP 22-014a" - failure to appropriately label your bid or submitting a bid to any email address other than the one identified above may result in the bid not being received by the deadline and considered for award.
11. **Bids received after 3:00 pm Eastern Time on the date specified in the RFP will be disqualified.**

**Application Checklist RFP# 22-014a**

All bidders must complete the checklist presented below and submit the following forms and required Narrative Information in the order listed in the checklist.

A. **SUBMISSION DOCUMENTS PACKAGE (SIGNATURES REQUIRED)**

|  |  |  |
| --- | --- | --- |
|  | **REQUIREMENT** | Included |
|  | Electronic Signature Attestation (sign beside or provide by email) |  |
|  | This checklist |  |
|  | Response Sheet to Bids |  |
|  | Non-collusion Certification |  |
|  | MacBride Certification |  |
|  | Certification-Omnibus Procurement Act of 1992 |  |
|  | Certifications Regarding Lobbying; Debarment and Suspension; and Drug-Free Workplace Requirements |  |
|  | Offerer Disclosure of Prior Non-Responsibility Determinations |  |
|  | Iran Divestment Act Certification |  |
|  | Sexual Harassment Policy Certification |  |
|  | NYSED Substitute Form W-9 (If bidder is not yet registered in the SFS centralized vendor file. If registered, insert NYS Vendor ID in “Response Sheet for Bids” Check  if not applicable) |  |
|  | Vendor Responsibility Questionnaire ( Paper submission  Electronic filing  Not applicable) |  |
|  | **While the following forms are not required until notification of selection is made, bidders are strongly encouraged to submit the following forms with their proposal** |  |
| *Sales and Compensating Use Tax Documentation*  [ST-220 CA](https://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf)  [ST-220 TD](https://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf) | | |
|  | **ST-220 CA**, Sales and Compensating Use Tax Certification |  |
| [*Worker’s Compensation Documentation*](http://www.wcb.ny.gov/content/main/Employers/lp_permits-licenses-contracts.jsp) | | |
|  | **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; OR |  |
|  | **Form SI-12**– Certificate of Workers’ Compensation Self-Insurance; or **Form GSI-105.2** Certificate of Participation in Workers’ Compensation Group Self-Insurance; OR |  |
|  | **CE-200** Certificate of Attestation for New York Entities with No Employees and certain out of State Entities, that New York State Worker’s compensation and/or Disability Benefits Insurance is not required. |  |
| [*Disability Benefits Coverage*](http://www.wcb.ny.gov/content/main/Employers/lp_permits-licenses-contracts.jsp) | | |
|  | **Form DB-120.1** - Certificate of Disability Benefits Insurance; OR |  |
|  | **Form DB-155**- Certificate of Disability Benefits Self-Insurance; OR |  |
|  | **CE-200**– Certificate of Attestation of Exemption from New York State Workers’ Compensation and/or Disability Benefits Coverage. |  |
| [*Consultant Disclosure Reporting*](https://www.osc.state.ny.us/agencies/forms/ac3271s.doc) | | |
| 19. | **Form A** |  |

B. **TECHNICAL PROPOSAL PACKAGE**

|  |  |  |
| --- | --- | --- |
|  | **Requirement** | **Included** |
|  | Technical Proposal |  |
|  | Technical Assistance Center (TAC) Certification Form – Signature Required |  |
|  | Request for Exemption from Disclosure Pursuant to the Freedom of Information Law, if applicable |  |
|  | Appendix R – Data Privacy Appendix |  |

C. **COST PROPOSAL PACKAGE (SIGNATURE REQUIRED) – posted separately**

|  |  |  |
| --- | --- | --- |
|  | **Requirement** | **Included** |
|  | Year 1 Detailed Budget (July 1, 2022 – June 30, 2023) |  |
|  | 2 Year, 3 months Budget Summary – Signature Required |  |
|  | Subcontracting Form |  |
|  | M/WBE Purchases Form |  |

D. **M/WBE DOCUMENTS PACKAGE (SIGNATURES REQUIRED)**

Full Participation  Request Partial Waiver  Request Total Waiver

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Forms Required** | | |
| Type of Form | Full Participation | Request Partial Waiver | Request Total Waiver |
| M/WBE Cover Letter |  |  |  |
| **M/WBE 100** Utilization Plan |  |  | N/A |
| **M/WBE 102** Notice of Intent to Participate |  |  | N/A |
| **EEO 100** Staffing Plan and Instructions |  |  |  |
| **M/WBE 105** Contractor’s Good Faith Efforts | N/A |  |  |
| **M/WBE 101** Request for Waiver Form and Instructions | N/A |  |  |

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

Print Name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Name of Bidder:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_NEW YORK STATE EDUCATION DEPARTMENT RFP Proposal #22-014a

|  |
| --- |
| **Response Sheet for Bids** |

**Please complete the bidder section on this sheet even if you choose not to bid.** Read the detailed specifications, terms, and conditions, and submit this form along with your completed bid form and supporting materials.

|  |
| --- |
| **Agency and Bid-Delivery Information** |

In order to ensure the timely receipt of your bid, please use the subject line "BID SUBMISSION RFP 22-014a" emailed to [cau@nysed.gov](mailto:cau@nysed.gov).

|  |  |  |
| --- | --- | --- |
| **Bidder Information—Please Complete This Section**  Please complete the following even if you are choosing not to bid; responses must be legible. By signing, you indicate your express authority to sign on behalf of yourself, or your company or other entity and full knowledge and acceptance of the terms and conditions of the bid. You also affirm that you understand and agree to comply with the procedures of the NYSED relative to permissible contacts as required by State Finance Law §139-j (3) and §139-j (6) (b). | | |
| **Name of Company Bidding** | **Employer's Federal Tax ID Number**  **NYS Vendor ID** | |
| **Address**  *Street City State Zip Code* | | |
|  | | |
| **Check one of the following:**  **I certify that my organization has filed its Vendor Responsibility Questionnaire online via the New York State VendRep System and that the current questionnaire was certified within the past six months.**  **I am including a completed paper copy of the Vendor Responsibility Questionnaire with the bid proposal.**  **My entity is exempt based on the OSC listing.**  **My proposal is less than $100,000, therefore a questionnaire is not required.**  **Other, explanation: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  **I am not submitting a bid.** (Please complete and submit this sheet only; in addition, please indicate why you have chosen not to bid.) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | | |
| **Bidder’s Signature** | *Date* | *E-mail* |
| *Phone* | *Fax* |
| **Print Name as Signed and Title** | | |

The New York State Education Department reserves the right to request any additional information deemed necessary to properly review bids.

NON-COLLUSIVE BIDDING CERTIFICATION

In accordance with Section 139-d of the State Finance Law and paragraph 7 of Appendix A (Standard Clauses for NYS Contracts), the bidder hereby affirms, under penalty of perjury:

By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his knowledge and belief:

(1) The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;

(2) Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and

(3) No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

**A BID SHALL NOT BE CONSIDERED FOR AWARD NOR SHALL ANY AWARD BE MADE WHERE [1], [2], [3] ABOVE HAVE NOT BEEN COMPLIED WITH; PROVIDED HOWEVER, THAT IF IN ANY CASE THE BIDDER(S) CANNOT MAKE THE FORGOING CERTIFICATION, THE BIDDER SHALL SO STATE AND SHALL FURNISH BELOW A SIGNED STATEMENT WHICH SETS FORTH IN DETAIL THE REASONS THEREFORE:**

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

Subscribed to under penalty of perjury under the laws of the State of New York, this \_\_\_\_ day of \_\_\_\_\_\_\_\_\_, 20\_\_\_ as the act and deed of said corporation of partnership.

