

March 5, 2012

TO: Interested Architects and Engineers

Facility Design Services
750 East Adams Street
Syracuse, NY 13210
315-464-4630 Phone
315-464-7376 Fax

Subject: **Request for Qualifications**
Project No. & Title: 973 Cord Blood @ Upstate -Community General

Dear Sir,

The State University of New York requests your consideration for full design services: design documents, construction documents, bidding and construction administration of the above Project. Attached for your review in this matter, please find the Request for Qualifications (RFQ) with instructions.

The Agreement for the project shall be a Not -To-Exceed Sum Agreement.

All questions pertaining to the solicitation shall be made formally to: Cathy Adamitis, Business Manager, Facilities Design Services, SUNY - Upstate Medical University, 750 East Adams Street, Syracuse, New York 13210, Phone: (315) 464-4788, Fax: (315) 464-4698.

Responses to the RFQ will be received by Cathy Adamitis, at the campus until **2:00 PM** on **Tuesday, March 27, 2012**. Qualification packages submitted shall be in **PDF format** on **three (3) separate discs or flash drives**, and include all information requested in the instructions contained within the RFQ.

Thank you for your interest in working with SUNY- Upstate Medical University

Sincerely,



Catherine A. Adamitis
Business Manager

Enclosure

STATE UNIVERSITY OF NEW YORK
Architectural & Engineering Solicitation

Project Number and Title: 973 –Cord Blood Bank -Upstate @ Community General

SUNY Upstate Medical University is seeking qualifications for the full design services (programming, design, construction documents, bidding, and construction administration), of an architect / engineering team for a new cord blood bank located at the Community General campus. The project will be a stand alone building adjacent to the existing Community General Hospital campus. The project will include site design to incorporate the new building and utilities into the existing campus layout.

The cord blood bank will be capable of receiving processing and cryogenically storage. The operation should be as automated as possible and practical. In addition, the facility may be used for processing and cryogenic storage of other materials such as tumor tissue.

The building will be a LEED silver rating (or higher). There will be no formal site visit nor will tours of the facility be given prior to the receipt of responses to the RFQ.

Minimum ten (10) years experience in design of blood cryogenically storage facilities.

Request for Qualifications (RFQ) are attached below and may be download by all firms interested in responding to this advertisement.

Responses to the RFQ should describe the consultant's experience and qualifications to undertake this work as described therein. The successful firm will be required to provide evidence demonstrating that the firm and any of the firms' engineering, land surveying, architectural or landscape architectural sub-consultants, are legally authorized by the NYS Education Department to do business in NY State. All firms must also provide proof of New York State Worker's Compensation Insurance and Disability Insurance coverage.

Qualification package must be submitted in PDF format on three (3) separate discs or flash drives and may be delivered to the location below. Qualifications must be received by 2:00 PM on Tuesday, March 27, 2012.

Contact - mailing address:

Catherine Adamitis
Business Manager
Facility Design Service
SUNY-Upstate Medical University
750 East Adams Street
Syracuse, New York 13210
Phone: 315-464- 4788

Contact - delivery location:

Catherine Adamitis
Facility Design Service
SUNY-Upstate Medical University
155 Elizabeth Blackwell Street
Campus Activity Building Room 208
Syracuse, New York 13210

Effective 1/1/06, in accordance with State Finance Law Section §139 j&k, AKA the Lobbying Law, all questions pertaining to this procurement shall be made formally to the following Designated Staff: **Cathy Adamitis, Business Manager**. Contact made to other staff regarding this procurement may disqualify the firm and affect future procurements with government entities in the State of New York. Please refer to the OGS' (www.ogs.state.ny.us/aboutogs/regulations/defaultAdvisoryCouncil.html) for more information on this law.

NYS Executive Law Article 15-A and University policy require campuses, and the consultants with whom they do business, to make a good faith effort to procure materials, supplies, equipment and services (including printing) from NYS certified minority- or women-owned businesses (M/WBEs) and meet University established goals for M/WBE participation in contracts. State University of New York goals are: **10% MBE** participation and **10% WBE** participation of the total contract value.

State University of New York also has a goal for the Work Force participation: EEO 10% WBE and EEO 10% MBE of total work force on the project. The selected consultant will be required to comply with M/WBE requirements.

The actual schedule for this project will be determined during programming.

REQUEST for QUALIFICATIONS

for

Project # 973 Cord Blood Bank Upstate @ Community General

**State University of New York
Upstate Medical University
at
Syracuse, New York**

March 5, 2012

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Attachments:

- Agreement with:
Exhibit A and A-1
 - State Finance Law §§139-j and 139-k
 - State Finance Law 163 (4) (g) Consultant - Planned Employment Form "A" & Annual Employment Form "B"
 - Consultant Services Affirmative Action Package
 - a). Consultants EEO Policy
 - b). Staffing Plan
 - c). Work Force Employment Utilization Report
 - d). State University of New York Subcontracting Information
 - e). MWBE Monthly and Quarterly Reports
-

Filing Instructions:

1. Review the Scope of Services to ascertain the type of work, the project timetable, the Project Budget, the proposed fee, and other pertinent information.
2. Fill-in/provide all information required in the Consultant Questionnaire, Supplement to Uniform Contracting Questionnaire and Consultant's Affirmation of Understanding for prime A/E's and all sub-consultants. . Attach such support material as may be deemed relevant to support your firm's selection for the type of work described in the Scope of Services.
3. Provide your Qualifications and support material in PDF format, in one document, and submit on **CD disc or flash drive** to Catherine Adamitis. Include a cover page that indicates the project number and title noted on the Request for Qualifications. This material is nonreturnable.
4. The attachments indicated above are included for informational purposes.

SCOPE OF SERVICES for Project No. 973 Cord Blood Bank –Upstate @ Community General

BACKGROUND:

SUNY Upstate Medical University is seeking qualifications for the full design services (programming, design, construction documents, bidding, and construction administration), of an architect / engineering team for a new cord blood bank located at the Community General campus. The project will be a stand alone building adjacent to the existing Community General Hospital campus. The project will include site design to incorporate the new building and utilities into the existing campus layout. The building will be a LEED silver rating (or higher). There will be no formal site visit nor will tours of the facility be given prior to the receipt of responses to the RFQ.

The cord blood bank will be capable of receiving processing and cryogenically storage. The operation should be as automated as possible and practical. In addition, the facility may be used for processing and cryogenic storage of other materials such as tumor tissue.

Minimum ten (10) years experience in design of blood cryogenically storage facilities

AVAILABLE DATA:

Drawings of the existing buildings and information on the existing utilities will be available for use by the selected consultant.

SCOPE OF SERVICES:

The services of this contract will be undertaken as follows:

PROGRAMMING PHASE (all requires as per the contract:

- 1) Preparation of an analysis of the following factors: Clinical requirements; site and property requirements; environmental influences; availability, relocation, provision and extension of all utilities; local building practices; time schedules for all phases of the Project; budget and cost forecasts; pedestrian access and egress patterns; public transportation facilities; vehicular traffic, and parking availability and nature.
- 2) Review of the Program, function, scope and intent of the Project.
- 3) Preparation of an analysis of the site and new building.
- 4) Preparation of diagrammatic studies of the Project showing, in the case of a project involving a structure, the utilities and other structures; and, in the case of a project involving site work, the relationship of site systems to the site, services, utilities and structures.
- 5) Preparation of an analysis of the probable cost of the Project, based upon square foot area, volume and/or systems involved.
- 6) Preparation and submission to the University for its approval a Program Phase Report

SCHEMATIC DESIGN: The work of this phase will include the following:

- 1) A complete analysis of all applicable codes as they pertain to this scope of work.
- 2) Preparation of a schematic design, including all possible options, which will meet the program.
- 3) Analysis of existing clinical system affected by this project.
- 4) Preparation of a schedule defining the duration of full design services and construction.
- 5) Preparation of a project budget.

DESIGN DEVELOPMENT, CONSTRUCTION DOCUMENTS, BIDDING, AND CONSTRUCTION PHASE SERVICES: The consultant will provide the balance of services as described in the standard SUNY consultant contracts as follows:

- 1) Preparation of contract documents suitable for bidding of the construction by Upstate Medical University.
- 2) Bid documents will be reproduced and distributed by Facility Design Services. The Consultant will be available during bidding to respond to questions and to prepare any required addenda. Bids will be received by Upstate Medical University.
- 3) Construction Phase services.

SUNY Upstate CAD Standards

Upon award of a project, UMU will furnish the consultant with an electronic template of our CAD standards showing the required layering system, line styles and weights and text styles and weights for the consultant's use in preparing the design documents for the project.

The consultant will furnish UMU one CD of the final design documents in a .dwg format at the time bidding occurs. UMU will review the document to determine compliance with the CAD standards. Compliance will be factored into approval of the percent complete of the design as it relates to payment.

At the end of the project, the consultant will provide UMU with one CD of the as-built conditions in .dwg format. UMU will review the CD for compliance to the standards and will base final payment on adherence to UMU CAD standards as one of the criteria for final payment.

2) FORMAT FOR RESPONSE TO THE RFQ

It is the intent of upstate Medical University to evaluate the responses to this RFQ and to select a consultant as expeditiously as possible. Interviews may not be held. In order to expedite this evaluation, responses to this RFQ should be presented on CD discs and mailed to the stated address on the Advertisement. The CD must be formatted into the following sections of information. The response should address the following items and must be presented in the order listed:

- 1) Brief cover letter listing the Consultant's point of contact and any subconsultants;

- 2) Listing of the consultant's staff, and that of any subconsultants, who comprise the team which will work with Upstate Medical University. The listing must identify M/WBE firms that are included in the team and each firm's estimated percentage of participation. Provide a brief description of relevant experience for each individual. This information may be submitted in the form of an organizational chart for the consultant's team. Resumes will be provided in section 5;
- 3) Consultant's Questionnaire, completed for the prime consultant and each major subconsultant, addressing items 1 through 9 in the two page format provided (the questionnaire may exceed two pages but should not be more than three in order to appropriately list responses). Responses to questions 6 and 7 should be inserted in space after each item and should include only the title of the project, its location, and a short, one sentence description of its relevancy. More detailed information will be provided in the section 4. **IT IS MANDATORY THAT EACH QUESTION BE ANSWERED AT THIS POINT IN THE SUBMISSION.** It is NOT permissible to present the Questionnaire in a form other than that provided. Please note that the Consultant's Questionnaire is required by SUNY regulations and must be submitted;
- 4) Photographs and/or other graphic information of completed projects similar to the subject of this RFQ and as listed in the Consultant Questionnaire, item 6.
- 5) Resumes of individuals with similar projects clearly identified and acknowledgement, where appropriate, if those projects were completed while under the employ of another firm, as listed in the Consultant Questionnaire, item 5.
- 6) Any additional relevant material describing the experience and qualifications of the consultant and the team.
- 7) Supplement to Consultant Questionnaire and completed Consultant's Affirmation of Understanding and Agreement pursuant to State Finance Law §139-j and §139-k as required by this RFQ, completed for the prime consultant and each major subconsultant.
- 8) Proof of current Firm's Certificate of Authorization and Individual's Licenses , issued by NYS Education Department, Office of the Professions, for all assigned personnel required to be so licensed in accordance with New York State Education Law 145 §7210 **must** be attached.

Failure to provide the requested information may disqualify a firm from consideration. Failure to follow the above format may be considered in the evaluation of the responsiveness of the submission.

The responses to this RFQ will be scored based on the following criteria:

- 1) **Design Capability:** General qualifications of firm/team. If an A/E team is required or requested, respondent must include full A/E services in-house or have complete team to provide these services. Upstate experience with the firm/team is to be considered.
- 2) **Staffing Experience:** Staff experience with projects which are nearly identical or very similar to that under consideration.
- 3) **Non-SUNY Design Experience:** General firm/team experience in blood cryogenically storage facilities
- 4) **SUNY Design Experience:** Experience with SUNY projects for individual campuses or for SUCF.
- 5) **Specific Project Experience:** Experience with projects which are nearly identical or very similar to that under consideration.
- 6) **Upstate Experience:** Rates the number and success of work which has been completed or is in progress with the consultant under consideration.
- 7) **Project Cost Control:** Presentation of examples and methodology, including use of specific cost estimating consultant.
- 8) **MBE Status/Staff:** Demonstration of firm/team minority and women membership.
- 9) **Adequacy of Proposal:** Extent of presentation, demonstration of qualifications, and adequacy of response to the RFQ.

PROGRAM BUDGET:

The estimated total project budget including design and will need to be confirmed during programming.

BASIC DESIGN FEE:

It is Upstate's intent to expeditiously select the consultant and to negotiate an appropriate fee.

TIME OF COMPLETION:

The actual schedule for this project will be determined during programming.

3) ANNUAL EMPLOYMENT REPORTS

Chapter 10 of the Laws of 2006 amends State Finance Law §§ 8 and 163 and mandates that State agencies must now require State contractors to report annually the following employment information: employment category, the number of persons employed to provide services under a contract for consulting services, the number of hours worked and the amount paid to the contractor by the State as compensation for work performed by these employees. This will include information on any persons working under any subcontracts with the State contractor.

This is a two step process. The first step, Form A is to be submitted with the Consultants' fee proposal; the State Consultant Services Contractor's Planned Employment From Contract Start Date Through the End of the Contract Term (Form A-Excel Spreadsheet). The completed form must include information for all employees providing service under the contract whether employed by the contractor or a subcontractor. Please note that the form captures the necessary planned employment information *prospectively from the start date of the contract through the end of the contract term.*

The second step is the completion and filing of State Consultant Services Contractor's Annual Employment Report (Form B-Excel Spreadsheet), which is to be used to report the annual / actual information. Please note that, in contrast to the information to be included on Form A, which is a one-time report of planned employment data for the entire term of a consulting contract on a projected basis, ***Form B will be submitted each year the contract is in effect and will capture historical information, detailing actual employment data for the most recently concluded State fiscal year (April 1 – March 31).***

Form A and Form B should be completed for contracts for consulting services in accordance with the following:

Scope of Contract (Form B only): a general classification of the single category that best fits the predominate nature of the services provided under the contract.

Employment Category: the specific occupation(s), as listed in the O*NET occupational classification system, which best describe the employees providing services under the contract.

(Note: Access the O*NET database, which is available through the US Department of Labor's Employment and Training Administration, on-line at online.onetcenter.org to find a list of occupations.)

Number of Employees: the total number of employees in the employment category employed to provide services under the contract during the Report Period, including part time employees and employees of subcontractors.

Number of hours (to be) worked: for Form A, the total number of hours to be worked, and for Form B, the total number of hours worked during the Report Period by the employees in the employment category.

Amount Payable under the Contract: the total amount paid or payable by the State to the State contractor under the contract, for work by the employees in the employment category, for services provided during the Report Period.

The first State Consultant Services Contractor's Annual Employment Report (Form B) will be due May 1, 2007, and will include information for the period ending March 31, 2007. The legislation mandates that the annual employment reports are to be submitted by the contractor to the contracting agency, to OSC and to the Department of Civil Service.

By submitting Qualifications for consideration on this project you are agreeing to comply with the requirements Chapter 10 of the Laws of 2006.

4) NYS EXECUTIVE LAW Article 15-A

NYS Executive Law Article 15-A and University policy require campuses, and the consultants with whom they do business, to make a good faith effort to procure materials, supplies, equipment and services (including printing) from NYS certified minority- or women-owned businesses (M/WBEs) and meet University established goals for M/WBE participation in contracts. State University of New York goals are: **10% MBE** participation

and **10% WBE** participation of the total contract value. State University of New York also has a goal for the Work Force participation: EEO 10% WBE and EEO 10% MBE of total work force on the project. The selected consultant will be required to comply with M/WBE requirements.

5) STATE FINANCE LAW §§139-j and 139-k

Pursuant to State Finance Law §§139-j and 139-k, this includes and imposes certain restrictions on communications between a Governmental Entity and an Offerer during the procurement process. An Offerer/bidder is restricted from making contacts from the earliest notice of intent to solicit offers through final award and approval of the Procurement Contract by the SUNY - Upstate Medical University Owego and Office of the State Comptroller (“restricted period”) to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law §139-j(3)(a). Designated staff, as of the date hereof, is identified below. SUNY-Upstate Medical University employees and their designated representatives are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the Offerer/Bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a 4 year period, the Offerer/Bidder is debarred from obtaining governmental Procurement Contracts. Further information about these requirements can be found at <http://www.ogs.state.ny.us/aboutOgs/regulations/defaultAdvisoryCouncil.html>.

CONTACT:

All questions pertaining to this Request for Qualifications shall be made directly to:

Cathy Adamitis

Business Manager

Facilities Design Services

SUNY - Upstate Medical University

750 East Adams Street

Syracuse, New York 13210

Phone: (315) 464-4788

Fax: (315) 464-4698

E-Mail: adamitic@upstate.edu

CONSULTANT QUESTIONNAIRE:

1. Firm Name and Address

 County: _____ Zip _____
 Phone #: _____

2. Year Firm Established _____
 3. Can your firm, through either in-house capability or a sub-consultant, abate asbestos as part of your professional design and construction responsibilities?
 Yes _____ No _____

1a. Branch Office #1

County: _____ Zip _____
 Phone #: _____

1b. Branch Office #2

County: _____ Zip _____
 Phone #: _____

4. In the space provided, list the name(s) of firm principal(s), their discipline, NYS licensing status, year licensed, and the number of years they have been with the firm. Place an (*) by the principal that will be in charge of this project.

