

REQUEST FOR PROPOSALS (RFP)
RFP # 24-UIU-39
New York State Department of State
Utility Intervention Unit
for
Wholesale Electric Markets Consulting and Advocacy Services

KEY DATES

Release Date:	July 22, 2025
Deadline for Questions:	August 5, 2025
Questions and Answers Posted:	August 13, 2025
Proposal Due Date:	September 2, 2025, 2:00 PM Eastern Time

The procurement is in a restricted period from the date this RFP is issued until the contract has been approved. All contacts and inquiries shall be made by email to the designated contact for this procurement at the following address:

Email: Leah.Golby@dos.ny.gov
(include in subject line: **RFP# 24-UIU-39** <name of vendor>)

Refer to dos.ny.gov/funding-bid-opportunities to review responses to all inquiries.

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1. INTRODUCTION

1.1. Overview

As a result of a settlement agreement between the Federal Energy Regulatory Commission (“FERC”) and a market participant, the New York State Department of State (“DOS”) has been awarded funding for the specific purpose of strengthening the wholesale electric market’s consumer advocacy of its Utility Intervention Unit (“UIU”). Section 94-a (4) of the New York Executive Law describes the UIU’s statutory responsibilities. The UIU has also been designated by the Board of Directors of the New York Independent System Operator (“NYISO”) as the Statewide Consumer Advocate when participating in matters before the NYISO. In this role, the UIU serves as a member of the End-Use Consumer Sector through which issues are discussed and positions are developed among sector members, including the New York State Energy Research and Development Authority, Multiple Intervenors, Consumer Power Advocates, and the City of New York, to advance the interests of end-use consumers.

The primary purpose of this Request for Proposal (“RFP”) is to secure consultancy and advocacy services to assist the UIU in effectively representing the interests of end-use consumers of New York State’s regulated electric markets through active participation in the governance processes of the NYISO. These services would include seeking changes to the design of the NYISO’s markets and rules that would benefit end-use consumers and arguing against proposed changes that would harm end-use consumers. A secondary purpose for procuring the consultancy and advocacy services is to facilitate and bolster the UIU’s participation before the FERC and the New York State Reliability Council (“NYSRC”). Successful Proposers will establish, on behalf of the UIU, a regular presence at the NYISO by participating in working group(s), task force and committee meetings and interacting with other market participants, NYISO staff, and staff of the New York State Department of Public Service (“DPS”), as well as other members of the End-Use Consumer Sector. The Proposer must be able to establish a physical presence at the NYISO in Albany, New York, and develop good working relationships with NYISO personnel.

1.2. Designated Contact

Pursuant to State Finance Law §§139-j and 139-k, this solicitation includes and imposes certain restrictions on all communications between DOS and Proposers during the procurement process. Proposers are restricted from making contacts from the earliest notice of intent to solicit offers/proposals, through final award and approval of the Procurement Contract by DOS, and, if applicable, the Office of the State Comptroller (“restricted period”), to anyone other than designated staff, unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law §139-j (3) (a).

As such, DOS identifies the following designated contact to whom all communications, including technical questions, requests for clarification, or any attempt to influence this procurement, must be made. In compliance with the Procurement Lobbying Law, Leah Golby has been designated the primary contact for this procurement solicitation and may be reached by email or surface mail for all inquiries regarding this solicitation.

Leah Golby
NYS Department of State
Bureau of Fiscal Administration
1 Commerce Plaza
99 Washington Avenue, Suite 1110
Albany, NY 12231
RFP # 24-UIU-39

By email: dos.sm.procurement@dos.ny.gov
Include in subject line: RFP# 24-UIU-39 <name of vendor>

DOS employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the Proposers pursuant to State Finance Law §§139-j and 139-k. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four-year period, Proposers are debarred from obtaining governmental Procurement Contracts.

For further information regarding these statutory provisions, see the Lobbying Statute Summary in Section 5.1.13 of this solicitation.

1.3. Term of Contract

This agreement shall be effective upon approval of the NYS Office of the State Comptroller. The anticipated contract term is five (5) years. The anticipated term of the contract is the period January 1, 2026 to December 31, 2030. DOS shall have no liability under this RFP to the successful Proposer for consulting services, or to any other party, prior to contract execution or beyond funds available for this RFP.

Estimated hours as provided in Attachment 6 of this RFP are for proposal purposes. Contracts will be paid pursuant to actual hours billed up to funding availability.

DOS will negotiate the contract for services in fulfillment of the needs of this RFP on the basis of demonstrated competence and qualifications. Contract negotiations may include, but are not

limited to, the selected Proposer's price proposals to ensure work is accomplished at fair and reasonable rates.

1.4. Eligible Proposers

Any for-profit organization authorized to do business in New York State is eligible to apply under this procurement. Not-for-profit entities are not eligible to apply.

1.5. Proposer's Minimum Qualifications

Eligible entities are businesses with at least one staff member with a minimum of three years of demonstrated knowledge and expertise in the wholesale electric market.

2. SCOPE OF WORK

2.1. Consultant Responsibilities

2.1.1. NYISO Working Group/ Subcommittee Subject Matter Areas

The UIU is seeking consumer advocacy services pertinent to each of the NYISO working group/task force/subcommittee Subject Matter Areas listed below:

- a. *Planning and Resource Adequacy* (Electric System Planning Working Group, Interconnection Issues Task Force, Load Forecasting Task Force, Systems Operations Advisory Subcommittee, Transmission Planning Advisory Subcommittee, Electric System Planning Working Group, Electric Gas Coordination Working Group). For Cost Proposal purposes, assume 500 hours per year of contracted work.
- b. *Energy, Capacity, Ancillary Markets and Demand Response* (Market Issues Working Group, Installed Capacity Working Group, Price-Responsive Load Working Group). For Cost Proposal purposes, assume 2000 hours per year of contracted work.

Proposers may respond to this RFP to perform the work as an individual consultant or as a team of consultants. Proposers must identify the NYISO working group Subject Matter Area for which they are bidding. If a proposer wishes to be considered for more than one Subject Matter Area, separate proposals must be submitted for each of the Subject Matter Areas.

2.1.2. Consumer Advocacy Services

For each of the NYISO working group Subject Matter Areas listed above, the Consumer Advocacy Services to be provided by successful proposers under the direction of DOS-UIU include:

- a. Developing robust working relationships with NYISO staff, DPS staff and other stakeholders in wholesale electric markets, including members of all five NYISO Subject Matter Areas.
- b. Regularly attending and actively participating in NYISO forums and activities, including committees and subcommittees, planning processes, working groups, and task force meetings, as well as occasional FERC and NYSRC meetings and proceedings, technical conferences, and hearings, as directed by the UIU.
- c. In coordination with other members of the End-Use Consumer Sector, at the direction of the UIU, identifying, effectively presenting and vigorously advocating positions and proposals for modifications to existing wholesale electric market rules and design that would benefit end-use consumers.
- d. Thoroughly analyzing proposed modifications by the NYISO staff or other parties to existing market designs and rules to determine the impact of the changes on end-use consumers, and as directed by the UIU, vigorously promote or challenge, as warranted, those proposals.
- e. Identifying issues of concern to UIU, providing technical advice to UIU, and developing analyses of other proposals introduced into the NYISO stakeholder process, the FERC, or the NYSRC from an end-use consumer perspective, as directed by the UIU.
- f. Assisting in developing discovery or information requests regarding any wholesale electric market activities and issues that the UIU determines to be important to end-use consumer interests.
- g. Submitting memoranda as requested by UIU to identify the potential issues of interest to UIU and outline potential ramifications and alternative recommendations.
- h. Reviewing and drafting policy documents such as comments and expert testimony on behalf of end-use consumers of electricity and advocating UIU positions in the NYISO, FERC, and NYSRC stakeholder processes.
- i. Interacting with, and providing resources to support the efforts of, other entities seeking to protect or advance the interests of end-use consumers on wholesale electric supply issues within the decision-making structures of the NYISO, FERC or the NYSRC.

- j. Developing an annual report in consultation with UIU that summarizes key issues for the past year.
- k. To the extent that the UIU deems necessary, appearing in any other administrative or legal proceedings that the UIU determines to be of importance to the interests of end-use consumers of electricity in New York State.
- l. To the extent that the UIU deems necessary, providing technical assistance in briefing electric wholesale market issues to the New York State Public Service Commission or any other branch of New York State government.
- m. Other activities consistent with activities mentioned above and in support of representing the interests of end-use customers of New York State's regulated electric markets.

2.1.3. Conflict of Interest

The UIU expects the consultant to give priority to this assignment but is willing to discuss with the successful Proposer during the contracting process structures and processes to prevent and eliminate any potential conflicts. See Attachment 2, Conflict of Interest Statement.

2.2. UIU Responsibilities

The UIU will provide written or oral direction to the consultant(s) as to which meetings to attend and which issues to focus upon in the short- and intermediate-term at the NYISO, FERC and the NYSRC. The UIU will monitor consultant(s) activities so as to achieve its objectives in a cost-efficient manner. Monitoring will ensure consistency with:

- a. The objectives discussed in this RFP.
- b. UIU policy objectives and recommendations in other proceedings.
- c. The agreed-upon scope of each activity.
- d. Activity schedules, activity cost estimates, and overall budget.

3. PROPOSAL SUBMISSION

3.1. Question Submission and Agency Response

Questions and requests for clarification regarding this RFP shall only be directed to the Designated Contact. Communications are only accepted via e-mail, or in writing, and must be submitted by the date posted on the cover page of this RFP. Official answers to questions will be posted on the

DOS's website at <https://dos.ny.gov/funding-bid-opportunities> on the date stated on the cover page of this RFP.

By submitting a proposal, Proposer agrees to all terms and conditions of this RFP and the terms of the Sample Contract attached. Any questions regarding the terms and conditions of this RFP and the sample contract must be submitted prior to the Questions Due Date stated on the cover of this RFP. Exceptions to the terms of this RFP or the terms and conditions of the sample contract will not be considered unless they are submitted as a question during the Q&A period.

3.2. Method for Issuing Clarifications or Modifications to the RFP

The issuance of clarifications or modifications to this RFP will be posted on the DOS's website at <https://dos.ny.gov/funding-bid-opportunities> and may occur within the posting of official answers to questions (see cover page for posting dates).

3.3. Submission of Proposals

Late Proposals: Electronic proposals must be received by 2:00 pm Eastern Time on the due date listed on the cover of this RFP. Proposers assume all risks for timely, properly submitted proposals. It is strongly recommended that proposals be submitted no later than two days before the due date in case there are technical difficulties with the submittal. Late proposals will neither be accepted nor reviewed. DOS is not responsible for proposals that are not received or not received timely due to technical issues. DOS will confirm receipt of proposals, but the Proposer is responsible for ensuring that their proposal was received. Proposers will be notified via email that their Proposal is rejected if their Proposal was received after the stated due date and time.

Incomplete Proposals: Only those contractors who furnish all required information will be considered for evaluation. Additional time for resubmitting incomplete applications will not be given past the stated due date and time. DOS is not responsible for proposals that are incomplete due to technical issues. DOS reserves the right to request submittal of forms missing from a proposal after the proposal due date and time.

Electronic Submittal: Proposals and all required forms must be submitted electronically. For the purposes of this RFP, electronic signatures are considered to be the same as a hard copy signature. Proposer 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 their proposal regardless of whether the original of said application is in existence.

Proposal Format: Electronic proposals must be signed and submitted in three pdf document attachments (Technical Proposal, Cost Proposal, and Diversity Practices Proposal) to the DOS Procurement mailbox at dos.sm.procurement@dos.ny.gov in an email with the subject line as follows:

- (1) Wholesale Electric Markets Consulting and Advocacy Services RFP 24-UIU-39, and
- (2) the name of the Proposer

Proposals must be sent to the Procurement mailbox only. Please do not include any additional DOS staff when submitting the proposal. Including additional staff on a proposal submission may be seen as a violation of Procurement Lobbying Law.

