

**STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL**



**Request for Applications (RFA) for COVID-19 Tenant Legal Assistance Initiative**

**RFA 20-001: COVID-19 Tenant Legal Assistance Initiative**

<p><b>Application Number: 20-001</b></p>	<p><b>Application Issued: August 3, 2020</b></p>
<p><b>Application Description:</b></p> <p>COVID-19 Tenant Legal Services Initiative</p>	<p><b>Contract Period:</b></p> <p>One (1) Year with one (1) one-year renewal option.</p> <p><u>Tentative:</u> October 1, 2020 – September 30, 2021, with one (1) one-year renewal option.</p>
<p><b>Due Dates and Times (ET):</b></p> <p><u>Submission of Questions:</u> August 12, 2020 by 5:00 PM EST</p> <p><u>OAG Issuance of Answers:</u> August 14, 2020 by 5:00PM EST</p> <p><u>Application Due:</u> August 25, 2020 by 5:00 PM EST*</p> <p>*Email submissions MUST be dated prior to this date/time to receive consideration.</p> <p><u>Projected Date for Notice of Awards:</u> September 4, 2020</p>	<p><b>Location of Service:</b></p> <p>Statewide, Grantee's Premises or Grantee Designated Premise</p>
<p>In compliance with Procurement Lobbying Law, contacting anyone other than designated herein may result in rejection of Application. <b>Primary Designated Contact:</b></p> <p>Stephanie Folk Contract Management Specialist Budget and Fiscal Management Bureau Office of the New York Attorney General State Capitol Albany, New York 12224-0341 Telephone: (518) 776-2129 E-Mail: purchase@ag.ny.gov</p>	<p>In the event the <b>Primary</b> designated contact is not available, the alternate designated contact is:</p> <p>Christopher Reksc Contract Management Specialist 2 Budget and Fiscal Management Bureau Office of the New York Attorney General State Capitol Albany, New York 12224-0341 Telephone: (518) 776-2138 E-Mail: purchase@ag.ny.gov</p>

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**I. Background**

The COVID19 crisis has exacerbated the preexisting vulnerabilities of tenants in New York State. Since the crisis began, New Yorkers are experiencing unemployment and loss of income at an unprecedented rate. As a result, many New Yorkers are unable to pay their housing costs. Recently, a landlord association in upstate New York reported that up to 50%<sup>1</sup> of tenants missed their May rent payments. As a result of these factors, we will likely see a dramatic increase in the number of New Yorkers facing eviction in the coming months. Since the onset of the crisis, there have been a number of government interventions intended to prevent tenants from losing their homes due to nonpayment of rent. On May 7, 2020, the Governor issued an Executive Order<sup>2</sup> placing a moratorium on some evictions until August 20, 2020. During this time, tenants that qualify for unemployment or have been financially impacted by COVID19 cannot be evicted due to nonpayment of rent. Additionally, on May 28, 2020 the NYS Legislature passed two bills to assist tenants facing eviction. The first prevents landlords from seeking possession of apartments in certain cases where tenants have been financially impacted by the COVID19 crisis<sup>3</sup> and the second created new rent subsidies for a limited number of tenants impacted by COVID19<sup>4</sup>. Municipalities in New York may also be developing their own tenant relief programs.

While it is vital that State, Federal and local governments provide relief to tenants at this time, these disparate programs and protections can be very confusing and it may be extremely difficult for tenants to understand what relief is available to them and whether they qualify for it. Considering that many of these interventions are triggered by an eviction case, tenants will need clear, easily accessible guidance on the forms of assistance available to tenants facing eviction as well as tools to present defenses in court. Identifying and accessing these crucial resources is a challenging prospect, especially for tenants facing eviction outside of New York City. First, there is no right to counsel for pro se tenants in the upstate and Long Island regions. Additionally, in these areas, summary eviction proceedings are, in large measure, heard by Town and Village justices who may not be attorneys. Finally, due to disparities in oversight, infrastructure and funding, these courts often provide fewer protections to pro se tenants than those afforded in NYC housing courts.

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<sup>1</sup> <https://www.timesunion.com/news/article/Housing-situation-worsens-for-tenants-landlords-15265209.php>

<sup>2</sup> <https://www.governor.ny.gov/news/no-20228-continuing-temporary-suspension-and-modification-laws-relating-disaster-emergency>

<sup>3</sup> <https://www.nysenate.gov/legislation/bills/2019/s8192/amendment/b>

<sup>4</sup> <https://www.nysenate.gov/legislation/bills/2019/s8419>

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For these reasons, the New York State Office of the Attorney General (OAG) is dedicating a portion of funds awarded to New York under the National Mortgage Settlement to Legal Services Organizations (Grantees) to assist tenants facing eviction in the coming months.

The OAG anticipates awarding, through this Request for Applications, grants of varying amounts to individual Grantees to develop and manage a volunteer attorney program to represent tenants in identified regions across NYS as well as a Grantee to develop and manage an online resource center with materials, templates and factsheets to support tenants' rights both during and immediately following the COVID19 crisis.

Qualified organizations interested in applying for these funds must complete this application

**II. Program Description**

**A. Category 1: Volunteer Attorney Programs**

Through this RFA, the OAG anticipates selecting Grantees in six (6) regions across NYS (Hudson Valley NY, Long Island NY, Mid/Central NY, Northeast NY, NY Southern Tier, and Western NY) to manage a regional volunteer attorney program. Through this program, Grantees will provide direct representation to tenants, develop and disseminate information related to tenant protections tied to the COVID19 crisis, as well as identify procedural and structural reform priorities within their regions.

