



REQUEST FOR QUOTE #S-1613

RECRUITMENT SEARCH SERVICES FOR EXECUTIVE DIRECTOR OF DESIGN & CONSTRUCTION

**PROPOSALS WILL BE ACCEPTED ON A ROLLING BASIS UNTIL UPSTATE CLOSES THE RFQ OR ISSUES
A TENTATIVE NOTICE OF AWARD.**

The State University of New York ("SUNY") Upstate Medical University ("Upstate") will receive quotes from potential offerors (the "Offeror") interested in providing *recruitment services to fill a vacancy at Upstate for an Executive Director of Design & Construction*. Offerors interested in providing a proposal may submit such document as outlined in this RFQ.

1. Important Notice to Interested Offerors

This procurement is subject to New York State Finance Law §§139-j & -k, also known as the Procurement Lobbying Law. Therefore, Offerors are cautioned that the only permissible contact for this procurement is the person(s) listed below. **Contacting any other person at SUNY Upstate in connection with this procurement may constitute a violation of New York State Finance Law.** Failure to comply with this requirement can range from no contract award to debarment from conducting business with any NYS agency.

Designated Contact(s): **Julia Salerius** (SaleriuJ@upstate.edu)
(315) 464-5720
Contract Assistant

Dan Arnold (ArnoldD@upstate.edu)
(315) 464-5720
Director of Contracts and Campus Purchasing

Technical Contact(s): **Timothy O'Hara** (OHaraTi@upstate.edu)
(315) 297-1600
Assistant Vice President ("AVP") for Facilities & Planning

Please use the addresses below for written correspondence, including documents in original or hardcopy form.

Mailing Address (FedEx/UPS): SUNY Upstate Medical University
(preferred, with tracking) Attn: Contracts, SLC 2050
650 South Salina St.
Syracuse, New York 13202

Mailing Address (USPS): SUNY Upstate Medical University
Attn: Contracts, SLC 2050
750 East Adams St.
Syracuse, New York 13210

2. Purpose; Objective

The purpose of this Request for Quote (the “RFQ”) is to procure the services of recruitment firm to assist filling Upstate’s vacant Executive Director of Design & Construction (the “ED”). The ED will provide leadership, coordination and administrative oversight to the design, construction and facilities engineering departments for major capital projects, interior renovations, and special projects as assigned. This position is responsible for ensuring that the planning, design, and construction of capital projects are completed accurately, effectively, and in accordance with the requirements of the Hospital, College, and other regulatory agencies. This role will ensure collaboration with other facilities departments for long term, short term, and operational needs.

Upstate will evaluate candidates on an ongoing basis. The RFQ will close upon the successful hiring of a candidate, at which time a contract will be awarded to the Offeror who submitted the successful candidate (the “Successful Offeror”).

3. About SUNY; Upstate Medical University

The State University of New York (“SUNY”) is the largest comprehensive university system in the United States, educating more than 467,000 students in more than 7,500 degree and certificate programs on 64 campuses with nearly 3 million alumni around the globe. SUNY is committed to reduce administrative costs, maximize efficiencies, and move resources toward academics and student services.

SUNY Upstate Medical University located in Syracuse, New York, is the only academic medical center in Central New York. With an operating budget of approximately \$1.8 billion, it is the region's largest employer with approximately 10,100 employees and generates more than \$2.5 billion in economic impact for the State of New York.

The Upstate University Health System serves more than 1.8 million people, often the most seriously ill and injured. The Hospital provides highly specialized inpatient and outpatient services, with nearly 35,000 admissions in 2018. Upstate had more than 106,000 visits in its three emergency rooms: 2 adult and 1 pediatric and 617,217 outpatient encounters in 2018. Upstate has 70 specialty clinics, which saw 460,000 of its outpatient visits. Patients also have access to additional clinics, through UUMAS, Upstate University Medical Associates at Syracuse, Inc. UUMAS is a 501(c)3 not-for-profit university faculty practice corporation, which serves as the umbrella organization of the 19 clinical departmental practices, Medical Service Groups (MSGs), within the College of Medicine.

Upstate has a total of 800 licensed beds at its two hospital campuses: the downtown campus (“University Hospital”), located at 750 East Adams St., Syracuse, New York with 486 licensed beds, and Upstate University Hospital Community Campus (“Community Hospital”) located at 4900 Broad Road, Syracuse, New York, with 314 licensed beds. The Upstate Golisano Children’s Hospital (“UGCH”) crowns the east tower of the downtown campus. Collectively, these hospitals are referred to herein as “Hospital”.

4. Bidder Experience; Requirements

- (a) Upstate is seeking proposals from Offerors that can provide the services necessary to achieve the purpose and objective as stated in **Section 2 (Purpose; Objective)** and further addressed in **Section 5 (Scope of Work; Deliverables)** of this RFQ (the “Services”). To be considered for an Agreement, Successful Offeror shall meet the following minimum requirements:
- i. Be eligible to conduct business in the State of New York.
 - ii. Has been in business for and has experience providing Services for at least five (5) years.
 - iii. Provide three (3) current references from clients using analogous Services, of which are in similar size and scope to Upstate.
 - iv. Offeror must provide a list of accounts where a contract was terminated by the client within the past

five (5) years and explain the cause of termination.

- (b) By responding to this RFQ, Offeror agrees to the terms and conditions set forth herein, including **Exhibit C (Agreement Template)**, which is incorporated herein by reference and made a part of this RFQ.

5. Services Scope of Work; Deliverables

- (a) Offeror shall conduct a professional recruitment search for one (1) Executive Director of Design & Construction, as described in **Exhibit B (Job Description)**, which is incorporated herein by reference and made part of this RFQ.
- (b) Offeror will check references and screen all candidates from all sources and will forward only qualified finalists to Upstate. Moreover, Offeror will ensure potential candidate screening includes the following:
- i. verification of employment history;
 - ii. verification of degree and licenses (if applicable);
 - iii. verifying candidate is not excluded from any federal health care programs, including Medicaid and Medicare (i.e., OIG Excluded Entities & Individuals).
- (c) Proof of verification and screening for the final selected candidate will be requested.
- (d) All services shall be provided in accordance with state and federal regulations, and the policies and procedures of SUNY Upstate, amongst others.

6. Guarantee Period; Contract Term

- (a) Successful Offeror shall provide Upstate with a guarantee period of **six (6) months commencing upon the candidate's first day of employment with Upstate** (the "Guarantee Period"). If during Guarantee Period, Upstate is not satisfied with the performance of the employee, for any reason, or the candidate leaves for unjust cause, or is terminated for cause, Successful Offeror will conduct a replacement search at no additional cost to Upstate.
- (b) The term of Agreement shall commence upon final signature (the "Effective Date") and terminate upon conclusion of Guarantee Period.
- i. Tentative award of Agreement shall be made in accordance with **§8 (Award Method)** of this RFQ.

7. Fees; Travel & Lodging; Related Expenses

- (a) **Professional Fees:** The Offeror's proposed compensation shall be stated as **a percentage (%) of the placed candidate's first-year salary** (the "Fee").
- i. Submission of the Offeror's proposed Fee shall constitute a firm, irrevocable offer to provide the Services at the proposed Fee for ninety (90) days from the date of submission. Following expiration of the ninety (90) day period, the proposal shall remain in effect unless withdrawn by the Offeror in writing by an authorized representative. Submission of a revised proposal to Upstate shall commence a new ninety (90) day firm-offer period.
 - ii. Offeror may, in addition to the Fee, submit an alternate fee structure and/or alternate guarantee period other than the six (6) month Guarantee Period set forth herein (collectively, the "Alternate Proposal"); provided, however, that submission of an Alternate Proposal shall not obligate Upstate to accept or consider such Alternate Proposal, and Upstate reserves the right, in its sole discretion, to reject any Alternate Proposal and award, if any, based on the Fee and Guarantee Period required by this RFQ.
 - iii. The Fee shall be payable only after the candidate identified, recruited, and referred by the Successful Offeror has satisfactorily completed all required pre-employment screening and onboarding requirements and remains actively employed by Upstate for ten (10) workdays following commencement of employment, which shall constitute one (1) pay period.
 - iv. No Fee shall be earned or payable for any candidate who submitted an application through Upstate's website prior to referral by the Successful Offeror. If a candidate is referred by more than one (1) recruitment firm, compensation shall be payable only to the firm that first referred the candidate to Upstate, provided the candidate is hired. If a candidate is referred by multiple firms at substantially

the same time, the firm proposing the lowest Fee shall be deemed the Successful Offeror for compensation purposes.

- (b) Travel & Lodging: Upstate will reimburse necessary travel costs (e.g., airfare, hotel accommodations, ground transportation, parking, and meals) in accordance with New York State travel guidelines (the “Expenses”).
 - i. Airfare shall be coach only – no premium/specialty seating.
 - ii. Lodging and meals (less alcohol) shall be reimbursed in accordance with GSA per diem rates (<https://www.upstate.edu/travel/perdiem.php>).
 - iii. **All reimbursements must be accompanied by itemized receipts.**
 - iv. Travel and expenses over **FIVE HUNDRED DOLLARS (\$500.00)** must be approved by Upstate in advance of such expenses being incurred.
- (c) Reimbursable Expenses: No reimbursable expenses, costs, or charges other than those expressly authorized herein shall be reimbursable under the resulting Agreement.
- (d) Maximum Fees and Expenses: Total Fees and Expenses payable under this Agreement shall not exceed **ONE HUNDRED TWENTY-FOUR THOUSAND NINE-HUNDRED AND NINETY-NINE DOLLARS (\$124,999.00)**.

8. Award Method

- (a) Upstate may make a tentative award to the Offeror whose proposed candidate is selected by Upstate for further consideration. This RFQ shall remain open on a rolling basis until Upstate issues a tentative award to a Successful Offeror, unless otherwise amended, suspended, or withdrawn by Upstate in its sole discretion (the “Open Period”).
- (b) Upstate will evaluate candidates on an ongoing basis and endeavors to evaluate candidates as quickly as possible. Technical Contact will notify Offeror when Upstate declines a candidate for consideration.
- (c) Offerors are to submit candidate résumés for consideration to Timothy O’Hara, *Assistant Vice President for Facilities & Planning* (OHaraTi@upstate.edu) (the “Technical Contact”). Offerors are encouraged to continuously canvass the labor market; however, please notify Technical Contact if a candidate is no longer under consideration.

9. Offeror’s Written Response; Cost Proposal

Offerors are asked to provide a proposal, which shall detail how Offeror intends to provide Services. Please supply any additional relevant information or attachments with your submission. Provide the information in your response in the exact order as listed below.

- a. Response to Purpose and Objective:
 - i. Describe in sufficient detail your firm’s understanding of the needs and goals outlined in this RFQ and address how Services shall be delivered to achieve such objectives.
- b. Offeror Qualifications:
 - i. Provide an executive summary, including:
 - Company history; and
 - Company location and size; and
 - How long the company has been in business; and
 - Describe the company’s experience with academic medical centers.
 - ii. Provide evidence (e.g., Certificate of Authority) of Offeror’s eligibility to conduct business in the State of New York.
 - iii. Describe in detail the Offeror’s experience providing the Services outlined in this RFQ.
 - iv. Provide contact information for three (3) references.
 - v. Identify the name and describe the qualifications (i.e., background, education, and professional experience) of the account manager and team members providing Services, if awarded the Agreement.
 - vi. Offeror must disclose other similar projects that could potentially be seen as a conflict of interest with this RFQ for other healthcare organizations and academic medical centers. If no such projects

exist, please so indicate.

c. Response to Scope and Deliverables:

- i. Provide an overview of the services that Offeror can provide, including specific information on scope of work outlined in Section 4, *Scope of Work and Deliverables*, of RFQ. The narrative should include the experience Offeror has with providing the services and familiarity with applicable laws and regulations governing **construction and facilities and maintenance operations for New York State hospitals, subject to Article 28 NYSDOH regulations.**

d. Cost Proposal:

- i. **Offeror's proposal shall include the Fee as a percentage (%) of the placed candidate's first-year salary (the "Fee").**
- ii. Fee shall include all costs, including direct and indirect expenses, for Services.
- iii. **Fee shall remain firm in accordance with §7(a).**

10. **Determination of Offeror Responsibility**

New York State procurement law requires that state agencies award contracts only to responsible Offerors. Additionally, the New York State Comptroller must be satisfied that a proposed Offeror is responsible before approving a contract award under Section 112 of the State Finance Law. Section 163 of the New York State Finance Law ("SFL") requires that contracts for services and commodities be awarded based on lowest price or best value "to a responsive and responsible offeror". Section 163(9) (f) of the SFL requires that prior to making a contract award, each contracting agency shall make a determination of responsibility of the proposed Offeror.

In accordance with these procurement laws, the College will conduct an affirmative review of Offeror responsibility for all organizations or firms with which it conducts business. In doing so, Offerors are required to file the required Offeror Responsibility Questionnaire online via the New York State VendRep System or may choose to complete and submit a paper questionnaire. To enroll in and use the VendRep System, see the instructions from the Office of State Comptroller ("OSC"), online at <https://www.osc.ny.gov/state-vendors/vendrep/vendrep-system>. For VendRep System user assistance, the OSC Help Desk may be reached at 866-370-4672 or 518-408-4672 or by email at ITServiceDesk@osc.ny.gov. Offerors opting to file a paper questionnaire may obtain the appropriate questionnaire from the VendRep website (<https://www.osc.ny.gov/state-vendors/vendrep/vendor-responsibility-forms>).

In addition:

1. General Responsibility: The Offeror shall at all times during the contract awarded term remain responsible. The Offeror agrees, if requested by the SUNY Chancellor or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.
2. Suspension of Work for Non-Responsibility: The SUNY Chancellor, in his or her sole discretion, reserves the right to suspend any or all activities under the contract awarded, at any time, when he or she discovers information that calls into question the responsibility of the Offeror. In the event of such suspension, the Offeror will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Offeror must comply with the terms of the suspension order. Contract activity may resume at such time as the SUNY Chancellor or his or her designee issues a written notice authorizing a resumption of performance of the contract awarded.
3. Termination for Non-Responsibility: Upon written notice to the Offeror and a reasonable opportunity to be heard with appropriate SUNY officials or staff, the SUNY Chancellor or his or her designee at the Offeror's expense, where the SUNY Chancellor determines the Offeror or his or her designee to be non-responsible may terminate the contract awarded. In such event, the SUNY Chancellor or his or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

11. Compliance with Freedom of Information Law

All proposals submitted for the College's consideration and any resulting contract is subject to the New York State Freedom of Information Law ("FOIL"), contained in Article 6 of the New York State Public Officer's Law. Offeror must submit with its proposal completed Attachment 6; specifically (i) identifying the page number(s), line(s) or other appropriate designation(s) containing such information Offeror feels in its proposal constitutes a trade secret, should be treated as confidential and should not be disclosed upon a request pursuant to a FOIL; (ii) explaining in detail why such information is a trade secret or confidential; and (iii) formally request that such information be held as confidential. Offerors failure to submit Attachment 6 with its proposal will constitute a waiver by the Offeror of any rights it may have under Section 89(5) of the Public Officers' Law relating to protection of trade secrets. The proprietary nature of the information designated confidential by the Offeror may be subject to disclosure if ordered by a court of competent jurisdiction. A request that an entire proposal be kept confidential is not advisable, because a proposal cannot reasonably consist exclusively of proprietary information.

12. SUNY Reserved Rights

- a. Reject any and all proposals received in response to this RFQ.
- b. Reject any or all portions of any proposal, to negotiate terms and conditions consistent with this RFQ and to make an award for any or all remaining portions.
- c. Withdraw the RFQ at any time, at SUNY's sole discretion.
- d. Make an award in whole or in part.
- e. Disqualify any Offeror whose conduct and/or proposal fails to conform to the requirements of the RFQ.
- f. Use proposal information obtained through site visits, management interviews and the state's investigation of a Offeror's qualifications, experience ability or financial standing, and any material or information submitted by the Offeror in response to SUNY's request for clarifying information, in the course of evaluation and/or selection under the RFQ.
- g. Prior to the submission date, amend the RFQ specifications to correct errors of oversights, or to supply additional information, as it becomes available.
- h. Request certified audited financial statements for the past three (3) completed fiscal years and/or other appropriate supplementation including, but not limited to, interim financial statements and credit reports.
- i. Request references and contact any or all references.
- j. Adjust or correct cost or cost figures with the concurrence of the Offeror if mathematical or typographical errors exist.
- k. Advise the Successful Offeror of an objectionable employee(s) and/or subcontractor(s).
- l. Waive requirements or amend this RFQ
- m. Negotiate with Offeror responding to this RFQ within the requirements necessary to serve the best interests of SUNY.
- n. Begin contract negotiations with another Offeror to serve the best interests of SUNY should contract negotiations with the Successful Offeror be unsuccessful within a time frame acceptable to SUNY.
- o. Request clarifications from Offerors for purposes of assuring a full understanding of responsiveness and permit revisions from all potential awardees prior to award.
- p. Award no contract

13. General Contract Terms and Conditions

- a. SUNY Exhibits A & A-1: The *State University of New York Standard Contract Clauses* dated June 21, 2023, (**Exhibit A**) and *Affirmative Action Clauses* dated March 31, 2020, (**Exhibit A-1**) will be incorporated into any resulting agreement with the highest precedence.
- b. Reserved.
- c. Restrictions on the Activities of Current and Former State Officers and Employees: All Offeror's employees must be aware of and comply with the requirements of the New York State Public Officers Law, all other appropriate provisions of New York State Law and all resultant codes, rules and regulations from State

laws establishing the standards for business and professional activities of State employees and governing the conduct of employees of firms, associations and corporations in business with the State. The Offeror and their employees are cautioned that the hiring of former state employees may violate the Ethics Law. The governing provisions are set forth in the New York State Public Officers Law §§ 73 and 74, and the underlying principle of law is to prevent conflicts of interest and encourage ethical behavior. The law may be found on the following website: http://www.jcope.ny.gov/about/laws_regulations.html. Failure to comply with those provisions may result in termination of the Agreement and/or other civil or criminal proceedings as required by law.

d. Subcontractors, Partners, Joint Ventures and other Third-Party Participants ("Subcontractor"):

- i. Prior to commencing services, the Offeror shall submit a statement to SUNY describing the portion of the work and materials which subcontractors are to perform and must furnish any other information to document that such subcontractors have the necessary facilities, skill, integrity, past experience and financial resources to perform the work in accordance with the terms and provisions of the Agreement. If SUNY finds that the subcontractors are qualified, it will so notify the Offeror within ten (10) business days following receipt of Offeror's written statement described above. If SUNY determines that a subcontractor is not qualified, it will so notify the Offeror. The Offeror must, within ten (10) business days thereafter, submit a written statement as described above with respect to other proposed subcontractors, unless the Offeror decides to do such work itself and in SUNY's opinion is qualified to do such work.
 - ii. SUNY's approval of a subcontractor shall not relieve the Offeror of any of its responsibilities, duties and liabilities under the Agreement. The Offeror shall be solely responsible to SUNY for the acts, omissions or defaults of such subcontractors and of such subcontractors' officers, agents and employees, each of whom shall, for this purpose, be deemed to be the agent or employee of the Offeror to the extent of its subcontract. No provisions of the awarded contract shall create or be construed as creating any contractual relation between SUNY and any subcontractor or with any person, firm or corporation employed by, contracted with or whose services are utilized by the Offeror.
 - iii. The Offeror shall be fully responsible for the administration, integration, coordination, direction and supervision of all of its subcontractors and of all work. Offeror shall check requirements of the work and coordinate and adjust as required so that conflicts in time, workspace, equipment and supplies do not occur in the work being performed by the Offeror with its own employees and the work being performed by its subcontractors.
 - iv. No subcontractor shall be permitted to work until it has furnished satisfactory evidence to SUNY of the insurance required by law.
 - v. The Offeror shall execute a written agreement with each of its subcontractors and shall require all subcontractors to execute with their sub subcontractors a written agreement which shall bind each to the terms and provisions of the prime contract awarded, insofar as such terms and provisions are applicable to the work to be performed by such subcontractors. The Offeror shall require all subcontractors and sub subcontractors to promptly, upon request, file with SUNY a copy of such agreements upon request, from which the price and terms of payment may be deleted.
- e. Reserved.
- f. Confidentiality/Freedom of Information Law: The resulting Agreement is subject to the New York State Freedom of Information Law ("FOIL"), contained in Article 6 of the New York State Public Officer's Law. Therefore, if an Offeror believes that any information in its proposal constitutes a trade secret, should be treated as confidential and should not be disclosed upon a request pursuant to FOIL, Offeror shall submit with its proposal a separate letter addressed to: *SUNY Upstate, Internal Audit, Attn: Records Access Officer, 750 East Adams Street, Syracuse, New York 13210* specifically (i) identifying the page number(s), line(s) or other appropriate designation(s) containing such information; (ii) explaining in detail why such information is a trade secret or confidential; and (iii) formally request that such information be held as confidential. Offeror's failure to submit such a letter with its proposal will

constitute a waiver by the Offeror of any rights it may have under Section 89(5) of the Public Officers' Law relating to protection of trade secrets. The proprietary nature of the information designated confidential by the Offeror may be subject to disclosure if ordered by a court of competent jurisdiction. A request that an entire proposal be kept confidential is not advisable, because a proposal cannot reasonably consist exclusively of proprietary information.