Proposal documents must be attached to the email in a pdf format, links to shared sites where documents can be accessed will not be allowed.

No financial proposal or pricing information may be included in the Technical Proposal. Technical, Cost, and Diversity Practices Proposals must be submitted as separate document attachments and labeled as follows:

- (1) Wholesale Electric Markets Consulting and Advocacy Services, RFP#24-UIU-39;
- (2) the name of the Proposer, and
- (3) labeled “Technical Proposal”, “Cost Proposal”, or “Diversity Practices Proposal” as applicable.

The State of New York will not be held liable for any cost incurred by the contractor for work performed in the preparation and production of a proposal or for any work performed prior to the formal execution and approval of a contract.

Proposals must remain open and valid for 365 days from the due date, unless the time for awarding the contract is extended by mutual consent of DOS and the Proposer. A proposal shall continue to remain an effective offer, firm and irrevocable, subsequent to such 365-day period until either tentative award of the contract(s) by the issuing office is made or withdrawal of the proposal in writing by Proposer. Tentative award of the contract(s) shall consist of written notice to that effect by the issuing office to the successful contractor(s), who shall thereupon be obligated to execute a formal contract. This RFP remains the property of the State at all times, and all responses to this RFP, once delivered, become the property of the State.

3.4. Packaging of RFP Response

Each page of the proposal should be numbered consecutively from the beginning of the proposal through all appendices. Forms and attachments submitted should be complete and legible and include original signatures where requested. For the purposes of this RFP, electronic signatures are considered to be the same as a hard copy signature. Proposals should adhere to page limitations; where there are page limitations, Proposers should use 12-point font with one-inch margins.

Proposal evaluators will not review any material that is submitted above the maximum stated section page limits where noted.

Separate proposals must be submitted for each Subject Matter Area. Failure to submit separate proposals will result in the disqualification of all combined proposals.

3.5. Elements in the Response

Proposers may respond to this RFP to perform the work as an individual consultant or as a team of consultants. Proposals that include a team of consultants must identify a Lead Proposer who will be the responsible party for all purposes including contract award and contract execution. DOS will contract with only one proposer.

Proposers must identify the NYISO working group Subject Matter Area for which they are bidding. If a proposer wishes to be considered for more than one Subject Matter Area, separate proposals must be submitted for each of the Subject Matter Areas.

Each proposal must include three distinct attachments:

1. Technical Proposal,
2. Cost Proposal, and
3. Diversity Practices Proposal

No financial proposal or pricing information may be included in a Proposer's technical proposal.

3.5.1. Elements of the Technical Proposal

The Proposer's technical proposal must contain, at a minimum, the following completed documents signed by an official authorized to bind the Proposer to the provisions of the RFP. For the purposes of this RFP, electronic signatures are considered to be the same as a hard copy signature. Failure to submit the required documents may result in the proposal being deemed nonresponsive.

(1) Technical Proposal Transmittal Sheet (Attachment 4)

Proposers must submit a complete Technical Proposal Transmittal Sheet with original signature. For the purposes of this RFP, electronic signatures are considered to be the same as a hard copy signature. The transmittal letter response should attest that the Proposer has the demonstrated knowledge and expertise in the services sought for in the RFP, which is offered in the proposal as specified regarding each working group Subject Matter Area.

(2) Qualifications and Overall Experience (up to 15 pages)

Proposers should demonstrate knowledge and expertise in the wholesale electric market. Proposers should demonstrate that they have the organizational capacity, knowledge, and expertise to perform all tasks necessary to identify and support services sought in this RFP, including comprehensive understanding of the underlying mechanisms of the respective Subject Matter Area. Further, proposers should demonstrate the capability to engage fully in the discussions of the NYISO's Management Committee, Business Issues Committee and Operating Committee and their respective working groups as well as selected activities of FERC and the NYSRC as required in the respective Subject Matter Area.

Proposers must identify all key personnel that will be supplying the requested services and their area(s) of expertise. Include resumes as attachments (not included in the page count) describing specific accomplishments, experiences, education, and expertise of the individuals who will be providing services relative to this RFP, including number of years of relevant work experience. If a team of consultants will provide the services, Proposers must identify an individual that will serve as the single point of contact for the requested consulting services. Proposers must describe the depth of available resources to provide requested services, including through available industry connections and institutional support.

Proposers must describe their relevant work experience, expertise and abilities as a firm to deliver the services described in this RFP, including quality and depth of experience in providing such services. This description should include a brief summary of similar projects. The project descriptions should specify the level of involvement of the Proposers and the results/deliverables of the project and demonstrate that the Proposer is qualified to provide Consumer Advocacy Services. Include as attachments, three examples of prior work products, with confidential information redacted if necessary (not included in the page count). Proposers must evidence the ability to explain technical concepts in understandable terms to UIU staff and other members of the End-Use Consumer Sector, provide assistance in briefing technical market issues and a high level of understanding of the relevant subject areas as well as the ability to communicate effectively and work collaboratively with other entities.

Proposers must demonstrate the ability to: commit time and resources to fulfill consultant duties as listed in this RFP; employ sufficient resources to meet any procedural schedules, timelines, or deadlines; work effectively as a team member with a diverse group of stakeholders; anticipate cost of services and willingness to work with UIU to minimize costs.

3.5.2. Elements of the Cost Proposal

The Proposer's cost proposal must contain, at a minimum, the following completed documents signed by an official authorized to bind the Proposer to the provisions of the RFP. Failure to submit the required documents may result in the proposal being deemed nonresponsive.

(1) Cost Proposal Transmittal Sheet (Attachment 5)

The sheet must be signed by an official authorized to bind the Proposer to the provisions of the RFP and the Proposer's response. The signed cover sheet includes an attestation that the Proposer's Cost Proposal will remain valid for a minimum of 365 days from the RFP proposal due date. All relevant fields should be complete and legible. An original signature must be submitted; failure to do so will disqualify the proposal.

(2) Cost Proposal Bid Forms (Attachment 6)

The Cost Proposal must include a completed Cost Proposal Bid Form (Attachment 6). The Cost Proposal Bid Detail Sheet will contain prices for contract activities listed in this RFP. All costs associated with the contract activities must be included in hourly rates listed on the Cost Proposal Bid Detail Sheet.

Proposers must include a pricing proposal for the provision of services requested in this RFP. Pricing proposals shall include a fully burdened hourly rate for each identified key personnel.

Proposers will submit pricing which will be utilized and applicable for the first year of the contract. The final four years of the contract will be subject to an annual one-time price increase of the lesser of two percent (2%) or the percent increase in the National Consumer Price Index for All Urban Consumers (CPI-U) as published by the United States Bureau of Labor Statistics, Washington D.C., 2012 for the twelve (12) month period ending three (3) calendar months prior to the anniversary date of the first year of the contract.

The price increase stated above is applicable only to those fees paid by DOS. No increases to third party fees are allowed during the contract period unless authorized by DOS.

For the purposes of this proposal, use the following guidelines in assigning staff to one of the two levels listed below; provide one hourly rate for each Staff Level.

Level 1 Staff:

- | | |
|--------------|---|
| Staff Types: | Principals, Project Leaders, Lead Consultants, or other staff with similar responsibilities. |
| Experience: | These staff have extensive experience and knowledge of the subject areas listed and proposal for from this RFP. These upper-level staff are seasoned professionals. |

General Duties: Project oversight, management of Contractor's team, liaison with UIU, and stakeholder relationships.

Level 2 Staff:

Staff Types: Analysts, Consulting Assistants, or other staff with similar responsibilities.

Experience: These staff are entry level professionals. They work under direct supervision of Level 1 staff.

General Duties: Technical support and data manipulation, but not necessarily drawing conclusions or making recommendations.

The Proposer's cost proposal should also contain the following completed forms:

1. Non-Collusive Bid Certification (Attachment 1 found at <https://dos.ny.gov/procurement-forms>)
2. Conflict of Interest Statement (Attachment 2 found at <https://dos.ny.gov/procurement-forms>)
3. Procurement Lobbying Forms (Attachment 3 found at <https://dos.ny.gov/procurement-forms>)
4. ST-220-CA (Attachment 7 found at <https://dos.ny.gov/procurement-forms>)
5. Executive Order 16 Certification (Attachment 8 found at <https://dos.ny.gov/procurement-forms>)
6. If proposing to subcontract for any services, SDVOB Form 100 (Attachment 11 found at <https://dos.ny.gov/supplier-diversity>)

3.5.3. Elements of Diversity Practices Proposal

The Proposer's Diversity Practices proposal must contain, at a minimum, the following completed documents signed by an official authorized to bind the Proposer to the provisions of the RFP:

1. Diversity Practices Questionnaire (Attachment 9 found at <https://dos.ny.gov/procurement-forms>)
2. If proposing to subcontract for any services, MWBE Form D (Attachment 10 found at <https://dos.ny.gov/supplier-diversity>)

A scanned signature or an electronic signature on the form are both acceptable.

4. EVALUATION AND SELECTION PROCESS

4.1. Proposal Evaluation

All proposals are subject to an evaluation by the DOS. The DOS will select the Proposer who will provide the “best value”, taking into consideration qualifications, experience, services and cost, and the consistency of the proposal with the requirements of this RFP. Only proposals judged to be responsive to the submission requirements as set forth in this RFP will be evaluated. The technical and cost sections of each proposal will be evaluated separately, using the criteria described below.

Proposals will be reviewed for conformity with this RFP and will be evaluated for substantive content. The Evaluation Team may request that additional information or clarification be provided.

The evaluation process will consist of three phases: Technical Evaluation, Cost Evaluation and Diversity Practices Evaluation, as described in the following sections.

4.2. Evaluation Criteria

4.2.1. Technical Proposal Evaluation (78 points)

An Evaluation Panel composed of at least three individuals will evaluate technical proposals. The final technical score for each proposal will be derived by averaging the raw technical score from each reviewer carried out to two decimal places to arrive at the final technical score.

Technical Proposal Evaluation Factors (78 points)

Proposals will be evaluated to determine the degree to which the Proposer:

- a. Possesses demonstrated knowledge and expertise in the wholesale electric market.

Evidences the organizational capacity, knowledge, and expertise to perform all tasks necessary to identify and support services sought in this RFP, including comprehensive understanding of the underlying mechanisms of the respective Subject Matter Area.

Demonstrates capability to engage fully in the discussions of the NYISO’s Management Committee, Business Issues Committee, and Operating Committee and their respective working groups as well as selected activities

of FERC and of the NYSRC, as required in the respective Subject Matter Area.

Overall qualifications and expertise of primary person and personnel/team in relevant support areas including graduate degrees held by the staff working on the project, if any.

Expertise in economics and engineering as related to electric systems as well as a solid understanding of electric system modeling.

Adequacy/depth of resources to provide requested services; availability of industry connections and institutional knowledge for support.

- b. Demonstrates previous experience, projects, and duties in conducting and delivering similar or related services.

Demonstrates bidder's effectiveness in obtaining results to meet client goals.

Ability to explain technical concepts in understandable terms to UIU staff and other members of the End-Use Consumer Sector.

Demonstrated experience working in collaborative partnerships with other entities.

- c. Demonstrates adequate commitment of time and resources for the requested services working with UIU staff.

Demonstrated sufficient resources and flexibility to respond to and meet any procedural schedules, timelines, or deadlines.

Demonstrates ability to work effectively as a team member with a diverse group of stakeholders.

Demonstrates ability to anticipate cost of services and willingness to work with the UIU to minimize costs.

4.2.2. Cost Proposal Evaluation (20 points)

The evaluation and scoring of the costs will be determined independently by DOS' Bureau of Fiscal Management. The lowest Proposer must receive the maximum number of points awarded for the cost component (20 points). The other Proposers will receive a proportional score using the following formula:

$a = (b/c) \times 20$, where:

- b = lowest total cost;
- c = total cost for the Proposer being scored;
- a = normalized cost score for Proposer being scored; and
- 20 = total cost points.

