



REQUEST FOR PROPOSALS

UCO 1002- PCI Compliance Consulting Services

Issue Date: July 31, 2026

Proposal Submission Due Date:
August 26, 2026 by 2:00 pm Eastern Standard
Time (EST)

Designated Contact:

Name: Helena Gacina
Title: Purchasing Manager
Address: 205 East 42nd Street
New York, NY 10017
Email: helena.gacina@cuny.edu

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FORMS THAT MUST BE SUBMITTED WITH THE PROPOSAL

- ☐ Form 1: Proper Information and Authorized Signature; Acceptance of Contract Terms; Proper Certifications; Confidential Information; Signed RFP Addenda; and References
- ☐ Form 2: Offeror's Affirmation of Understanding of And Agreement pursuant to State Finance Law § 139-j(3) and § 139-j(6)(b)
- ☐ Form 3: Offeror's Disclosure of Prior Non-Responsibility Determinations and Certification of Compliance with State Finance Law § 139-j and § 139-k
- ☐ Form 4: Diversity Practices Questionnaire
- ☐ Form 5: Supplier Diversity (M/WBE/SDVOB) Utilization Plan and/or Supplier Diversity (MWBE/SDVOB) Request for Waiver Form. Also see Supplier Diversity Provisions in Part 9.
- ☐ Form 6: RFP Checklist and Minimum Qualifications Checklist
- ☐ Form 20: Gender-Based Violence and the Workplace Certification

FORMS THAT CUNY MAY REQUIRE FROM THE PRESUMPTIVE AWARDEE

If required by CUNY, the Presumptive Awardee selected as a result of this solicitation (the "Presumptive Awardee") shall complete, sign, and submit the following forms and certifications as described in **Section 2.3.5** through **2.3.12** of Part 10 of this RFP.

- ☐ Form 7: Executive Law Article 15-A – Minority and Women-Owned Business Enterprises and Equal Employment Opportunity Policy Statement
- ☐ Form 8: Evidence in form and substance satisfactory to the University that the Contractor maintains workers' compensation coverage and disability insurance coverage as required by the New York State Workers' Compensation Law, or is exempt from this requirement
- ☐ Form 9: New York State Vendor Responsibility Questionnaire (NYS VendRep)

Form 10: All documents and information required by the New York City Vendor and Principal Questionnaire (NYC PASSPort)

FORMS THAT THE CONTRACTOR MUST SUBMIT UPON REQUEST BY CUNY BEFORE, DURING, AND AFTER THE PROPOSED CONTRACT TERM

- ☐ Form 11: CUNY Substitute W-9 Form
- ☐ Form 12: Workforce Utilization Report
- ☐ Form 13: Supplier Diversity (MWBE/SDVOB) Quarterly Contractor Compliance & Payment Report
- ☐ Form 14: State Consultant Services – Contractor's Planned Employment (Consultant Disclosure Form A)
- ☐ Form 15: State Consultant Services Contractor's Annual Employment Report (Consultant Disclosure Form B)
- ☐ Form 16: Tax Law §5-a, Form ST-220-CA – Contractor Certification (Contractor to send to the University)
- ☐ Form 17: Tax Law §5-a, Form ST-220-TD – Contractor Certification (Contractor to send to the State)
- ☐ Form 18: Certified Weekly Payroll Report
- ☐ Form 19: Contractor's Safety Protocols

Part 1: Key Events and Dates; Designated Contacts; Proposal Due Location; Contract Term

Key Events and Dates

Action	Date
CUNY issues RFP for PCI Compliance Consulting Services	July 31, 2026
Submission of Written Questions-Round 1 Due Date	August 10, 2026 by 2:00 pm Eastern Standard Time (EST)
Submission of Written Questions-Round 2 Due Date	August 18, 2026 by 2:00 pm Eastern Standard Time (EST)
Proposal Submission Due Date and Time	August 26, 2026 by 2:00 pm Eastern Standard Time (EST)

***Proposers are advised to read all sections of this RFP document carefully, with emphasis on all terms and conditions. By tendering a response to this solicitation, each proposer agrees that it accepts all terms and conditions in the package without exception. If a vendor requires clarification on, or seeks to propose an exception to, any of the terms and conditions contained in the solicitation package, all such requests must be made in writing prior to the Questions Deadlines listed above. Proposed exceptions will be evaluated on a case-by-case basis, and determinations will be published in a subsequent addendum. Proposers are not to rely upon an exception agreed to for a prior contract award to govern the terms of this solicitation – all proposed exceptions must be introduced and incorporated via addendum issued specifically for this solicitation. A proposer who submits exceptions to the solicitation after the Q&A Period may result in the proposer's submittal being deemed non-responsive by the University.*

CUNY reserves the right to amend any of the above dates and will issue such change in writing.

I. Designated Contact(s):

In compliance with the Procurement Lobbying Law, the individual(s) identified below are the Designated Contact(s) for this Request for Proposals solicitation and may be contacted for all inquiries regarding this solicitation:

The City University of New York
205 East 42nd Street, 10th Floor
New York, NY 10017
Attention: Helena Gacina /Purchasing Manager
E-mail: helena.gacina@cuny.edu

New York State Procurement Lobbying Law permits rejection of a Proposal if a Proposer has made any unauthorized contact during the Restricted Period (as defined in the Procurement Lobbying Law). Multiple violations of procurement lobbying restrictions regarding permissible contacts may lead to a Proposer's being debarred from participating in future New York State procurements.

II. Proposal Due Location:

CUNY is not responsible for the delivery or submission of Proposals. Only Proposals that are sent, and accepted by the Designated Contact, shall be accepted. CUNY is not responsible for Proposals received after the deadline, regardless of the reason for lateness. On a case-by-case basis, CUNY may deem it acceptable for Proposals to be submitted via e-mail. **For this solicitation, CUNY will be accepting. Proposals via email. Proposals may be sent to: Helena.Gacina@cuny.edu.**

- Proposals submitted via e-mail must include scans of original (wet) signatures and notarizations to be considered a valid Proposal.
- Proposals (including any excel spreadsheets) must be clearly labeled with three (3) separate pdf attachments clearly named for Volume I (Forms), Volume II (Technical Proposal), and Volume III (Proposal Price).
- Proposals submitted via e-mail must be clearly labeled with Proposer's name and the RFP's Project name by including the following subject line:

[Firm's Name] – UCO 1002 PCI Compliance Consulting Services Proposal Submission

III. Anticipated Number of Contracts

CUNY anticipates awarding one (1) contract based on an evaluation of best value, as further described in Part 6 of this RFP (such written determination by the University to a Proposer stating that the University has accepted a Proposal, a "Contract Award").

IV. Anticipated Contract Term:

The term of the Contract will be for three (3) years, commencing on the date that the Contract is approved by the Attorney General and the New York State Comptroller, as applicable. CUNY will have the option to renew this contract for two (2) one-year options at its sole discretion. Such renewal if exercised will be subject to approval from the Attorney General and the New York State Comptroller, as applicable.

V. Questions and Clarifications Regarding RFP Requirements:

All questions, requests for clarifications, or requests for a revision to any term or condition of this RFP must be submitted to the University's designated contact (see Section I above) prior to the applicable due date(s) for submission of written questions. The University will not consider proposed revisions to the terms and conditions set forth in the RFP after such date(s) and will not negotiate the terms and conditions set forth in the RFP at any other time.

With respect to any requests for revisions to Part 7: Terms and Conditions, please be advised that such requests must be in the following format: a copy of the specific clause with the suggested revisions in redline form. The University will not consider requests for revisions to Part 7 that fail to follow this format.

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Part 2: Proposer Qualifications and Requirements; and Diversity Participation Goals

Paragraph I: Minimum Proposer Qualifications (mandatory qualifications):

CUNY is seeking up to three (3) appropriately qualified firms with experience in providing the Services as described in Part 3, below (the "Project"). To be considered for Contract Award, the Proposers must meet the following minimum qualifications:

- a. Proposers must have a minimum of ten (10) years relevant experience providing Payment Card Industry Data Security Standard ("PCI DSS") compliance services as required by this RFP.
- b. Proposers must comply with all the regulatory requirements set forth in Parts 3.2 and 3.3 of the Scope of Work.
- c. The Proposer must provide a minimum of three (3) relevant references, including the name of the reference, a brief statement describing the relationship between the Proposer and the reference, and the name, title and telephone number of a contact person at the reference. Please obtain prior approval for the University to contact the references.
- d. Proposers must be authorized to work in New York State.
- e. Proposers' Subcontractors (as defined below) must also possess appropriate qualifications and an acceptable level of experience, as determined by CUNY in its sole discretion.

Paragraph II: Non-Mandatory Proposer Qualifications:

Preference will be given to Proposers whose teams include former college presidents, chancellors, or deans with public/systems experience.

Paragraph III: Supplier Diversity Participation Goals:

- CUNY has established a 30% participation goal (based on the current availability of qualified MWBEs) in the aggregate for New York State certified Minority-Owned Business Enterprise ("MBE") and Women-Owned Business Enterprises ("WBE", and, together with MBE, "MWBEs") and a 6% participation goal (based on the current availability of qualified SDVOBs) for New York State certified Service-Disabled Veteran-Owned Businesses ("SDVOB"), to be part of the proposed team to provide the Services as subcontractor(s) or suppliers (the "Subcontractor(s)"). The Contractor (as defined in Part 3 below) shall be required to use good faith efforts to meet these participation goals.
- Proposers may identify potential MWBE Subcontractor(s) by, among other means, referencing the directory of New York State certified MWBEs found at the following

internet address: <https://ny.newnycontracts.com/>

- Proposers may identify potential SDVOB Subcontractor(s) by, among other means, referencing the list of New York State certified SDVOBs found at the following internet address: <https://ogs.ny.gov/veterans>.

As part of the proposer's response, a Supplier Diversity — MWBE/SDVOB Utilization Plan or a Request for Waiver form that is accompanied by supporting documentation must be submitted in order for the proposal to be considered responsive. The selected Contractor will be required to complete a Quarterly Contractor Compliance & Payment Report accompanied by proof of payment to MWBE/SDVOB Subcontractor(s), in such format as shall be required by CUNY on a quarterly basis during the term of the contract. Sample CUNY Supplier Diversity forms and reports may be found at <https://www1.cuny.edu/sites/selltocuny/>.

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Part 3: Project Objectives and Scope; Detailed Specifications and Deliverables; and Contract-Specific Provisions

3.1 Project Objectives and Scope:

The City University of New York (CUNY) is seeking a qualified Contractor to provide Payment Card Industry Data Security Standard (PCI DSS) Compliance Services. The selected Contractor will assist the University in achieving and maintaining compliance with the current PCI DSS, including but not limited to policy and procedure updates, training, and ongoing advisory support. The Contractor will work closely with the University's PCI team and relevant stakeholders to ensure all requirements are met within mandated timelines.

3.2 Detailed Specifications and Deliverables:

General Requirements:

The Contractors shall provide the following professional services on an ongoing basis, (the "Services"):

- Perform a PCI DSS gap analysis and provide remediation guidance for the University's cardholder data environment (CDE).
- Update University policies, procedures, and training materials to align with current PCI DSS.
- Assist with the establishment, maintenance, and management of merchant accounts, merchant IDs, and Payment Gateways.
- Participate in regularly scheduled assessments and meetings with University stakeholders.
- Provide subject matter expertise and guidance to the University.
- Provide support on other related matters as needed.
- Provide phone, email, and online support assistance to CUNY merchants during normal business hours.
- Provide ongoing support for managing SAQs, TPSPs, and other components of CUNY's payment ecosystem.
- Conduct continuous research and discovery to identify vulnerabilities or compliance gaps within merchant environments.

3.3 Specific Task and Deliverables

3.3.1 General

- Assist with (as needed) review and assess credit card data devices and network infrastructure against PCI DSS requirements.
- Assist with performing control observation, review, and validation.
- Identify risks and gaps that may lead to non-compliance and provide remediation steps.

3.3.2 Policy, Procedures and Training

- Develop and deliver updated PCI DSS policies and procedures, including:

- Device Inspection Guide & Checklist
- Self-Assessment Questionnaire (SAQ) Training
- PCI DSS Compliance Checklist
- Service Provider Checklist
- Procedures for External & Internal Vulnerability Scanning
- Design and/or deliver supplemental training materials.
- Maintain annual PCI training for the University in compliance with current PCI DSS.

3.3.3 Ongoing Support and Advisory

- Monitor industry updates and provide ongoing guidance on technical requirements under PCI DSS.
- Participate in project/program management and planning activities related to PCI compliance.
- Create reusable templates to streamline future certification efforts.
- Assist with evaluation and implementation of new payment solutions aligned with PCI DSS and institutional needs.
- Review third-party contracts for PCI compliance requirements and recommend modifications.
- Assess new and existing payment card environments for compliance and providing recommendations to address vulnerability gaps.

3.3.4 Documentation and Reporting

- Review existing documentation, including network diagrams, process/data flow diagrams, policies, procedures, and previous ROC.
- Maintain electronic records of all compliance activities, findings, and deliverables.
- Provide management reports and customized reports as requested.
- Assist with reviewing PCI DSS Attestation of Compliance (AOC) from third parties.
- Maintain version-controlled documentation for all CUNY PCI policies, procedures, diagrams, and system inventories.

3.3.5 Merchant Account and Gateway Management

- Merchant Accounts and IDs: Assist with the establishment, maintenance, and management of merchant accounts and IDs, coordinating with financial institutions, acquirers, and stakeholders to ensure compliance.
- Assist with Payment Gateways (as needed): Set up, configure, and maintain secure payment gateways integrated with processors.
- Assist with Set Up and Test System and Configuration (as needed): Support system setup and testing of card transactions prior to production use.
- Provide payment-system onboarding support for campus merchant environments

3.3.6 Equipment and Technology Support

- Equipment and Software: Recommend PCI-approved hardware and software, assist with system tests for compliance, and remediate issues before deployment.

- General Payment Systems Troubleshooting: assist with troubleshooting technical issues such as hardware failures, software errors, and transaction processing problems.
- Provide coordination for multi-campus deployments or system standardization efforts.

3.3.7 Payment Solution Evaluation and Recommendation

- Recommend secure solutions for card-present, online, and mobile payments.
- Ensure recommended solutions reduce PCI scope wherever possible through validated P2PE, tokenization, EMV, and NFC support.
- Ensure solutions include tiered access, admin-level controls, and user lifecycle management.
- Provide recommendations that promote University-wide standardization of payment systems, processors, and software.
- Provide detailed solution comparison reports outlining scope reduction impact, compliance benefits, operational fit, and cost considerations.
- Ensure solutions support custom reporting, financial tracking, and reconciliation functionality.

3.3.8 Compliance and Regulatory Requirements

- Contractor must comply with all applicable federal, state, and local statutes, laws, ordinances, and regulations, including:
 - FERPA, Federal Privacy Act, Gramm-Leach-Bliley Act
 - Relevant state and city finance laws and consumer protection rules

3.3.9 Subcontracting and Team Requirements

- No subcontracting without prior written approval from the University.
- Contractor must provide documentation of qualifications for all proposed key team members.
- Contractor must maintain continuity of the project team and notify the University of any changes.

3.3.10 Confidentiality and Data Security

- Contractor must adhere to strict confidentiality and data security protocols.
- All confidential information must be stored securely and access restricted to authorized personnel.
- Contractor must notify the University of any breach of security or unauthorized disclosure.

3.4 Contract-Specific Provisions: General Contractor Responsibilities

1. Subcontracting

Contractor shall not subcontract any part or the entire Contract without the prior written consent of CUNY, which may be withheld, conditioned, or rescinded at CUNY's sole and

absolute discretion. CUNY may request information concerning the qualifications and experience of any proposed subcontractor, and Contractor shall provide such information promptly upon CUNY's request. CUNY reserves the right to require that any previously approved Subcontractor be removed from the Project, and Contractor shall remove any such Subcontractor following notice from CUNY by the deadline specified by CUNY in such notice.

2. Location of Services

Contractor shall provide and use its own equipment for its staff providing the Services.

3. Project Team

Contractor shall designate in writing to CUNY a project manager of Contractor's firm as Contractor's project manager for this Project ("Project Manager"). The Project Manager shall:

- a. serve as principal liaison between CUNY and Contractor for purposes of administration of the Contract;
- b. be an employee of the Contractor (and not a consultant, contractor or subcontractor);
- c. have full decision-making authority on behalf of Contractor including authority to obligate Contractor;
- d. maintain control over the work duties, schedule, and performance of the Contractor team;
- e. conduct status meetings and provide status reports as requested;
- f. provide meeting summaries (minutes) within three (3) business days of meetings; and
- g. resolve any CUNY questions and comments on the submitted deliverables.

Contractor shall provide documentation with respect to all proposed initial and replacement Key Team Members of the Contractor Project Team showing that these individuals meet the qualifications required to perform the Services.

Contractor shall make best efforts to maintain continuity of the Contractor Project Team and Key Team Members. Contractor shall notify CUNY in writing prior to any replacement of Key Team Members. CUNY reserves the right to approve or reject any employees proposed to replace Contractor Project Team employees.

Nothing in this section shall be deemed to preclude CUNY from discussing any matters relating to Contract with any other members of Contractor's organization.

4. Communications

Contractor shall obtain CUNY's prior written approval before Contractor, or any of its officers, employees, agents or subcontractor(s), makes any statement to the press or issues any communication or publication concerning, or related to, the Services.

5. Document Delivery

- a. Contractor shall provide any deliverables requested by the University (together with the Report, the "Deliverables") to the University in sufficient time for CUNY review, including modification and final approval. Contractor shall respond to any CUNY comments to the Deliverables, make such modifications as may be necessary, and resubmit updated draft Deliverables to CUNY until receiving final approval in writing from

CUNY ("Acceptance").

- b. Contractor shall transmit each deliverable to the University with a dated and signed transmittal letter.

6. Return of CUNY Information at Termination

Contractor shall, within ten (10) calendar days of termination of Services for any reason, with respect to all CUNY documents and data, in whatever media, whether originally provided or created during performance of the Services:

- a. return them to CUNY; or, at Contractor's discretion,
- b. destroy them and provide independent certification of destruction of all copies.

7. Invoices and Payment

- a. Contractor shall submit invoices to University's Accounts Payable Department, invoices@cuny.edu, at a time interval and in a format approved by the University.
- b. Contractor shall provide sufficient and appropriate documentation with invoices. For each year in which at least one Purchase Order was issued to Contractor during the billing period, invoices shall indicate the Unit Price per Evaluation for that year (from Part 5 of this RFP), *multiplied by* the quantity of Evaluations performed during the billing period for which the Purchase Order was issued during that year. The University agrees to pay, and the Contractor agrees to accept, an amount not to exceed the Proposal Price indicated in the Proposal Price Breakdown (Part 5 of this RFP) *multiplied by* the total number of Evaluations performed as the maximum payment for the Services provided under this Contract. There is no minimum guarantee of Services under this Contract and Contractor's Proposal Price shall in no way be construed as a guaranteed payment. The University reserves the right to request additional information at any time.
- c. Contractor acknowledges and agrees that the University will pay Contractor only upon acceptance of properly prepared invoices with sufficient supporting documentation and only after Contractor has received Acceptance from the University of each of the Deliverables for each Evaluation appearing on the invoice.
- d. The University will not pay Contractor for work performed beyond the scope of this Project or for any change order not duly authorized.
- e. Report preparation, including editing, printing, and delivery to the University shall be the sole responsibility of the Contractor and shall not be reimbursable as a direct cost. If unusual circumstances are encountered that make it necessary for the Contractor to do additional work, Contractor shall report such conditions to University. No additional work may be performed unless authorized by CUNY in writing in advance.