- g. **False Claims:** SUNY Upstate is required by law to provide information to all of its contractors and agents regarding the Federal False Claims Act, New York State Laws regarding civil or criminal penalties for false claims and payments, administrative remedies for false claims and statements, and whistleblower protections under these laws. **Exhibit V, False Claims Information for Contractors and Agents of the State University of New York Upstate Medical University**, of this Agreement satisfies this notification requirement, and by execution of this Agreement, Offeror acknowledges that it has received and understands the information provided therein.

h. **Compliance:**

- i. Notwithstanding any other provision of this Agreement, the parties remain responsible for ensuring that any service provided pursuant to this Agreement complies with all pertinent provisions, as may be from time to time amended, of federal, New York state and local statutes, rules and regulations, and policies of the SUNY Board of Trustees.
- ii. The parties recognize that this Agreement at all times is subject to applicable provisions, as may be from time to time amended, of federal, New York state, and local statutes, rules, and regulations, and policies of the State University of New York Board of Trustees. Any provision of law or regulation or judicial or administrative interpretation of same that invalidates, or otherwise is inconsistent with the terms of this Agreement that, in the reasonable judgment of either party, would cause one or both parties to be in violation of law or regulation shall be deemed to have suspended the terms of this Agreement; provided, however, that the parties shall exercise their best efforts to accommodate the terms and intent of this Agreement to the greatest extent possible consistent with the requirements of law and regulations.
- iii. If either party determines that a term of this Agreement, including the compensation to the Upstate's medical service groups, is required to be modified or terminated for purposes of compliance with federal or New York State laws or regulations, or with the policies of the SUNY Board of Trustees, such party shall promptly notify the other party in writing of the determination, together with sufficient details supporting the determination. Within thirty (30) days of the foregoing notification, the parties shall renegotiate, in good faith, the term(s) required to be modified or terminated to ensure compliance with applicable laws, regulations and policies. If the parties are unable to make a good faith resolution within such thirty (30) day period, resolution will be attempted through the Institutional Compliance Committee. If the Institutional Compliance Committee is unable to resolve the issue within an additional thirty (30) day period, either party may terminate this Agreement upon ten (10) days prior written notice to the other party or such earlier date as may be required by law, regulation or policy.
- iv. Offeror, its employees, subcontractors, and agents shall be subject to and comply with Upstate's institutional compliance program as it relates to services provided hereunder and report any compliance concerns that are applicable to their provision of services to Upstate hereunder. *Upstate's Compliance & Ethics Program Education* is attached hereto as **Exhibit T**. Offeror shall require its employees, subcontractors, and agents that are providing services to Upstate review **Exhibit T** prior to providing services to Upstate. Offeror shall maintain records demonstrating its compliance with the foregoing requirement for no less than six (6) years and provide a copy of such records to Upstate within fifteen (15) days of Upstate's written request. Upstate may terminate this Agreement upon fifteen (15) days written notice in the event Offeror fails to comply with the provisions of this section and does not cure such non-compliance during such time period. In the event of such termination, Offeror shall provide Upstate with a pro-rated refund for all amounts paid in advance for the unexpired portion of the

term.

- i. Exhibits. By responding to this RFQ, Offeror agrees to the terms and conditions set forth herein, including the exhibits listed below, which are incorporated herein by reference and made a part of this RFQ, including:
 - i. **Exhibit A:** State University of New York Standard Contract Clauses
 - ii. **Exhibit A-1:** State University of New York Affirmative Action Clauses (for contracts valued at greater than \$25,000)
 - iii. **Exhibit B:** Job Description
 - iv. **Exhibit C:** Agreement Template
 - v. **Exhibit T:** Upstate Compliance & Ethics Program Education
 - vi. **Exhibit V:** False Claims Information for Contractors and Agents of the State University of New York Upstate Medical University
 - vii. **Exhibit W:** Consultant Services Reports Instructions, Form A and Form B
- j. Attachments. Offeror must review, complete, sign (*if applicable*) and return attachments listed on **Attachment 1 (RFQ Submission Checklist)**.

14. Quote Submission; Deadline

- (a) Offeror shall submit their proposal via email to the Designated Contacts provided in **Section 1 (Important Notice to Interested Offerors)** of the RFQ.
- (b) Responses will be accepted on a rolling basis until Upstate closes the RFQ or issues an award to a Successful Offeror.

State University of New York

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 or State University of New York, whether a Contractor, licensor, licensee, lessor, lessee or any other party; the State University of New York shall hereinafter be referred to as "SUNY"):

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. In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of SUNY and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. SUNY retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with SUNY. The Contractor may, however, assign its right to receive payments without SUNY'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. (a) In accordance with Section 112 of the State Finance Law, the State Comptroller's approval is required for the following contracts: (i) goods, services, construction, and construction-related services for State University hospital or healthcare facilities which exceed \$150,000; (ii) purchases utilizing an Office of General Services (OGS) centralized contract which exceed \$200,000 (iii) goods, services, construction, and construction-related services not described in (i) or (ii) and which exceed \$75,000;

(b) If this contract exceeds the threshold amounts listed above in Paragraph 3(a), or, if this is an amendment for any amount to a contract which, as so amended, exceeds said threshold amounts, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$25,000, it shall not be valid, effective or binding upon the State, and the State shall bear no liability, until it has been approved by the State Comptroller and filed in his or her 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, nor subject any individual to harassment, because of age, race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status or because the individual has opposed any practices forbidden under the Human Rights Law or has filed a complaint, testified, or assisted in any proceeding under the Human Rights Law. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation

6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State- approved sums due and owing for work done upon the project.

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of RFQ S-1613

the State Finance Law, if this contract was awarded based upon the submission of competitive 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 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, 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 SUNY, 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 SUNY and any other 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. 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.

(a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to SUNY 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 SUNY or 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 SUNY contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.

In accordance with Section 312 of the Executive Law and 5 NYCRR Part 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination

of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

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

(b) 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

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

Contractor will include the provisions of "a," "b," and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or sub-contractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this clause. 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 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 and Technology Development
625 Broadway
Albany, NY 12245
Telephone: 518-292-5100

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development
Division of Minority and Women's Business Development
633 Third Avenue 33rd Floor
New York, NY 10017
646-846-7364
email: mwbebusinessdev@esd.ny.gov
<https://ny.newnycontracts.com/FrontEnd/searchcertifieddirectory.asp>

The Omnibus Procurement Act of 1992 (Chapter 844 of the Laws of 1992, codified in State Finance Law § 139-i and Public Authorities Law § 2879(3)(n)-(p)) requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to 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 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 of 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively, codified in State Finance Law § 165(6) and Public Authorities Law § 2879(5)) require that they be denied contracts which they would otherwise obtain.

NOTE: As of May 2023, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and

Hawaii.

22. COMPLIANCE WITH BREACH NOTIFICATION AND DATA SECURITY LAWS. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law § 899-aa, § 899-bb, and State Technology Law § 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 (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to 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 contract is a "procurement contract" as defined by State Finance Law §§ 139-j and 139-k, by signing this contract the Contractor certifies and affirms that all disclosures made in accordance with State Finance Law §§ 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the contract by providing written notification to the Contractor in accordance with the terms of the contract.

26. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS. To the extent this contract is a contract as defined by Tax Law § 5-a, if the Contractor fails to make the certification required by Tax Law § 5-a or if during the term of the contract, the Department of Taxation and Finance or 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 contract, if SUNY determines that such action is in the best interests of the State.

27. IRAN DIVESTMENT ACT. By entering into this contract, Contractor certifies in accordance with State Finance Law §165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at: <https://ogs.ny.gov/iran-divestment-act-2012>.

Contractor further certifies that it will not utilize on this contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this contract, it must provide the same certification at the time the contract is renewed or extended. Contractor also agrees that any proposed Assignee of this contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the contract, should SUNY receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, SUNY will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then SUNY shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

SUNY reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

28. ADMISSIBILITY OF REPRODUCTION OF CONTRACT. Notwithstanding the best evidence rule or any other legal principle or rule of evidence to the contrary, the Contractor acknowledges and agrees that it waives any and all objections to the admissibility into evidence at any court proceeding or to the use at any examination before trial of an electronic reproduction of this contract, in the form approved by the State Comptroller, if such approval was required, regardless of whether the original of said contract is in existence.

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

29. 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.

30. (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.

31. Hospital Retained Authority: Hospital Retained Authority: The Hospital retains direct, independent authority over the appointment and/or dismissal, in its sole discretion, of the facility's management level employees (including but not limited to, the Facility/Service Administrator/Director, the Medical Director, the Director of Nursing, the Chief Executive Officer, the Chief Financial Officer and the Chief Operating Officer) and all licensed or certified health care staff. The Hospital retains the right to adopt and approve, at its sole discretion, the facility's operating and capital budgets. The Hospital retains independent control over and physical possession of the facility's books and records. The Hospital retains independent control over and physical possession of the facility's operating policies and procedures. The Hospital retains full authority and responsibility for, and control over, the operations and management of the facility. The Hospital retains the right and authority to independently adopt, approve and enforce, in its sole discretion, policies affecting the facility's delivery of health care services. The Hospital retains the right to independently adopt, approve and enforce, at its sole discretion, the disposition of assets and authority to incur debts. The Hospital retains the right to approve, at its sole discretion, contracts for administrative services, management and/or clinical services. The Hospital retains the right to approve, at its sole discretion, any facility debt. The Hospital retains the right to approve, at its sole discretion, settlements of administrative proceeding or litigation to which the facility is a party. No powers specifically reserved to the Hospital may be delegated to, or shared by, the Contractor or any other person. In addition, if there is any disagreement between the parties to this Agreement regarding control between the Hospital and the Contractor, the terms of this Section shall control.

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; (c) and (d) 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 for a total expenditure in excess of \$25,000 providing for services, including non-staffing expenditures, supplies or materials of any kind between a State agency and a prime contractor, in which a portion of the prime contractor's obligation under the State contract is undertaken

or assumed by a business enterprise not controlled by the prime 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 (51%) 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 fifteen million dollars (\$15,000,000), 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 fifteen million dollars (\$15,000,000.00), 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 New York Division of Minority & Women Business Development ("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) Form 108 - Staffing Plan To ensure compliance with this Section, the Contractor shall submit a staffing plan to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. Contractors shall complete the Staffing plan form and submit it as part of their bid or proposal or within a reasonable time, but no later than the time of award of the contract.

(e) Form 112 - Workforce Employment Utilization Report ("Workforce Report")

(i) Once a contract has been awarded and during the term of Contract, Contractor is responsible for updating and providing notice to SUNY of any changes to the previously submitted Staffing Plan. This information is to be submitted on a

quarterly basis during the term of the contract to report the actual workforce utilized in the performance of the contract by the specified categories listed including ethnic background, gender, and Federal occupational categories. The Workforce Report must be submitted to report this information.

(ii) Separate forms shall be completed by Contractor and any subcontractor performing work on the Contract.

(iii) In limited instances, Contractor may not be able to separate out the workforce utilized in the performance of the Contract from Contractor's and/or subcontractor's total workforce. When a separation can be made, Contractor shall submit the Workforce Report and indicate that the information provided related to the actual workforce utilized on the Contract. When the workforce to be utilized on the contract cannot be separated out from Contractor's and/or subcontractor's total workforce, Contractor shall submit the Workforce Report and indicate that the information provided is Contractor's total workforce during the subject time frame, not limited to work specifically under the contract.

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

(g) 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.

(h) 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.

(i) 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.

(j) 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

DMWBD shall provide a contracting agency with a model plan of an affirmative action program.

(k) Upon request, DMWBD 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

3. 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.

4. 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.

5. 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 DMWBD:

(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.

6. MWBE Utilization Plan.

(a) The Contractor represents and warrants that Contractor has submitted an MWBE Utilization Plan prior to the execution of the contract.

(b) MWBE Utilization Plan (Form 7557-107).

Contractors are required to submit a Utilization Plan on Form 7557-107 with their bid or proposal. Complete the following steps to prepare the Utilization Plan:

- i. list NYS Certified minority- and women-owned business enterprises which the Contractor intends to use to perform the State contract;
- ii. insert a description of the contract scope of work which the Contractor intends to structure to increase the

participation by NYS Certified minority- and women-owned enterprises on the State contract;

- iii. insert 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 NYS Certified minority- or women-owned business; and

(c) Any modifications or changes to the agreed participation by NYS Certified MWBEs after the Contract Award and during the term of the contract must be reported on a revised MWBE Utilization Plan and submitted to the SUNY University-wide MWBE Program Office.

(d) The University will review the MWBE Utilization Plan and will issue the Contractor a written notice of acceptance or deficiency within twenty (20) day of its receipt. A notice of deficiency shall include the:

- i. list NYS Certified minority- and women-owned business enterprises which the Contractor intends to use to perform the State contract;
- ii. name of any MWBE which is not acceptable for the purpose of complying with the MWBE participation goals;
- iii. reasons why it is not an acceptable element of the Contract scope of work which the MWBE Program Office has determined can be reasonably structured by the Contractor to increase the likelihood of participation in the Contract by MWBEs; and
- iv. other information which the MWBE Program Office determines to be relevant to the MWBE Utilization Plan.

(e) The Contractor shall respond to the notice of deficiency within seven (7) business days of receipt by submitting to the University a written remedy in response to the notice of deficiency.

i. If the written remedy that is submitted is not timely or is found to be inadequate, the University-wide MWBE Program Office shall notify the Contractor and direct the Contractor to submit, within five (5) business days, a request for partial or total waiver of MWBE participation goals on forms provided by the University-wide MWBE Program Office.

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

(f) The University may disqualify a Contractor as being non-responsive under the following circumstances:

- i. If a Contractor fails to submit a MWBE Utilization Plan;
- ii. If a Contractor fails to submit a written remedy to a notice of deficiency in a MWBE Utilization Plan;
- iii. If a Contractor fails to submit a request for waiver; or
- iv. If the MWBE Program Office determines that the Contractor has failed to document Good Faith Efforts.

(g) Contractor agrees to use such MWBE Utilization Plan for the performance of MWBEs on the Contract pursuant to the prescribed MWBE goals set forth in Section III-A of this Appendix.

(h) Contractor further agrees that a failure to submit and/or use such MWBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the

occurrence of such a material breach, SUNY shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsiveness.

7. Waivers.

(a) For Waiver Requests Contractor should use (Form 7557-114) – Waiver Request.

(b) If the Contractor, after making good faith efforts, is unable to comply with MWBE goals, the Contractor may submit a Request for Waiver form documenting good faith efforts by the Contractor to meet such goals. If the documentation included with the waiver request is complete the University shall evaluate the request and issue a written notice of acceptance or denial within twenty (20) days of receipt.

(c) If University, upon review of the MWBE Utilization Plan and updated Quarterly MWBE Contractor Compliance Reports determines that Contractor is failing or refusing to comply with the Contract goals and no waiver has been issued in regards to such non-compliance, the University may issue a notice of deficiency to the Contractor. The contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

8. MWBE Contractor Compliance Report.

Contractor is required to submit an MWBE Contractor Compliance Report (Form 7557-112) to the University by the 5th day following each end of quarter over the term of the Contract documenting the progress made towards achievement of the MWBE goals of the Contract. Compliance Reports for construction contracts (Form 7557-110) must be submitted on a monthly basis.

9. 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 DMWBD, 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 fifteen percent (15%) for Certified Minority-Owned Business Enterprises and fifteen percent (15%) for Certified Women-Owned Business Enterprises.

10. 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.

Failure to comply with all of the requirements herein may result in a

finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the withholding of funds or such other actions, remedies or enforcement proceedings as allowed by the Contract.

11. DAMAGES FOR NON COMPLIANCE.

Where the University determines that Contractor is not in compliance with the requirements of the Contract and Contractor refuses to comply with such requirements, or if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, Contractor shall be obligated to pay liquidated damages to the University. Such liquidated damages shall be calculated as an amount equaling the difference between:

a. All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and

b. All sums actually paid to MWBEs for work performed or materials supplied under the Contract.

In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by the University, Contractor shall pay such liquidated damages to the University within sixty (60) days after such damages are assessed, unless prior to the expiration of such sixtieth day, the Contractor has filed a complaint with the Director of the Division of Minority and Woman Business Development pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the liquidated damages shall be payable if Director renders a decision in favor of the University.

EXHIBIT B

JOB DESCRIPTION



DESCRIPTIVE TITLE: Executive Director of Design and Construction
UNION:
LAST REVIEW DATE: 05/18/2026

JOB DESCRIPTION	
General Summary: This position reports to the Assistant Vice President for Facilities and Planning supporting the academic campus and research needs as well as the hospital clinical needs. The Executive Director will provide leadership, coordination and administrative oversight to the design, construction and facilities engineering departments for major capital projects, interior renovations, and special projects as assigned. This position is responsible for ensuring that the planning, design, and construction of capital projects are completed accurately, effectively, and in accordance with the requirements of the Hospital, College, and other regulatory agencies. This role will ensure collaboration with other facilities departments for long term, short term, and operational needs. This role will work in coordination with Hospital and University Leadership, Physical Plant, Environmental Health and Safety, Facilities Technology and Planning, and other stakeholders to renovate, maintain, improve, and add to the UMU built environment.	
Minimum Qualifications: Bachelor's degree in Architecture, Engineering, or a closely related field and a minimum of seven (7) years of relevant experience in the design and construction of capital projects within an operating facility and thorough knowledge of current New York State building codes is required.	
Preferred Qualifications: NYS professional licensure as an Architect or Engineer is strongly preferred. A Master's degree is preferred. Experience in hospital regulatory and accreditation requirements is preferred.	
Category	Job Duties and Expectations
Assigned Task	Provides standards for coordination between the Physical Plant, maintenance, custodial, and facilities functions and other campus departments during renovations, relocations and other facility-related activities to ensure that projects are completed as planned and with a minimum of disruption to the department. The position conducts planning analyses and works with Facilities department colleagues in operations, sustainability and administration, to prepare appropriate scope and cost documentation to inform 10-year capital plans.
	Provides supervision and direction to personnel assigned to Project Management and Code enforcement. Work continuously to improve the department's understanding of Upstate's mission, vision, and values.
	Categorized by prioritization - Safety, regulatory, satisfaction (employee or patient), sustainability and strategic alignment.
	Investigates potential campus projects, prepares cost estimates and alternatives and recommends use of SUCF, DASNY, OGS or UMU D&C personnel and resources or additional contracted services. Provides technical assistance throughout the process for bids or professional service contracts. Represents UMU in negotiations with vendors and contractors.
	Maintain and updates campus documentation for all Design and Construction operations and activities.
	Supports the process for selection of consultants and vendors for hospital and college capital and large physical plant projects. Consult with architects, engineers, contractors, vendors, and college departments in the planning and development of major new construction or renovation/refurbishment of existing facilities.
	Manage the Associate Directors on project progress and review the performance of consultants, contractors, and vendors to assure that the interests of UMU are protected; including the review and approval of applications for payment.
	Maintains an awareness of applicable federal, state, and local codes and regulations, including regulations on workplace safety and applies this information to related UMU issues. Trains employees on these items for their awareness.
	Investigates and evaluates the immediate and long-range campus building requirements, including the evaluation and implementation of the Facilities Master Plan initiatives. Assists in the preparation of the capital improvement plan and capital budget requests for UMU. Provide support for Master Plan Development as required.
	Supports and assists with College emergency or crisis responses in matters related to Design and Construction, UMU physical plant, and facilities, and/or security services.
	Attends professional development programs, workshops and seminars to remain current on topics related to building design and construction, Codes, Ethics, facilities management, governmental codes, rules and regulations and other subjects related to the built environment.
	Ability to successfully work across department lines with key stakeholders, contractors, and other state entities.
	Ability to develop and manage a capital project budget.
	Required to sign and stamp drawings as needed.