4.2.3. Diversity Practices Questionnaire (2 points)

Diversity Practices Questionnaire will be scored in accordance with the established matrix. (2 points)

4.3. Method of Award

This is a competitive procurement that will result in one or more contracts to perform consultant and advocacy services as stated in Section 2.1 of this RFP. The method of award is best value, which takes into consideration cost as well as technical or non-cost factors.

Each evaluator's individual technical scores will be averaged and carried out to two decimal places to arrive at an overall technical score. Technical scores will account for 78%, Diversity Practices will account for 2%, and cost will account for 20% of the total score. DOS will make the award based on the highest overall score. In the event of a tie score, cost will be the determining factor in making an award. If both the final score and cost score are tied, the first proposal received will be awarded the contract.

4.4. Notification of Award

After the evaluation, all Proposers offering proposals will be notified of the name(s) of the selected Proposer(s). The selected Proposer(s) will be notified that their submitted proposal has been selected and that a contract will be forthcoming for execution. The original proposal, and any additions or deletions to the proposal become part of the contract.

Public announcements or news releases pertaining to any contract resulting from this RFP shall not be made without prior approval from the issuing office.

5. ADMINISTRATIVE INFORMATION

5.1. Mandatory Requirements

5.1.1. Confidentiality

Internal drafts of DOS/UIU documents must be treated as confidential. In addition, documents obtained and/or produced during the course of the successful Proposer's work under the contract shall be designated as "confidential" or "trade secret"

All individuals performing work under the contract will be required to sign a "confidentiality agreement" that will preclude anyone from revealing or utilizing the information contained in a confidential/trade secret document in connection with any activity other than work under the contract.

Confidential documents will only be available to individuals on a need-to-know basis, are to be kept and used in a secure setting and cannot be copied. Penalties have been established by the State of New York for any violation of the confidentiality agreement.

5.1.2. Consultant Assurances

The successful Proposer(s) must agree that it will perform its obligations under the contract in accordance with all applicable Federal, State and local laws, rules and regulations now and hereafter in effect.

The successful Proposer(s) must warrant and affirm that the terms of the RFP, its proposal, and any resulting contract do not violate any contracts or agreements to which it is a party and that its contractual obligations will not adversely influence its ability to perform under the contract. The successful Proposer(s) must also attest that it will not enter into any contractual relationship with a NYISO Market Participant (listed at [8a3a697c-8cde-b94e-52d6-912cfbeb252c](#) without the express signed authorization of DOS and to disclose any relationship that may suggest a conflict of interest.

5.1.3. Subcontracting

DOS is seeking prime contractors to self-perform this work. Subcontracting is not anticipated under this opportunity but may be allowed with prior written authorization from DOS. The goals of the Minority and Women Owned Business Enterprises and Service Disabled Veteran Owned Business programs will apply to any future applicable expenses.

5.1.4. Proprietary Interests

All information and products developed under this contract become the sole property of the DOS. The successful Proposer(s) shall not copyright any material developed under this contract.

5.1.5. Travel

The successful Proposer(s) will be located within commuting distance of the Albany area or be willing to pay for their own travel to all NYISO meetings scheduled to be longer than two hours to effectively carry out the requested consulting services. All travel, other than travel from the Albany area to the NYISO in Rensselaer, New York, must be first pre-approved in writing by DOS and is expected to be extremely limited, mainly for attendance at FERC meetings in Washington, D.C. or NYISO meetings in New York City.

Compensation for such travel will be provided at the same rates as established by the Office of the State Comptroller in the State of New York Office of the State Comptroller Travel Manual (<https://www.osc.state.ny.us/agencies/travel/manual.pdf>). Current rates are identified at the following website: <https://www.gsa.gov/travel/plan-book/per-diem-rates>.

5.1.6. Reporting Requirements

The successful Proposer(s) will be responsible for the completion of a variety of administrative and reporting requirements, and the cost of same shall be included in the proposal price. Upon award of the contract and prior to the start of any work, the successful Proposer(s) shall be available for an initial job meeting with DOS. This meeting will include:

- a. An introduction for each respective organization, chain of command, etc., and
- b. Review of the scope of work and the expectations of UIU and the consultant.

During the term of any contract resulting from this RFP, the successful Proposer(s) shall maintain contact with the UIU regarding all communication and transactions relating to the aforementioned contract(s). Upon completion of each assignment, the results must be forwarded to the UIU.

5.1.7. Dispute and Conflict Resolution

During the course of the contract between the DOS and the successful Proposer(s), attempts may be made to resolve any disputes between the parties by telephone or by in-person discussions whenever feasible, with follow-up written documentation as appropriate.

5.1.8. Debriefing

Unsuccessful applicants may request the opportunity to be debriefed. Requests must be made in writing within 15 calendar days of receipt of notice of award to the same address to which applications are submitted.

5.1.9. Protest Procedures

In the event unsuccessful Proposers wish to protest the award resulting from this RFP, Proposers should follow the protest procedures established by the Office of the State Comptroller (OSC). These procedures can be found in Chapter XI Section 17 of the Guide to Financial Operations (GFO). Available on-line at: <http://www.osc.state.ny.us/agencies/guide/MyWebHelp/>.

5.1.10. Vendor Responsibility Questionnaire

DOS conducts a review of prospective Contractors (Proposers) to provide reasonable assurances that the Proposer is responsive and responsible. A Questionnaire is used for non-construction contracts and is designed to provide information to assess a Proposer's responsibility to conduct business in New York based upon financial and organizational capacity, legal authority, business integrity, and past performance history. By submitting a proposal, Proposer agrees to fully and accurately complete and submit the "Questionnaire". The Proposer acknowledges that the State's execution of the Contract will be contingent upon the State's determination that the Proposer is responsible, and that the State will be relying upon the Proposer's responses to the Questionnaire when making its responsibility determination.

DOS strongly recommends that vendors file the required Vendor Responsibility Questionnaire online via the New York State VendRep System. To enroll in and use the New York State VendRep System, see the VendRep System Instructions available at http://www.osc.state.ny.us/vendrep/info_vrsystem.htm or go directly to the VendRep System online at <https://onlineservices.osc.state.ny.us/Enrollment/login>. Vendors must provide their New York State Vendor Identification Number when enrolling. To request assignment of a Vendor ID or for VendRep System assistance, contact the Office of the State Comptroller's Help Desk at 866-370-4672 or 518-408-4672 or by email at itservicedesk@osc.state.ny.us. Vendors opting to complete and submit a paper questionnaire can obtain the appropriate questionnaire from the VendRep website www.osc.state.ny.us/vendrep or may contact DOS or the Office of the State Comptroller's Help Desk for a copy of the paper form.

In order to assist the State in determining the responsibility of the Proposer, the Proposer should complete and certify (or recertify) the Questionnaire no more than six months prior to the proposal due date. Please note that a Proposer's Questionnaire cannot be viewed by DOS until the Proposer has certified the Questionnaire. It is recommended that all Proposers become familiar with all of

the requirements of the Questionnaire in advance of the proposal opening to provide sufficient time to complete the Questionnaire.

The Proposer agrees that if it is found by the State that the Proposer's responses to the Questionnaire were intentionally false or intentionally incomplete, on such finding, DOS may terminate the Contract. In no case shall such termination of the Contract by the State be deemed a breach thereof, nor shall the State be liable for any damages for lost profits or otherwise, which may be sustained by the Contractor as a result of such termination.

This section shall also apply to any proposed subcontractor performing services under the contract in excess of \$100,000.00, or at the discretion of DOS.

5.1.11. Contractor's Insurance Requirements

Prior to the commencement of the work, the Contractor shall file with the State, Certificates of Insurance evidencing compliance with all requirements contained in the Contract. Such certificate shall be of form and substance acceptable to the State.

Acceptance and/or approval by the State does not and shall not be construed to relieve Contractor of any obligations, responsibilities or liabilities under the Contract.

All insurance required by the Contract shall be obtained at the sole cost and expense of the Contractor; shall be maintained with insurance carriers licensed to do business in New York State; shall be primary and non-contributing to any insurance or self-insurance maintained by the State; shall be endorsed to provide written notice be given to the State, at least thirty (30) days prior to the cancellation, non-renewal, or material alteration of such policies, which notice, evidenced by return receipt of United States Certified Mail which shall be sent to New York State Department of State, One Commerce Plaza, 99 Washington Avenue, Albany, New York 12231-0001; and shall name the People of the State of New York and their directors, officers, agents, and employees as additional insured thereunder.

The Contractor shall be solely responsible for the payment of all deductibles to which such policies are subject.

Each insurance carrier must be rated at least "A" Class "VII" in the most recently published Best's Insurance Report. If, during the term of the policy, a carrier's rating falls below "A" Class "VII", the insurance must be replaced no later than the renewal date of the policy with an insurer acceptable to the State and rated at least "A" Class "VII" in the most recently published Best's Insurance Report.

The Contractor shall cause all insurance to be in full force and effect as of the date of the Contract and to remain in full force and effect throughout the term of the Contract and as further required by the Contract. The Contractor shall not take any action or omit any action that would suspend or

invalidate any of the required coverages during the period of time such coverages are required to be in effect.

Not less than thirty (30) days prior to the expiration date or renewal date, the Contractor shall supply the State updated replacement Certificates of Insurance, and amendatory endorsements.

Unless the Contractor is self-insured, Contractor shall, throughout the term of the Contract or as otherwise required by the Contract, obtain and maintain in full force and effect the following insurance with limits not less than those described below and as required by the terms of the Contract, or as required by law, whichever is greater (limits may be provided through a combination of primary and umbrella/excess policies). Where Contractor is self-insured, the Contractor shall provide suitable evidence of such to the State relating to the risks and coverage amounts as provided hereunder.

- A. Workers Compensation, Employers Liability, and Disability Benefits as required by New York State.
- B. If automobile travel is anticipated pursuant to the Budget and Program Work Plan (Appendix B), Comprehensive Automobile Liability Insurance with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of any automobile including owned, leased, hired and non-owned automobiles.
- C. the Proposer shall maintain, or if subcontracting professional services, shall certify that Subcontractor maintain, errors and omissions liability insurance with a limit of not less than \$1,000,000 per loss.

(a)Such insurance shall apply to professional errors, acts, or omissions arising out of the scope of services covered by this Contract and, if the project involves abatement, removal, repair, replacement, enclosure, encapsulation and/or disposal of any hazardous material or substance, it may not exclude bodily injury, property damage, pollution or asbestos related claims, testing, monitoring, measuring, or laboratory analyses.

(b)If coverage is written on a claims-made policy, the Proposer warrants that any applicable retroactive date precedes the effective date of this Contract; and that continuous coverage will be maintained, or an extended discovery period exercised, for a period of not less than two years from the time work under this Contract is completed.

5.1.12. State Consultant Services Reporting

Chapter 10 of the Laws of 2006 amended the Civil Service Law and the State Finance Law, relative to maintaining certain information concerning contract employees working under State agency service and consulting contracts. State agency consultant contracts are defined as “contracts

entered into by a state agency for analysis, evaluation, research, training, data processing, computer programming, engineering, environmental health and mental health services, accounting, auditing, paralegal, legal, or similar services” (“covered consultant contract” or “covered consultant services”). The amendments also require that certain contract employee information be provided to the state agency awarding such contracts, the Office of the State Comptroller (OSC), the Division of the Budget and the Department of Civil Service (CS). The effective date of these amendments is June 19, 2006. The requirements will apply to covered contracts awarded on and after such date.

To meet these requirements, winning Proposers for procurements involving consultant services agree to complete:

- Form A – the Contractor’s Planned Employment Form.
- Form B – the Contractor’s Annual Employment Report throughout the term of the Contract by May 1st of each year.