*Copies of **BOTH FIRM'S and INDIVIDUAL'S Certificate of Authorization** in Accordance with New York State Education Law 145 §7210 **MUST** be attached.*

Name	Discipline	Licensed in NYS & year	Years With Firm

5. In the space provided, list the name(s) of individual(s) from the branch or main office that will be responsible for the design of the project. Indicate their discipline, licensing status, year licensed, and the number of years they have been with the firm.

*Copies of **INDIVIDUAL'S Certificate of Authorization** in accordance with New York State Education Law 145 §7210 **MUST** be attached.*

CONSULTANT QUESTIONNAIRE continued:

Name	Discipline	Licensed in NYS & year	Years With Firm

6. Attach a list of example projects completed within the last five years by the branch or main office that will be responsible for the design of the project. Indicate the project name, owner/contact and phone number, cost of construction, and completion date.

7. Other experience and/or qualifications relevant to the proposed project.

8. Is the firm a Certified NYS Minority or Women Owned Business? ___ yes ___no
If no, what is the total number of staff employed _____ and of this number, how many are minorities and/or women _____.

9. Indicate the estimated one-way mileage from the Home Office or Branch Office (whichever will provide the services) to the campus: _____ miles.

I certify that the foregoing are true statements:

Signature: _____

Name/Title: _____ Date _____

SUPPLEMENT TO CONSULTANT QUESTIONNAIRE

Consultant is: Prime Subcontractor

Web site Address:

Address of Primary Place of Business /Executive Office:

Primary Business Activity:

1) Does the consultant use, or has it used in the past ten (10) years any other Business Name, FEIN, or DBA other than those listed? List all other business name (s), Federal employer Identification Number (s) or any D/B/A names and the dates that these names were/ are in use. Explain the relationship to the consultant. Yes No

2) Are there any individuals now serving in a managerial or consulting capacity to the consultant, including principal owners and officers, who now serve or in the past three (3) years have served as:

a) An elected or appointed public official or officer? List each individual's name, business title, the name of the organization and position elected or appointed to, and dates of service. Yes No

b) A full or part-time employee in a New York State agency or as a consultant, in their individual capacity, to any New York State Agency? List each individual's name, business title, or consulting capacity and the New York State agency name, and employment position with applicable service dates. Yes No

c) If yes to above, did this individual perform services related to the solicitation, negotiation, operation and / or administration of public contracts for the contracting agency? List each individual's name, business title, or consulting capacity and the New York State agency name, and consulting /advisory position with applicable service dates. List each contract name and assigned NYS number. Yes No

d) An officer of any political party organization in New York State, whether paid or unpaid? List each individual's name, business title, or consulting capacity and the official political party position held with applicable service dates. Yes No

3) Has the consultant (for profit or not-for-profit corporation) or its affiliates', in the past three (3) years, had any governmental audits that revealed material weaknesses it its system of internal controls, compliance with contractual agreements and/or laws and regulations or any material disallowances? Indicate if this is applicable to the submitting consultant or affiliate. Detail the type of material weakness found or the situation(s) that gave rise to the disallowance, any corrective action taken by the consultant and the name of the auditing agency. Yes No

4) Is the consultant exempt from income taxes under the Internal Revenue Code? Indicate the reason for the exemption and provide a copy of any supporting information. Yes No

- 5) During the past three (3) years, has the consultant failed to:
- a) file returns or pay any applicable federal, state or city taxes? Identify the taxing jurisdiction, type of tax, liability year(s), and tax liability amount the consultant failed to file / pay and the current status of the liability. Yes No
 - b) file returns or pay New York State unemployment insurance? Yes No
- Indicate the years the consultant failed to file/pay the insurance and the current status of the liability.*

6) Is the consultant currently insolvent, or does consultant currently have reason to believe that an involuntary bankruptcy proceeding may be brought against it? Provide financial information to support the consultant's current position, for example, current Ratio, Debt Ratio, Age of Accounts Payable, Cash flow and any documents that will provide the agency with an understanding of the consultant's situation. Yes No

A DETAILED EXPLANATION IS REQUIRED FOR EACH QUESTION ANSWERED WITH A "YES," AND MUST BE PROVIDED AS AN ATTACHMENT TO THE COMPLETED QUESTIONNAIRE. YOU MUST PROVIDE ADEQUATE DETAILS OR DOCUMENTS TO AID THE CONTRACTING AGENCY IN MAKING A DETERMINATION OF CONSULTANT RESPONSIBILITY. PLEASE NUMBER EACH RESPONSE TO MATCH THE QUESTION NUMBER.

State of:)
) ss:
 County of:)

CERTIFICATION:

The undersigned: recognizes that this questionnaire is submitted for the express purpose of assisting SUNY Upstate Medical University in making a determination regarding an award of contract or approval of a subcontract; acknowledges that the State or its agencies and political subdivisions may in its discretion, by means which it may choose, verify the truth and accuracy of all statements made herein; acknowledges that intentional submission of false or misleading information may constitute a felony under Penal Law Section 210.40 or a misdemeanor under Penal Law Section 210.35 or Section 210.45, and may also be punishable by a fine and/or imprisonment of up to five years under 18 USC Section 1001 and may result in contract termination; and states that the information submitted in this questionnaire and any attached pages is true, accurate and complete.

Name of Business	Signature of Owner /Officer_____
Address	Printed Name of Signatory
City, State, Zip	Title

Sworn to before me this _____ day of _____, 20____;

 Notary Public

 Print Name

 Signature

 Date



STATE UNIVERSITY OF NEW YORK
Consultant’s Affirmation of Understanding and Agreement pursuant to State Finance Law §139-j (3) and §139-k (6) (b)

Background:

New York State Finance Law §139-j(6)(b) provides that:

SUNY –Upstate Medical University shall seek written affirmations from all Consultants as to the Consultant’s understanding of and agreement to comply with the SUNY’s – procedures relating to permissible contacts during a Governmental Procurement pursuant to subdivision three of this section.

Instructions:

SUNY –Upstate Medical University must obtain the required affirmation of understanding and agreement to comply with procedures on procurement lobbying restrictions regarding permissible contacts in the restricted period for a procurement contract in accordance with State Finance Law §§139-j and 139-k. It is recommended that this affirmation be obtained as early as possible in the procurement process, such as when the Consultant submits its proposal or bid.

Consultant affirms that it understands and agrees to comply with the procedures of the SUNY relative to permissible contacts as required by State Finance Law §139-j (3) and §139-j (6) (b).

By: _____ Date: _____

Name: _____

Title: _____

Consultant Name: _____

Consultant Address: _____

**STATE UNIVERSITY OF NEW YORK
CONSULTANT'S AGREEMENT
(For Construction Projects)**

This Agreement made as of the _____ day of _____, **2012**, for Contract Number _____ by and between STATE UNIVERSITY OF NEW YORK, a corporation organized and existing under the laws of the State of New York, with its principal office located at State University Plaza, Albany, New York 12246, on behalf of State University of New York at Upstate Medical University, located at 750 East Adams Street, Syracuse, New York 13210 hereinafter referred to as "University" and _____ having its principal office located at _____, hereinafter referred to as "Consultant".

WITNESSETH:

WHEREAS, the University desires the design of the work contained in Project Number **973**, titled **Cord Blood Bank** at Upstate Medical University @ Community General, Agency Code **28110**, for a Not-to-Exceed fee of \$ _____, (*in figures*, (_____ *in words*), and

Subject to authorized adjustments the design shall be completed within **TBD** calendar days starting 10 calendar days after the approval date by State University of New York.

WHEREAS the Consultant is willing to undertake the design of such Project for the compensation stated above, NOW, THEREFORE, the parties in consideration of the mutual covenants herein contained agree as follows:

**Article I
CONSULTANT'S BASIC SERVICES**

The Consultant shall provide such professional services as may be necessary to complete the design and construction of the Project. The same shall include, but are not limited to, the following:

SECTION A - GENERAL SERVICES

1. Determination of the staffing and subconsultants necessary for the timely performance of the services required hereunder to meet the University's program requirements.
2. Periodically advising the University of the progress of the planning, design and construction of the Project and any anticipated delay in the same.
3. Attendance, together with its subconsultants, at all conferences reasonably required by the University and the taking, preparation and distribution of minutes of all such conferences.
4. Coordination of all the services to be provided hereunder with related projects of the University being undertaken by the Consultant or by others.

SECTION B - SPECIFIC SERVICES

1. Program Phase

- a. Attendance at orientation meetings at the Project site and University office to review the terms of this Agreement, University procedural requirements at various development phases and the Program of the Project. For the purposes of the Agreement, the term "Program" includes: this Agreement, the Letter of Intent, the Scope of Services, State University Construction Fund Directives, and the comprehensive Project program addenda and the Program Budget.
- b. Preparation of an analysis of the following factors: educational requirements; site and property

requirements; environmental influences; availability, relocation, provision and extension of all utilities; local building practices; time schedules for all phases of the Project; budget and cost forecasts; pedestrian access and egress patterns; public transportation facilities; vehicular traffic, and parking availability and nature.

- c. Review of the Program, function, scope and intent of the Project, and, when deemed necessary by the University, the preparation of drawings indicating the contract limits of the proposed construction contract.
- d. Preparation of an analysis of the site and, in the case of the rehabilitation of an existing building, the existing condition of the building, including, but not limited to, determining the location, measurement and submitting a report to the University setting forth such analysis and specifying additional information, such as topography, soil data, and municipal agency and utility company projects that may be required for the development of the Project and containing recommendations for the action necessary to obtain such information.
- e. Preparation of diagrammatic studies of the Project showing, in the case of a project involving a structure, the utilities and other structures; and, in the case of a project involving site work, the relationship of site systems to the site, services, utilities and structures.
- f. Preparation of an analysis of the probable cost of the Project, based upon square foot area, volume and/or systems involved.
- g. Preparation and submission to the University for its approval of a Program Phase Report, prepared in a format acceptable to the University, setting forth in detail the function, scope and intent of the Project. Submission of the aforesaid report by the Consultant shall constitute its acceptance of the Program, unless otherwise specified and agreed to by the University in writing.

2. Schematic Design Phase

- a. Preparation, submission and presentation to the University of the architectural concept of the Project (Schematic Approach) to illustrate the fundamental character of one or more design concepts which satisfy the basic program requirements of the Project, including but not limited to, preparation of sketches in plan of the Project.
- b. Preparation and submission to the University for its approval of a Schematic Design Report, which shall include, but not be limited to:
 - 1. Such graphic material, code analysis, and information as is necessary to fully illustrate the proposed design and the construction materials of the Project and the relationship of the Project to other projects on the campus, either existing or proposed, and such other factors that may affect the design of the Project or otherwise involve or relate to the Project.
 - 2. Engineering reports analyzing and economically justifying the proposed structural, mechanical, electrical and other technical systems included in the Project.
 - 3. A cost estimate, hereinafter referred to as the "Schematic Cost Estimate", of sufficient detail to indicate that the proposed design can be constructed within the limitations of the Program Budget.

3. Design Manual Phase

- a. Preparation of preliminary plans of the Project, including elevations and/or sections, which plans shall be based on the approved schematic design and the University's comments thereon and shall fully develop graphically the design, scope and concept of various systems of the Project.
- b. Preparation of outline specifications describing in narrative style design decisions in each of the technical areas, performance criteria and materials of various components and systems of the type of structure and/or site work, systems and such other work and details as may be required to complete the design of the project.
- c. Preparation, in the case of a project involving a structure, of furniture, furnishings and equipment layouts of all rooms and spaces in the Project.
- d. Preparation, in the case of a project involving a structure, of an analysis of the relationship of the designed gross and net square foot areas to programmed areas of the Project.

- e. Preparation of study perspectives and models illustrating in detail the architectural design of the Project.
- f. Preparation and submission for approval, during the preparation of preliminary plans and outline specifications, of a detailed cost estimate based upon a preliminary quantity takeoff of all work necessary for the complete construction of the Project, which estimate is hereinafter referred to as the "Design Manual Cost Estimate." The Design Manual Cost Estimate shall be in sufficient detail to demonstrate to the University that the work designed is within the University's Program Budget.
- g. Preparation and submission for approval of scope descriptions and cost estimates of such feasible design alternatives as will allow for construction contract award flexibility.
- h. Preparation and submission for approval of a Design Manual Report, incorporating design decisions, preliminary plans, outline specifications, cost estimate, time schedules and such other information required by the Design Manual Report.
- i. Presentation of the approved Design Manual Report to University representatives.

4. Construction Document Phase

- a. Preparation and submission for approval of complete final working drawings which shall clearly define all additive and/or deductive alternates and all graphic illustrations necessary to accurately bid and complete the construction of the Project. The Consultant's compensation, if any, for services in connection with alternates shall be determined in accordance with the provisions of Section D (8) of Article III hereof.
- b. Preparation and submission for approval of a complete set of final specifications in University format setting forth in detail and describing the work to be performed by the contractor and the finish and the quality of materials and workmanship to be required of the contractor.
- c. Preparation and submission for approval of a detailed cost estimate, based upon the complete contract documents, of all work necessary for the complete construction of the Project, which estimate is hereinafter referred to as the "Pre-Bid Cost Estimate." In the event the bids of all qualified, responsible and reliable contractors for the construction of the Project are in excess of the amount of the Program Budget, as of the approved bid date, the Consultant, to the extent necessary in the University's judgment to bring the cost of the Project within said Program Budget, shall revise, subject to the approval and acceptance by the University, all or any part of the drawings and specifications of the Project that the University may deem advisable or, if the construction contract for the Project has been awarded by the University, the Consultant shall prepare all credit change orders, including any necessary revisions to the drawings and specifications that the University may deem advisable to bring the cost of the Project within said Program Budget. Notwithstanding any other provisions of this Agreement, all of the foregoing services to be provided by the Consultant, under the provisions of this paragraph, shall be provided by it without reimbursement of costs or any additional compensation therefor unless the Consultant can justify to the satisfaction of the University that the factors that caused the variance between the low bid and said Program Budget were not the responsibility of the diligence and its best efforts. For the purposes of this subdivision only, the term Program Budget shall be the amount that the University is willing to spend for construction of the Project.
- d. Application to the Labor Department of the State of New York for wage schedules for each construction contract and incorporation of the same in the specifications for each contract.
- e. Preparation and submission for approval of a Pre-Bid Report, which shall include, but not be limited to, the final working drawings and specifications and "Final Cost Estimate" to the University for its review and approval a minimum of four (4) weeks prior to the date set for the advertisement for bids from contractors. The Consultant assumes complete responsibility for the correctness, accuracy and completeness of the final working drawings and final specifications and for their coordination with the work of its subconsultants. The approval of such drawings and specifications by the University shall in no way affect or limit this responsibility of the Consultant.
- f. The assemblage and distribution of the bid documents to prospective bidders and plan rooms.
- g. The seeking of bidders, opening and analysis of bids, investigation and selection of bidders and recommendations relative to the award of each contract for the construction of each Project.

5. Construction Phase - General Administration of Construction Contracts

- a. Furnishing general administration of each construction contract awarded for the Project until final completion and acceptance by the University of the construction of the Project.