The person signing on behalf of the bidder further affirms that he/she is authorized and responsible for signing this certificate.

**Identifying Data**

Name of Potential Contractor\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Street Address\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

City, State, zip code:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Telephone:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

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

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

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

Legal name of person, firm or corporation Legal name of person, firm or corporation

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

Name Name

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

Title Title

Street Address

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

City, State, Zip Code

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

**IF BIDDER(S) ARE A PARTNERSHIP, COMPLETE THE FOLLOWING:**

**NAMES OF PARTNERS OR PRINCIPALS LEGAL RESIDENCE**

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

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**IF BIDDER(S) ARE A CORPORATION, COMPLETE THE FOLLOWING:**

**NAME LEGAL RESIDENCE**

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

President:

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

Secretary:

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

Treasurer:

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

President:

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

Secretary:

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

Treasurer:

MacBride Certification

**NONDISCRIMINATION IN EMPLOYMENT IN NORTHERN IRELAND:**

# MacBRIDE FAIR EMPLOYMENT PRINCIPLES

In accordance with section 165 of the State Finance Law, the bidder, by submission of this bid, certifies that it or any individual or legal entity in which the bidder holds a 10% or greater ownership, or any individual or legal entity that holds a 10% or greater ownership in the bidder, either:

(Answer Yes or No to one or both of the following, as applicable)

1. Has business operations in Northern Ireland:

\_\_\_\_\_\_ Yes \_\_\_\_\_\_ No

If yes:

1. Shall take lawful steps in good faith to conduct any business operations they have in Northern Ireland in accordance with the MacBride Fair Employment Principles relating to nondiscrimination in employment and freedom of workplace opportunity regarding such operations in Northern Ireland, and shall permit independent monitoring of compliance with such principles.

\_\_\_\_\_\_ Yes \_\_\_\_\_\_ No

Company Name:

Printed Name and Title of Authorized Representative:

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

Signature:

Date:

Proposal:

Commodity:

# CERTIFICATION – OMNIBUS PROCUREMENT ACT OF 1992

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

1. The contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors on this project, and has retained the documentation of these efforts to be provided upon request to the State;

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

3. 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;

4. The contractor acknowledges notice that New York 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.

Signature:

Print Name:

Title:

Company Name:

Date:

**Required Assurances**

**CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER**

**RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS**

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Non-procurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. **LOBBYING**

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-grants, contracts under grants and cooperative agreements, and subcontracts) and that all sub-recipients shall certify and disclose accordingly.

2. **DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS**

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110--

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or

State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an

explanation to this application.

3. **DRUG-FREE WORKPLACE**

**(GRANTEES OTHER THAN INDIVIDUALS)**

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 -

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants Policy and Oversight Professional, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a

drug-free workplace through implementation of paragraphs

(a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, and zip code)

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

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

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

Check **[ ]** if there are workplaces on file that are not identified here.

**DRUG-FREE WORKPLACE**

**(GRANTEES WHO ARE INDIVIDUALS)**

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.610-

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants Policy and Oversight Professional, Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications. The applicant will provide immediate written notice to the NYSED Contract Administration Unit if at any time the applicant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

|  |  |
| --- | --- |
| NAME OF APPLICANT | PR/AWARD NUMBER AND / OR PROJECT NAME |
| PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE | |
| SIGNATURE | DATE |
| CONTRACT YEAR | CONTRACT NUMBER |

Instructions: The attached form is to be completed and submitted by the individual or entity seeking to enter into a Procurement Contract. It shall be submitted to the State Education Department.

Offerer Disclosure of Prior Non-Responsibility Determinations

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

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

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

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

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Contract RFP Number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

1. Has any Governmental Entity made a finding of non-responsibility regarding the individual or entity seeking to enter into the Procurement Contract in the previous four years? (Please circle):

No Yes

If yes, please answer the next questions:

2. Was the basis for the finding of non-responsibility due to a violation of State Finance Law §139-j (Please circle):

No Yes

3. Was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a Governmental Entity? (Please circle):

No Yes

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

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

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

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

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(Add additional pages as necessary)

5. Has any Governmental Entity or other governmental agency terminated or withheld a Procurement Contract with the above-named individual or entity due to the intentional provision of false or incomplete information? (Please circle):

No Yes

6. If yes, please provide details below.

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

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

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

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(Add additional pages as necessary)

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

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

Signature

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

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

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|  | **NEW YORK STATE EDUCATION DEPARTMENT**  **NYSED SUBSTITUTE FORM W-9:**  **REQUEST FOR TAXPAYER IDENTIFICATION NUMBER & CERTIFICATION** | | |
| ***TYPE OR PRINT INFORMATION NEATLY. PLEASE REFER TO INSTRUCTIONS FOR MORE INFORMATION.*** | | | |
| **Part I: Payee/Vendor/Organization Information** **AGENCY ID:** | | | |
| 1. Legal Business Name: | | | 2. If you use a DBA, please list below: |
| 3. Entity Type (Check one only):  Sole Proprietor  Partnership  Limited Liability Co.  Business Corporation  Unincorporated Association/Business  Federal Government  State Government  Public Authority  Local Government  School District  Fire District  Other \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | | | |
| **Part II: Taxpayer Identification Number (TIN) & Taxpayer Identification Type** | | | |
| |  |  |  |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | --- | --- | --- | |  |  |  |  |  |  |  |  |  |   1. Enter your TIN here: *(DO NOT USE DASHES)*  2. Taxpayer Identification Type (check appropriate box):  Employer ID No. (EIN) Social Security No. (SSN) Individual Taxpayer ID No. (ITIN)  N/A (Non-United States Business Entity) | | | |
| **Part III: Address** | | | |
| 1. Physical Address: | | 2. Remittance Address: | |
| Number, Street, and Apartment or Suite Number | | Number, Street, and Apartment or Suite Number | |
| City, State, and Nine Digit Zip Code or Country | | City, State, and Nine Digit Zip Code or Country | |
| **Part IV: Certification of CEO or Properly Authorized Individual** | | | |
| Under penalties of perjury, I certify that I am the CEO or properly authorized individual and that the number shown on this form is my correct Taxpayer Identification Number (TIN).  **Sign Here:**  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Signature Date  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Print Name Phone Number Email Address | | | |
| **Part V: Contact Information – Individual Authorized to Represent the Payee/Vendor/Organization** | | | |
| Contact Person: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  **(Print Name)**  **Contact’s Email Address:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Phone Number:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | | | |
| **Part VI: Survey of Future Payment Methods** | | | |
| Please indicate all methods of payment acceptable to your organization:  [ ] Electronic [ ] Check [ ] VISA | | | |

**NYS Education Department**

**Instructions for Completing NYSED Substitute W-9**

The NYS Education Department (NYSED) is using the NYSED Substitute Form W-9 to obtain certification of your TIN in order to facilitate your 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.

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 SFS centralized vendor file.