Over the one-year grant period, Grantees will:

- Solicit pro bono attorneys and develop a program to connect attorneys to tenants who face eviction and need legal support;
- Survey local courts and work with local legal service agencies to identify existing in-court tenant representation programs in order to determine where there is need for additional support from pro bono attorneys;
- Work with courts, government agencies, and social service providers to advertise services for tenants facing eviction during the COVID19 pandemic;
- Create a public awareness plan to disseminate information about tenant protections related to COVID19 to the general public;
- Track and address systemic disparities and abuses contributing to tenant displacement and share this information with the OAG;

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- Identify locations where lack of resources and court conditions impact tenant outcomes and share this information with the OAG;
- Coordinate across regions to develop materials for tenants as well as statewide trainings for pro bono attorneys about tenants' rights.

**B. Category 2: Online Resource Center**

Additionally, the OAG anticipates funding one (1) Grantee to develop an online resource center. The resource center will publish materials developed by the volunteer attorney programs to provide information to tenants, attorneys and others about tenants' rights and protections related to COVID19. These resources will include guides on what tenants can expect in court, templates to help prepare, and guidance on how to demonstrate that they have been impacted by the COVID 19 crisis. The resource center will also provide contact information for the regional volunteer attorney programs as well as various legal services agencies across the State.

The Grantee for the online resource center will also coordinate training and resource sharing with the volunteer attorney programs, track common concerns raised by these organizations and report relevant information to the OAG.

**III. Award Information**

**A. Funding Availability and Distribution**

The total estimated funding expected to be available for awards under this competitive opportunity is approximately \$742,000 for the COVID19 Tenant Legal Assistance Initiative. Funding will be distributed between two (2) categories: Category 1: Volunteer Attorney Programs and Category 2: Online Resource Center. Of the funds available approximately \$642,000 will be allocated for volunteer attorney programs and approximately \$100,000 will be allocated for the online resource center.

The funds for volunteer attorney programs will be distributed across six (6) regions:

- 1. Hudson Valley NY Region** comprised of Dutchess, Orange, Putnam, Rockland, Sullivan, Ulster and Westchester counties.
- 2. Long Island NY Region** comprised of Nassau and Suffolk counties.

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- 3. Mid/Central NY Region** comprised of Broome, Cayuga, Chenango, Cortland, Delaware, Herkimer, Jefferson, Lewis, Madison, Oneida, Onondaga, Oswego and Otsego counties.
- 4. Northeast NY Region** comprised of Albany, Clinton, Columbia, Essex, Franklin, Fulton, Greene, Hamilton, Montgomery, Rensselaer, Saratoga, Schenectady, Schoharie, St. Lawrence, Warren and Washington counties.
- 5. NY Southern Tier Region** comprised of Allegany, Cattaraugus, Chautauqua, Chemung, Livingston, Monroe, Ontario, Schuyler, Seneca, Steuben, Tioga, Tompkins, Wayne and Yates counties.
- 6. Western NY Region** comprised of Erie, Genesee, Niagara, Orleans and Wyoming counties.

Funds available to the Grantees for Category 1: Volunteer Attorney Programs are for the following purposes (1) Program staffing: each Grantee may apply for up to \$100,000 to cover personnel and overhead costs to manage the volunteer attorney program and (2) Material development and training: additionally, each Grantee may apply for up to \$7,000 to cover material development and expenses related to training volunteer attorneys.

Funds for Category 2: Online Resource Center will be awarded to one (1) Grantee to provide services statewide. Grantees may apply for up to \$100,000 to manage the online resource center and provide support and coordination to the volunteer attorney programs.

Qualified organizations applying for Category 1: Volunteer Attorney Programs may in addition apply for Category 2: Online Resource Center. In this instance, two separate applications and budgets should be submitted by the organization for evaluation.

**B. Grant Period**

The grant period will be for one (1) year with one (1) one-year renewal option at the discretion of the OAG. Grant renewal options will be based on grantee performance and other factors at the OAG's discretion. There is no guarantee that the award(s) made under this RFA will be renewed beyond the initial one (1) year.

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**C. Funding Requests**

Applicants can apply for up to two (2) individual grants; one (1) in each category. Applicants that apply both grant categories should submit a separate application for each category requested.

**D. Award Evaluation Process**

1. Proposals will be evaluated based on evaluation criteria outlined in Section IV in its entirety.
2. Proposals will first be examined for completeness. All proposals submitting a complete package will continue to the minimum threshold eligibility criteria stage.
3. Each proposal that passes the minimum threshold eligibility criteria stage will be rated under a point system, with a total of 100 points possible.
4. Incomplete proposals and proposals that do not meet the minimum requirements will be rejected.

**E. Award Rating and Scoring**

This is a point based evaluation. A numerical rating shall be assigned to each application based on an evaluation of each proposal, considering the criteria set forth in this RFA. Applicants must score at least 60 points to be considered for an award.

Proposals will be ranked in order of total score and grouped according to the region of the services provided, as outlined in Section III.A. Awards will be made based on total high score in each group.

**F. Tie-breakers:**

In the event of a tie score, the scores on the individual application components will be compared in the following order: 1 (Outcomes and Deliverables), 2 (Experience), 3 (Budget). The applicant with the highest score on the first component where there is a difference will be considered the winner of the tie.