DIRECTOR LEVEL CORE COMPETENCIES

Category	Expectations
Quality of Care	Responsible for ensuring the highest standards of quality in all aspects of service delivery. This includes developing, implementing, and maintaining quality improvement initiatives that enhance outcomes, safety, and satisfaction. Suggested Key Behaviors to Consider: • Lead and support quality improvement projects and initiatives. • Promote a culture of safety by using the SA system to report near misses and errors. • Appropriate escalation of issues to senior leadership. • Utilize data and metrics to monitor performance and identify areas for improvement. • Ensure compliance with all relevant regulations and standards. • Promote patient-centered care practices that prioritize patient needs and preferences. • Identify and mitigate risks to safety and quality.
Upstate Experience - Patient/Family/Public	Responsibility to represent SUNY Upstate Medical University in a positive manner focusing on our Core Values which drive innovation & discovery, respect people, serve our communities, and value integrity. Suggested Key Behaviors to Consider: • Demonstrate effective communication skills when interacting with customers, visitors, patients, students and co-workers. • Provide and accept constructive feedback. • Welcome and assist with orientation of new staff. • Take deliberate action to support and participate in community and/or organizational events that represent Upstate University Hospital and the community's health values and needs.
Upstate Experience - Staff Leadership	Responsible for effectively leading and managing teams to achieve organizational goals. This includes fostering a positive work environment, developing staff potential, and ensuring high levels of performance and engagement. Suggested Key Behaviors to Consider: • Clearly communicate the organization's vision, mission, and goals to staff. • Set clear, achievable objectives and expectations for the team. • Promote a culture of respect and collaboration. • Mentor and coach staff to enhance their skills and career progression. • Establish habits supporting well-being, including role modeling healthy practices and monitoring internal and external environments for opportunities to improve health. • Implement strategies to improve team productivity and efficiency. • Foster open and transparent communication within the team. • Lead the team through organizational changes effectively.
Innovation	Responsible to foster a climate of innovation across the missions and establish mechanisms to allow innovative ideas to cascade upward from all levels of the institution. Suggested Key Behaviors to Consider: • Foster a climate of innovation and establish mechanisms to allow innovative ideas to cascade upward from all levels of the institution. • Demonstrate the ability to see the potential for administrative and/or clinical technologies to support process and performance improvement. • Create platforms and/or processes that empower staff in identifying and pursuing new approaches to their work.
Sustainability & Growth	Responsible for continuously improving operational and administrative efficiencies, resulting in improved cost management and delivery of services, while reducing waste in all areas. Suggested Key Behaviors to Consider: • Coordinate with administrator for the planning, development and implementation of department operating and capital budgets in a manner consistent with the hospital's financial plan and quality patient objectives. • Analyze available management data to identify opportunities to improve performance, including utilization of resources (OT, supplies, etc.), LOS, clinical variances/best practice analysis through benchmarking data.

Physical Job Demand Requirements
Must accompany Job Description

Job Title/Salary Grade (Payroll):		Department:
Descriptive Title:	Executive Director of Design and Construction	Line Item:
Date Completed:	05/18/2026	Completed By: Timothy O'Hara

Check appropriate job/strength category:

☐ **Sedentary work** - Exerting up to 10 pounds of force occasionally, and/or a negligible amount of force frequently or constantly to lift, carry, push, pull or otherwise move objects, including the human body. Sedentary work involves sitting most of the time. Jobs are sedentary if walking and standing are required only occasionally, and all other sedentary criteria are met.

☒ **Light work** - Exerting up to 20 pounds of force frequently, and/or a negligible amount of force constantly to move objects. If the use of arm and/or leg control requires exertion of forces greater than that of sedentary work and if the worker sits most of the time, the job is considered light work.

☐ **Medium work** - Exerting up to 50 pounds of force occasionally, and/or up to 20 pounds of force frequently, and/or up to 10 pounds of force constantly to move objects.

☐ **Heavy work** - Exerting up to 100 pounds of force occasionally, and/or up to 50 pounds of force frequently, and/or up to 20 pounds of force constantly to move objects.

☐ **Very heavy work** - Exerting in excess of 100 pounds of force occasionally, and/or in excess of 50 pounds of force constantly to move objects.

EXHIBIT C

AGREEMENT TEMPLATE

Business Unit: **SNY01**
Contract #: **T508018**
Department ID: **3320211**

STATE UNIVERSITY OF NEW YORK

CONTRACT NUMBER T508018

[VENDOR NAME]

THIS AGREEMENT (the "Agreement") is made by and between The **STATE UNIVERSITY OF NEW YORK**, an educational corporation organized and existing under the laws of the State of New York, with its principal place of business located at H. Carl McCall SUNY Building, 353 Broadway, Albany, New York 12246 ("SUNY"), acting through its **UPSTATE MEDICAL UNIVERSITY** campus ("Upstate") (also known as SUNY Health Science Center at Syracuse), a component of which is its **UNIVERSITY HOSPITAL**, a general hospital licensed under Article 28 of the New York Public Health Law, located at 750 East Adams Street, Syracuse, New York 13210, and **[VENDOR LEGAL NAME]**, [doing business as **[VENDOR FULL DBA NAME]**, if any, otherwise delete], a [select one: foreign / domestic] [corporation] organized under the laws of [New York] and having its principal place of business located at **[VENDOR ADDRESS and ZIP CODE]** (hereinafter, ("VENDOR Short Form" or ("Contractor")). SUNY and Contractor may be referred to individually as a "Party" and collectively as the "Parties."

W I T N E S S E T H:

WHEREAS, SUNY Upstate requires recruitment search services to fill a vacancy at Upstate for an Executive Director of Design & Construction position as more fully described in this Agreement; and

WHEREAS, the Contractor is qualified and able to perform the services required by SUNY Upstate; and

WHEREAS, the Contractor was selected through a discretionary purchase authorized under New York State Finance Law and approved in accordance with SUNY policy and has submitted a proposal describing the proposed services; and

WHEREAS, the Parties desire to enter into an agreement defining the terms and conditions pursuant to which the Contractor will provide such services to SUNY Upstate; and

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein made, the Parties agree as follows:

1. Services

Contractor will provide the services ("Services") described in:

- (a) the SUNY specifications for this Agreement, prepared by SUNY based on the written procurement record and attached hereto as **Exhibit F** and incorporated herein by reference; and,
- (b) the following document(s), as applicable, attached hereto as **Exhibit G** and incorporated herein by reference:
 - the Contractor's written proposal dated _____.

2. Entirety, Order of Precedence and Compliance

- (a) This Agreement, together with the documents incorporated by reference and attached hereto (collectively, the "Exhibits"), constitute the entire agreement of the Parties, and supersedes all prior communications between the Parties, whether written or oral, with respect to the subject matter hereof. The Exhibits are incorporated into and made part of this Agreement and are as follows, in order of precedence:
 - a. **Exhibit A**, State University of New York Standard Contract Clauses
 - b. **Exhibit A-1**, State University of New York Affirmative Action Clauses (for contracts valued at greater than \$25,000)
 - c. **Exhibit B**, State University of New York General Contract Terms & Conditions
 - d. The Agreement

- e. **Reserved.**
- f. **Reserved.**
- g. **Reserved.**
- h. **Exhibit F**, SUNY's Solicitation RFQ S-1613 (Recruitment Search Services for Executive Director of Design & Construction)
- i. **Exhibit G**, Contractor's Proposal, dated _____
- j. **Reserved.**
- k. **Exhibit I / J / K / L – S** (if applicable, e.g. Non-Employee Clearance, Hospital High Risk Quality Metrics, Vendor Access Policy if not already incorporated elsewhere)
- l. **Exhibit T**, Upstate Compliance & Ethics Program Education
- m. **Exhibit V**, False Claims Information for Contractors and Agents of the State University of New York Upstate Medical University
- n. **Exhibit W**, Consultant Services Reports Instructions, Form A and Form B
- o. **Reserved.**
- p. **Reserved.**

- (b) Notwithstanding any other provision of this Agreement, the Parties shall remain responsible for compliance with all applicable federal, state, and local laws, rules, and regulations, as well as the policies of the State University of New York Board of Trustees, each as may be amended from time to time.
- (c) The Parties acknowledge that this Agreement is at all times subject to such laws, rules, regulations, and policies. In the event any provision of this Agreement is determined, in the reasonable judgment of either Party, to conflict with any such authority in a manner that would render performance unlawful or noncompliant, the affected provision shall be deemed suspended. The Parties shall, in good faith, seek to modify the Agreement to preserve its intent and enforceability to the maximum extent permitted by law. If the Parties are unable to agree on such an amendment within a reasonable period of time, either Party may terminate the Agreement upon thirty (30) days' written notice.

3. **Effective Date, Term and Termination**

The term shall begin on [the date of final execution] and, if required, approval by the New York State ("NYS") Attorney General ("OAG") and NYS Office of the State Comptroller ("OSC") and continue for [Spell Out Number] ([insert numerical number]) years / months (the "Term") unless earlier terminated as provided herein.

4. **Pricing and Rates**

The pricing applicable to this Agreement is set forth in **Exhibit G**. The total compensation to be paid under this Agreement shall not exceed **ONE-HUNDRED AND TWENTY-FOUR THOUSAND NINE-HUNDRED AND NINETY-NINE DOLLARS (\$124,999.99)** over the Term of the Agreement. The Contractor shall not charge rates or amounts exceeding those set forth in **Exhibit G**.

- **Exhibit G** shall consist of the
 - Contractor's written proposal.

If this Agreement constitutes a "Personal Services Contract," as defined by Executive Order No. 10 (issued by Governor Cuomo on March 2, 2011, and continued in effect by Governor Hochul)—meaning that a majority of the contract costs are attributable to compensation of the Contractor's personnel—the rates set forth in **Exhibit G** shall comply with Section 6 of that Executive Order. The Contractor shall be responsible for determining whether the Agreement qualifies as a Personal Services Contract under Executive Order No. 10 and, if so, for ensuring that the rates and documentation required under Section 6 are provided and retained in accordance with applicable guidance.

All payment and invoicing shall be made in accordance with applicable NYS law and the terms of this Agreement.

5. **Modification of Services**

SUNY may, at any time during the Term, alter, reduce, or terminate any or all Services by providing at least thirty (30) days' written notice to Contractor. Such changes will not entitle Contractor to claim for lost profits

or other damages. SUNY will pay for Services properly performed through the effective date of the change, subject to receipt and approval of acceptable invoices.

If the change reduces the scope of Services, SUNY will deduct a proportionate amount from the total contract price.

If the change expands or materially alters the Services or deliverables, the Parties must:

- Mutually agree to the changes in writing; and
- Prepare a change order or amendment to the Statement of Work; and
- Obtain approval from the New York State OAG and the OSC, if required.

For the avoidance of doubt, no increase in fees or material change in deliverables is valid unless agreed to in writing and approved by OAG and OSC, if applicable.

6. **Executive Order No. 177**

In accordance with Executive Order No. 177, Contractor hereby certifies that it does not have institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sex, sexual orientation, gender identity, disability, marital status, military status, or other protected status under the Human Rights Law.

7. **Executive Order 162**

Executive Order 162 requires state contractors to disclose data on the gender, race, ethnicity, job title, and salary of employees performing work on state contracts issued on or after June 1, 2017. Contractor agrees to submit Workforce Utilization Report (Form 7557-110) and to require the same information to be submitted by any of its subcontractors on this state contract, in such format as shall be required by SUNY on a quarterly basis during the term of this Agreement.

8. **Executive Order No. 16**

In accordance with Executive Order No. 16, Contractor hereby certifies that it does not conduct any commercial activity in Russia in the form of contracting, sales, purchasing, investment or any business partnership and does not transact business with the Russian Government or with commercial entities headquartered in Russia or with their principal place of business in Russia.

9. **Reserved.**

10. **State Consultant Services Reporting**

For contracts that meet the definition of “consulting services” under State Finance Law §§ 8 and 163, the Contractor must submit annual employment reports to SUNY, the NYS Department of Civil Service (DCS), and OSC. These reports must include, by employment category:

- The number of persons providing services under the contract; and
- The number of hours worked; and
- The amount paid by the State for those services

This requirement applies to both the Contractor’s employees and any individuals working under subcontracts.

If this Agreement is a consulting services contract, the Contractor agrees to complete and submit:

- **Form A (Planned Employment Data)** — submitted at the time of contract execution.
- **Form B (Annual Employment Report)** — submitted by **May 15** of each year during the term of the Agreement.

Copies of both forms must be submitted to SUNY, DCS, and OSC.

Further instructions and blank copies of Forms A and B are annexed as **Exhibit W** and incorporated into this Agreement by reference.

11. **Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without regard to its conflict-of-law principles. All claims arising out of or relating to this Agreement—whether in contract, tort, or otherwise—shall be governed by New York law. Jurisdiction shall lie exclusively in a court of competent jurisdiction located in Onondaga County, New York, or elsewhere within the State of New York as permitted by law.

12. **Binding Effect**

This Agreement is binding upon execution by both Parties, but if approval by OAG and OSC is required, it shall not be valid or enforceable until such approvals are obtained.

13. **Notice**

Any notice to Parties hereunder must be in writing, signed by the Party giving it and shall be served either personally, by certified mail, return receipt requested, or by nationally recognized overnight courier service, with delivery receipt, addressed as follows:

TO SUNY UPSTATE MEDICAL UNIVERSITY:

Contracts & Campus Purchasing

Attn: **Director**

750 East Adams Street

SLC 2042

Syracuse, New York 13210

WITH A COPY TO:

Insert Program Office / Others (as needed) Notice Information

TO CONTRACTOR:

Insert Contractor Notice Information

Each Party may update its notice address by giving written notice to the other Party in accordance with this Section. A notice is effective only upon receipt at the designated address. For the avoidance of doubt, notices sent by email do not satisfy the requirements of this Section and will not be deemed effective unless expressly agreed to in writing by both Parties.

14. **Construction**

The Parties hereto acknowledge and agree that: (i) each Party has had the opportunity to review and negotiate the terms of this Agreement; (ii) no rule of construction shall apply that disfavors the drafting Party; and, (iii) this Agreement shall be interpreted fairly and in accordance with its terms, without regard to authorship or drafting responsibility.

15. **No Third-Party Beneficiaries**

This Agreement is intended solely for the benefit of the Parties. No third party shall have any rights under this Agreement or be entitled to enforce any of its terms.

16. **Counterparts**

This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. A signed copy transmitted by PDF or other electronic means shall be deemed valid and binding as if it were an original; however, electronic signatures are not permitted unless expressly authorized in writing by SUNY.

[Remainder of page intentionally left blank – Signature Page Follows]

IN WITNESS WHEREOF, the Parties hereby execute this Agreement by their respective
authorized signatories as of the day and year written below.

Contract No. T508018
Dept. ID No. 3320211

Contractor Certification

"In addition to the acceptance of this contract,
I certify that all information provided to SUNY is
complete, true, and accurate."

[FULL LEGAL NAME OF VENDOR]

By: _____
[Name, Credentials of Authorized Signatory]
[Title of Authorized Signatory]

Dated: _____

Agency Certification

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

STATE UNIVERSITY OF NEW YORK
UPSTATE MEDICAL UNIVERSITY

By: _____
[Name, Credentials of Authorized Signatory]
[Title of Authorized Signatory]
[University Hospital (if applicable)]

Dated: _____

Exhibit B: General Contract Terms and Conditions

State University of New York

December 10, 2025

The Parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "Agreement") 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 or State University of New York, whether a Contractor, licensor, licensee, lessor, lessee or any other party; the State University of New York shall hereinafter be referred to as "SUNY"):

1. **Amendments:** The Agreement may be amended at any time only upon prior mutual written consent of the Parties. Such written amendment will not be effective until signed by both Parties, and if required, approved by the New York State Office of the Attorney General (OAG) and the Office of the State Comptroller (OSC).
2. **Prohibition of Contractor Weblinks and "Click-Wrap"/"Shrink-Wrap" Terms**
 - a. Terms and conditions submitted or made unilaterally by the Contractor and accessed through URL hyperlinks, embedded weblinks, or other electronic means (including but not limited to "click-through," "click-wrap" or "shrink-wrap" terms and conditions accompanying software and/or software updates upon delivery; order forms; purchase orders; or other documentation submitted for payment; notwithstanding SUNY's subsequent acceptance of same or that SUNY has processed such information for approval and payment) shall not be binding on SUNY or the State of New York. Terms and conditions must be mutually agreed upon and incorporated and attached as an exhibit to this Agreement (or a written amendment to this Agreement signed by the Parties) to be effective and enforceable. No provisions of pre-printed purchase orders, acknowledgements, or click-through terms may modify this Agreement, and such other or additional terms or conditions are void and of no effect.
 - b. If Contractor uses third-party software, platforms, or services in connection with the Services it provides pursuant to the Agreement, any terms or conditions (including "click-through," "click-wrap," "browse-wrap," "shrink-wrap," or similar agreements) that may be presented to or accepted by Contractor in connection with such third-party products will not bind or apply to SUNY, unless and until SUNY reviews and agrees to such terms in a subsequent signed writing. Contractor will not purport to accept any such terms on SUNY's behalf.
3. **Commodity Contract Sales Reports:** Upon written request by SUNY, the Contractor shall furnish reports of detailed sales transactions including, but not limited to, the following: Campus, Product Number (or SKU), Product Description, Manufacturer, quantity purchased, unit price and total dollar volume of purchases.
4. **Diversity Contracting Requirements**
 - a. **Diversity Practices and Equal Employment Opportunity:** Contractor agrees to submit, upon SUNY's request, all required forms relating to its diversity practices, including its efforts to include New York State certified Minority and Women-Owned Business Enterprises (MWBES) in its business practices. Pursuant to Article 15 of the Executive Law (the "Human Rights Law"), all other State and Federal statutory and constitutional non-discrimination provisions, Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, religion, national origin, military status, sexual orientation, age, disability, genetic disposition or carrier status, domestic violence victim status, 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, and will make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force during its legal engagement with SUNY. It shall also follow the requirements of the Human Rights Law with regard to non-discrimination based on prior criminal conviction and prior arrest.
 - b. **Service-Disabled Veteran-Owned Businesses (SDVOB):** Contractor acknowledges SUNY's commitment to the State's policy of encouraging the development of SDVOBs. The Service-Disabled Veteran-Owned Business Act (the "Act") became effective on May 12, 2014, and SUNY has implemented the State's comprehensive plan and operational guidelines to promote SDVOBs and to assist them in obtaining opportunities to participate in the procurement of goods and services by the State. SUNY will employ applicable measures and procedures provided

by the Director of the Division of Service-Disabled Veterans' Business Development in the Office of General Services (the "Division"), to ensure that SDVOBs are afforded the opportunity for meaningful participation in the performance of SUNY's contracts and to assist in achieving the Act's statewide goal for participation on state contracts by SDVOBs. Contractor further acknowledges that in the event it willfully and intentionally fails to comply with the SDVOB participation requirements, it shall be liable to SUNY for damages, calculated based on costs for administration of SUNY's SDVOB program.

- c. **Encouraging Use of New York State Businesses in Contract Performance:** New York State businesses have a substantial presence in SUNY contracts and strongly contribute to the economies of New York and the nation. In recognition of their economic activity and leadership in doing business in New York State, the Contractor is strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of this Agreement. Such partnering may be as subcontractors, suppliers, protégés or other supporting roles.

5. Compliance with SUNY Policies: At all times when rendering Services under the Agreement, or when on SUNY premises, all Contractor and subcontractor personnel shall comply with all applicable SUNY regulations, policies, and procedures including, but not limited to:

- a. The requirement to wear an identity tag clearly identifying them as being an employee or agent of the Contractor or subcontractor, as applicable.
- b. The prohibition against smoking within the buildings or on the grounds owned or leased by SUNY.
- c. The parking regulations. Parking violations are subject to fines and are the sole responsibility of the Contractor. All vehicles must be registered with SUNY.
- d. SUNY Information Security Policy 6900 and all Procedures and Policies contained and/or referenced therein. See: https://www.suny.edu/sunyp/documents.cfm?doc_id=848

The Contractor must communicate these policies to its employees, subcontractors (at any level), volunteers, and any other individuals or entities assigned to enter upon SUNY grounds and premises to perform the contract services.

6. Contractor's Representations and Warranties:

- a. The Contractor warrants that the Services it provides under this Agreement will conform substantially to the specifications set out in the Agreement and that all work will be performed in a professional and workmanlike manner, in accordance with the highest applicable industry standards. For purposes of this Agreement, "highest applicable industry standards" shall be defined as the degree of care, skill, efficiency, and diligence that a prudent person possessing technical expertise in the subject area and acting in a like capacity would exercise in similar circumstances.
- b. Contractor represents that it is fully capable and willing to provide the Services required by the Agreement; that it has full right and authority to enter into the Agreement; that consent, authorization, order or approval of, or filing or registration with any governmental agency, commission, board, other regulatory body, any person or entity or any corporate affiliates is either not required or has been obtained for or in connection with the execution and delivery of the Agreement by Contractor and the performance of the work hereunder; that it is not a party to, subject to, or bound by, any agreement, judgment, order, writ, injunction or decree which would prevent the carrying out of the Agreement.

7. Insurance: During the term of this Agreement, Contractor must maintain insurance coverage at its own expense as provided in this Section and shall deliver Certificates of Insurance in a form satisfactory to SUNY before commencing any work under this Agreement. Certificates shall reference the Contract Number of this Agreement. Certificates of Insurance must indicate the applicable deductible/self-insured retention on each policy. Certificates shall be mailed to: SUNY Upstate Medical University, Contracts & Campus Purchasing, Attn: [Contact Name / Location], 750 E. Adams St., Syracuse, NY 13210.