The following information must be reported for each covered consultant contract in effect at any time between the preceding April 1st through March 31st fiscal year or for the period of time such contract was in effect during such prior State fiscal year:

1. Total number of employees employed to provide the consultant services, by employment category.
2. Total number of hours worked by such employees.
3. Total compensation paid to all employees that performed consultant services under such Contract.*

(Information must be reported on the Contractor’s Annual Employment Report (Form B) or other format stipulated by DOS.)

**NOTE: The information to be reported is applicable only to those employees who are directly providing services or directly performing covered consultant services. However, such information shall also be provided relative to employees of Subcontractors who perform any part of the service contract or any part of the covered consultant contract. This information does not have to be collected and reported in circumstances where there is ancillary involvement of an employee in a clerical, support, organizational or other administrative capacity.*

Contractor agrees to simultaneously report such information via Form B to the Department of Civil Service, the Office of the State Comptroller and the Department of State, as designated below:

NYS Office of the State Comptroller
Bureau of Contracts
110 State St, 11th floor
Albany, NY 12236
Attn: Consultant Reporting

NYS Department of State
Contract Administration Unit
1 Commerce Plaza
99 Washington Avenue, Suite 1110
Albany, NY 12231
Proposal # RFP 24-UIU-39

NYS Department of Civil Service
Alfred E. Smith Office Building
Albany, NY 12239

Contractor is advised herein and understands that this information is available for public inspection and copying pursuant to section 87 of the New York State Public Officers Law (Freedom of Information Law). In the event individual employee names or social security numbers are set forth on a document, the state agency making such disclosure is obligated to redact both the name and social security number prior to disclosure.

5.1.13. Lobbying Statute Summary

Pursuant to State Finance Law §§ 139-j and 139-k, this Request for Proposal includes and imposes certain restrictions on communications between a Governmental Entity and a Proposer during the procurement process. A Proposer is restricted from making contacts from the earliest posting, on a Governmental Entity's website, in a newspaper of general circulation, or in the procurement opportunities newsletter in accordance with article four-C of the economic development law of written notice, advertisement or solicitation of a request for proposal, invitation for bids, or solicitation of proposals, or any other method provided for by law or regulation for soliciting a response from Proposers intending to result in a Procurement Contract with a Governmental Entity through final award and approval of the Procurement Contract by the Governmental Entity and, if applicable, the Office of the State Comptroller ("Restricted Period") to other than the Designated Contacts for the Governmental Procurement unless it is a Contact that is included among certain statutory exceptions set forth in State Finance Law § 139-j(3)(a). The Designated Contact(s) for this Governmental Procurement, as of the date hereof, are also required to obtain certain information when contacted during the Restricted Period and make a determination of the responsibility of the Proposer pursuant to these two statutes. Certain findings of nonresponsibility can result in rejection for contract award and in the event of two findings within a 4-year period, the Proposer is debarred from obtaining governmental Procurement Contracts.

5.1.14. New York State Tax Law Section 5-a

Section 5-a of the Tax Law, as amended, effective April 26, 2006, requires certain contractors awarded state contracts for commodities, services and technology valued at more than \$100,000 to certify to the Department of Tax and Finance (DTF) that they are registered to collect New York State and local sales and compensating use taxes. The law applies to contracts where the total amount of such contractors' sales delivered into New York State are in excess of \$300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made, and with respect to any affiliates and subcontractors whose sales delivered into New York State exceeded \$300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made.

This law imposes upon certain contractors the obligation to certify whether or not the contractor, its affiliates, and its subcontractors are required to register to collect state sales and compensating use tax and contractors must certify to DTF that each affiliate and subcontractor exceeding such sales threshold is registered with DTF to collect New York State and local sales and compensating use taxes. The law prohibits the State Comptroller, or other approving agencies, from approving a contract awarded to an offerer meeting the registration requirements but who is not so registered in accordance with the law.

Form ST-220-TD must be filed with and returned directly to DTF. Unless the information upon which the ST-220-TD is based changes, this form only needs to be filed once with DTF. If the information changes for the contractor, its affiliate(s), or its subcontractor(s) a new Form ST-220-TD must be filed with DTF.

If awarded a contract, Form ST-220-CA must be filed with the procuring covered agency certifying that the contractor filed the ST-220-TD with DTF. Proposed contractors should complete and return the certification forms within two business days of request (if the forms are not completed and returned with proposal submission). Failure to make either of these filings may render a Proposer non-responsive and non-responsible. Proposers shall take the necessary steps to provide properly certified forms within a timely manner to ensure compliance with the law.

Vendors may call DTF at 1-800-698--2909 for any and all questions relating to Section 5-a of the Tax Law and relating to a company's registration status with the DTF. For additional information and frequently asked questions, please refer to the DTF website: https://www.tax.ny.gov/pubs_and_bulls/tg_bulletins/st/section_5a.htm#:~:text=Introduction,to%20locations%20within%20New%20York.

5.1.15. Contractor Requirements and Procedures for Business Participation Opportunities for New York State Certified Minority and Women Owned Business Enterprises and Equal Employment Opportunities for Minority Group Members and Women

Pursuant to New York State Executive Law Article 15-A, DOS recognizes its obligation under the law to promote business opportunities for maximum feasible participation of certified minority- and women-owned businesses (MWBEs) and the employment of minority group members and women in the performance of DOS contracts.

In 2023, the State of New York commissioned a disparity study to evaluate whether minority and women-owned business enterprises had a full and fair opportunity to participate in state contracting. The findings of the study were published in August 2024, under the title "State of New York 2024 Disparity Study." The report found evidence of statistically significant disparities between the level of participation of minority- and women-owned business enterprises in state procurement contracting versus the number of minority- and women-owned business enterprises that were ready, willing and able to participate in state procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the statewide certified minority- and women-owned business enterprises program. The recommendations from the Disparity Study culminated in the enactment and the implementation of New York State Executive Law Article 15-A, which requires, among other things, that DOS establishes goals for maximum feasible participation of New York State Certified minority- and women – owned business enterprises ("MWBE") and the employment of minority groups members and women in the performance of New York State contracts.

For purposes of this solicitation, DOS hereby establishes an overall goal of 30% for MWBE participation, 15% for New York State-certified Minority-owned Business Enterprise ("MBE") participation and 15% for New York State-certified Women-owned Business Enterprise ("WBE") participation (based on the current availability of qualified MBEs and WBEs). A contractor ("Contractor") on the subject contract ("Contract") must document its good faith efforts to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract and the Contractor agrees that DOS may withhold payment pursuant to any subcontract awarded as a result of this RFP and additional written authorization pending receipt of the required MWBE documentation. The directory of MWBEs can be viewed at: <https://ny.newnycontracts.com>. For guidance on how DOS will determine a Contractor's "good faith efforts" refer to 5 NYCRR §142.8.

The respondent understands that only sums paid to MWBEs for the performance of a commercially useful function, as that term is defined in 5 NYCRR § 140.1, may be applied towards the achievement of the applicable MWBE participation goal. The portion of a contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed

by the MWBE shall be 25 percent of the total value of the broker's contract.

In accordance with 5 NYCRR § 142.13, the respondent further acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in a subcontract resulting from this RFP, such finding constitutes a breach of contract and DOS may withhold payment as liquidated damages.

Such liquidated damages shall be calculated as an amount equaling the difference between:

- 1) all sums identified for payment to MWBEs had the Contractor achieved the relevant MWBE goals; and
- 2) all sums actually paid to MWBEs for work performed or materials supplied under the subcontract.

By submitting a bid or proposal, a bidder on the Contract ("Proposer") agrees to demonstrate its good faith efforts to achieve its goals for the utilization of MWBEs by submitting evidence thereof:

- For non-Federally funded contracts: through the New York State Contract System ("NYSCS"), which can be viewed at <https://ny.newnycontracts.com>, provided, however, that a Proposer may arrange to provide such evidence via a non-electronic method by contacting Department of State.
- For Federally funded contracts: through the MWBE Quarterly Report (Form F) to Department of State, by the 10th day following each end of quarter over the term of the Contract.

Additionally, a Proposer will be required to submit the following documents and information as evidence of compliance with the foregoing:

- A. An MWBE Utilization Plan (Form D) with their proposal. Any modifications or changes to the MWBE Utilization Plan after the Contract award and during the term of the contract must be reported on a revised MWBE Utilization Plan and submitted to DOS for review and approval.

DOS will review the submitted MWBE Utilization Plan and advise the Proposer of DOS acceptance or issue a notice of deficiency within 30 days of receipt.

- B. If a notice of deficiency is issued, the Proposer will be required to respond to the notice of deficiency within seven (7) business days of receipt by submitting to dos.sm.mwbe@dos.ny.gov a written remedy in response to

the notice of deficiency. If the written remedy that is submitted is not timely or is found by DOS to be inadequate, DOS shall notify the Proposer and direct the Proposer to submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals. Failure to file the waiver form in a timely manner may be grounds for disqualification of the proposal.

DOS may disqualify a Proposer as being non-responsive under the following circumstances:

- a. If a Proposer fails to submit an MWBE Utilization Plan;
- b. If a Proposer fails to submit a written remedy to a notice of deficiency;
- c. If a Proposer fails to submit a request for waiver; or
- d. If DOS determines that the Proposer has failed to document good faith efforts.

The Contractor will be required to attempt to utilize, in good faith, any MBE or WBE identified within its MWBE Utilization Plan, during the performance of the Contract. Request for a partial or total waiver of established goal requirements made subsequent to Contract Award may be made at any time during the term of the Contract to DOS but must be made no later than prior to the submission of a request for final payment on the Contract.

Good Faith Efforts:

Proposers will be required to make Good Faith Efforts (GFE) to provide meaningful participation to MWBEs as subcontractors or suppliers in the performance of contracts.

As detailed in 5 NYCRR §142.8, documentation of GFE includes, but is not limited to:

- Evidence of outreach to MWBEs: mail, email, phone calls and follow up;
- Written responses by MWBEs to the grantee/vendor's outreach;
- Copies of search(es) of the directory and advertisements for participation by MWBEs in appropriate general circulation, trade, and minority or women- oriented publications;
- Attendance at any pre-bid, pre-award, or other meetings, if any, scheduled by the grantee with MWBEs including dates and location;

- Information describing specific steps undertaken to reasonably structure the contract scope of work to maximize opportunities for MWBE participation; and
- Information describing non-MWBE subcontractors' efforts to engage MWBEs to undertake part of the project's work or to procure equipment/ materials/supplies.

Successful proposers will be required to submit a quarterly MWBE Contractor Compliance & Payment Report to DOS by the 10th day following each end of quarter over the term of the Contract documenting the progress made toward achievement of the MWBE goals of the Contract.

5.1.16. Equal Employment Opportunity Requirements

By submission of a proposal in response to this solicitation, the respondent agrees with all of the terms and conditions of Appendix A – Standard Clauses for All New York State Contracts including Clause 12 – Equal Employment Opportunities for Minorities and Women. The respondent is required to ensure that it and any subcontractors awarded a subcontract over 25,000 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 respondent, to undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.

Additionally, successful proposers will be required to submit the following documents and information within ten (10) business days after the proposer receives notice from DOS that the contract is being awarded as evidence of compliance with the foregoing:

- A. A Minority and Women-owned Business Enterprise and Equal Employment Opportunity Policy Statement (*Form A*).
- B. A Workforce Utilization Report (*Form C*) and shall require each of its Subcontractors to submit a Workforce Utilization Report, in such format as shall be required by Department of State on a quarterly basis during the term of the Contract, to the Bureau of Fiscal Management at:

Email: dos.sm.mwbe@dos.ny.gov

Pursuant to Executive Order #162, contractors and subcontractors will also be required to report the gross wages paid to each of their employees for the work performed by such employees on the contract utilizing the Workforce Utilization Report on a quarterly basis.

Further, pursuant to Article 15 of the Executive Law (the Human Rights Law), all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and subcontractors will not discriminate against any employee or applicant for employment because of age, race, creed (religion), color, national origin, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status or status as a victim of domestic violence 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, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

Please Note: Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions or enforcement proceedings as allowed by the Contract.