**IV. Eligibility Information and Evaluation Criteria**

**A. Minimum Threshold Eligibility Criteria**

Applications must target particular communities and/or regions per the designated regions in this application. Category 1 applicants must demonstrate that they are willing

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and able to manage a volunteer attorney program in the region they are applying to serve. Additionally, applicants:

- a. Must be an agency in New York State with an active New York State Charities registration number.
- b. Must have an office physically located in New York State, Category 1 applicants must have an office based in the region the applicant proposes to provide services.
- c. Category 1 applicants must have been providing free direct tenant legal or counseling services in New York State for at least the past three (3) years.
- d. Relevant program staff who will be performing legal services to must be admitted to and in good standing with the New York State Bar.

**B. Evaluation Criteria**

Eligible proposals that are complete and meet the minimum threshold criteria will be reviewed according to the evaluation criteria set forth below. Applicants submitting proposals for only managing the volunteer attorney program must respond to sections 1.A to 1.C below. Applicants submitting proposals for managing the online resource center must respond to sections 2.A to 2.C below. Applicants may submit proposals for both categories; but these proposals must be separate and will be evaluated independently. Applicants should explicitly address the following criteria as part of their proposal package submittal.

**1. Category 1: Regional Volunteer Lawyer Program - Criteria**

Answers to sections A and B below shall be presented as a narrative and shall not exceed five (5) pages (one-sided, single-spaced).

**A. Organization Description and Experience (35 Points)**

1. Provide a brief description of your organization including: its mission, number of years in existence, geographic region you serve, number of staff, services you provide as well as eligibility requirements for clients. Please provide a list of current staff, including titles and resumes, and a list of your Board of Directors.



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2. Describe your organization's experience in providing legal services to tenants in New York State.
3. Are there existing volunteer or pro bono networks or coordination in your region and how does your organization engage with these efforts?
4. Briefly describe the challenges tenants face in courts in your region, including any upcoming challenges you foresee related to the COVID19 crisis.
5. Please include two (2) letters of support from outside stakeholders including at least one letter from an organization who has provided pro-bono legal services in collaboration with your organization. This will not be considered part of the page limitation.

**B. Outcomes and Deliverables (45 Points)**

1. Indicate which region you are planning to serve. Considering the geographic scope of the region, please describe how you plan to work with courts and attorneys beyond your organization's typical catchment area.
2. Provide examples of working with pro-bono attorneys, particularly any experience managing a network of volunteer attorneys including how you recruit and maintain volunteer attorneys?
3. Describe how your organization will recruit and maintain a network of volunteer attorneys for this program. Please describe how your organization will train volunteer attorneys in tenant representation and protections including any new legislation or programs developed for tenants related to COVID19. Please describe the staffing plan including any staff who will represent tenants under this program and affirm staff representing tenants are admitted and in good standing with the New York State Bar.

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4. Describe how your organization will partner with other legal service providers and courts in the region to identify existing in-court legal support to tenants facing eviction and determine where there are legal support gaps.
5. Describe how you will identify tenants who are in need of volunteer attorney services, how you will advertise these services and how you will work with partners to inform tenants about COVID19 related protections and programs?
6. Please describe your proposed goals. How many volunteer attorneys do you plan to recruit? How many tenants do you plan to serve under this program?

**C. Budget/Appendix III (20 points)**

Please complete the Microsoft Excel worksheet that details the Budget and Scope of Services and provides a description and dollar amount for each line, and return it with your RFA response. Please note if applying for both the volunteer attorney program and the online resource center, a separate budget is required for each. Do not convert the Excel spreadsheet into a pdf document.

**2. Category 2: Online Resource Center - Criteria**

Answers to sections A and B below shall be presented as a narrative and shall not exceed three (3) pages (one-sided, single spaced).

**A. Experience (30 Points)**

1. Provide a brief description of your organization including: its mission, number of years in existence, number of staff and services you provide. Describe what online resources your organization provides, provide a list of current staff who develop and maintain your website, including titles and resumes, as well as a list of your Board of Directors.

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2. Describe your organization's experience developing and providing resources online for tenants, attorneys and the general public in New York State. Describe the impact you have been able to have and how you track usage of your website or other resources you provide.

**B. Outcomes and Deliverables (50 Points)**

1. Please describe your proposed approach to developing an online resource center. Please describe how you have been tracking or will track the impact of COVID 19 on tenants and COVID19 related tenant rights and protections.
2. Describe how you will manage relationships with the volunteer attorney programs to coordinate information sharing, attorney training, as well as developing materials, guides and resources. How will you share information and materials developed with other legal services or tenants' rights organizations outside of the networks developed under this grant program?
3. Please indicate your funding request, explaining the need and uses for funding including staff costs, technological costs, material development and coordination with other agencies.

**C. Budget/Appendix III (20 points)**

Please complete the Microsoft Excel worksheet that details the Budget and Scope of Services and provides a description and dollar amount for each line, and return it with your RFA response. Please note if applying for both the volunteer lawyer program and online resource center a separate budget is required for each. Do not convert the Excel spreadsheet into a pdf document.

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**V. Other Requirements**

**A. Terms of the Grant**

Grantees will be required to enter into a contract with the OAG governing the grant. The term of the grant will be for a period of 24 months.

Successful applicants shall agree to comply with all federal and State laws, rules, and regulations applicable to this grant and shall provide proof of Workers' Compensation and Disability Insurance coverage.

Grantees must assume full responsibility for execution and implementation of the project for the duration of their agreement with the OAG, including situations in which the grantee has partnered with another organization for a portion of the work described in the application.

**B. Awards, Payment and Performance**

The use of the funds will be monitored by the Attorney General's Office and its designees. All grantees will be required to document project expenditures using generally accepted accounting principles (GAAP). Grantees will submit financial reports as part of this program at least quarterly to the OAG or its designees, and will comply with periodic programmatic and financial audits as requested by the Attorney General or its designees.