The policies of insurance set forth below shall be written by companies authorized by the New York Department of Financial Services to issue insurance in the state of New York ("admitted carriers") with an A.M. Best company rating of "A-" or better. Unless otherwise agreed in writing, policies shall include an endorsement providing that coverage shall

not be cancelled, materially changed, or not renewed without at least thirty (30) days prior written notice to the following address (ten (10) days for non-payment of premium) as required by law to: SUNY Upstate Medical University, 750 E. Adams St., Contracts & Campus Purchasing, Attn: [Contact Name / Location], Syracuse, NY 13210.

All insurance policies shall provide that the required coverage shall apply on a primary and not on an excess or contributing basis as to any other insurance that may be available to SUNY for any claim arising from the Contractor's work under this Agreement, or as a result of the Contractor's activities. Any other insurance maintained by SUNY shall be excess of and shall not contribute with the Contractor's insurance, regardless of any "other insurance" clause contained in any SUNY policy of insurance. All policies must include a waiver of subrogation in favor of the People of the State of New York, the State University of New York, and other entities authorized to utilize the Agreement, and their officers, agents, and employees, to the extent permitted by law.

At least two weeks prior to the expiration of any policy required under this Agreement, evidence of renewal or replacement of policies of insurance with terms no less favorable to SUNY than the expiring policies shall be delivered to SUNY in the manner required for service of Notice under this Agreement. Contractor shall obtain and maintain in full force and effect, insurance with limits not less than those described below, or as required by law, whichever is greater (limits may be provided through a combination of primary and umbrella/excess policies):

- a. **Commercial General Liability (CGL) Insurance:** Insurance covering the liability of Contractor for bodily injury, property damage, and personal/advertising injury from all work and operation under this Agreement. The limits under such policy shall not be less than the following:
- i. Each Occurrence Limit: One Million Dollars (\$1,000,000.00)
 - ii. General Aggregate: Two Million Dollars (\$2,000,000.00) in the aggregate
 - iii. Products/Completed Operations Aggregate: Two Million Dollars (\$2,000,000.00)
 - iv. Personal/Advertising Injury: One Million Dollars (\$1,000,000.00)
 - v. Damage to Rented Premises: Fifty Thousand Dollars (\$50,000.00)
 - vi. Medical Expenses: Five Thousand Dollars (\$5,000.00)

Coverage shall include, without limitation, the following:

- i. Premises liability; and
- ii. Independent contractors; and
- iii. Blanket contractual liability, including tort liability of another assumed in a contract; and
- iv. Defense and/or indemnification obligations, including obligations assumed under this Agreement; and
- v. Cross liability for additional insureds; and
- vi. Products/completed operations for a term of no less than three (3) years, which commences upon acceptance of the work as required by this Agreement; and
- vii. Contractor means and methods, where applicable.

Labor Law Coverage: If the work under the Agreement involves any construction, renovation, maintenance, or repair work performed on SUNY premises, the CGL policy shall not exclude coverage for claims arising under New York Labor Law Sections 200, 240, or 241. Contractor shall provide written confirmation of this upon request.

- b. **Comprehensive Business Automobile Liability:** Insurance covering liability arising out of the use of any motor vehicle in connection with the work, including owned, leased, hired and non-owned vehicles bearing, or under the circumstances under which they are being used, required by the Motor Vehicle Laws of the State of New York to bear, license plates. Such policy shall have a minimum combined single limit for Bodily Injury and Property Damage of Two Million Dollars (\$2,000,000.00) and shall name the People of the State of New York, the State University of New York, and other entities authorized to utilize the Agreement, and their officers, agents, and employees, as additional insureds. The limits may be provided through a combination of umbrella/excess liability policies.

In the event that Contractor does not own or lease any vehicles to fulfill the requirements of this Agreement, Contractor must attest to that fact in writing. If at any time during the Agreement term Contractor acquires or leases any vehicles for use under this Agreement, Contractor shall immediately obtain compliant coverage and provide evidence to SUNY within ten (10) days of binding.

- c. **Professional Liability Policy:** Insurance (errors and omissions) in the amount of **One Million Dollars (\$1,000,000.00)**, which shall be maintained for a period of three (3) years after expiration or termination of the Agreement. If said policy is issued on a claims-made policy form, the policy shall be purchased with extended Discovery Clause coverage of up to three (3) years after work is completed if coverage is cancelled or not renewed.

Note: The People of the State of New York, the State University of New York, and other entities authorized to utilize the Agreement, and their officers, agents, and employees, shall not be named as an additional insured under any professional liability policy.

- d. **Reserved.**

- e. **Workers Compensation, Disability Benefits, and Paid Family Leave:** Coverage for the life of the Agreement for the benefit of employees required to be covered by the New York State Workers Compensation Law and the New York State Disability Benefits and Paid Family Leave Law. Evidence of coverage must be provided on forms specified by the Commissioner of the New York State Workers' Compensation Board.

- f. **Owners and Contractors Protective (OCP) Liability:** If the Contractor is performing construction, major renovation, or other high-risk physical work, the Contractor shall provide an Owners and Contractors Protective (OCP) Liability Insurance policy that provides primary coverage with limits of at least \$1,000,000 per occurrence and \$2,000,000 aggregate (or higher at SUNY's discretion). The policy must name the People of the State of New York, the State University of New York, and other entities authorized to utilize the Agreement, and their officers, agents, and employees, as the insured.

SUNY reserves the right to inspect any coverage and request copies of actual policies. Failure to maintain the required insurance may be deemed a material breach of this Agreement.

8. **Data Privacy and Security Requirements:** All information and data of any kind, provided or made available by SUNY, SUNY students, or SUNY End Users to Contractor, for the authorized purposes of this Agreement, regardless of form, format or content, is and at all times shall be exclusively owned by, and under the exclusive control of, SUNY (collectively "SUNY Data"). SUNY Data is further defined in Appendix 1, attached hereto and made a part hereof. When Contractor accesses, creates, receives, processes, maintains or transmits SUNY Data, Contractor expressly represents and warrants that Contractor will comply with the following requirements to safeguard SUNY Data:

a. **Data Privacy; General Requirements**

- i. All SUNY Data shall be considered to be confidential and shall be treated as such by Contractor, and its employees, agents, volunteers, consultants, subcontractors and sub-subcontractors of any level (collectively, "Authorized Representatives"). For purposes of this Section, references to Contractor shall be deemed to include Contractor's Authorized Representatives.
- ii. Contractor will only use SUNY Data for the purpose of fulfilling Contractor's duties under the Agreement for the benefit of SUNY and will not share such data with, or disclose it to, any third party without the prior written consent of SUNY, except as required by the Agreement or as otherwise required by law. If Contractor is required by law or legal process to disclose any Confidential Information, it shall:
 - A. Provide SUNY with prompt written notice before making the disclosure, unless prohibited by law; and
 - B. Cooperate with SUNY's efforts to limit or prevent such disclosure, including seeking protective orders or similar remedies.
- iii. All SUNY Data, including but not limited to student data, academic records, personal information, and any data provided to or made available to Contractor, and/or generated through use of the Services (regardless of form, format, or content), shall remain the sole property of SUNY. Contractor shall have no title, ownership rights, or claims to any such SUNY Data.
- iv. To the extent any Services include the use of Artificial Intelligence ("AI") systems and technologies:
 - A. Use of SUNY Data to develop or train AI Systems, or to build upon an AI System model,

shall require the prior written consent of SUNY, which consent (if approved) may be subject to any such conditions as SUNY may determine are necessary to: (I) comply with current or future applicable laws, rules, regulations, guidelines, policies, and/or procedures; (II) protect the privacy and security of SUNY Data; and/or (III) manage risk, and promote accountability, safety, and fairness and equity. Execution of this Agreement does not constitute such consent.

- B. Use of any AI System in any manner that would authorize (or have the effect of authorizing) automatic decision-making without any human oversight shall be prohibited.
 - C. Use of any AI System in a manner that would result in (or have the effect of resulting in) any discrimination or bias, as defined under applicable New York State or federal laws, rules, and/or regulations, shall be prohibited.
 - D. For purposes of this Agreement, "AI Systems" or an "AI System" shall include but not be limited to any system or technology utilizing machine learning ("ML"), large language modeling ("LLM"), natural language processing and/or computer vision technologies, including but not limited to generative AI, frontier AI, algorithms or other computational models. "AI Systems" or "AI System" shall not include basic calculations, basic automation, or pre-defined conditional If This Then That ("ITTT") response systems.
- v. Contractor shall not anonymize, aggregate, or otherwise process student or SUNY Data in a manner that could enable its use for AI training or other unauthorized purposes, even if the SUNY Data is de-identified.
 - vi. Any use of SUNY Data for marketing or advertising purposes is strictly prohibited.
 - vii. To the extent any SUNY Data is provided to Contractor in de-identified, anonymized, pseudonymized, or another masked or encrypted form, and except as expressly authorized or required pursuant to this Agreement, Contractor shall be prohibited from re-identifying any SUNY Data (including without limitation personal information protected by the New York State Privacy Protection Law, Article 6-A of the NYS Public Officers Law ("PPPL"), and education records or personally identifiable information ("PII") from education records protected by Family Educational Rights and Privacy Act (20 U.S.C. § 1232g; 34 CFR Part 99) ("FERPA")), in whole or in part, through any means, including without limitation, any system, algorithm, computational model, AI, ML, LLM, or other software or technology.
 - viii. Contractor will ensure that Contractor and its Authorized Representatives, and any providers of services or technology solutions utilized by Contractor to fulfill Contractor's duties under this Agreement, shall comply with pertinent provisions, as may from time to time be amended, of this Agreement; applicable federal and New York State laws, rules and/or regulations; and the policies, procedures and other requirements of SUNY and/or the SUNY Board of Trustees, as applicable to the privacy, use and security of SUNY Data.
 - A. Contractor will provide access to SUNY Data only to its employees and subcontractors who need to access the data to fulfill Contractor's obligations for the benefit of SUNY under the Agreement.
 - B. Contractor will ensure that its employees and other Authorized Representatives, and any providers of services or technology solutions utilized by Contractor to fulfill Contractor's obligations for the benefit of SUNY under this Agreement, are expressly informed of the limitations on access and use of SUNY Data, and have read, understood, and received appropriate instruction as to how to comply with the data protection provisions of this Agreement.
 - C. Contractor will ensure that its employees and other Authorized Representatives, and any providers of services or technology solutions utilized by Contractor to fulfill Contractor's obligations for the benefit of SUNY under this Agreement, protect all SUNY Data with reasonable data security measures and procedures consistent with this Agreement, which shall include physical and/or technological access controls.
 - D. Contractor shall execute a written agreement with each of its subcontractors and shall require all subcontractors to execute with their sub-subcontractors (at any level) a written agreement which shall bind each to the terms and provisions of this Agreement, insofar as such terms and provisions are applicable to the work to be performed by such subcontractors or sub-subcontractors (at any level). Contractor shall require all subcontractors and sub-subcontractors (at any level) to promptly file with SUNY upon request a copy of such agreements, from which the price and terms of payment may be deleted.

- ix. **Location and Use of Data:** SUNY Data will not be stored, processed, backed up, acted upon, archived or otherwise retained on systems physically located outside the United States without prior written consent from SUNY and execution of this Agreement is not considered prior written consent. For purposes of this Agreement, “stored” includes, but shall not be limited to, any form of housing, retention, or persistent caching of data.
- x. **Federal Data Security Program (DSP) (28 C.F.R. Part 202):** To the extent applicable, Contractor shall not engage in any data “transfer” or other “transaction” constituting a “covered data transaction” that allows “access” by a “country of concern” or “covered person” to “bulk U.S. sensitive personal data” or U.S. “government-related data,” as defined by the U.S. Department of Justice’s Final Rule implementing Executive Order 14117, codified at 28 C.F.R. Part 202, as it may be amended from time to time. In compliance therewith, Contractor shall not transmit to or otherwise store SUNY Data with any prohibited party and must implement and maintain security measures consistent with applicable guidance. For avoidance of doubt: (A) Contractor shall not engage in any “restricted transaction” subject to Subpart D of 28 C.F.R. Part 202 without the prior written consent of SUNY pursuant to a written agreement signed by the Parties; and (B) execution of this Agreement shall not constitute such consent. Contractor must also promptly report suspected or actual violations and agrees that SUNY may audit compliance with these obligations upon reasonable written notice.
- xi. **FERPA Compliance:** In addition to any other privacy and/or confidentiality obligations herein, Contractor agrees that any disclosure by SUNY of education records and/or student PII from education records is subject to applicable law including FERPA and any implementing regulations (20 U.S.C. § 1232g; 34 CFR Part 99). With respect to any such disclosure, Contractor agrees to the following: (A) that Contractor’s use of education records and/or PII from education records will be limited to those purposes expressly authorized in this Agreement; and (B) that Contractor will abide by the limitations on re-disclosure of education records and/or PII from education records as set forth in FERPA; and (C) that, unless the Parties designate another exception in the Agreement, any disclosure of education records and/or PII from education records is done so pursuant to the “school official” exception to FERPA, Contractor is a “school official” with a “legitimate educational interest” in any education records and/or PII from education records disclosed, and Contractor is under the direct control of SUNY with respect to the use and maintenance of any such education records and/or PII from education records. Education records and/or PII from education records are as defined in FERPA and include any and all records, data, or information related to any student or students of SUNY. This obligation shall survive termination of this Agreement.
- xii. **European Union (“EU”) General Data Protection Regulation (“GDPR”) and Other International Data Privacy and Security Laws and Regulations:** Unless otherwise agreed in writing by both Parties, Contractor, as well as any subcontractors Contractor may engage (at any level) to perform any of Contractor’s obligations under the Agreement, shall be solely responsible for compliance with the EU GDPR 2016/679 and the European Artificial Intelligence Act (Regulation (EU) 2024/1689), if applicable, and any other international data privacy and security laws and regulations that may be applicable to the proposed solution, if any (e.g. China Personal Information Protection Law or “PIPL”).
- xiii. **Gramm-Leach-Bliley Act:** Pursuant to the Gramm-Leach-Bliley Act (P.L. 106-102) and the Federal Trade Commission’s Safeguards Rule (16 CFR Part 314) (“GLBA”), and to the extent Contractor is a financial institution or service provider of SUNY under these regulations with respect to student or customer information, Contractor will comply with the Safeguards Rule including the requirement to implement and maintain a written Information Security Program (“Program”) in order to protect such nonpublic customer information (any record containing nonpublic personal information as defined in 16 CFR §313.3(n), whether in paper, electronic, or other form that is handled or maintained by or on behalf of SUNY or SUNY affiliates (16 CFR §314.2)). Examples may include, but are not limited to, name, address, phone number, Social Security Number, bank/credit account information, and student ID numbers.
- xiv. **HIPAA:** Contractor will comply with all personal health information protection requirements, if applicable, of the United States Department of Health and Human Services, Standards for Privacy of Individually Identifiable Health Information, promulgated pursuant to the administrative simplification provisions of the federal Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) as set forth in 45 C.F.R. Subtitle A, Subchapter 3, Parts 160 and 164 (as now or hereafter amended or superseded), and shall complete the HIPAA Business Associate Agreement if so required.

- xv. **NYS Personal Privacy Protection Law:** Contractor will comply with applicable provisions of the New York State Privacy Protection Law (NY Public Officers Law §§91-99) and the University's implementing regulations under 8 NYCRR § 315. See *SUNY Other Requirement 6603 Compliance with Personal Privacy Protection Law*: https://www.suny.edu/sunypp/documents.cfm?doc_id=539.

b. Mandatory Data Security Requirements

Contractor agrees at all times to maintain industry standard information and critical infrastructure security features and protocols, which at a minimum, include: network firewall provisioning; intrusion detection; Distributed Denial of Service (DDoS) threats of a minimum of two terabits per second; the use of network monitoring and protection tools monitored 24/7/365 by security analysts; and regular (at least annually) third-party vulnerability assessments, or equivalent, including providing SUNY a copy of the annual Attestation of Compliance (AOC) document, if requested. Further, Contractor agrees to maintain information and critical infrastructure security that conforms to generally recognized "Industry Standards" and best practices that Contractor applies to its own network, infrastructure, applications and data. Generally recognized Industry Standards include but are not limited to the current standards and benchmarks set forth and maintained by the Center for Internet Security (see <http://www.cisecurity.org>) or Payment Card Industry/ Data Security Standards ("PCI/DSS") (see <http://www.pcisecuritystandards.org>).

Contractor will maintain a data security plan ("Data Security Plan"), which will comply with applicable PCI/DSS requirements and all applicable legal and regulatory requirements for data protection. In addition, the Data Security Plan will protect against any anticipated threats or hazards to the security or integrity of information stored on its servers and unauthorized access to or use of such information that could result in harm or inconvenience to the person who is the subject of such information. Contractor will review, at least annually, its Data Security Plan and update and revise it as needed. A copy of Contractors' Data Security Plan, or equivalent, will be made available to SUNY upon request.

Contractor shall maintain mandatory procedures and protocols outlined in its "Information Security Incident Response Policy" to be undertaken in the event of an identified or suspected breach of credit card information or current or former student education records (and/or PII from education records) that is not Directory Information as defined in FERPA. A copy of Contractor's Information Security Incident Response Policy, or equivalent, will be made available to SUNY upon request. In the event a breach is suspected, Contractor will: (i) immediately contain the possible exposure while not compromising any data on its system; (ii) contact all members of its Corporate Security Committee; (iii) initiate a local analysis within 24 hours of the suspected breach to determine the type of information that has been potentially compromised, the individuals and SUNY Institutions and Other Authorized Users at risk, the incident time frame at risk and the suspected cause of the incident; and (iv) if a breach is identified, immediately contact affected parties with details of the breach.

Contractor must have integrated continuous security testing into its code and build development process, including the following processes: (i) Static Application Security Testing (SAST): Analysis of source code and binaries to identify security vulnerabilities; (ii) Dynamic Application Security Testing (DAST): The execution of simulated attacks on live applications to detect runtime vulnerabilities; and (iii) Software Composition Analysis (SCA): Evaluation of all software components, including external libraries and dependencies, to identify security risks within the codebase.

Contractor agrees to provide evidence of compliance with these requirements before this Agreement becomes effective and at any other time upon reasonable request of SUNY. The following report(s) and/or certification(s) shall be prepared by Contractor and made available to SUNY:

1. A Higher Education Community Vendor Assessment Tool (HECVAT) spreadsheet report completed by Contractor and provided to the SUNY Chief Information Security Officer (CISO).

And

2. Either:
 - a. A completed up-to-date SOC 2 Type 2 report pursuant to Statement on Standards for Attestation Engagements (SSAE) 18, and issued by an independent third-part auditor, that includes the Security, Availability, Confidentiality, and Privacy of all SUNY Data and the technology solution comprising the Services provided by Contractor to SUNY pursuant to this Agreement.

Or

- b. An up-to-date ISO (the International Organization for Standardization) and IEC (the International Electrotechnical Commission) certification from an accredited body, prepared pursuant to *ISO/IEC 27001:2022 Information security, cybersecurity and privacy protection — Information security management systems — Requirements*, and accompanied by the Statement of Applicability (SoA) showing which controls are in scope, and covering all people, systems, and locations involved in delivering the product and/or services to SUNY.

And

- 3. Contractor agrees to address the ability to provide the same levels and types of security through multiple data access methods (e.g., Web, mobile devices, or network).

And

4. Required Time Periods

- a. Each reporting or certification period shall cover the previous twelve (12) consecutive months.
- b. Report(s) and/or certification(s) shall be provided to SUNY annually and within fifteen (15) days of final issuance by the Contractor (HECVAT), independent third-party auditor (SOC 2) and/or independent third-party accredited body (ISO/IEC certification).
- c. Report(s) and/or certification(s) shall be provided to SUNY no later than fifteen (15) months after the end date of the previous annual report.
- d. For report(s) and/or certification(s) with an end date of greater than ninety (90) days from the date of receipt by SUNY, the Contractor shall provide a bridge letter signed by executive management attesting: (I) that no material changes have occurred which would adversely affect the report and/or certification's conclusions; and (II) that any new high-severity control deficiencies discovered since the report or certification end date are disclosed and accompanied by a remediation plan and/or corrective action plan.

The HECVAT, and the SOC 2 Type 2 report or ISO/IEC certification, must be completed by the appropriate experts in these areas. Failure to comply with these Mandatory Data Security Requirements (including without limitation, any suspension, withdrawal, or non-renewal of a report or certification and/or failure to implement corrective action plan or agreed-upon remediation plan within the required time frame(s)) shall constitute a breach of the Agreement.

c. Other Mandatory Information Security and Service Requirements

- i. **Compliance With Breach Notification and Data Security Laws:** The Contractor shall comply with all applicable federal and New York State data protection and breach notification laws, including the New York State Information Security Breach and Notification Act (General Business Law § 899-aa; State Technology Law § 208) ("ISBNA"), the Stop Hacks and Improve Electronic Data Security Act (General Business Law § 899-bb) ("SHIELD Act"), the Family Educational Rights and Privacy Act ("FERPA"), the Gramm-Leach-Bliley Act ("GLBA"), and any other applicable statute, rule, or regulation governing the collection, use, security, or disclosure of personally identifiable information or sensitive data.