5.1.17. Participation Opportunities for New York State Certified Service-Disabled Veteran Owned Businesses

Article 3 of Veterans' Services Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses ("SDVOB"), thereby further integrating such businesses into New York State's economy. DOS recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of DOS contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Bidders are expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

Contract Goals

- A. DOS hereby establishes an overall goal of 6% for SDVOB participation, based on the current availability of qualified SDVOBs. For purposes of providing meaningful participation by SDVOBs, the Bidder/Contractor should reference the

directory of New York State Certified SDVOBs found at: <https://ogs.ny.gov/veterans/>. Questions regarding compliance with SDVOB participation goals should be directed to DOS at dos.sm.sdvob@dos.ny.gov. Additionally, following Contract execution, Contractor is encouraged to contact the Office of General Services' Division of Service-Disabled Veterans' Business Development at 518-474-2015 or VeteransDevelopment@ogs.ny.gov to discuss additional methods of maximizing participation by SDVOBs on the Contract.

B. Contractor must document "good faith efforts" to provide meaningful participation by SDVOBs as subcontractors or suppliers in the performance of the Contract (see Required Good Faith Efforts below).

SDVOB Utilization Plan

A. In accordance with 9 NYCRR § 252.2(i), Proposers are required to submit a completed SDVOB Utilization Plan on Form SDVOB 100 with their proposal.

B. The Utilization Plan shall list the SDVOBs that the Proposer intends to use to perform the Contract, a description of the work that the Proposer intends the SDVOB to perform to meet the goals on the Contract, the estimated dollar amounts to be paid to an SDVOB, or, if not known, an estimate of the percentage of Contract work the SDVOB will perform. By signing the Utilization Plan, the Proposer acknowledges that making false representations or providing information that shows a lack of good faith as part of, or in conjunction with, the submission of a Utilization Plan is prohibited by law and may result in penalties including, but not limited to, termination of a contract for cause, loss of eligibility to submit future bids, and/or withholding of payments. Any modifications or changes to the agreed participation by SDVOBs after the Contract award and during the term of the Contract must be reported on a revised SDVOB Utilization Plan and submitted to DOS.

C. DOS will review the submitted SDVOB Utilization Plan and advise the Proposer of DOS acceptance or issue a notice of deficiency within 20 days of receipt.

D. If a notice of deficiency is issued, Proposer agrees that it shall respond to the notice of deficiency, within seven business days of receipt, by submitting to DOS a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by DOS to be inadequate, DOS shall notify the Proposer and direct the Proposer to submit, within five business days of notification by DOS a

request for a partial or total waiver of SDVOB participation goals on SDVOB

200. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.

DOS may disqualify a Bidder's bid or proposal as being non-responsive under the following circumstances:

- a. If a Proposer fails to submit an SDVOB Utilization Plan;
- b. If a Proposer fails to submit a written remedy to a notice of deficiency;
- c. If a Proposer fails to submit a request for waiver; or
- d. If DOS determines that the Proposer has failed to document good faith efforts.

If awarded a Contract, Contractor certifies that it will follow the submitted SDVOB Utilization Plan for the performance of SDVOBs on the Contract pursuant to the prescribed SDVOB contract goals set forth above.

Contractor further agrees that a failure to use SDVOBs as agreed in the Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, DOS shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsibility.

Request for Waiver

- A. Prior to submission of a request for a partial or total waiver, Proposer shall speak to the Designated Contacts at DOS for guidance.
- B. In accordance with 9 NYCRR § 252.2(m), a Proposer that is able to document good faith efforts to meet the goal requirements, as set forth in Required Good Faith Efforts below, may submit a request for a partial or total waiver on Form SDVOB 200, accompanied by supporting documentation. A Proposer may submit the request for waiver at the same time it submits its SDVOB Utilization Plan. If a request for waiver is submitted with the SDVOB Utilization Plan and is not accepted by DOS at that time, the provisions of SDVOB Utilization Plan (C), (D) & (E) will apply. If the documentation included with the Proposer's waiver request is complete, DOS shall evaluate the request and issue a written notice of acceptance or denial within 20 days of receipt.
- C. Contractor shall attempt to utilize, in good faith, the SDVOBs identified within its SDVOB Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract award may be made at any time during the term of the Contract to DOS, but must be made no later than prior to the submission of a request for final payment on the Contract.
- D. If DOS, upon review of the SDVOB Utilization Plan and Monthly SDVOB Compliance Report (SDVOB 101) determines that Contractor is failing or refusing to

comply with the contract goals and no waiver has been issued in regards to such non-compliance, DOS may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven business days of receipt. Such response may include a request for partial or total waiver of SDVOB contract goals.

Waiver requests should be sent to dos.sm.sdvob@dos.ny.gov. Required Good Faith Efforts In accordance with 9 NYCRR § 252.2(n), Contractors must document their good faith efforts toward utilizing SDVOBs on the Contract. Evidence of required good faith efforts shall include, but not be limited to, the following:

- (1) Copies of solicitations to SDVOBs and any responses thereto.
- (2) Explanation of the specific reasons each SDVOB that responded to Bidders/Contractors' solicitation was not selected.
- (3) Dates of any pre-bid, pre-award or other meetings attended by Contractor, if any, scheduled by DOS with certified SDVOBs whom DOS determined were capable of fulfilling the SDVOB goals set in the Contract.
- (4) 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 SDVOBs.
- (5) Other information deemed relevant to the waiver request.

Monthly SDVOB Contractor Compliance Report

In accordance with 9 NYCRR § 252.2(q), Contractor is required to report Monthly SDVOB Contractor Compliance to DOS during the term of the Contract for the preceding month's activity, documenting progress made towards achieving the Contract SDVOB goals. This information must be submitted using form SDVOB 101 and should be completed by the Contractor and submitted to DOS, by the 10th day of each month during the term of the Contract, for the preceding month's activity to: dos.sm.sdvob@dos.ny.gov.

Breach of Contract and Damages

In accordance with 9 NYCRR § 252.2(s), any Contractor found to have willfully and intentionally failed to comply with the SDVOB participation goals set forth in the Contract, shall be found to have breached the contract and Contractor shall pay damages as set forth therein.

All forms are available at: <https://dos.ny.gov/supplier-diversity>.

5.1.18. Executive Order 16

Executive Order 16 prohibits state agencies and authorities from contracting with businesses conducting business in Russia. Please see the guidelines under this Executive Order and the Certification located here: <https://ogs.ny.gov/EO-16>. The certification must be submitted by all proposers.

5.1.19. Iran Divestment Act

By submitting a proposal in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, Proposer/Contractor (or any assignee) certifies that it is not on the “Entities Determined To Be Non-Responsive Proposers/Offerers Pursuant to The New York State Iran Divestment Act of 2012” list (“Prohibited Entities List”) posted on the OGS website at: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf>. Proposers/Offerers further certify that they will not utilize on such Contract any subcontractor that is identified on the Prohibited Entities List. Additionally, Proposer/Contractor is advised that should it seek to renew or extend a Contract awarded in response to the solicitation, it must provide the same certification at the time the Contract is renewed or extended.

During the term of the Contract, should DOS receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, DOS 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 DOS shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, seeking compliance, recovering damages, or declaring the Contractor in default.

DOS reserves the right to reject any proposal, 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.

5.1.20. Sexual Harassment Policy and Training

By submission of this proposal, each Proposer and each person signing on behalf of any Proposer certifies, and in the case of a joint proposal each party thereto certifies as to its own organization, under penalty of perjury, that the Proposer 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 a minimum, meet the requirements of [section two hundred one-g of the labor law](#).

6. Reserved Rights

The Department of State Reserves the Right to:

- 1) Reject any or all proposals received in response to the RFP;
- 2) Withdraw the RFP at any time, at the agency's sole discretion;
- 3) Make an award under the RFP in whole or in part;
- 4) Disqualify any Proposer whose conduct and/or proposal fails to conform to the requirements of the RFP;
- 5) Seek clarifications and revisions of proposals;
- 6) Use proposal information obtained through site visits, management interviews and the state's investigation of a Proposer's qualifications, experience, ability or financial standing, and any material or information submitted by the Proposer in response to the agency's request for clarifying information in the course of evaluation and/or selection under the RFP;
- 7) Prior to the proposal opening, amend the RFP specifications to correct errors or oversights, or to supply additional information, as it becomes available;
- 8) Prior to the proposal opening, direct Proposers to submit proposal modifications addressing subsequent RFP amendments;
- 9) Change any of the scheduled dates;
- 10) Eliminate any mandatory, non-material specifications that cannot be complied with by all of the prospective Proposers;
- 11) Waive any requirements that are not material;
- 12) Negotiate with the successful Proposer within the scope of the RFP in the best interests of the State. DOS will negotiate the contract for services in fulfillment of the needs of this RFP on the basis of demonstrated competence and qualifications. Contract negotiations may include, but are not limited to, the selected Proposer's price proposals to ensure work is accomplished at fair and reasonable rates. DOS will negotiate the contract for services in which it reserves the right to:
 - a. Adjust the total amount of funding based on the program's success, funding source approval requirements, or any other relevant factors;
 - b. Incorporate necessary program changes by modifying or adding to the services required;
 - c. Tailor the services as needed within the scope of the contract; and

- d. Interview Proposers or individuals assigned to work on the desired contracting services as a secondary stage in the selection process, if determined necessary by DOS.
- 13) Request a Best and Final Offer (BAFO) from all eligible Proposers in the best interests of the State;
- 14) If unsuccessful in negotiating a state contract with the selected applicant within an acceptable time frame, the Department may begin state contract negotiations with the next ranked qualified applicant(s) in order to serve and realize the best interests of the state;
- 15) Utilize any and all ideas submitted in the proposals received;
- 16) Require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of a Proposer's proposal and/or to determine a Proposer's compliance with the requirements of the solicitation;
- 17) Waive or modify minor irregularities in proposals received after prior notification to the Proposer;
- 18) Make awards based on geographic distribution
- 19) Not fund a proposal that fails to submit a clear and concise work plan or budget;
- 20) Adjust or correct cost figures with the concurrence of the proposer if errors exist and can be documented to the satisfaction of the Department of State and the State Comptroller;
- 21) Award more than one contract resulting from this RFP;
- 22) In its sole discretion, determine the total number of awards to be granted pursuant to this RFP;
- 23) Offer partial or no funding to any proposer if its proposal cannot fulfill its proposed program within the funding available;
- 24) Require reporting on forms designed for use solely for this procurement;
- 25) Not to make any awards pursuant to this RFP. This RFP does not commit DOS to award any contracts, to pay the costs incurred in the preparation of a response to this RFP or to procure or contract for service; and
- 26) In the event that a workplan submitted post award during contract negotiations is substantially different from the proposal submitted through the procurement process, DOS reserves the right to require modifications to the workplan to bring it into

conformance with the application. If no such modifications are made and approved within a reasonable time period, DOS may rescind the award and make funding available to the next highest scoring application.