***Part I: Payee/Vendor/Organization Information***

1. **Legal Business Name**: For individuals, enter the name of the person who will do business with NYS as it appears on the Social Security card or other required Federal tax documents. An organization should enter the name shown on its charter or other legal documents that created the organization. Do not abbreviate names.
2. **DBA (Doing Business As)**: Enter your DBA name, if applicable.
3. **Entity Type**: Mark the Entity Type doing business with New York State.

***Part II: Taxpayer Identification Number (TIN) and Taxpayer Identification Type***

1. **Taxpayer Identification Number:** Enter your nine-digit Social Security Number, Individual Taxpayer Identification Number (ITIN)[[1]](#footnote-1) or Employer Identification Number.
2. **Taxpayer Identification Type:** Mark the type of identification number provided.

***Part III: Address***

1. Physical Address: List the location of where your business is physically located.
2. Remittance Address: List the location where payments should be delivered.

***Part IV: Certification of CEO or Properly Authorized Individual***

Please sign, date and print the authorized individual’s name, telephone and email address. An email address will facilitate communication and access to Vendor Self Service.

***Part V: Contact Information***

Please provide the contact information for an individual who is authorized to make legal and financial decisions for your organization. An email address will facilitate communication and access to Vendor Self Service.

***Part VI: Survey of Future Payment Methods***

Payment methods are needed for informational purposes. To expedite payments, vendors are strongly encouraged to consider accepting payment via VISA credit card.

**IRAN DIVESTMENT ACT CERTIFICATION**

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

By submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, Bidder/Contractor (or any assignee) certifies that once the prohibited entities list is posted on the OGS website, it will not utilize on such Contract any subcontractor that is identified on the prohibited entities list.

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

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

AGENCY reserves the right to reject any bid or request for assignment for an entity that appears on the prohibited entities list prior to the award of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the prohibited entities list after contract award.

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

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

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

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

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

**CERTIFICATION – Sexual Harassment Policy**

By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that the bidder has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at minimum, meet the requirements of section two hundred one-g of the labor law.

Signature:

Print Name:

Title:

Company Name:

Date:

**Request for Exemption from Disclosure**

**Pursuant to the Freedom of Information Law**

New York State Public Officers Law, Article 6 (Freedom of Information Law) requires that each agency shall make available all records maintained by said agency, except that agencies may deny access to records or portions thereof that fall within the scope of the exceptions listed in Public Officers Law §87(2).

Any proprietary materials submitted as part of, or in support of, a bidder’s proposal, which bidder considers confidential or otherwise excepted from disclosure under the Freedom of Information Law, must be specifically so identified, and the basis for such confidentiality or other exception must be specifically set forth.

Please list **all** such documents for every portion of the proposal on the form below, and include a copy of this document with the technical proposal. Materials which are not indicated below may be released in their entirety upon request without notice to you.

According to law, the entity requesting exemption from disclosure has the burden of establishing entitlement to confidentiality. Submission of this form does not necessarily guarantee that a request for exemption from disclosure will be granted. If necessary, NYSED will make a determination regarding the requested exemptions, in accordance with the process set forth in Public Officers Law §89(5).

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| **Material for which Exemption is Requested** | **Location / Page Number(s)** | **Basis for Request** |
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**Technical Assistance Center (TAC) Certification**

1. The TAC agrees to provide a substantial amount of the contract through direct services by its employees and not to subcontract with third parties. In those instances where a subcontract is required to satisfy the mission of the TAC, the subcontract must be for the provision of direct support to the activities of the TAC.
2. All tasks and activities required to be provided by the TAC will be explicitly listed in each contract. Changes in scope, amount, period or budget are subject to review by the Contract Administration Unit and may also require an amendment approved by the Office of the State Comptroller.
3. TACs will be reimbursed for allowable expenses that are actual, reasonable and necessary as authorized in the contract and based on documentation specified by Fiscal Management and described in each contract.
4. The TAC must file a program performance report that must identify achievement towards specific activities and objectives listed in the contract to be approved by the Deputy Commissioner and filed with the final payment.
5. The TAC must include an initial disclosure statement listing the names of owners and employees who are former State Education Department employees and any subcontractors used whose business is owned by former Education Department employees. Failure to comply will be grounds for withholding payments and/or termination of the contract. If awarded a contract, amended disclosure statements must be submitted as changes occur.
6. The TAC will not hire employees to work directly for this Department or any other State agency nor may TAC staff be directly supervised by Department staff.
7. The TAC will not allow the Department to direct the hiring of or participate in hiring TAC staff beyond requiring that the TAC provide staff with certain required education and skills as specified in the solicitation document.

Note, Department staff or Department advisory council members may meet with the TAC to plan, discuss goals and objectives and to monitor outcomes.

1. TACs will not allow the Department to direct the TAC to enter into subcontracts with specific contractors.
2. The TAC will not procure a Department sponsored or co-sponsored conference. TAC staff may assist with administrative tasks associated with running the conference (i.e. registration, mailings, etc.).
3. TACs may provide services that directly benefit local education agencies and their staff, parents, students, teachers or other appropriate Department customers. Appropriate activities include: training and staff development; technical assistance through on-site visits, distance learning techniques, and/or written or verbal communications; evaluations; and the dissemination of information needed by the constituency served to achieve goals and standards established by the Commissioner and the Board of Regents.
4. TACs are prohibited from making purchases for the direct use or benefit of the Department or any other State agency or any member of their staff. This includes, but is not limited to, equipment, travel, supplies and materials, leasing space, contractual services etc. TACs may not enter into subcontracts that provide direct services to the Department.
5. Allowable costs will be detailed in the contract. Allowable travel expenses may not exceed the amounts allowed by NYS Travel Guidelines. Allowable costs of training seminars or conferences will be limited to necessary trainers and their expenses, meeting rooms, supplies and materials incidental to the training, and light beverages and snacks for breaks. Meals will be allowed when the training necessarily requires a full day (6 hours of actual training time). The maximum reimbursable amount will be based on the Federal meal rates used by NYS for travel reimbursement. The maximum allowable lunch reimbursement will be 50% of the full Meals and Incidental Expenses (M & IE) rate plus an 18% gratuity. The full M & IE rate is the sum of the full per diem amount for breakfast and dinner. The rates can be found at the [GSA rates for NYS](https://www.gsa.gov/travel/plan-book/per-diem-rates). Note, the amounts claimed must be actual expenses incurred. The per diems are maximums. Exceptions to these limitations require the prior approval of the Deputy Commissioner and the CFO.
6. Unallowable costs include, but are not limited to, gifts, contributions, alcoholic beverages, entertainment and expenses that violate the State’s Ethics Law.

**Note: During periods of fiscal stress in the State, costs that are otherwise allowable such as meals may be prohibited.**

**Proposals that do not include this signed certification will be disqualified and removed from further consideration.**

I certify that the contractor will comply with all of the above requirements for a Technical Assistance Center.