8. Miscellaneous

- a. University will identify a contract manager (or alternate) to act as the liaison with the Contractor.

- b. Contractor acknowledges and agrees that the University will not provide clerical support.
- c. Contractor acknowledges and agrees that Contractor will not be provided computer time or the use of computer hardware and software.
- d. Before performing any work under the Contract, Contractor shall procure and maintain with companies satisfactory to CUNY, the types of insurance in the amounts outlined in **herein**. Contractor shall maintain said insurance during the term of the Contract up and to the date of the final acceptance of the work, or termination of the Contract, whichever occurs later.

9. Insurance

9.1 Before performing any Work and during performance of this Contract and up to the date of final acceptance of the Work, Contractor shall procure and maintain with companies satisfactory to the University, the following types of insurance, in the amounts shown below.

9.1.1 Workers' Compensation Insurance: Statutory Workers' Compensation Insurance in accord with the Laws of the State on behalf of all employees who are to provide labor or service under this Contract.

9.1.2 Professional Liability/Errors& Omissions and Internet Policies: Professional Liability/Error & Omissions and Internet Policies in the Contractor's name. The policy(ies) shall include coverage to the above-named entities for professional services, security and privacy, and include a waiver of subrogation in favor of the University. Such insurance shall be in an amount not less than one million dollars (\$ 1,000,000) per occurrence.

9.2 Contractor shall deliver to the University certificates of such insurance or authority for self-insurance before Contractor commences the Work and/or upon request by the University.

9.3 Contractor shall ensure that no insurance policy required by this Contract may be canceled, terminated, modified or changed by Contractor's insurer unless thirty (30) calendar days' prior written notice is sent by certified mail to the University.

9.4 Contractor shall ensure that no insurance policy required by this Contract shall be canceled, terminated, modified or changed by Contractor's insurer without prior written consent of the University.

9.5 No insurance policy required hereunder shall be invalidated by reason of any of the terms of any policy issued by the insurance company to Contractor.

9.6 Through an executed amendment to this Contract by the University and Contractor, the University reserves the right to add additional insurance requirements and Contractor shall procure such additional insurance requirements within such period as the parties agree in the amendment.

9.7 The University reserves the right to request certified complete copies of required insurance policies at any time. Contractor shall provide such requested copies within three (3) calendar days of notice of request for same.

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10. CUNY Service Provider Standard

City University of New York Cybersecurity Standards

Standard Owner: CUNY Computing and Information Systems
Approvers: Eusebio Formoso, Vice Chancellor for Information Technology and University CIO
Effective Date: July 15, 2024

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1.0 Purpose

This standard defines the security requirements for engaging Service Providers that host or process City University of New York (CUNY) data, including:

- Establishing an engagement-specific strategy for managing Confidential Data access, use, and destruction.
- Documenting and communicating the processes and guidelines developed to help proactively manage and safeguard CUNY data throughout the engagement lifecycle.
- Creating a better understanding of security and privacy requirements for handling CUNY Data during and after the engagement.
- Preventing, detecting, and correcting confidentiality incidents on the project.

By adhering to the requirements in this standard, Service Providers can help CUNY maintain the security and integrity of the CUNY network and data.

2.0 Audience

Service Providers that host, access, or process CUNY data.

3.0 Scope

This standard applies to all work, applications, and services contracted by the City University of New York for hosting, accessing, or processing CUNY data.

4.0 Definitions

The following terms are used in this standard:

Cloud Computing

As defined by the National Institute of Standards and Technology (NIST), “Cloud computing is a model for enabling ubiquitous, convenient, on-demand network access to a shared pool of configurable, computing resources (e.g., networks, servers, storage, applications and services) that can be rapidly provisioned and released with minimal management effort or Service interaction: three service models and four deployment models.”

Cloud Computing Deployment Models

Private cloud. The cloud infrastructure is operated solely for CUNY. It may be managed by CUNY or a Service Provider and may exist on premise or off premise. The private cloud model is typically considered the lowest risk out of the different deployment models.

Community cloud. Several organizations share the cloud infrastructure and support a specific community that has shared concerns (for example, mission, security requirements, policy, and compliance considerations). It may be managed by CUNY or a third-party Service Provider and may exist on premises or off premises.

Public cloud. The cloud infrastructure is made available to the general public, or a large industry group, and is owned by an organization selling cloud services. The public cloud model is typically considered the highest risk due to its wide-scale accessibility and limited segregation of services.

Hybrid cloud. The cloud infrastructure is a composition of two or more clouds (private, community, or public) that remain unique entities but are bound together by standardized or proprietary technology that enables data and application portability (e.g., cloud bursting for load balancing between clouds). The evaluation of risk at the hybrid cloud model is unique to each deployment.

Cloud Computing Service Models

Software as a Service (SaaS). The capability allows CUNY to use the provider’s applications running on the provider’s cloud infrastructure. The applications are accessible from various CUNY devices through a thin client interface such as a web browser (e.g., web-based email). **The Service Provider in this case is responsible for the highest amount of security and data protection under this model.**

Platform as a Service (PaaS). The capability provides CUNY the ability to deploy onto the cloud infrastructure CUNY-created or acquired applications created using programming languages and tools supported by the provider. PaaS adds a layer of integration with application development frameworks, middleware capabilities that allow developers to build applications on the platform with programming languages and tools supported by the stack. **Security is a shared responsibility with the provider responsible for the underlying platform infrastructure, and CUNY is responsible for securing the applications developed on the platform.**

Infrastructure as a Service (IaaS). The capability provides CUNY with the provision processing, storage, networks, and other fundamental computing resources where CUNY can deploy and run arbitrary software, which can include operating systems and applications. The computing infrastructure is typically deployed as a virtual environment. **CUNY is responsible for the highest amount of security and data protection under this model.**

CUNY Classified Confidential Data

As defined by CUNY Information Security policy, Data Classification Standard, CUNY Classified Confidential Data includes the following types of data: Personal Identifiable Information (PII), New York State Private Information, Personal Identifiable Education Records, Student ID, Protected Health information (PHI), Citizenship, Personnel Records, Payment Card Information, Covered Financial Information, Restricted Procurement information, Federal Tax Information (FTI), Intellectual Property, Personally Identifiable and Restricted Research Data, Passwords and Access codes, Export Controlled Materials, Other Confidential Information.

Service Provider

Any vendor that provides services that may impact the Confidential Data of CUNY users or students' entities, such as the following examples:

- Data center provider
- Software as a service (SaaS)
- Disaster Recovery as a Service
- Any managed services-dealing with confidential data
- Payroll processors
- Medical Claim Processor
- Loan serving company.
- Any Service Provider that process/collect payments on behalf of CUNY

CUNY Shared Data

Data that is owned by CUNY, regardless of the class, that has been shared with the Service Provider. All CUNY owned data shall not be stored/hosted/processed outside of the US territories.

5.0 Resources

The following individuals and groups are responsible for developing and managing this standard:

- University Chief Cybersecurity Risk Officer
- University Chief Information Security Officer
- Computing and Information Services offices of Information Security and Cybersecurity

6.0 Standard Statements

6.1 Security Requirements

6.1.1 Access Control and Privilege Management

- CUNY will grant Service Provider Employees access to CUNY-hosted and/or managed infrastructure and systems (“CUNY systems”) prior to the commencement of the project (e.g., Secure File Transfer Protocol-SFTP, approved collaboration sites, etc.).
- The access of Service Provider Employees to CUNY data will be restricted to the data provided by CUNY, located on CUNY systems.
- CUNY will always retain control over Service Provider Employees’ access to CUNY systems.
- CUNY Confidential Data should not be stored in locations external to CUNY systems. Confidential Data should not be downloaded to a portable device. Any exception will need to go through CUNY Cybersecurity office for a formal security review and approval in advance of engagement.
- The principle of Least Privilege must be implemented, which involves granting the minimal level of access necessary for each role, including specific security functions and privileged accounts. Additionally, the maintenance of Segregation of Functions must be ensured, which involves dividing responsibilities among different roles or individuals to prevent potential conflicts of interest or misuse of power. This segregation should be consistently upheld.
- Service Provider Employees will comply with CUNY security protocols for access to CUNY systems, including connecting to CUNY systems using Virtual Private Network (VPN), Multi Factor Authentication, Remote Desktop and/or other secure methods as defined by CUNY.
- All data received from CUNY must be used solely for the stated and agreed purpose.
- CUNY provided Confidential Data may not be hosted by “offshore” datacenters, outside of the United States or its territories, without explicit written authorization by CUNY. All physical locations where Confidential Data is stored, transmitted, processed and/or received must remain within the United States or its territories. This includes all primary and secondary data centers and any backup facilities. Additionally, cloud environments (and any components, including storage, virtualization, operating systems and networking) must all reside in the US territories. Furthermore, Confidential Data may not be received, stored, processed, or disposed of via information technology systems located offshore.
- Access to the system is allowed from offshore locations, but it is mandatory to have certain security measures in place. These include Data Loss Prevention (DLP), Multi-Factor Authentication (MFA), and controlled access. Additionally, all activities must be monitored.

- Confidential Data can be accessed by the Service Provider's employees from networks located outside the United States. However, while doing so, they must adhere to all the security requirements outlined in this document. To ensure compliance with these requirements, a periodic audit review and certification by an independent and certified audit firm is necessary. This certification, which demonstrates compliance, must be renewed annually or whenever requested by CUNY.
- User sessions should be locked after 15 minutes of inactivity and remote user sessions should be terminated after 30 minutes of inactivity.
- All remote user sessions should be monitored for security vulnerabilities.

6.1.2 Awareness and Training

- CUNY mandates that all employees and consultants complete the CUNY Cybersecurity Training courses.
- CUNY stipulates that all Service Providers must provide security awareness training to all their staff members who have access to CUNY Confidential Infrastructure.

6.1.3 Audit and Accountability

- Audit logs must be configured to track activities occurring on the system. They should also include requirements for establishing audit-related processes at the application and system levels. Within the application, auditing should be activated to the extent necessary to record access, modification, deletion, and movement of Confidential Data provided by CUNY by each unique user. This auditing requirement extends to data tables or databases embedded in or located outside of the application.
- Service Providers should have the capability to log, audit, monitor, and report Confidential Data access history as required.
- All technology Service Providers must enable file-level data access history, regardless of whether they are using on-premises or cloud hosting solutions.
- Detection and prevention of data loss at the file level must be enabled for all technology Service Providers, irrespective of whether they are using on-premises or cloud hosting solutions.
- All security requirements outlined in this document must be adhered to, and a periodic audit review and certification by an independent/certified audit firm is mandatory; recertification demonstrating compliance is required annually or upon request by CUNY.

6.1.4 Identification and Authentication

- User access control must be implemented to identify who has accessed CUNY shared data. User access must be logged for auditing purposes. All log data should be available, if needed, for a minimum of 1 year.
- Before granting access to the City University of New York (CUNY) systems and Critical Infrastructure, it is essential to authenticate the identities of all users, processes, or devices. To maintain continued access, all granted access must undergo a recertification process annually.
- Multifactor Authentication must be activated for both local and network access to CUNY systems and Confidential Data. All Service Providers will need to enforce password

policy that meets or exceeds the password security published in the NIST Special Publication (SP) 800-63-3 “Digital Identity Guidelines” as minimum standard. Access will need to be disabled for Inactive users after 90 days of inactivity.

6.1.5 Maintenance/ Patch Update

The system (hardware and software) used to receive, store and process CUNY data must be kept up to date with the necessary patches for known security vulnerabilities according to the New York State published IT standard (New York State Information Technology Standard: No. NYS-S15-001: IT Standard Patch Management).

6.1.6 Media Protection

- System media containing Confidential Data must be sanitized or destroyed before disposal or release for reuse. The Service Provider is required to dispose of systems/devices containing Confidential Data in accordance with the disposal standards published by the New York State (New York State Information Technology Standard No. NYS—S13-003: IT Standard Sanitization/Secure Disposal).
- Storing Confidential Data on physical/portable media (CD, USB, Paper, etc.) is prohibited.
- Any printed materials containing Confidential Data should be destroyed using locked shredding containers as soon as the materials are no longer required.
- Any media used in the backup and recovery system should be treated with the same as the primary system, with the same security safeguard measures.

6.1.7 Encryption

- Service Providers shall adhere to the established New York State Information Technology Standard on encryption (New York State Information Technology Standard No. NYS—S14-007: IT Standard Encryption).
- Approved encryption algorithms must be (of a minimum key length of 256 bits) used for CUNY Confidential Data at rest and data in transit.
- Key Management requirements:
 - Establish and manage cryptographic keys for cryptography employed in organizational systems.
 - Private keys must be kept confidential.
 - Key lifecycle management must be implemented.
 - Keys in storage and transit must be encrypted.
 - Keys must be chosen randomly from the entire key space.
 - Encryption keys must allow for retrieval for administrative or forensic use.

6.1.8 Data At Rest and In Transit

- Confidential Data stored in a database or filesystem (at rest) must be encrypted as per the New York State Encryption Standard.
- Password protection is not deemed an acceptable alternative to encryption for protecting Confidential Data.

- The preferred method for transporting Confidential Data to meet business needs is using the CUNY infrastructure. Confidential Data that is transmitted electronically must be encrypted during transmission. The preferred methods of data transfer include CUNY SFTP, Network Drive, and CUNY collaboration sites approved for Confidential Data.
- Confidential Data sent across any network connection must be encrypted according to the New York State Encryption Standard (New York State Information Technology Standard No. NYS—S14-007: IT Standard Encryption).
- The transmission of Confidential Data through web applications or email without encryption is prohibited.
- Wireless networks must utilize an encryption method approved by the New York State Standard (New York State Information Technology Standard No. NYS—S14-007: IT Standard Encryption).

6.1.9 Personnel Security

- All employees, vendors, and subcontractors engaged by CUNY are required to sign a Confidentiality Disclosure Agreement (CDA) form.
- Prior to granting access to systems containing Confidential Data, background clearance must be obtained from the individuals.

6.2 Risk Management Requirements

6.2.1 Risk Assessments

- Service Providers are required to conduct an annual assessment of the security controls in place on all information systems used for receiving, processing, storing, and transmitting Confidential Data. The CUNY Computing and Information Services (CIS) office will review the risks to organizational operations (including mission, functions, image, or reputation), organizational assets, and individuals, resulting from the operation of organizational systems and the associated processing, storage, or transmission of Confidential Data.
- Service Providers are obligated to perform a risk assessment, or update an existing one if already in place, during the process of transferring Critical Infrastructure to a cloud-based environment. Subsequently, this risk assessment must be reviewed annually to account for any changes in the environment. The risk assessment should cover both the execution of the migration and an evaluation of the associated risks. The CUNY Computing and Information Services (CIS) cybersecurity office will assess the risk evaluation as part of the notification obligation.
- Organizational systems and applications should be scanned periodically for vulnerabilities and when new vulnerabilities affecting those systems and applications are identified. Vulnerabilities identified by the scans need to be remediated according to the risk level.

6.2.2 Annual Certifications

CUNY requires annual SOC1/SOC2/SSAE18 certification from vendors if they provide services like the following that may impact the Confidential Data of CUNY users or students' entities:

- Data center provider
- Software as a service (SaaS)
- Any managed services-dealing with confidential data
- Payroll processors
- Medical Claim Processor
- Loan serving company
- Any Service Provider that process/collect payments on behalf of CUNY

6.2.3 Monitoring

- CUNY systems will be monitored and governed by CUNY Data Loss Prevention (DLP) policies.
- Service Providers are required to establish and utilize automated systems for monitoring and controlling remote access sessions. The primary objectives of this are to identify potential cyber-attacks and to ensure ongoing compliance with remote access policies. This is accomplished by auditing the connection activities of remote users across various system components, including servers, workstations, laptops, smartphones, and tablets.
- Service Providers are obligated to generate and maintain system audit logs and records to the extent necessary to facilitate the monitoring, analysis, investigation, and reporting of illegal or unauthorized system activity.

6.2.4 Configuration Management/Change Management

- It is crucial to establish and consistently uphold baseline configurations and inventories for all Service Provider organizational systems, including hardware, software, firmware, and documentation. These baselines and inventories should be maintained throughout the entire life cycle of the Service Provider's system development.
- Establish and enforce security configuration settings for information technology products used in Service Provider systems. All changes should be tracked, reviewed, and either approved or disapproved. Changes to Service Provider systems should be logged. All changes must be analyzed for security impact before implementation. All documentation should be maintained and made available for audit.
- The Service Provider should review, define, document, approve, and enforce physical and logical access restrictions associated with changes to systems that have access to, store, or process Confidential Data.
- Adhere to the principle of least functionality by configuring Service Provider systems to provide only essential capabilities. Service Providers shall adhere to the New York State Information Technology Standard, No. NYS-S14-008; IT Standards: Secure Configuration.

6.3 System and Information Integrity

- **Logical Separation:** Information should be segregated within the Service Provider's network environment to prevent other customers who share physical or virtual space from accessing CUNY Provided Confidential Data. This aims to prevent unauthorized and unintended information transfer via shared system resources.

- Any utilization or management of Confidential Data not related to this engagement must receive approval from the CUNY Cybersecurity Chief Risk Officer.
- Confidential Data, whether in physical or digital format, should not be removed from any CUNY worksite unless authorized by CUNY and with appropriate safeguards implemented.
- Cryptographic mechanisms should be implemented to prevent unauthorized disclosure of Confidential Data during transmission, unless alternative physical safeguards are already in place. This requirement applies to both internal and external networks and any system components capable of transmitting information, including servers, notebook computers, desktop computers, mobile devices, printers, copiers, scanners, and facsimile machines.
- Network sessions should be terminated after 30 minutes of inactivity.
- The Service Provider must provide protection from malicious code at system entry and exit points. This may include firewalls, remote access servers, workstations, electronic mail servers, web servers, proxy servers, notebook computers, and mobile devices.
- Service Providers are obligated to monitor system security alerts and advisories and respond appropriately.
- The Service Provider should conduct periodic vulnerability scans of systems that access, store, or process Confidential Data, and real-time scans of files from external sources as files are downloaded, opened, or executed. Systems, including inbound and outbound communications traffic, should be monitored to detect attacks and indicators of potential attacks.

6.4 Incident Management Requirements

6.4.1 Incident Response

- The Service Provider is obligated to establish an incident-handling capability for organizational systems. This encompasses preparation (formulating response plans), detection (pinpointing potential incidents), analysis (probing incidents), containment (averting further damage), recovery (reinstating systems and data), and user response activities (engaging with stakeholders). These measures ensure a proficient response to security incidents, reducing impact and facilitating a prompt return to regular operations.
- Service Providers are required to monitor, document, and report incidents affecting CUNY to the CUNY Cybersecurity Chief Risk Officer and/or authorities both within and outside the organization.