The Contractor shall implement and maintain appropriate administrative, physical, and technical safeguards to protect the security, confidentiality, and integrity of any private information (as defined by ISBNA) and other SUNY Data to which it has access in connection with the performance of this Agreement.

In the event that the Contractor becomes aware of or reasonably suspects any actual or suspected unauthorized acquisition, access, use, or disclosure of SUNY Data ("Security Incident"), the Contractor shall:

- (1) notify SUNY in writing without unreasonable delay, and in no event later than two (2) business days after discovery of the Security Incident;

- (2) take all reasonable measures to investigate, contain, and remediate the Security Incident;
- (3) cooperate fully with SUNY, including providing access to relevant records, personnel, and systems as necessary to support SUNY's investigation and response; and
- (4) comply with all applicable legal requirements concerning breach notification and mitigation.

SUNY shall have the sole discretion to determine the content, method, and recipients of any required notifications to affected individuals or government agencies. If the Security Incident is caused by the negligent or willful acts or omissions of the Contractor or its officers, employees, agents, consultants, or subcontractors (at any tier), the Contractor shall be responsible for all reasonable costs and expenses incurred by SUNY in connection with the Security Incident, including investigation, remediation, notification, and credit monitoring services, if applicable.

Upon expiration or termination of this Agreement, the Contractor shall, in accordance with instructions provided by SUNY, return or securely destroy all SUNY Data in its possession. If destruction is authorized, the Contractor shall certify in writing that such data has been irretrievably destroyed using industry-standard methods consistent with ISBNA, SHIELD, and any other applicable law to prevent unauthorized access to or use of SUNY Data and will render the private information so that it cannot be read or reconstructed.

- ii. **Service Level Requirements:** Contractor will ensure availability of the Services in accordance with the provisions of the Agreement and, if applicable, **Exhibit E**, attached hereto and made a part hereof.
- iii. **Disaster Recovery:** Contractor shall maintain disaster recovery services at the dedicated facility that is able to handle SUNY Data and business continuity needs under the Agreement in the event disaster recovery is needed. Throughout the term of the Agreement, Contractor shall maintain contracts or arrangements that are substantially equivalent or an improvement to those currently in effect. Contractor shall test disaster recovery capabilities at least once every calendar year and provide SUNY with a copy of its disaster recovery plan, or equivalent, upon request.
- iv. **Business Continuity:** Contractor at all times must have a business continuity plan in place designed to minimize the risks associated with a disaster or similar incident impacting Contractor's ability to provide Services under the Agreement.
- v. **Data Portability:** Contractor agrees that SUNY owns the SUNY Data generated, received, or maintained in connection with the Agreement. At SUNY's direction, Contractor shall take all steps and actions that are necessary and reasonable to facilitate and complete the orderly, efficient, expedient, and professional transfer of SUNY Data, in whole or in part, to SUNY, a SUNY Institution, or third-party designated by SUNY. Such transfer shall occur during the Term and/or upon expiration or termination of the Agreement and shall be completed in the format and on the media specified by SUNY. All costs related to such transfer services shall be at no additional expense to SUNY.
- vi. **Destruction of SUNY Data:**
 - A. **Timing and Method of Destruction:** Upon the expiration or termination of the Agreement and following completion of the transfer obligations under Section 8(c)(v), Contractor shall, unless otherwise directed in writing by SUNY, complete the destruction of all SUNY Data in its possession or control no later than thirty (30) calendar days after such expiration, termination, or direction. Destruction shall apply to all forms and media of SUNY Data, including written, electronic, or other formats, and shall include physical and electronic copies, partial files, notes, derivative materials, working files, and backups. All destruction shall be performed in accordance with the National Institute of Standards and Technology (NIST) Guidelines for Media Sanitization, Special Publication 800-88 Revision 1 (December 2014), as now or hereafter amended or superseded (NIST SP 800-88).

Contractor shall provide SUNY with a signed and dated Certificate of Sanitization in a format substantially similar to Appendix G of NIST SP 800-88 within ten (10) business days following the completion of such destruction.

B. **Retention of Required Records:** Notwithstanding Section 8(c)(vi)(A), Contractor may retain only the minimum amount of administrative Records necessary to demonstrate compliance with the Agreement, and only for the period required under Section 10 of Exhibit A (SUNY Standard Contract Clauses). Contractor shall complete destruction of such Records no later than thirty (30) calendar days after the end of the required retention period. Destruction shall be carried out in accordance with NIST SP 800-88, and Contractor shall provide SUNY with a signed and dated Certificate of Sanitization, in a format substantially similar to Appendix G of NIST SP 800-88, within ten (10) business days following the completion of destruction. Except for the limited retention described in this subsection, Contractor shall not retain any SUNY Data or Records following expiration or termination of the Agreement without prior written authorization from a duly authorized SUNY representative.

C. **Survival:** The obligations set forth in Section 8(c)(v) and Section 8(c)(vi) shall survive the expiration or termination of the Agreement for so long as Contractor retains any SUNY Data or Records in any form or media.

9. **Diesel Emissions Reduction Act of 2006 (the "Act"):** If Contractor operates any diesel powered heavy duty vehicle(s) pursuant to the Agreement, Contractor certifies and warrants that all such heavy duty vehicles, as defined in New York State Environmental Conservation Law (ECL) Section 19-0323, will comply with the specifications and provisions of ECL Section 19-0323 and any regulations promulgated pursuant thereto, including but not limited to, 6 NYCRR Part 248, which requires the use of best available retrofit technology and ultra-low sulfur fuel. If needed, qualification for a waiver will be Contractor's responsibility. If applicable, annually, but no later than March 1st, Contractor shall complete and submit directly to SUNY, via electronic mail, the "Regulated Entity and Contractor Vehicle Inventory Form" and "Regulated Entity and Contractors Annual Report Form" that can be found at the New York State Department of Environmental Conservation ("DEC") website: <http://www.dec.ny.gov/chemical/4754.html>. SUNY reserves the right to require Contractor to periodically certify compliance with the provisions of ECL Section 19-0323.

10. **Dispute Resolution:** At SUNY's sole option, the Parties shall attempt in good faith to resolve any dispute arising under this Agreement through informal discussions. If the Parties are unable to resolve the dispute within thirty (30) calendar days of written notice of the dispute, either Party may pursue available legal or equitable remedies.

11. Electronic and Information Technology ("EIT") Accessibility:

a. SUNY is committed to providing an accessible, usable, and integrated experience for all its students, staff and community. Electronic and information technology ("EIT") consists of information technology and any equipment or interconnected system or subsystem of equipment that is used in the creation, conversion, or duplication of data or information that will be deployed in connection with such technology, equipment or systems. Further, EIT includes, but is not limited to, telecommunications products, information kiosks and transaction machines, Internet and Intranet websites, web-delivered content (including without limitation word processing, spreadsheet, presentation files, and PDF files), software, mobile applications, electronic books and electronic book reading systems, search engines and databases, multimedia, classroom technology, and office equipment.

b. Contractor warrants that all EIT and the technology solution comprising the Services shall conform to all current and future applicable state and/or federal accessibility laws, rules, regulations, and/or standards, and/or the policies of the State of New York and/or the SUNY Board of Trustees, including but not limited to the following:

i. New York State Executive Law § 170-f, requiring that every contractor, subcontractor, vendor, consultant, or other person providing services pursuant to a state contract shall conform any website provided by such contractor, subcontractor, vendor, consultant, or other person in relation to and for the provision of such services to the most current version of the Web Content

Accessibility Guidelines (“WCAG”) adopted by the World Wide Web Consortium for accessibility, or successor standards (currently WCAG 2.2, released October 05, 2023);

- ii. Title 28, Code of Federal Regulations, Part 35 (28 C.F.R. Part 35), Subpart H Web and Mobile Accessibility, §§ 35.200 – 35.209, Nondiscrimination on the Basis of Disability; Accessibility of Web Information and Services of State and Local Government Entities, as now or hereafter amended, addressing, among other things, web content and mobile app accessibility, and currently referencing best practices of WCAG 2.1 AA (regulations effective June 24, 2024) (regulatory compliance date April 24, 2026);
 - iii. Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794d), and its implementing regulations set forth at Title 36, Code of Federal Regulations, Part 1194 (36 C.F.R. Part 1194), as now or hereafter amended; and
 - iv. To the extent applicable, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), and its implementing regulations set forth at Title 45, Code of Federal Regulations, Part 84 (45 C.F.R. Part 84), as now or hereafter amended, addressing, among other things, requirements related to providing accessible web content, mobile applications, and kiosks (regulations effective July 8, 2024) (regulatory compliance date May 11, 2026).
- c. Contractor shall provide evidence of compliance with the accessibility requirements set forth above before this Agreement becomes effective, and at any other time during the Term of such Agreement upon reasonable request of SUNY, in accordance with the following:
- i. **Contractor Accessibility Conformance Report (ACR):** Contractor shall provide SUNY an Accessibility Conformance Report completed utilizing the Voluntary Product Accessibility Template (VPAT), 2.5 WCAG (Web Content Accessibility Guidelines), VPAT 2.5 508, as revised or updated (in a Microsoft Word file in an accessible format), found at Information Technology Industry Council website, or equivalent.
 - A. The ACR must correspond to the current version of the EIT and the technology solution comprising the Services.
 - B. If the ACR detailed above was not completed by an independent third party, a comprehensive accessibility evaluation from an objective, independent, third party verifying the claims made on the product ACR (VPAT 2.5, as revised or updated), or equivalent, is required. Contractor may use a third-party accessibility evaluation service of their choice. SUNY reserves the right to determine that such third-party accessibility evaluation services is equivalent or better.
 - ii. **Product Accessibility Roadmap:** SUNY developed Product Accessibility Roadmap template as a means for Contractors to document any accessibility gaps associated with their products (including, without limitation, all Section 504, Section 508 and WCAG standards identified in the VPAT as “does not support” and “partially supports”) and to indicate their plans for addressing these gaps (including, without limitation, identifying any accessible solutions to the identified barriers). Contractor must complete and submit the Product Accessibility Roadmap template as **Exhibit D** if any accessibility gaps are identified in the ACR as described above.
- d. In the event EIT and/or the technology solution comprising the Services provided pursuant to this Agreement do not fully conform to the standards set forth above at any time during the Term of this Agreement, Contractor shall promptly advise SUNY in writing of the non-conformance and provide detailed information regarding the plans to achieve conformance, including but not limited to an intended timeline for remediation. Contractor agrees to promptly respond to and resolve any complaint regarding accessibility of its products or services as specified in this Agreement.

Contractor’s Designated Accessibility Contact: [please provide name, title, email address and direct phone number]

e. **Contractor Continuing Accessibility Commitment**

- i. SUNY recognizes that producing accessible technology products may require SUNY to provide reasonable accommodations to users during time periods where the Contractor is addressing identified issues. In an effort to responsibly serve needs, manage this process, and associated costs, SUNY has developed the following Continuing Accessibility Commitment:
- ii. Contractor will use commercially reasonable efforts to ensure Contractor's EIT and/or the technology solution comprising the Services remain accessible during the term of this Agreement as required by: applicable federal and/or state laws, rules, regulations, policies, and/or standards, as each may be amended and supplemented; and terms and conditions of this Agreement (as amended and supplemented) (collectively, the "Continuing Accessibility Commitment").
- iii. In the event that SUNY shall reasonably determine that the Contractor's EIT and/or the technology solution comprising the Services are not accessible, SUNY shall provide written notice via electronic mail to the Contractor's designated accessibility contact, as listed in the Agreement (or such alternative contact as the Contractor may designate pursuant to the notice provision in the Agreement), with a written description of the issue or problem. The Contractor agrees to notify SUNY promptly of any factor, occurrence, or event coming to its attention that may affect the Contractor's ability to meet the Continuing Accessibility Commitment, or that is likely to cause any material interruption in the accessibility of the Contractor's EIT and/or the technology solution comprising the Services.
- iv. **SUNY Remedy:** Contractor will use commercially reasonable efforts to promptly respond and correct any material problems in the Contractor's EIT and/or the technology solution comprising the Services, including any failure to satisfy the Continuing Accessibility Commitment. In the event that the Contractor fails to satisfy the Continuing Accessibility Commitment for a period of time greater than 7 calendar days following receipt of electronic mail notification from SUNY to Contractor's designated accessibility contact (or such longer period as the Parties may agree to in writing following said notification process), SUNY shall receive an Accessibility Service Credit equal to the following: a percentage of the monthly fees for the Contractor's EIT and/or the technology solution comprising the Services, or alternatively, a pro-rata portion of the fees for the Contractor's EIT and the technology solution comprising the Services, if paid on an annual or other basis (the Fees), for the stated Solution Implementation time period listed below:

Solution Implementation (Calendar Days)	Accessibility Service Credit (From Fees)
1-7	0%
8-45	25%
46-90	50%
91-180	75%
181 or more	100%

- v. In no event will the Accessibility Service Credit exceed the Fees paid by SUNY for the Contractor's EIT and the technology solution comprising the Services. In the event that the accessibility issue(s) are not resolved to SUNY's satisfaction within 365+ calendar days, SUNY shall have the right to terminate the Agreement and receive a pro-rata refund of any prepaid Fees for the remaining Term, if any.
- f. Failure to comply with these accessibility standards shall constitute a breach of the Agreement. Contractor agrees to indemnify and hold harmless SUNY from any claims arising out of its failure to comply with the foregoing accessibility standards.

- 12. Electronic Payment Authorization:** Contractor shall submit complete and accurate invoices to SUNY to receive payment for Services under this Agreement. All invoices must include the information and supporting documentation required by SUNY and the New York State Office of the State Comptroller (OSC).

Except as otherwise authorized in writing by the Senior Vice President for Finance and Administration (or their designee), payment shall be made electronically in accordance with OSC's statewide electronic payment procedures. Contractors must enroll in the OSC electronic payment program and comply with applicable registration and authorization processes. OSC's procedures are available at: <https://www.osc.ny.gov/state-vendors>.

Contractor acknowledges that it will not receive payment on any invoices submitted under this Agreement if it does not comply with the OSC's electronic payment procedures, except where the Senior Vice President or designee has expressly authorized payment by paper check as set forth above.

- 13. FOIL:** Contractor acknowledges that this Agreement is subject to the New York State Freedom of Information Law ("FOIL"), as codified in Article 6 of the New York State Public Officers Law. Contractor acknowledges that information submitted to SUNY in connection with this Agreement may be subject to public disclosure in response to a FOIL request. Contractor further acknowledges that only information clearly qualifying for exemption under FOIL—such as trade secrets or information submitted to SUNY that is commercial or financial and which, if disclosed, would cause substantial injury to the competitive position of the Contractor—may be withheld under § 87(2)(d).

In the event that SUNY receives a FOIL request for records identified by the Contractor as potentially exempt under § 87(2)(d), SUNY will follow the procedures set forth in FOIL and its applicable regulations, including notifying the Contractor and providing an opportunity to respond prior to release. SUNY shall determine whether an exemption applies, subject to the Contractor's right to challenge any such determination in accordance with FOIL.

- 14. Independent Contractor:** Contractor and its employees, agents, subcontractors, and any persons acting on its behalf shall perform all work under this Agreement as independent contractors and not as employees, agents, or representatives of SUNY. Contractor shall have no authority to act for or bind SUNY in any respect. Nothing in this Agreement shall be interpreted as creating an employer–employee relationship between SUNY and Contractor or its personnel. Contractor acknowledges that neither it nor its personnel are entitled to any benefits provided by SUNY to its employees, including, but not limited to, workers' compensation, unemployment insurance, health insurance, retirement benefits, or paid leave. Contractor shall be solely responsible for the payment of all wages, benefits, and taxes, including applicable income tax, Social Security, and Medicare, arising from compensation paid to its personnel.

15. Force Majeure:

Neither Contractor, SUNY, nor the State of New York shall be liable for any failure or delay in performance of its obligations this Agreement (excluding payment obligations) if such failure or delay arises out of or results from causes beyond the reasonable control of the affected Party, including but not limited to: acts of God; flood, fire, earthquake, storm, or other natural disaster; war (declared or undeclared); acts or threats of terrorism; riot or civil unrest; embargo; government order or law; national or regional emergency; labor strike or other labor disturbance not caused by or involving the affected Party; epidemic or pandemic; failure or delay of third parties or utilities; or other similar events beyond the reasonable control of the affected Party, provided that: (i) the affected Party provides written notice to the other Party as soon as reasonably practicable after the commencement of the force majeure event, stating the nature of the event, its anticipated duration, and the steps being taken to mitigate its effects; (ii) the affected Party makes reasonable efforts to continue performance and to mitigate the effects of the delay or nonperformance; and (iii) obligations of the affected Party shall be suspended only for the duration of the force majeure event.

If the force majeure event continues for more than ninety (90) calendar days, either Party may terminate the affected portion of the Agreement by providing written notice to the other Party. Termination under this clause shall not relieve SUNY of its obligation to pay for Services satisfactorily performed and accepted prior to the force majeure event.

This clause does not relieve either Party of the duty to implement and follow its own disaster recovery or business continuity procedures. It also does not excuse SUNY's obligation to compensate Contractor for any approved Services that were rendered prior to or during the force majeure event to the extent such Services were performed and accepted.

16. Liability and Indemnification:

- a. The Contractor shall be fully responsible for all acts and omissions of its officers, employees, agents, volunteers, consultants, subcontractors at any tier, and licensors. The Contractor shall indemnify, defend, and hold harmless the State University of New York ("SUNY"), the State of New York, and their officers, agents, and employees from and against any and all claims, actions, damages, liabilities, losses, costs, and expenses, including reasonable attorneys' fees, arising from or relating to personal injury (including death); damage to real or tangible personal property, including information systems, software, or data; infringement or misappropriation of any third-party intellectual property rights; or any other act or omission of the Contractor or its personnel in connection with this Agreement. This obligation shall not apply to the extent that any such claim arises from the negligent act or omission or willful misconduct of SUNY.

In the event of a third-party claim that may give rise to indemnification under this Section, SUNY shall provide the Contractor:

- i. Prompt written notice of the claim;
- ii. The opportunity to assume the defense and settlement of the claim at the Contractor's sole expense, provided that the Contractor shall not settle any such claim without SUNY's prior written consent if the settlement imposes any obligation or liability on SUNY or restricts SUNY's rights to use any deliverables; and
- iii. Upon request, reasonable cooperation in the defense of the claim at the Contractor's expense.

Notwithstanding the foregoing, the State of New York reserves the right to join such action, claim, suit or proceeding at its sole expense, if it determines there is an issue involving a significant public interest.

- b. Except as otherwise provided in this Agreement, including but not limited to the indemnification obligations under this Section, neither party shall be liable to the other for any consequential, incidental, indirect, or special damages, including lost profits or loss of use, arising from or related to the performance of this Agreement, regardless of the theory of liability asserted.

17. Office of Federal Contract Compliance Programs: This Section applies only if this Agreement is funded, in whole or in part, with federal funds and SUNY is acting as a federal contractor or subcontractor subject to the jurisdiction of the U.S. Department of Labor's Office of Federal Contract Compliance Programs (OFCCP).

When both conditions are met, the following language is incorporated verbatim, as required by federal regulation:

"This contractor and subcontractor shall abide by the requirements of 41 CFR 60-300.5(a). This regulation prohibits discriminating against qualified protected veterans and requires affirmative action by covered contractors to employ and advance in employment qualified protected veterans."

"This contractor and subcontractor shall abide by the requirements of 41 CFR 60-741.5(a). This regulation prohibits discrimination against individuals on the basis of disability and requires affirmative action by covered contractors to employ and advance in employment qualified individuals with disabilities."

When this Section applies, the Contractor shall include these exact provisions in all covered subcontracts and shall comply with all applicable federal posting, notice, and recordkeeping requirements.

18. Safety and Health Compliance: The Contractor shall, at its sole cost and expense, comply with all applicable federal, state, and local health and safety laws, rules, and regulations, including without limitation those issued by the United States Department of Labor, Occupational Safety and Health Administration (OSHA). If Contractor performs work on SUNY-owned or SUNY-controlled premises, or in proximity to SUNY employees, it shall also comply with:

- The New York State Public Employee Safety and Health (PESH) Act and applicable regulations;
- All applicable SUNY site-specific safety policies and procedures, as communicated by SUNY;
- And, if applicable, New York Labor Law §§ 200, 240, and 241, which govern construction, demolition, maintenance, and repair work performed on SUNY property.

The Contractor shall take all necessary precautions to prevent injury to persons or damage to property in connection with the performance of this Agreement. SUNY shall have the right to require the removal and replacement of any Contractor personnel who fail to comply with applicable safety requirements. SUNY reserves the right to inspect the

Contractor's worksite for compliance with safety requirements and to suspend work, at no cost to SUNY, in the event of a material safety violation.

- 19. Piggybacking:** This Agreement may be extended to other New York State government entities authorized by State Finance Law §163 and General Municipal Law §103, as well as to departments, agencies, or instrumentalities of the United States government, and to departments, agencies, offices, political subdivisions, or instrumentalities of other states, provided such use is permitted by their respective procurement laws and regulations.