Contractor Name

Signature

Title

Company Name

Date

**This form, bearing an original signature, must be returned to the NYS Education Dept. along with your Technical Proposal.**

Appendix R

NEW YORK STATE EDUCATION DEPARTMENT’S

DATA PRIVACY APPENDIX FOR CONFIDENTIAL DATA

ARTICLE I: DEFINITIONS

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

1. **Access**: The ability to view or otherwise obtain, but not copy or save, Personal Information arising from the on-site use of an information system or a personal meeting.
2. **Breach:** The unauthorized Access, acquisition, Disclosure or use of Personal Information 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, or by or to a person not authorized to acquire, Access, use, or receive it, or a Breach of Contractor’s security that leads to the accidental or unlawful alteration, destruction, loss of, Access to or Disclosure of Personal Information.
3. **Disclose or Disclosure**: The intentional or unintentional communication, release, or transfer of Personal Information by any means, including oral, written or electronic.
4. **Encrypt or Encryption**: The use of an algorithmic process to transform Personal Information into an unusable, unreadable, or indecipherable form in which there is a low probability of assigning meaning without use of a confidential process or key.
5. **NIST Cybersecurity Framework**: The U.S. Department of Commerce National Institute for Standards and Technology Framework for Improving Critical Infrastructure Cybersecurity Version 1.1.
6. **Personal Information:** Information concerning a natural person which, because of name, number, personal mark, or another identifier, can be used to identify such natural person.
7. **Release:** Shall have the same meaning as Disclose.
8. **Services:** Services provided by Contractor pursuant to this contract with the NYS Education Department to which this DPA is attached and incorporated.
9. **Subcontractor:** Contractor’s non-employee agents, consultants, volunteers including student interns, and/or a[ny natural person](https://www.lawinsider.com/clause/subcontractor) or entity funded through this Contract who is engaged in the provision of Services pursuant to an agreement with or at the direction of the Contractor.

ARTICLE II: PRIVACY AND SECURITY OF PERSONAL INFORMATION

1. **Compliance with Law.**

When providing services pursuant to this Contract, Contractor may have Access to or receive disclosed Personal Information that is regulated by one or more New York and federal laws and regulations, among them, but not limited to, the Family Educational Rights and Privacy Act at 12 U.S.C. § 1232g (34 CFR Part 99); Children's Online Privacy Protection Act at 15 U.S.C. §§ 6501-6502 (16 CFR Part 312); Protection of Pupil Rights Amendment at 20 U.S.C. § 1232h (34 CFR Part 98); the Individuals with Disabilities Education Act at 20 U.S.C. § 1400 et seq. (34 CFR Part 300); the New York Education Law at § 2-d (8 NYCRR Part 121); the New York General Business Law at article 39-F, and the New York Personal Privacy Protection Law at Public Officers Law article 6-A. Contractor agrees to maintain the confidentiality and security of Personal Information in accordance with (a) applicable New York, federal and local laws, rules and regulations, and (b) NYSED’s Data Privacy and Security Policy. Contractor further agrees that neither the services provided nor the manner in which such Services are provided shall violate New York, federal and/or local laws, rules and regulations, or NYSED’s Data Privacy and Security Policy.

1. **Authorized Use.**

Contractor agrees and understands that it has no property, licensing or ownership rights or claims to Personal Information Accessed by or Disclosed to Contractor for the purpose of providing services, and Contractor must not use Personal Information for any purpose other than to provide the Services. Contractor will ensure that its Subcontractors agree and understand that neither the Subcontractor nor Contractor has any property, licensing or ownership rights or claims to Personal Information Accessed by or Disclosed to Subcontractor for the purpose of assisting Contractor in providing Services.

1. **Contractor’s Data Privacy and Security Plan**.

Contractor shall adopt and maintain administrative, technical, and physical safeguards, measures, and controls to manage privacy and security risks and protect Personal Information in a manner that complies with New York State, federal and local laws, rules, and regulations and NYSED policies. Contractor shall provide NYSED with a Data Privacy and Security Plan that outlines such safeguards, measures, and controls to comply with (a) the terms of this DPA, (b) all applicable state, federal and local data privacy and security requirements and (c) [NYSED’s Data Privacy and Security Policy](http://www.nysed.gov/common/nysed/files/programs/data-privacy-security/master_seddataprivacyandsecuritypolicy_final_june-14-2021_0.pdf). Contractor’s Data Privacy and Security Plan is attached as DPA Exhibit 1.

1. **Right of Review and Audit.**

Upon NYSED’s request, Contractor shall provide NYSED with copies of its policies and related procedures that pertain to the protection of Personal Information. In addition, Contractor may be required to undergo an audit of its privacy and security safeguards, measures and controls as it pertains to alignment with the requirements of New York State laws and regulations performed by an independent third party at Contractor’s expense, and provide the audit report to NYSED. In lieu of performing an audit, Contractor may provide NYSED with an industry standard independent audit report on Contractor’s privacy and security practices that was issued no more than twelve months before the date NYSED informed contractor that it was required to undergo an audit.

1. **Contractor’s Employees and Subcontractors**.
   1. Contractor shall only provide Access or Disclose Personal Information to Contractor’s employees and Subcontractors who need to know the Personal Information to provide the Services and the Access to or Disclosure of Personal Information shall be limited to the extent necessary to provide such Services. Contractor shall ensure that all such employees and Subcontractors comply with the terms of this DPA.
   2. Contractor must ensure that each Subcontractor is contractually bound by a written agreement that includes confidentiality and data security obligations equivalent to, consistent with, and no less protective than, those found in this DPA.
   3. Contractor shall examine the data privacy and security measures of its Subcontractors. If at any point a Subcontractor fails to materially comply with the requirements of this DPA, Contractor shall: notify NYSED and remove such Subcontractor’s Access to Personal Information; and, as applicable, retrieve all Personal Information received or stored by such Subcontractor and/or ensure that Personal Information has been securely deleted and destroyed in accordance with this DPA. In the event there is an incident in which Personal Information is unlawfully Accessed or Disclosed or compromised by Subcontractor, Contractor shall follow the Data Breach reporting requirements set forth in Section 9 of this DPA.
   4. Contractor shall take full responsibility for the acts and omissions of its employees and Subcontractors.
   5. Other than Contractor’s employees and Subcontractors who have a need to know the information, Contractor must not provide Access to or Disclose Personal Information to any other party unless such Disclosure is required by statute, court order or subpoena, and the Contractor notifies NYSED of the court order or subpoena no later than the time the information is Disclosed, in advance of compliance but in any case, provides notice to NYSED no later than the time the Personal Information is Disclosed, unless such disclosure to NYSED is expressly prohibited by the statute, court order or subpoena. Notification shall be made in accordance with the Notice provisions of this Contract and shall also be provided to the Office of the Chief Privacy Officer, NYS Education Department, 89 Washington Avenue, Albany, New York 12234.
   6. Contractor shall ensure that its Subcontractors know that they cannot provide Access to or Disclose Personal Information to any other party unless such Access or Disclosure is required by statute, court order or subpoena. If a Subcontractor is required to provide Access to or Disclose Personal Information pursuant to a court order or subpoena, the Subcontractor shall, unless prohibited by statute, court order or subpoena, notify Contractor no later than two (2) days before any Personal Information is Accessed or Disclosed. Upon receipt of notice from a Subcontractor, Contractor shall provide notice to NYSED no later than the time that the Subcontractor is scheduled to provide Access or Disclose the Information.
2. **Training**.

Contactor shall ensure that all its employees and Subcontractors who have Access to Personal Information have received or will receive training on the federal and state laws governing confidentiality of such Personal Information prior to receiving Access.