6.4.2 Incident/Breach Notification

Service Providers must have policies and plans in place for incident response reporting and management. This includes systems for the detection, analysis, containment, and recovery of critical information systems, as outlined in the [NIST Special Publication 800-61 Revision 2, Computer Security Incident Handling Guide](#) and in the [NIST Special Publication 800-161 Revision 1, Cybersecurity Supply Chain Risk Management Practices for Systems and Organizations](#)

- **Reporting of Breach:** Upon discovery of a confirmed or suspected breach, Service Provider shall report orally and in writing to CUNY. In no event shall the report be made more than two (2) business days after Service Provider knows or reasonably suspects a breach has or may have occurred.
- **Single Point of Contact:** Service Provider must provide a designated point of contact for all questions and status updates regarding the breach. This ensures clear and effective communication during the incident response process.
- **Notification to Regulatory Bodies:** If required by law or regulation, Service Providers must also notify relevant regulatory bodies about the security incident breach.
- **Public Disclosure Provisions:** Depending on the nature and severity of the breach, Service Providers may be required to comply with public disclosure provisions. This ensures transparency and helps maintain trust with stakeholders.

6.5 VPN

CUNY requires all Service Providers to adhere to the following VPN requirements, based on the NIST framework and publications NIST Special Publication 800-77 “Guide to IPsec VPNs” and NIST Special Publication 800-113 “Guide to SSL VPNs”:

- **Secure Communication:** All data transmitted between the Service Provider and CUNY network must be secured using Virtual Private Network (VPN) technologies. This ensures that sensitive information is protected during transmission.

CUNY requires the use of IPsec VPNs, which provide a network layer security control used to protect communications over public networks and encrypt IP traffic between hosts.
- **Endpoint Security/Scanning:** Service Providers must ensure the security of the remote access client software to prevent any potential vulnerabilities. This includes regular scanning of endpoints to detect and mitigate threats.
- **Geo-blocking:** Service Providers should have the capability to employ geo-blocking measures that prevent unauthorized access from specific geographic locations if necessary to mitigate an attack. Should blocking a significant geolocation area be necessary (for example, an entire country), CUNY should be notified so it can inform its users as appropriate.
- **Granular Filtering:** Service Providers must implement granular filtering mechanisms to control network traffic. This allows for more precise control over which types of traffic are allowed to enter and exit the network.

6.6 Cloud Computing Requirements for Confidential Data

The following mandatory controls, based on NIST guidelines, are applicable to all cloud service models, in addition to the security requirements established above.

- **To leverage a cloud computing model for receiving, transmitting, storing, or processing Confidential Data,** Service Providers must comply with all security requirements outlined in this document, including governance, compliance, trust, and architecture.

Cloud solutions used for receiving, processing, or storing Confidential Data are recommended to undergo a comprehensive assessment using the FedRAMP

Authorization Framework, conducted by an authorized third-party assessment organization (3PAO).

- **Software Isolation:** The cloud Service Provider should ensure that the software used for providing the services is isolated and secure, adhering to robust identity and access management mechanisms.
- **Availability:** The cloud services should be highly available, and there should be mechanisms in place to ensure business continuity and disaster recovery. Data protection mechanisms, including encryption, should be employed to protect data both in transit and at rest.
- **Incident Response:** The cloud Service Provider should have an incident response plan in place, including mechanisms for detecting, reporting, and responding to security incidents. This is crucial for maintaining trust and ensuring effective operations.

7.0 Applicable Policies, Rules, Laws, and Regulations

This standard helps ensure compliance with the following CUNY policies and applicable rules, laws, and regulations:

- [CUNY Payment Card Industry \(PCI\) Compliance Policy](#)
- [CUNY Policy on Acceptable Use of Digital Assets and Resources](#)
- [CUNY Gramm-Leach Bliley Act \(GLBA\) Financial Information Security Program Policy](#)
- [CUNY Intellectual Property Policy](#)
- [CUNY Records Retention Schedule for Electronic Data Processing](#)
- [CUNY Record Retention Schedule](#)
- [CUNY Information Security Review Questionnaire](#)
- [CUNY Data Classification Standard](#)
- [Family Educational Rights and Privacy Act \(FERPA\)](#)

8.0 Related Standards, Guidelines, Procedures, and Best Practices

The following standards, guidelines, operating procedures, and best practices are referenced and apply to this standard:

- [NIST Special Publication 800-61 Revision 2: Computer Security Incident Handling Guide](#)
- [NIST Special Publication 800-161 Revision 1: Cybersecurity Supply Chain Risk Management Practices for Systems and Organizations](#)
- [NIST Special Publication 800-77: Guide to IPsec VPNs](#)
- [NIST Special Publication 800-113: Guide to SSL VPNs](#)
- [New York State Information Technology Standard No. NYS—S13-003: IT Standard Sanitization/Secure Disposal](#)

9.0 Approvals

This standard was approved by the University officer listed below and is now in force.

Approved on July 15, 2024 by Eusebio Formoso, Vice Chancellor for Information Technology and University CIO

10.0 Revision History

Version	Change	Author	Date of Change
1.0	Initial publication of this CUNY Service Provider Standard	Sue Wang	July 15, 2024

Part 4: Technical and Management Proposal Requirements (Proposal Volume II)

Proposer shall provide a brief history and description of Proposer's business organization (with copies of organizational documents) and its experience as it relates to the requirements discussed in the scope of work and specifications described in **Part 3**. The information should not exceed ten (10) pages, double-sided, for a total of twenty (20) pages and must include, but shall not be limited to:

4.1 Proposer's Background:

- Proposer's name and address and, if applicable, EIN. Also indicate the type of entity, for example, a corporation, partnership, or public organization.
- Name, title, address, email and telephone number of the person who receives correspondence and is authorized to make decisions or represent the Proposer. If these persons are different, include information for both.
- Brief history of Proposer's operations to date, noting key milestones, challenges and successes, along with a statement and analysis of Proposer's organization going forward, including its goals, strategic outlook, projected growth, etc.
- Proposer's organizational structure.

4.2 Proposer's Experience:

- Number of years Proposer has been providing the Services required by this RFP and description of operations, facilities, and number of employees dedicated to the Services described by this RFP.
- Discuss in detail how your firm meets each of the minimum qualifications as stated under Part 2, Paragraph 1.
- Number of current clients using the Services. Identify how many of such clients are higher education institutions, government agencies or entities, and not-for-profit entities.
- Provide two (2) higher education references to whom you have or are currently providing similar services. For each, provide the following information:
 - Institution's name,
 - Contact name and email address at institution,
 - Description of services provided, and
 - Length of time providing services.

4.3 Proposer's Approach

- Discuss in detail how your firm will approach providing each of the Services in accordance with the scope of work and deliverables under Part 3. This discussion should include how your firm will endeavor to engage MWBE and SDVOB subcontractors (see Part 2, Paragraph 3).
- Provide a timeline, as applicable, for providing each of the deliverables under Part 3.
- Discuss, if necessary, your assumptions for CUNY's resources in providing the services.

4.4 Proposed Staffing

- Provide proposed staffing plan for rendering the Services, including if there are plans to use any former CUNY employees.
- Provide a biography and/or résumé for each key team member, including personnel who would have direct contact with or provide services to CUNY. Indicate the roles they would play and describe their experience in performing the Services. For each, please include length of tenure with Proposer's organization and number of years' experience in providing the Services. Indicate whether any key team members teams are former college presidents, chancellors or deans with public/systems experience.

4.5 Value Added

Discuss in detail any additional services that your firm can provide to supplement and/or enhance the requested services herein, that will be at no additional cost to the University.

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Part 5: Proposal Price Breakdown Pages (Proposal Volume III)

Proposer must complete ALL line items in order for the Proposal Price to be deemed responsive. Failure to do so will result in the rejection of your Proposal.

Please note that the Proposal Price is the figure that CUNY will review to compare the Proposers' offered pricing; the Proposal Price may not be the same as the Contract Price and may not be guaranteed payment to Contractor. Contractors will be paid on the basis of Services rendered in accordance with CUNY's needs for the Services.

Proposer must propose fully-loaded monthly rates for providing the services under Part 3. CUNY will not pay any separate costs for administrative and overhead costs.

Years	Monthly Rate (A)	No. of Months (B)	Yearly Cost (A) X (B) = (C)
Year One	\$	12	\$
Year Two	\$	12	\$
Year Three	\$	12	\$
Year Four (1 st Option Renewal Term)	\$	12	\$
Year Five (2 nd Option Renewal Term)	\$	12	\$
Total Five Year Cost (Sum of Column C for Year One through Five)			

Proposal Price in Words: _____

_____dollars.

Part 6: Proposal Scoring Criteria and Weights

Step 1: Administrative Review

CUNY will conduct an administrative review of each Proposal to ensure that all content has been submitted in accordance with this RFP (including a completed Form 1 signed by an authorized representative of Proposer and completed Forms 2 and 3) and that Proposers meet the Minimum Qualifications set forth in this RFP. Proposals that do not include all required content may be deemed non-responsive and may not be granted any further consideration unless CUNY deems such omissions non-material. Proposers are not permitted to alter or amend their Proposals after the Proposal Submission Due Date and Time. After firms have been identified for awards, all Proposers will be notified.

Step 2: Scoring of Diversity Practices Questionnaire (5 points)

Upon completion of its Administrative Review above, the University's Diversity Office will score the Diversity Practices Questionnaire. The Diversity Practices Questionnaire will be scored on the points system as indicated on the questionnaire. The total score received for each Diversity Practices Questionnaire will be proportionally converted for a maximum of up to five (5) points. The scores for Proposers' Diversity Practices Questionnaires will not be disclosed to CUNY's Technical Evaluation Committee ("Committee") prior to their completion of their evaluation and scoring of Proposers' Technical Proposals.

Step 3: Scoring of Volume II: Technical and Management Proposal (60 Points)

Members of the Committee will preliminarily score each Technical Proposal individually and then meet as a group to discuss and give final scores to the Technical Proposals. The preliminary Technical Score for each Proposal will consist of the sum of the scores given to the Technical Proposal by each of the Committee members, divided by the number of Committee members with a maximum score indicated in this section, and will be provided to the University's Procurement Office. Then the members of the Committee will meet as a group to discuss the Technical and Management Proposals. After such group discussion, the Committee members will provide their individual final Technical Scores, which may or may not be the same as their preliminary Technical Scores, to the Procurement Office.

Proposers that are deemed not technically qualified will not be moved forward for further evaluation.

Step 4: Scoring of Volume III: Proposal Price (25 Points)

The University's Procurement Office will score the Proposal Prices. Only the University Procurement Office will be privy to pricing information until the Committee members have completed and submitted all final scoring, including for Technical and Management Proposals. The Proposer offering the lowest Proposal Price will receive a total of thirty (30) points, and higher Proposal Prices will receive proportionately fewer points.

Step 5: Short-Listing Proposers

The University's Procurement Office will add the Diversity Practices Questionnaire Score, the Technical Score and the Proposal Price Score to calculate each Proposer's Initial Score. Initial Scores will be used to create a short-list of proposers. The University's Procurement Office will inform the Committee members of the total scores of the Proposals. Short-Listed Proposers for

this solicitation will consist of the Proposer with the highest Initial Score and any Proposers that are within ten (10) points of the highest Initial Score.

Note: If there are no other Proposers that fall within ten (10) points of the highest Initial Score, CUNY, in its sole discretion, reserves the right to select the Proposer(s) with the highest Initial Score(s) without requiring Oral Presentations.

Step 6: Oral/Virtual Presentation and Product Demonstration for Short-Listed Proposers

If required, the Short-Listed Proposers shall provide an Oral Presentation to the Committee in a form and manner requested by CUNY. The Committee will evaluate a Short-Listed Proposer's Oral Presentation and award a score with a maximum of ten (10) points based on the following criteria:

- Firm meets the requirements stated in the RFP
- The capabilities of the Proposer's staff that will lead the engagement and provide the services
- Discussion on examples of previous projects of a similar nature and resulting outcome
- Ability to answer questions regarding their proposal

Step 7: Calculation of Short-Listed Proposers' Final Proposal Scores

The Final Proposal Score is the sum of the Short-Listed Proposer's Diversity Practices Questionnaire, Technical, Price and Oral/Virtual Presentation (if required) Scores for a possible maximum Final Proposal Score of one hundred (100) points.

CUNY reserves the right to request Best and Final Offers ("BAFOs") from those Proposals receiving an Oral/Virtual Presentation, solely with respect to price. Should CUNY exercise this right, CUNY will request a BAFO from each Short-Listed Proposer. A Proposer's BAFO must offer a lower price (lower rates) than the Proposal Price originally offered by Proposer. The price score for the Short-Listed Proposers will be adjusted accordingly to determine each Proposer's final score.

Step 8: Selection of Proposers

The Proposers with the three highest Final Proposal Score, as calculated in accordance with the criteria set forth above, for a maximum of 100 points may be recommended by the Committee to the University for Contract Awards, if at all.

[Table 1 - Proposal Scoring Criteria and Weights on following page]

Table 1 Proposal Scoring Criteria and Weights

Title	Scoring Method	Item Weight	Section Score	Points out of 100
Minimum Proposer Requirements (See Part 2-Paragraph I)	Pass/Fail			
Diversity Practices Questionnaire	Scored			5
Technical and Management Proposal	Scored			60
Proposer's Background			5	
Proposer's Experience			15	
Proposer's Approach			20	
Staffing Plan			15	
Value Added			5	
Proposal Price	Scored			25
Oral/Virtual Presentation by Short-Listed Proposers, if required	Scored			10
Possible Total Score				100

Part 7: Terms and Conditions

Proposers are advised to familiarize themselves with the Requirements for Contracting with CUNY before submitting any suggested exceptions to the Part 7 Terms and Conditions: [Requirements for Contracting with CUNY – The City University of New York](#)

TERMS AND CONDITIONS

1. The University engages Contractor to provide the services set forth in the Scope of Work (the “Services”) in the Request for Proposals (“RFP”), and Contractor agrees to perform the Services as directed by the University and to provide all necessary staff support and administrative services connected therewith in accordance with the terms and conditions herein.
2. The term of this Agreement is as set forth in the RFP.
3. Capitalized terms not defined in the terms and conditions shall have the meaning as set forth in the RFP.
4. This is a requirements contract, and nothing herein guarantees that the University will request a set amount of hours, as set forth in the RFP and Contractor’s Proposal.
5. The University may terminate this Agreement for any reason or no reason at all upon thirty (30) days written notice. If the University’s decision is based on Contractor’s breach, Contractor shall have thirty (30) days to remedy the breach before termination becomes effective. Upon termination, Contractor shall be entitled to all fees for Services performed and be paid on a prorated basis for those Services rendered up to the date of termination. The rights and obligations of both parties that expressly or by their nature would survive beyond the termination or expiration of this Agreement, including, but not limited to, Contractor’s representations and warranties and the provisions dealing with payment, ownership, indemnification, and confidentiality, shall so survive.
6. This Agreement will have no force and effect and neither the University nor the State of New York bears any liability unless and until all review and approval processes pursuant to governmental policies, practices, and requirements are completed, which processes may include, without limitation, approval by the New York State Comptroller.
7. Notwithstanding any other provisions of this Agreement, Contractor's status shall be that of an independent contractor and not that of an employee or agent of the University. Contractor shall be expected to work, without the full complement of support facilities, working conditions, and supervision given to employees of the University. All persons engaged by Contractor to assist Contractor shall at all times be deemed to be employees of Contractor, and Contractor shall be responsible for their work, direction, and compensation. Contractor shall at all times utilize appropriately qualified and skilled personnel to perform the Services. Nothing in this

Agreement shall be construed to impose any liability or duties upon the University for the performance of services by any third party hired or otherwise engaged by Contractor.

8. Neither Contractor nor any persons engaged by Contractor shall receive health insurance, sick leave, annual leave, pension, or any other fringe benefits associated with employment with the University.
9. Nothing in this Agreement shall impose any tax liability upon the University, including, but not limited to, federal, state, and local income taxes, unemployment insurance, or social security tax, incurred by Contractor or any persons engaged by Contractor. Contractor agrees to indemnify the University its officers, employees, and Trustees; the City of New York; and the State of New York and hold them harmless from any and all claims for such payments by taxing authorities, including, but not limited to, fines, penalties, levies, and assessments, for failure to withhold or remit such payments.
10. Contractor affirms that to the best of Contractor's knowledge there exists no actual or potential conflict between the Services and Contractor's family, business, or financial interests, or those of any employee of Contractor, and no trustee, officer, or employee of the University, or other director, officer, employee, or person whose salary is payable in whole or in part from the treasury of the City of New York or the State of New York, is directly or indirectly interested in this Agreement or in any portion of the profits thereof. Should this situation change during the term of this Agreement, Contractor shall promptly notify the University. The University reserves the right in its sole discretion to determine whether or not any of the interests required to be disclosed under this paragraph shall disqualify Contractor from performing the Services.
11. All Contractor personnel, including subcontractors, if any, shall comply with all applicable "University Policies", copies of which shall be made available to the Contractor upon request. Contractor shall ensure that any of its personnel performing work on the University's premises or accessing the University's computer systems do so with the University's advance permission and according to all applicable security and workplace-related University Policies.
12. If the University has concerns over Contractor personnel (staff or subcontractors, if any) assigned to perform any portion of the Services and the University believes that the problem is capable of being corrected, the University shall bring such concerns to the attention of Contractor. Contractor shall have a period of seven (7) days following such disclosure to resolve any problems with respect to such person in a manner that is satisfactory to the University. If Contractor is unable to resolve the problem within such seven (7) day period to the University satisfaction, the University may elect to terminate the Agreement. Nothing contained in this Section shall restrict the University from immediately removing the University's personnel if Contractor's personnel is engaging in a manner that is unlawful, non-compliant with the University Policies, or other exigent circumstances that require immediate removal.
13. CUNY, at its discretion may, on its own, or through a third party, conduct a criminal background check on Contractor personnel.
14. While performing Services on-site, Contractor shall register with and sign in at reception and obtain temporary CUNY identification cards for all workers from the receptionist on the first

day of work.

(a) Contractor shall perform all on-site Services, in accordance with approval from the University, not including on CUNY holidays, unless it receives prior written approval to change hours in the form of a schedule provided by CUNY or is necessary for the performance of Services.

(b) Contractor personnel providing Services under this Agreement, who shall have received approval from CUNY before beginning any work, shall be required to wear CUNY-issued photo identification badges at all times while on CUNY property.

(c) Contractor shall protect from damage any and all property at CUNY's premises while performing any of the Services and promptly repair at its cost any damage caused by Contractor.

15. Contractor acknowledges that Contractor and Contractor's employees, agents, or representatives may, in the course of the performance of this Agreement, be exposed to or acquire information that is confidential to the University or its employees or students. Contractor shall treat all information obtained from the University or disclosed to Contractor while performing this Agreement as "Confidential Information" in accordance with this paragraph except for any such information that the University designates to Contractor in writing as excluded from Confidential Information. This obligation of confidentiality does not extend to any information that: (i) was in the possession of or rightfully known by Contractor prior to the time of disclosure by the University without any obligation to maintain its confidentiality; (ii) is or becomes available to the general public without violation of this Agreement; (iii) is obtained by Contractor in good faith from a third party having the right to disclose it without an obligation of confidentiality; (iv) is independently developed by Contractor without the participation of individuals who have had access to it; or (v) is required to be disclosed by court order, provided Contractor gives the University prior written notice of such required disclosure (to the extent legally permitted) and reasonable assistance if the University wishes to contest the disclosure.
16. Contractor shall treat the Confidential Information with the same degree of care that Contractor would treat Contractor's own confidential information, and with no less than reasonable care. Contractor shall not use the Confidential Information for purposes other than rendering the Services and shall limit access to Confidential Information to those of Contractor's employees, agents, and representatives having a need to know such Confidential Information to perform the Services. Contractor shall not directly or indirectly disclose, distribute, republish or allow any third party to have access to any Confidential Information without such third party's executing a confidentiality and non-disclosure agreement with the University under the same terms, or terms at least as restrictive, as set forth in this Agreement.
17. Contractor shall stay aware of and comply with: (i) security requirements and obligations required by applicable law and regulations; (ii) the University Policies concerning security, including internet security policies and procedures, and those included on the Information Security Addendum and IT Policies, available here: <https://www.cuny.edu/about/administration/offices/cis/it-policies/>; and (iii) Contractor's security standards, policies, guidelines and procedures, provided that the University Policies shall take precedence over any inconsistencies or conflicts with Contractor's security standards, policies, guidelines and procedures.

