

REQUEST FOR PROPOSAL (RFP)

RFP Proposal #08-014

NEW YORK STATE EDUCATION DEPARTMENT

Title: Coordinated Independent Living Center Training, Rapid Response Technical Assistance and Conference Opportunity

The Office of Vocational and Educational Services for Individuals with Disabilities (VESID), New York State Education Department (NYSED) is seeking proposals for the Independent Living Center (ILC) Training, Technical Assistance and Conference Opportunity Project. The intent of this proposal is to establish an annual training program, a timely and responsive technical assistance service and one conference opportunity for Independent Living Centers to enhance board, staff, volunteer and consumer skills. Eligible applicants include organizations with expertise in training, consultation and product development for community based, consumer controlled, not-for-profit organizations. Subcontracting will be limited to twenty-five percent (25%) of the annual contract budget. NYSED encourages the use of minority/women-owned business enterprises as both prime contractors and subcontractors. Please see the section of this RFP for information regarding NYSED's Minority/Women-Owned Business Enterprise Procurement Policy. NYSED will award one (1) contract with a term of two (2) years, with the option to renew for three (3) additional one (1) year periods. The original two (2) year contract term will be October 1, 2008-September 30, 2010.

Components contained in RFP Proposal #08-014 are as follows:

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

Questions regarding the request must be submitted by E-mail to RFP08014@mail.nysed.gov no later than the close of business August 8, 2008. Questions regarding this request should be identified as either Program or Fiscal. A Questions and Answers Summary will be posted to http://www.vesid.nysed.gov/grant_procurement_opportunities/about.htm no later than August 18, 2008.

Program Matters

Robert Gumson
(518) 474-2925
E-Mail: RFP08014@mail.nysed.gov

Fiscal Matters

Gary Yorkshire
(518) 408-1715
E-Mail: RFP08014@mail.nysed.gov

Five (5) copies of each technical proposal (one bearing an original signature), three (3) copies of each cost proposal (one bearing an original signature), and one (1) electronic version in Microsoft WORD (CD format) of both the technical and cost proposal must be received no later than:

Date: **September 3, 2008**
Time: **3:00 PM**

At: NYS Education Department
Bureau of Fiscal Management
Contract Administration Unit
89 Washington Avenue, Room 505W EB
Albany, NY 12234

(Facsimile copies of the proposals are NOT acceptable)
Submit in a sealed envelope labeled Bid Proposal - RFP #08-014 Do Not Open
Submit Cost Proposals in a separate sealed envelope labeled
Cost Proposal – RFP #08-014 Do Not Open

1.) Description of Services to be Performed

Work Statement and Specifications

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

Background

The three objectives of the proposal: ILC training, rapid response technical assistance and conference opportunity are all components of New York's Title VII State Plan for Independent Living (SPIL), which seeks to implement these initiatives between October 1, 2008 and September 30, 2010. All of the project components with the exception of the Conference Opportunity are continuous throughout the contract period with Conference Opportunity occurring only once in the second year. The award recipient will continue the work in training and rapid response technical assistance previously provided by NYSILC under subcontract.

Note: A total maximum funding level of \$41,000 is available to be expended during October 1, 2008 – September 30, 2009 and a total maximum of \$52,000 is available to be expended during the contract period October 1, 2009 – September 30, 2010. These total funding levels include \$15,000 for Training Academy and \$26,000 for Rapid Response Technical Assistance for the first contract year and \$15,000 for Training Academy, \$17,000 for Rapid Response Technical Assistance and \$20,000 for Conference Opportunity for the second year of the contract.

NOTE: It is expected that VESID/NYSED will have funding available in the amount of forty one thousand dollars (\$41,000) for the first contract year (October 1, 2008-September 30, 2009) and fifty two thousand dollars (\$52,000) for the second contract year (October 1, 2009-September 30, 2010), for a total of ninety three thousand dollars (\$93,000) for the two (2) year contract period, beginning October 1, 2008 and ending on September 30, 2010. Proposals that exceed forty one thousand dollars (\$41,000) for year one and/or fifty two thousand dollars (\$52,000) for year two for a total of ninety three thousand dollars (\$93,000) for the two (2) year contract period will be disqualified and will not be eligible for award.