All grantees will also be required to document project results and cooperate with reasonable requests of the OAG, or its designees. Reporting policies and procedures will be set forth in the grant requirements.

All reporting of financial and project data will be submitted by the grantees to the OAG or its designee.

Should the grantee fail to comply substantially with the grant requirements, funding may be suspended or terminated, or the grantee may be subjected to other appropriate sanctions. Unused funds will be returned to the OAG on an annual basis.

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**VI. Proposal and Submission Information**

**A. Submittal Timeline**

RFA Issue Date: August 3, 2020

Questions Due: August 12, 2020 - 5:00PM

OAG Issuance of Answers: August 14, 2020

Applications Due: August 25, 2020 - 5:00 PM

Projected Notice of Award: September 4, 2020

The OAG in its discretion may extend the application deadline if it determines that no applicant addressed specific underserved populations or geographic areas. Any such extension will be announced on the OAG website.

**B. Submittal Questions**

1. All questions should be submitted in writing, citing the particular RFA section and/or paragraph number/letter. Prospective Applicants should note that all clarifications, including those relating to the terms and conditions of the contract, are to be resolved prior to the submission of an application.
2. Questions/inquiries and/or requests for clarification will only be accepted via e-mail and in writing and should be submitted to the following e-mail address: [purchase@ag.ny.gov](mailto:purchase@ag.ny.gov) with the subject line of "RFA # 20-001 – Questions – *Insert Organization Name*".
3. Official answers to questions will be provided via addendum and posted to the OAG website: <http://www.ag.ny.gov/budget-fiscal/procurement>.

**C. Submittal Delivery Method**

1. Certified mail, first class mail, overnight delivery, hand delivered applications or walk-ins will not be accepted. Facsimile submissions will not be accepted. The Office of the Attorney General will not acknowledge receipt of applications delivered by mail, fax or in person.
2. Applications must be submitted via e-mail to [purchase@ag.ny.gov](mailto:purchase@ag.ny.gov) with the subject line of "Application Enclosed for RFA # 20-001 – Application – *Insert Organization Name*".
3. The applicant is responsible for ensuring 5:00 PM arrival on the deadline date.

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**D. Submittal Content**

In order to fairly evaluate all proposals, a uniform proposal format is required. Each proposal section is listed below, along with the exact contents required. Elaborate brochures, reproduced copies, or printouts of standard manuals or sales literature may not be substituted for the proposal narratives and responses specified.

1. **Appendix I Proposal Cover Page:** By submitting an application with a signed cover letter, you indicate full knowledge and acceptance of this RFA, including Appendix A (Standard Clauses for New York State OAG Contracts). Proposal Cover Page must be signed.
2. **Narrative:** A narrative of no more than five (5) pages answering questions in Section IV.1 for volunteer lawyer program or a narrative of no more than three (3) pages for Section IV.2 online resource center will be accepted. *Applicants wanting to apply for both the volunteer lawyer program and online resource center must submit two separate and properly labeled narratives.*
3. **Appendices II – Budget and Scope of Services:** *Please note if applying for both the volunteer lawyer program and online resource center a separate budget is required for each. Do not convert the Excel spreadsheet into a pdf document.*
4. **Appendix III – Certifications 1-5**
5. **Administrative Submission Requirements** as follows:
  - a. Vendor Responsibility Questionnaire, either a certification of online filing or paper version
  - b. Substitute W-9 Form

**All proposals, upon submission to the OAG, shall become OAG property for use as deemed appropriate.**

**E. The OAG reserves the right to:**

1. Reject any and all proposals received; or
2. Cancel this RFA if it is in the best interest of the State;
3. Waive or modify minor irregularities in proposal received after prior notification to the Applicants;
4. Adjust correct any arithmetical error in the proposal;
5. Receive clarification from Applicants for the purpose of assuring a full understanding of responsiveness to the RFA;
6. Factor past performance under HOPP into grant decisions;

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7. Utilize any and all ideas submitted in the proposal received unless, the ideas are covered by legal patent or property rights
8. Adopt or utilize all or any part of an Applicant's proposal;
9. Negotiate with the Applicant to serve the best interest of the State;
10. Begin agreement negotiations with another Applicant in order to serve the best interest of the State in the event that the State is unsuccessful in negotiating an agreement with a previously selected Applicant; and
11. Partially fund a proposal(s)

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**Appendix I-**

**Proposal Cover Letter for RFA COVID19 Tenant Legal Assistance Initiative**

*Please fill out and return the Microsoft Excel worksheet provided. A signed copy of Appendix I must be included.*



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**Appendix II – Project Budget and Scope of Services**

*Please fill out and return the Microsoft Excel worksheet provided. Do not convert Excel worksheet to a pdf*

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**Appendix III - Certifications - 1**

**PRIVACY CERTIFICATION**

Each organization receiving a grant must have an established privacy policy for protecting the confidentiality of personally identifiable information or "private information."

I hereby certify that \_\_\_\_\_, the applicant organization, maintains a privacy policy that, at a minimum:

- restricts the use and/or disclosure of "private information" to the purpose for which it was obtained;
- requires the person's consent for other uses or disclosures;
- limits access to "private information" to those employees with a need to fulfill the purpose for which it was obtained; and
- provides adequate precautions to ensure administrative and physical security of "private information."