18. The Services to be performed hereunder may require Contractor to have access to certain personally identifiable information regarding the University's students. The University hereby appoints Contractor as its agent for the sole purpose of assuming duties in connection with the processing of student records that would otherwise be provided by the University. As the agent of the University, Contractor is subject to and shall comply with the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) and its prohibitions against disclosure of personally identifiable information regarding students to third parties, except where permitted by the regulations of the United States Department of Education. The University shall assure that any personally identifiable information about its students not considered "directory information", as defined under FERPA, is appropriately designated in any information provided by the University to Contractor.
19. Contractor shall immediately notify and provide to the University a copy of any request, subpoena, warrant, judicial or court order, administrative order, or arbitral order of an executive or administrative agency or other governmental authority of competent jurisdiction (a "Demand") that it receives and which relates to or requires production of Confidential Information that Contractor is processing or storing on the University's behalf. If Contractor is required to produce Confidential Information in response to a Demand, Contractor will provide the University with the Confidential Information in its possession that it plans to produce in response to the Demand prior to production of such Confidential Information. Where the Contractor is not required by law to produce or release the requested information, the written approval of the University is required prior to any such disclosure being made. Notice of such request will be sent to:

Office of the Senior Vice Chancellor for Legal Affairs and General Counsel
City University of New York
205 East 42nd Street
11th Floor
New York, NY 10017
ogc@cuny.edu

20. Upon termination or completion of the Services, or at any time the University requests, Contractor shall return to the University, or destroy, all copies of the Confidential Information, in whatever media, and shall provide the University with a sworn certification that Contractor has complied with Contractor's obligations under this paragraph. It is understood and agreed that, in the event of a breach, threatened or actual, of this paragraph, damages may not be an adequate remedy and the University shall be entitled to injunctive relief to restrain any such breach without having to post an undertaking.
21. Contractor shall stay aware of and ensure that the Services comply with all applicable laws, regulations and rules concerning the management and performance of the services.
22. The University reserves the right to deduct from the Scope of Work and make an equitable adjustment in the Contract Price or delivery date if the change affects the cost or time of performance.
23. Contractor shall protect, indemnify, and hold the University and its officers, employees, and Trustees; the City of New York; and the State of New York harmless from and against any and all

claims, suits, causes of action, liabilities, losses, damages and expenses (including, but not limited to, attorney's fees and court costs in connection with any such matters) to which the University and its officers, employees, and Trustees; the City of New York, and/or the State of New York may be subjected arising out of or relating to: (a) injury to person or property, or wrongful death, that may result from any negligence, willful misconduct, intentional wrongdoing, malpractice, or incompetence of Contractor, or anyone employed or engaged by Contractor, in connection with the performance of this Agreement; and (b) any breach by Contractor of this Agreement or any of Contractor's representations or warranties set forth herein.

24. Contractor shall indemnify and hold the University, its officers, employees, and Trustees harmless from any loss or damage to the University resulting from the violation by the Contractor, its agents, officers, employees, partners and subcontractors of the University security procedures or policies resulting from any negligent or criminal acts committed by Contractor's officers, agents, employees, and subcontractors while providing Services under the Contract.
25. Any invention or discovery, whether or not patentable, that is conceived or reduced to practice by Contractor and arises out of Contractor's performance of the Services shall be reported to the University with complete information concerning such invention or discovery. The University retains all right, title, and interest to any such invention or discovery and retains the sole right to determine whether a patent application shall be filed. Contractor shall cooperate fully with the University or its designee to enable it to secure the rights retained under this paragraph 26 and shall execute all documents necessary to do so.
26. All copyrightable works (including, but not limited to, reports, compilations of data, software, pictorials, or graphics) created or prepared by Contractor or Contractor's personnel in the course of the performance of the Services ("Copyrightable Works") shall be "works made for hire" (as that term is defined in the copyright laws of the United States) for the University, and all copyright therein is expressly intended to be wholly owned by the University. To the extent that any Copyrightable Works may not, by operation of law, be works made for hire, Contractor hereby assigns to the University the ownership of copyright in such Copyrightable Works, and the University shall have the right to obtain and hold in its own name copyrights, registrations, and similar protections that may be available in such Copyrightable Works. Contractor agrees to give the University or its designee all assistance reasonably required to perfect such rights. Contractor represents and warrants that Contractor is and shall be sole author of any and all Copyrightable Works, and that they are and shall be original works not subject to any prior agreement, lien, or other rights. Contractor further represents and warrants that the Copyrightable Works do not and shall not contain libelous, plagiarized, injurious, or other unlawful matter, and that they do not and shall not infringe on copyright or violate any other right of any person or party whatsoever.
27. Contractor represents, covenants, certifies, and warrants: (a) that Contractor is expert in performing the Services referred to by this Agreement; (b) that Contractor is licensed as may be required by all applicable authorities in the State of New York and the City of New York, as the case may be, to perform the Services and that all Services shall be performed in accordance with applicable law; (c) that every other person that Contractor retains to perform any of the Services shall be licensed or authorized as may be required by all applicable authorities; (d) that Contractor will take all steps necessary and advisable to maintain such licenses and give the University prompt notice of any lapse of any such license; and (e) that Contractor is not on the "Entities Determined To Be Non-Responsive Bidders/Offerers Pursuant to The New York State Iran Divestment Act of 2012" list published by the New York State Office of General Services.

28. Contractor shall procure and maintain the insurance requirements as set forth in the RFP.
29. The University shall pay Contractor for the Services in accordance with amounts and rates set forth in the Contractor's Proposal attached hereto and in accordance with these terms and conditions including those set forth in the RFP. The University reserves the right to request additional information at any time, and Contractor shall provide such information promptly. Following the University's receipt of such invoices, the University (or the State of New York or the City of New York, as applicable) shall pay Contractor in accordance with ordinary University (and State or City) procedures and practices. Contractor agrees to accept payments under this Agreement by electronic funds transfer, and Contractor shall provide all information and documentation requested by the University or the State or City to effectuate electronic funds transfers.
30. Contractor shall not without the prior written consent of the University in each instance: (a) use in advertising, publicity or otherwise the name of the University or any other trade name, trademark, trade device, service mark, symbol or any abbreviation, contraction or simulation thereof owned by the University; (b) represent directly or indirectly, that any product or any service provided by either and/or both of them has been approved or endorsed by the University; (c) represent itself or create an inference that it, or its employees are an employee of the University.
31. Appendix A: Standard Clauses for New York State Contracts ("Appendix A") is attached hereto, and its terms and conditions are hereby incorporated by reference. The term "State" in Appendix A includes the State of New York and The City University of New York, which is a "contracting agency" and "State agency" for purposes of Appendix A.
32. Contractor's obligations under this Agreement may not be assigned, subcontracted, or transferred without the prior written consent of an authorized representative of the University.
33. This Agreement, including the RFP, Contractor's Proposal, and all other exhibits and appendices, all of which are incorporated herein, contains the entire understanding of the parties hereto, supersedes all previous oral or written understandings, representations, or agreements to the extent that they relate to the subject matter hereof, and may not be modified by either party unless such modification is in writing and signed by an authorized representative of each party.
34. Waiver by either party of a breach of any provision of, or right under, this Agreement shall not operate or be construed as a waiver of any other or subsequent breach of the same provision or right, or of any other provision or right under this Agreement.
35. If any provision of this Agreement or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provision that can be given effect without the invalid provision or application, and to this end the provisions hereof shall be severable.
36. Contractor guarantees all Services provided by the Contractor will conform with the specifications set forth in the RFP, the Contractor's proposal, and any other document referenced in or included in this Agreement.

37. Upon the request of the University, the Contractor shall cooperate with the University in any investigation, audit, or other inquiry related to the procurement of the resulting Agreement, the Agreement or any litigation relating thereto, at no cost to the University. This provision shall survive the termination of the Agreement.
38. This Agreement is subject to audit and/or inspection by federal, state, and/or local agencies as authorized or required by law. Contractor shall cooperate and assist with all program and fiscal monitoring, evaluation, and close-out activities and audits conducted by University or its designees or any other entity authorized or permitted to perform or undertake any of the foregoing.
39. At the expiration or termination of this Agreement, Contractor shall turn over all documents relating to the Services and Contractor's performance thereof to the University.
40. This Agreement shall be governed in accordance with New York law and any disputes hereunder shall be venued in a court of competent jurisdiction located in New York County, New York State.

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APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

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

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STANDARD CLAUSES FOR NYS CONTRACTS

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

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

2. NON-ASSIGNMENT CLAUSE. In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State’s previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller’s approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor’s business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State’s prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

3. COMPTROLLER’S APPROVAL. In accordance with Section 112 of the State Finance Law, if this contract exceeds \$50,000 (or \$75,000 for State University of New York or City University of New York contracts for goods, services, construction and printing, and \$150,000 for State University Health Care Facilities) or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$25,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller’s approval of contracts let by the Office of General Services, either for itself or its customer agencies by the Office of General Services Business Services Center, is required when such contracts exceed \$85,000. Comptroller’s approval of contracts established as centralized contracts through the Office of General Services is required when such contracts exceed \$125,000, and when a purchase order or other procurement transaction issued under such centralized contract exceeds \$200,000.

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

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

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

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, the "Records"). The Records

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

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION. (a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.

In accordance with Section 312 of the Executive Law and 5 NYCRR Part 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

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

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

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

Contractor will include the provisions of "(a), (b) and (c)" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not

apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this clause. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

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

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

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

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

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

18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.

The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this

law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in § 165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

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

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

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

NYS Department of Economic Development
Division for Small Business and Technology Development
625 Broadway
Albany, New York 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 the State;

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

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

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

21. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively, codified in State Finance Law § 165(6) and Public Authorities Law § 2879(5)) require that they be denied contracts which they would otherwise obtain. NOTE: As of 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 and 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 the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

24. PROCUREMENT LOBBYING. To the extent this agreement is a “procurement contract” as defined by State Finance Law §§ 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law §§ 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.

To the extent this agreement is a contract as defined by Tax Law § 5-a, if the contractor fails to make the certification required by Tax Law § 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law § 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

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

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

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

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

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

Appendix B: INFORMATION SECURITY

- (a) Protected Information, Generally. CONTRACTOR acknowledges that its performance of Services under this Agreement may involve access to confidential information of CUNY, its employees and agents (including, but not limited to, personally identifiable information, protected health information, or individual financial information (collectively, “Protected or Private Information”) that is subject to state or federal law/rules restricting the use and disclosure of such information, including, but not limited to; the federal Gramm Leach Bliley Act (15 U.S.C. §§ 6801(b) and 6805(b)(2)); the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g); and the privacy and information security aspects of the Administrative Simplification provisions of the federal Health Insurance Portability and Accountability Act (45 CFR Part 160 and Subparts A, C, and E of Part 164); the Payment Card Industry Data Security Standards.

CONTRACTOR agrees to comply with all applicable federal and state laws restricting the access, use and disclosure of Protected Information. CONTRACTOR agrees to include all of the terms and conditions contained in all subcontractor or agency contracts providing services under this Agreement.

- (b) Prohibition on Unauthorized Use or Disclosure. CONTRACTOR agrees to hold CUNY’s and its employees, and agents’ Protected or Private Information, and any information derived from such information, in strictest confidence. CONTRACTOR shall not access, use or disclose Protected or Private Information except as permitted or required by the Agreement or as otherwise authorized in writing by CUNY, or applicable laws. If required by a court of competent jurisdiction or an administrative body to disclose Protected or Private Information, CONTRACTOR shall notify CUNY in writing promptly upon receiving notice of such requirement and prior to any such disclosure, to give CUNY an opportunity to oppose or otherwise respond to such disclosure (unless prohibited by law from doing so). Any transmission, transportation or storage of Protected or Private Information outside the United States is prohibited except on prior written authorization by CUNY.
- (c) Data Storage and Access. All CUNY Data transferred to CONTRACTOR must be stored, housed, process, backed-up, archived and otherwise retained on systems physically located in the continental United States. This requirement extends to any subcontractors of data storage. CONTRACTOR shall ensure that all CUNY Data is stored in a controlled access environment to ensure data security and integrity. All facilities proposed for use in storing CUNY Data must have adequate security systems in place to protect against unauthorized access to the facilities and the data stored therein. Access to the facilities must be restricted through an access control system that requires positive identification of authorized individuals as well as maintains a log of all access (including, without limitation, time, date and identity). CONTRACTOR shall have in place a formal procedure for granting computer system access to the data and to track access by its own employees.
- (d) Data Exchange. Except as otherwise set forth in the Agreement, CONTRACTOR shall make arrangements to receive or exchange all CUNY Data via CUNY’s systems of record. CONTRACTOR shall use reliable means of electronically transferring data between CUNY of its offices or facilities. Such means must ensure the confidentiality and integrity of data while in transit.

(e) Data Protection. CONTRACTOR shall use appropriate means to preserve and protect CUNY Data, including, without limitation, use of stable storage media, regular data back-ups and archiving, password protection of volumes, and data encryption.

(f) Data Return and Destruction. Upon CUNY's written request, at any time during the term of the Agreement and upon termination or expiration of the Agreement, CONTRACTOR shall promptly return to CUNY, in the format and on the media reasonably requested by CUNY, all or part of the CUNY Data. Upon termination of the Agreement, and following the return of the CUNY Data as described in the preceding sentence (if applicable), CONTRACTOR shall employ the technical measures necessary to assure the secure, irreversible, and complete erasure or destruction of all data storage formats to eliminate any and all data collected by CONTRACTOR or provided by CUNY or its Users unless explicit provisions for the retention of some data sets have been stipulated in the Agreement. Upon CUNY's request, CONTRACTOR shall provide written certification of the completion of the foregoing.

(g) Breaches of Protected Information.

Definition. For purposes of this Section, the term, "Breach," has the meaning given to it under the applicable New York State or federal law.

Reporting of Breach. Immediately upon discovery of a confirmed or suspected Breach, CONTRACTOR shall report both orally and in writing to CUNY. In no event shall the report be made more than two (2) business days after CONTRACTOR knows or reasonably suspects a Breach has or may have occurred. In the event of a suspected Breach, CONTRACTOR shall keep CUNY informed regularly of the progress of its investigation until the uncertainty is resolved. CONTRACTOR's report shall identify:

- (i) The nature of the unauthorized access, use or disclosure;
- (ii) The Protected or Private Information accessed, used or disclosed;
- (iii) The person(s) who accessed, used and disclosed and/or received Protected or Private Information (if known);
- (iv) What CONTRACTOR has done or will do to mitigate any deleterious effect of the unauthorized access, use or disclosure; and
- (v) What corrective action CONTRACTOR has taken or will take to prevent future unauthorized access, use or disclosure.

CONTRACTOR shall provide such other information, including a written report, as reasonably requested by CUNY.

(h) Coordination of Breach Response Activities. In the event of a Breach, CONTRACTOR shall:

- (i) Immediately preserve any potential forensic evidence relating to the Breach;
- (ii) Promptly (within 2 business days) designate a contact person to whom CUNY will direct inquiries, and who will communicate its responses to CUNY's inquiries;
- (iii) As rapidly as circumstances permit, apply appropriate resources to remedy the Breach condition, investigate, document, restore CUNY's service(s) as directed by CUNY, and undertake appropriate response activities;

- (iv) Provide status reports to CUNY on Breach response activities, either on a daily basis or a frequency approved by CUNY;
 - (v) Coordinate all media, law enforcement, or other Breach notifications with CUNY in advance of such notification(s), unless expressly prohibited by law;
 - (vi) Make all reasonable efforts to assist and cooperate with CUNY in its Breach response efforts; and
 - (vii) Ensure that knowledgeable CONTRACTOR staff are available on short notice, if needed, to participate in CUNY-initiated meetings and/or conference calls regarding the Breach.
- (i) Costs Arising from Breach. Notwithstanding anything to the contrary in this Agreement, in the event of a Breach by CONTRACTOR or its staff, it shall promptly reimburse all costs of notification of individuals, establishing and operating call center(s), credit monitoring, and/or identity restoration services, civil or criminal penalties levied against CUNY, attorney's fees and court costs and all other direct or otherwise legally-required costs to CUNY to the extent arising from such Breach. . Any Breach may be grounds for immediate termination of this Agreement by CUNY.
- (j) Security Audit. Upon request by CUNY, CONTRACTOR may be asked to provide a recent independent audit report on security controls. CUNY may upon ten (10) days advance written notice and at its cost, audit CONTRACTOR's books and records relating to Services provided under the Agreement. An audit under this section shall occur during CONTRACTOR's normal business hours and not more than one (1) time during any twelve (12) month period. CONTRACTOR shall have the right to exclude from such inspection any of its confidential or proprietary information, that was not otherwise provided to CUNY as a part of the Services, provided that Contractor shall provide such information in redacted or summary form, or subject to a non-disclosure agreement, to the extent necessary for completion of a comprehensive audit. The results of any audit shall be subject to the confidentiality provisions of this Agreement or a mutual non-disclosure agreement, if applicable. On the basis of such audits, specific measures may be required in cases where CONTRACTOR is found to be non-compliant with data security safeguards.
- (k) Assistance in Litigation or Administrative Proceedings. CONTRACTOR shall make itself and any employees, subcontractors, or agents assisting it in the performance of its obligations under the Agreement available to CUNY at no cost to CUNY to testify as witnesses in the event of an unauthorized disclosure caused by CONTRACTOR that results in litigation or administrative proceedings against CUNY, its directors, officers, agents or employees based upon a claimed violation of laws relating to security, privacy or arising out of this Agreement.
- (l) Family Educational Rights and Privacy Act (FERPA). CONTRACTOR agrees that it may create, receive from or on behalf of CUNY and its Users, or have access to, records and information that are subject to the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. Section 1232g (collectively, the "FERPA Records"). CONTRACTOR represents, warrants, and agrees that it will: (1) hold the FERPA Records in strict confidence and will not use or disclose the FERPA Records except as (a) permitted or required by this Agreement, (b) required by law, or (c) otherwise authorized by CUNY in writing; (2) safeguard the FERPA Records according to commercially reasonable administrative, physical and technical standards that are no less rigorous than the standards by which it protects its own confidential information; and (3) continually monitor its operations and take any action necessary to assure that the FERPA

Records are safeguarded in accordance with the terms of this Agreement. At the request of CUNY, CONTRACTOR shall provide CUNY with a written summary of the procedures CONTRACTOR uses to safeguard the FERPA Records.

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Part 8: Service Level Agreement

Not applicable for this solicitation.