Description of Services To Be Performed

1. Two annual statewide training or statewide use products addressing ILC network priorities including but not limited to: governance/board development; resource development/fund raising; marketing/public messaging; executive management development; outreach to youth with disabilities, ethnic and linguistic minority communities, seniors with disabilities and/or veterans of wars in Iraq and Afghanistan. Details of these trainings are as follows:
 - Two annual statewide trainings are required;

- One training will be held in upstate New York, one training will be held in downstate New York;
 - Each training will be one full day in duration;
 - Each training will have 15 participants.
2. A program of targeted, flexible, tailored, training initiatives aimed at meeting the needs of the smallest in funding level, numbers of funding sources and/or in numbers of people reached, and most vulnerable ILC organizations, combined with a program of individualized consultative and mentored supports to operationalize organizational development and address organizational crises that may arise.
 3. Development of specific strategies that demonstrate support for an annual New York Association on Independent Living (NYAIL) conference including but not limited to the underwriting of critical conference components and/or support for stakeholder participation through scholarships.

NOTE: In the second contract year, up to \$15,000 of the \$20,000 available for expenses related to activities associated with the NYAIL Conference may be expended on the following items:

- Underwriting the costs of American Sign Language (ASL) interpreters;
 - The provision of 30 scholarships to consumers, volunteers and staff of ILC's to attend the NYAIL conference, including conference registrations fees, travel expense, and lodging;
 - Underwriting the costs of materials for the conference such as printing, braille, and production of large print format for 300 participants.
4. The applicant will provide rapid response technical assistance via telephone to 12 ILC's and 50 individuals.
 5. The applicant will assess the needs for statewide training based on results of network input and will prioritize training and/or product needs. The applicant will develop a timeline for conducting assessment and training and define methods it will use to communicate results of needs assessment with the ILC network and SPIL partners.
 6. The applicant will develop and deliver training (as outlined above) and also be responsible for product development. The product development may take the form of a manual, handbook, DVD, or CD-ROM. The applicant will identify recipients of rapid response technical assistance, consultative services and/or mentored supports. The applicant will develop a program of support of a conference opportunity. The applicant will provide a statement of terms of agreement between the provider of training, rapid response technical assistance and conference opportunity and State Plan of Independent Living (SPIL) partners and NYAIL along with a timeline covering the two year period of operation highlighting activities.
 7. The applicant will hire qualified expert trainers, product developers, conference opportunity coordinators and any ancillary or subcontracted service providers contributing to the project.
 8. The applicant will justify all budgeted line item expenditures for each proposed budget item accounting for \$15,000 each year for statewide training and/or product development; \$26,000 year one and \$17,000 year two for rapid response technical assistance and \$20,000 year two for support of a conference opportunity. Year one total funding level is \$41,000 and year two total funding level is \$52,000.

Eligibility

Eligible applicants include organizations with expertise in training, consultation and product development for community based, consumer controlled, not-for-profit organizations.

Contract Period

NYSED will award one (1) contract with a term of two (2) years, with the option to renew for three (3) additional one (1) year periods. The original two (2) year contract term will be October 1, 2008-September 30, 2010.

Extensions for the three (3) additional one (1) year periods would be dependent upon:

- the successful completion of the first two year's activities;
- funds being allocated for the program in the State budget for the period;
- successful negotiation of a scope of continued services (which may simply be the continuation of the same services described in the original agreement);
- successful negotiation of associated costs, (which may have been pre-determined in the original contract language by limiting rate increases to a specific factor);
- the mutual agreement of both parties; and,
- approval of a contract extension agreement by the NYS Comptroller as described in section 3 of Appendix A, which is contained in this document.

At the end of any contract term otherwise provided for herein, if a replacement contract has not yet been approved in accordance with State law, any contract awarded hereunder may be extended unilaterally by the State, upon notice to the contractor, at the same terms and conditions, including all contract pricing, for a period of one month. Additionally, this extension may be for a period of up to three months with the concurrence of the contractor. However, any extension will terminate immediately upon approval of the replacement contract except where a period for transition of contractors has been previously provided for.

Contract Pricing for Renewal Periods

If NYSED and the contractor agree to a renewal for a third contract year, NYSED shall pay the Contractor at the amount bid for the second year of services plus an additional three (3) percent. On each anniversary date of any subsequent renewal, NYSED will include a three (3) percent increase from the previous year's contract total.

Subcontracting Limit

RFP #08-014

Subcontracting will be limited to twenty-five percent (25%) of the annual contract budget. Subcontracting is defined as non-employee direct personal services and related incidental expenses, including travel.