- b. Furnishing such field administration of each construction contract and inspection of the work of each contractor in an effort to guard the University against inferior materials or workmanship. The Consultant shall use all reasonable care and diligence and exercise its best efforts to see that the Project is constructed in accordance with the drawings and specifications. Through the use of such care, diligence and efforts and any action taken by the Consultant in accordance with this Agreement or under each construction contract, the Consultant does not, however, guarantee that a contractor will not breach its construction contract, but the Consultant shall use all reasonable care and diligence and exercise its best efforts to discover any breach and after it becomes aware of any breach it shall immediately notify the University thereof. In the event of such breach, the Consultant shall submit to the University its recommendations for appropriate remedial action.
- c. Arranging for and/or providing, at regular intervals, and at special times as directed by the University, field administration and inspection of each construction contract by home office personnel of the Consultant and its subconsultants who are expert in the technical areas of work involved in the Project. The Consultant shall provide such field administration and inspection on an average of not less than twice a month during the Construction Phase and shall require its subconsultants to provide such field administration and inspection not less than twice a month during the Construction Phase when work in the subconsultant's specialty is in progress. Said services shall be provided without additional compensation except that, when the total direct labor cost of the same, and a sum equal to 150 percent thereof, equals one-half of the Construction Phase Fee, additional services in the field, unrelated to any fault or omission of the Consultant or its subconsultants, required and approved in writing by the University, will be paid for by the University in accordance with the provisions of subdivision (3) of Section D and subdivision (2) of Section E of Article III hereof.
- d. Furnishing a Field Representative and such assistants as are required, where the same are requested and approved in writing by the University, to give full-time personal field administration of each construction contract and inspection of and attention to all the work to be performed by each contractor. The field administration, inspection and attention provided by the Field Representative and/or assistants shall not be in lieu of or a substitute for the administration, inspection and attention required to be furnished by the Consultant hereunder but shall be in addition thereto. The Consultant's compensation for such Field Representative and assistants shall be determined in accordance with the provisions of Section D (2) and (7) of Article III hereof.
- e. Obtaining, reviewing and approving, when the same is satisfactory, each contractor's time progress schedule. The Consultant shall use all reasonable care and diligence and exercise its best efforts to see that the completion date for the construction of the Project, as set forth in each construction contract, is met, and, to this end, it shall periodically review the construction progress and performance and advise the University of the same. Each construction contract for the Project shall provide that time is of the essence for the completion and construction of the Project and the Consultant agrees to assist the University in an effort to achieve the specified completion date by advising the University of actions that could be taken to prevent or eliminate delays. The Contractor shall have responsibility for its time, means and methods of construction and for construction site safety.
- f. Development with each contractor of a time schedule covering the preparation and submission of all shop drawings and samples, which schedule shall be designed to avoid delays during construction and to assure an even flow of work. The Consultant shall utilize all reasonable care and diligence and exercise its best efforts to see that each contractor adheres to such schedules. The Consultant shall review and comment upon shop drawings and samples furnished by each contractor within fifteen (15) working days of receipt of the same; provided, however, the same are submitted in accordance with the aforesaid time schedule.
- g. Assumption of complete responsibility in the first instance for the interpretation of the substitution, prior concurrence of the interpretation must be obtained from the University.
- h. Taking of positive action, within the limits of the Consultant's authority hereunder and under the provisions of the applicable construction contract, to safeguard the interest of the University whenever the necessity for such action comes to the Consultant's attention.
- i. The preparation of technical documents, if any, and procedural forms for the execution of Change Orders. The solicitation of price quotes from the Contractor for proposed Change Orders and the evaluation and recommendation of the Contractor's responses. The authorization, together with the University, of all Change Orders. Except in the case of an emergency which threatens loss or injury to persons or property, neither the consultant nor any of its representatives can authorize any change order to a construction contract or change in the work covered by the construction contract. The Consultant's compensation, if any, for services in connection with change orders shall be determined in accordance with the provisions of Section D (6) of Article III.

- j. Keeping of records setting forth the field progress, the submission and processing of shop drawings and samples and the progress of the Project as it relates to each requisition for payment of each contractor.
- k. Reviewing and approving, when the same are satisfactory, partial and final requisitions submitted by construction work.
- l. Conducting of field meetings, held at regular intervals, with representatives of the various trades and of the contractors engaged in the construction of the Project and the preparation and distribution of the minutes of such meetings.
- m. Monthly submission of progress reports to the University during the Construction Phase of the Project based upon personal observation of the Consultant or its staff, which reports shall include, but are not limited to, an analysis of the construction time schedule as contrasted to field progress and anticipated delays in construction.
- n. Assemblage of written guarantees, manuals and as-built drawings required of each contractor and submission of the same to the University.
- o. Inspection of the Project thirty (30) to forty-five (45) days prior to the time the University is to take over, use, occupy or operate any part or all of the Project and furnishing a punch list and/or report to the University of contractor. The Consultant shall use all reasonable care and diligence and exercise its best efforts to see that such work items until they are satisfactorily completed.
- p. Using all reasonable care and diligence and exercising its best efforts to see that all discrepancies and deficiencies covered by guarantees provided by each contractor are promptly remedied; inspection of the Project forty-five (45) to sixty (60) days prior to the end of the one (1) year general guarantee period; furnishing a list and/or report to the University of observed discrepancies and deficiencies covered by contractor guarantees; and monitoring and inspecting the performance of the required remedial work.

Article II ADDITIONAL OBLIGATIONS AND RESPONSIBILITIES

SECTION A - SEQUENCE OF SERVICES

Except as herein provided, the services described in Article I shall be rendered in the same sequence as they appear in this Agreement, and, where the Project includes more than one construction contract to be let by the University, the Consultant shall provide all of the services required under this Agreement for each such construction contract.

SECTION B - SUBCONSULTANTS

The Consultant shall not engage, contract with or use the services of any subconsultant without obtaining the prior written approval of the University. The Consultant shall submit for approval a report of the scope of services to be provided by each of its subconsultants, with the latter's acknowledgment thereof. No provision of this Agreement and no approval by the University of the scope of the services to be provided by the subconsultants shall, however, be construed as an agreement between the University and any subconsultant of the Consultant or with any person, firm or corporation engaged by, contracted with, or whose services are utilized by the Consultant, or in any way affect the responsibilities of the Consultant hereunder, and, unless otherwise agreed to in writing by the University, the fees of any subconsultants retained by the Consultant shall be deemed covered by the Total Fee to be paid by the University to the Consultant.

SECTION C - CONSULTANT'S PERSONNEL

All personnel assigned by the Consultant to the Project shall be required to cooperate fully with personnel assigned by the University to the Project, and, in the event the Consultant's personnel fail to so cooperate, they, on request of the University, shall be relieved of their duties in connection with the Project.

SECTION D - COORDINATION

The Consultant shall designate one person who, on its behalf, shall be responsible for coordinating all of the services to be rendered by the Consultant hereunder. Such designee shall be subject to the approval of the University.

SECTION E - DRAWINGS AND SPECIFICATIONS

The drawings and specifications prepared by the Consultant shall be in conformity with all applicable laws, governmental rules and regulations, and the requirements of the Program. The Consultant shall be responsible for obtaining all required permits, approvals and clearances from the appropriate state and local authorities with the exception only of such permits, approvals and clearances as are required to be obtained by the contractor or contractors for the Project.

SECTION F - PATENTS

The drawings and specifications prepared by the Consultant shall not, without the prior written approval of the University, specify or require any patented article, design or process which requires payment by the University of royalties for its use or is of a proprietary nature.

SECTION G - GRANTS AND LOANS

In the event that the University is a recipient of or applicant for a grant or loan for the Project from any individual, firm, association, corporation or foundation or from any governmental department or agency, the Consultant, without additional compensation for up to forty (40) direct labor cost hours, shall attend all conferences requested by the party making the grant or loan, submit all necessary drawings, specifications, documents, forms and estimates for the approval of such party, prepare reports for grant or loan requirements during the Construction Phase and revise any and all drawings and specifications for the Project to comply with the requirements of the aforesaid party in connection with the grant or loan; provided, however, that if, in the judgment of the University, any of such revisions are caused by a change in the requirements of the party making the grant or loan and are found to be necessary after the Consultant's performance of part of the work to be revised, the Consultant will be entitled to extra compensation for such revisions and related extra work in accordance with the provisions of Section D (3) of Article III hereof.

SECTION H - REPRODUCTIONS

The Consultant, at its own cost and expense, shall supply reproductions of plans, specifications, reports and other data and documents pertaining to the Project for its own use, for interoffice use with its sub-consultants. The University shall be entitled to be supplied with a maximum of six (6) reproductions of any plans, specifications, reports and other data and documents required to be prepared by the Consultant pursuant to Article I hereof. Reproduction of Contract Documents for bidding/construction purposes shall be the responsibility of the Consultant, if requested by the University, and shall be reimbursed by the University for the actual cost plus 10 percent.

SECTION I - CLAIMS

In the event any claim is made or any action brought in any way relating to the design or construction of the Project, the Consultant, without additional compensation therefor, will diligently render to the University any and all architectural and engineering assistance which the University may require of the Consultant, including, but not limited to, the making of analyses and reports. Notwithstanding the foregoing, the Consultant shall not be required by the University, without extra compensation therefor, to prepare mock-ups, make tests or testify at a trial or pre-trial proceeding; provided, however, that the Consultant shall furnish such services at its own cost and expense where it is established by a judicial decree or finding that the aforesaid claim or action has arisen from the negligence of the Consultant or the failure of the Consultant to properly and fully perform its obligations and responsibilities under this Agreement.

SECTION J - CHANGES AND/OR REVISIONS

At any time during the term of this Agreement, the Consultant, upon request of the University, shall change and/or revise any and all drawings and specifications of or for the Project.

SECTION K - BUDGETS

The University shall establish a Program Budget based on the amount that the University would be willing to spend for the Project at the time the construction contract or contracts are scheduled to be bid. The estimated cost of construction of the Consultant's design of the Project shall at all times be within the applicable Program Budget unless revised in writing by the University. In the event that such estimated cost is at any time in excess of the University's Program Budget, the Consultant, to the extent necessary in the University's judgment to bring the cost of the Project within said Budget, shall revise, at its own cost and expense, subject to the acceptance and approval by the University, all or any part of the drawings and specifications of the Project that the University may deem advisable. Unless otherwise directed by the University, the cost analysis and all cost estimates referred to in subsections (1)f, (2)b, (3)f, (4)c and (4)e of Section B of Article I hereof shall be prepared by a cost analyst approved by the University.

SECTION L - SUPERVISION AND DIRECTION

The services to be performed by the Consultant hereunder shall at all times be subject to the general supervision and direction of the University. The University shall determine every question of fact which may arise in relation to the interpretation of this Agreement and performance by the parties hereto of their respective obligations and responsibilities hereunder and the decision of the University thereon shall be final, conclusive and binding upon the Consultant unless determined by a court of competent jurisdiction to have been fraudulent, capricious, arbitrary or so grossly erroneous as to necessarily imply bad faith.

The University reserves the right to have the State University Construction Fund (Fund) act on its behalf at any time or during any phase of the project authorized by this Agreement. Such designation of the Fund to act on behalf of the University shall be in writing addressed to the Consultant and signed by the University.

Article III PAYMENT FOR SERVICES

SECTION A - BASIC COMPENSATION

1. For the purposes of this Agreement, the term "Total Fee" shall mean the total compensation payable to the Consultant under the provisions of subdivisions (1), (2), (3) and (4) of this Section. The Total Fee shall be a negotiated not-to-exceed fee sum and shall include any and all costs for subconsultants, telephone, postage, travel, meals, expressly provided in the Agreement, all of the services required to be provided by the Consultant hereunder shall be deemed to be covered by the Total Fee and the Consultant shall not be entitled to extra compensation or reimbursement of its expenses in providing the same.
2. Except as otherwise provided for herein, payment of the fee shall be divided into two parts. The first part shall correspond to the Design Phase of the work and shall equate to 80 percent of the Total Fee. The second part shall correspond to the Construction Administration Phase of the work and shall equate to 20 percent of the Total Fee.

The value of each of the design phases shall be computed as follows:

- a. Upon completion and acceptance by the University of the Program and Schematic Design Phase, a sum to 20 percent of the Total Fee.
 - b. Upon completion and acceptance by the University of the Design Manual Phase, a sum equal to 20 percent of the Total Fee.
 - c. Upon completion and acceptance by the University of the Construction Documents Phase, a sum equal to 40 percent of the Total Fee.
3. Notwithstanding the foregoing, in the event that the University, during one of the Phases of the Project, suspends all or any part of the Project, the Consultant, in lieu of the method hereinabove provided, shall be paid for its services during such Phases as follows: (1) for services performed by the Consultant prior to such suspension, a sum equal to the percentage of completion prior to the suspension; and (2) for services performed by the Consultant following the resumption of all or any part of the Project, a renegotiated sum determined by the Revised Program Budget for the work to be resumed, by the percentage of completion following the resumption of all or any part of the Project.

Substantive program changes made by the University shall, in no way, affect previous payments made to the Consultant.

4. Notwithstanding the provisions of subdivisions (1), (2) and (3) above, if the amount of the bid of the lowest qualified, responsible and reliable contractor does not exceed the University's Program Budget and if the bid is not accepted by the University within six (6) months after its approval of the final working drawings and final specifications, then, the Consultant, unless it and the University otherwise agree in writing, shall be paid only the fee earned under the Design Phase and it shall be deemed to have been released by the University from rendering any additional services hereunder.

SECTION B - TIME OF PAYMENT OF BASIC COMPENSATION

During the Program and Schematic Design Phase, the Design Manual Phase, the Construction Documents Phase, and the Construction Phase of the Project the University shall make monthly installment payments to the Consultant

The amount of the monthly installment payments shall be in proportion to the amount of services rendered by the Consultant as determined by the University on its receipt of reports from the Consultant as to the progress of the services to be furnished in the respective phases.

SECTION C - REIMBURSABLE EXPENSES

Except as otherwise provided for in Section H of Article II hereof, all reproductions of plans, specifications, reports and other data and documents requested by and furnished to or on behalf of the University and all required application fees in connection with the Project shall be paid for by the University on the basis of the Consultant's actual expenditure therefor; provided, however, that the Consultant shall not be entitled to any reimbursement for the cost of typing or drafting of the same.

SECTION D - EXTRA COMPENSATION

1. Final models, photographs and other architectural renderings, as contrasted to study or preliminary models, photographs or other architectural renderings, will be paid for either on a lump-sum basis agreed to in writing by the parties hereto or on the basis of the Consultant's direct labor cost plus a sum equal to 150 percent thereof; the manner of payment to be determined by the University prior to the completion of performance of such services.
2. The furnishing of a Site Representative at the frequency and duration directed by the University. Payment for this service shall be on the basis of the Consultant's direct labor costs plus 35 percent, inclusive of all benefits and overhead. The individual and the hourly rate shall be approved by the University.
3. Special technical, engineering and/or consultation services will be paid for either on a lump-sum basis agreed to in writing by the parties hereto or on the basis of the Consultant's direct labor cost plus a sum equal to 150 percent thereof; the manner of payment to be determined by the University prior to the completion of performance of such services.
4. Testing laboratory services, topographic, utility, traffic volume, air/water quality and property surveys, test borings, construction progress photos, and, in case of the rehabilitation of an existing building, determining the location, measurement and other essential data of existing architectural, structural, mechanical, electrical and utility features, the details of which, in the judgment of the University, are grossly deficient from a review of existing information and drawings and/or a physical inspection, shall be paid for either on a lump-sum basis agreed to in writing by the parties hereto or on the basis of the Consultant's direct labor cost plus a sum equal to 150 percent services.
5. Except for changes and/or revisions prepared by the Consultant pursuant to Section B (4) c of Article I hereof, all changes and/or revisions to drawings or specifications, resulting from a significant program change of the University prior to the award of a construction contract shall be paid for either on a lump-sum basis agreed to in writing by the parties hereto or on the basis of the Consultant's direct labor cost plus a sum equal to 150 percent thereof; the manner of payment to be determined by the University prior to the completion of performance of such services. Notwithstanding any of the other provisions hereof, whenever any program change results in an increase or decrease in the estimated cost of the Project, the Consultant's Basic Design Fee for services rendered prior to said change shall be based on the last approved Program Budget and the Consultant's Basic Design Fee for all services rendered after such change shall be based on the approved Revised Program Budget for the phase submission after the change was made.
6. All services rendered by the Consultant in connection with any work item, included in a change order to a construction contract, which results from either: (a) a program change of the University, or (b) conditions which, in the judgment of the University, could not have been reasonably anticipated or foreseen by the Consultant at the time bids for construction of the Project were received, will be paid for by the University on the basis of the approved value of said item multiplied by 5 percent. All services rendered by the Consultant in connection with all other extra work items and all deleted work items, included in a change order to a construction contract, shall be deemed to be covered by the Total Fee.
7. Notwithstanding any of the other provisions of this Section, the University will reimburse the Consultant for such field office expenses, other than salaries and fringe benefits, required or approved in writing by the University which, as a result of the nature of the Project, are, in the judgment of the University, substantially in excess of those field office expenses normally incurred by a Consultant in furnishing field administration of a construction contract and inspection of construction work.
8. Additive and deductive alternates, in which changes in design are involved, as contrasted to a material or equipment substitution or addition which, in the judgment of the University, does not involve design changes, will be paid for either on the basis of the Consultant's direct labor cost plus a sum equal to 150 percent thereof or on the basis of the amount the Construction Documents Payment would have been increased had the value of such

alternates been added to the amount of the approved Pre-Bid Cost Estimate; the manner of payment to be determined by the University within sixty (60) days after the award of the construction contract. For the purposes of the preceding sentence, deductive alternates shall be added to, rather than subtracted from, the Pre-Bid Cost Estimate and the value of all alternates shall be deemed to be an amount equal to the bid quoted for the alternates by the lowest bidder or, in the event that the lowest bidder does not submit a bid for such alternates, an average of all bids submitted therefor. Notwithstanding the foregoing, unless otherwise agreed to in writing by the University, the Consultant shall not be entitled to reimbursement of costs or any additional compensation in connection with any alternates for any construction contract or part thereof which is being rebid because all bids previously received by the University were in excess of the amount of the Program Budget of the University therefor and were rejected by the University.

Notwithstanding the foregoing, all services rendered by the Consultant in connection with alternates that involve a material or equipment substitution, addition or deletion which, in the judgment of the University, does not involve design changes, and all services rendered by the Consultant in connection with any additive or deductive alternates prior to the Construction Document Phase shall be deemed covered by the Total Fee unless otherwise agreed to in writing by the University.