Part 9: Supplier Diversity Provisions

Contractor Requirements and Procedures for Participation by New York State-certified Minority, Women, and Service-Disabled Veteran-Owned Businesses and Equal Employment Opportunities for Minority Group Members and Women

This Attachment describes certain requirements and procedures applicable to the (1) Request for Quotes (“RFQ”), Invitation for Bids (“IFB”), or Request for Proposals (“RFP”) of which this Attachment is a part, (the “Solicitation”) and to all Respondents, and (2) any contract or purchase order resulting from this Solicitation (the “Contract”) and to any contractor selected as a result of this Solicitation (the “Contractor”). The term “Respondent” as used herein shall mean any person or entity responding to the Solicitation, including, without limitation, Bidders responding to an IFB, Proposers responding to an RFP, or Respondents providing Quotes pursuant to an RFQ. Failure by any Respondent to timely provide any of the documents, plans, and the like contemplated in this Attachment that are required to be delivered to CUNY prior to Contract Award shall be grounds for CUNY to reject such Respondents’ Quote, Bid Submission, or Proposal as non-responsive. In addition, failure by any Contractor to comply with the any of the following requirements may, in the sole and absolute discretion of CUNY unless otherwise noted, result in a finding of non-responsibility and/or a breach of the Contract, leading to the withholding of funds, assessment of liquidated damages, suspension or termination of the Contract and/or such other actions or enforcement proceedings as allowed by the Contract, law or equity. Capitalized terms used but not defined in this Attachment shall have the meaning set forth in the Solicitation of which this Attachment is a part. The term “College-Designated Contact” as used in this Attachment shall mean the CUNY employee identified in the Solicitation for correspondence relating to the procurement of goods and/or services hereunder, including, without limitation, a “College-Designated Contact” identified in an IFB, a “Designated Contact” identified in an RFP, an “RFQ Administrator” identified in an RFQ, or the like. All forms required by the Attachment may be obtained from the College-Designated Contact or from www.cuny.edu/selltocuny/forms, if not attached hereto.

1. Solicitation Provisions. The following provisions apply to the Solicitation and to any Contract awarded under the Solicitation. All Respondents responding to this Solicitation are subject to the following provisions.

□

A. New York State Law

Pursuant to New York State Executive Law Article 15-A, Parts 140-145 of Title 5 of the New York Codes, Rules and Regulations, and CUNY policy, CUNY is required to promote opportunities for the maximum feasible participation of New York State-certified Minority- and Women-owned Business Enterprises and the employment of minority group members and women in the performance of CUNY contracts.

Pursuant to New York State Executive Law Article 17-B, Parts 252 of Title 9 of the New York Codes, Rules and Regulations, and CUNY policy, CUNY is required to promote meaningful participation in public procurement by New York State certified Service-Disabled Veteran-Owned Businesses (“SDVOB”), thereby further integrating such businesses into New York State’s economy. In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Respondents are expected to consider SDVOBs in the

fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

B. Business Participation Opportunities for MWBEs and SDVOBs

CUNY may have established (1) an overall participation goal for New York State-certified minority- and women-owned business enterprises (“MWBE”), and (2) specific participation goals for New York State-certified minority-owned business enterprises (“MBE”) and New York State-certified women-owned business enterprises (“WBE”), for the Contract (based on the current availability of qualified MBEs and WBEs) (collectively, “MWBE Goals”) and/or (3) an overall SDVOB participation goal for the Contract, based on the current availability of qualified SDVOBs (“SDVOB Goal”). The term “Supplier Diversity Goals” used herein shall mean any MWBE Goals, SDVOB Goals, or both, established by CUNY for the Contract. Any such Supplier Diversity Goals will be set forth in the Solicitation. If no Supplier Diversity Goals appear in the Solicitation, or if the Solicitation indicates that there are no Supplier Diversity Goals, then CUNY will be deemed to have set no Supplier Diversity Goals for the Solicitation and the Contract, and no Supplier Diversity Goals will apply.

As discussed further below, if Supplier Diversity Goals have been set for this Solicitation, the Contractor must document its good faith efforts to provide meaningful participation by MWBEs and/or SDVOBs as subcontractors or suppliers in the performance of the Contract. To that end, by submitting a response to this Solicitation, Bidder agrees that CUNY may withhold payment pursuant to any Contract awarded as result of this Solicitation pending receipt of the required MWBE or SDVOB documentation. For the purposes of providing meaningful participation by MWBEs and SDVOBs, the Respondents and Contractor should reference the directory of New York State Certified MWBEs found at: <https://ny.newnycontracts.com> and the list of New York State Certified SDVOBs found at: <https://ogs.ny.gov/Veterans/>. For guidance on how CUNY will determine a Contractor’s “good faith efforts,” refer to 5 NYCRR §142.8 in relation to MWBEs and 9 NYCRR §252.2(n) in relation to SDVOBs.

Bidder understands that only sums paid to MWBEs and SDVOBs for the performance of a commercially useful function, as that term is defined in 5 NYCRR §140.1 in relation to MWBEs and 9 NYCRR §252.1(f) in relation to SDVOBs, may be applied towards the achievement of the corresponding MWBE Goal and SDVOB Goal. For Contracts that are determined to be construction contracts by CUNY, acting in its sole and absolute discretion (“Construction Contracts”), the portion of a Construction Contract with an MWBE serving as a supplier that shall be deemed to represent the commercially useful function performed by the MWBE shall be 60 percent of the total value of the Construction Contract. The portion of a Construction Contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be the monetary value for fees, or the markup percentage, charged by the MWBE. For all Contracts that are not Construction Contracts, the portion of a contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be 25 percent of the total value of the contract.

In accordance with 5 NYCRR §142.13 the Bidder acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such finding constitutes a breach of Contract and CUNY may withhold payment as liquidated damages. Such liquidated damages shall be calculated

as an amount equaling the difference between: (1) all sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE Goals; and all sums actually paid to MWBEs for work performed or materials supplied under the Contract.

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

By submitting a response to this Solicitation, the Respondent agrees to demonstrate and document its good faith efforts to achieve the Supplier Diversity Goals by submitting evidence thereof to CUNY, including, without limitation, all forms, documents, data, information, and the like contemplated in this Attachment. The Respondent, and any selected Contractor, shall submit all forms, documents and correspondence required to be submitted under this Attachment to the College-Designated Contact, in the form and manner required by CUNY, and to any other individual and address otherwise designated in writing by CUNY for such purposes from time to time. Notwithstanding anything to the contrary herein, if and to the extent required by CUNY from time to time, the Respondent and any selected Contractor shall submit all MWBE-related forms, documents, data, information, and the like contemplated in this Attachment electronically, including, without limitation, to the New York State Contract System (which can be viewed at <https://ny.newnycontracts.com>). Contractor shall make any such electronic submissions in the manner and format required by CUNY from time to time, and such electronic submissions shall be in addition to the original copies to be submitted to CUNY using the forms contemplated in this Attachment. Additionally, if Supplier Diversity Goals have been set for this Solicitation, the Respondent agrees to submit the following documents and information as evidence of compliance with the foregoing:

- i. For RFQs and IFBs: The Respondent is required to submit a Supplier Diversity (MWBE/SDVOB) Utilization Plan ("Utilization Plan") using the form attached hereto within ten business days (or such shorter period as may be required by CUNY) after receiving notice from CUNY that the Respondent to an RFQ has been selected for Contract Award or that the Bidder to an IFB is the apparent low bidder, as the case may be.
- ii. For RFPs: A Proposer is required to submit a Utilization Plan using the form attached hereto with its Proposal.
- iii. The Utilization Plan shall list the MWBEs and/or SDVOBs that the Respondent intends to use to perform the Contract, a description of the work that the Respondent intends the MWBE and/or SDVOB to perform to meet the Supplier Diversity Goals on the Contract, the estimated dollar amounts to be paid to a MWBE and/or SDVOB, or, if not known, an estimate of the percentage of Contract work the MWBE and/or SDVOB will perform.
- iv. CUNY will review the submitted Utilization Plan and advise the Respondent of CUNY acceptance or issue a notice of deficiency within 30 days of receipt.

- v. If a notice of deficiency is issued, the Respondent will be required to respond to the notice of deficiency within seven (7) business days of receipt by submitting to the College-Designated Contact a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by CUNY to be inadequate, CUNY shall notify the Respondent and direct the Respondent to submit, within five (5) business days, a request for a partial or total waiver of the Supplier Diversity Goals using the Supplier Diversity (MWBE/SDVOB) – Request for Waiver Form (“Request for Wavier”). Failure to file the waiver form in a timely manner may be grounds for disqualification of the Respondent’s Bid Submission, Proposal, or Quote, as the case may be.
- vi. In addition to and without limiting any rights CUNY may have, if the Supplier Diversity Goals have been set for the Solicitation, then CUNY may disqualify a Respondent as being non-responsive under the following circumstances:
 - a. If a Respondent fails to submit a Utilization Plan;
 - b. If a Respondent fails to submit a written remedy to a notice of deficiency;
 - c. If a Respondent fails to submit a Request For Waiver; or
 - d. If CUNY determines that the Respondent has failed to document good faith efforts.

By signing the Utilization Plan, the Respondent acknowledges that making false representations or providing information that shows a lack of good faith as part of, or in conjunction with, the submission of a Utilization Plan is prohibited by law and may result in penalties including, but not limited to, termination of a contract for cause, loss of eligibility to submit future Bid Submissions, Proposals, or Quotes, and/or withholding of payments.

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

If awarded a Contract, the Contractor certifies that it will follow the submitted Utilization Plan for the performance of MWBEs and/or SDVOBs on the Contract pursuant to the prescribed Supplier Diversity Goals. Contractor further agrees that a failure to use MWBEs and/or SDVOBs as agreed in the Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, CUNY shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsibility.

If Supplier Diversity Goals have been set for the Solicitation, the Contractor will be required to submit a Supplier Diversity (MWBE/SDVOB) - Quarterly Contractor Compliance & Payment Report or on a form required by CUNY, along with supporting documentation, no later than the 10th day following each end of quarter over the term of the Contract documenting the progress made toward achievement of the Supplier Diversity Goals of the Contract.

C. Equal Employment Opportunity Requirements

By submission of a Bid Submission, Proposal, or Quote in response to this Solicitation, the Respondent agrees with all of the terms and conditions of Appendix A, Standard Clauses for New York State Contracts, including without limitation Clause 12 - Equal Employment Opportunities for Minorities and Women. The Respondent shall submit to CUNY a Minority and Women-Owned Business Enterprises and Equal Employment Opportunity Policy Statement in form and substance acceptable to CUNY and within 10 days of CUNY's request, as more fully described below.

The Contractor is required to ensure that it and any subcontractors awarded a subcontract 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, undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.

If awarded a Contract, the Contractor shall submit a Workforce Utilization Report and shall require each of its subcontractors to submit Workforce Utilization Reports, in such form, manner, and frequency as may be required by CUNY during the term of the Contract.

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

Further, pursuant to Article 15 of the Executive Law (the "Human Rights Law"), all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and subcontractors will not discriminate against any employee or applicant for employment because of 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.

2. Contract Provisions. The following provisions apply to any Contract awarded pursuant to this Solicitation that is described in paragraph A(i) below, and to any respective Contractor.

A. General Provisions

- i. Contractor and CUNY hereby agree that the provisions of New York State Executive Law Article 15-A and Parts 140-145 of Title 5 of New York Codes, Rules and Regulations (as amended or supplemented from time to time, the "MWBE Regulations") and New York State Executive Law Article 17-B and Parts 252 of Title 9 of New York Codes, Rules and Regulations (as amended or supplemented from time

to time, the “SDVOB Regulations”) shall apply to the Contract and are incorporated herein by reference if this is a contract (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.

- ii. The contractor to the subject contract (“Contractor” and the “Contract,” respectively) agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to CUNY, to fully comply and cooperate with CUNY in the implementation of New York State Executive Law Article 15-A and Article 17-B, and the MWBE Regulations and SDVOB Regulations. These requirements include equal employment opportunities for minority group members and women (“EEO”) and contracting opportunities for New York State certified minority, women, service-disabled veteran-owned businesses. The Contractor’s demonstration of “good faith efforts” pursuant to 5 NYCRR §142.8 in relation to MWBEs and 9 NYCRR §252.2(n) in relation to SDVOBs shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the “Human Rights Law”) and other applicable federal, state and local laws.
- iii. 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, damages (including, without limitation, liquidated damages contained in this Attachment) or enforcement proceedings as allowed by the Contract, law, or equity.
- iv. Contractor shall submit all forms, documents, data, information, and the like required under this Attachment to the College-Designated Contact, and to any other individual and address otherwise designated in writing by CUNY for such purposes from time to time. Notwithstanding anything to the contrary herein, if and to the extent required by CUNY from time to time, Contractor shall submit all forms, documents, data, information, and the like contemplated in this Attachment electronically. Contractor shall make any such electronic submissions in the manner and format required by CUNY from time to time, and such electronic submissions shall be in addition to the original copies to be submitted to CUNY using the forms contemplated in this Attachment.

B. Contract Goals

- i. CUNY may have established (1) an overall participation goal for New York State-certified minority- and women-owned business enterprises (“MWBE”), and (2) specific participation goals for New York State-certified minority-owned business enterprises (“MBE”) and New York State-certified women-owned business enterprises (“WBE”), for the Contract (based on the current availability of qualified MBEs and WBEs) (“MWBE Goals”) and/or (3) an overall SDVOB participation goal (“SDVOB Goal”) for the Contract. Any such MWBE Goals and SDVOB Goal (collectively, “Supplier Diversity Goals”) will be set forth in the Solicitation. If no Supplier Diversity Goals appear in the Solicitation, or if the Solicitation indicates that there are no Supplier Diversity Goals, then CUNY will be deemed to have set no Supplier Diversity Goals for the Solicitation and the Contract, and no Supplier Diversity Goals will apply.

For purposes of providing meaningful participation by MWBEs on the Contract and achieving any MWBE Goals, the Contractor should reference the directory of MWBEs found at the following internet address: <https://ny.newnycontracts.com>. Additionally, the Contractor is encouraged to contact the Division of Minority and Woman Business Development at (212) 803-2414 to discuss additional methods of maximizing participation by MWBEs on the Contract.

For purposes of providing meaningful participation by SDVOBs on the Contract and achieving any SDVOB Goals, the Contractor should reference the list of New York State Certified SDVOBs found at: <https://ogs.ny.gov/Veterans/> Questions regarding compliance with SDVOB Goals should be directed to the College-Designated Contact. Additionally, following Contract execution, Contractor is encouraged to contact the Office of General Services' Division of Service-Disabled Veterans' Business Development at 518-474-2015 or VeteransDevelopment@ogs.ny.gov to discuss additional methods of maximizing participation by SDVOBs on the Contract.

- ii. Pursuant to 5 NYCRR §142.8 and 9 NYCRR §252.2(n), the Contractor must document "good faith efforts" to provide meaningful participation by MWBEs (where MWBE Goals have been established for the Contract) and SDVOBs (where an SDVOB Goal has been established for the Contract) as subcontractors or suppliers in the performance of the Contract. In accordance with 5 NYCRR §142.13 and 9 NYCRR §252.2(s), the Contractor acknowledges that if it is found to have willfully and intentionally failed to comply with any Supplier Diversity Goal set forth in the Contract, such a finding constitutes a breach of contract and the Contractor shall be liable to the CUNY for liquidated or other appropriate damages, as set forth herein or otherwise available under law, equity or contract. Contractor's documentation of such "good faith efforts" shall include, but not be necessarily limited to:
 - a. Evidence of outreach to MWBEs and SDVOBs;
 - b. Any responses by MWBEs and SDVOBs to the Contractor's outreach;
 - c. Explanation of the specific reasons why any MWBE or SDVOB that responded to Respondents or Contractors' solicitation for MWBE or SDVOB subcontractors or suppliers was not selected.
 - d. Copies of advertisements for participation by MWBEs and SDVOBs in appropriate general circulation, trade, and minority or women-oriented and veteran-business publications;
 - e. The dates of attendance at any pre-bid, pre-award, or other meetings, if any, scheduled by CUNY with MWBEs and SDVOBs; and,
 - f. Information describing specific steps undertaken by the Contractor to reasonably structure the Contract scope of work to maximize opportunities for MWBE and SDVOB participation.
 - g. Other information CUNY deems relevant to any waiver request submitted by the Contractor.
- iii. The Contractor understands that (1) only sums paid to MWBEs for the performance of a commercially useful function, as that term is defined in 5 NYCRR § 140. may be applied towards the achievement of the MWBE Goal and (2) only sums paid to SDVOBs for the performance of a commercially useful function, as that term is defined in 9 NYCRR §

252.1(f), may be applied towards the achievement of the applicable SDVOB Goal . For Contracts that are determined to be construction contracts by CUNY, acting in its sole and absolute discretion ("Construction Contracts"), the portion of a Construction Contract with an MWBE serving as a supplier that shall be deemed to represent the commercially useful function performed by the MWBE shall be 60 percent of the total value of the Construction Contract. The portion of a Construction Contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be the monetary value for fees, or the markup percentage, charged by the MWBE. For all Contracts that are not Construction Contracts, the portion of a contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be 25 percent of the total value of the contract.

c. Equal Employment Opportunity ("EEO")

i. The provisions of Article 15-A of the Executive Law and the rules and regulations promulgated thereunder pertaining to equal employment opportunities for minority group members and women shall apply to the Contract.

ii. In performing the Contract, the Contractor shall:

a. Ensure that each contractor and any subcontractor performing Work under the Contract shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO 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. The Contractor shall submit or have submitted to CUNY a Minority and Women-Owned Business Enterprises and Equal Employment Opportunity Policy Statement in form and substance acceptable to CUNY ("EEO Policy Statement") within ten days of CUNY's request, and CUNY shall have the right to make the submission of an EEO Policy Statement a condition of Contract Award.

c. If the Contractor or any of its subcontractors does not have an existing EEO Policy Statement, CUNY may require the Contractor or subcontractor to adopt a model EEO Policy Statement provided by CUNY.

d. The Contractor's EEO Policy Statement shall include the following language:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing EEO programs 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.

(2) The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the 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.

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

(4) The Contractor will include the provisions of Subdivisions (a) through (c) of this Subsection (iv) and Paragraph "E" of this Section 3 which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each Subcontractor as to work in connection with the Contract.

iii. **Staffing Plan**

As required by CUNY, Contractor shall submit or have submitted an Equal Employment Opportunity Staffing Plan, using a form required by CUNY, 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 (a "Staffing Plan"). Contractors shall have completed and submitted the Staffing Plan within ten days of CUNY's request.

iv. **Workforce Utilization Report ("Workforce Report")**

a. The Contractor shall submit a Workforce Utilization Report, and shall require each of its subcontractors to submit Workforce Utilization Reports, in such form, manner, and frequency as may be required by CUNY during the term of the Contract.

b. Separate forms shall be completed by the Contractor and any subcontractors.

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

v. The Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. The Contractor and its 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.

The following provisions contained in Sections D through F below apply to Contracts for which any Supplier Diversity Goals have been set.

D. Supplier Diversity (MWBE/SDVOB) Utilization Plan

i. The Contractor represents and warrants that Contractor has submitted to CUNY a Supplier Diversity (MWBE/SDVOB) Utilization Plan ("Utilization Plan"), or shall submit a Utilization Plan at such time as may be required by CUNY, in the form and manner required by CUNY.