1. **Data Return and Destruction of Data**.
   1. Contractor is prohibited from retaining Disclosed Personal Information or continuing to Access Personal Information , including any copy, summary or extract of Personal Information, on any storage medium (including, without limitation, secure data centers and/or cloud-based facilities, and hard copies) beyond the term of this Contract unless such retention is either expressly authorized by this Contract, expressly requested in writing by NYSED for purposes of facilitating the transfer of Personal Information to NYSED, or expressly required by law. As applicable, upon expiration or termination of this Contract, Contractor shall transfer the Disclosed Personal Information to NYSED, in a format and manner agreed to by the Parties.
   2. When the purpose that necessitated Contractor’s Access to and/or Disclosure of Personal Information has been completed or Contractor’s authority to have Access to Personal Information or retain Disclosed information has expired, Contractor shall ensure that all Personal Information (including without limitation, all hard copies, archived copies, electronic versions, electronic imaging of hard copies) as well as any and all Personal Information maintained on behalf of Contractor in a secure data center and/or cloud-based facilities that remain in the possession of Contractor or its Subcontractors is securely deleted and/or destroyed in a manner that does not allow it to be retrieved or retrievable, read or reconstructed. Hard copy media must be shredded or destroyed such that Personal Information cannot be read, or otherwise reconstructed, and electronic media must be cleared, purged, or destroyed such that the Personal Information cannot be retrieved. Only the destruction of paper Personal Information, and not redaction, will satisfy the requirements for data destruction. Redaction is specifically excluded as a means of data destruction.
   3. Contractor shall provide NYSED with a written certification of the secure deletion and/or destruction of Personal Information held by the Contractor or Subcontractors to this Contract at the address for notifications set forth in this Contract.
   4. To the extent that Contractor and/or its Subcontractors continue to be in possession of any de-identified Personal Information (i.e., Personal Information that has had all direct and indirect identifiers removed), Contractor agrees that neither it nor its Subcontractors will attempt to re-identify de-identified Personal Information and/or transfer de-identified Personal Information data to any person or entity, except as provided in subsection (a) of this section.
2. **Encryption.**

Contractor shall use industry standard security measures including encryption protocols that comply with New York law and regulations to preserve and protect Personal Information. Contractor must encrypt information at rest and in transit in accordance with applicable New York laws and regulations.

1. **Commercial or Marketing Use Prohibition.**

Contractor agrees that it will not sell, use, or Disclose Personal Information for a Commercial or Marketing Purpose and that it will contractually prohibit its Subcontractors from the same.

1. **Breach**.

Contractor shall promptly notify NYSED of any Breach of Personal Information, regardless of whether Contractor or Subcontractor suffered the Breach, without delay and in the most expedient way possible, but in no circumstance later than seven (7) calendar days after discovery of the Breach. Notifications shall be made in accordance with the notice provisions of this Contract and shall also be provide to the Office of the Chief Privacy Officer, NYS Education Department, 89 Washington Avenue, Albany, New York 12234 and must

include a description of the Breach which includes the date of the incident and the date of discovery; the types of Personal Information affected, and the number of records affected; a description of Contractor’s investigation; and the name of a point of contact.

1. **Cooperation with Investigations.**

Contractor and its Subcontractors will cooperate with NYSED, and law enforcement where necessary, in any investigations into a Breach. Any costs incidental to the required cooperation or participation of the Contractor will be the sole responsibility of the Contractor if such Breach is attributable to Contractor or its Subcontractors.

1. **Notification to Individuals.**

Where a Breach of Personal Information occurs that is attributable to Contractor and/or its Subcontractors, Contractor shall pay for or promptly reimburse NYSED the full cost of NYSED’s notification to the affected individuals, where applicable. NYSED will be reimbursed by Contractor within 30 days of a demand for payment under this section.

1. **Termination**.

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

DPA EXHIBIT 1 - Contractor’s Data Privacy and Security Plan

NYSED has adopted the NIST Cybersecurity Framework as its’ standard to protect Personal Information. For contracts where a Contractor may have access to Personal Information, the Contractor must complete the following or provide a plan that materially addresses its requirements, including alignment with the NIST Cybersecurity Framework, which is the standard for educational agency data privacy and security policies in New York state**. While this plan is not required to be posted to NYSED’s website, contractors should nevertheless ensure that they do not include information that could compromise the security of their data and data systems.**

1.Outline how you will implement applicable data privacy and security contract requirements over the life of the Contract

2. Specify the administrative, operational, and technical safeguards and practices that you have in place to protect Personal Information.

3. Address the training received by your employees and any Subcontractors engaged in the provision of services under this Contract on the federal and state laws that govern the confidentiality of Personal Information.

4. Outline contracting processes that ensure that your employees and any Subcontractors are bound by written agreement to the requirements of this Contract, at a minimum.

5. Specify how you will manage any data privacy and security incidents that implicate Personal Information and describe any specific plans you have in place to identify breaches and/or unauthorized disclosures, and to meet your obligations to report incidents to NYSED.

6. Describe how data will be transitioned to NYSED when no longer needed by you to meet your contractual obligations, if applicable.

7. Describe your secure destruction practices and how certification will be provided to NYSED.

8. Outline how your data privacy and security program/practices align with NYSED’s Data Privacy and Security Policy.

**M/WBE Documents**

**M/WBE COVER LETTER**

**Minority & Woman-Owned Business Enterprise Requirements**

**NAME OF FIRM\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

In accordance with the provisions of Article 15-A of the NYS Executive Law, 5 NYCRR Parts 140-144, Section 163 (6) of the NYS Finance Law and Executive Order #8 and in fulfillment of the New York State Education Department (NYSED) policies governing Equal Employment Opportunity and Minority and Women-Owned Business Enterprise (M/WBE) participation, it is the intention of the New York State Education Department to provide real and substantial opportunities for certified Minority and Women-Owned Business Enterprises on all State contracts. It is with this intention the NYSED has assigned M/WBE participation goals to this contract.

In an effort to promote and assist in the participation of certified M/WBEs as subcontractors and suppliers on this project for the provision of services and materials, the bidder is required to comply with NYSED’s participation goals through one of the three methods below. Please indicate which one of the following is included with the M/WBE Documents Submission.

**🞎** Full Participation – No Request for Waiver (PREFERRED)

**🞎** Partial Participation – Partial Request for Waiver

**🞎** No Participation – Request for Complete Waiver

|  |
| --- |
| By my signature on this Cover Letter, I certify that I am authorized to bind the Bidder’s firm contractually. |
| Typed or Printed Name of Authorized Representative of the Firm |
| Typed or Printed Title/Position of Authorized Representative of the Firm |
| Signature/Date |

**M/WBE UTILIZATION PLAN**

**INSTRUCTIONS:** All bidders submitting responses to this procurement must complete this M/WBE Utilization Plan unless requesting a total waiver and submit it as part of their proposal. The plan must contain detailed description of the services to be provided by each Minority and/or Women-Owned Business Enterprise (M/WBE) identified by the bidder.