9. In the event the Consultant is caused to furnish services, not provided for herein and not previously performed, as a result of the University declaring a contractor in default, damage to the Project by fire or other casualty, or a delay, through no fault or omission of the Consultant, in completion of construction of more than one (1) year after the specified completion date in a construction contract, the University shall pay the Consultant for such services, but, in the case of delayed construction completion, for only those services performed after said one (1) year period, on the basis of the Consultant's direct labor cost plus a sum equal to 150 percent thereof; provided, however, that the Consultant shall not be entitled to extra compensation for monitoring and inspecting either punch list, work or guarantee work items except monitoring and inspection service performed by the Consultant after the expiration of eighteen (18) months from the commencement of the one (1) year general guarantee period.
10. Notwithstanding the foregoing, the Consultant shall not be entitled to extra compensation under any of the preceding subdivisions of this Section unless the services to be provided by the Consultant hereunder have been requested and approved in writing by the University.

SECTION E - PAYMENT OF REIMBURSABLE EXPENSES

1. The reimbursable expenses and extra compensation provided by the above Sections C and D of this Article shall in each case become due and payable by the University within thirty (30) days after its approval of an invoice to be submitted by the Consultant describing the respective items and services furnished and/or performed and the computation of the cost thereof.
2. The term "direct labor cost" as used in this Agreement refers only to labor furnished by the Consultant. Such cost shall be determined by multiplying the amount of time directly and exclusively devoted to the applicable services by non-technical assistants to the Site Representative and technical personnel of the Consultant by the respective charges for such personnel's time; provided, however, that no charge shall be included for time of such personnel if they are not paid for the same. Charges for employees' time will be computed on the basis of their regular rates of gross pay, exclusive of any premiums paid for overtime, except where the University authorizes and agrees in writing to pay for such overtime, which rates shall be filed with and approved by the University. Charges for time of the Consultant's officers or members of the firm will be computed on the basis of a rate of fifty dollars (\$50) per hour. Except as otherwise specifically provided herein, no charges shall be included for time of non-technical personnel or the cost of benefits, required by law or otherwise, to non-technical or technical personnel.

When services for which the Consultant would be entitled to extra compensation under Section D (1) through (9) of Article III hereof are furnished, upon request and approval in writing by the University, by a person, firm or corporation other than the Consultant, the University, in lieu of the payments hereinabove provided, which would have been made had such services been furnished by the Consultant, will only pay the Consultant for such services on the basis of the Consultant's actual expenditure therefor plus a sum equal to 10 percent thereof; provided, however, that the Consultant shall not be entitled to said 10 percent override when, in connection with or related to the services furnished by said other person, firm or corporation, it has been or will be compensated by the University for the direct labor costs of its own technical personnel.

3. Notwithstanding anything to the contrary hereinabove set forth, where labor and/or materials utilized by the Consultant in furnishing the services to be provided by it hereunder are furnished by a person, firm or corporation Consultant shall not be entitled to any further payments hereunder until it submits proof that such labor and/or materials have been paid for by it or until the University has determined that the Consultant with good cause has otherwise sufficiently provided for the payment and satisfaction of the same.

4. Whenever any payment to or fee of the Consultant is dependent in whole or in part on the Consultant's or its subconsultants' cost or costs, the Consultant shall maintain efficient and accurate cost and accounting records as to all such costs and the Consultant shall require its subconsultants to maintain similar records. The Consultant, at any time during the term of this Agreement or within six (6) years thereafter, shall make such records and requires its subconsultants to make their records available to the University or its authorized representatives for review and audit. In the event all or any part of such records are not maintained or made available to the University, any item not supported by reason of the unavailability of such records shall, at the election of the University, be disallowed and, if payment therefor has already been made, the Consultant, upon demand, shall refund to the University the amounts so disallowed. Payment to the Consultant and/or approval by the University of any invoice submitted by the Consultant shall in no way affect the Consultant's obligations hereunder or the right of the University to obtain a refund of any payment to or fee of the Consultant which was in excess of that to which it was lawfully entitled.
5. For purposes of participating in a survey, the Consultant agrees to maintain efficient and accurate cost and accounting records as to all costs it incurs in connection with the performance of services provided or required under Article I hereof, and the Consultant shall require its subconsultants to maintain similar records. The Consultant, at any time during the term of this Agreement or within six (6) years hereafter, shall make such records and require its consultants to make their records available to the University or its authorized representatives for review and audit.

SECTION F - SPECIAL COMPENSATION

For the special services, if any, listed in the Scope of Services, which is attached hereto and made a part hereof, that the Consultant agrees to furnish and perform, the University shall pay the Consultant the fees listed on said Scope of Services.

Upon completion and approval by the University of each of said services, the fee therefor shall become due and payable by the University within thirty (30) days after submission by the Consultant of an invoice describing the services furnished and performed and the computation of the cost thereof.

SECTION G - CREDIT ADJUSTMENT TO THE UNIVERSITY

The University shall receive a credit in connection with the contracts listed in the Scope of Services, which is attached hereto and made a part hereof, in the amount or percentage listed thereon. For each of such contracts the applicable credit, if any, shall be first applied, until extinguished in its entirety, against any fee, compensation or expense of the Consultant in connection with such contract for which payment is to be made by the University pursuant to any of the provisions of this Agreement.

Article IV OWNERSHIP OF DOCUMENTS

The plans, drawings, specifications, reports, renderings, models, and other documents to be prepared and furnished by the Consultant pursuant to this Agreement shall be the property of the University. The Consultant shall not publish or disseminate to third parties information pertaining to the Project, or any part or aspect thereof, without first obtaining written approval from the University for such publication or dissemination and of the format and content thereof.

Notwithstanding the foregoing, in the event that the University uses all or a substantial portion of the final working drawings for the construction of another project, the University shall compensate the Consultant therefor in such amount as it deems fair and reasonable. In the event of such use, the University shall remove the Consultant's name and seal from the documents and the Consultant shall have no liability or responsibility for such use.

Article V SURVEYS, BORINGS AND TEST DATA

The University shall furnish the Consultant such topographic, utility and property surveys, borings and test pit data as it may have and the Consultant shall obtain such additional topographic, utility and property surveys, borings and test pit data as may be required to complete the final working drawings and final specifications for each of the construction contracts. Such additional surveys, borings and data, the obtainment of which is approved in writing by the University, shall be paid for by the University in accordance with the provisions of Section D (4) of Article III. The Consultant agrees that it will make no claim against the University by reason of such surveys, borings and data unless the same are found to be inaccurate and solely as a result thereof the Consultant, in the opinion of the University, is caused to revise and/or redesign all or any part of the Project, in which case the University will

compensate the Consultant for such revision and/or redesign pursuant to the provisions of Section D (5) of Article III hereof.

Article VI TERMINATION OF AGREEMENT

SECTION A - PERSONAL SERVICES

It is understood between the parties that this Agreement is intended to secure the personal services of the Consultant or Consultants (if a partnership) because of its or their ability or reputation and that this Agreement shall not be assigned, sublet or transferred without the prior written consent of the University.

SECTION B - DEATH OR DISABILITY

In case of the death or disability of one or more but not all of the persons referred to as Consultant, the rights and duties of the Consultant shall, at the election of the University, devolve upon the survivor or survivors of them who shall be obligated to perform the services required under this agreement and the University shall make all payments due under this Agreement to the survivors.

SECTION C - TERMINATION

At any time during the effectiveness of this Agreement, the University shall have the right upon seven (7) calendar days' written notice to the Consultant to terminate this Agreement, for cause, convenience or in the event the State Finance Law sections 139-j and 139-k certifications are found to be false or incomplete or to postpone, delay, suspend or abandon all or any part of the Project. In the event of such termination, postponement, delay, suspension or abandonment, the Consultant shall deliver to the University all plans, drawings, specifications, reports and other data and records pertaining to the Project and the University shall pay to the Consultant all amounts due in accordance with Article III hereof; provided, however, that if the University, after commencement of the Consultant's performance of services hereunder, postpones, delays or suspends the Project and subsequently, after a lapse of time, directs the resumption of performance of services by the Consultant, the Consultant, if it, in the judgment of the University, is caused to do extra work, which it would not have otherwise had to do, as a result thereof, will be entitled to extra compensation for such extra work in accordance with the provisions of Section D (3) of Article III hereof. Except as expressly provided in the previous sentence, such termination, postponement, delay, suspension or abandonment shall not give rise to any cause of action or claim against the University for damages, extra remuneration or loss of anticipated profits. In the event such termination, postponement, delay, suspension or abandonment is caused because of the Consultant's failure to fulfill its obligations or responsibilities under this Agreement, the Consultant shall remain liable to the University for all damages suffered by it by reason of such failure, including, but not limited to, any excess costs incurred in completing the Project by the use or employment of other Consultants or otherwise.

Article VII LIABILITY OF THE CONSULTANT

In addition to any liability or obligations of the Consultant to the University that may exist under any other provisions of this Agreement or by statute or otherwise, the Consultant shall be liable to and hold harmless and indemnify the University from and against any damages, lawsuits, claims and liabilities, excluding the University's attorney fees and court costs, which the University may sustain, be subject to or be caused to incur by virtue of as a result of any claim, demand, lawsuit, proceeding, action or cause of action in connection with the Project for:

1. Any infringement of any claimed copyright or patent right of designs, plans, drawings or specifications resulting from the use or adoption of any designs, plans, drawings or specifications furnished by the Consultant; or
2. Any negligence of the Consultant, its agents, employees, officers, subconsultants or subcontractors for which the Consultant is legally liable.

The Consultant represents that its subconsultants, subcontractors, agents, employees and officers shall possess the experience, knowledge and character necessary to qualify them individually for the particular duties they perform in connection with the Project.

The Consultant shall procure and maintain at its own cost and expense, until final acceptance by the University of all of the construction work of the Project and the expiration of the one (1) year general guarantee, errors and omissions insurance, including contractual liability, from an insurance company that cites the University as a named insured. Such policy shall be approved by the University and authorized to do business in the State of New York, covering the Consultant for all services performed hereunder with a limit for each occurrence equal to one-half of the University's

budget for the Project or one million dollars (\$1,000,000), whichever shall be the lesser amount. The Consultant shall furnish to the University, with its Pre-Bid Report, a certificate of insurance which shall contain a provision that the insurance will not be canceled unless the insurer shall provide the University with fifteen (15) days' written notice of cancellation. Neither the procurement nor the maintenance of such insurance shall in any way affect or limit the obligations, responsibilities or liabilities of the Consultant hereunder.

Nothing in this Article or in this Agreement shall create or give to third parties any claim or right of action against the Consultant or the University beyond such as may legally exist irrespective of this Article or this Agreement.

Article VIII AFFIRMATIVE ACTION

The Consultant agrees to comply with the requirements of Exhibit A-I, attached hereto and made a part hereof.

Article IX PROVISIONS REQUIRED TO BE INSERTED BY LAW

Each and every provision required by law to be inserted in this Agreement, including, but not limited to, the provisions set forth in Exhibit "A" which is attached hereto and made a part hereof and State Finance Law Section (163) (4) (g) imposes certain reporting requirements on contractors doing business with New York State. In furtherance of these reporting requirements, the Contractor agree to complete and submit an initial planned employment data report and annual employment report, which are attached as Forms A and B. respectively.

Article X RELEASE OF THE UNIVERSITY

The acceptance by the Consultant or any person claiming under the Consultant of final payment made under this Agreement shall operate as and shall be a release of the University from all claims by and liability to the Consultant, its successors, legal representatives and assigns, for anything done or furnished under the provisions of this Agreement or in connection with the Project.

Article XI GENERAL PROVISIONS

SECTION A - APPROVAL

Wherever in this Agreement action is to be taken by or approval given by the University, such action or approval may be taken or given by any officer or employee of the University duly designated to act on behalf of the University.

SECTION B - DEFINITION

In the event that the principals of the party referred to in the Agreement as the "Consultant" are architects, engineers, landscape consultants or surveyors, then and in that event, wherever the word or designation "Consultant" appears in this Agreement, such word or designation shall be deemed to be "Architect", "Engineer", "Landscape Consultant", or "Surveyor", as the case may be. For the purpose of this Agreement, the terms "inspection" and/or "administration" shall not be interpreted as the Consultant's guarantee of workmanship or that the Contractor will not breach its construction contract.

SECTION C - DELAYS OR OMISSIONS

No delay or omission by the University or the Consultant to exercise any right or remedy accruing to it under the terms of this Agreement or existing at law or in equity or by statute or otherwise shall be construed as a waiver of any of the provisions of this Agreement or of any such right or remedy and no such delay or omission shall impair any such right or remedy or be construed to be a waiver of or acquiescence in the act or acts or omission or omissions to act giving rise to the accruals of such right or remedy, nor shall it affect the University's or the Consultant's rights or remedies upon the occurrence of any subsequent event of the same or of a different nature.

SECTION D - CAPTIONS

The captions of Articles and Sections of this Agreement are intended for convenience and for reference purposes only and in no way define, limit or describe the scope or intent thereof, or of this Agreement or in any way affect this Agreement.

SECTION E - SINGULAR/PLURAL; MALE/FEMALE

As used in this Agreement, the singular of any word or designation, whenever necessary or appropriate, shall include the plural and vice versa, and the masculine gender shall include the female and neuter genders and vice versa.

SECTION F - ACTIONS OR PROCEEDINGS AGAINST THE UNIVERSITY

No action or proceeding shall lie or be maintained by the Consultant, or anyone claiming under or through the Consultant, against the University or any of its trustees, officers, agents or employees, upon any claim arising out of or based upon this Agreement or any breach thereof or by reason of any act or omission of the University or its trustees, officers, agents or employees, unless such action or proceeding is commenced within one (1) year after the University's acceptance of the construction work.

EXHIBIT B

CONTRACT #
PROJECT #

SCOPE OF SERVICES: Professional design services for

DELIVERABLES:

Shall include the requirements of the contract for

Upstate Medical University has established a layering standard for CAD drawings. This standard facilitates the incorporation of project construction documents into Upstate's electronic drawing database. The consultant must use this standard in preparation of any and all CAD drawings associated with this project including as-built documents.

TOTAL FEE \$

CONTRACT TERM days

SECTION G - ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the parties hereto and supersedes all previous understandings and agreements with respect to the Project or any of the provisions hereof. No statement, promise, condition, understanding, inducement, or representation, oral or written, expressed or implied, which is not contained herein shall be binding or valid and this Agreement shall not be changed, modified or altered in any manner except by an instrument in writing executed by the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

STATE UNIVERSITY OF NEW YORK:

_____ **Assistant Vice-President for Facilities and Planning** _____
by *Thomas K. Pelis, P.E.* _____ date

CONSULTANT:

_____ _____ _____
by title date

_____ *Federal ID Number*

(If Corporation, affix Corporate Seal)

ACKNOWLEDGMENTS

(Acknowledgment by Individual)

STATE OF NEW YORK)
COUNTY OF) ss.:

On this _____ day of _____, 19____, before me personally came _____, to me known and known to me to be the person(s) described in and who executed the foregoing instrument and he/she acknowledged to me that he/she executed the same.

Notary Public

(Acknowledgment by Partnership)

STATE OF NEW YORK)
COUNTY OF) ss.:

On this _____ day of _____, 19____, before me personally came _____, to me known and known to me to be the person who executed the above instrument, who, being duly sworn by me, did for theirself dispose and say that he/she is a member of the firm of _____, consisting of theirself and _____, that he/she executed the foregoing instrument in the firm name of _____, and that he/she had authority to sign the same, and he/she did duly acknowledge to me that he/she executed the same as the act and deed of the aforementioned firm for the purposes mentioned therein.

Notary Public

(Acknowledgment by Corporation)

STATE OF NEW YORK)
COUNTY OF) ss.:

On this _____ day of _____, 19____, before me personally came _____, to me known, who, being duly sworn, did depose and say that he/she resides in _____; that he/she is the _____ of _____ the _____, the corporation described in and which executed the foregoing instrument; that he/she knows the seal of said corporation; that the seal affixed to said instrument was such corporate seal; that it was so affixed by the order of the Board of Directors of said corporation, and that he/she signed his name thereto by like order.

Notary Public

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

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

2. PROHIBITION AGAINST ASSIGNMENT
Except for the assignment of its right to receive payments subject to Article 5-A of the State Finance Law, the Contractor selected to perform the services herein are prohibited in accordance with Section 138 of the State Finance Law from assigning, transferring, conveying, subletting or otherwise disposing of its rights, title or interest in the contract without the prior written consent of SUNY and attempts to do so are null and void. Notwithstanding the foregoing, SUNY may, with the concurrence of the New York Office of State Comptroller, waive prior written consent of the assignment, transfer, conveyance, sublease or other disposition of a contract let pursuant to Article XI of the State Finance Law if the assignment, transfer, conveyance, sublease or other disposition is due to a reorganization, merger or consolidation of Contractor's its business entity or enterprise and Contractor so certifies to SUNY. SUNY retains the right, as provided in Section 138 of the State Finance Law, to accept or reject an assignment, transfer, conveyance, sublease or other disposition of the contract, and to require that any Contractor demonstrate its responsibility to do business with SUNY.