Such use shall require the Contractor's consent and any approvals required by law. In all cases, use of this Agreement by another entity must comply with applicable procurement requirements, and SUNY shall not be responsible for the performance of other participating entities.

Use by private entities, cooperatives, or consortia is not permitted unless expressly authorized in writing by both SUNY and the Contractor and permitted by applicable law.

- 20. Public Announcements:** Contractor shall not issue any public statement, press release, marketing material, or other announcement relating to this Agreement or the work performed hereunder without SUNY's prior written approval. Requests for approval must be submitted in writing to SUNY's designated representative. SUNY may withhold such approval in its sole discretion.

- 21. Restrictions on the Activities of Current and Former State Officers and Employees:** All Contractor employees must be aware of and comply with the requirements of the New York State Public Officers Law, all other appropriate provisions of New York State Law and all resultant codes, rules and regulations from State laws establishing the standards for business and professional activities of State employees and governing the conduct of employees of firms, associations and corporations in business with the State. The Contractor and their employees are cautioned that the hiring of former state employees may violate the Ethics Law. The governing provisions are set forth in the New York State Public Officers Law §§ 73 and 74, and the underlying principle of law is to prevent conflicts of interest and encourage ethical behavior. The law may be found on the following website: <https://ethics.ny.gov/ethics-laws-and-regulations-0>.

Failure to comply with those provisions may result in termination of the Agreement and/or other civil or criminal proceedings as required by law.

22. Rights in Deliverables: "Deliverables" means any materials, work product, or other items created specifically for SUNY under this Agreement that are identified as deliverables in the applicable Statement of Work or similar document and delivered to SUNY. Subject to Contractor's receipt of payment of the applicable fees for such Deliverables, Contractor hereby assigns to SUNY all right, title, and interest in and to the Deliverables. To the extent permitted by applicable law, the Deliverables shall be deemed "works made for hire" under United States copyright law. To the extent any Deliverable (or portion thereof) is not deemed a work made for hire, Contractor hereby irrevocably assigns to SUNY all intellectual property rights in such Deliverable (or portion thereof), effective upon creation and subject to payment as described above, and agrees to execute any documents reasonably requested by SUNY to evidence or confirm such assignment.

This assignment does not extend to Contractor's pre-existing proprietary tools, software, templates, methodologies, or general-purpose know-how, or any enhancements or updates thereto (collectively, "Contractor Materials"), all of which shall remain the sole property of Contractor, nor does it extend to any third-party materials or components (collectively, "Third-Party Materials"), whether or not embedded in the Deliverables. To the extent any Deliverable includes Contractor Materials or Third-Party Materials, and solely to the extent Contractor has the right to grant such rights, Contractor grants to SUNY a non-exclusive, royalty-free, irrevocable, worldwide license (with the right to authorize others acting on SUNY's behalf) to use, execute, reproduce, and modify those elements solely for SUNY's internal business purposes, including use by SUNY, other SUNY Institutions, and SUNY's external advisors, regulators, and oversight bodies in connection with SUNY's operations, compliance, and legal matters and with SUNY's use, maintenance, and support of the Deliverables.

Notwithstanding anything to the contrary in this Agreement, Contractor retains all rights in its underlying knowledge, experience, and know-how, including processes, concepts, and techniques used or developed in connection with the

Services, provided that such retention of rights does not limit SUNY's rights in the Deliverables as set forth above. Nothing in this Section is intended to waive attorney-client privilege, work product protection, or any applicable ethical obligation, or to limit SUNY's ability to share Deliverables with its legal counsel or oversight bodies in connection with SUNY matters.

23. Severability and Enforceability: If any provision of this Agreement is found to be illegal, invalid, or unenforceable, that provision shall be deemed severed from the Agreement and shall not affect the validity or enforceability of the remaining provisions, unless the invalid provision is essential to the overall purpose of the Agreement.

If a court or tribunal determines that the illegal or invalid provision prevents the accomplishment of the Agreement's objectives, the matter shall be treated as a dispute subject to resolution under this Agreement. In such event, the Parties shall promptly begin good faith negotiations to amend the Agreement as necessary to achieve its intended purpose, to the extent permitted by law.

If the parties are unable to agree on an amendment within thirty (30) days of commencing negotiations—or such longer period as SUNY may approve in writing—SUNY, in its sole discretion, may either (i) terminate the Agreement without further obligation or liability, except for payment for Services properly rendered before the termination date, or (ii) direct that the Agreement continue in effect without the severed provision.

24. Downstream Prohibition

- a. If Contractor, or subcontractor(s) proposed by Contractor at any level, participated in the development of the solicitation (e.g., specifications, establishing a base for other applications, or otherwise gaining information that would give the Contractor an unfair advantage), they are generally precluded from being able to participate as a vendor in this Agreement, either as a prime vendor or as a subcontractor at any level. See State Finance Law § 163(2); and for technology procurements, see also State Finance Law § 163-a, for guidance and exceptions. Contractor hereby certifies that, to the best of their knowledge, no such downstream prohibition exists with respect to Contractor or any subcontractor proposed by Contractor (at any level). It is in the interest of SUNY and Contractor for Contractor to continuously review these issues and raise any question(s) to SUNY promptly.
- b. Any and all work that may be awarded to a successful Contractor (or subcontractor(s) at any level proposed by the Contractor) pursuant to this Agreement that involves developing specifications, establishing a base for other applications, or otherwise gaining information that would give a business an unfair advantage in a future procurement, will generally result in Contractor (or subcontractor(s) at any level proposed by the Contractor) being precluded from further work (downstream prohibition) due to conflicts of interest, either as a prime vendor or as a subcontractor. See State Finance Law § 163(2); and for technology procurements, see also State Finance Law § 163-a, for guidance and exceptions.

25. Subcontractors, Partners, Joint Ventures and other Third-Party Participants ("Subcontractor"):

- a. Prior to commencing services, the Contractor shall submit a statement to SUNY describing the portion of the work and materials which subcontractors are to perform and must furnish any other information to document that such subcontractors have the necessary facilities, skill, integrity, past experience and financial resources to perform the work in accordance with the terms and provisions of the Agreement. If SUNY finds that the subcontractors are qualified, it will so notify the Contractor within ten (10) business days following receipt of Contractor's written statement described above. If SUNY determines that a subcontractor is not qualified, it will so notify the Contractor. The Contractor must, within ten (10) business days thereafter, submit a written statement as described above with respect to other proposed subcontractors, unless the Contractor decides to do such work itself and in SUNY's opinion is qualified to do such work.
- b. SUNY's approval of a subcontractor shall not relieve the Contractor of any of its responsibilities, duties and liabilities under the Agreement. The Contractor shall be solely responsible to SUNY for the acts, omissions or defaults of such subcontractors and of such subcontractors' officers, agents and employees, each of whom shall, for this purpose, be deemed to be the agent or employee of the Contractor to the extent of its subcontract. No provisions of the awarded contract shall create or be construed as creating any contractual relation between SUNY and any subcontractor or with any person, firm or corporation employed by, contracted with or whose services are utilized by the Contractor.

- c. The Contractor shall be fully responsible for the administration, integration, coordination, direction and supervision of all of its subcontractors and of all work. Contractor shall check requirements of the work and coordinate and adjust as required so that conflicts in time, workspace, equipment and supplies do not occur in the work being performed by the Contractor with its own employees and the work being performed by its subcontractors.
- d. No subcontractor shall be permitted to work until it has furnished satisfactory evidence to SUNY of the insurance required by this Agreement.
- e. The Contractor shall execute a written agreement with each of its subcontractors and shall require all subcontractors to execute with any of their sub-subcontractors a written agreement which shall bind each to the terms and provisions of the prime contract awarded, insofar as such terms and provisions are applicable to the work to be performed by such subcontractors and/or sub-subcontractors. The Contractor shall require all subcontractors and sub-subcontractors to promptly, upon request, file with SUNY a copy of such agreements upon request, from which the price and terms of payment may be deleted.

26. Continuity of Services; Personnel:

- a. During the Term, Contractor shall provide the Services in accordance with all applicable law and any applicable written SUNY procedures regarding initiation and authorization of Services that are communicated to Contractor.
- b. Contractor is responsible for staffing and managing all personnel who perform the Services, including Contractor's employees, agents, subcontractors, and sub-subcontractors (collectively, "Personnel"). All Personnel shall remain under Contractor's direction and control and shall not be deemed employees of SUNY.
- c. Contractor shall maintain continuity of the Personnel assigned to provide Services under this Agreement to the extent reasonably practicable. Contractor shall not reassign Personnel materially involved in the performance of the Services without SUNY's prior written consent, which shall not be unreasonably withheld, conditioned, or delayed, except where replacement is required due to factors outside Contractor's control (e.g., resignation, death, illness, or termination of employment for cause). Reassignment of materially involved Personnel to other Contractor projects is not, by itself, a factor outside Contractor's control.
- d. Where replacement of materially involved Personnel is required due to factors outside Contractor's control, Contractor shall notify SUNY in writing within one (1) business day of learning that replacement is required. Contractor shall consult with SUNY regarding the replacement and, within a mutually agreed period (typically five (5) business days), shall submit resumes of one or more comparably qualified candidates for SUNY's review. SUNY shall have the right to approve or reasonably reject proposed replacements. If the parties are unable to agree on a suitable replacement after good-faith efforts, SUNY may exercise its rights under the Agreement, including any applicable termination rights.
- e. SUNY may periodically review and evaluate the Services and Contractor's performance under the Agreement and may provide feedback or require corrective action consistent with the Agreement's performance and termination provisions.

27. SUNY Requirements for Contractor Responsibility:

- a. *General Responsibility:* The Contractor shall at all times during the Agreement term remain responsible. The Contractor agrees, if requested by the SUNY Chancellor or their designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.
- b. *Suspension of Work for Non-Responsibility:* The SUNY Chancellor or their designee, in their sole discretion, reserves the right to suspend any or all activities under the Agreement, at any time, when they discover information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Agreement activities may resume at such time as the SUNY Chancellor or their designee issues a written notice authorizing a resumption of performance of the Agreement.
- c. *Termination for Non-Responsibility:* Upon written notice to the Contractor and a reasonable opportunity to be heard with appropriate SUNY officials or staff, the Agreement may be terminated by the SUNY Chancellor or their designee at the Contractor's expense, where the Contractor is determined by the SUNY Chancellor or their designee to be non-responsible. In such event, the SUNY Chancellor or their designee may complete the

contractual requirements in any manner they may deem advisable and pursue available legal or equitable remedies for breach.

28. Termination: The Agreement awarded to the Contractor may be terminated by SUNY for any of the following reasons:

- a. *Convenience of SUNY:* The Agreement may be terminated at any time upon receipt of 30 days prior written notice given by SUNY for any reason or no reason.
- b. *Event of default:* The Agreement may be terminated in the event of breach of any of its provisions by the Contractor, or if the Contractor's Services are deemed unsatisfactory in SUNY's sole discretion, due to Contractor's fault or negligence, or that of its officers, employees, subcontractors, agents, licensees, licensors, or affiliates. In such event, SUNY will send a written cure notice in accordance with the Notice provisions of the Agreement, and the Contractor shall have 30 days to correct the deficiencies noted. If the deficiencies are not corrected, SUNY may terminate this Agreement immediately upon written notice.
- c. *Deficient Certifications:* If the Agreement has a value greater than \$15,000, SUNY shall have the right to terminate in the event the State Finance Law sections 139-j and 139-k certifications executed by the Contractor are found to be false or incomplete. If the Agreement has a value of greater than \$100,000 and Contractor's sales for the immediately preceding four quarters were greater than \$300,000, or if the Agreement has a value of \$125,000 or greater, the University shall have the right to terminate in the event the Contractor's Department of Taxation and Finance Contractor Certification form, ST 220-CA, statements are found to be false or incomplete.
- d. *Lack of Funds:* If for any reason the State of New York terminates or reduces its appropriations to SUNY, the Agreement may be terminated or reduced at SUNY's discretion, provided that no such reduction or termination shall apply to allowable costs already incurred by the Contractor where funds are available to SUNY for payment of such costs. In any event, no liability shall be incurred by the State (including SUNY) beyond monies available for the purposes of the awarded contract.
- e. SUNY may terminate the Agreement, upon written notice, in the event of any of the following: (i) The Contractor makes an assignment for the benefit of creditors; (ii) a petition in bankruptcy or any insolvency proceeding is filed by or against the Contractor and is not dismissed within 30 days from the date of filing; or (iii) all or substantially all of Contractor's property is levied upon or sold in any judicial proceeding.
- f. Upon expiration or termination of this Agreement, Contractor shall, in accordance with this Agreement, provide SUNY with copies of all records, in any form or media, in Contractor's possession that relate to the Services and that SUNY reasonably requests, including records necessary for SUNY to continue or transition the Services. At SUNY's request, Contractor shall, for a reasonable period following expiration or termination and during normal business hours, make appropriate personnel available to respond to SUNY's reasonable questions regarding such records and the Services provided under this Agreement. Contractor shall reasonably cooperate with SUNY and any successor contractor designated by SUNY to support a smooth and orderly transition so that the Services are not materially interrupted or adversely affected, in each case at no additional cost to SUNY.

29. Trademarks and Service Marks: The Contractor acknowledges that the names, logos, trademarks, and service marks of the State University of New York ("SUNY Marks") are the exclusive property of SUNY. To the extent necessary to perform its obligations under this Agreement, SUNY grants to the Contractor a limited, non-exclusive, non-transferable, royalty-free license to use the SUNY Marks solely in connection with the Services provided under this Agreement, and solely in the form and manner approved in advance by SUNY.

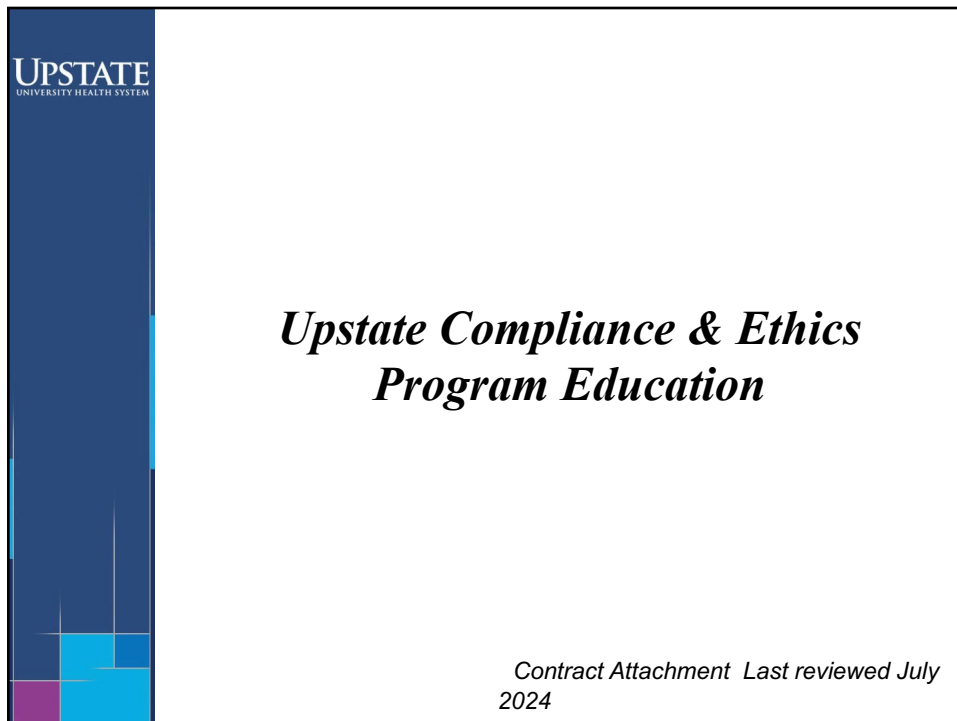
This license is restricted to the specific use authorized by SUNY and does not grant the Contractor any right to use the SUNY Marks for advertising, marketing, press releases, or other external communications without SUNY's prior written consent. Any proposed use must be submitted in advance for review and approval by SUNY. The Contractor shall not modify, misrepresent, or misuse the SUNY Marks in any way and shall not take any action inconsistent with SUNY's ownership of its marks.

The Contractor shall not permit any subcontractor or third party to use the SUNY Marks without SUNY's prior written approval. The Contractor remains responsible for ensuring that any permitted subcontractor's use of the SUNY Marks complies fully with the terms of this Section.

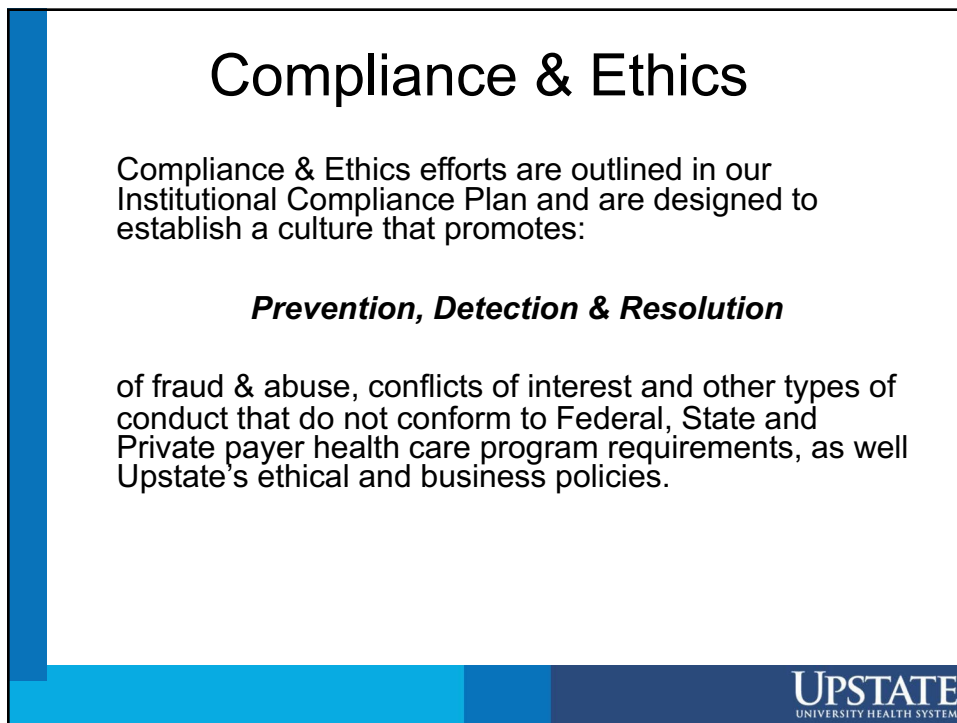
The license granted under this Section shall automatically terminate upon the expiration or earlier termination of this Agreement, or immediately upon any breach of this Section by the Contractor or its subcontractors. Any unauthorized use of the SUNY Marks shall constitute a material breach of this Agreement and may result in immediate termination

of the license granted herein. SUNY reserves the right to pursue all legal and equitable remedies available for any misuse or unauthorized use of its Marks.

EXHIBIT T



1



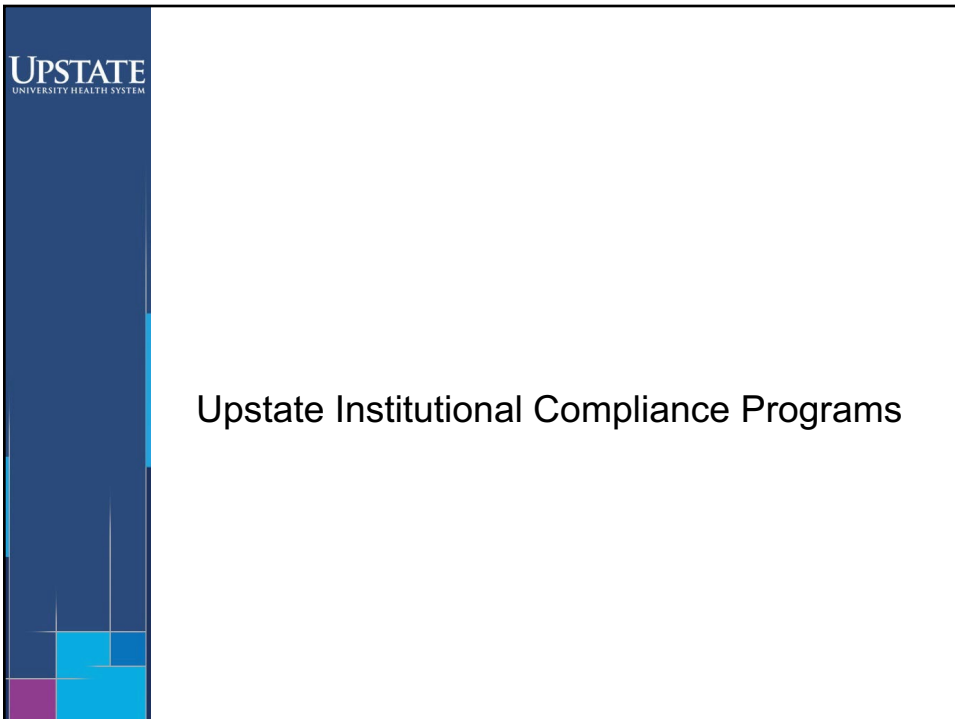
2

Fraud and Abuse

- Fraud is an intentional deception (lie) or misrepresentation that a person or business makes while knowing the lie could result in some type of unauthorized benefit to that person or business.
- Knowing means:
 - ✓ You had actual knowledge of the lie,
 - ✓ You acted in deliberate ignorance of the truth,
 - ✓ You acted in reckless disregard of the truth.