New York State Education Department's Minority/ Women-Owned Business Enterprise Procurements Policy

It is the policy of the New York State Education Department to provide certified minority or women-owned business enterprises and small business enterprises with equal opportunity to Department procurements. Article 15-A of the NYS Executive Law, and Section 163 (6) of the NYS Finance Law were enacted to promote fairness in, and greater access to, the procurement process. The Board of Regents and the Commissioner are committed to a workforce that is representative of the many communities we serve, and to business practices which likewise reflect this commitment. Integral to the achievement of these goals is the increased utilization of women and minority-owned enterprises (M/WBEs) as vendors of the goods and services purchased/contracted by the Department. In doing so, we will further support our mission "To raise the knowledge, skill and opportunity of all the people in New York.

Every Department employee involved in the procurement process is responsible for ensuring both compliance with the above referenced laws and the maximum possible use of M/WBEs consistent with procedures developed jointly by the Office of Fiscal Management and the Office for Diversity, Ethics and Access.

Consultant Staff Changes

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

2.) Submission

Documents to be submitted with this proposal

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

Project Submission:

Each proposal submitted in response to this RFP should contain five (5) copies of each technical proposal (one bearing an original signature), three (3) copies of each cost proposal (one bearing an original signature), and one (1) electronic version in Microsoft WORD (CD format) of both the technical and cost proposal. All proposals must be received by September 3, 2008.

Technical Proposal

(70 Points)

Your Technical Proposal should include the following:

1. **Response Sheet for Bids**
2. **All Forms and Assurances located in 5.) Submission Documents including original signatures where necessary**
3. **Technical Assistance Center (TAC) Certification** **Signature Required**
4. **Project Submission Components as described below:**

Project Submission Components:

The Technical Proposal must include ALL of the following:

1. An analysis of needs and priorities of the ILC network for statewide training programs or products.
2. A plan and timeline for the conduct of training or preparation of products based on statewide needs assessment findings. The plan and timeline should include the number of trainings/products, method(s) for the delivery of training, method(s) for marketing availability of training, method(s) for assessing participant satisfaction with training, and method(s) for determining that training skills or products are being utilized by participants beyond the training period.
3. A plan for the identification of participants in targeted, flexible, tailored and rapid response technical assistance opportunities including identification of specific data and to be collected

RFP #08-014

on types of services, scope of services and extent of technical assistance provided. Selection criteria for selection of trainers/product developers.

4. A plan for supporting stakeholder participation in the conference including efforts to maximize support for consumer and volunteer participation and for provision of accommodations to enhance conference participant involvement and make materials available in alternate formats such as braille, large print, CD Rom and 3.5 inch floppy disk.
5. A plan for communicating and coordinating training, rapid response technical assistance efforts and conference opportunity with NYSILC, NYAIL, VESID and CBVH to maximize available resource and prevent duplication of effort.
6. Qualification of key personnel. Include resume/vitae for the award recipients' key trainers, product developers, conference opportunity coordinator and any ancillary or subcontracted service providers contributing to the project.
7. Five letters of support from recipients of technical assistance and training.

Cost Proposal

(30 Points)

The original plus two copies of the completed Cost Proposal should be mailed in a separate envelope labeled **RFP #08-014 Cost Proposal Do Not Open** and should include the following:

1. **Technical Assistance Center (TAC) Budget—Year One (10/1/08-9/30/09)**
 2. **TAC Budget Summaries—Year One and Year Two**
 3. **TAC Two Year Budget Summary (10/1/08-9/30/10)**
 4. **Subcontracting Form**
 5. **Budget Narrative**
- Signature Required**

Budget Narrative (0 Points)

A narrative description and justification for each proposed budget item accounting for the entire budget of the project.

The Financial Criteria portion of the RFP will be scored based upon the grand total of the two year Budget Summary.

3.) Evaluation Criteria and Method of Award

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

Criteria for Evaluating Bids

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

The technical portion of the proposal will be reviewed and rated by the evaluation committee according to the criteria below. All components of the application must be included or the application will not be reviewed. Proposals receiving at least sixty percent (60%) of the points available for the technical proposal (a total of 42 out of 70 points) will move to the next step of the process. Proposals with a score of less than 42 points in the Technical Proposal section will be eliminated from further consideration. Each proposal received by the deadline will be reviewed and rated on the quality and extent to which the applicant meets the following criteria:

Technical Criteria

70 Points

1. **(10 points)** An analysis of needs and priorities of the ILC network for statewide training programs or products.
2. **(15 points)** A plan and timeline for the conduct of training or preparation of products based on statewide needs assessment findings. The plan and timeline should include the number of trainings/products, method(s) for the delivery of training, method(s) for marketing availability of training, method(s) for assessing participant satisfaction with training, and method(s) for determining that training skills or products are being utilized by participants beyond the training period.
3. **(15 points)** A plan for the identification of participants in targeted, flexible, tailored and rapid response technical assistance opportunities including identification of specific data to be collected on types of services, scope of services and extent of technical assistance provided. Selection criteria for selection of trainers/product developers.
4. **(15 points)** A plan for supporting stakeholder participation in the conference including efforts to maximize support for consumer and volunteer participation and for provision of accommodations to enhance conference participant involvement and make materials available in alternate formats such as braille, large print, CD Rom and 3.5 inch floppy disk.
5. **(5 points)** A plan for communicating and coordinating training, rapid response technical assistance efforts and conference opportunity with NYSILC, NYAIL, VESID and CBVH to maximize available resource and prevent duplication of effort.

6. **(10 points)** Qualification of key personnel. Include resume/vitae for overall project lead coordinator and the award recipients' key trainers, product developers, conference opportunity coordinator and any ancillary or subcontracted service providers contributing to the project.
7. **(0 points)** Five letters of support from recipients of technical assistance and training.

Financial Criteria

(30 Points)

Budget Narrative (0 Points): The budget narrative will be reviewed to determine that the proposed use of the funds is for the direct support of the program, and that the anticipated expenditures are both allowable and appropriate. The narrative will also be reviewed to determine the extent to which it specifically explains and relates proposed expenditures to specific activities to meet project goals.

The Financial Criteria portion of the RFP will be scored based upon the grand total of the two year Budget Summary.

- The **financial portion** of the proposal represents **thirty (30) points** of the overall score and will be awarded points pursuant to a formula. This calculation will be computed by the Contract Administration Unit upon completion of the technical scoring by the technical review panel.
- The agency reserves the right to request best and final offers.
- The submitted budget will be awarded points pursuant to a formula which awards the highest score of **thirty (30) points** to the budget that reflects the lowest overall cost. The remaining budgets will be awarded points based on a calculation that computes the relative difference of each proposal against the lowest budget submitted. The resulting percentage is then applied to the maximum point value of **thirty (30) points**.

Method of Award

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

The contract issued pursuant to this proposal will be awarded to the vendor whose aggregate technical and cost score is the highest among all the proposals rated.

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

The New York State Education Department reserves the right to reject all proposals received or cancel this RFP if it is in the best interest of the Department.

Post Selection Procedures

Upon selection, the successful bidder will enter into negotiations for a contract with NYSED. The contents of this RFP, any subsequent correspondence related to final contract negotiations, and such other stipulations as agreed upon may be made a part of the final contract developed by NYSED. Successful bidders may be subject to audit and should ensure that adequate controls are in place to document the allowable activities and expenditure of State funds.

Vendor Responsibility

State law requires that the award of state contracts be made to responsible vendors. Before an award is made to a not-for-profit entity, a for-profit entity, a private college or university or a public entity not exempted by the Office of the State Comptroller, the Department must make an affirmative responsibility determination. The factors to be considered include: legal authority to do business in New York State; integrity; capacity- both organizational and financial; and previous performance. Before an award of \$100,000 or greater can be made to a covered entity, the entity will be required to complete and submit a Vendor Responsibility Questionnaire. School districts, Charter Schools, BOCES, public colleges and universities, public libraries, and the Research Foundation for SUNY and CUNY are some of the exempt entities. For a complete list, see: <http://www.osc.state.ny.us/vendrep/documents/vrdocrules.pdf>.

Vendors are invited to file the required Vendor Responsibility Questionnaire online via the New York State VendRep System. To enroll in and use the New York State VendRep System, see the VendRep System instructions at: <http://www.osc.state.ny.us/vendrep/systeminit.htm> or go directly to the VendRep System online at <https://portal.osc.state.ny.us/wps/portal>.

For direct VendRep System user assistance, the OSC Help Desk may be reached at 866-370-4672 or 518-408-4672 or by email at helpdesk@osc.state.ny.us.

Vendors opting to file a paper questionnaire can obtain the appropriate questionnaire from the VendRep website: <http://www.osc.state.ny.us/vendrep/templates.htm> or will receive it with the award letter.

Note: Bidders must acknowledge whether they filed their questionnaire online by checking the appropriate box on the Response Sheet for Bids (5.) Submission Documents).