- ii. The Contractor agrees to adhere to such Utilization Plan in the performance of the Contract.
- iii. The Contractor further agrees that failure to submit and/or adhere to such Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, CUNY shall be entitled to any remedy provided herein, including but not limited to, a finding that the Contractor is non-responsive.
- iv. The Contractor acknowledges and agrees that firms that do not perform commercially useful functions (as defined in 5 NYCRR Part 140.1 and 9 NYCRR § 252.1(f)) may not be counted towards utilization of MWBEs or SDVOBs in the Utilization Plan. Contractor further acknowledges and agrees that making false representations or including information evidencing a lack of good faith as part of, or in conjunction with, the submission of a Utilization Plan is prohibited by law and may result in penalties including, but not limited to, termination of a contract for cause, loss of eligibility to submit future bid submissions, proposals, and/or withholding of payments.

E. Waivers

- i. Any request by the Contractor for a partial or total waiver of the Supplier Diversity Goals must be submitted in the form and manner required by CUNY (a "Request for Waiver").
- ii. Prior to submission of a request for a partial or total waiver, Contractor may speak to the College-Designated Contact at CUNY for guidance.
- iii. In accordance with 5 NYCRR § 142.7 and 9 NYCRR § 252.2(m), if Contractor, after making good faith efforts, is unable to achieve the Supplier Diversity Goals, the Contractor may submit a Request for Waiver. Such Request for Waiver must be supported by evidence of the Contractor's good faith efforts to achieve maximum feasible participation towards the Supplier Diversity Goals. If the Request for Waiver is complete, and the Contractor has provided to CUNY's satisfaction such additional documentation that may be required by CUNY, CUNY shall evaluate the Request for Waiver and issue a written notice of approval or denial within twenty (20) business days of receipt.
- iv. Contractor shall attempt to utilize, in good faith, the MWBEs and SDVOBs identified within its Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established Supplier Diversity Goals made subsequent to Contract Award may be made at any time during the term of the Contract to CUNY, but must be made no later than prior to the submission of a request for final payment on the Contract.
- v. If CUNY, upon review of the Utilization Plan and updated Supplier Diversity (MWBE/SDVOB) - Quarterly Contractor Compliance & Payment Report described in Section 6 below, or any other relevant information, determines that the Contractor is failing or refusing to comply with the Contract goals and no waiver has been issued in regards to such non-compliance, CUNY 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 Goals.

F. Supplier Diversity (MWBE/SDVOB) Quarterly Contractor Compliance & Payment

Report

In accordance with 5 NYCRR § 142.11 and 9 NYCRR § 252.2(q), Contractor is required to report MWBE and/or SDVOB participation during the term of the Contract for the preceding three month's activity, documenting progress made towards achieving the Contract Supplier Diversity Goal. This information must be submitted using the Supplier Diversity (MWBE/SDVOB) - Quarterly Contractor Compliance & Payment Report form provided by CUNY from time to time, or otherwise in the form and manner required by CUNY, and must be completed by the Contractor and submitted to CUNY along with supporting documentation, by the 10th day following each end of quarter over the term of the Contract.

G. Breach of Contract and Damages

- i. Where CUNY determines that the Contractor is not in compliance with the requirements of this Attachment and the Contractor refuses to comply with such requirements, or if the Contractor is found to have willfully and intentionally failed to comply with the MWBE Goals, Contractor shall be obligated to pay to CUNY liquidated damages.
- ii. 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.
- iii. In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by CUNY, the Contractor shall pay such liquidated damages to CUNY within sixty (60) days after they are assessed by the CUNY. Provided, however, that if the Contractor has filed a complaint with the Director of the Division of Minority and Women's Business Development pursuant 5 NYCRR 142.12, liquidated damages shall be payable only in the event of a determination adverse to the Contractor following the complaint process.

In accordance with 9 NYCRR § 252.2(s), any Contractor found to have willfully and intentionally failed to comply with the SDVOB participation goals set forth in the Contract, shall be found to have breached the contract and Contractor shall pay damages as set forth therein. Such damages shall be calculated based on the actual cost incurred by CUNY related to the CUNY's expenses for personnel, supplies and overhead related to establishing, monitoring, and reviewing SDVOB programmatic goals.

Part 10: Important Notices to Proposers

1. Overview

The City University of New York is the nation's largest urban public university. Founded in New York City in 1847 as the Free Academy, CUNY is currently comprised of 26 institutions: 11 senior colleges, 7 community colleges, the William E. Macaulay Honors College at CUNY, CUNY Graduate Center, the Craig Newmark Graduate School of Journalism at CUNY, the CUNY School of Law, the CUNY Graduate School of Professional Studies, the CUNY Graduate School of Public Health and Health Policy, CUNY School of Medicine, and the CUNY School of Labor and Urban Studies. The University serves 247,000 degree-seeking students of all ages and awards 50,000 degrees each year. College Now, the University's academic enrichment program for more than 20,000 high school students, is offered at CUNY campuses and more than 400 high schools throughout the five boroughs of the City of New York.

- 1.1 The City University of New York ("CUNY" or the "University"), on behalf of the University or on behalf of one of its Colleges ("College") is releasing this Request for Proposals ("RFP") to solicit proposals from qualified vendors to acquire the goods, licenses, and/or services as specified in **Part 3**. This RFP sets forth the terms, conditions, and all applicable information required for submitting a responsive proposal ("Proposal"). In order to submit a responsive Proposal, each proposer must follow the format and instructions in **Part 1**, as well as any other relevant requirement described in this RFP concerning the process for submitting a Proposal.

CUNY anticipates making one award (as indicated in Part 1) on a "best value" basis (as defined by New York State Finance Law, Article 11, §163) as a result of this solicitation and anticipates issuing a contract ("Contract") to a Proposer(s) selected according to the process described herein ("Contractor").

This RFP is being conducted in compliance with all requirements of applicable New York State laws, including New York State Finance Laws §139-j and §139-k, all required internal and external oversight approvals, University regulations, and any federal or local laws, whether or not they are referenced in this RFP.

- 1.2 Key Events and Dates

Part 1 sets forth the tentative schedule for important actions. If CUNY finds it necessary to change any of these dates, CUNY will notify Proposers by issuing an addendum or addenda ("Addendum" or "Addenda") to this RFP. The terms of each Addendum will become part of the resulting Contract and supersede any contrary terms in the RFP. Each Proposer must acknowledge receipt and acceptance of the terms of all issued Addenda.

- 1.3 Contract Term

The term of the Contract is stated on **Part 1**.

- 1.4 New York State Procurement Lobbying Law

In accordance with University policy and the New York State Procurement Lobbying Law, Proposers are prohibited from contacting anyone at the University or College (including, employees, administrators, and Board of Trustees members) regarding this solicitation to attempt to influence (or to give the appearance of attempting to influence) the procurement, from the date Procurement Lobbying Law Restrictions Begin, as defined in Part 1, until a Contract has been registered (the “Restricted Period”).

All questions and/or requests for clarification concerning this solicitation must be submitted in writing via email to the individual(s) identified as the Designated Contact(s) on **Part 1**.

In accordance with the Procurement Lobbying Law, CUNY may reject a Proposal if a Proposer makes any unauthorized contact during the Restricted Period. Multiple violations of procurement lobbying restrictions regarding permissible contacts may lead to a Proposer’s being debarred from participating in future New York State procurements.

1.5 Important Notices to Proposers

- 1.5.1 Your receipt of this RFP does not indicate that CUNY has determined that you are qualified to receive a Contract Award. CUNY will make such determination only after it evaluates the Proposals in the context of the requirements and specifications contained in this RFP, including whether a vendor satisfies the Minimum Proposer Qualifications, Vendor Responsibility, and any other requirements.
- 1.5.2 Issuance of this RFP does not obligate CUNY to award a Contract for Services and does not constitute an offer to contract. Similarly, acceptance or evaluation of any Proposal does not obligate CUNY to award a Contract for Services or constitute an offer to contract.
- 1.5.3 CUNY will undertake an initial administrative review of each Proposal received to determine if they are complete and if the Proposer meets the Minimum Proposer Qualifications described in **Section 2** below and **Part 2** of the RFP. To be complete, a Proposal must include all required information, forms, signatures and notarizations. CUNY will forward all complete Proposals that meet the Minimum Proposer Qualifications to the Evaluation Committee for further evaluation.
- 1.5.4 CUNY will have no obligation or liability to the Proposer selected (if any) as a result of this solicitation unless and until a Contract satisfactory to the University is signed by the Proposer and CUNY, all required internal and external oversight approvals have been received or any pertinent pre-audit review period has elapsed, and CUNY has issued a Notice to Proceed to Contractor.
- 1.5.5 Each Proposer is presumed conclusively to have full knowledge of all conditions affecting in any way the performance of the Services that were or should have been discovered by a reasonably prudent proposer. It is each Proposer’s responsibility to familiarize itself with all obligations and relevant facilities at the University, and Proposer assumes full responsibility to provide Services that meet the Contract requirements for the Proposal Price (as set forth in Volume III:

Proposal Price).

- 1.5.6 Under no circumstances shall CUNY be liable for any costs incurred by Proposers: (i) in preparation and/or production of a Proposal; (ii) for attending site visits; (iii) for preparing or participating in an Oral Presentation/Product Demonstration; (iv) for the negotiation of a Contract; or (v) for any Services performed prior to Contractor's receipt of a fully executed Contract approved by all required government authorities and receipt of a Notice to Proceed from CUNY. By submitting a Proposal, the Proposer agrees to not to make any claim against CUNY for, and acknowledges that it does not have any right to, damages because of any misinterpretation or misunderstanding of the RFP requirements or specifications or because of any misinformation or lack of information.

1.6 Reservation of Rights by University

- 1.6.1 In addition to any other rights described in this RFP, CUNY reserves the right to reject any or all Proposals, including, without limitation, if:
- A. a Proposer has taken exceptions to **Part 7: Terms and Conditions of Contract** that do not comply with this RFP because, for example, a Proposer did not accept the Terms and Conditions of Contract without qualification;
 - B. a Proposer has made alterations to the RFP solicitation or any of its Forms or Attachments;
 - C. a Proposer does not provide any part of the information or documents required by this RFP solicitation;
 - D. a Proposer misstates, misleads, or conceals any material fact in its Proposal or at any time in connection with this RFP;
 - E. a Proposal is not in compliance with law;
 - F. a Proposal is not responsive to the requirements of this RFP or the requirements of the **Form 1**;
 - G. any part of a Proposal, such as the Proposal Price, is conditional;
 - H. the Proposal Price, in the opinion of CUNY, contains unbalanced prices; or
 - I. a determination that the Proposer is not "responsible" (as defined by law) is made in accordance with law or CUNY regulations.
- 1.6.2 In addition to any other rights described in this RFP and in law, CUNY reserves the right to:
- A. withdraw this solicitation at any time in the University's sole discretion;
 - B. waive any non-material requirements;
 - C. cancel this solicitation;
 - D. re-issue this solicitation with or without modifications;
 - E. correct any non-material arithmetic errors in Proposals;

- F. use any and all ideas submitted in the Proposals, even if such Proposals are rejected;
- G. negotiate modifications to the scope of work, Proposal Price, or components thereof with Presumptive Awardee prior to tentative Contract Award;
- H. (1) reject Proposals containing material variations, and/or (2) permit Proposer(s) to amend one or more non-material items in their Proposal(s) to comply with this RFP, and/or (3) waive or modify minor irregularities in Proposals.
 - 1. In the event of a discrepancy between the Proposal Price as stated in words and as stated in numbers, or as stated on any other part of a Proposal, the University reserves the right to deem the lowest price to be the Proposal Price.
 - 2. In the event of arithmetic error(s) in Proposer's Proposal Price, the University reserves the right to make the arithmetic correction(s) and deem the corrected amount the Proposal Price.
- I. seek clarifications, corrections, and revisions of Proposals;
- J. amend this RFP solicitation after releasing;
- K. change any of the scheduled dates;
- L. issue requests for additional information to Proposers, and Proposers' answers to such questions shall be returned to CUNY in writing and become part of the respective Proposers' Proposals;
- M. to require Proposers to participate in Oral Presentations/Product Demonstrations;
- N. to contact some or all of Proposers' references during the Proposal evaluation process;
- O. short list Proposers and to ask short-listed Proposers for "best and final offers"; and
- P. to negotiate with the Proposer with the next highest ranked Proposal score when discussions with a Presumptive Awardee are terminated due to an impasse.

1.7 Contract Award Subject to Internal and External Oversight Approvals

Any Contract Award is subject to all required internal and external oversight approvals, including, as applicable, approvals by the University's Board of Trustees, the Office of the New York State Attorney General, the Office of the New York State Comptroller or any pertinent pre-audit review period, the New York City Law Department, and the Office of the New York City Comptroller, and shall be contingent on the availability of funds. Unless and until all of the required approvals are received and procedures complied with, CUNY has no obligation and no liability to Proposer.

1.8 Additional Considerations – *Workforce Development*

CUNY's Office of Workforce Development strives to operate as a front door to industry and employers seeking to engage the City's largest source of local, driven, talented workers: students from CUNY's 25 campuses. The Workforce Development team collaborates with employers to better understand their labor and skill needs, and then connects them with a pool of young professionals equipped with the right knowledge and technical training to be able to excel from day one.

CUNY welcomes the opportunity to work with Proposer to create talent pipelines through skill-building workshops, internships, and recruitment programs.

If Proposer is interested in learning more about CUNY's workforce development programs and opportunities, please contact Cheryl Baldwin at **cheryl.baldwin@cuny.edu**. Additional information is available at **www.cuny.edu/careersuccess**

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2. Proposer Qualifications and Requirements

Specific Proposer Qualifications and Requirements are set forth in **Part 2**.

Diversity Participation Goals are set forth in **Part 2**.

2.1 Minimum Proposer Qualifications

Each Proposer must meet the mandatory Minimum Proposer Qualifications (including Technical Requirements, if any) set forth in **Part 2, Paragraph I**. If a Proposer fails to demonstrate that it meets the Minimum Proposer Qualifications, its Proposal will be rejected as non-responsive. In addition, each Proposer must ensure that its subcontractors or suppliers (in either case, "Subcontractor") meet the Minimum Proposer Qualifications to the extent required by **Part 2**.

2.2 Preferred (Non-Mandatory) Proposer Qualifications

Qualifications that would be desirable in a Proposer but are not mandatory are set forth in **Part 2, Part II**.

2.3 Requirements

Sections 2.3.1 through 2.3.4 below describe the Forms each Proposer must submit with their Proposals.¹

2.3.1 Proposer Information and Authorized Signature; Acceptance of Contract Terms; Proposer Certifications; Confidential Information; Signed RFP Addenda; and References (there is no form for References – please provide name of client, contact person and contact information, and a brief description of the project.

Each Proposer must submit Form 1 along with its RFP. Form 1 requires certain basic information about the Proposer, several certifications, and unqualified acceptance of Contract Terms and Conditions – Independent Contractor Agreement, including that:

- A. Minimum Proposer Qualifications Are Met. A statement certifying that the Proposer (and any subcontractors, if applicable) meets all the Minimum Proposer Qualifications (including Technical Requirements if any).
- B. No Conflicts of Interest. A statement affirming that neither Proposer nor any individual assigned to provide the Services to CUNY has any conflicts of interest with CUNY, its Colleges, or any of their respective governing bodies, constituent entities, or employees. If Proposer cannot provide such a statement because of a conflict of interest, it must state the nature of the conflict and describe the provisions that will be made to address the conflict.
- C. No Collusion. A statement affirming that Proposer has not colluded with

¹ Proposers may contact a CUNY Procurement Technical Center for technical assistance with this RFP. Please note that this assistance is solely for technical purposes and that CUNY Procurement Technical Centers are third-party, independent resources. *In accordance with Section 1.2, all communications regarding this RFP must be with a Designated Contact (See Section 1.2).*

anyone in connection with its Proposal required by New York State Finance Law §139-D or a statement detailing the reasons why such verification cannot be made.

D. Contract Terms and Conditions.

1. Proposers must confirm acceptance of the Terms and Conditions of Contract – Independent Contractor Agreement (see **Part 7**) without exception, as amended by any Addenda issued to this RFP that may have incorporated changes to address concerns or proposed exceptions that potential proposers raised, as provided herein and in **Section 4.1** below. If Proposer wishes to request changes to the contract terms, then the Proposer must submit Proposer's exceptions to the RFP ("Proposed Exceptions") by the Due Date(s) established for "Submission of Written Questions" set forth in Part 1. CUNY will consider all requests for changes submitted by the Due Date(s) and issue an Addendum that identifies all changes that CUNY agrees to make to the RFP. CUNY will not consider or negotiate any Proposed Exceptions unless they are submitted by the Questions Due Dates in **Part 1**. Changes to the RFP terms made via Addendum shall apply to all Proposers, and no Proposer shall be granted its own terms and conditions that differ from those Terms and Conditions of Contract – Independent Contractor Agreement that apply to other Proposers.
 2. CUNY reserves the right to modify, supplement or replace the Terms and Conditions of Contract – Independent Contractor Agreement, reject any or all Proposed Exceptions submitted by any Proposer.
 3. As a New York State instrumentality, all CUNY contracts are subject to the terms and conditions set forth in Appendix A: Standard Clauses for New York State Contracts, which may not be modified in any way.
- E. By submitting a Proposal, Proposers also agree to the additional provisions set forth below in **Section 7 - Pandemic-Related and Health-Related Requirements**.
- F. Period of Validity. Proposer must certify that its Proposal, including the Proposal Price, will remain valid for at least two hundred seventy (270) calendar days.
- G. If indicated in **Part 1**, Proposers must attend any mandatory site visits prior to submitting a proposal to the RFP. Failure to attend a mandatory site visit, if required by the RFP, may be grounds for rejection of the Proposal.
- H. By submitting a proposal to the RFP, each Proposer and each person signing on behalf of any Proposer certifies, and in the case of a joint proposal each party thereto certifies as to its own organization, under penalty of perjury, that the Proposer has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of Section 201-G of the Labor Law. Proposals that do not contain the above certification may not be considered

for award; provided however, that if the Proposer cannot make the certification, the Proposer shall so state and shall provide with the bid a signed statement which sets forth in detail reasons why the certification cannot be made.

2.3.2 Business Integrity; Procurement Lobbying Act Forms.

Proposer must include, as part of its Proposal, completed Procurement Lobbying Act Forms (see Forms 2 and 3.) CUNY will use Proposers' responses in these Forms in evaluating vendor responsibility and determining whether Proposers possess the requisite business integrity to justify the confidence of CUNY. For the duration of the Contract (inclusive of all renewals and extensions), the Contractor must adhere to the highest standards of business conduct and professional responsibility when fulfilling its obligations under the Contract and as required under §139 (j), §139 (k) and §163(9)(f) of the New York State Finance Law.

2.3.3 Diversity Practices; Diversity Practices Questionnaire.

If included in the RFP, Proposers must complete Form 4 - Diversity Practices Questionnaire as part of their Proposals, pursuant to New York State Executive Law Article 15-A.

Visit: <https://www.cuny.edu/about/administration/offices/procurement-services/doing-business-with-cuny/> for additional information.