3. COMPTROLLER'S APPROVAL. (a) In accordance with Section 112 of the State Finance Law, Section 355 of New York State Education Law, and 8 NYCRR 316, Comptroller's approval is not required for the following contracts: (i) materials; (ii) equipment and supplies, including computer equipment; (iii) motor vehicles; (iv) construction; (v) construction-related services; (vi) printing; and (vii) goods for State University health care facilities, including contracts for goods made with joint or group purchasing arrangements.

(b) Comptroller's approval is required for the following contracts: (i) contracts for services not listed in Paragraph (3)(a) above made by a State University campus or health care facility certified by the Vice Chancellor and Chief Financial Officer, if the contract value exceeds \$250,000; (ii) contracts for services not listed in Paragraph (3)(a) above made by a State University campus not certified by the Vice Chancellor and Chief Financial Officer, if the contract value exceeds \$50,000; (iii) contracts for services not listed in Paragraph (3)(a) above made by health care facilities not certified by the Vice Chancellor and Chief Financial Officer, if the contract value exceeds \$75,000; (iv) contracts whereby the State University agrees to give something other than money, when the value or reasonably estimated value of such consideration exceeds \$10,000; (v) contracts for real property transactions if the contract value exceeds \$50,000; (vi) all other contracts not listed in Paragraph 3(a) above, if the contract value exceeds \$50,000, e.g. SUNY acquisition of a business and New York State Finance Article 11-B contracts and (vii) amendments for any amount to contracts not listed in Paragraph (3)(a) above, when as so amended, the contract exceeds the threshold amounts stated in Paragraph (b) herein;

(c) Any contract that requires Comptroller approval shall not be valid, effective or binding upon the State University until it has been approved by the Comptroller and filed in the Comptroller's office.

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 because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. 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 SUNY of any SUNY-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 on the submission of competitive bids, Contractor affirms, under penalty of perjury, and each person signing on behalf of Contractor, and in the case of a joint bid each party thereto certifies as to its

own organization, under penalty of perjury, that to the best of its knowledge and belief 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 it to SUNY 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 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, 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 SUNY and its representatives and entities 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. SUNY 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 SUNY 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, SUNY's or the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

Identification Number(s). Every invoice or New York State Claim for Payment submitted to the State University of New York 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 University of New York 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 State University of New York 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.

(a) In accordance with Section 312 of the Executive Law and 5 NYCRR 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:

(1) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff,

or termination and rates of pay or other forms of compensation;

(2) at SUNY's request, 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

(3) 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.

(b) Contractor will include the provisions of "1", "2" and "3", 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 sub-contractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. SUNY 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, SUNY 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 Exhibit A, the terms of this Exhibit 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 State Finance Law §165 (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 Section 165 of the State Finance Law. Any such use must meet with the approval of the State, otherwise, the bid may not be considered responsive. Under bidder certification, 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 Contractor and any individual or legal entity in which the Contractor holds a ten percent or greater ownership interest and any individual or legal entity that holds a ten percent or greater ownership interest in the Contractor either (a) have 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(5) of the 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
30 South Pearl St., 7th Floor
Albany, NY 12245
Tel: 518-292-5220
Fax: 518-292-5884
<http://www.empire.state.ny.us>

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
30 South Pearl St., 7th Floor
Albany, NY 12245
Tel: 518-292-5250
Fax: 518-292-5803
<http://www.empire.state.ny.us>

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

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

(b) The Contractor has complied with the Federal Equal Employment 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 Search 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 SUNY may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with SUNY 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 of 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. Contact the NYS Department of Economic Development, Division for Small Business, 30 South Pearl Street, Albany, New York 12245, for a current list of jurisdictions subject to this provision.

22. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT. Contractor shall comply with the provisions of the New York State

Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

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, the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to SUNY, the Department of Civil Service and the State Comptroller.

24. PURCHASES OF APPAREL AND SPORTS EQUIPMENT. In accordance with State Finance Law Section 165(7), SUNY may determine that a bidder on a contract for the purchase of apparel or sports equipment is not a responsible bidder as defined in State Finance Law Section 163 based on (a) the labor standards applicable to the manufacture of the apparel or sports equipment, including employee compensation, working conditions, employee rights to form unions and the use of child labor; or (b) bidder's failure to provide information sufficient for SUNY to determine the labor conditions applicable to the manufacture of the apparel or sports equipment.

25. PROCUREMENT LOBBYING. To the extent this agreement is a "procurement contract" as defined by State Finance Law Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 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.

26. 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 Section 5-a, if the Contractor fails to make the certification required by Tax Law Section 5-a or if during the term of the contract, the Department of Taxation and Finance or SUNY 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 SUNY determines that such action is in the best interests of the State.

THE FOLLOWING PROVISIONS SHALL APPLY ONLY TO THOSE CONTRACTS TO WHICH A HOSPITAL OR OTHER HEALTH SERVICE FACILITY IS A PARTY

27. Notwithstanding any other provision in this contract, the hospital or other health service facility remains responsible for insuring that any service provided pursuant to this contract complies with all pertinent provisions of Federal, state and local statutes, rules and regulations. In the foregoing sentence, the word "service" shall be construed to refer to the health care service rendered by the hospital or other health service facility.

28. (a) In accordance with the 1980 Omnibus Reconciliation Act (Public Law 96-499), Contractor hereby agrees that until the expiration of four years after the furnishing of services under this agreement, Contractor shall make available upon written request to the Secretary of Health and Human Services, or upon request, to the Comptroller General of the United States or any of their duly authorized representatives, copies of this contract, books, documents and records of the Contractor that are necessary to certify the nature and extent of the costs hereunder.

(b) If Contractor carries out any of the duties of the contract hereunder, through a subcontract having a value or cost of \$10,000 or more over a twelve-month period, such subcontract shall contain a clause to the effect that, until the expiration of four years after the furnishing of such services pursuant to such subcontract, the subcontractor shall make available upon written request to the Secretary of Health and Human Services or upon request to the Comptroller General of the United States, or any of their duly authorized representatives, copies of the subcontract and books, documents and records of the subcontractor that are necessary to verify the nature and extent of the costs of such subcontract.

(c) The provisions of this section shall apply only to such contracts as are within the definition established by the Health Care Financing Administration, as may be amended or modified from time to time.

1. DEFINITIONS. The following terms shall be defined in accordance with Section 310 of the Executive Law:

STATE CONTRACT herein referred to as "State Contract", shall mean: (a) a written agreement or purchase order instrument, providing for a total expenditure in excess of twenty-five thousand dollars (\$25,000.00), whereby the State University of New York ("University") is committed to expend or does expend funds in return for labor, services including but not limited to legal, financial and other professional services, supplies, equipment, materials or a combination of the foregoing, to be performed for, or rendered or furnished to the University; (b) a written agreement in excess of one hundred thousand dollars (\$100,000.00) whereby the University is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; and (c) a written agreement in excess of one hundred thousand dollars (\$100,000.00) whereby the University as an 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.

SUBCONTRACT herein referred to as "Subcontract", shall mean any agreement providing for a total expenditure in excess of \$25,000 for construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon between a Contractor and any individual, partnership, corporation, or not-for-profit corporation, in which a portion of a Contractor's obligation under a State Contract is undertaken or assumed, but shall not include any construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon for the beneficial use of Contractor.

WOMEN-OWNED BUSINESS ENTERPRISE herein referred to as "WBE", shall mean a business enterprise, including a sole proprietorship, partnership or corporation that is: (a) at least fifty-one percent owned by one or more United States citizens or permanent resident aliens who are women; (b) an enterprise in which the ownership interest of such women is real, substantial and continuing; (c) an enterprise in which such women ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise; (d) an enterprise authorized to do business in this state and independently owned and operated; (e) an enterprise owned by an individual or individuals, whose ownership, control and operation are relied upon for certification, with a personal net worth that does not exceed three million five hundred thousand dollars, as adjusted annually on the first of January for inflation according to the consumer price index of the previous year; and (f) an enterprise that is a small business pursuant to subdivision twenty of this section.

A firm owned by a minority group member who is also a woman may be certified as a minority-owned business enterprise, a women-owned business enterprise, or both, and may be counted towards either a minority-owned business enterprise goal or a women-owned business enterprise goal, in regard to any Contract or any goal, set by an agency or authority, but such participation may not be counted towards both such goals. Such an enterprise's participation in a Contract may not be divided between the minority-owned business enterprise goal and the women-owned business enterprise goal.

MINORITY-OWNED BUSINESS ENTERPRISE herein referred to as "MBE", shall mean a business enterprise, including a sole proprietorship, partnership or corporation that is: (a) at least fifty-one percent (51%) owned by one or more minority group members; (b) an enterprise in which such minority ownership is real, substantial and continuing; (c) an enterprise in which such minority ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise; (d) an enterprise authorized to do business in this state and independently owned and operated; (e) an enterprise owned by an individual or individuals, whose ownership, control and operation are relied upon for certification, with a personal net worth that does not exceed three million five hundred thousand dollars, (\$3,500,000.00) as adjusted annually on the first of January for inflation according to the consumer price index of the previous year; and (f) an enterprise that is a small business pursuant to subdivision twenty of this section.

MINORITY GROUP MEMBER shall mean a United States citizen or permanent resident alien who is and can demonstrate membership in one of the following groups: (a) Black persons having origins in any of the Black African racial groups; (b) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American of either Indian or Hispanic origin, regardless of race; (c) Native American or Alaskan native persons having origins in any of the original peoples of North America. (d) Asian and Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian Subcontinent or Pacific Islands.

CERTIFIED ENTERPRISE OR BUSINESS shall mean a business verified as a minority or women-owned business enterprise pursuant to section 314 of the Executive Law. A business enterprise which has been approved by the DMWBD for minority or women-owned enterprise status subsequent to verification that the business enterprise is owned, operated, and controlled by minority group members or women, and that also meets the financial requirements set forth in the regulations.

2. TERMS. The parties to the attached State Contract agree to be bound by the following provisions which are made a part hereof (the word "Contractor" herein refers to any party other than the University):

1(a) Contractor and its Subcontractors shall undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. For these purposes, affirmative action shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.

(b) Prior to the award of a State Contract, the Contractor shall submit an equal employment opportunity (EEO) policy statement to the University within the time frame established by the University.

(c) As part of the Contractor's EEO policy statement, the Contractor, as a precondition to entering into a valid and binding State Contract, shall agree to the following in the performance of the State Contract: (i) The Contractor will not discriminate against any employee or applicant for employment, will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and 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; (ii) 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; (iii) At the request of the University 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, and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.

(d) Except for construction Contracts, prior to an award of a State Contract, the Contractor shall submit to the contracting agency a staffing plan of the anticipated work force to be utilized on the State Contract or, where required, information on the Contractor's total work force, including apprentices, broken down by specified ethnic background, gender, and Federal occupational categories or other appropriate categories specified by the contracting agency. The form of the staffing plan shall be supplied by the contracting agency. If Contractor fails to provide a staffing plan, or in the alternative, a description of its entire work force, the University may reject Contractor's bid, unless Contractor either commits to provide such information at a later date or provides a reasonable justification in writing for its failure to provide the same.

(e) After an award of a State Contract, the Contractor shall submit to the University a workforce utilization report, in a form and manner required by the agency, of the work force actually utilized on the State Contract, broken down by specified ethnic background, gender, and Federal occupational categories or

other appropriate categories specified by the University.

(f) The Contractor shall include the provisions of this section in every Subcontract in such a manner that the requirements of the provisions will be binding upon each Subcontractor as to work in connection with the State Contract, including the requirement that Subcontractors shall undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and, when requested, provide to the Contractor information on the ethnic background, gender, and Federal occupational categories of the employees to be utilized on the State Contract.

(g) To ensure compliance with the requirements of this paragraph, the University shall inquire of a Contractor whether the work force to be utilized in the performance of the State Contract can be separated out from the Contractor's and/or Subcontractors' total work force and where the work of the State Contract is to be performed. For Contractors who are unable to separate the portion of their work force which will be utilized for the performance of this State Contract, Contractor shall provide reports describing its entire work force by the specified ethnic background, gender, and Federal Occupational Categories, or other appropriate categories which the agency may specify.

(h) The University may require the Contractor and any Subcontractor to submit compliance reports, pursuant to the regulations relating to their operations and implementation of their affirmative action or equal employment opportunity program in effect as of the date the State Contract is executed.

(i) If a Contractor or Subcontractor does not have an existing affirmative action program, the University may provide to the Contractor or Subcontractor a model plan of an affirmative action program. Upon request, the Director of New York State Department of Economic Development, Division of Minority and Women Business Development (DMWBBD) shall provide a contracting agency with a model plan of an affirmative action program.

(j) Upon request, DMWBBD shall provide the University with information on specific recruitment sources for minority group members and woman, and contracting agencies shall make such information available to Contractors

2. Contractor must provide the names, addresses and federal identification numbers of certified minority- and women-owned business enterprises which the Contractor intends to use to perform the State Contract and a description of the Contract scope of work which the Contractor intends to structure to increase the participation by Certified minority- and/or women-owned business enterprises on the State Contract, and the estimated or, if known, actual dollar amounts to be paid to and performance dates of each component of a State Contract which the Contractor intends to be performed by a certified minority- or woman-owned business enterprise. In the event the Contractor responding to University solicitation is joint venture, teaming agreement, or other similar arrangement that includes a minority- and women owned business enterprise, the Contractor must submit for review and approval: i. the name, address, telephone number and federal identification of each partner or party to the agreement; ii. the

federal identification number of the joint venture or entity established to respond to the solicitation, if applicable; iii. A copy of the joint venture, teaming or other similar arrangement which describes the percentage of interest owned by each party to the agreement and the value added by each party; iv. A copy of the mentor-protégé agreement between the parties, if applicable, and if not described in the joint venture, teaming agreement, or other similar arrangement.

3. PARTICIPATION BY MINORITY GROUP MEMBERS AND WOMEN. The University shall determine whether Contractor has made conscientious and active efforts to employ and utilize minority group members and women to perform this State Contract based upon an analysis of the following factors:

(a) Whether Contractor established and maintained a current list of recruitment sources for minority group members and women, and whether Contractor provided written notification to such recruitment sources that contractor had employment opportunities at the time such opportunities became available.

(b) Whether contractor sent letters to recruiting sources, labor unions, or authorized representatives of workers with which contractor has a collective bargaining or other agreement or understanding requesting assistance in locating minority group members and women for employment.

(c) Whether contractor disseminated its EEO policy by including it in any advertising in the news media, and in particular, in minority and women news media.

(d) Whether contractor has attempted to provide information concerning its EEO policy to Subcontractors with which it does business or had anticipated doing business.

(e) Whether internal procedures exist for, at a minimum, annual dissemination of the EEO policy to employees, specifically to employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions. Such dissemination may occur through distribution of employee policy manuals and handbooks, annual reports, staff meetings and public postings.

(f) Whether Contractor encourages and utilizes minority group members and women employees to assist in recruiting other employees.

(g) Whether Contractor has apprentice training programs approved by the N.Y.S. Department of Labor which provides for training and hiring of minority group members and women.

(h) Whether the terms of this section have been incorporated into each Subcontract which is entered into by the Contractor.

4. PARTICIPATION BY MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES. Based upon an analysis of the following factors, the University shall determine whether Contractor has made good faith efforts to provide for meaningful participation by minority-owned and women-owned business enterprises which have been certified by DMWBBD:

(a) Whether Contractor has actively solicited bids for Subcontracts from qualified M/WBEs, including those firms listed on the Directory of Certified Minority and Women-Owned Business Enterprises, and has documented its good faith efforts towards

meeting minority and women owned business enterprise utilization plans by providing, copies of solicitations, copies of any advertisements for participation by certified minority- and women-owned business enterprises timely published in appropriate general circulation, trade and minority- or women-oriented publications, together with the listing(s) and date(s) of the publications of such advertisements; dates of attendance at any pre-bid, pre-award, or other meetings, if any, scheduled by the University, with certified minority- and women-owned business enterprises, and the reasons why any such firm was not selected to participate on the project.

(b) Whether Contractor has attempted to make project plans and specifications available to firms who are not members of associations with plan rooms and reduce fees for firms who are disadvantaged.

(c) Whether Contractor has utilized the services of organizations which provide technical assistance in connection with M/WBE participation.

(d) Whether Contractor has structured its Subcontracts so that opportunities exist to complete smaller portions of work.

(e) Whether Contractor has encouraged the formation of joint ventures, partnerships, or other similar arrangements among Subcontractors.

(f) Whether Contractor has requested the services of the Department of Economic Development (DED) to assist Subcontractors' efforts to satisfy bonding requirement.

(g) Whether Contractor has made progress payments promptly to its Subcontractors.

(h) Whether the terms of this section have been incorporated into each Subcontract which is entered into by the Contractor. It shall be the responsibility of Contractor to ensure compliance by every Subcontractor with these provisions.

5. GOALS. (a) GOALS FOR MINORITY AND WOMEN WORK FORCE PARTICIPATION.

(i) The University shall include relevant work force availability data, which is provided by the DMWBBD, in all documents which solicit bids for State Contracts and shall make efforts to assist Contractors in utilizing such data to determine expected levels of participation for minority group members and women on State Contracts.