\_\_\_\_\_  
Signature of Authorized Certifying Official

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name/Title

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_;

\_\_\_\_\_  
Notary Public

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**Appendix III - Certifications - 2**

**CIVIL RIGHTS CERTIFICATION**

I hereby certify that \_\_\_\_\_, the applicant organization:

- will comply with all applicable federal, state, and local laws relating to nondiscrimination in employment;
- will not discriminate against any individual who receives or applies for services on the basis of actual or perceived age, race, religion, color, gender, sexual orientation, age, national origin, ancestry, citizenship, disability, or veteran status or classification; and
- Will forward to the appropriate Anchor Partner a copy of any finding by a court or administrative agency that it has violated any federal, state, or local law relating to nondiscrimination.

\_\_\_\_\_  
Signature of Authorized Certifying Official

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name/Title

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_;

\_\_\_\_\_  
Notary Public

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**Appendix III - Certifications - 3**

**LABOR CERTIFICATION**

I hereby certify that \_\_\_\_\_, the applicant organization:

- will comply with all applicable federal, state, and local labor and employment laws and regulations, including any applicable schedules or determinations made by the State Labor Department in accordance with the Labor Law; and
- Will forward to the appropriate Anchor Partner a copy of any finding by a court or administrative agency that it has violated any federal, state, or local law relating to labor or employment.

\_\_\_\_\_  
Signature of Authorized Certifying Official

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name/Title

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_;

\_\_\_\_\_  
Notary Public

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**Appendix III - Certifications - 4**

**INSURANCE CERTIFICATION**

I hereby certify that \_\_\_\_\_, the applicant organization:

- Maintains appropriate insurance, including but not limited to all insurance required by law, against any liability, in reasonable amounts, for injury to persons or property arising to the performance of activities proposed in this RFA.
- Will forward a copy of all proof of insurance documents to the appropriate Anchor Partner upon request by such Anchor Partner

\_\_\_\_\_  
Signature of Authorized Certifying Official

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name/Title

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_;

\_\_\_\_\_  
Notary Public

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Appendix III - Certifications - 5

COMPLIANCE WITH LAW CERTIFICATION

I hereby certify that \_\_\_\_\_, the applicant organization:

- Currently and shall continue to comply with all applicable federal, state, and local laws rules, regulations, resolutions, orders, judgments, decrees, and ordinances which are in effect or become effective during the term of the project described in this RFA

\_\_\_\_\_  
Signature of Authorized Certifying Official

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name/Title

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_;

\_\_\_\_\_  
Notary Public

APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

PLEASE RETAIN THIS DOCUMENT  
FOR FUTURE REFERENCE.

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## **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, licenser, 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 (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$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 is required when such contracts exceed \$85,000 (State Finance Law § 163.6-a). However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.

**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, 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  
Albany, New York 12245  
Telephone: 518-292-5100  
Fax: 518-292-5884  
email: [opa@esd.ny.gov](mailto:opa@esd.ny.gov)

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  
New York, NY 10017  
212-803-2414  
email: [mwbecertification@esd.ny.gov](mailto:mwbecertification@esd.ny.gov)  
<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>

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 October 2019, 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 State Technology Law § 208) and commencing March 21, 2020 shall also comply with General Business Law § 899-bb.

**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") posted at: <https://ogs.ny.gov/list-entities-determined-be-non-responsive-biddersofferers-pursuant-nys-iran-divestment-act-2012>

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.

**NEW YORK STATE  
VENDOR RESPONSIBILITY QUESTIONNAIRE  
NOT-FOR-PROFIT BUSINESS ENTITY**

BUSINESS ENTITY INFORMATION					
Legal Business Name			EIN		
Address of the Principal Place of Business/Executive Office			New York State Vendor Identification Number		
			Telephone ext.	Fax	
Email		Website			
Authorized Contact for this Questionnaire					
Name:			Telephone ext.	Fax	
Title			Email		
List any other DBA, Trade Name, Other Identity, or EIN used in the last five (5) years, the state or county where filed, and the status (active or inactive): (if applicable)					
Type	Name	Type	EIN	State or County where filed	Status

I. BUSINESS CHARACTERISTICS	
1.0 Business Entity Type – Please check appropriate box and provide additional information:	
a) <input type="checkbox"/> Corporation (including PC)	Date of Incorporation
b) <input type="checkbox"/> Limited Liability Co. (LLC or PLLC)	Date Organized
c) <input type="checkbox"/> Limited Liability Partnership	Date of Registration
d) <input type="checkbox"/> Limited Partnership	Date Established
e) <input type="checkbox"/> General Partnership	Date Established      County (if formed in NYS)
f) <input type="checkbox"/> Sole Proprietor	How many years in business?
g) <input type="checkbox"/> Other	Date Established
If Other, explain:	
1.1 Was the Business Entity formed in New York State? <input type="checkbox"/> Yes <input type="checkbox"/> No	
If “No,” indicate jurisdiction where Business Entity was formed: <input type="checkbox"/> United States      State _____ <input type="checkbox"/> Other      Country _____	
1.2 Is the Business Entity currently registered to do business in New York State with the Department of State? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>Note: Select ‘not required’ if the Business Entity is a General Partnership.</i> <input type="checkbox"/> Not required	
If “No,” explain why the Business Entity is not required to be registered in New York State.	
1.3 Is the Business Entity registered as a Sales Tax vendor with the New York State Department of Tax and Finance? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Explain and provide detail, such as ‘not required,’ ‘application in process,’ or other reasons for not being registered.	