2.3.4 MWBE/SDVOB Practices; Diversity Participation Goals; Supplier Diversity Utilization Plan.

- A. If **Part 2, Paragraph III** is included in the RFP, CUNY has established the participation goals set forth in **Part 2** for New York State-certified Minority-Owned Business Enterprises ("MBE") and Women-Owned Business Enterprises ("WBE", and, together with MBE, "MWBEs") based on the current availability of MWBEs in the aggregate), and for New York State-certified Service-Disabled Veteran-Owned Businesses ("SDVOB") (based on the current availability of qualified SDVOBs), to be part of the proposed team to provide the Services as subcontractor(s) or suppliers (the "Subcontractor(s)"). MWBE and SDVOB vendors who are interested in subcontracting/supplier opportunities on CUNY procurements with Supplier Diversity Participation Goals, may express interest through the Sell to CUNY website (www.cuny.edu/selltocuny) under "Current Procurements." Contractor shall use good faith efforts to meet these participation goals. Additional MWBE, SDVOB and Equal Employment Opportunity requirements applicable to this RFP and to the Contract are described in **Sections 2.3.5** and **2.3.6**, below, and attached hereto as part of **Part 2**.
- B. Proposers may identify potential MWBE subcontractor(s) by, among other means, consulting the directory of NYS-certified MWBEs at <https://ny.newnycontracts.com/>.
- C. Proposers may identify potential SDVOB subcontractor(s) by, among other means, consulting the list of NYS-certified SDVOBs at

<https://ogs.ny.gov/veterans>

- D. For a proposal to be considered responsive, Proposers must submit a Supplier Diversity – MWBE/SDVOB Utilization Plan and/or a Request for Waiver form that is accompanied by supporting documentation. See Form 5.

Sections 2.3.5 through **Sections 2.3.12** describe additional Requirements for Proposers in connection with this RFP solicitation. Proposers must complete, sign and submit Forms 7-19 (and any other documentation that CUNY may require) within ten (10) days of CUNY's request therefor. Failure to timely provide any such documentation in form and substance acceptable to CUNY shall be grounds for rejection of a Proposer's Proposal.

2.3.5 MWBE; SDVOB Additional Requirements.

- A. Within 10 days of CUNY's request, Contractor shall submit its Minority- and Women-Owned Business Enterprises and Equal Employment Opportunity Policy Statement.
- B. Contractor shall submit a completed a Quarterly Contractor Compliance & Payment Report accompanied by proof of payment to MWBE/SDVOB Subcontractor(s), in such format as shall be required by CUNY, on a quarterly basis during the term of the Contract. Sample Supplier Diversity forms and reports may be found at www.cuny.edu/selltocuny.

2.3.6 Workforce Employment Utilization Reporting Requirements.

- A. Contractor shall submit a Workforce Utilization Report ("Workforce Report") and shall require each of its Subcontractors to submit a separate Workforce Report, in such format as shall be required by CUNY on a quarterly basis during the term of the Contract. Contractor and any Subcontractor(s) shall each complete separate forms.
- B. In limited instances, Contractor may not be able to separate out the workforce used 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 actual workforce used on the Contract. When the workforce to be used on the Contract cannot be separated out from the 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.
- C. Contractor shall comply with the provisions of the Human Rights Law and 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 follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

- D. Pursuant to New York State Executive Order 162 of 2017, Contractors and Subcontractors also shall report the gross wages paid to each of their employees for the work performed by the employees under the Contract.
- E. Visit: www.cuny.edu/workforceutilizationreport for additional information and instructions on how to complete the Workforce Report.

2.3.7 **Consultant Employment Disclosure Forms.**

- A. If the Project involves consultant services, then, pursuant to New York State Finance Law §163(4)(g), all contractors, including subcontractors, that provide consulting services pursuant to a contract with CUNY shall submit an annual employment report for each such contract, such report to include for each employment category within the contract: (i) the number of employees employed to provide services under the contract, (ii) the number of hours they work, and (iii) their total compensation under the contract. Consulting services are defined as analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal, or similar services. Proposers may refer to Chapter XI.18.C (Consultant Disclosure Legislation) of the New York State Guide to Financial Operations, available at:

<https://www.osc.state.ny.us/agencies/guide/MyWebHelp/#XI/18/C.htm%3FTo%3DPath%3DXI.%2520Procurement%2520and%2520Contract%2520Management%7C18.%2520Miscellaneous%2520Legislative%2520Requirements%7C3>

on the State Comptroller's Web site to become familiar with Consultant Employment Disclosure requirements.

- B. Any vendor awarded a Contract as a result of this solicitation shall complete the "State Consultant Services-Contractor's Planned Employment" form and submit it when the Contract is signed. For each Contract year thereafter, the Contractor shall complete the "State Consultant Services Contractor's Annual Employment Report" form required by CUNY and submit copies to the Office of the State Comptroller and CUNY on or before May 15th of each year the Contract is in effect.

2.3.8 **Workers' Compensation and Disability Insurance.**

Contractor shall submit to CUNY proof of adequate workers' compensation and disability insurance required by New York State law before commencing work.

2.3.9 **Procedure to Follow if Proposer Plans to Staff Project with Former CUNY Employee(s).**

Each Proposer shall comply with the Public Officers Law by ensuring that it proposes staff who are eligible to work on the Project. Proposer acknowledges that before it authorizes any former CUNY employee (as hereinafter defined) to be part of its staff after receiving a tentative award, CUNY must first obtain an opinion from the New York State Commission on Ethics and Lobbying in Government ("Commission") that approves their participation in the Project. An

individual constitutes a “former CUNY employee” for purposes of this provision if either (i) it is two years or less between the date that the individual is proposed and the individual’s date of separation from the State or (ii) the individual proposed has worked on the Project while employed by CUNY regardless of how long ago they left CUNY. Failure to obtain New York State Joint Commission on Public Ethics approval for an individual’s participation in a project may jeopardize the Contractor’s designation for the Project. Contractor shall provide a copy of the Commission opinion to CUNY prior to providing any services. Contractor shall keep a copy of the Commission opinion on file in the Contractor’s office and make it available for review by CUNY if requested.

2.3.10 Vendor Responsibility Information.

A Contract Award, if made at all, will be made on the “basis of best value to a responsive and responsible offerer” in accordance with New York State Finance Law §163. The Presumptive Awardee shall provide vendor responsibility information to CUNY before a Contract Award is made.

- A. CUNY recommends that vendors file the required Vendor Responsibility Questionnaire online via the New York State VendRep System. To enroll in and use the New York State VendRep System, go to <https://www.osc.state.ny.us/vendrep/enroll.htm>. Vendors must provide their New York State Vendor Identification Number when enrolling. To request assignment of a Vendor ID or for VendRep System assistance, go to <https://www.osc.state.ny.us/portal/contactbuss.htm>.

Vendors opting to complete a paper questionnaire can obtain the appropriate questionnaire from the VendRep website www.osc.state.ny.us/vendrep or may contact CUNY or the Office of the State Comptroller’s Help Desk.

- B. Proposers must submit to CUNY a hard copy of vendor responsibility forms for solicitations valued in excess of \$100,000 within 10 days of CUNY’s request.

2.3.11 Tax Law Certifications.

Proposers are hereby notified that pursuant to Section 5-a of the NYS Tax Law, all vendors selected for contracts in excess of \$100,000 for the sale of goods or services must complete and submit (Contractor Certifications) Form ST-220-TD to the State and Form ST-220-CA to the University. Proposers can download these forms to complete by visiting the following Web sites:

<http://www.tax.ny.gov/pdf/publications/sales/pub223.pdf>
http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf
http://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf

- 2.3.12 If directed by CUNY, the Contractor shall submit a copy of its protocols and safety plan to address COVID-19 and related health concerns (“Contractor’s Safety Protocols”). The Contractor’s Safety Protocols should include, among other things, a description of how Contractor will comply with the CUNY Visitor Policy and how CUNY will verify compliance (e.g., use of Cleared4, etc.).

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3. Scope of Work

- 3.1 The Project Objectives and Scope; Detailed Specifications and Deliverables; and Contractor Responsibilities (as set forth in **Part 3**) describes:
 - 3.1.1 CUNY's objectives for issuing this RFP solicitation document,
 - 3.1.2 the services and/or commodities required to meet CUNY's needs,
 - 3.1.3 the technical specifications,
 - 3.1.4 the deliverables, and
 - 3.1.5 the performance standards that will be used to assess the Contractor's compliance with the Contract's requirements.

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4. RFP Questions and Clarifications; Addenda to RFP

4.1 RFP Questions and Clarifications

Please submit all questions and/or requests for clarification concerning this solicitation and any Proposed Exceptions in writing via email to the Designated Contact(s) as early as possible following receipt of this RFP and by the Due Dates and Times for Submitting Written Questions, forth in **Part 1**. Questions received after the Due Dates and Times for Submitting Written Questions may not be answered. Each question must cite the particular page, section, and paragraph number, where applicable, to which it applies. If Proposers submit the questions and Proposed Exceptions to CUNY prior to the Due Dates and Times for Submitting Written Questions, then CUNY has the opportunity to address the questions and Proposed Exceptions in an Addendum to this RFP. The purpose of requiring all Proposed Exceptions prior to the Proposal Due Date and to address all Proposed Exceptions in the Addenda is to permit all Proposers to submit Proposals based on the same set of terms and conditions. CUNY will review all such questions, clarifications, and Proposed Exceptions and determine whether any changes will be made to the RFP.

4.2 Addenda to RFP

All clarifications, corrections, interpretations, additions, amendments, and answers to all questions of a substantive nature and responses to Proposed Exceptions, together with the questions and Proposed Exceptions submitted, will be distributed in writing by email by CUNY as an Addendum to the RFP to each entity recorded as having requested or been sent a copy of the RFP, and will be uploaded to the New York State Contract Reporter Website at <https://www.nyscr.ny.gov>. Each Addendum (all Addenda) shall become a part of the RFP and be binding on all Proposers. Proposers must sign each Addendum and submit it/them as part of Volume I of its Proposal.

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5. How to Submit a Proposal

5.1 Proposal Parts

Technical and Management Proposal Requirements (set forth in **Part 4**)

Proposal Price Breakdown Pages (set forth in **Part 5**)

To be responsive to this RFP, and for the purposes of evaluation, each Proposal must consist of the following three parts:

5.1.1 Volume I: Required Forms

Volume I must contain completed Forms 1 through 6 and any other document required by **Part 2** of the RFP. Form 1 (page 1) will serve as a cover letter. Form 1 must be signed by an authorized representative of the Proposer. Forms 2 through 6 must be completed and, if required by their terms, signed and notarized.

If Volume I contains any pricing information, the Proposal may be rejected and returned to the Proposer as non-responsive.

5.1.2 Volume II: Technical and Management Proposal

Volume II must contain all of the information required by **Part 4**.

If Volume II contains any pricing information, the Proposal may be rejected and returned to the Proposer as non-responsive.

5.1.3 Volume III: Proposal Price

Proposer must submit its Proposal Price on **Part 5** as Volume III. Proposer must provide pricing for all spaces indicated/provided on Part 5 of this RFP. Failure to complete all spaces may result in a Proposal being deemed non-responsive. Because CUNY is exempt from the payment of all New York State, local sales, and use taxes, Proposer must not include the amount of any such taxes in the Proposal Price.

5.2 Proposal Packaging

If CUNY requires hard copy submissions, Proposer must submit three (3) copies of its Proposal: two (2) paper copies and one (1) electronic copy (in PDF format) on a flash drive.

All copies of the Proposal and the flash drive must be submitted together in one package that is securely sealed and clearly labeled with Proposer's name and the RFP's Project name.

The contents of the package must include:

- The flash drive containing the electronic copy of the Proposal clearly labeled with Proposer's name and the RFP's Project name; there should be one PDF for Volume I (identified by "Proposer's name, RFP Project name, Volume I"), a second PDF for Volume II (identified by "Proposer's name, RFP Project name, Volume II") and a third PDF for Volume III (identified by "Proposer's name, RFP Project name, Volume III")

The Volume I package, the Volume II package and the Volume III package must be separately identified by Proposer's name, the RFP Project name, and the Volume number (I, II or III).

5.3 Proposal Submission and Receipt by CUNY

By signing and submitting a Proposal, Proposer affirms that: (a) it has read this RFP solicitation document in its entirety, including Addenda; (b) it accepts the terms of this RFP; and (c) it is able and willing to sign and execute the Contract if it is awarded the Contract.

The Terms and Conditions of Contract – Independent Contractor Agreement and any appendices or exhibits thereto, together with this RFP, any Addenda (including, without limitation, any formal questions and answers provided during the evaluation process), and the contents of the selected Proposal, shall be incorporated into and constitute the Contract. Proposer shall, without exception, accept **Part 7: Terms and Conditions of Contract** – Independent Contractor Agreement, as the Terms and Conditions may have been amended by Addenda issued to this RFP.

Proposals must be received by CUNY by the time and on the day and in the location indicated in **Part 1, time being of the essence**.

Proposers assume all risks in connection with the delivery of their Proposals. Proposers are strongly encouraged to arrange for delivery of Proposals prior to the Proposal Submission Due Date and Time.

- The University accepts no responsibility for the delivery of Proposals.
- The University is not responsible for any costs incurred by a Proposer related to the preparation of a Proposal
- Proposals received after the Proposal Submission Due Date and Time may be rejected in the University's sole discretion.

5.3.1 Consistent Information.

Proposer shall ensure that information is consistent across submitted documents. CUNY reserves the right to:

- reject Proposals submitted with conflicting information;
- view non-compliance with this section or failure to provide information and/or required forms as non-responsive; and/or
- determine that a Proposer has substantially met the requirements of this RFP

and/or to ask for additional information after the Proposal Submission Due Date.

5.3.2 No Changes to Documents Permitted.

Proposers shall not make any changes to the documents of this RFP solicitation. Any changes to or attempts to change the RFP solicitation may render a Proposal non-responsive; any changes to the RFP solicitation are not binding on the University.

5.3.3 Confidentiality.

CUNY's records, including its solicitation documents, proposals received, and contracts, are subject to inspection pursuant to the Freedom of Information Law ("FOIL") of the Public Officers Law. CUNY will protect confidential and proprietary information from disclosure to the extent permitted by FOIL. Accordingly, Proposers must identify those page(s) of their Proposal that they believe contain such information and mark it as "confidential and proprietary." In addition, Proposers must explain the reason(s) why this information should be considered exempt from public disclosure under FOIL, including the identification of pages that contain "confidential and proprietary information" and the reasons for exemption of such "confidential and proprietary information" in Form 1.

5.3.4 Proposals Become CUNY Property.

All Proposals, upon submission to CUNY, shall become CUNY's property for use as deemed appropriate.

5.3.5 No Public Opening of Proposals.

There will not be a public opening of Proposals. The University will review Proposals in accordance with **Section 6** below and make a determination of each Proposer's qualifications after the Proposal Submission Due Date.

5.3.6 Withdrawal of Proposal.

Proposals submitted, including Proposal Prices, are firm and binding for 270 days of the Proposal Due Date indicated in Part 1. However, CUNY may consider a withdrawal of a Proposal only in the following cases:

- A. Timing: A Proposer may withdraw its Proposal at any time before the Proposal Submission Due Date and Time. A request to withdraw a Proposal must be made in writing on letterhead from the person who signed the Proposal. The request-to-withdraw letter may be submitted as an attachment to an email only if the original signed letter is then sent by United States mail to the Proposal Due Location.
- B. Errors: Upon notification of a material error by CUNY, a Proposer may request to withdraw its Proposal. Such request must be received in writing on letterhead from the person who signed the Proposal within 3 business days of the notification by CUNY. Proposer may submit this letter as an attachment to an email only if the original letter is then sent by United States mail to the

Proposal Due Location set forth in **Part 1**. CUNY will determine whether to grant such request for withdrawal of the Proposal and will respond in writing to the Proposer with its decision.

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6. Proposal Evaluation and Selection Process

Proposal Scoring Criteria and Weights (set forth in **Part 6**)

6.1 Overview

6.1.1 Administrative Review. Before a proposal is evaluated by the evaluation committee, CUNY will undertake an administrative review of each Proposal to determine that:

- A. Proposer has accepted all Terms and Conditions of Contract – Independent Contractor Agreement without taking any exceptions;
- B. Proposer has properly completed and submitted Required Forms 1-6 (constituting Volume I);
- C. Proposer has properly completed and submitted Volumes II and III; and
- D. Proposer (and any Subcontractor(s)) meets the Minimum Proposer Qualifications (including the Technical Requirements, if any) described in **Section 2.1** and **Part 2, Paragraph I**.

Proposals that do not include all required content will be deemed non-responsive and will not be granted any further consideration unless CUNY deems omissions non-material.

6.1.2 Evaluation and Scoring of Proposals. Proposals that have passed the administrative review will be referred for evaluation as described in **Part 6**.

6.2 Best Value Evaluation Method

CUNY may make a tentative award of the Contract on the basis of best value to a responsive and a responsible Proposer as these terms (“best value”, “responsive” and “responsible”) are defined by New York State Finance Law Article 11, Section 163, and based on the technical and price criteria established by this RFP solicitation and otherwise in accordance with the terms and conditions of this RFP solicitation.

6.3 Notification to Unsuccessful Proposers

After (and if) a firm has been identified for tentative award, CUNY will notify all Proposers. Unsuccessful Proposers may request a debriefing of their Proposal by sending a request in writing, postmarked within 15 calendar days of being notified of being unsuccessful, to the Designated Contact for this solicitation.

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7. Pandemic-Related and Health-Related Requirements

- 7.1 By submitting a proposal to the RFP, Proposers are agreeing to the pandemic-related and health-related requirements set forth herein ("Health Requirements"). Without limiting the generality of the terms and conditions set forth in RFP and Contract, Contractor covenants, represents, warrants and agrees, at Contractor's sole cost and expense, to comply, and to cause its employees, staff, principals, subcontractors, suppliers, agents, representatives, and invitees to comply, with requirements and guidance issued by the federal, state, and local governments and all agencies and instrumentalities thereof, relating to the pandemic-related requirements and health-related requirements, as the same may change from time to time, applicable to Contractor and its operations at the University and College, including, without limitation, with all permits and health care requirements and recommendations of the New York City Department of Health and New York State Department of Health (collectively, as they apply at the relevant time and to the area or operations in question, "Government Guidance and Rules"), such as, by way of example, ensuring physical distancing, conducting temperature checks, and supplying and enforcing the proper use of protective personal equipment, cleaning disinfectants, and hand sanitizer.
- 7.2 Contractor shall cooperate with the University and the College so that the University and College are able to effectively comply with all Government Guidance and Rules applicable to the University and College. Contractor shall, and shall cause all of its employees, staff, principals, subcontractors, suppliers, agents, representatives, and invitees to comply with the University's and College's rules and procedures, which may be provided and updated from time to time as needs and requirements change, in connection with any Government Guidance and Rules, which notice shall be provided to Contractor's email address for notices.
- 7.3 In particular, but without limitation, Contractor shall ensure that all of its employees, staff, principals, subcontractors, suppliers, agents, representatives, and invitees comply with the CUNY Visitor Policy, available at <https://www.cuny.edu/coronavirus/cuny-access-pass/visitor-policy/> as may be updated from time to time. If required by the Visitor Policy, non-CUNY personnel planning to come to a CUNY campus must use the Cleared4 app to verify vaccination against COVID-19 or confirm that they have provided a negative COVID-19 PCR test based on a sample taken within the seven days prior to the visit. A Guide and FAQ regarding use of the Cleared4 app are available at https://cuny.service-now.com/sys_attachment.do?sys_id=e67a9b781bb63cd06f9821be6e4bcbe0. Contractor acknowledges and agrees that it will comply with these requirements every time an individual comes to a CUNY campus.
- 7.4 Contractor's safety protocols and plan to address health and safety concerns are annexed hereto as Form 19 ("Contractor's Safety Protocols"). Contractor agrees that it shall comply with its safety protocols. Contractor shall promptly notify College of any modifications to the Contractor's Safety Protocols, and any proposed modification shall be subject to the College's prior approval. Contractor agrees that Contractor's Safety Protocols are not and shall not be deemed to be an assumption by, or transfer to, College of liability for such protocols, and that Contractor shall remain liable for establishing and implementing such protocols and for the acts and omissions of Contractor and its employees, staff, principals, subcontractors, suppliers, agents,

representatives, and invitees.