PROCUREMENT LOBBYING LAW

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

Designated Contacts for NYSED

Program Office – **(Fill in program office contact)**

Contract Administration Unit – **(Fill in CAU contact)**

Consultant Disclosure Legislation

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

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

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

Form A: <http://www.osc.state.ny.us/agencies/gbull/g226forma.doc>

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

Form B: <http://www.osc.state.ny.us/agencies/gbull/g226formb.doc>

For more information, please visit the OSC web site for G-Bulletin 226 at: <http://www.osc.state.ny.us/agencies/gbull/g-226.htm>.

Public Officer's Law Section 73

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

4. (a) No statewide elected official, state officer or employee, member of the legislature, legislative employee or political party chairman or firm or association of which such person is a member, or corporation, ten per centum or more of the stock of which is owned or controlled directly or indirectly by such person, shall (i) sell any goods or services having a value in excess of twenty-five dollars to any state agency, or (ii) contract for or provide such goods or services with or to any private entity where the power to contract, appoint or retain on behalf of such private entity is exercised, directly or indirectly, by a state agency or officer thereof, unless such goods or services are provided pursuant to

an award or contract let after public notice and competitive bidding. This paragraph shall not apply to the publication of resolutions, advertisements or other legal propositions or notices in newspapers designated pursuant to law for such purpose and for which the rates are fixed pursuant to law.

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

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

(ii) officers and employees of statewide elected officials;

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

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

Public Officer's Law Section 73 can be found at <http://www.dos.state.ny.us/ethc/POL73.html>.

4.) **Assurances**

Appendix A – Standard Clause for all New York State Contracts **WILL BE INCLUDED** in the contract that results from this RFP. Vendors who are unable to complete or abide by these assurances should not respond to this request.

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

Appendix A – Standard Clause for all New York State Contracts, contains the following two (2) certifications:

MacBride Certification

(Signature Required - the form is included in 5.) Submission Documents)

Certification-Omnibus Procurement Act of 1992

(Signature Required - the form is included in 5.) Submission Documents)

Appendix A-1 – NYSED Contract Clauses

Affirmative Action and Minority/Women Owned Business Enterprise Policy

Certification Regarding Lobbying; Debarment and Suspension; and Drug-Free Workplace Requirements

(Signature Required - the form is included in 5.) Submission Documents)

STANDARD CLAUSES FOR NYS CONTRACTS

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

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

2. NON-ASSIGNMENT CLAUSE. In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the previous consent, in writing, of the State and any attempts to assign the contract without the State's written consent are null and void. The Contractor may, however, assign its right to receive payment without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

3. COMPTROLLER'S APPROVAL. In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law Section 163.6.a).

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.

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

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

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

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for

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

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

(a) **FEDERAL EMPLOYER IDENTIFICATION NUMBER and/or FEDERAL SOCIAL SECURITY NUMBER.** All invoices or New York State standard vouchers submitted for payment for the sale of goods or services or the lease of real or personal property to a New York State agency must include the payee's identification number, i.e., the seller's or lessor's identification number. The number is either the payee's Federal employer identification number or Federal social security number, or both such numbers when the payee has both such numbers. Failure to include this number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or New York State standard voucher, must give the reason or reasons why the payee does not have such number or numbers.

(b) **PRIVACY NOTIFICATION.** (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law.

(2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in New York State's Central Accounting System by the Director of Accounting Operations, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.

In accordance with Section 312 of the Executive Law, 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:

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

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

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

Contractor will include the provisions of "a", "b", and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State; or (iii) banking services, insurance policies or the sale of securities. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Governor's Office of Minority and Women's Business Development pertaining hereto.

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

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

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

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

17. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of 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 §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

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

20. OMNIBUS PROCUREMENT ACT OF 1992. It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

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

NYS Department of Economic Development
Division for Small Business
30 South Pearl St -- 7th Floor
Albany, New York 12245
Telephone: 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 -- 2nd Floor
Albany, New York 12245

Telephone: 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 the State;

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

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

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

21. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

22. PURCHASES OF APPAREL. In accordance with State Finance Law 162 (4-a), the State shall not purchase any apparel from any vendor unable or unwilling to certify that: (i) such apparel was manufactured in compliance with all applicable labor and occupational safety laws, including, but not limited to, child labor laws, wage and hours laws and workplace safety laws, and (ii) vendor will supply, with its bid (or, if not a bid situation, prior to or at the time of signing a contract with the State), if known, the names and addresses of each subcontractor and a list of all manufacturing plants to be utilized by the bidder.