ATTACHMENTS

The following* attachments can be found at <https://dos.ny.gov/procurement-forms>

The following** attachments can be found at <https://dos.ny.gov/supplier-diversity>

If there is no asterisk, the form is attached below

Attachment 1: Non-Collusive Bid Certification*

Attachment 2: Conflict of Interest Statement*

Attachment 3: Procurement Lobbying Forms*

Attachment 4: Technical Proposal Transmittal Sheet – attached below

Attachment 5: Cost Proposal Transmittal Sheet – attached below

Attachment 6: Cost Proposal Bid form – attached below

Attachment 7: ST-220-CA*

Attachment 8: Executive Order 16 Certification*

Attachment 9: Diversity Practices Questionnaire*

Attachment 10: MWBE Form D**

Attachment 11: SDVOB Form 100**

Attachment 12: SAMPLE Contract – attached below

Attachment 4: Technical Proposal Transmittal Sheet

New York State Department of State, Utility Intervention Unit, RFP 24-UIU-39

Name of Proposer Organization <i>Legal name as it would appear on a contract</i>	
Mailing Address	
Federal Employee Identification Number:	
NYS Vendor ID Number:	
If NYS Certified:	
Minority Business Enterprise (MBE) <input type="checkbox"/>	Woman Business Enterprise (WBE) <input type="checkbox"/>
Person authorized to act as the contact for this firm in matters regarding this proposal:	
Printed Name:	Title:
Telephone number:	Fax number:
E-mail:	
Person authorized to obligate this firm in matters regarding this proposal or the resulting contract:	
Printed Name:	Title:
Telephone number:	Fax number:
E-mail:	
(CORPORATIONS) Name/Title of person authorized by the Board of Directors to sign this proposal on behalf of the Board:	
Printed Name:	Title:
Signature of Proposer or Authorized Representative	Date:

By signing this form below, you certify that:

- you are authorized on behalf of the applicant and its governing body to submit this application and to bind the Proposer to comply with the requirements listed in this RFP;
- the Proposer agrees to all terms and conditions contained in the draft contract attached hereto as Attachment 12;
- all of the information contained in this application and in all statements, data and supporting documents are true, correct and complete to the best of your knowledge and belief;
- the proposal price submitted on the Pricing Proposal will remain valid for a minimum of 365 days from the date of submission.
- by submission of this proposer, each proposer and each person signing on behalf of any proposer certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that the proposer 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 a minimum, meet the requirements of section two hundred one-g of the labor law. If such certification cannot be made, the bidder must submit a signed statement detailing the reasons why the certification cannot be made.

Signature of Authorized Representative

Date

Attachment 5: Cost Proposal Transmittal Sheet

New York State Department of State, Utility Intervention Unit, RFP 24-UIU-39

COST PROPOSAL FOR	
<i>(insert working group subject area)</i>	
Name of Proposer: _____ <i>Legal Name as it would appear on a contract</i>	
Mailing Address: _____ <i>Street address, P.O. Box, City, State, ZIP Code</i>	
Federal Employee Identification Number:	NYS Vendor ID Number:
If NYS Certified:	
Minority Business Enterprise (MBE) <input type="checkbox"/> Woman Business Enterprise (WBE) <input type="checkbox"/>	
Person authorized to act as the contact for this firm in matters regarding this proposal:	
Printed Name:	Title:
Telephone number:	Fax number:
E-mail:	
Person authorized to obligate this firm in matters regarding this proposal or the resulting contract:	
Printed Name:	Title:
Telephone number:	Fax number:
E-mail:	
(CORPORATIONS) Name/Title of person authorized by the Board of Directors to sign this proposal on behalf of the Board:	
Printed Name:	Title:
Signature of Proposer or Authorized Representative	Date:

By signing this form, the above Proposer or Authorized Representative attests that the proposal price submitted on the Bid Detail Sheet will remain valid for a minimum of 365 days from the date of submission.

Attachment 6: Cost Proposal Bid Form – Instructions

RFP 24-UIU-39

All Proposers must submit a fixed hourly rate for each specified title that will be utilized for the provision of services described in this RFP. Hourly rates must be inclusive of all costs not expressly specified to be reimbursable.

For the purposes of this proposal, use the following guidelines in assigning staff to one of the two levels listed below. Provide one hourly rate for each Staff Level, and list the titles within your organization as they relate to each Staff Level. Using the proposed hourly rate, compute the Total Cost of the proposal based on the Total Hours provided. Estimated hours are for proposal purposes only and are no guarantee of hours under this contract.

Level 1 Staff:

- Staff Types:** Principals, Project Leaders, Lead Consultants, or other staff with similar responsibilities.
- Experience:** These staff have extensive experience and knowledge of the subject areas listed and proposed from this RFP.
- General Duties:** Project oversight, management of Contractor’s team, liaison with UIU, and stakeholder relationships.

Level 2 Staff:

- Staff Types:** Analysts, Consulting Assistants, or other staff with similar responsibilities.
- Experience:** These staff are entry level professionals. They work under direct supervision of Level 1 staff.
- General Duties:** Technical support and data manipulation, but not necessarily drawing conclusions or making recommendations.

Attachment 6: Cost Proposal Bid Form

2.1.1.a (Planning and Resource Adequacy)

RFP 24-UIU-39

Year 1- Budget Line				
	Proposed Hourly Rates Per Staff Level	Estimated # Hours of Contract*	Number of Staff Per Level	Total Bid
Level 1 Staff				\$
Level 2 Staff				\$
<i>* Assume a total of 500 hours per year of contracted work.</i>			TOTAL:	_____

List Titles Assigned to Each Level:

A. Level 1:

B. Level 2:

Estimated hours are for proposal purposes only and are no guarantee of hours under this contract.

Proposer's Name: _____

Representative: _____
Signature *Date*

Name: _____

Title: _____

Cost Proposal Bid Form

2.1.1.b (Energy, Capacity, Ancillary Markets and Demand Response)

RFP 24-UIU-39

Year 1- Budget Line				
	Proposed Hourly Rates Per Staff Level	Estimated # Hours of Contract*	Number of Staff Per Level	Total Bid
Level 1 Staff				\$
Level 2 Staff				\$
<i>* Assume a total of 2000 hours per year of contracted work.</i>			TOTAL:	_____

List Titles Assigned to Each Level:

A. Level 1:

B. Level 2:

Estimated hours are for proposal purposes only and are no guarantee of hours under this contract.

Proposer's Name: _____

Representative: _____
Signature *Date*

Name: _____

Title: _____

Attachment 12: SAMPLE Contract

STATE OF NEW YORK VENDOR CONTRACT

<p>STATE AGENCY:</p> <p>NYS Department of State One Commerce Plaza 99 Washington Avenue – Suite 1010 Albany, NY 12231</p>	<p>BUSINESS UNIT/DEPT ID: DOS01/3800000</p> <p>CONTRACT NUMBER:</p> <p>CONTRACT TYPE:</p> <p><input type="checkbox"/> Multi-Year Agreement <input type="checkbox"/> Simplified Renewal Agreement <input checked="" type="checkbox"/> Fixed Term Agreement</p>
<p>CONTRACTOR SFS PAYEE NAME:</p>	<p>TRANSACTION TYPE:</p> <p><input checked="" type="checkbox"/> New <input type="checkbox"/> Renewal <input type="checkbox"/> Amendment - NCTE</p>
<p>CONTRACTOR DOS INCORPORATED NAME:</p>	<p>PROJECT NAME:</p>
<p>CONTRACTOR IDENTIFICATION NUMBERS:</p> <p>NYS VENDOR ID Number:</p> <p>Federal Tax ID Number:</p> <p>DUNS Number (if applicable):</p>	<p>AGENCY IDENTIFIER:</p> <p>24-UIU-39</p> <p>CFDA NUMBER (Federally Funded Contracts Only):</p> <p>n/a</p>
<p>CONTRACTOR PRIMARY MAILING ADDRESS:</p> <p>CONTRACTOR PAYMENT ADDRESS:</p> <p><input checked="" type="checkbox"/> Check if same as primary mailing address</p> <p>CONTRACTOR MAILING ADDRESS</p> <p><input checked="" type="checkbox"/> Check if same as primary mailing address</p>	<p>CONTRACTOR STATUS:</p> <p><input type="checkbox"/> For Profit <input type="checkbox"/> Municipality, Code: <input type="checkbox"/> Tribal Nation <input type="checkbox"/> Individual <input type="checkbox"/> Not-for-Profit</p> <p>Charities Registration Number:</p> <p>Exemption Status/Code:</p> <p><input type="checkbox"/> Sectarian Entity</p>

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

CONTRACTOR:

STATE AGENCY:

NYS Department of State
One Commerce Plaza
99 Washington Avenue
Albany, NY 12231

By: _____

By: _____

Printed Name

Printed Name

Title: _____

Title: _____

Date: _____

Date: _____

STATE OF NEW YORK

COUNTY OF _____

On the ____ day of _____, _____, before me personally appeared _____, to me known, who being by me duly sworn, did depose and say that they reside at _____, that they are the _____ of the _____, the contractor described herein which executed the foregoing instrument; and that they signed their name thereto as authorized by the contractor name on the face page of this Contract.

(Notary) _____

ATTORNEY GENERAL'S SIGNATURE

STATE COMPTROLLER'S SIGNATURE

By: _____

By: _____

Printed Name

Printed Name

Title: _____

Title: _____

Date: _____

Date: _____

VENDOR CONTRACT AGREEMENT
CONTRACT #C100XXXX
NYS DEPARTMENT OF STATE

This AGREEMENT, by and between the New York State Department of State, with its principal offices at One Commerce Plaza, 99 Washington Avenue, Albany, NY 12231 (hereinafter referred to as STATE, AGENCY or DEPARTMENT) and [] (hereinafter referred to as CONTRACTOR)

WITNESSETH:

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

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

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

I. Conditions of Agreement

- A. This AGREEMENT incorporates the documents listed below. In the event of a conflict between the terms of the documents, such conflicts will be reconciled in the order of precedence in which they are listed:
1. Appendix A, Standard Clauses for NYS Contracts
 2. Appendix X, Modification Agreement Form (to accompany modified appendices for changes in term or consideration on an existing period or for renewal periods)
 3. Vendor Contract and Face Page
 4. Appendix B, Budget and Program Work Plan
 5. Appendix C, Payment and Reporting Schedule
 6. Appendix D, Notices
 7. Exhibit 1, the Request for Proposals (RFP 24-UIU-39) issued by the Department on July 22, 2025 attached hereto and made a part hereof
 8. Exhibit 2, Contractor's Proposal, together with all attachments and appendices submitted to the Department and opened on September 2, 2025, attached hereto and made a part hereof
- B. The period of this AGREEMENT shall be as specified on the face page hereof. Should funding become unavailable, this AGREEMENT may be suspended until funding becomes available. In such event the STATE shall notify the CONTRACTOR immediately of learning of such unavailability of funds, however, any such suspension shall not be deemed to extend the term of this AGREEMENT beyond the end date specified on the face page hereof.
- C. Funding for the entire contract period shall not exceed the amount specified as "Funding Amount for Initial Period" on the face page hereof. To modify the AGREEMENT, the parties shall revise or complete Appendix X and any appropriate form(s). Any change in the amount of consideration to be paid, change in scope, or change in the term, is subject to the approval of the STATE.

- D. The CONTRACTOR shall perform all services to the satisfaction of the STATE. The CONTRACTOR shall meet the program objectives summarized in the Budget and Program Work Plan (Appendix B) in accordance with: provisions of the AGREEMENT; relevant laws, rules, and regulations, administrative and fiscal guidelines; and where applicable, operating certificates for facilities or licenses for an activity or program, and conditions of applicable permits, administrative orders and judicial orders. Subcontracting by the CONTRACTOR shall not be permitted except by prior written approval of the STATE. All subcontracts shall contain provisions specifying that the work performed by the subcontractor must be in accordance with the terms of this AGREEMENT.
- E. The CONTRACTOR, to be eligible for payment, shall submit to the STATE's designated payment office (identified in Appendix C) any appropriate documentation as required by the Payment and Reporting Schedule (Appendix C) and by agency fiscal guidelines, in a manner acceptable to the STATE. The STATE shall make payments and any reconciliations in accordance with the Payment and Reporting Schedule (Appendix C).
- F. Contractor agrees not to enter into any contractual relationship with a New York Independent System Operator Market Participant (listed at <https://www.nyiso.com/documents/20142/1408883/2019-Committee-Membership-Roster.pdf/9b8718f6-3d9c-254d-ed78-ed6657f496d6?t=1565639959916>), without the expressed signed authorization of the Department and to disclose any relationship that may suggest a conflict of interest.