**NEW YORK STATE  
VENDOR RESPONSIBILITY QUESTIONNAIRE  
NOT-FOR-PROFIT BUSINESS ENTITY**

**I. BUSINESS CHARACTERISTICS**

1.4 Is the Business Entity a Joint Venture? <i>Note: If the submitting Business Entity is a Joint Venture, also submit a separate questionnaire for the Business Entity comprising the Joint Venture.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
1.5 Does the Business Entity have an active Charities Registration Number?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Enter Number: _____ If exempt, explain: _____ If an application is pending, enter date of application: _____ Attach a copy of the application	
1.6 Does the Business Entity have a DUNS Number?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Enter DUNS Number _____	
1.7 Is the Business Entity's principal place of business/Executive Office in New York State? If "No," does the Business Entity maintain an office in New York State?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No
Provide the address and telephone number for one New York Office.	
1.8 Is the Business Entity's principal place of business/executive office:	
<input type="checkbox"/> Owned <input type="checkbox"/> Rented Landlord Name (if 'rented') _____ <input type="checkbox"/> Other Provide explanation (if 'other') _____	
Is space shared with another Business Entity?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Name of other Business Entity _____ Address _____ City _____ State _____ Zip Code _____ Country _____	
1.9 Is the Business Entity a Minority Community Based Organization (MCBO)?	<input type="checkbox"/> Yes <input type="checkbox"/> No
1.10 Identify current Key Employees of the Business Entity. Attach additional pages if necessary.	
Name	Title
Name	Title
Name	Title
Name	Title
1.11 Identify current Trustees/Board Members of the Business Entity. Attach additional pages if necessary.	
Name	Title
Name	Title
Name	Title
Name	Title

**II. AFFILIATES AND JOINT VENTURE RELATIONSHIPS**

2.0 Does the Business Entity have any Affiliates? Attach additional pages if necessary (If no, proceed to Section III)	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Affiliate Name	Affiliate EIN (If available)	Affiliate's Primary Business Activity
Explain relationship with the Affiliate and indicate percent ownership, if applicable (enter N/A, if not applicable):		
Are there any Business Entity Officials or Principal Owners that the Business Entity has in common with this Affiliate?		<input type="checkbox"/> Yes <input type="checkbox"/> No
Individual's Name	Position/Title with Affiliate	

**NEW YORK STATE  
VENDOR RESPONSIBILITY QUESTIONNAIRE  
NOT-FOR-PROFIT BUSINESS ENTITY**

**III. CONTRACT HISTORY**

3.0 Has the Business Entity held any contracts with New York State government entities in the last three (3) years? If “Yes,” attach a list including the Contract Number, Agency Name, Contract Amount, Contract Start Date, Contract End Date, and the Contract Description.	<input type="checkbox"/> Yes <input type="checkbox"/> No
--	--

**IV. INTEGRITY – CONTRACT BIDDING**

*Within the past five (5) years, has the Business Entity or any Affiliate*

4.0 Been suspended or debarred from any government contracting process or been disqualified on any government procurement?	<input type="checkbox"/> Yes <input type="checkbox"/> No
--	--

4.1 Been subject to a denial or revocation of a government prequalification?	<input type="checkbox"/> Yes <input type="checkbox"/> No
--	--

4.2 Been denied a contract or had a bid rejected based upon a finding of non-responsibility by a government entity?	<input type="checkbox"/> Yes <input type="checkbox"/> No
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4.3 Agreed to a voluntary exclusion from bidding/contracting with a government entity?	<input type="checkbox"/> Yes <input type="checkbox"/> No
--	--

4.4 Initiated a request to withdraw a bid submitted to a government entity or made any claim of an error on a bid submitted to a government entity?	<input type="checkbox"/> Yes <input type="checkbox"/> No
---	--

For each “Yes” answer, provide an explanation of the issue(s), the Business Entity involved, the relationship to the submitting Business Entity, the government entity involved, relevant dates and any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.

**V. INTEGRITY – CONTRACT AWARD**

*Within the past five (5) years, has the Business Entity or any Affiliate*

5.0 Been suspended, cancelled or terminated for cause on any government contract?	<input type="checkbox"/> Yes <input type="checkbox"/> No
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5.1 Been subject to an administrative proceeding or civil action seeking specific performance or restitution in connection with any government contract?	<input type="checkbox"/> Yes <input type="checkbox"/> No
--	--

5.2 Entered into a formal monitoring agreement as a condition of a contract award from a government entity?	<input type="checkbox"/> Yes <input type="checkbox"/> No
---	--

For each “Yes” answer, provide an explanation of the issue(s), the Business Entity involved, the relationship to the submitting Business Entity, the government entity involved, relevant dates and any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.

**VI. CERTIFICATIONS/LICENSES**

6.0 Within the past five (5) years, has the Business Entity or any Affiliate had a revocation, suspension or disbarment of any business or professional permit and/or license?	<input type="checkbox"/> Yes <input type="checkbox"/> No
--	--

If “Yes,” provide an explanation of the issue(s), the Business Entity involved, the relationship to the submitting Business Entity, the government entity involved, relevant dates and any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.

**VII. LEGAL PROCEEDINGS**

*Within the past five (5) years, has the Business Entity or any Affiliate*

7.0 Been the subject of an investigation, whether open or closed, by any government entity for a civil or criminal violation?	<input type="checkbox"/> Yes <input type="checkbox"/> No
---	--

7.1 Been the subject of an indictment, grant of immunity, judgment or conviction (including entering into a plea bargain) for conduct constituting a crime?	<input type="checkbox"/> Yes <input type="checkbox"/> No
---	--

7.2 Received any OSHA citation and Notification of Penalty containing a violation classified as serious or willful?	<input type="checkbox"/> Yes <input type="checkbox"/> No
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7.3 Had any New York State Labor Law violation deemed willful?	<input type="checkbox"/> Yes <input type="checkbox"/> No
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**NEW YORK STATE  
VENDOR RESPONSIBILITY QUESTIONNAIRE  
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**VII. LEGAL PROCEEDINGS**