Bidder’s Name \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Telephone: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Address \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Federal ID No.: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

City, State, Zip \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ RFP No.: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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| **Certified M/WBE** | **Classification**  **(check all applicable)** | **Description of Work**  **(Subcontracts/Supplies/Services)** | **Annual Dollar Value of**  **Subcontracts/Supplies/Services** |
| NAME  ADDRESS  CITY, ST, ZIP  PHONE/E-MAIL  FEDERAL ID No. | NYS ESD Certified  MBE \_\_\_\_\_\_  WBE \_\_\_\_\_\_ |  | $ \_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| NAME  ADDRESS  CITY, ST, ZIP  PHONE/E-MAIL  FEDERAL ID No. | NYS ESD Certified  MBE \_\_\_\_\_\_  WBE \_\_\_\_\_\_ |  | $ \_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

PREPARED BY (Signature) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ DATE\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SUBMISSION OF THIS FORM CONSTITUTES THE BIDDER’S ACKNOWLEDGEMENT AND AGREEMENT TO COMPLY WITH THE M/WBE REQUIREMENTS SET FORTH UNDER NYS EXECUTIVE LAW, ARTICLE 15-1, 5 NYCRR PART 143 AND THE ABOVE REFERENCE SOLICITATION. FAILURE TO SUBMIT COMPLETE AND ACCURATE INFORMATION MAY RESULT IN A FINDING OF NONCOMPLIANCE AND/OR PROPOSAL DISQUALIFICATION.**

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| REVIEWED BY \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ DATE \_\_\_\_\_\_\_\_\_\_  UTILIZATION PLAN APPROVED YES/NO  DATE \_\_\_\_\_\_\_\_\_\_  NOTICE OF DEFICIENCY ISSUED YES/NO  DATE \_\_\_\_\_\_\_\_\_\_  NOTICE OF ACCEPTANCE ISSUED YES/NO  DATE \_\_\_\_\_\_\_\_\_\_ |

NAME AND TITLE OF PREPARER: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(*print or type)*

TELEPHONE/E-MAIL \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

DATE \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**M/WBE 100**

**M/WBE SUBCONTRACTORS AND SUPPLIERS**

**NOTICE OF INTENT TO PARTICIPATE**

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| INSTRUCTIONS: Part A of this form must be completed and signed by the Bidder/Contractor unless requesting a total waiver. Parts B & C of this form must be completed by MBE and/or WBE subcontractors/suppliers. The bidder/contractor must submit a separate M/WBE Notice of Intent to Participate form for each MBE or WBE as part of the proposal. |
|  |
| Bidder Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Federal ID No.: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Phone No.: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  City\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ State\_\_\_\_\_\_\_ Zip Code\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ E-mail: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Signature of Authorized Representative of Bidder’s Firm Print or Type Name and Title of Authorized Representative of Bidder’s Firm  Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| **PART B - THE UNDERSIGNED INTENDS TO PROVIDE SERVICES OR SUPPLIES IN CONNECTION WITH THE ABOVE PROCUREMENT:**  Name of M/WBE: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Federal ID No.: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Phone No.: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  City, State, Zip Code \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ E-mail: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  **BRIEF DESCRIPTION OF SERVICES OR SUPPLIES TO BE PERFORMED BY MBE OR WBE:**   |  | | --- | |  |   **DESIGNATION:** \_\_\_\_MBE Subcontractor \_\_\_\_WBE Subcontractor \_\_\_\_ MBE Supplier \_\_\_\_WBE Supplier |
|  |
| **PART C - CERTIFICATION STATUS (CHECK ONE):**  \_\_\_\_\_ The undersigned is a certified M/WBE by the New York State Division of Minority and Women-Owned Business Development (MWBD).  **THE UNDERSIGNED IS PREPARED TO PROVIDE SERVICES OR SUPPLIES AS DESCRIBED ABOVE AND WILL ENTER INTO A FORMAL AGREEMENT WITH THE BIDDER CONDITIONED UPON THE BIDDER’S EXECUTION OF A CONTRACT WITH THE NEW YORK STATE EDUCATION DEPARTMENT.**  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  The estimated dollar amount of the agreement $\_\_\_\_\_\_\_\_\_\_\_ Signature of Authorized Representative of M/WBE Firm  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Date Printed or Typed Name and Title of Authorized Representative |

**M/WBE 102**

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| **EQUAL EMPLOYMENT OPPORTUNITY - STAFFING PLAN** | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| **Instructions on Page 2** | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Bidder Name: | | |  | | | | | | |  | Telephone: | | | | |  | |  | |  | | | | | | | | | | | |
| Address: | | |  | | | | | | |  | Federal ID No.: | | | | | | |  | |  | | | | | | | | | | | |
| City, State, ZIP: | | |  | | | | | | |  | RFP No: | | | | | | |  | |  | | | | | | | | | | | |
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| Report includes: | | |  |  |  |  |  |  |  |  | Reporting Entity: | | | | | | |  | |  | |  |  |  | |  | |  |  |  |  |
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|  | Work force to be utilized on this contract | | | | | | |  |  |  |  | | Contractor | | | | |  | |  | |  |  |  | |  | |  |  |  |  |
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|  | Contractor/Subcontractor's total work force | | | | | | |  |  |  |  | | Subcontractor - Name: | | | | | | | | | |  | | | | | | | | |
| **Enter the total number of employees in each classification in each of the EEO-Job Categories identified.** | | | | | | | | | | | | | | | | | | | | | | |  | |  |  | |  |  |  |  |
| EEO - Job Categories | | | | | Total Work Force | Race/Ethnicity - report employees in only one category | | | | | | | | | | | | | | | | | | | | | | | | | |
| Hispanic or Latino | | Not-Hispanic or Latino | | | | | | | | | | | | | | | | | | | | | | | |
| Male | | | | | | | | | | | | | | Female | | | | | | | | | |
| Male | Female | White | African-American or Black | Native Hawaiian or Other Pacific Islander | | Asian | | | American Indian or Alaska Native | | Two or More Races | | Disabled | | Veteran | White | African-American | | Native Hawaiian or Other Pacific Islander | | Asian | American Indian or Alaska Native | Two or More Races | Disabled | Veteran |
| Executive/Senior Level Officials and Managers | | | | |  |  |  |  |  |  | |  | | |  | |  | |  | |  |  |  | |  | |  |  |  |  |  |
| First/Mid-Level Officials and Managers | | | | |  |  |  |  |  |  | |  | | |  | |  | |  | |  |  |  | |  | |  |  |  |  |  |
| Professionals | | | | |  |  |  |  |  |  | |  | | |  | |  | |  | |  |  |  | |  | |  |  |  |  |  |
| Technicians | | | | |  |  |  |  |  |  | |  | | |  | |  | |  | |  |  |  | |  | |  |  |  |  |  |
| Sales Workers | | | | |  |  |  |  |  |  | |  | | |  | |  | |  | |  |  |  | |  | |  |  |  |  |  |
| Administrative Support Workers | | | | |  |  |  |  |  |  | |  | | |  | |  | |  | |  |  |  | |  | |  |  |  |  |  |
| Craft Workers | | | | |  |  |  |  |  |  | |  | | |  | |  | |  | |  |  |  | |  | |  |  |  |  |  |
| Operatives | | | | |  |  |  |  |  |  | |  | | |  | |  | |  | |  |  |  | |  | |  |  |  |  |  |
| Laborers and Helpers | | | | |  |  |  |  |  |  | |  | | |  | |  | |  | |  |  |  | |  | |  |  |  |  |  |
| Service Workers | | | | |  |  |  |  |  |  | |  | | |  | |  | |  | |  |  |  | |  | |  |  |  |  |  |
| TOTAL | | | | |  |  |  |  |  |  | |  | | |  | |  | |  | |  |  |  | |  | |  |  |  |  |  |
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| PREPARED BY (*Signature*): | | | |  | | | | | | | |  | | | DATE: | |  | |  | |  | | | | | | | | | | |
|  | |  |  |  |  |  |  |  |  |  | |  | | |  | |  | |  | |  |  |  | |  |  | |  |  |  |  |
| NAME AND TITLE OF PREPARER: | | | | |  | | | | | | |  | | | TELEPHONE/EMAIL: | | | | | | |  | | | | | | | | | |
|  | |  |  |  | *(print or type)* | | | | | | |  | | |  |  | |  | |  | |  |  | |  |  | |  |  |  |  |