II. Terminations

- A. This AGREEMENT may be terminated at any time upon mutual written consent of the STATE and the CONTRACTOR.
- B. The STATE may terminate the AGREEMENT immediately, upon written notice of termination to the CONTRACTOR, if the CONTRACTOR fails to comply with the terms and conditions of this AGREEMENT and/or with any laws, rules, regulations, policies or procedures affecting this AGREEMENT.
- C. The STATE may terminate this AGREEMENT without cause by thirty (30) days prior written notice.
- D. The STATE may, in its discretion, order the CONTRACTOR to suspend performance for a reasonable period of time. In the event of such suspension, the CONTRACTOR shall be given a formal written notice outlining the particulars of such suspension. Upon issuance of such notice, the CONTRACTOR shall comply with the particulars of the notice. The STATE shall have no obligation to reimburse CONTRACTOR'S expenses during such suspension period. Activities may resume at such time as the STATE issues a formal written notice authorizing a resumption of performance under the Agreement.
- E. Non-Responsibility: The STATE may make a final determination that the CONTRACTOR is non-responsible (Determination of Non-Responsibility). In such event, the STATE may terminate the Contract at the CONTRACTOR'S expense, complete the contractual requirements in any manner the STATE deems advisable and pursue available legal or equitable remedies for breach.
- F. Lack of Funds: If for any reason the State or the Federal government terminates or reduces its appropriation to the applicable State Agency entering into the Contract or fails to pay the full amount of the allocation for the operation of one or more programs funded under this Contract, the Contract may be terminated or reduced at the State Agency's discretion, provided that no such reduction or

termination shall apply to allowable costs already incurred by the CONTRACTOR where funds are available to the State Agency for payment of such costs. Upon termination or reduction of the Contract, all remaining funds paid to the CONTRACTOR that are not subject to allowable costs already incurred by the CONTRACTOR shall be returned to the State Agency. In any event, no liability shall be incurred by the STATE (including the State Agency) beyond monies available for the purposes of the Contract. The CONTRACTOR acknowledges that any funds due to the State Agency or the State of New York because of disallowed expenditures after audit shall be the CONTRACTOR'S responsibility.

- G. Force Majeure: The STATE may terminate or suspend its performance under the Contract immediately upon the occurrence of a "force majeure." For purposes of the Contract, "Force majeure" shall include, but not be limited to, natural disasters, war, rebellion, insurrection, riot, strikes, lockout and any unforeseen circumstances and acts beyond the control of the STATE which render the performance of its obligations impossible.
- H. Effect of Notice and Termination on State's Payment Obligations: a) Upon receipt of notice of termination, the CONTRACTOR agrees to cancel, prior to the effective date of any prospective termination, as many outstanding obligations as possible, and agrees not to incur any new obligations after receipt of the notice without approval by the STATE. b) The STATE shall be responsible for payment on claims for services or work provided and costs incurred pursuant to the terms of the Contract. In no event shall the STATE be liable for expenses and obligations arising from the requirements of the Contract after its termination date.

III. Confidentiality

- A. All the reports, information, data, and other papers and materials in whatever form prepared or assembled by the CONTRACTOR under this AGREEMENT are confidential, and the CONTRACTOR shall not discuss them with or make them available to any individual or organization, other than in connection with the performance of duties and responsibilities under this AGREEMENT, without the prior written approval of the STATE. These provisions do not apply to information that is in the public domain nor shall they restrict the CONTRACTOR from giving notices required by law or complying with an order to provide information or data when such order is issued by a court of competent jurisdiction. If disclosure of confidential information is required of the CONTRACTOR by judicial subpoena or other court process, the CONTRACTOR agrees to immediately notify the STATE of such process and allow the STATE to inspect any such data or information and interpose objections prior to delivery to the court. The CONTRACTOR shall ensure that all confidential or privileged records are kept in appropriately secured areas, and shall take reasonable precautions to protect the records in its custody from the dangers of fire, theft, flood, natural disasters and other physical threats, as well as unauthorized access.
- B. Unless the STATE designates otherwise in writing, all information or data and all other documents generated or collected by the CONTRACTOR in the scope of its work under this AGREEMENT shall be deemed to be the exclusive property of the State of New York. No one else shall have any right, including, but not limited to, intellectual property rights (including trademark and copyright rights) in those items. No use of such materials or information shall be made without permission of the STATE. Consistent with these provisions, the CONTRACTOR shall have the right to keep and use all copies of its work product, including memoranda, notes, briefs, depositions and other transcripts. CONTRACTOR warrants to the STATE that it has sufficient title or interest in such works to license pursuant to this AGREEMENT. Such warranty shall survive the termination of this AGREEMENT.

IV. Indemnification

- A. The CONTRACTOR shall be solely responsible and answerable in damages for any and all accidents and/or injuries to persons (including death) or property arising out of or related to the services to be rendered by the CONTRACTOR or its subcontractors pursuant to this AGREEMENT. The CONTRACTOR shall indemnify and hold harmless the STATE and its officers and employees from claims, suits, actions, damages and costs of every nature arising out of the provision of services pursuant to this AGREEMENT.
- B. Neither party shall be liable for losses, defaults, or damages under this AGREEMENT which result from delays in performing, or the inability to perform, all or any of the obligations or responsibilities imposed upon either party pursuant to the terms and conditions of this AGREEMENT, due to or because of acts of God, the public enemy; earthquake, floods, typhoons, civil strife, force or any other cause beyond the reasonable control of the party that was delayed in performing or so unable to perform, provided that such party was not negligent and shall have used reasonable efforts to avoid and overcome such cause. Such party shall resume full performance of such obligations and responsibilities promptly upon removal of any such cause.
- C. The CONTRACTOR is an independent contractor and may neither hold itself out nor claim to be an officer, employee or subdivision of the STATE nor make any claim, demand or application to or for any right based upon any different status.

V. Vendor Responsibility Determination

- A. The STATE conducts a review to provide reasonable assurances that the CONTRACTOR is responsive and responsible. The STATE will assess a CONTRACTOR'S responsibility to conduct business in New York based upon financial and organizational capacity, legal authority, business integrity, and past performance history. The CONTRACTOR acknowledges that the STATE'S execution of the AGREEMENT will be contingent upon the STATE'S determination that the CONTRACTOR is responsible, and that the STATE will be relying upon information provided by the CONTRACTOR when making its responsibility determination. CONTRACTOR hereby acknowledges that any misrepresentation of fact represented in any contractor responsibility information requested by the STATE, may result in termination of this AGREEMENT. During the term of this AGREEMENT, any changes in the information provided by the CONTRACTOR to the STATE shall be disclosed to the STATE, in writing, in a timely manner. Failure to make such disclosure may result in a determination of non-responsibility and termination of the AGREEMENT.
- B. The Contractor shall provide to the State updates to the Questionnaire if any material event(s) occurs requiring an amendment or as new information material to such Questionnaire becomes available. The Contractor shall insure that the Questionnaire is up to date and certified throughout the Contract.
- C. The Contractor shall, in addition, promptly report to the State the initiation of any investigation or audit by a governmental entity with enforcement authority with respect to any alleged violation of Federal or state law by the Contractor, its employees, its officers and/or directors in connection with matters involving, relating to or arising out of the Contractor's business. Such report shall be made within five (5) business days following the Contractor becoming aware of such event, investigation, or audit. Such report may be considered by the State in making a Determination of Vendor Non-Responsibility pursuant to this section.
- D. The State reserves the right, in its sole discretion, at any time during the term of the Contract:

- a) to require updates or clarifications to the Questionnaire upon written request;
 - b) to inquire about information included in or required information omitted from the Questionnaire;
 - c) to require the Contractor to provide such information to the State within a reasonable timeframe; and
 - d) to require as a condition precedent to entering into the Contract that the Contractor agree to such additional conditions as shall be necessary to satisfy the State that the Contractor is, and shall remain, a responsible vendor; and
 - e) to require the Contractor to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity. By signing the Contract, the Contractor agrees to comply with any such additional conditions that have been made a part of the Contract.
- E. The State, in its sole discretion, reserves the right to suspend any or all activities under the Contract, at any time, when it discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor shall be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the State issues a written notice authorizing a resumption of performance under the Contract.
- F. The State, in its sole discretion, reserves the right to make a final Determination of Non-Responsibility at any time during the term of the Contract based on:
- a) any information provided in the Questionnaire and/or in any updates, clarifications or amendments thereof; or
 - b) the State's discovery of any material information which pertains to the Contractor's responsibility.
- G. Prior to making a final Determination of Non-Responsibility, the State shall provide written notice to the Contractor that it has made a preliminary determination of non-responsibility. The State shall detail the reason(s) for the preliminary determination and shall provide the Contractor with an opportunity to be heard.

VI. Contractor's Insurance Requirements

- A. Prior to the commencement of the work, the CONTRACTOR shall file with the STATE, Certificates of Insurance evidencing compliance with all requirements contained in this AGREEMENT. Such certificate shall be of form and substance acceptable to the STATE.
- B. Acceptance and/or approval by the STATE does not and shall not be construed to relieve CONTRACTOR of any obligations, responsibilities or liabilities under the AGREEMENT.
- C. All insurance required by the AGREEMENT shall be obtained at the sole cost and expense of the CONTRACTOR; shall be maintained with insurance carriers licensed to do business in New York State; shall be primary and non-contributing to any insurance or self-insurance maintained by the STATE; shall be endorsed to provide written notice be given to the STATE, at least thirty (30) days prior to the cancellation, non-renewal, or material alteration of such policies, which notice, evidenced by return receipt of United States Certified Mail which shall be sent to New York State

Department of State, One Commerce Plaza, 99 Washington Avenue, Albany, New York 12231-0001; and shall name the People of the State of New York and their directors, officers, agents, and employees as additional insured thereunder.

- D. The CONTRACTOR shall be solely responsible for the payment of all deductibles to which such policies are subject.
- E. Each insurance carrier must be rated at least "A" Class "VII" in the most recently published Best's Insurance Report. If, during the term of the policy, a carrier's rating falls below "A" Class "VII", the insurance must be replaced no later than the renewal date of the policy with an insurer acceptable to the STATE and rated at least "A" Class "VII" in the most recently published Best's Insurance Report.
- F. The CONTRACTOR shall cause all insurance to be in full force and effect as of the date of this AGREEMENT and to remain in full force and effect throughout the term of this AGREEMENT and as further required by this AGREEMENT. The CONTRACTOR shall not take any action, or omit any action that would suspend or invalidate any of the required coverages during the period of time such coverages are required to be in effect.
- G. Not less than thirty (30) days prior to the expiration date or renewal date, the CONTRACTOR shall supply the STATE updated replacement Certificates of Insurance, and amendatory endorsements.
- H. Unless the CONTRACTOR is self-insured, CONTRACTOR shall, throughout the term of the AGREEMENT or as otherwise required by this AGREEMENT, obtain and maintain in full force and effect the following insurance with limits not less than those described below and as required by the terms of this AGREEMENT, or as required by law, whichever is greater (limits may be provided through a combination of primary and umbrella/excess policies). Where CONTRACTOR is self-insured, the CONTRACTOR shall provide suitable evidence of such to the STATE relating to the risks and coverage amounts as provided hereunder.
 - 1. Workers Compensation, Employers Liability, and Disability Benefits as required by New York State.
 - 2. If automobile travel is anticipated pursuant to the Budget and Program Work Plan (Appendix B), Comprehensive Automobile Liability Insurance with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of any automobile including owned, leased, hired and non-owned automobiles.
 - 3. the Contractor shall maintain, or if subcontracting professional services, shall certify that Subcontractor maintain, errors and omissions liability insurance with a limit of not less than \$1,000,000 per loss.
 - (a)Such insurance shall apply to professional errors, acts, or omissions arising out of the scope of services covered by this Contract and, if the project involves abatement, removal, repair, replacement, enclosure, encapsulation and/or disposal of any hazardous material or substance, it may not exclude bodily injury, property damage, pollution or asbestos related claims, testing, monitoring, measuring, or laboratory analyses.