*Within the past five (5) years, has the Business Entity or any Affiliate*

7.4 Entered into a consent order with the New York State Department of Environmental Conservation, or a federal, state or local government enforcement determination involving a violation of federal, state or local environmental laws?	<input type="checkbox"/> Yes <input type="checkbox"/> No
7.5 Other than the previously disclosed: (i) Been subject to the imposition of a fine or penalty in excess of \$1,000, imposed by any government entity as a result of the issuance of citation, summons or notice of violation, or pursuant to any administrative, regulatory, or judicial determination; or (ii) Been charged or convicted of a criminal offense pursuant to any administrative and/or regulatory action taken by any government entity?	<input type="checkbox"/> Yes <input type="checkbox"/> No
For each "Yes" answer, provide an explanation of the issue(s), the Business Entity involved, the relationship to the submitting Business Entity, the government entity involved, relevant dates and any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	

**VIII. LEADERSHIP INTEGRITY**

*Note: If the Business Entity is a Joint Venture, answer 'N/A- Not Applicable' to questions 8.0 through 8.4.*

*Within the past five (5) years, has any individual previously identified, any other Key Employees not previously identified or any individual having the authority to sign execute or approve bids, proposals, contracts or supporting documentation with New York State been subject to*

8.0 A sanction imposed relative to any business or professional permit and/or license?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
8.1 An investigation, whether open or closed, by any government entity for a civil or criminal violation for any business related conduct?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
8.2 An indictment, grant of immunity, judgment, or conviction of any business related conduct constituting a crime including, but not limited to, fraud, extortion, bribery, racketeering, price fixing, bid collusion or any crime related to truthfulness?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
8.3 Misdemeanor or felony charge, indictment or conviction for: (i) any business-related activity including but not limited to fraud, coercion, extortion, bribe or bribe-receiving, giving or accepting unlawful gratuities, immigration or tax fraud, racketeering, mail fraud, wire fraud, price fixing or collusive bidding; or (ii) any crime, whether or not business related, the underlying conduct of which related to truthfulness, including but not limited to the filing of false documents or false sworn statements, perjury or larceny?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
8.4 A debarment from any government contracting process?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
For each "Yes" answer, provide an explanation of the issue(s), the individual involved, the relationship to the submitting Business Entity, the government entity involved, relevant dates and any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	

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<b>IX. FINANCIAL AND ORGANIZATIONAL CAPACITY</b>	
9.0 Within the past five (5) years, has the Business Entity or any Affiliates received any formal unsatisfactory performance assessment(s) from any government entity on any contract?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide an explanation of the issue(s), the Business Entity involved, the relationship to the submitting Business Entity, the government entity involved, relevant dates and any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
9.1 Within the past five (5) years, has the Business Entity or any Affiliates had any liquidated damages assessed over \$25,000?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide an explanation of the issue(s), the Business Entity involved, the relationship to the submitting Business Entity, the contracting party involved, the amount assessed and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
9.2 Within the past five (5) years, has the Business Entity or any Affiliates had any liens, claims or judgments over \$15,000 filed against the Business Entity which remain undischarged or were unsatisfied for more than 120 days?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide an explanation of the issue(s), the Business Entity involved, the relationship to the submitting Business Entity, relevant dates, the lien holder or claimant's name(s), the amount of the lien(s), claim(s), or judgments(s) and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
9.3 Within the last seven (7) years, has the Business Entity or any Affiliate initiated or been the subject of any bankruptcy proceedings, whether or not closed, regardless of the date of filing, or is any bankruptcy proceeding pending?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide the Business Entity involved, the relationship to the submitting Business Entity, the Bankruptcy Chapter Number, the Court name, the Docket Number. Indicate the current status of the proceedings as "Initiated," "Pending" or "Closed." Provide answer below or attach additional sheets with numbered responses.	
9.4 During the past three (3) years, has the Business Entity and any Affiliates failed to file or pay any tax returns required by federal, state or local tax laws?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide the Business Entity involved, the relationship to the submitting Business Entity, the taxing jurisdiction (federal, state or other), the type of tax, the liability year(s), the Tax Liability amount the Business Entity failed to file/pay, and the current status of the Tax Liability. Provide answer below or attach additional sheets with numbered responses.	
9.5 During the past three (3) years, has the Business Entity and any Affiliates failed to file or pay any New York State unemployment insurance returns?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide the Business Entity involved, the relationship to the submitting Business Entity, the year(s) the Business Entity failed to file/pay the insurance, explain the situation, and any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
9.6 During the past three (3) years, has the Business Entity or any Affiliates had any government audits? If "Yes," did any audit reveal material weaknesses in the Business Entity's system of internal controls If "Yes," did any audit reveal non-compliance with contractual agreements or any material disallowance (if not previously disclosed in 9.6)?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No
For each "Yes" answer, provide an explanation of the issue(s), the Business Entity involved, the relationship to the submitting Business Entity, the government entity involved, relevant dates and any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	

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**X. FREEDOM OF INFORMATION LAW (FOIL)**

10.0 Indicate whether any information supplied herein is believed to be exempt from disclosure under the Freedom of Information Law (FOIL). Note: A determination of whether such information is exempt from FOIL will be made at the time of any request for disclosure under FOIL.

Yes  No

Indicate the question number(s) and explain the basis for your claim.