Fraud and Abuse

- Abuse is to use wrongly or improperly, misuse.
- Abuse can result in
 - ✓ Unnecessarily increased costs
 - ✓ Providing unnecessary services
 - ✓ Overuse of medical services
 - ✓ Failure to conform to professionally recognized standards



5

What We Do

Key Components of our Compliance Program:

- Institutional Compliance Plan
 - Code of conduct
- Institutional Compliance & Ethics Officers
- Compliance & Ethics Education
- Monitoring & Auditing Programs and an Office of Internal Audit
- Enforcement of Disciplinary Standards
- Open Lines of Communication to the Compliance & Ethics Office(s)
- Processes to Respond to Detected Offenses

The Upstate University Health System logo is located in the bottom right corner of the slide, featuring the word "UPSTATE" in a large, bold, serif font, with "UNIVERSITY HEALTH SYSTEM" in a smaller, sans-serif font below it.

6

Code of Conduct

The Code of Conduct is a model for our behavior and must be followed by all employees and contractors.

Please review the following code of conduct:

THE UPSTATE CODE OF CONDUCT: Expected and acceptable behaviors foster mutual respect.

This includes but is not limited to:

- Holding yourself and others accountable to our mission, vision and values.
- Interacting with others in a considerate, patient and courteous manner.
- Promoting equality and acceptance of people from diverse backgrounds.
- Demonstrating a caring and positive attitude: smile, greet and acknowledge others, make eye contact, say please and thank you. Giving recognition and praise.
- Respecting confidentiality and privacy at all times.
- Providing a secure, clean and safe environment for patients and fellow staff.
- Working together by promoting cooperation, participation, and sharing of ideas and information to promote team success. Fostering open and honest communication.
- Actively listening to the perspective of others and seeking to resolve conflicts promptly. Apologizing when mistakes are made or misunderstandings have occurred.
- Utilizing proper channels to express dissatisfaction with policies and administrative or supervisory actions and without fear of retaliation.
- Being honest and truthful at all times.

UPSTATE
UNIVERSITY HEALTH SYSTEM

7

Examples of inappropriate and disruptive communications/behaviors*, include, but are not limited to:

1. Using abusive language, including repetitive sarcasm.
2. Sexually harassing and making comments, jokes, or innuendoes of a sexual nature.
3. Making direct or indirect threats of violence, revenge, legal action, or financial harm.
4. Using racial, ethnic, or religious slurs.
5. Displaying behavior that would be considered by others to be intimidating, disrespectful, or dismissive.
6. Exhibiting behavior that threatens or results in verbal and/or physical abuse.
7. Using foul or insulting language, shouting, and rudeness.
8. Criticizing of co-workers or other staff in the presence of others in the workplace or in the presence of patients.
9. Publicly shaming others.
10. Disregarding or being insensitive to the personal space or boundaries of others.
11. Destruction of Upstate property.
12. Being impaired (e.g., use of alcohol or drugs) in the workplace or academic environment.
13. Failing to be knowledgeable with and follow applicable policies and procedures including those that govern communication.

* Communication and/or behavior in any format, including, but not limited to, oral, written, visual, literary, electronic, recorded, or symbolic.

8

Institutional Compliance & Ethics Officers

Chief Ethics & Compliance Officer for the Hospital & University. Loretta Harris, MBA, CHC, CCEP, CHPC

- For Hospital Compliance, Hospital and Campus Ethics and Conflict of Interest questions.
 - Harrislo@upstate.edu
 - 315-464-4789

Faculty Practice Plan Compliance Officer – Deb Gregoire, MBA, RHIA

- For UUMAS/MSG Compliance and Privacy questions.
 - BaxterD@upstate.edu
 - 315-464-4793

Hospital Regulatory Compliance Officer – Darlene Sovey, CHC

- For fraud and abuse billing questions.
 - SoveyD@upstate.edu
 - 315-464-4346

HIPAA Privacy Officer – Alyssa Kopper

- For Institutional Privacy questions
 - KopperA@upstate.edu
 - 315-464-6135

Chief Research Compliance Officer – Nicole Mason

- For Institutional Research questions.
 - Masonn@upstate.edu
 - 315-464-4317

Information Security Officer- Shawn O'Reilly, CISSP, HCISPP

- For Institutional cybersecurity, security and access questions.
 - OReillyS@upstate.edu
 - 318-464-4093

UPSTATE
UNIVERSITY HEALTH SYSTEM

9

Monitoring and Auditing

- Annual audit plans are developed to address identified risk areas. Plans are updated continuously to address new issues as they arise.
- Monitoring is done through system development, establishing checks and balances to automate where possible mitigating risk.
- Auditing and monitoring helps:
 - ✓ avoid submitting incorrect bills to payers.
 - ✓ avoid issues of conflicts of interest.
 - ✓ maintain adherence with internal controls.
- Please help by reporting potential issues for review to your manager or the Compliance Office.

UPSTATE
UNIVERSITY HEALTH SYSTEM

10

Enforcement of disciplinary standards

- Employees and contractors are subject to disciplinary action for failure to comply with all Federal and State laws and regulations, and with Upstate Medical University policies and procedures.
- This may include failure to report a suspected violation of any Federal or State Healthcare Program requirement or a violation of SUNY Upstate Medical University's policies.
- There is also a range of penalties, which can apply to individuals or organizations for violation of Federal and State Healthcare Program regulations. Such penalties can include monetary fines, civil and criminal legal actions, and Federal program exclusions.

Open line of Communication

- Open lines of communication increases our ability to identify and respond to compliance problems.
- All employees and contractors have an obligation to report known or suspected incidents of potential non-compliance.
- Under no circumstances shall the good faith reporting of any information serve as the basis for any retaliation or reprisal in any form against any employee or contractor as a result of that person participating in the compliance efforts.

Compliance Hotline

- A key element of an effective Compliance Program is good communication.
- All providers and staff are obligated to expose any unethical or illegal activity if they are aware of it or suspect it.
- All physicians and MSG staff are encouraged to contact the Faculty Practice Plan Compliance Officer, Deb Gregoire or their Department's Compliance Officer with any compliance concerns.
- All hospital and campus staff should contact Chief Compliance Officer, Loretta Harris with any concerns.
- The Compliance Hotline is available to report concerns confidentially.
 - **Compliance Hotline: 464-6444**
 - Compliance@upstate.edu

13

Response to Detected Problems

- Once notified of a potential concern we take necessary steps to investigate and correct any identified problem.
- Most often corrective action will be in the form of education and training.
- The Compliance Office works to make sure adequate corrective action is put in place to remedy the problem.

14

Ways you can help insure compliance...

Your involvement can help maintain our culture of compliance. Here's how:

- ❖ When in doubt, check policies or ask your Supervisor
- ❖ Take advantage of resources available to you, ask for help to avoid mistakes
- ❖ Help to identify problems early
- ❖ Follow our code of conduct
- ❖ **Ask questions, it is better to ask questions and raise issues than to leave matters unresolved. If it feels wrong, it may very well be wrong – so check it out**
- ❖ Actively request and seek training/education when you need it
- ❖ Regard auditing and monitoring findings as opportunities for improvement
- ❖ When new policies/procedures are implemented, take time to study them and incorporate them into your job

Simply Put, Compliance Basically Means...

No Lying, No Cheating, No Stealing!

CONTRACTOR ACKNOWLEDGMENT

By signing this contract, you are attesting that you have reviewed and understand the compliance and ethics program for SUNY Upstate Medical University and will adhere to the policies, laws and regulations contained herein.

Exhibit V

False Claims Information for Contractors and Agents of the State University of New York Upstate Medical University

Federal and State false claims laws are important in detecting fraud, waste and abuse in health care programs. The State University of New York (SUNY) Upstate Medical University (University Hospital) is required by law to provide information to all our contractors and agents regarding the following:

1. Federal False Claims Act
2. New York State laws regarding civil or criminal penalties for false claims and payments
3. Administrative remedies for false claims and statements
4. Whistleblower protections under these laws

This information should be provided to all employees in your organization who:

1. Have contact in any way with SUNY Upstate Medical University (University Hospital) contracts
2. Provide health care items or services to SUNY Upstate Medical University (University Hospital)
3. Perform billing or coding functions
4. Are otherwise involved with SUNY Upstate Medical University (University Hospital)

FEDERAL FALSE CLAIMS ACT

The Federal False Claims Act allows a civil action to be brought against a person or entity who:

- Knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval to any federal employee;
- Knowingly makes, uses or causes to be made or used a false record or statement to get a false or fraudulent claim paid or approved;
- Conspires to defraud the government by getting a false or fraudulent claim allowed or paid; or
- Knowingly makes, uses or causes to be made or used a false record or statement to conceal, avoid or decrease an obligation to pay the government.

Under the Federal False Claims Act, a “claim” is any request or demand for money or property if the Federal government provides any portion of the money or property in question. This includes requests or demands submitted to a contractor of the Federal government, including but not limited to Medicaid and Medicare claims.

The Federal False Claims Act broadly defines the terms “knowing” and “knowingly”. Specifically, knowledge will have been proven for purposes of the Federal False Claims Act if the person or entity:

- Has actual knowledge of the information;
- Acts in deliberate ignorance of the truth or falsity of the information; or
- Acts in reckless disregard of the truth or falsity of the information.

The Federal False Claims Act provides that a specific intent to defraud is not required in order to prove the law has been violated.

A federal false claims action may be brought about by the United States Attorney via the United States Department of Justice (DOJ) or an individual may file a qui tam action on behalf of the government for violations of the Federal False Claim Act. The government may decide to intervene with the individual's lawsuit, in which case, the U.S. Department of Justice will direct the prosecution. If the government does not intervene, the individual may still continue to pursue the lawsuit. If the qui tam lawsuit is successful, the individual may receive between 10 – 30% of the recovery, depending upon, among other things, the level of government participation. Reasonable attorney fees and other costs may also be covered. However, any person who brings about a clearly frivolous case can be held liable for the defendant's attorney fees and costs.

A person or entity found guilty of violating the Federal False Claims Act will be obligated to repay all falsely obtained reimbursement and will be liable for a civil penalty between \$5,500 - \$11,000, plus up to three times the amount of damages incurred by the government for each violation of the Act. Additionally, the United States Department of Health and Human Services (DHHS) of the Office of the Inspector General (OIG) may exclude the violator from participation in federal health care programs, such as Medicaid and Medicare.

Under the Federal False Claims Act, an action may be brought up to 6 (six) years after the date of the violation or 3 (three) years after the date when material facts with respect to the violation are known or should have been known by the government, however, no later than 10 (ten) years after the date on which the violation was committed.

Federal law prohibits an employer from discriminating against an employee in the terms and conditions of his/her employment because the employee initiated or otherwise assisted in a false claims action. The employee is entitled to all relief necessary to make the employee whole with remedies including: reinstatement with comparable seniority as the employee would have had except for the discrimination; two times the amount of any back pay plus interest; and compensation for reasonable damages sustained as a result of such discrimination, including litigation costs and reasonable attorney fees.

FEDERAL PROGRAM FRAUD CIVIL REMEDIES ACT

The Federal Program Fraud Civil Remedies Act establishes an administrative remedy against any person who makes, presents or submits, or causes to be made, presented or submitted a claim for property, services or money to certain federal agencies, including the DHHS, that the person or entity "knows or has reason to know" is:

- False, fictitious or fraudulent;
- Includes or is supported by any written statement which asserts a material fact that is false, fictitious or fraudulent;
- Includes or is supported by any written statement which omits a material fact, is false, fictitious or fraudulent because of the omission and is a statement which the person or entity has a duty to include as a material fact; (or)
- Is for the provision of items or services which their person or entity has not provided as claimed.

Additionally, it is illegal to make, present or submit, or cause to be made, presented or submitted any written statement with respect to a claim or to obtain the approval or payment of a claim if the person or entity “knows or has reason to know” such statement:

- Asserts a material fact which is false, fictitious or fraudulent (or)
- Omits a material fact which makes the statement false, fictitious or fraudulent.

Similar to the Federal False Claims Act, a person who “knows or has reason to know” is defined as one who:

- Has actual knowledge of the information;
- Acts in deliberate ignorance of the truth or falsity of the information; (or)
- Acts in reckless disregard of the truth or falsity of the information.

The law specifically provides that a specific intent to defraud is not required to prove a violation.

A violation of the Federal Program Fraud Civil Remedies Act can result in a civil monetary penalty up to \$5,000 per false claim and, in certain circumstances, an assessment of twice the amount of any false claim. Additionally, under certain circumstances, a penalty of \$5,000 per false statement may be imposed.

Unlike the Federal False Claims Act, a violation of this law occurs when a false claim is submitted, not when it is paid. Also, unlike the Federal False Claims Act, the determination of whether a claim is false and the imposition of fines and penalties is made by the administrative agency, not by prosecution in the federal court system.

NEW YORK STATE FALSE CLAIMS ACT

The New York State False Claims Act allows a civil action to be brought against a person or entity who:

- Knowingly presents or causes to be presented, a false or fraudulent claim for payment or approval to any New York State or local government employee;
- Knowingly makes, uses or causes to be made or used a false record or statement to get a false or fraudulent claim paid or approved;
- Conspires to defraud New York State or a local government by getting a false or fraudulent claim allowed or paid;
- Has possession, custody or control of property or money used or to be used by New York State or a local government and, intending to defraud New York State or a local government or willfully to conceal the property or money, delivers less property or money than the amount for which the person receives a receipt;
- Is authorized to make or deliver a receipt for property used or to be used by New York State or a local government and intending to defraud New York State or a local government makes or delivers a receipt without completely knowing the information on the receipt is true;
- Knowingly buys or receives as a pledge public property from an officer or employee of New York State or a local government knowing that the officer or employee may not lawfully sell or pledge such property; (or)
- Knowingly makes, uses or causes to be made or used a false record or statement to conceal, avoid or decrease an obligation to pay or transmit money or property to New York State or a local government.

Under the New York State False Claims Act, a “claim” is any request or demand for money or property which is made to New York State or a local government or to any contractor, grantee or other recipient if New York State or a local government provides any portion of the money or property in question.

The terms “knowing” and “knowingly” are defined as that under the Federal False Claims Act. New York State law, like Federal law, provides that a specific intent to defraud is not required in order to prove the law has been violated. New York State law excludes acts arising out of mistake or mere negligence.

The New York State Attorney General has authority to investigate claims and to bring action on behalf of New York State or a local government. A local government may also investigate claims and bring action on its behalf. The Attorney General must consult with the Office of Medicaid Inspector General before bringing a claim related to the Medicaid program.

An individual may file a qui tam action on behalf of the New York State or local government for violations of the New York State False Claim Act. In a qui tam action, an individual must file his/her complaint and written disclosure of substantially all material evidence and information s/he possesses in New York State Supreme Court, where it will remain under seal for at least 60 (sixty) days. New York State may decide to intervene or to authorize a local government to intervene with the lawsuit. If neither New York State nor a local government intervenes, the individual may still continue the lawsuit independently. If a qui tam lawsuit is successful, the individual may receive between 15 – 30% of the recovery, depending upon, among other things, the level of the State’s or local government’s participation. Reasonable attorney fees and other costs may also be covered. The individual’s share may be reduced to no more than 10% if the Court finds the action was based primarily on disclosure of specific information not provided by the individual relating to allegations or transactions in a criminal, civil or administrative hearing. An individual’s share of any recovery may also be reduced if the individual planned or initiated the violation in question. If an individual is convicted of criminal conduct arising from his/her role in the violation, s/he is not entitled to any portion of the recovery.

No action may be filed against the Federal government, the State or a local government or any officer or employee thereof acting in his/her official capacity.

A person or entity found guilty of violating the New York State False Claims Act is obligated to repay all the falsely obtained reimbursement and will be liable for a civil penalty between \$6,000 - \$12,000, plus up to three times the amount of damages incurred by New York State or a local government for each violation of the Act. If the person committing the violation furnished information regarding such violation to the appropriate New York State or local government official within 30 (thirty) days of obtaining such information and cooperated fully in the investigation, additional damages are capped at twice the amount.

The time periods for bringing a claim under the New York State False Claims Act are the same as under the Federal False Claims Act.

The New York State False Claims Act prohibits an employer from discriminating against an employee in the terms and conditions of his/her employment because the employee initiated or otherwise assisted in a false claims action. The employee is entitled to all relief necessary to make the employee whole with remedies including: reinstatement with comparable seniority as the employee would have had except for the discrimination; two times the amount of any back pay plus interest; and compensation for reasonable damages sustained as a result of such discrimination, including litigation costs and reasonable attorney fees.

OTHER NEW YORK STATE LAWS

Various other New York State laws also prohibit false claims. Certain relevant portions of the New York State Code are as follows:

New York Social Services Law 145-b

It is unlawful for a person or entity to knowingly make a false statement or representation, or to deliberately conceal any material fact, or engage in any other fraudulent scheme or device, to obtain or attempt to obtain payments under the New York State Medicaid program. For violations of this law, the local social services district or New York State has the right to recover civil damages equal to three times the amount by which any figure is falsely overstated. In the case of non-monetary false statements, the local social service district or New York State may recover three times the damages or \$5000, whichever is greater, for damages sustained by the government due to the violation.

A “statement or representation” includes a claim for payment, an acknowledgement, certification or report of data which serves as a basis for a claim or rate of payment.

The New York Social Services Law also empowers the New York State Department of Health to impose a monetary penalty on any person or entity that, among other actions, causes Medicaid payments to be made if the person or entity knew or had reason to know that the:

- Payment involved care, services or supplies that were medically improper, unnecessary or excessive;
- Care, services or supplies were not provided as claimed;
- Person who ordered or prescribed the improper, unnecessary or excessive care, services, or supplies was suspended or excluded from the Medicaid program at the time of the care, services or supplies were furnished; (or)
- Services or supplies were not in fact provided.

The monetary penalty cannot exceed \$2000 for each item or service determined to be inappropriate, unless a penalty under the section has been imposed within the previous 5 (five) years, in which case the penalty cannot exceed \$7,500 per item or service.

New York Social Services Law 366-b(2)

Any person who, with intent to defraud, presents for allowance or payment any false or fraudulent claim for furnishing services or merchandise, knowingly submits false information for the purpose of obtaining compensation greater than that which s/he is legally entitled for furnishing services or merchandise or knowingly submits false information for the purposes of obtaining authorization for furnishing services or merchandise shall be guilty of a class A misdemeanor. If such an act constitutes a violation of a provision of the penal law of the State of New York, the person committing the act will be punished in accordance with the penalties fixed by such law.

New York Penal Law Article 155

A person, who with intent to deprive another of his property obtains, takes or withholds such property by means of trick, embezzlement, false pretense, false promise, including a scheme to defraud or other similar behavior is guilty of larceny. Larceny is a felony with the applicable class being based on the value of the property involved.

New York Penal Law Article 175

Four crimes are specified which relate to filing false information or claims.

Under 175.05 it is a Class A misdemeanor to falsify business records, including entering false information, omitting material information or altering an enterprise's business records with the intent to defraud.

Under 175.10 falsifying business records as provided in 175.05 with the intent to commit another crime or conceal its commission is a Class E felony.

Under 175.30 it is a Class A misdemeanor to present a written instrument, including a claim for payment, to a public office knowing that it contains false information.

Under 175.35 it is a Class E felony to submit a claim as provided in 175.30 with the intent to defraud New York State or a political subdivision.

New York Penal Law Article 176

This article applies to intentional filing of a health insurance claim knowing that it is false. Violation of this law is either a misdemeanor or felony, with the applicable class being based on the value of the claim involved.

New York Penal Law 177

This law establishes the crime of "health care fraud". A person commits such a crime when, with the intent to defraud Medicaid or other health plans, including non-government plans, s/he knowingly and willfully provided materially false information or omits material information for the purpose of requesting payment for a health care item of service and as a result of the false information or omission, s/he or another person receives a payment in an amount to which s/he or such other person is not entitled. Health care fraud is punished with fines and jail time based on the amount of payment inappropriately received due to the commission of the crime; the higher the payments received in a one year period, the more severe the punishments, which currently range up to 25 (twenty-five) years if more than \$1 million in improper payments are involved.

New York Labor Law 740

New York law affords protections to employees who may notice and report inappropriate activities. An employer may not take any retaliatory action against an employee because the employee:

- Discloses or threatens to disclose to a supervisor or to a public body an activity, policy or practice of the employer that is in violation of law, rule or regulation which violation creates and presents a substantial and specific danger to the public health or safety or which constitutes health care fraud;
- Provides information to, or testifies before any public body conducting an investigation, hearing or inquiry into any such violation of a law, rule or regulation by such employer; (or)
- Objects to, or refuses to participate in any such activity, policy or practice in violation of law, rule or regulation.