(b) If coverage is written on a claims-made policy, the Proposer warrants that any applicable retroactive date precedes the effective date of this Contract; and that continuous coverage will be maintained, or an extended discovery period exercised, for a period of not less than two years from the time work under this Contract is completed.

APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

**PLEASE RETAIN THIS DOCUMENT
FOR FUTURE REFERENCE.**

APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

**PLEASE RETAIN THIS DOCUMENT
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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

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
28. 633 Third Avenue
29. New York, NY 10017
30. 212-803-2414
31. email: 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 Page 61

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.

Appendix B
Budget and Program Work Plan

Contract:	
Recipient Organization Name:	Type:
Office:	
Fax:	
Cell:	
Email:	

BUDGET AND NARRATIVE:

<u>BUDGET</u>				
Professional Services:				
Professional Services	Year	Hourly Rate	Estimated Hours Per Year	Annual Total
Level 1 Staff	1	\$	200	\$
	2	\$		\$
	3	\$		\$
	4	\$		\$
	5	\$		\$
Level 2 Staff	1	\$	300	\$
	2	\$		\$
	3	\$		\$
	4	\$		\$
	5	\$		\$
Total Five-Year Budget				\$

The contract budget assumes a two percent (2%) annual rate increase year-over-year, as referenced in section 3.5.2(2) of the RFP. Years two through five of the contract will be subject to an annual one-time price increase of the lesser of two percent (2%) or the percent increase in the National Consumer Price Index for All Urban Consumers (CPI-U) as published by the United States Bureau of Labor Statistics, Washington D.C., 2012 for the twelve (12) month period ending three (3) calendar months prior to the most recent anniversary date of the start date of the contract. For this

- budget plan and the purposes of estimation, a two percent (2%) annual rate increase is modeled, because it is the highest possible rate of increase.

Travel: The recipient organization shall pay for their own travel to attend meetings at the NYISO in Rensselaer, New York. All other travel must be first pre-approved in writing by the Department and is expected to be extremely limited (example, to attend FERC meetings in Washington, D.C., or NYISO meetings in New York City). Compensation for such travel will be provided at the same rates as established by the Office of the State Comptroller for NYS Management/Confidential employees: <https://www.osc.state.ny.us/agencies/travel/travel.htm>.

MWBE & SDVOB: In accordance with RFP Sections 5.1.16 and 5.1.17, in the event subcontracting is allowed through written authorization, DOS hereby establishes an overall goal of 30% for MWBE and 6% for SDVOB participation.

WORK PLAN

The recipient organization will provide consumer advocacy services, as set forth in section 2.1.2 of the Request for Proposals (RFP 24-UIU-39) attached as Exhibit 1, pertinent to the awarded Subject Matter Area. Such services include:

- A. Developing robust working relationships with NYISO staff, DPS staff and other stakeholders in wholesale electric markets, including members of all five NYISO Subject Matter Areas.
- B. Regularly attending and actively participating in NYISO forums and activities, including committees and subcommittees, planning processes, working groups, and task force meetings, as well as occasional FERC and NYSRC meetings and proceedings, technical conferences, and hearings, as directed by the UIU.
- C. In coordination with other members of the End-Use Consumer Sector, at the direction of the UIU, identifying, effectively presenting and vigorously advocating positions and proposals for modifications to existing wholesale electric market rules and design that would benefit end-use consumers.
- D. Thoroughly analyzing proposed modifications by the NYISO staff or other parties to existing market designs and rules to determine the impact of the changes on end-use consumers, and as directed by the UIU, vigorously promote or challenge, as warranted, those proposals.
- E. Identifying issues of concern to UIU, providing technical advice to UIU, and developing analyses of other proposals introduced into the NYISO stakeholder process, the FERC, or the NYSRC from an end-use consumer perspective, as directed by the UIU.

- F. Assisting in developing discovery or information requests regarding any wholesale electric market activities and issues that the UIU determines to be important to end-use consumer interests.
- G. Submitting memoranda as requested by UIU to identify the potential issues of interest to UIU and outline potential ramifications and alternative recommendations.
- H. Reviewing and drafting policy documents such as comments and expert testimony on behalf of end-use consumers of electricity and advocating UIU positions in the NYISO, FERC, and NYSRC stakeholder processes.
- I. Interact with, and provide resources to support the efforts of, other entities seeking to protect or advance the interests of end-use consumers on wholesale electric supply issues within the decision-making structures of the NYISO, FERC or the NYSRC.
- J. Developing an annual report in consultation with UIU that summarizes key issues for the past year.
- K. To the extent that the UIU deems necessary, appearing in any other administrative or legal proceedings that the UIU determines to be of importance to the interests of end-use consumers of electricity in New York State.
- L. To the extent that the UIU deems necessary, providing technical assistance in briefing electric wholesale market issues to the New York State Public Service Commission or any other branch of New York State government.

Other activities consistent with activities mentioned above and in support of representing the interests of end-use customers of New York State's regulated electric markets.

Appendix C: Payment and Reporting Schedule

This contract is a true cost reimbursement AGREEMENT. The CONTRACTOR may claim and be reimbursed for eligible project costs incurred and paid for by the CONTRACTOR. Eligible project costs must be incurred and goods and services must be received and accepted by the CONTRACTOR within the contract period. The total of such reimbursement shall not exceed the funding amount for this AGREEMENT as outlined in the most recently approved Appendix B and shall be claimed by the CONTRACTOR in accordance with the approved contract.

I. Payment Terms and Conditions

- A. Payment requests must be certified by a duly authorized representative of the CONTRACTOR as accurately representing such accomplishments and expenses as recorded in the CONTRACTOR'S accounting records, including where goods or services are provided by third parties not party to this AGREEMENT, a certification that any payment obligations arising from the provision of such goods or services have been paid by the CONTRACTOR and do not duplicate reimbursement or costs and services received from other sources.
- B. No payment under this AGREEMENT, other than advances as authorized herein, will be made by the STATE to the CONTRACTOR unless proof of performance of required services or accomplishments is provided. If the CONTRACTOR fails to perform the services required under this AGREEMENT the STATE shall, in addition to any remedies available by law or equity, recoup payments made but not earned, by set-off against any other public funds owed to CONTRACTOR.
- C. The CONTRACTOR will be entitled to receive payments for work, projects, and services rendered as detailed and described in the approved Appendix B. Billing vouchers submitted to the Agency must contain all information and supporting documentation required by the Contract, the Agency and the State Comptroller. Payment for vouchers submitted by the CONTRACTOR shall be rendered electronically unless payment by paper check is expressly authorized by the Secretary of State, in the Secretary's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. The CONTRACTOR shall comply with the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the State Comptroller's website at www.osc.state.ny.us/epay/index.htm, by email at epunit@osc.state.ny.us or by telephone at (518) 474-6019. The CONTRACTOR acknowledges that it will not receive payment on any vouchers submitted under this contract if it does not comply with the State Comptroller's electronic payment procedures, except where the Secretary of State has expressly authorized payment by paper check as set forth above.
- D. The CONTRACTOR shall submit to the STATE quarterly voucher claims and reports of expenditures on such forms and in such detail as the STATE shall require. The CONTRACTOR shall submit complete and accurate vouchers to the State's designated payment office located at the following address:

John Haff, Director, Utility Intervention Unit
NYS Department of State
Bureau of Fiscal Administration
1 Commerce Plaza
99 Washington Avenue, Suite 640
Albany, NY 12231

If work concludes early, a voucher may be submitted for the remaining contract value as described in Appendix B. All vouchers submitted by the CONTRACTOR pursuant to this AGREEMENT shall be submitted to the STATE no later than 30 days after the end date of the period for which reimbursement is being claimed. In no event shall the amount received by the CONTRACTOR exceed the budget amount approved by the STATE. All contract advances in excess of actual expenditures will be recouped by the STATE prior to the end of the applicable budget period.

II. Reporting Terms and Conditions

- A. The CONTRACTOR will provide the STATE with the reports of progress or other specific work products pursuant to this AGREEMENT as described in Appendix C. All required reports or other work products developed under this AGREEMENT must be completed as provided by the agreed upon work schedule in a manner satisfactory and acceptable to the STATE in order for the CONTRACTOR to be eligible for payment.
- B. The Contractor shall provide to the Department project status updates by teleconference on an approximate weekly basis, and upon request by the Department. The Contractor will develop and electronically mail an agenda prior to each such teleconference. The Contractor will prepare a monthly status report covering all project tasks performed during the month. All monthly project status reports are due by 4:00 p.m. on the last business day of the month.

III. Other

- A. The DEPARTMENT shall have the right to conduct on-site progress assessments and reviews of the project and CONTRACTOR'S records during the life of the AGREEMENT and for a reasonable time following the issuance of the final payment. The CONTRACTOR shall furnish proper facilities, where necessary or useful, for such access and inspection at the DEPARTMENT'S convenience.
- B. The DEPARTMENT shall be entitled to disallow any cost or expense, or terminate or suspend this AGREEMENT if found that the CONTRACTOR has misrepresented any expenditure(s) or project activities in the AGREEMENT, or in any progress reports(s) or payment requests made pursuant hereto.
- C. The CONTRACTOR is required to keep separate books and records for all funds received and activities conducted under the AGREEMENT, and to make such books and records available for inspection and audit for 6 years following termination of the AGREEMENT.

Appendix D: Notices

1. All notices permitted or required hereunder shall be in writing and shall be transmitted either:
 - (a) via certified or registered United States mail, return receipt requested;
 - (b) by personal delivery; or
 - (c) by expedited delivery service;
by e-mail.

Such notices shall be addressed as follows or to such different addresses as the parties may from time-to-time designate:

State of New York Department of State
Name: Jennifer Gallo, Bureau of Fiscal Administration,
Address: One Commerce Plaza, 99 Washington Avenue, Albany, New York 12231
E-Mail Address: Jennifer.Gallo@dos.ny.gov

Contractor Name:	
Name of Contact Person:	
Title:	
Address:	
Office Number:	
Cell Number:	
E-Mail Address:	

2. Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States mail, as of the date of first attempted delivery at the address and in the manner provided herein., or in the case of email, upon receipt.
3. The parties may, from time to time, specify any new or different address in the United States as their address for purpose of receiving notice under this Agreement by giving fifteen (15) days written notice to the other party sent in accordance herewith. The parties agree to mutually designate individuals as their respective representatives for the purposes of receiving notices under this Agreement. Additional individuals may be designated in writing by the parties for purposes of implementation and administration/ billing, resolving issues and problems and/or for dispute resolution.

Appendix X

Agency Code: _____
Contract Period _____

Contract Number: _____
Funding for Amendment \$ _____

This is an AGREEMENT between THE STATE OF NEW YORK, acting by and through the New York State Department of State, having its principal office in Albany, New York (hereinafter referred to as the STATE), and _____; (hereinafter referred to as the CONTRACTOR), for modification of contract number noted above, as amended herein and noted below.

Type of contract modification:

- Renewal
 - No Cost Time Extension
 - Amendment: _____
 - Attached Appendices: _____
- Revised total contract value: \$ _____

All other provisions of said AGREEMENT shall remain in full force and effect.

IN WITNESS THEREOF, the parties hereto have executed this AGREEMENT as of the dates appearing under their signatures.

CONTRACTOR SIGNATURE

STATE AGENCY SIGNATURE

By: _____

By: _____

(print name)

(print name)

Title: _____

Title: _____

Date: _____

Date: _____

State Agency Certification: "In addition to the acceptance of this Contract, I also certify that original copies of this signature page will be attached to all other exact copies of this Contract."

STATE OF NEW YORK)
COUNTY OF _____) SS.:

On this ____ day of _____, in the year 20____, before me personally appeared _____, to me known and known to me to be the person who is the _____ of _____, the organization described in and which executed the above instrument; and that he/she has the authority to sign on behalf of said organization; and that he/she executed the foregoing agreement for and on behalf of said organization.

NOTARY PUBLIC