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| **EEO 100STAFFING PLAN INSTRUCTIONS** | | | | | | | | | | | | | | | | | | | | | | |
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| General Instructions: All Bidders and each subcontractor identified in the bid or proposal must complete an EEO Staffing Plan (EEO 100) and submit it as part of the bid or proposal package. Where the work force to be utilized in the performance of the State contract can be separated out from the contractor's or subcontractor's total work force, the Bidder shall complete this form only for the anticipated work force to be utilized on the State contract. Where the work force to be utilized in the performance of the State contract cannot be separated out from the contractor's or subcontractor's total work force, the Bidder shall complete this form for the contractor's or subcontractor's total work force. | | | | | | | | | | | | | | | | | | | | | | |
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| **Instructions for Completing:** | | | | | | |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| 1. | Enter the RFP number that this report applies to, along with the name, address, and federal ID number of the Bidder. | | | | | | | | | | | | | | | | | | | | | |
| 2. | Check off the appropriate box to indicate if the work force being reported is just for the contract or the Bidder's total work force. | | | | | | | | | | | | | | | | | | | | | |
| 3. | Check off the appropriate box to indicate if the Bidder completing the report is the contractor or subcontractor. | | | | | | | | | | | | | | | | | | | | | |
| 4. | Enter the total work force by EEO job category. | | | | | | | | | | | | | | | | | | | | | |
| 5. | Break down the total work force by gender and race/ethnic background and enter under the heading Race/Ethnicity. Contact the Designated Contact(s) for the solicitation if you have any questions. | | | | | | | | | | | | | | | | | | | | | |
| 6. | Enter the name, title, phone number and/or email address for the person completing the form. Sign and date the form in designated areas. | | | | | | | | | | | | | | | | | | | | | |
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| **RACE/ETHNIC IDENTIFICATION** | | | | | | | | | | | | | | | | | | | | | | |
| For purposes of this form NYSED will accept the definitions of race/ethnic designations used by the federal Equal Employment Opportunity Commission (EEOC), as those definitions are described below or amended hereafter. (Be advised these terms may be defined differently for other purposes under NYS statutory, regulatory, or case law). Race/ethnic designations as used by the EEOC do not denote scientific definitions of anthropological origins. For the purposes of this report, an employee may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. The race/ethnic categories for this survey are: | | | | | | | | | | | | | | | | | | | | | | |
|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| • | **Hispanic or Latino** - A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin regardless of race. | | | | | | | | | | | | | | | | | | | | | |
| • | **White (Not Hispanic or Latino)** - A person having origins in any of the original peoples of Europe, the Middle East, or North Africa. | | | | | | | | | | | | | | | | | | | | | |
| • | **Black or African American (Not Hispanic or Latino)** - A person having origins in any of the black racial groups of Africa. | | | | | | | | | | | | | | | | | | | | | |
| • | **Native Hawaiian or Other Pacific Islander (Not Hispanic or Latino)** - A person having origins in any of the peoples of Hawaii, Guam, Samoa, or other Pacific Islands. | | | | | | | | | | | | | | | | | | | | | |
| • | **Asian (Not Hispanic or Latino)** - A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian Subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam. | | | | | | | | | | | | | | | | | | | | | |
| • | **American Indian or Alaska Native (Not Hispanic or Latino)** - A person having origins in any of the original peoples of North and South America (including Central America), and who maintain tribal affiliation or community attachment. | | | | | | | | | | | | | | | | | | | | | |
| • | **Two or More Races (Not Hispanic or Latino)** - All persons who identify with more than one of the above five races. | | | | | | | | | | | | | | | | | | | | | |
| • | **Disabled** -Any person who has a physical or mental impairment that substantially limits one or more major life activity; has a record of such an impairment; or is regarded as having such an impairment | | | | | | | | | | | | | | | | | | | | | |
| • | **Vietnam Era Veteran** - a veteran who served at any time between and including January 1, 1963 and May 7, 1975.  **EEO 100** | | | | | | | | | | | | | | | | | | | | | |
|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |

**5 NYCRR 142.8 CONTRACTOR’S GOOD FAITH EFFORTS**

(a) The contractor must document its good faith efforts toward meeting certified minority- and women-owned business enterprise utilization plans by providing, at a minimum:

(1) Copies of its solicitations of certified minority- and women-owned business enterprises and any responses thereto;

(2) If responses to the contractor’s solicitations were received, but a certified minority- or woman-owned business enterprise was not selected, the specific reasons that such enterprise was not selected;

(3) Copies of any advertisements for participation by certified minority- and women-owned business enterprises timely published in appropriate general circulation, trade and minority- or women-oriented publications, together with the listing(s) and date(s) of the publication of such advertisements;

(4) Copies of any solicitations of certified minority- and/or women-owned business enterprises listed in the directory of certified businesses;

(5) The dates of attendance at any pre-bid, pre-award, or other meetings, if any, scheduled by the State agency awarding the State contract, with certified minority- and women-owned business enterprises which the State agency determined were capable of performing the State contract scope of work for the purpose of fulfilling the contract participation goals;

(6) Information describing the specific steps undertaken to reasonably structure the contract scope of work for the purpose of subcontracting with, or obtaining supplies from, certified minority- and women-owned business enterprises.

(b) In addition to the information provided by the contractor in paragraph (a) above, the State agency may also consider the following to determine whether the contractor has demonstrated good faith efforts:

(1) whether the contractor submitted an alternative utilization plan consistent with the subcontract or supplier opportunities in the contract;

(2) the number of certified minority- and women-owned business enterprises in the region listed in the directory of certified businesses that could, in the judgment of the State agency, perform work required by the State contract scope of work;

(3) The actions taken by the contractor to contact and assess the ability of certified minority- and women-owned business enterprises located outside of the region in which the State contract scope of work is to be performed to participate on the State contract;

(4) whether the contractor provided relevant plans, specifications or terms and conditions to certified minority- and women-owned business enterprises sufficiently in advance to enable them to prepare an informed response to a contractor request for participation as a subcontractor or supplier;

(5) the terms and conditions of any subcontract or provision of suppliers offered to certified minority- or women-owned business enterprises and a comparison of such terms and conditions with those offered in the ordinary course of the contractor’s business and to other subcontractors or suppliers of the contractor;

(6) whether the contractor offered to make up any inability to comply with the certified minority- and women-owned business enterprises goals in the subject State contract in other State contracts being performed or awarded to the contractor; and

(7) any other information that is relevant or appropriate to determining whether the contractor has demonstrated a good faith effort.