(ii) Contractor shall exert good faith efforts to achieve such goals for minority and women's participation. To successfully achieve such goals, the employment of minority group members and women by Contractor must be substantially uniform during the entire term of this State Contract. In addition, Contractor should not participate in the transfer of employees from one employer or project to another for the sole purpose of achieving goals for minority and women's participation.

(b) **GOALS FOR MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES PARTICIPATION.** For all State Contracts in excess of \$25,000.00 whereby the University is committed to expend or does expend funds in return for labor, services including but not limited to legal, financial and other professional services, supplies, equipment, materials or a combination of the

foregoing or all State Contracts in excess of \$100,000.00 whereby the University is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon, Contractor shall exert good faith efforts to achieve a participation goal of **ten percent (10%)** for Certified Minority-Owned Business Enterprises and **ten percent (10%)** for Certified Women-Owned Business Enterprises.

6. ENFORCEMENT. The University will be responsible for enforcement of each Contractor's compliance with these provisions. Contractor, and each Subcontractor, shall permit the University access to its books, records and accounts for the purpose of investigating and determining whether

Contractor or Subcontractor is in compliance with the requirements of Article 15-A of the Executive Law. If the University determines that a Contractor or Subcontractor may not be in compliance with these provisions, the University may make every reasonable effort to resolve the issue and assist the Contractor or Subcontractor in its efforts to comply with these provisions. If the University is unable to resolve the issue of noncompliance, the University may file a complaint with the DMWBD.

7. DAMAGES FOR NON COMPLIANCE. In the event that the Contractor willfully or intentionally fail to comply with the minority and women owned enterprises participation requirements set forth in the regulations promulgated by the DED as it applies to this State Contract, the Contractor shall be liable

to pay to the University as COMPENSATORY DAMAGES, NOT AS PENALTY a sum of money to cover the actual cost incurred by the University for personnel, supplies and overhead for establishing, monitoring, and reviewing minority and women owned business enterprise programmatic goals and affirmative action and equal opportunity in connection with this State Contract. The University may deduct and retain out of the monies which may become due hereunder to the Contractor the amount of any such liquidated damages and, in case the amount which may become due to the Contractor under the provisions of the Contract may be less than the liquidated damages suffered by the University, the Contractor shall pay the difference, upon demand, to the University.

SUNY UPSTATE MEDICAL UNIVERSITY
NEW YORK STATE FINANCE LAW 139 PACKET
TO BE SUBMITTED WITH QUOTATIONS OVER \$ 15,000.00

Contents:

Page 1 Introduction, Directions, and Contact Information
Pages 2 - 4 New York State Finance Law 139 summary, forms, and questionnaire

Introduction:

All procurements by SUNY Upstate Medical University (Upstate) valued at \$15,000 or greater, are subject to New York State's State Finance Law Sections 139-j and 139-k, effective January 1, 2006.

Pursuant to SFL139, all contacts and inquiries (oral, written, or electronic communications) with Upstate, occurring during a procurement, must be made with a designated Point of Contact.

Moreover, SFL139 requires Upstate to obtain certain affirmations and certifications from vendors. The attached New York State Finance Law 139 Vendor Form provides a means for Upstate to obtain those affirmations and certifications.

For your review, New York State Finance Law §139 can be found at the following web site:

<http://www.ogs.state.ny.us/aboutogs/regulations/advisoryCouncil/StatutoryReferences.html>

Directions:

1. The SUNY Upstate Medical University New York State Finance Law 139 vendor form consists of three (3) pages.
2. You must answer all questions contained within the form.
3. Where a response requires additional information, attach a written response that adequately details the requested information. Please note on each response the page and question number.
4. The completed forms (three pages) and attached responses will become a part of SUNY Upstate Medical University's procurement record.
5. The form is a fillable document using MS Word.

It is imperative the person completing the form be knowledgeable about the vendor's business and operations. As an owner or officer, he or she will certify the form's information.

To expedite the receipt of the completed and signed form:

Scan the completed document and e-mail it to adamitic@upstate.edu or you may fax it to 315-464-4698, Attn: Cathy Adamitis.

The original must be sent to the address shown below

Contact Information:

If you have any questions regarding these forms or questionnaire, contact Cathy Adamitis at **315-464-4788** or e-mail adamitic@upstate.edu

Send completed forms and questionnaire to:

Attn: Cathy Adamitis, C.P.M., CBM
Facility Design Services
SUNY Upstate Medical University
750 East Adams Street/ MT-205
Syracuse, New York 13210

Summary of SUNY Upstate Medical University's policy and prohibitions regarding permissible contacts during a covered procurement.

Pursuant to State Finance Law §§139-j and 139-k, this solicitation/contract includes and imposes certain restrictions on communications between SUNY Upstate Medical University and the Offerer during the procurement process. The Offerer/bidder is restricted from making contacts from the earliest notice of intent to solicit offers through final award and approval of the procurement contract by SUNY Upstate Medical University and, if applicable, Office of the State Comptroller to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law §139-j(3)(a). This phase of the procurement process is known as the restricted period. SUNY Upstate Medical University employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the Offerer/bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a 4 year period, the Offerer/bidder is debarred from obtaining governmental procurement contracts.

New York State Finance Law 139-k Contract Termination Provision

The Governmental Entity reserves the right to terminate this contract in the event it is found that the certification filed by the Offerer in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, SUNY Upstate Medical University may exercise its termination right by providing written notification to the Offerer in accordance with the written notification terms of this contract.

Offerer affirms that it understands and agrees SUNY Upstate Medical University reserves the right to terminate the associated contract in the event it is found that the certification filed by the Offerer in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete.

By: _____

Date: _____

Name: _____

Title: _____

Contractor Name: _____

Contractor Address: _____

Offerer's Affirmation of Understanding of and Agreement pursuant to State Finance Law §139-j (3) and §139-j (6) (b)

All contacts and/or inquiries regarding this procurement, be they oral, written, or electronic commencing with the earliest written notice, advertisement, or solicitation and ending with the final contract award, approved by SUNY Upstate Medical University and, where applicable, Office of the State Comptroller shall only be directed to the following persons:

- 1) Cathy Adamitis
Facility Design Services
SUNY Upstate Medical University
750 East Adams Street/ MT-205
Syracuse, NY 13210
Ph. 315-464-2412
Fax 315-464-4788
E-mail adamitic@upstate.edu

Offerer affirms that it understands and agrees to comply with the procedures of SUNY Upstate Medical University relative to permissible Contacts as required by State Finance Law §139-j (3) and §139-j (6) (b).

By: _____ Date: _____

Name: _____

Title: _____

Contractor Name: _____

Contractor Address: _____

Offerer's Certification of Compliance with State Finance Law §139-k(5)

I certify that all information provided to the SUNY Upstate Medical University with respect to State Finance Law §139-k is complete, true and accurate.

By: _____ Date: _____

Name: _____

Title: _____

Contractor Name: _____

Contractor Address: _____

Offerer's Disclosure of Prior Non-Responsibility Determinations

Date: _____ Contract Procurement Number: _____

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

Address: _____

Person Submitting this Form: _____
Name Title

1. Has any Governmental Entity made a finding of non-responsibility regarding the individual or entity seeking to enter into the Procurement Contract in the previous four years? (Please circle):
No Yes

If yes, please answer the next questions:

2. Was the basis for the finding of non-responsibility due to a violation of State Finance Law §139-j (Please circle):
No Yes

3. Was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a Governmental Entity? (Please circle):
No Yes

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

Governmental Entity: _____

Date of Finding of Non-responsibility: _____

Basis of Finding of Non-Responsibility: _____

(Add additional pages as necessary)

5. Has any Governmental Entity or other governmental agency terminated or withheld a Procurement Contract with the above-named individual or entity due to the intentional provision of false or incomplete information? (Please circle):
No Yes

6. If yes, please provide details below.

Governmental Entity: _____

Date of Termination or Withholding of Contract: _____

Basis of Termination or Withholding: _____

(Add additional pages as necessary)

Offerer certifies that all information provided to SUNY Upstate Medical University with respect to State Finance Law §139-k is complete, true and accurate.

By: _____ Date: _____
Signature

Name: _____ Title: _____



SUNY – UPSTATE MEDICAL UNIVERSITY
Policy and Procedure of the State University of New York
Relating to State Finance Law §§139-j and 139-k

State Finance Law §§139-j and 139-k, enacted by Ch. 1 L. 2005, as amended by Ch. 596 L. 2005, effective January 1, 2006, regulate lobbying on government procurement, including procurements by State University to obtain commodities and services and to undertake real estate transactions.

Generally, the law restricts communications between a potential vendor or a person acting on behalf of the vendor, including its lobbyist, to communications with the officers and employees of the procuring agency designated in each solicitation to receive such communications. Further, the law prohibits a communication (a “Contact”) which a reasonable person would infer as an attempt to unduly influence the award, denial or amendment of a contract. These restrictions apply to each contract in excess of \$15,000 during the “restricted period” (the time commencing with the earliest written notice of the proposed procurement and ending with the later of approval of the final contract by the agency, or, if applicable, the State Comptroller). The agency must record all Contacts, and, generally, must deny an award of contract to a vendor involved in a knowing and willful Contact. Each agency must develop guidelines and procedures regarding Contacts and procedures for the reporting and investigation of Contacts. The agency’s procurement record must demonstrate compliance with these new requirements.

Accordingly, neither a potential vendor nor a person acting on behalf of the vendor should contact any individual at State University other than the person designated in this solicitation as State University’s Designated Contact, nor attempt to unduly influence award of the contract. State University will make a record of all Contacts, and such records of Contact will become part of the procurement record for this solicitation. A determination that a vendor or a person acting on behalf of the vendor has made intentionally a Contact or provided inaccurate or incomplete information as to its past compliance with State Finance Law §§139-j and 139-k is likely to result in denial of the award of contract under this solicitation. Additional sanctions may apply.

A complete copy of the State University of New York Procurement Lobbying Policy and Procedure is available for review at www.suny.info/policies.

New York State Finance Law §139-j

§ 139-j. Restrictions on contacts during the procurement process. 1. For the purposes of this section, the following terms will have the following meanings unless specified otherwise.

a. "Governmental entity" shall mean: (1) any department, board, bureau, commission, division, office, council, committee or officer of the state, whether permanent or temporary; (2) each house of the state legislature; (3) the unified court system; (4) any public authority, public benefit corporation or commission created by or existing pursuant to the public authorities law; (5) any public authority or public benefit corporation, at least one of whose members is appointed by the governor or who serves as a member by virtue of holding a civil office of the state; (6) a municipal agency, as that term is defined in paragraph (ii) of subdivision (s) of section one-c of the legislative law; or (7) a subsidiary or affiliate of such a public authority.

b. "Article of procurement" shall mean a commodity, service, technology, public work, construction, revenue contract, the purchase, sale or lease of real property or an acquisition or granting of other interest in real property, that is the subject of a governmental procurement.

c. "Contacts" shall mean any oral, written or electronic communication with a governmental entity under circumstances where a reasonable person would infer that the communication was intended to influence the governmental procurement.

d. "Proposal" shall mean any bid, quotation, offer or response to a governmental entity's solicitation of submissions relating to a procurement.

e. "Governmental procurement" shall mean: (i) the preparation or terms of the specifications, bid documents, request for proposals, or evaluation criteria for a procurement contract, (ii) solicitation for a procurement contract, (iii) evaluation of a procurement contract, (iv) award, approval, denial or disapproval of a procurement contract, or (v) approval or denial of an assignment, amendment (other than amendments that are authorized and payable under the terms of the procurement contract as it was finally awarded or approved by the comptroller, as applicable), renewal or extension of a procurement contract, or any other material change in the procurement contract resulting in a financial benefit to the offerer.

f. "Restricted period" shall mean the period of time commencing with the earliest written notice, advertisement or solicitation of a request for proposal, invitation for bids, or solicitation of proposals, or any other method for soliciting a response from offerers intending to result in a procurement contract with a governmental entity with the final contract award and approval by the governmental entity and, where applicable, the state comptroller.

g. "Procurement contract" shall mean any contract or other agreement for an article of procurement involving an estimated annualized expenditure in excess of fifteen thousand dollars. Grants, article eleven-B state finance law contracts, intergovernmental agreements, railroad and utility force accounts, utility relocation project agreements or orders and eminent domain transactions shall not be deemed procurement contracts.

h. "Offerer" shall mean the individual or entity, or any employee, agent or consultant or person acting on behalf of such individual or entity, that contacts a governmental entity about a governmental procurement during the restricted period of such governmental procurement.

New York State Finance Law §139-j

i. "Revenue contract" shall mean any written agreement between a governmental entity, as that term is defined in subparagraphs one, four, five, six or seven of paragraph a of this subdivision, and an offerer whereby the governmental entity gives or grants a concession or a franchise.

j. "Unified court system" shall, for the purposes of this section only, mean the unified court system of the state of New York, or the office of court administration, where appropriate, other than town and village justice courts in jurisdictions with a population under fifty thousand, when it acts solely in an administrative capacity to engage in governmental procurements and shall not include the unified court system or any court of the state judiciary when it acts to hear and decide cases of original or appellate jurisdiction or otherwise acts in its judicial, as opposed to administrative, capacity.

2. Every governmental entity that undertakes a governmental procurement shall:

a. designate, with regard to each governmental procurement, a person or persons who may be contacted by offerers relative to the governmental procurement;

b. make any determinations on any governmental procurement: (1) in a manner consistent with the principles provided for under subdivision two of section one hundred sixty-three of this chapter, or, if the governmental entity is a public benefit corporation, as that term is defined in section sixty-six of the general construction law, and the majority of the members consist of persons either appointed by the governor or who serve as members by virtue of holding a civil office of the state, the procurement guidelines adopted pursuant to section twenty-eight hundred seventy-nine of the public authorities law, and (2) free from any conduct that would be prohibited by subdivision five of section seventy-three or section seventy-four of the public officers law, or of other applicable ethics code provisions that are equivalent to subdivision five of section seventy-three or section seventy-four of the public officers law where the public officials that are involved in the governmental procurement are not subject to subdivision five of section seventy-three or section seventy-four of the public officers law;

3. Each offerer that contacts a governmental entity about a governmental procurement shall only make permissible contacts with respect to the governmental procurement, which shall mean that the offerer:

a. shall contact only the persons or persons who may be contacted by offerers as designated by the governmental entity pursuant to paragraph a of subdivision two of this section relative to the governmental procurement, except that the following contacts are exempted from the provisions of this paragraph:

(1) the submission of written proposals in response to a request for proposals, invitation for bids or any other method for soliciting a response from offerers intending to result in a procurement contract;

(2) the submission of written questions to a designated contact set forth in a request for proposals, or invitation for bids, or any other method for soliciting a response from offerers intending to result in a procurement contract, when all written questions and responses are to be disseminated to all offerers who have expressed an interest in the request for proposals, or invitation for bids, or any other method for soliciting a response from offerers intending to result in a procurement contract;

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(3) participation in a conference provided for in a request for proposals, invitation for bids, or any other method for soliciting a response from offerers intending to result in a procurement contract;

(4) complaints by an offerer regarding the failure of the person or persons designated by the procuring governmental entity pursuant to this section to respond in a timely manner to authorized offerer contacts made in writing to the office of general counsel of the procuring governmental entity, provided that any such written complaints shall become a part of the procurement record;

(5) offerers who have been tentatively awarded a contract and are engaged in communications with a governmental entity solely for the purpose of negotiating the terms of the procurement contract after being notified of tentative award;

(6) contacts between designated governmental entity staff of the procuring governmental entity and an offerer to request the review of a procurement contract award;

(7) (a) contacts by offerers in protests, appeals or other review proceedings (including the apparent successful bidder or proposer and his or her representatives) before the governmental entity conducting the procurement seeking a final administrative determination, or in a subsequent judicial proceeding; or

(b) complaints of alleged improper conduct in a governmental procurement to the attorney general, inspector general, district attorney, or court of competent jurisdiction; or

(c) written protests, appeals or complaints to the state comptroller's office during the process of contract approval, where the state comptroller's approval is required by law, and where such communications and any responses thereto are made in writing and shall be entered in the procurement record pursuant to section one hundred sixty-three of the state finance law; or

(d) complaints of alleged improper conduct in a governmental procurement conducted by a municipal agency or local legislative body to the state comptroller's office;

provided, however, that nothing in this subdivision shall be construed as recognizing or creating any new rights, duties or responsibilities or abrogating any existing rights, duties or responsibilities of any governmental entity as it pertains to implementation and enforcement of article eleven of the state finance law or any other provision of law dealing with the governmental procurement process.

b. shall not attempt to influence the governmental procurement in a manner that would result in a violation or an attempted violation of subdivision five of section seventy-three or section seventy-four of the public officers law, or of other applicable ethics code provisions that are equivalent to subdivision five of section seventy-three or section seventy-four of the public officers law where the public officials that are involved in the governmental procurement are not subject to subdivision five of section seventy-three or section seventy-four of the public officers law;

4. Violations of paragraph a of subdivision three of this section shall include any contacts during the restricted period of a governmental procurement between the offerer and any member, officer or employee of any governmental entity other than the entity conducting the governmental procurement; provided, however, that nothing in this section shall be deemed to prohibit an offerer from communicating with a member of the state legislature or legislative staff about a governmental procurement being conducted by a governmental entity other

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than the state legislature, or a member of the state legislature or legislative staff contacting a governmental entity about a governmental procurement being conducted by a governmental entity other than the state legislature, provided that the member of the state legislature or legislative staff is acting in their official capacity.