In order to be protected when disclosing information to a public body, an employee must first bring the alleged violation to the attention of a supervisor of the employer and give the employer a reasonable opportunity to correct the allegedly unlawful practice. The law allows employees who are the subject of a retaliatory action to bring a civil action in court and seek relief such as injunctive relief to restrain continued retaliation; reinstatement, back-pay and compensation of reasonable costs. If the court finds

that a health care employer's retaliatory action was in bad faith, it may impose a civil penalty up to \$10,000 on the employer. The law also provides employees who bring an action without basis in law or fact may be held liable to the employer for its attorney's fees and costs.

New York Labor Law 741

Under certain circumstances, New York law provides additional protections to employees of health care service providers, which include the Hospital. A health care service provider may not take any retaliatory action against an employee because the employee:

- Discloses or threatens to disclose to a supervisor or to a public body an activity, policy or practice of the employer or agent that the employee, in good faith, reasonably believes constitutes improper quality of patient care; (or)
- Objects to or refuses to participate in any such activity, policy or practice of the employer or agent that the employee, in good faith, reasonably believes constitutes improper quality of patient care.

In order to claim this protection, the employee must first bring the issue to the attention of a supervisor of the employer and give the employer a reasonable opportunity to correct the allegedly improper activity or practice. However, this is not required and an employee may disclose an alleged improper quality of patient care to a public body or interest, if the alleged improper quality of healthcare presents an imminent threat to public health or safety or to the health of a specific patient and the employee reasonably believes in good faith that reporting to a supervisor would not result in corrective action.

SUNY UPSTATE MEDICAL UNIVERSITY COMPLIANCE PROGRAM

SUNY Upstate Medical University (University Hospital) Policies

In addition to Federal and New York State law, University Hospital has a Compliance Program and Plan that is applicable to all contractors and agents of the Hospital. The Compliance Plan consists of several policies and procedures regarding the detection and prevention of fraud, waste and abuse, including the Institutional Compliance Code of Conduct. Copies of these policies are available upon request.

The Deficit Reduction Act requires such contractors and agents of the Hospital to:

1. Adopt the Hospital's policies and procedures regarding the prevention and detection of fraud, waste or abuse;
2. Abide by the Hospital's policies and procedures relating to all work performed for University Hospital;
3. Train your employees who perform any work for University Hospital regarding the necessity of compliance with applicable laws and regulations;
4. Make available to your employees University Hospital's prevention of fraud and abuse policies.

University Hospital is committed to assuring compliance with its mission, vision, values and principles and strives to integrate these principles into an effective Compliance Program. The University Hospital Compliance Program has been established to promote adherence with relevant Upstate Medical University policies/procedures and Federal and State rules and regulations through open lines of communication with the Compliance Officer, provision of education/training, auditing/monitoring, enforcement of standards/sanctions and through corrective action for identified concerns.

University Hospital reserves the right to change, modify or amend the Compliance Plan as deemed necessary.

Original: 11/02/07
Revised: 12/30/07

PREVENTION OF FALSE CLAIMS

University Hospital compliance efforts, as outlined in the University Hospital Compliance Plan, are designed to establish a culture within the Hospital that promotes the prevention, detection and resolution of conduct that does not conform to such Upstate Medical University policies/procedures and Federal and State rules and regulations.

If you observe something that is not right, University Hospital encourages you to report your concern for further investigation to the University Hospital Institutional Compliance Office for Hospital Affairs by:

1. Calling 315-464-4343 to speak with the Institutional Compliance Officer
2. Faxing information to the Institutional Compliance Office at 315-464-4342
3. Writing to the Institutional Compliance Officer for Hospital Affairs, 750 East Adams Street, Syracuse, New York, 13210

If you are not comfortable reporting your concern directly, you may utilize the anonymous Institutional Compliance Office hotline number at 315-464-6444. While you are encouraged to report your concerns to the University Hospital Institutional Compliance Office for Hospital Affairs, this is not required and you may report possible false claims act violations to the federal Department of Justice.

FALSE CLAIMS ACKNOWLEDGMENT FORM

Contractor Affirmation with respect to Federal and State false claims laws.

Procurement Description: Recruitment Search Services for Executive Director of Design & Construction

RFP/IFB or Contract # (if applicable): RFQ S-1613

Contracting Agency: SUNY Upstate Medical University

“Contractor affirms that it has reviewed and understands the document entitled “*Information for Contractors and Agents of the State University of New York Upstate Medical University*”, which provides information related to Federal and State false claims laws, including SUNY Upstate Medical University’s Compliance Program.

Name of Contractor: _____

Address: _____

Person Submitting Form on behalf of Contractor:

Signature _____

Name: _____

Title: _____

Exhibit W

VENDOR INSTRUCTIONS FOR COMPLETION OF NYS FORMS FOR CONSULTANT SERVICES AGREEMENTS

New York State Finance Law mandates the annual reporting of certain employment data from vendors that have active consultant services agreements valued above \$15,000 with any New York State agency (including SUNY Upstate Medical University at Syracuse).

For new consultant contracts (issued after 6/19/06), vendors must provide the State Consultant Services Contractor's Planned Employment form ("**Form A**") to the contracting agency prior to final execution of the contract. This form is provided only **once** and captures the necessary planned employment information prospectively from the start date of the contract through the end of the contract term.

For all consulting contracts, vendors must provide the State Consultant Services Contractor's Annual Employment Report form ("**Form B**") once each year. This form is provided **annually** and captures historical information, detailing actual employment data for the most recently concluded State fiscal year (April 1 – March 31). Form B must be completed in triplicate and submitted by the vendor to the NYS Department of Civil Service, the Office of the State Comptroller and SUNY Upstate Medical University at Syracuse.

For Form B only, the first required reporting period will be the 2011-2012 fiscal year, April 1, 2011 - March 31, 2012. The first reports are due no later than May 15, 2012. Thereafter, reports will be due no later than May 15th of each succeeding year.

INSTRUCTIONS FOR COMPLETING FORM A AND FORM B:

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 <http://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.

INSTRUCTIONS FOR ANNUAL SUBMISSION OF CONSULTANT SERVICES DATA:

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

By Mail

SUNY Upstate Medical University
Contracts & Campus Purchasing
750 East Adams Street
SLC 2045
Syracuse, New York 13210

By Fax

(315) 464-4679

Reports that are to be submitted to Office of the State Comptroller may be transmitted as follows:

By Mail

New York State Office of the State Comptroller
Bureau of Contracts
110 State Street, 11th Floor
Albany, New York 12236
Attn: Consultant Reporting

By Fax

(518) 474-8030 or (518) 473-8808

Reports that are to be submitted to Department of Civil Service may be transmitted as follows:

By Mail:

New York State Department of Civil Service
Alfred E. Smith Office Building
Albany, New York 12239

Exhibit X

OSC Use Only:

Reporting Code:

Category Code:

Date Contract Approved:

FORM A

State Consultant Services - Contractor's Planned Employment

From Contract Start Date Through The End Of The Contract Term

State Agency Name: SUNY Upstate Medical University

Agency Code: 28110

Contractor Name: _____

Contract Number: _____

Contract Start Date: _____

Contract End Date: _____

Employment Category	Number of Employees	Number of hours to be worked	Amount Payable Under the Contract
Total this page			
Grand Total			

Name of person who prepared this report: _____

Title: _____ Phone #: _____

Preparer's Signature: _____

Date Prepared: _____

(Use additional pages, if necessary)

Page of

FORM B

Category Code:

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 _____

Analysis ☐ Evaluation ☐ Research ☐ Training ☐
Data Processing ☐ Computer Programming ☐ Other IT consulting ☐
Engineering ☐ Architect Services ☐ Surveying ☐ Environmental Services ☐
Health Services ☐ Mental Health Services ☐
Accounting ☐ Auditing ☐ Paralegal ☐ Legal ☐ Other Consulting ☐

Employment Category	Number of Employees	Number of Hours Worked	Amount Payable Under the Contract
Total this page			
Grand Total			

Use additional pages if necessary)

Page of

Attachment 1: RFQ Submission Checklist

√	Description
☐	Offeror's Written Response & Cost Proposal (see §9) - Response to Purpose and Objective – items (i) - Offeror Qualifications – items (i) – (vi) - Response to Scope and Deliverables – items (i) - Cost Proposal – items (i) – (iii)
☐	RFQ Summary Information Form
☐	Attachment 1: RFQ Submission Checklist
☐	Attachment 2: Summary Information Form
☐	Attachment 3: New York State Finance Law §§139-j & -k Certification
☐	Attachment 4: Public Officers Law Certification
☐	Attachment 5: EO 177 Certification
☐	Attachment 6: EO 16 Certification
☐	Attachment 7: NYS Consultant Services – Contractor's Planned Employment (Form A only)
☐	Attachment 8: Vendor Responsibility Questionnaire: File either the required Vendor Responsibility Questionnaire online via the New York State VendRep System or complete and submit a paper questionnaire. Select one: ☐ completed online questionnaire (URL in solicitation document) ☐ paper copy of questionnaire (URL in solicitation document)
☐	Exhibit V: False Claims Information for Contractors and Agents of the State University of New York Upstate Medical University
☐	NYS Workers' Compensation insurance certificate (C-105.2, SI-12, CE-200) (ACORD FORM WILL NOT BE ACCEPTED!)
☐	NYS Disability insurance certificate (DB-120.1, DB-155, CE-200) (ACORD FORM WILL NOT BE ACCEPTED!)

ATTACHMENT 2

SUMMARY INFORMATION FORM

THIS PAGE MUST BE SIGNED AND RETURNED WITH BIDDER'S RESPONSE

Solicitation #: RFQ S-1613	RFP Title: <i>Recruitment Services for Executive Director of Design & Construction</i>	RFP Release Date: 06/17/2026 Electronic copies of this RFP are available at: www.upstate.edu/finance/publicbid/bid.php
Key Events		
Questions/Requests for clarification due	N/A	
Response to questions/requests for clarifications issued	N/A	
Pre-Bid Conference (if applicable)	N/A	
Site Visit (if applicable)	N/A	
Notice of Intent to Bid Due (if applicable)	N/A	
Proposal Due Date and Time	Rolling Deadline	
Presentation, Demonstration, Interview (if applicable)	N/A	
Anticipated Notification of Award	Upon Candidate Selection	
Anticipated Contract Start Date	Upon Candidate Selection	
Anticipated Term Length of Contract	Up To Six (6) Months (Guarantee Period)	
<i>SUNY reserves the right, in its sole discretion, to modify the above schedule. Bidders will be notified via email of any changes in a timely manner</i>		
Contact Information		
Primary Contact: Julia Salerius Attn: Contracts, SLC 2041 SUNY Upstate Medical University 650 South Salina Street Syracuse, NY 13202 Telephone: (315) 464-4597 Email: SaleriuJ@upstate.edu	Secondary Contact: Dan Arnold Attn: Contracts, SLC 2042 SUNY Upstate Medical University 650 South Salina Street Syracuse, NY 13202 Telephone: (315) 464-5720 Email: ArnoldD@upstate.edu	Other Contact:
Restricted Period		
In accordance with the requirements of New York State Finance Law Sections 139j and 139k ("Lobbying Law"), the restricted period for this procurement is now in effect. Therefore, all communications regarding this procurement must be handled through the State University of New York's designated contacts only.		
Bidder Information		
Legal Business Name of Company Bidding:		Bidder's Federal Tax Identification Number:
D/B/A – Doing Business As (if applicable):		NYS Vendor ID Number:
Street Address:	City/State:	Zip Code:
If applicable, place an "x" in the appropriate box: <i>(check all that apply)</i> ☐ Small Business (if checked, provide # of employees ____) ☐ Minority Owned Business (NYS Certified) ☐ Disabled Veteran Owned Business ☐ Women Owned Business (NYS Certified)		
If you are not bidding, place an "x" in the box and return this page only. ☐ We are unable to bid at this time because:		
Bidders Signature:		Title:
Printed Name:		Date:
Contact Name and E-Mail for questions:		

THIS PAGE MUST BE SIGNED AND RETURNED WITH BIDDER'S RESPONSE

By signing this form, bidder acknowledges (a) that the RFP instructions are understood; (b) that the bidder is committed to servicing SUNY's needs in the required time period; and (c) that all information required by this RFP has been included in bidder's proposal.

SUNY UPSTATE MEDICAL UNIVERSITY

NEW YORK SFL §139, PUBLIC OFFICERS LAW & CERTIFICATIONS VENDOR PACKET

Contents:

Page 1	Introduction, Directions, and Contact Information
Page 2	New York State Finance Law 139 (SFL139) form
Page 3	Public Officers Law form
Page 4	EO 177 Certification (Non-Discrimination)
Page 5	EO 16 Certification (Conducting Business in Russia)

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 SFL §139, all contacts and inquiries (oral, written, or electronic communications) with Upstate, occurring during procurement, must be made with a designated Point of Contact.

Moreover, SFL §139 requires Upstate to obtain certain affirmations and certifications from vendors. The attached New York State Finance Law §139 Vendor Form provides a means for SUNY 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://ogs.ny.gov/aboutogs/regulations/advisoryCouncil/StatutoryReferences.html>.

Directions:

1. The SUNY Upstate Medical University New York State Finance Law §139 vendor form consists of one (1) page.
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 question number.
4. The completed form and any attached responses will become a part of SUNY Upstate Medical University's procurement record.
5. If electronic, the form is a fillable document using Microsoft Word or Adobe (for PDFs).

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
or you may fax it to (315) 464-4599, Attn: .

The original must be sent to the following address:

SUNY Upstate Medical University

Contracts & Campus Purchasing

Attn:

750 East Adams Street

Syracuse, New York 13210

Contact Information:

If you have any questions or concerns regarding the form, please contact the procurement officer noted above at **(315) 464-5720** or via their e-mail address.

SUNY UPSTATE MEDICAL UNIVERSITY

STATE FINANCE LAW §139

Contractor Disclosure of Prior Non-Responsibility Determinations and Contract Termination Provision

This form shall be completed and submitted in accordance with New York State, State Finance Law (SFL) §§139-j and 139-k. Failure to complete and submit this form shall result in a determination of non-responsiveness and disqualification of the bid, proposal or offer. You agree to update this information as changes occur or as requested. New York State's State Finance Laws can be found at:

<http://ogs.ny.gov/aboutogs/regulations/advisoryCouncil/StatutoryReferences.html>

Upstate Medical University 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, the 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.

Name of Contractor: _____ **Fed. ID#** _____

Address: _____

Name of Person Submitting this Form: _____

Title of Person Submitting this Form: _____

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 check): ☐ No ☐ Yes

If yes, was the basis for the finding of non-responsibility was the basis for the finding of non-responsibility due to a violation of State Finance Law §139-j? (Please check): ☐ No ☐ Yes

If yes, was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a Governmental Entity? (Please check): ☐ No ☐ Yes

If yes to any on the above, please provide details below regarding the finding of non-responsibility. Attach additional pages as necessary.

Covered agency or authority: _____

Year of finding of non-responsibility: _____

Basis of finding of non-responsibility: _____

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 check):

☐ No ☐ Yes

If yes, please provide details below. Attach additional pages as necessary.

Governmental entity or agency: _____

Date of termination or withholding of contract: _____

Basis of termination or withholding: _____

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:

Contracts & Campus Purchasing
SUNY Upstate Medical University
750 East Adams Street
Syracuse, NY 13210

Phone: (315) 464-5720
E-mail:
Fax: (315) 464-4599

Offerer affirms that it understands and agrees to comply with the procedures of the Government Entity relative to permissible Contacts as required by State Finance Law §139-j (3) and §139-j (6) (b). Offerer certifies that all information provided to the Agency is complete, true, and accurate with regard to prior non-responsibility determinations within the past five years based on (i) impermissible contacts or other violations of SFL §139-j, or (ii) the intentional provision of false or intentionally incomplete information.

Signature: _____

Name: _____

Title: _____

Date: _____

Revised October 2011

SUNY UPSTATE MEDICAL UNIVERSITY

Public Officers Law - Form

Introduction:

The conflict of interest and code of ethics provisions of New York State Public Officers Law §§73 & 74 shall apply to all purchasing activities of SUNY Upstate Medical University and University Hospital at Community General (collectively Upstate). Upstate is required to inquire if any member of a business entity is an officer or employee of the State of New York or of a public benefit corporation of the State of New York.

Directions:

1. The SUNY Upstate Medical University Public Officers Law form consists of one (1) page.
2. Please complete all required information as the completed form will become a part of SUNY Upstate Medical University's procurement record.
3. If electronic, the form is a fillable document using Microsoft 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 _____ or you may fax it to (315) 464-4599, Attn: _____.

The original must be sent to the following address:

SUNY Upstate Medical University

Contracts & Campus Purchasing

Attn:

750 East Adams Street

Syracuse, New York 13210

Name of Contractor: _____ Fed. ID# _____

Address: _____

Name of Person Submitting this Form: _____

Title of Person Submitting this Form: _____

Question:

Indicate if you or any officer of your organization, or any party owning or controlling more than ten (10) percent of your stock if you are a corporation, or any member if you are a firm or association is an officer or employee of the State of New York or of a public benefit corporation of the State of New York.

Yes ☐ No ☐

Signature: _____

Printed Name: _____ Date: _____

Contact Information:

If you have any questions or concerns regarding the form, please contact the procurement officer at (315) 464-5720 or via their e-mail address noted above.

EO 177 Certification

The New York State Human Rights Law, Article 15 of the Executive Law, prohibits discrimination and harassment based on age, race, creed, color, national origin, sex, pregnancy or pregnancy-related conditions, sexual orientation, gender identity, disability, marital status, familial status, domestic violence victim status, prior arrest or conviction record, military status or predisposing genetic characteristics.

The Human Rights Law may also require reasonable accommodation for persons with disabilities and pregnancy-related conditions. A reasonable accommodation is an adjustment to a job or work environment that enables a person with a disability to perform the essential functions of a job in a reasonable manner. The Human Rights Law may also require reasonable accommodation in employment on the basis of Sabbath observance or religious practices.

Generally, the Human Rights Law applies to:

- all employers of four or more people, employment agencies, labor organizations and apprenticeship training programs in all instances of discrimination or harassment;
- employers with fewer than four employees in all cases involving sexual harassment; and,
- any employer of domestic workers in cases involving sexual harassment or harassment based on gender, race, religion or national origin.

In accordance with Executive Order No. 177, the Bidder hereby certifies that it does not have institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sex, sexual orientation, gender identity, disability, marital status, military status, or other protected status under the Human Rights Law.

Executive Order No. 177 and this certification do not affect institutional policies or practices that are protected by existing law, including but not limited to the First Amendment of the United States Constitution, Article 1, Section 3 of the New York State Constitution, and Section 296(11) of the New York State Human Rights Law.

Contractor: _____

Signature: _____

Name: _____

Title: _____

Date: _____, 20____

Certification Under Executive Order No. 16 Prohibiting State Agencies and Authorities from Contracting with Businesses Conducting Business in Russia

Executive Order No. 16 provides that “all Affected State Entities are directed to refrain from entering into any new contract or renewing any existing contract with an entity conducting business operations in Russia.” The complete text of Executive Order No. 16 can be found [here](#).

The Executive Order remains in effect while sanctions imposed by the federal government are in effect. Accordingly, vendors who may be excluded from award because of current business operations in Russia are nevertheless encouraged to respond to solicitations to preserve their contracting opportunities in case the sanctions are lifted during a solicitation or even after award in the case of some solicitations.

As defined in Executive Order No. 16, an “entity conducting business operations in Russia” means an institution or company, wherever located, conducting any commercial activity in Russia or transacting business with the Russian Government or with commercial entities headquartered in Russia or with their principal place of business in Russia in the form of contracting, sales, purchasing, investment, or any business partnership.

Is Vendor an entity conducting business operations in Russia, as defined above? Please answer by checking one of the following boxes:

1. No, Vendor does not conduct business operations in Russia within the meaning of Executive Order No. 16.
- 2.a. Yes, Vendor conducts business operations in Russia within the meaning of Executive Order No. 16 but has taken steps to wind down business operations in Russia or is in the process of winding down business operations in Russia. (Please provide a detailed description of the wind down process and a schedule for completion.)
- 2.b. Yes, Vendor conducts business operations in Russia within the meaning of Executive Order No. 16 but only to the extent necessary to provide vital health and safety services within Russia or to comply with federal law, regulations, executive orders, or directives. (Please provide a detailed description of the services being provided or the relevant laws, regulations, etc.)
3. Yes, Vendor conducts business operations in Russia within the meaning of Executive Order No. 16.

The undersigned certifies under penalties of perjury that they are knowledgeable about the Vendor’s business and operations and that the answer provided herein is true to the best of their knowledge and belief.

Vendor Name: _____
(legal entity)

By: _____
(signature)

Name: _____

Title: _____

Date: _____