**M/WBE CONTRACTOR GOOD FAITH EFFORTS CERTIFICATION (FORM 105)**

PROJECT/CONTRACT #\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Contractor/Vendor)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Title) (Company)

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

(Address) (Telephone Number)

do hereby submit the following as evidence of our good faith efforts to retain certified minority- and women-owned business enterprises:

(1) Copies of its solicitations of certified minority- and women-owned business enterprises and any responses thereto;

(2) If responses to the contractor’s solicitations were received, but a certified minority- or woman-owned business enterprise was not selected, the specific reasons that such enterprise was not selected;

(3) Copies of any advertisements for participation by certified minority- and women-owned business enterprises timely published in appropriate general circulation, trade and minority- or women-oriented publications, together with the listing(s) and date(s) of the publication of such advertisements;

(4) Copies of any solicitations of certified minority- and/or women-owned business enterprises listed in the directory of certified businesses;

(5) The dates of attendance at any pre-bid, pre-award, or other meetings, if any, scheduled by the State agency awarding the State contract, with certified minority- and women-owned business enterprises which the State agency determined were capable of performing the State contract scope of work for the purpose of fulfilling the contract participation goals;

(6) Information describing the specific steps undertaken to reasonably structure the contract scope of work for the purpose of subcontracting with, or obtaining supplies from, certified minority- and women-owned business enterprises.

(7) Describe any other action undertaken by the bidder to document its good faith efforts to retain certified minority - and women- owned business enterprises for this procurement.

Submit additional pages as needed.

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

Authorized Representative Signature

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

Date

**M/WBE CONTRACTOR UNAVAILABLE CERTIFICATION**

**RFP#/PROJECT NAME**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Authorized Representative) (Title) (Bidder’s Company)

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

(Address) (Phone)

I certify that the following New York State Certified Minority/Women Business Enterprises were contacted to obtain a quote for work to be performed on the abovementioned project/contract.

List of date, name of M/WBE firm, telephone/e-mail address of M/WBEs contacted, type of work requested, estimated budgeted amount for each quote requested.

**DATE** **M/WBE NAME PHONE/EMAIL TYPE OF WORK ESTIMATED BUDGET** **REASON**

1.

2.

3.

4.

5.

To the best of my knowledge and belief, said New York State Certified Minority/Women Business Enterprise contractor(s) was/were not selected, unavailable for work on this project, or unable to provide a quote for the following reasons: Please check appropriate reasons given by each MBE/WBE firm contacted above.)

\_\_\_\_\_\_\_**A.** Did not have the capability to perform the work

\_\_\_\_\_\_\_**B**. Contract too small

\_\_\_\_\_\_\_**C.** Remote location

\_\_\_\_\_\_\_**D.** Received solicitation notices too late

\_\_\_\_\_\_\_**E.** Did not want to work with this contractor

\_\_\_\_\_\_\_**F.** Other (give reason) **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

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

**Authorized Representative Signature** **Date** **Print Name**

**REQUEST FOR WAIVER FORM**

|  |  |
| --- | --- |
| **BIDDER/CONTRACTOR NAME:** | **TELEPHONE:**  **EMAIL:** |
| **ADDRESS:** | **FEDERAL ID NO.:** |
| **CITY, STATE, ZIPCODE:** | **RFP#/CONTRACT NO.:** |

**INSTRUCTIONS: By submitting this form and the required information, the bidder/contractor certifies that Good Faith Efforts have been taken to promote M/WBE participation pursuant to the M/WBE goals set forth under this RFP/Contract.**

**Please see Page 2 for additional requirements and document submission instructions.**

|  |  |
| --- | --- |
| **BIDDER/CONTRACTOR IS REQUESTING (check all that apply):** | |
| * **MBE Waiver** - A waiver of the MBE goal for this procurement is requested. * **Total** **🞎 Partial \_\_\_\_\_\_\_%** | * **WBE Waiver** - A waiver of the WBE goal for this procurement is requested. * **Total** **🞎 Partial \_\_\_\_\_\_\_%** |

PREPARED BY (*Signature*): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ DATE: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SUBMISSION OF THIS FORM CONSTITUTES THE BIDDER/CONTRACTOR'S ACKNOWLEDGEMENT AND AGREEMENT TO COMPLY WITH THE M/WBE REQUIREMENTS SET FORTH UNDER NYS EXECUTIVE LAW, ARTICLE 15-A, 5 NYCRR PART 143, AND THE ABOVE REFERENCED SOLICITATION. FAILURE TO SUBMIT COMPLETE AND ACCURATE INFORMATION MAY RESULT IN A FINDING OF NONCOMPLIANCE AND/OR PROPOSAL DISQUALIFICATION.**

|  |  |
| --- | --- |
| NAME OF PREPARER: | **FOR AUTHORIZED USE ONLY** |
| TITLE OF PREPARER:  TELEPHONE:  EMAIL: | REVIEWED BY: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ DATE:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  **WAIVER GRANTED 🞎 YES 🞎 NO**  🞎 TOTAL WAIVER 🞎 PARTIAL WAIVER 🞎 NOTICE OF DEFICIENCY  🞎 CONDITIONAL WAIVER  COMMENTS:  DATE:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

**REQUIREMENTS AND DOCUMENT SUBMISSION INSTRUCTIONS**

**When completing the Request for Waiver Form, please check all boxes that apply. To be considered, the Request for Waiver Form must be accompanied by documentation for items 1-10, as listed below. Copies of the following information and all relevant supporting documentation must be submitted along with the request.**

1. A statement setting forth your basis for requesting a partial or total waiver.

2. The names of general circulation, trade association, and M/WBE-oriented publications in which you solicited certified M/WBEs for the purposes of complying with your participation goals.

3. A list identifying the date(s) that all solicitations for certified M/WBE participation were published in any of the above publications.

4. A list of all certified M/WBEs appearing in the NYS Directory of Certified Firms that were solicited for purposes of complying with your certified M/WBE participation levels.

5. Copies of notices, dates of contact, letters, and other correspondence as proof that solicitations were made in writing and copies of such solicitations, or a sample copy of the solicitation if an identical solicitation was made to all certified M/WBEs.

6. Provide copies of responses made by certified M/WBEs to your solicitations.

7. Provide a description of any contract documents, plans, or specifications made available to certified M/WBEs for purposes of soliciting their bids and the date and manner in which these documents were made available.

8. Provide documentation of any negotiations between you, the Bidder/Contractor, and the M/WBEs undertaken for purposes of complying with the certified M/WBE participations goals.

9. Provide any other information you deem relevant which may help us in evaluating your request for a waiver.

10. Provide the name, title, address, telephone number and email address of the Bidder/Contractor's representative authorized to discuss and negotiate this waiver request.

**NOTE: Unless a Total Waiver has been granted, Bidder/Contractor will be required to submit all reports and documents pursuant to the provisions set forth in the procurement and/or contract, as deemed appropriate by NYSED, to determine M/WBE compliance.**

1. An ITIN is a nine-digit number used by the United States Internal Revenue Service for individuals not eligible to obtain a Social Security Number, but are required to file income taxes. To obtain an ITIN, submit a completed W-7 to the IRS. The IRS will notify you in writing within 4 to 6 weeks about your ITIN status. In order to do business with New York State, **you must submit IRS Form W-8** along with our NYSED Substitute Form W-9 showing your ITIN. IRS Form W-8 certifies your foreign status. To obtain IRS FormsW-7 and W-8, call 1-800-829-3676 or visit the [IRS website](https://www.irs.gov/). [↑](#footnote-ref-1)