5. Governmental entity staff may consult the model guidelines that may be established by the advisory council on procurement lobbying pursuant to section one-t of the legislative law in implementing this section.

6. a. Every governmental entity shall incorporate a summary of the policy and prohibitions regarding permissible contacts during a governmental procurement pursuant to subdivision three of this section, and copies of rules and regulations and applicable governmental entity guidelines and procedures regarding permissible contacts during a governmental procurement pursuant to subdivision three of this section into their solicitation of proposals or bid documents or specifications for all procurement contracts.

b. Every governmental entity shall seek written affirmations from all offerers as to the offerer's understanding of and agreement to comply with the governmental entity's procedures relating to permissible contacts during a governmental procurement pursuant to subdivision three of this section.

7. Notwithstanding any law to the contrary, prior to conducting an award of a procurement contract, a governmental entity conducting a governmental procurement shall make a final determination of responsibility of the proposed awardee in accordance with paragraph f of subdivision nine of section one hundred sixty-three of this chapter, or, if the governmental entity is a public benefit corporation, as that term is defined in section sixty-six of the general construction law, and the majority of the members consist of persons either appointed by the governor or who serve as members by virtue of holding a civil office of the state, according to the procurement guidelines adopted pursuant to subparagraph (iii) of paragraph (b) of subdivision three of section twenty-eight hundred seventy-nine of the public authorities law; provided, however, that nothing in this subdivision shall be construed as abrogating or diminishing any existing rights, duties or responsibilities of any governmental entity as it pertains to determinations of responsibility.

8. Any member, officer or employee of a governmental entity who becomes aware that an offerer has violated the provisions of subdivision three of this section with regard to permissible contacts during any governmental procurement shall immediately notify the ethics officer, inspector general, if any, or other official of the procuring governmental entity responsible for reviewing or investigating such matters. If an offerer violates the provisions of subdivision three of this section with regard to permissible contacts at a governmental entity other than the governmental entity conducting the governmental procurement, the member, officer or employee who becomes aware of the violation shall notify the ethics officer, inspector general, if any, or other official of the governmental entity responsible for reviewing or investigating such matters where that member, officer or employee works, who shall in turn notify the ethics officer, inspector general, if any, or other official of the procuring governmental entity responsible for reviewing or investigating such matters at the procuring governmental entity.

9. Every governmental entity shall establish a process for review by its ethics officer, inspector general, if any, or other official

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responsible for reviewing or investigating any allegations of violations of the provisions of subdivision three of this section with regard to permissible contacts on governmental procurements, and for the imposition of sanctions if such violations have been found to exist.

10. a. Upon notification of any allegation of a violation of the provisions of subdivision three of this section with regard to permissible contacts on governmental procurements, the governmental entity's ethics officer, inspector general, if any, or other official of the procuring governmental entity responsible for reviewing or investigating such matters shall immediately investigate such allegation and, if sufficient cause exists to believe that such allegation is true, shall give the offerer reasonable notice that an investigation is ongoing and an opportunity to be heard in response to the allegation.

b. A finding that an offerer has knowingly and willfully violated the provisions of subdivision three of this section shall result in a determination of non-responsibility for such offerer, and such offerer and its subsidiaries, and any related or successor entity with substantially similar function, management, board of directors, officers and shareholders (hereinafter, for the purposes of this paragraph "offerer"), shall not be awarded the procurement contract, unless the governmental entity finds that the award of the procurement contract to the offerer is necessary to protect public property or public health or safety, and that the offerer is the only source capable of supplying the required article of procurement within the necessary timeframe, provided, that the governmental entity shall include in the procurement record a statement describing the basis for such a finding. Any subsequent determination of non-responsibility due to violation of this section within four years of a determination of non-responsibility due to a violation of this section shall result in the offerer being rendered ineligible to submit a proposal on or be awarded any procurement contract for a period of four years from the date of the second final determination. Every governmental entity shall ensure that its solicitations of proposals for procurement contracts require offerers to disclose findings of non-responsibility due to violations of the provisions of subdivision three of this section within the previous four years by any governmental entity. The failure of offerers to timely disclose accurate and complete information or otherwise cooperate with the governmental entity in administering this provision shall be considered by the governmental entity in its determination of responsibility; provided, further, that the governmental entity shall not award a contract to an offerer who fails to timely disclose accurate and complete information or otherwise cooperate with the governmental entity in administering this provision unless the governmental entity finds that the award of the procurement contract to the offerer is necessary to protect public property or public health or safety, and that the offerer is the only source capable of supplying the required article of procurement within the necessary timeframe, provided, that the governmental entity shall include in the procurement record a statement describing the basis for such a finding. Upon a determination of non-responsibility or debarment due to a violation of this section, the governmental entity shall notify the office of general services, which shall keep a list of all offerers who have been determined to be nonresponsible bidders or debarred due to violations of this section; the office of general services shall make publicly available such list and shall publish such list on its web site.

c. If a violation of the provisions of subdivision three of this

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section is found to have knowingly and willfully occurred, then the ethics officer or inspector general, if any, or other official of the procuring governmental entity responsible for reviewing or investigating such matters shall report instances of employee violation of the guidelines and procedures regarding implementation of subdivision two of this section to the governmental entity's head.

11. Nothing in this section shall be deemed to prevent: (a) contacts by offerers in protests, appeals or other review proceedings (including the apparent successful bidder or proposer and his or her representatives) before the governmental entity conducting the procurement seeking a final administrative determination, or in a subsequent judicial proceeding; or

(b) complaints of alleged improper conduct in a governmental procurement to the attorney general, inspector general, district attorney, or court of competent jurisdiction; or

(c) written protests, appeals or complaints to the state comptroller's office during the process of contract approval, where the state comptroller's approval is required by law, and where such communications and any responses thereto are made in writing and shall be entered in the procurement record pursuant to section one hundred sixty-three of the state finance law; or

(d) complaints of alleged improper conduct in a governmental procurement conducted by a municipal agency or local legislative body to the state comptroller's office;

provided, however, that nothing in this subdivision shall be construed as recognizing or creating any new rights, duties or responsibilities or abrogating any existing rights, duties or responsibilities of any governmental entity as it pertains to implementation and enforcement of article eleven of the state finance law or any other provision of law dealing with the governmental procurement process.

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§ 139-k. Disclosure of contacts and responsibility of offerers. 1. For purposes of this section, the following terms will have the following meanings unless specified otherwise.

a. "Governmental entity" shall mean: (1) any department, board, bureau, commission, division, office, council, committee or officer of the state, whether permanent or temporary; (2) each house of the state legislature; (3) the unified court system; (4) any public authority, public benefit corporation or commission created by or existing pursuant to the public authorities law; (5) a public authority or public benefit corporation, at least one of whose members is appointed by the governor or who serves as a member by virtue of holding a civil office of the state; (6) municipal agency, as that term is defined in paragraph (ii) of subdivision (s) of section one-c of the legislative law; or (7) a subsidiary or affiliate of such a public authority.

b. "Article of procurement" shall mean a commodity, service, technology, public work, construction, revenue contract, the purchase, sale or lease of real property or an acquisition or granting of other interest in real property, that is the subject of a governmental procurement.

c. "Contacts" shall mean any oral, written or electronic communication with a governmental entity under circumstances where a reasonable person would infer that the communication was intended to influence the governmental procurement.

d. "Proposal" shall mean any bid, quotation, offer or response to a governmental entity's solicitation of submissions relating to a procurement.

e. "Governmental procurement" shall mean: (i) the preparation or terms of the specifications, bid documents, request for proposals, or evaluation criteria for a procurement contract, (ii) solicitation for a procurement contract, (iii) evaluation of a procurement contract, (iv) award, approval, denial or disapproval of a procurement contract, or (v) approval or denial of an assignment, amendment (other than amendments that are authorized and payable under the terms of the procurement contract as it was finally awarded or approved by the comptroller, as applicable), renewal or extension of a procurement contract, or any other material change in the procurement contract resulting in a financial benefit to the offerer.

f. "Restricted period" shall mean the period of time commencing with the earliest written notice, advertisement or solicitation of a request for proposal, invitation for bids, or solicitation of proposals, or any other method for soliciting a response from offerers intending to result in a procurement contract with a governmental entity with the final contract award and approval by the governmental entity and, where applicable, the state comptroller.

g. "Procurement contract" shall mean any contract or other agreement for an article of procurement involving an estimated annualized expenditure in excess of fifteen thousand dollars. Grants, article eleven-B state finance law contracts, intergovernmental agreements, railroad and utility force accounts, utility relocation project agreements or orders and eminent domain transactions shall not be deemed procurement contracts.

h. "Offerer" shall mean the individual or entity, or any employee, agent or consultant or person acting on behalf of such individual or entity, that contacts a governmental entity about a governmental

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procurement during the restricted period of such governmental procurement.

i. "Revenue contract" shall mean any written agreement between a governmental entity, as that term is defined in subparagraphs one, four, five, six or seven of paragraph a of this subdivision, and an offerer whereby the governmental entity gives or grants a concession or a franchise.

j. "Unified court system" shall, for the purposes of this section only, mean the unified court system of the state of New York, or the office of court administration, where appropriate, other than town and village justice courts in jurisdictions with a population under fifty thousand, when it acts solely in an administrative capacity to engage in governmental procurements and shall not include the unified court system or any court of the state judiciary when it acts to hear and decide cases of original or appellate jurisdiction or otherwise acts in its judicial, as opposed to administrative, capacity.

2. Each governmental entity shall ensure that solicitation of proposals or bid documents or specifications, or contract documents, as applicable, for procurement contracts shall require offerers to disclose findings of non-responsibility made within the previous four years by any governmental entity where such prior finding of non-responsibility was due to: (a) a violation of section one hundred thirty-nine-j of this article, or (b) the intentional provision of false or incomplete information to a governmental entity.

3. The failure of an offerer to timely disclose accurate or complete information to a governmental entity pursuant to subdivision two of this section shall be considered by such governmental entity in its determination of the responsibility of such offerer. No procurement contract shall be awarded to any such offerer, its subsidiaries, and any related or successor entity with substantially similar function, management, board of directors, officers and shareholders (hereinafter, for the purposes of this subdivision, "offerer"), unless the governmental entity finds that the award of the procurement contract to the offerer is necessary to protect public property or public health or safety, and that the offerer is the only source capable of supplying the required article of procurement within the necessary timeframe, provided, that the governmental entity shall include in the procurement record a statement describing the basis for such a finding.

4. Upon any contact in the restricted period, the governmental entity shall obtain the name, address, telephone number, place of principal employment and occupation of the person or organization making the contact and inquire and record whether the person or organization making such contact was the offerer or was retained, employed or designated by or on behalf of the offerer to appear before or contact the governmental entity about the governmental procurement. All recorded contacts shall be included in the procurement record for the procurement contract.

5. Any procurement contract award subject to the provisions of this section and section one hundred thirty-nine-j of this article shall contain a certification by the offerer that all information provided to the procuring governmental entity with respect to this section is complete, true and accurate, and each such procurement contract shall contain a provision authorizing the governmental entity to terminate such contract in the event such certification is found to be intentionally false or intentionally incomplete. The governmental entity shall include in the procurement record a statement describing the basis for any

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action taken pursuant to such termination provision.

6. Any communications received by a governmental entity from members of the state legislature, or legislative staffs, when acting in their official capacity, shall not be considered to be a "contact" within the meaning of this section and shall not be recorded by a governmental entity pursuant to this section.



SUNY – UPSTATE MEDICAL UNIVERSITY ANNUAL EMPLOYMENT REPORTS

Chapter 10 of the Laws of 2006 amends State Finance Law §§ 8 and 163 and mandates that State agencies must now require State consultants to report annually the following employment information: employment category, the number of persons employed to provide services under a contract for consulting services, the number of hours worked and the amount paid to the contractor by the State as compensation for work performed by these employees. This will include information on any persons working under any subcontracts with the State contractor.

This is a two step process. The first step, Form A is to be submitted with the Consultants' fee proposal; the State Consultant Services Contractor's Planned Employment From Contract Start Date Through the End of the Contract Term ([Form A](#)). The completed form must include information for all employees providing service under the contract whether employed by the contractor or a subcontractor. Please note that the form captures the necessary planned employment information *prospectively from the start date of the contract through the end of the contract term*.

The second step is the completion and filing of State Consultant Services Contractor's Annual Employment Report ([Form B](#)), which is to be used to report the annual / actual information. Please note that, in contrast to the information to be included on Form A, which is a one-time report of planned employment data for the entire term of a consulting contract on a projected basis, *Form B will be submitted each year the contract is in effect and will capture historical information, detailing actual employment data for the most recently concluded State fiscal year (April 1, 2009 – March 31, 2009)*.

Form A and Form B should be completed for contracts for consulting services in accordance with the following:

Scope of Contract (Form B only): a general classification of the single category that best fits the predominate nature of the services provided under the contract.

Employment Category: the specific occupation(s), as listed in the O*NET occupational classification system, which best describe the employees providing services under the contract.

(Note: Access the O*NET database, which is available through the US Department of Labor's Employment and Training Administration, on-line at online.onetcenter.org to find a list of occupations.)

Number of Employees: the total number of employees in the employment category employed to provide services under the contract during the Report Period, including part time employees and employees of subconsultant.

Number of hours (to be) worked: for Form A, the total number of hours to be worked, and for Form B, the total number of hours worked during the Report Period by the employees in the employment category.

Amount Payable under the Contract: the total amount paid or payable by the State to the State contractor under the contract, for work by the employees in the employment category, for services provided during the Report Period.

The first State Consultant Services Contractor's Annual Employment Report (Form B) will be due **May 1, 2010**, and will include information for the period ending March 31, 2009. The legislation mandates that the annual employment reports are to be submitted by the contractor to the contracting agency, to OSC and to the Department of Civil Service.

This "Form" will be submitted each year the contract is in effect and will capture historical information, detailing actual employment data for the most recently concluded State fiscal year (April 1 – March 31).

Reports that are to be submitted to SUNY - Upstate Medical University may be transmitted as follows:

By mail: SUNY –Upstate Medical University
Attn: Consulting Reporting
Facilities Design Services
750 East Adams Street
Syracuse, New York 13210

Reports that are to be submitted to OSC may be transmitted as follows:

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

By fax: (518) 474-8030 or (518) 473-8808

Reports that are to be submitted to DCS may be transmitted as follows:

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

<p>OSC Use Only: Reporting Code: Category Code:</p>
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<p>State Consultant Services Contractor's Annual Employment Report Report Period: April 1, 2011 to March 31, 2012</p>
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<p>Contracting State Agency Name: SUNY-Upstate Medical University Agency Code: 28110 Contract Number: Contract Term: / / to / / Contractor Name: Contractor Address: Description of Services Being Provided: Full professional design</p>
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<p>Scope of Contract (Choose one that best fits): Analysis <input type="checkbox"/> Evaluation <input type="checkbox"/> Research <input type="checkbox"/> Training <input type="checkbox"/> Data Processing <input type="checkbox"/> Computer Programming <input type="checkbox"/> Other IT consulting <input type="checkbox"/> Engineering <input type="checkbox"/> Architect Services <input type="checkbox"/> Surveying <input type="checkbox"/> Environmental Services <input type="checkbox"/> Health Services <input type="checkbox"/> Mental Health Services <input type="checkbox"/> Accounting <input type="checkbox"/> Auditing <input type="checkbox"/> Paralegal <input type="checkbox"/> Legal <input type="checkbox"/> Other Consulting <input type="checkbox"/></p>
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Employment Category	Number of Employees	Number of Hours Worked	Amount Payable Under the Contract
Total this page			\$
Grand Total			

<p>Name of person who prepared this report: Preparer's Signature: _____ Title: _____ Phone #: _____ Date Prepared: / /</p>



State University of New York CONSULTANT'S EEO POLICY STATEMENT

Campus SUNY Upstate Medical University @ Community General

Project Title Cord Blood Bank

Project Number 973

Prior to the award of a State Contract, the Consultant shall submit an Equal Employment Opportunity ("EEO") Policy Statement to the contracting agency within the time frame established by that agency. The Consultant's EEO Policy Statement shall contain, but not necessarily be limited to, and the Consultant, as a precondition to entering into a valid and binding State contract, shall, during the performance of the State contract, agree to the following:

(a) The Consultant will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and 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.

(b) The Consultant 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.

(c) At the request of the contracting agency, the Consultant 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 Consultant's obligations herein.