June, 2006

Payment and Reporting

- A. In the event that Contractor shall receive, from any source whatsoever, sums the payment of which is in consideration for the same costs and services provided to the State, the monetary obligation of the State hereunder shall be reduced by an equivalent amount provided, however, that nothing contained herein shall require such reimbursement where additional similar services are provided and no duplicative payments are received.
- B. Variations in each budget category not exceeding ten percent (10%) or One Thousand Dollars (\$1,000.00) of such category, whichever is greater, may be approved by the Commissioner of Education. Any such variations shall be reflected in the final expenditure report and filed in the Office of the State Comptroller.

Terminations

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

Property

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

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

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

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

RFP #08-014

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

If after the State grants permission to the Contractor for "continued use" as set forth above the non-expendable assets are not used in accordance with the purposes of this agreement, the State in its discretion may elect to take title to such assets and may assert its right to possession upon thirty (30) days prior written notice by certified mail to the Contractor. The State upon obtaining such non-expendable assets may arrange for their further use in the public interest as it in its discretion may decide.

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

Safeguards for Services and Confidentiality

- A. Any copyrightable work produced pursuant to said agreement shall be the sole and exclusive property of the New York State Education Department. The material prepared under the terms of this agreement by the Contractor shall be prepared by the Contractor in a form so that it will be ready for copyright in the name of the New York State Education Department. Should the Contractor use the services of consultants or other organizations or individuals who are not regular employees of the Contractor, the Contractor and such organization or individual shall, prior to the performance of any work pursuant to this agreement, enter into a written agreement, duly executed, which shall set forth the services to be provided by such organization or individual and the consideration therefor. Such agreement shall provide that any copyrightable work produced pursuant to said agreement shall be the sole and exclusive property of the New York State Education Department and that such work shall be prepared in a form ready for copyright by the New York State Education Department. A copy of such agreement shall be provided to the State.
- B. All reports of research, studies, publications, workshops, announcements, and other activities funded as a result of this proposal will acknowledge the support provided by the State of New York.
- C. This agreement cannot be modified, amended, or otherwise changed except by a writing signed by all parties to this contract.
- D. No failure to assert any rights or remedies available to the State under this agreement shall be considered a waiver of such right or remedy or any other right or remedy unless such waiver is contained in a writing signed by the party alleged to have waived its right or remedy.
- E. Expenses for travel, lodging, and subsistence shall be reimbursed at the per diem rate in effect at the time

RFP #08-014

for New York State Management/Confidential employees.

- F. No fees shall be charged by the Contractor for training provided under this agreement.
- G. Nothing herein shall require the State to adopt the curriculum developed pursuant to this agreement.
- H. This agreement, including all appendices, is, upon signature of the parties and the approval of the Attorney General and the State Comptroller, a legally enforceable contract. Therefore, a signature on behalf of the Contractor will bind the Contractor to all the terms and conditions stated therein.
- I. The parties to this agreement intend the foregoing writing to be the final, complete, and exclusive expression of all the terms of their agreement.

Certifications

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

Notices

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

Miscellaneous

- A. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 889-aa; State Technology Law Section 208). Contractor shall be liable for the costs associated with such breach if caused by Contractor's negligent or willful acts or omissions, or the negligent or willful acts or omissions of Contractor's agents, officers, employees or subcontractors.

RFP #08-014

- B. If required by the Office of State Comptroller (“OSC”) Bulletin G-226 and State Finance Law §§ 8 and 163, Contractor agrees to submit an initial planned employment data report on Form A and an annual employment report on Form B. State will furnish Form A and Form B to Contractor if required.

The initial planned employment report must be submitted at the time of approval of this Agreement. The annual employment report on Form B will be submitted each year the contract is in effect and will detail actual employment data for the most recently concluded State fiscal year (April 1 – March 31). The first report will be filed no later than May 15, 2007. Thereafter, Form B will be filed no later than May 15th of each succeeding year. Copies of the report will be submitted to the NYS Education Department, OSC and the NYS Department of Civil Service at the addresses below.

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

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

Reports to DCS are to be transmitted as follows:

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

Reports to NYSED are to be transmitted as follows:

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

By fax: (518) 408-1716

- C. Consultant Staff Changes. If this is a contract for consulting services, Contractor will maintain continuity of the consultant team staff throughout the course of the contract. All changes in staff will be subject to STATE approval. The replacement consultant(s) with comparable skills will be provided at the same or lower hourly rate.