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**Certification**

The undersigned: (1) recognizes that this questionnaire is submitted for the express purpose of assisting New York State government entities (including the Office of the State Comptroller (OSC)) in making responsibility determinations regarding award or approval of a contract or subcontract and that such government entities will rely on information disclosed in the questionnaire in making responsibility determinations; (2) acknowledges that the New York State government entities and OSC may, in their discretion, by means which they may choose, verify the truth and accuracy of all statements made herein; and (3) acknowledges that intentional submission of false or misleading information may result in criminal penalties under State and/or Federal Law, as well as a finding of non-responsibility, contract suspension or contract termination.

**The undersigned certifies that he/she:**

- is knowledgeable about the submitting Business Entity’s business and operations;
- has read and understands all of the questions contained in the questionnaire;
- has not altered the content of the questionnaire in any manner;
- has reviewed and/or supplied full and complete responses to each question;
- to the best of his/her knowledge, information and belief, confirms that the Business Entity’s responses are true, accurate and complete, including all attachments, if applicable;
- understands that New York State government entities will rely on the information disclosed in the questionnaire when entering into a contract with the Business Entity; and
- is under an obligation to update the information provided herein to include any material changes to the Business Entity’s responses at the time of bid/proposal submission through the contract award notification, and may be required to update the information at the request of the New York State government entities or OSC prior to the award and/or approval of a contract, or during the term of the contract.

Signature of Owner/Official \_\_\_\_\_

Printed Name of Signatory \_\_\_\_\_

Title \_\_\_\_\_

Name of Business \_\_\_\_\_

Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_;

\_\_\_\_\_ Notary Public



**NEW YORK STATE OFFICE OF THE STATE COMPTROLLER**  
**SUBSTITUTE FORM W-9:**  
**REQUEST FOR TAXPAYER IDENTIFICATION NUMBER & CERTIFICATION**

**TYPE OR PRINT INFORMATION NEATLY. PLEASE REFER TO INSTRUCTIONS FOR MORE INFORMATION.**

**Part I: Vendor Information**

1. Legal Business Name:

2. Business name/disregarded entity name, if different from Legal Business Name:

3. Entity Type (Check one only):

- Individual Sole Proprietor  
  Partnership  
  Limited Liability Co.  
  Corporation  
  Not For Profit  
 Trusts/Estates  
  Federal, State or Local Government  
  Public Authority  
  Disregarded Entity  
 Other \_\_\_\_\_

**Exempt Payee**

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

1. Enter your TIN here: (*DO NOT USE DASHES*)  
 See instructions.

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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. Remittance Address:

2. Ordering 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

Email Address

**Part IV: Vendor Primary Contact Information – Executive Authorized to Represent the Vendor**

Primary Contact Name: \_\_\_\_\_ Title: \_\_\_\_\_

Email Address: \_\_\_\_\_ Phone Number: \_\_\_\_\_

**Part V: Certification and Exemption from Backup Withholding**

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (TIN), and
2. I am a U.S. citizen or other U.S. person, and
3. (Check one only):
  - I am not subject to backup withholding.** I am (a) exempt from back up withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding), or
  - I am subject to backup withholding.** I have been notified by the IRS that I am subject to backup withholding as a result of a failure to report all interest or dividends, and I have not been notified by the IRS that I am no longer subject to back withholding.

**Sign Here:**

_____	_____	_____
Signature	Title	Date
_____	_____	_____
Print Preparer's Name	Phone Number	Email Address

**DO NOT SUBMIT FORM TO IRS – SUBMIT FORM TO NYS ONLY AS DIRECTED**

## NYS Office of the State Comptroller Instructions for Completing Substitute Form W-9

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New York State (NYS) must obtain your correct Taxpayer Identification Number (TIN) to report income paid to you or your organization. NYS Office of the State Comptroller uses the Substitute Form W-9 to obtain certification of your TIN in order to ensure accuracy of information contained in its payee/vendor database and to avoid backup withholding.<sup>1</sup> We ask for the information on the Substitute Form W-9 to carry out the Internal Revenue laws of the United States. You are required to give us the information.

Any payee/vendor who wishes to do business with New York State must complete the Substitute Form W-9. Substitute Form W-9 is the only acceptable documentation. We will not accept IRS Form W-9.

### ***Part I: Vendor 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. **Business name/disregarded entity name, if different from Legal Business Name:** Enter your DBA name or another name your entity is known by.
3. **Entity Type:** Check the Entity Type doing business with New York State.

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

The TIN provided must match the name in the "Legal Business Name" box to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, refers to IRS W-9 instructions for additional information. For other entities, it is your employer identification number (EIN). If you do not have a number or if the account is in more than one name, refer to IRS W-9 instructions for additional information.

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

### ***Part III: Address***

1. **Remittance Address:** Enter the address where payments, 1099s, if applicable, and official correspondence should be mailed. This will become the default address.
2. **Ordering Address:** Enter the address where purchase orders should be sent. Please note that purchase orders will be sent via email by default.

### ***Part IV: Vendor Primary Contact Information***

Please provide the contact information for an executive at your organization. This individual should be the person who makes legal and financial decisions for your organization. Name, phone number and email address are required.

### ***Part V: Certification and Exemption from Backup Withholding***

Check the appropriate box indicating your exemption status from backup withholding. Individuals and sole proprietors are not exempt from backup withholding. Corporations are exempt from backup withholding for certain types of payments. Refer to IRS Form W-9 instructions for additional information. The signature should be provided by the individual, owner, officer, legal representative, or other authorized person of the entity listed on the form. Certain exceptions to the signature requirement are listed in the IRS instructions for form W-9.

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<sup>1</sup> According to IRS Regulations, OSC must withhold 28% of all payments if a payee/vendor fails to provide OSC its certified TIN. The Substitute Form W-9 certifies a payee/vendor's TIN.