Company

Signature

Date

Title

EEO STAFFING PLAN

Instructions on page 2

Solicitation No.: 973 CGH	Reporting Entity: SUNY Upstate Medical University @ Community General Project # & Title: 973 Cord Blood Bank	Report includes Contractor's/Subcontractor's: <input type="checkbox"/> Work force to be utilized on this contract <input type="checkbox"/> Total work force
Offeror's Name:		<input type="checkbox"/> Offerer <input type="checkbox"/> Subcontractor Subcontractor's name _____
Offeror's Address:		

Enter the total number of employees for each classification in each of the EEO-Job Categories identified

EEO-Job Category	Total Work force	Work force by Gender		Work force by Race/Ethnic Identification								Disabled		Veteran				
		Total Male (M)	Total Female (F)	White (M) (F)		Black (M) (F)		Hispanic (M) (F)		Asian (M) (F)		Native American (M) (F)		(M)	(F)	(M)	(F)	
Officials/Administrators																		
Professionals																		
Technicians																		
Sales Workers																		
Office/Clerical																		
Craft Workers																		
Laborers																		
Service Workers																		
Temporary /Apprentices																		
Totals																		

PREPARED BY (Signature):	TELEPHONE NO.: EMAIL ADDRESS:	DATE:
NAME AND TITLE OF PREPARER (Print or Type):		Submit completed with bid or proposal

General instructions: All Offerors and each subcontractor identified in the bid or proposal must complete an EEO Staffing Plan (ADM/EEO 100) and submit it as part of the bid or proposal package. Where the work force to be utilized in the performance of the State contract can be separated out from the contractor's and/or subcontractor's total work force, the Offeror shall complete this form only for the anticipated work force to be utilized on the State contract. Where the work force to be utilized in the performance of the State contract cannot be separated out from the contractor's and/or subcontractor's total work force, the Offeror shall complete this form for the contractor's and/or subcontractor's total work force.

Instructions for completing:

1. Enter the Solicitation number that this report applies to along with the name and address of the Offeror.
2. Check off the appropriate box to indicate if the Offeror completing the report is the contractor or a subcontractor.
3. Check off the appropriate box to indicate work force to be utilized on the contract or the Offerors' total work force.
4. Enter the total work force by EEO job category.
5. Break down the anticipated total work force by gender and enter under the heading 'Work force by Gender'
6. Break down the anticipated total work force by race/ethnic identification and enter under the heading 'Work force by Race/Ethnic Identification'. Contact the M/WBE Permissible contact(s) for the solicitation if you have any questions.
7. Enter information on disabled or veterans included in the anticipated work force under the appropriate headings.
8. Enter the name, title, phone number and email address for the person completing the form. Sign and date the form in the designated boxes.

RACE/ETHNIC IDENTIFICATION

Race/ethnic designations as used by the Equal Employment Opportunity Commission do not denote scientific definitions of anthropological origins. For the purposes of this form, an employee may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. However, no person should be counted in more than one race/ethnic group. The race/ethnic categories for this survey are:

- **WHITE** (Not of Hispanic origin) All persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.
- **BLACK** a person, not of Hispanic origin, who has origins in any of the black racial groups of the original peoples of Africa.
- **HISPANIC** a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.
- **ASIAN & PACIFIC ISLANDER** a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands.
- **NATIVE INDIAN (NATIVE AMERICAN/ ALASKAN NATIVE)** a person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

OTHER CATEGORIES

- **DISABLED INDIVIDUAL** any person who:
 - has a physical or mental impairment that substantially limits one or more major life activity(ies)
 - has a record of such an impairment; or
 - is regarded as having such an impairment.
- **VIETNAM ERA VETERAN** a veteran who served at any time between and including January 1, 1963 and May 7, 1975.
- **GENDER** Male or Female

MONTHLY EEO WORKFORM UTILIZATION REPORT

Project Name: 973 Cod Blood Bank SUNY Upstate Medical University, 750 East Adams Street, Syracuse, New York 13210	As of: (date)
Contract Number:	

EEO-Job Category	Total Work force	Work force by Gender		Work force by Race/Ethnic Identification														
		Total Male (M)	Total Female (F)	White (M) (F)		Black (M) (F)		Hispanic (M) (F)		Asian (M) (F)		Native American (M) (F)		Disabled (M) (F)		Veteran (M) (F)		
Officials/Administrators																		
Professionals																		
Technicians																		
Sales Workers																		
Office/Clerical																		
Craft Workers																		
Laborers																		
Service Workers																		
Temporary /Apprentices																		
Totals																		

PREPARED BY (Signature):	TELEPHONE NO.: EMAIL ADDRESS:	DATE:
NAME AND TITLE OF PREPARER (Print or Type):		Monthly reports should be submitted by 10 days after the end of each month to:

General Instructions: The work force utilization (MWBE 110) is to be submitted on a monthly basis during the life of the contract to report the actual work force utilized in the performance of the contract broken down by the specified categories. When the work force utilized in the performance of the contract can be separated out from the contractor's and/or subcontractor's total work force, the contractor and/or subcontractor shall submit a Utilization Report of the work force utilized on the contract. When the work force to be utilized on the contract cannot be separated out from the contractor's and/or subcontractor's total work force, information on the total work force shall be included in the Utilization Report. Utilization reports are to be completed within 10 days of the end of each month and submitted to . If there are no changes to the work force utilized on the contract during the reporting period, the contractor can submit a copy of the previously submitted report indicating no change with the date and reporting period updated.

Instructions for completing:

1. Enter the number of the contract that this report applies to along with the name and address of the Contractor preparing the report.
2. Check off the appropriate box to indicate if the entity completing the report is the contractor or a subcontractor.
3. Check off the box that corresponds to the reporting period for this report.
4. Check off the appropriate box to indicate if the work force being reported is just for the contract or the Contractor's total work force.
5. Enter the total work force by EEO job category.
6. Break down the total work force by gender and enter under the heading 'Work force by Gender'
7. Break down the total work force by race/ethnic background and enter under the heading 'Work force by Race/Ethnic Identification'. Contact the Office of Minority/Woman-Owned Business Enterprise Officer at if you have any questions.
8. Enter information on any disabled or veteran employees included in the work force under the appropriate heading.
9. Enter the name, title, phone number and email address for the person completing the form. Sign and date the form in the designated boxes.

RACE/ETHNIC IDENTIFICATION

Race/ethnic designations as used by the Equal Employment Opportunity Commission do not denote scientific definitions of anthropological origins. For the purposes of this report, an employee may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. However, no person should be counted in more than one race/ethnic group. The race/ethnic categories for this survey are:

- **WHITE** (Not of Hispanic origin) All persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.
- **BLACK** a person, not of Hispanic origin, who has origins in any of the black racial groups of the original peoples of Africa.
- **HISPANIC** a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.
- **ASIAN & PACIFIC ISLANDER** a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands.
- **NATIVE INDIAN (NATIVE AMERICAN/ ALASKAN NATIVE)** a person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

OTHER CATEGORIES

- **DISABLED INDIVIDUAL** any person who:
 - has a physical or mental impairment that substantially limits one or more major life activity(ies)
 - has a record of such an impairment; or
 - is regarded as having such an impairment.
- **VIETNAM ERA VETERAN** a veteran who served at any time between and including January 1, 1963 and May 7, 1975.
- **GENDER** Male or Female

M/WBE UTILIZATION PLAN

INSTRUCTIONS: This form must be submitted with any bid, proposal, or proposed negotiated contract or within a reasonable time thereafter, but prior to contract award. This Utilization Plan must contain a detailed description of the supplies and/or services to be provided by each certified Minority and Women-owned Business Enterprise (M/WBE) under the contract. Attach additional sheets if necessary.

Offeror's Name:

Federal Identification No.:

Address:

Location of Work: SUNY [Upstate Medical University](#) @ Community General

City, State, Zip Code:

Project No.:

Telephone No.:

M/WBE Goals in the Contract: MBE 10% WBE 10%

Authorized Representative:

EEO Goals in the Contract: MBE 10% WBE 10%

Authorized Signature:

1. Certified M/WBE Subcontractors/Suppliers Name, Address, Email Address, Telephone No.	2. Classification	3. Federal ID No.	4. Detailed Description of Work (Attach additional sheets, if necessary)	5. Dollar Value of Subcontracts/ Supplies/Services and intended performance dates of each component of the contract.
1.	NYS ESD CERTIFIED <input type="checkbox"/> MBE <input type="checkbox"/> WBE			
2.	NYS ESD CERTIFIED <input type="checkbox"/> MBE <input type="checkbox"/> WBE			
3.	NYS ESD CERTIFIED <input type="checkbox"/> MBE <input type="checkbox"/> WBE			
4.	NYS ESD CERTIFIED <input type="checkbox"/> MBE <input type="checkbox"/> WBE			
5.	NYS ESD CERTIFIED <input type="checkbox"/> MBE <input type="checkbox"/> WBE			
6.	NYS ESD CERTIFIED <input type="checkbox"/> MBE <input type="checkbox"/> WBE			
7.	NYS ESD CERTIFIED <input type="checkbox"/> MBE <input type="checkbox"/> WBE			

8.	NYS ESD CERTIFIED <input type="checkbox"/> MBE <input type="checkbox"/> WBE			
9.	NYS ESD CERTIFIED <input type="checkbox"/> MBE <input type="checkbox"/> WBE			

6. IF UNABLE TO FULLY MEET THE MBE AND WBE GOALS SET FORTH IN THE CONTRACT, OFFEROR MUST SUBMIT A REQUEST FOR WAIVER FORM (M/WBE 104).

PREPARED BY (Signature): DATE: NAME AND TITLE OF PREPARER (Print or Type): SUBMISSION OF THIS FORM CONSTITUTES THE OFFEROR'S ACKNOWLEDGEMENT AND AGREEMENT TO COMPLY WITH THE M/WBE REQUIREMENTS SET FORTH UNDER NYS EXECUTIVE LAW, ARTICLE 15-A, 5 NYCRR PART 143, AND THE ABOVE-REFERENCED SOLICITATION. FAILURE TO SUBMIT COMPLETE AND ACCURATE INFORMATION MAY RESULT IN A FINDING OF NONCOMPLIANCE AND POSSIBLE TERMINATION OF YOUR CONTRACT.	TELEPHONE NO.: 	EMAIL ADDRESS:
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	FOR M/WBE USE ONLY	
	REVIEWED BY: 	DATE:
UTILIZATION PLAN APPROVED: <input type="checkbox"/> YES <input type="checkbox"/> NO Date: _____ Contract No.: _____ Project No. & Name: _____ Contract Award Date: _____ Estimated Date of Completion: _____ Amount Obligated Under the Contract: _____ Description of Work: _____ NOTICE OF DEFICIENCY ISSUED: <input type="checkbox"/> YES <input type="checkbox"/> NO Date: _____ NOTICE OF ACCEPTANCE ISSUED: <input type="checkbox"/> YES <input type="checkbox"/> NO Date: _____		



**STATE UNIVERSITY OF NEW YORK
SUBCONTRACTING INFORMATION**

CONTRACTOR'S NAME	DATE	SUNY PROJECT NUMBER 973
ADDRESS	DESCRIPTION CORD BLOOD BANK	
	DATE OF NOTICE OF AWARD	
TELEPHONE NUMBER ()	AMOUNT AWARDED	

Provide the following information for all Sub-Contractors that are NOT MWBEs:

Name Complete Address Telephone Number	Federal ID Number	Value of Subcontract or Supply Order	Scope of Work	MBE/ WBE

PLEASE RETURN COMPLETED FORM TO:	NAME OF COMPANY DESIGNEE (PRINT/TYPE)	
	SIGNATURE	
	DATE	TELEPHONE NUMBER ()

Certified Business shall mean a business verified as a minority or women-owned business enterprise pursuant to Section 314 of the Executive Law. If you need additional space to provide information, please include attachments.

MONTHLY MWBE COMPLIANCE REPORT

Campus Funded	<input type="checkbox"/>
Campus Let	<input type="checkbox"/>

Contract No. _____

The following information indicates the payment amounts made to the contractor by the State University of New York (SUNY) at _____ and payments made to the NYS certified MWBEs by the contractor on this project. The payments shown are in compliance with the documents for the above referenced contract.

Start Date _____	Projected Completion Date _____	Actual Completion Date _____
Contractor _____	Contract #/Description _____	<i>Month being Reported (enter below)</i>
Contract _____	Paid to Contractor this Month _____	
Amount: _____	Total Paid to Contractor to Date _____	
MBE Goal/Amount _____ % = _____		
WBE Goal/Amount _____ % = _____		

M/WBE Subcontractor/Vendor	Product Code*	Work Status This Report	Total Subcontractor Contract Amount		Payments This Quarter		Previous Payments		Total Payments Made to Date	
			MBE	WBE	MBE	WBE	MBE	WBE	MBE	WBE
<u>Name:</u>		<input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Complete								
FED ID #:										
<u>Name:</u>		<input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Complete								
FED ID #:										
<u>Name:</u>		<input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Complete								
FED ID #:										
<u>Name:</u>		<input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Complete								
FED ID #:										
<u>Name:</u>		<input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Complete								
FED ID #:										

Documentation of previous Month's payments to M/WBE Subcontractors/Vendors has been received by SUNY: YES NO * See Reserve Side for Product Codes.

Name & Title	Signature	Date
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PRODUCT KEY CODE

A	=	Agriculture/Landscaping (e.g., all forms of landscaping services)
B	=	Mining (e.g., geological investigation)
C	=	Construction
C15	=	Building Construction - General Contractors
C16	=	Heavy Construction (e.g., highway, pipe laying)
C17	=	Special Trade Contractors (e.g., plumbing, heating, electrical, carpentry)
D	=	Manufacturing
E	=	Transportation, Communication and Sanitary Services (e.g., delivery services, warehousing, broadcasting and cable systems)
F/G	=	Wholesale/Retail Goods (e.g., gavel, hospital supplies and equipment, food stores, computer stores, office supplies)
G52	=	Construction Materials (e.g., lumber, paint, law supplies)
	=	Financial, Insurance and Real Estate Services
	=	Services
I73	=	Business Services (e.g., copying, advertising, secretarial, janitorial, rental services of equipment, computer programming, security services)
I80	=	Health Services
I81		Legal Services
I82		Educations Services (e.g., AIDS education, automobile safety, tutoring, public speaking).
I83		Social Services (Counselors, vocational training, child care).
I87		Engineering, architectural, accounting, research, management and related services.

Is this a final Report? Check one.

Yes No

QUARTERLY MWBE COMPLIANCE REPORT

Contract No. _____

Campus Funded

Campus Let

The following information indicates the payment amounts made to the contractor by the State University of New York (SUNY) at _____ and payments made to the NYS certified MWBEs by the contractor on this project. The payments shown are in compliance with the documents for the above referenced contract.

Start Date _____

Projected Completion Date _____

Actual Completion Date _____

Contractor _____

Contract #/Description _____

Quarter being Reported (check one)

Contract _____

Paid to Contractor this Quarter _____

1st Quarter (April 1 – June 30)

Amount: _____

Total Paid to Contractor to Date _____

2nd Quarter (July 1 – September 30)

MBE Goal/Amount _____ % = _____

3rd Quarter (October 1 – December 31)

WBE Goal/Amount _____ % = _____

4th Quarter (January 1 – March 31)

M/WBE Subcontractor/Vendor	Product Code*	Work Status This Report	Total Subcontractor Contract Amount		Payments This Quarter		Previous Payments		Total Payments Made to Date	
			MBE	WBE	MBE	WBE	MBE	WBE	MBE	WBE
Name:		<input type="checkbox"/> Active								
FED ID #:		<input type="checkbox"/> Inactive								
		<input type="checkbox"/> Complete								
Name:		<input type="checkbox"/> Active								
FED ID #:		<input type="checkbox"/> Inactive								
		<input type="checkbox"/> Complete								
Name:		<input type="checkbox"/> Active								
FED ID #:		<input type="checkbox"/> Inactive								
		<input type="checkbox"/> Complete								
Name:		<input type="checkbox"/> Active								
FED ID #:		<input type="checkbox"/> Inactive								
		<input type="checkbox"/> Complete								
Name:		<input type="checkbox"/> Active								
FED ID #:		<input type="checkbox"/> Inactive								
		<input type="checkbox"/> Complete								

Documentation of previous Quarter's payments to M/WBE Subcontractors/Vendors has been received by SUNY: YES NO

* See Reserve Side for Product Codes.

Name & Title

Signature

Date

PRODUCT KEY CODE

A	=	Agriculture/Landscaping (e.g., all forms of landscaping services)
B	=	Mining (e.g., geological investigation)
C	=	Construction
C15	=	Building Construction - General Contractors
C16	=	Heavy Construction (e.g., highway, pipe laying)
C17	=	Special Trade Contractors (e.g., plumbing, heating, electrical, carpentry)
D	=	Manufacturing
E	=	Transportation, Communication and Sanitary Services (e.g., delivery services, warehousing, broadcasting and cable systems)
F/G	=	Wholesale/Retail Goods (e.g., gavel, hospital supplies and equipment, food stores, computer stores, office supplies)
G52	=	Construction Materials (e.g., lumber, paint, law supplies)
	=	Financial, Insurance and Real Estate Services
	=	Services
I73	=	Business Services (e.g., copying, advertising, secretarial, janitorial, rental services of equipment, computer programming, security services)
I80	=	Health Services
I81		Legal Services
I82		Educations Services (e.g., AIDS education, automobile safety, tutoring, public speaking).
I83		Social Services (Counselors, vocational training, child care).
I87		Engineering, architectural, accounting, research, management and related services.