- 7.5 Contractor acknowledges and agrees that the maximum number of persons permitted to enter the College campus or any particular building or area, may be modified by College or University due to pandemic-related and health-related considerations at any time during the Term.
- 7.6 Contractor shall promptly provide notice to the University or to the College, as applicable, with relevant details upon becoming aware of any individual who (a) accessed the University or College premises, and (b) tested positive for COVID-19 or became symptomatic for COVID-19 or was in close proximity to an individual who tested positive for COVID-19 or became symptomatic for COVID-19.
- 7.7 Contractor hereby acknowledges and agrees that Contractor's use of the building and University or College premises, as applicable, will involve risks and hazards due to the health pandemic and that the health pandemic presents unique health risks, especially to those with underlying conditions, and that there may be other risks not known or reasonably foreseeable. Contractor shall advise all individuals accessing the University or College premises in connection with the Contract of the foregoing and shall ensure that such individuals have voluntarily accepted and assumed all of the risks associated with such access. Contractor agrees to fully indemnify, defend, and hold harmless the College, the University, DASNY, CUCF, the State of New York, and the City of New York, in accordance with the indemnification provisions set forth in the Contract for any claims, causes of action, costs, fees, or the like related to COVID-19 or any related health pandemic by individuals accessing the building and University or College premises in connection with the work of the Contract.
- 7.8 Proposers and Contractor acknowledge that, due to the effects of the health pandemic, the scope of the work and that the terms and conditions of this RFP and Contract may be subject to change in order to adhere to the Health Requirements including Government Guidance and Rules. In addition, Proposers and Contractor acknowledge that certain requirements and certain processes under the RFP and Contract may be modified based upon restrictions resulting from the health pandemic. College will endeavor to provide advance notice for such changes.
- 7.9 Contractor acknowledges and agrees that the inability of the College or University to provide access to the site to Contractor to perform maintenance or other services shall not void any warranties or guarantees available to the College or University under the Contract or at law. An extension of time shall be Contractor's only remedy for any delays that may occur in connection with access to the College premises and Health Requirements. As applicable, to the extent the College is not open during the times preventative maintenance is scheduled to be performed, Contractor shall perform all past due maintenance immediately upon regaining access to the facilities.
- 7.10 Notwithstanding anything to the contrary contained in the Contract, Contractor's failure to comply with the terms and conditions contained in the Health Requirements herein shall be a material breach of the Contract, and College reserves the right to cure such breach at Contractor's cost after providing notice of Contractor's default; however, given the serious nature of any default related to the Health Requirements herein, College shall not be required to provide Contractor with an opportunity to cure before College undertakes such cure at the cost and expense of Contractor, which cost shall be paid by

Contractor promptly upon notification by College of the costs due.

- 7.11 Notwithstanding anything to contrary contained in the Contract, in the event of Contractor's breach of the terms of this **Section 7**, College shall have the right to cancel the Contract upon giving written notice to Contractor.
- 7.12 The provisions of these Health Requirements shall survive the expiration or earlier termination of the term of the Contract. In the event of a conflict between or among any laws, regulations, orders, directives, requirements, and the like, of federal, state, and local governments, courts, governmental authorities, legislative bodies, Guidance and Rules, and University requirements ("Laws/Requirements"), Contractor shall comply with the most stringent Laws/Requirements in each instance. In the event of a conflict between the terms and conditions of these Health Requirements and the terms and conditions of the Contract, the terms and conditions of these Health Requirements shall take precedence.

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8. Contract Award Protest Procedures

8.1 Intent

The University offers any Protesting Party an opportunity to administratively resolve any Contract Award Protests as it relates to procurement actions pursuant to the *Procurement Policy and Procedures of The City University of New York* as adopted by the CUNY Board of Trustees on February 21, 2017 and amended on December 16, 2019. All such matters will be accorded full, impartial and timely consideration.

8.2 Definitions

As used in this **Section 8**, the following terms shall have the respective meanings set forth below:

CUNY or University – The City University of New York, including its senior and community colleges and professional and graduate schools (its “Colleges”) and its Central Office. For purposes of this Policy, “CUNY” and “University” also includes the following types of entities and their subsidiaries: college associations, student services corporations, childcare centers, performing arts centers, and art galleries. These Procedures do not apply to college foundations, separately incorporated alumni associations or auxiliary enterprise corporation; however, those entities are strongly encouraged to establish contract award protest procedures of similar scope to provide for open and free competition to the maximum extent practicable and consistent with the NYS Not-for-Profit Corporation Law.

Contract Award – a written determination by the University to an offeror stating that the University has accepted a bid submission, proposal or offer.

Designated Contact – the authorized procurement contact person for the subject procurement or contract during the procurement process, except where otherwise authorized by law or University policy.

Purchasing Director – CUNY College Director of Purchasing (or equivalent title) or designee who is directly responsible for the acquisition of goods and services at their respective CUNY College, including CUNY Central Office.

Protest – a written challenge by a Protesting Party to a Contract Award.

Protesting Party – an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of a contract or by the failure to award a contract.

Vice President of Finance and Administration – CUNY College Vice President of Finance and Administration (or equivalent title) or designee, who is to receive, review and determine Contract Award Protests.

Solicitation or Contract Number – a unique identifier assigned by CUNY to each procurement and/or Contract Award.

8.3 Submission of a Contract Award Protest.

- 8.3.1 After attempting to informally resolve any questions, the Protesting Party may submit a Protest to the Vice President of Finance and Administration, in writing, setting forth the basis on which the Protesting Party challenges a Contract Award by CUNY.
- 8.3.2 The Protest must include the following:
 - A. Name, address, e-mail address, telephone numbers of the Protesting Party or its Designated Agent.
 - B. Solicitation and/or Contract Number.
 - C. Detailed statement of the legal and factual grounds for the protest, including a description of resulting prejudice to the Protesting Party.
 - D. Copies of all relevant documents.
 - E. Statement of the relief requested.
 - F. Request for a determination by the Vice President of Finance and Administration.
 - G. Information establishing that the protest or inquiry was timely filed in accordance with this Contract Award Protest Procedures.
- 8.3.3 Contract Award Protests concerning a pending or awarded contract must be filed by the Protesting Party within ten (10) business days of the earliest to occur of the following, as determined by the Vice President of Finance and Administration: (1) after the Protesting Party knows or should have known of the facts which form the basis of the protest; or (2) after the Protesting Party received a debriefing offered by CUNY. An untimely Protest will not be considered and will be returned to the Protesting Party.
- 8.3.4 All Protests must be sent by certified mail return receipt requested or a similar tracked mail delivery service to the Vice President of Finance and Administration at the address provided in the solicitation document for the Designated Contact.
- 8.3.5 A copy of all correspondence and supporting documentation accompanying a Protest must also be sent by certified mail return receipt requested or a similar tracked mail delivery service to the following two addresses:
 - A. University Office of Budget and Finance, Attn: Chief Procurement Officer, 230 West 41st Street – 5th Floor, New York, NY, 10036
 - B. University Office of the General Counsel, Attn: General Counsel, 205 East 42nd St – 11th Floor, New York, NY 10017.
- 8.3.6 The Purchasing Director may, at his or her discretion, suspend, modify, or cancel the disputed procurement action prior to the review or issuance of a formal dispute decision.

8.4 CUNY's Review and Response of Contract Award Protest.

- 8.4.1 Upon receipt of the Protest, the Vice President of Finance and Administration shall review the documentation submitted by the Protesting Party and any other documents available to CUNY.
- 8.4.2 The Vice President of Finance and Administration may take any action or make any requests he or she deems necessary in order to investigate the Protest in order to obtain all evidence and other pertinent information.
- 8.4.3 The Vice President of Finance and Administration, at his or her discretion, may convene an informal conference with the Protesting Party, and/or any other interested party to resolve the Protest by mutual consent.
- 8.4.4 The Vice President of Finance and Administration shall issue a written determination within thirty (30) business days after receipt of the Protest, where feasible.
 - A. The Vice President of Finance and Administration reserves the right to waive or extend the time requirements for decisions and final determination on appeals herein prescribed when, in its sole judgment, circumstances so warrant.
- 8.4.5 A copy of the written determination, stating the reason(s) upon which it is based and informing the Protesting Party of the right to appeal the determination to the College President shall be sent to the Protesting Party or its agent by certified mail.

8.5 Appeals.

- 8.5.1 The written determination rendered by the Vice President of Finance and Administration to resolve the Protest shall be final and conclusive, unless, within ten (10) business days after receipt of the written determination, the Protesting Party appeals the determination to the College President.
 - A. The appeal must be in writing and sent by certified mail return receipt requested or a similar tracked mail delivery service to the President at the address provided for in the solicitation document or as stated in the written determination sent by the Vice President of Finance and Administration.
 - B. A copy of all correspondence and supporting documentation to an appeal must also be sent by certified mail return receipt requested or a similar tracked mail delivery service to the following two addresses:
 - 1. University Office of Budget and Finance, Attn: Chief Procurement Officer, 230 West 41st Street – 5th Floor, New York, NY 10036.
 - 2. University Office of the General Counsel, Attn: General Counsel, 205 East 42nd St – 11th Floor, New York, NY 10017.
 - C. The College President, at his or her discretion, may designate a cabinet level employee of the College, other than the Vice President of Finance and Administration, to review relevant documents and make a final determination.
 - D. The College President, at his or her discretion may suspend, modify, or cancel the disputed procurement action prior to issuance of a formal appeal

decision.

8.5.2 The final determination on the appeal shall be issued within thirty (30) business days of receipt of the appeal and shall be sent to the Protesting Party or its agent by certified mail.

A. The College President may take any action or make any requests he or she deems necessary, including extending the time to issue a decision in order to render a written decision on the appeal to the College President.

8.5.3 An appeal of the decision made by the Vice President of Finance and Administration shall not include new facts and information unless requested in writing by the College President.

8.5.4 Unless otherwise provided in 8.6 below, the decision of the College President shall be the University's final and conclusive determination of the Protest.

8.6 Appeals to the Office of the New York State Comptroller.

If the Contract Award let by the University is from a New York State operated institution, specifically including the senior colleges, and graduate, honors and professional schools, and the Contract Award is subject to approval of Office of the New York State Comptroller pursuant to State Finance Law section 112 and Education Law section 6218, or is otherwise submitted to the Office of State Comptroller for approval, then the Protesting Party may submit an appeal of the College President's determination to the Office of the New York State Comptroller in accordance with the guidelines on Contract Award Protest Procedure as fully set out at Part 24 of Title 2 of the New York Codes, Rules and Regulations.

8.7 Legal Appeals.

Nothing contained in these provisions is intended to limit or impair the rights of any vendor to seek and pursue remedies of law through the judicial process.

-end-

FORM ONE

Form 1
Proposer Information and Authorized Signature;
Acceptance of Contract Terms; Proposer Certifications;
Confidential Information; Signed RFP Addenda; and References

*(Proposer must **complete, sign, and attach additional pages as needed**;
do not modify this Form or your Proposal may be deemed non-responsive)*

I. PROPOSER INFORMATION

Firm Name: _____

Employer Identification Number (EIN): _____

Address: _____

City: _____ State: _____

Zip Code: _____ - _____

Telephone: (____) _____ - _____

E-Mail Address: _____

Contact Person (if different from Preparer, below): _____

Please indicate below the name, title, address, telephone/fax numbers and email of the person who prepared this Proposal, as well as any other individual(s) with authority to negotiate and contractually bind the Proposer and who may be contacted during the period of proposal evaluation: (attach additional pages if needed)

Preparer's Name/Title: _____

Address: _____

Telephone: (____) _____ - _____

E-Mail Address: _____

Other Authorized Individual(s):

Name/Title: _____

Address: _____

Telephone: (____) _____ - _____

E-Mail Address: _____

II. PROPOSER ACCEPTANCE OF CONTRACT TERMS AND CONDITIONS

Proposer has read this entire RFP, including the Scope of Work/Specifications and any and all Attachments, Appendices and Addenda and, by signing below, agrees to be bound by Part 7: Terms and Conditions of Contract as may have been revised by any Addenda issued, without qualification, without negotiation, and without exception.

III. PROPOSER CERTIFICATIONS

By signing below and submitting a Proposal in response to this RFP, Proposer and each person signing on behalf of Proposer hereby makes the following certifications and warrants under penalty for perjury that:

1. Proposer (and each of its Subcontractors, to the extent required by this RFP) meets all of the Minimum Proposer Qualifications (including Technical Requirements, if any) of this RFP;
2. If Proposer is an entity, then Proposer is duly organized, validly existing, and in good standing under the laws of its jurisdiction of organization or formation and is in good standing and authorized to do business in the State of New York;
3. If Proposer is an entity, then Proposer has duly authorized, executed, and delivered its Proposal and has the power and authority to perform the transactions contemplated herein;
4. To the best of Proposer's knowledge and belief: (i) the prices in its Proposal have been arrived at independently without collusion, communication, or agreement for the purpose of restricting competition as to any matter relating to such prices with any other Proposer or with any competitor; (ii) unless otherwise required by the law, the prices that have been quoted in its Proposal have not been knowingly disclosed by Proposer and will not knowingly be disclosed by Proposer prior to contract award or RFP cancellation, directly or indirectly, to any other Proposer or to any competitor; and (iii) no attempt has been made or will be made by Proposer to induce any other person, partnership, or corporation to submit or not to submit a Proposal for the purpose of restricting competition. If Proposer cannot make the foregoing certification, Proposer shall so state below and shall furnish with this Form 1 on a separate sheet of paper a signed statement that sets forth in detail the reasons that the Proposer cannot make the certification;

Proposer must select one of the following:

☐ **Proposer hereby certifies**

☐ **Proposer cannot so certify and is attaching a signed, separate statement**

5. Proposer is not the subject of a finding of non-responsibility made within the previous four years by any governmental entity (as such term is defined in Section 139-k of New York State's Finance Law) where such prior finding of non-responsibility was due to (i) a violation of Section 139-j of New York State's Finance Law's restrictions on contacts during the procurement process, or (ii) the intentional provision of false or incomplete information to a governmental entity;
6. Proposer certifies that the Proposer has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment

prevention training to all employees. Such policy shall, at a minimum, meet the requirements of Section 201-g of New York State's Labor Law. If Proposer cannot make the foregoing certification, Proposer shall so state below and shall furnish with this Form 1 on a separate sheet of paper a signed statement that sets forth in detail the reasons that Proposer cannot make the certification.

Proposer must select one of the following:

☐ **Proposer hereby certifies**

☐ **Proposer cannot so certify and is attaching a signed, separate statement**

7. In accordance with Executive Order No. 177, Proposer certifies that the Proposer has institutional policies that prohibit harassment of and discrimination against 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 New York State Human Rights Law;
8. Executive Order 4 (E.O. 4) directs all state agencies and public authorities (like CUNY) to purchase commodities, services and technology that meet approved green procurement specifications intended to spur reduction in the use and release of toxic substances, minimization of the volume of pollutants discharged into the environment, and other public health benefits. Proposer certifies that its commodities, services and technology meet approved green procurement specifications;
9. Proposer has not knowingly violated any law in preparing or by submitting its Proposal;
10. All statements made in the Proposal are true, complete, and correct;
11. To the best of Proposer's knowledge no College, CUNY, or public employee or officer, elected official, or person whose salary is payable in whole or in part, directly or indirectly, from the City of New York ("City") or State of New York ("State") treasury has any direct or indirect interest, financial or otherwise, in this RFP solicitation, Proposer's Proposal, or the Contract or in the supplies, materials, equipment, work, or labor to which it relates or in any of the profits thereof;
12. Proposer is not currently in default on any CUNY, State, or City contract and not in arrears on any CUNY, State, or City debt or tax, and has not been declared in default as surety or otherwise, or under any obligation to any of them within the past three (3) years;
13. Proposer and its principals have not been found guilty or pleaded guilty to a crime or misdemeanor in any federal, State, or City court, and there is no criminal proceeding or indictment against Proposer pending in any such court. If Proposer cannot make the foregoing certification, Proposer shall so state below and shall furnish with this Form 1 on a separate sheet of paper a signed statement that sets forth in detail the reasons that the Proposer cannot make the certification;

Proposer must select one of the following:

☐ **Proposer hereby certifies**

☐ **Proposer cannot so certify and is attaching a signed, separate statement**

14. Neither Proposer nor any individual who may be assigned to provide the Services to CUNY has any conflicts of interest with CUNY, its governing bodies, committees, or employees. If Proposer cannot make the foregoing statement because of a conflict of interest, Proposer shall so state below and shall furnish with this Form 1 a signed statement describing the nature of the conflict on a separate sheet of paper;

Proposer must select one of the following:☐ **Proposer hereby certifies**☐ **Proposer cannot so certify and is attaching a signed, separate statement**

15. Proposer is proposing staff that is eligible to work on the Project and is either (i) not using any former employees (employed within the last two years) of CUNY or New York State or (ii) if Proposer is using former employees of CUNY or New York State, it shall obtain an opinion from the New York State Joint Commission on Public Ethics (“JCOPE”) that approves their participation in the Project;

Proposer must select one of the following:☐ **Proposer hereby certifies**☐ **Proposer intends to use former CUNY employees and to obtain an opinion from JCOPE**

16. This Proposal is a firm offer for a 270-day period from the Proposal Due Date;
17. Proposer and any and all subcontractor(s) meet all the minimum qualifications described in the RFP applicable to them (see Section 2.1 and related Attachment); and
18. M/WBE and/or SDVOB Status - **check all that apply** NOTE: If Proposer or any subcontractor of Proposer is claiming status as a New York State-certified minority-owned, women-owned, disadvantaged business enterprise, or service disabled veteran owned enterprise, then evidence of such status must be provided upon request:

☐ New York State-Certified Minority-Owned Business Enterprise☐ New York State-Certified Women-Owned Business Enterprise☐ New York State-Certified Service Disabled Veteran-Owned Business Enterprise☐ None of the above**IV. CONFIDENTIAL AND PROPRIETARY INFORMATION**

Please identify those page(s) of your Proposal that you believe contain confidential and proprietary information as defined in Section 5.3.3 of the RFP. In addition, please explain the reason(s) why this information should be considered exempt from public disclosure under FOIL.

V. RFP ADDENDA

If CUNY issued Addendum (Addenda) in connection with this RFP solicitation, then Proposer shall attach to this document a copy of each Addendum signed by an authorized representative acknowledging receipt and acceptance.

VI.

Complete the **Reference Form, if applicable and required for this solicitation.**

(continued on following page)

Before signing below, please confirm that you have:

1. made a selection pursuant to Part III, #4
2. made a selection pursuant to Part III, #6
3. identified any pages in your Proposal containing confidential and proprietary information, and explained why this information should be considered exempt from disclosure under FOIL, pursuant to Part IV
4. included each RFP Addendum signed by an authorized representative of Proposer
5. included all Reference Forms required by Part VI
6. included completed Forms 2 through 6 (signed and notarized to the extent required by their terms)

Signature of Authorized Representative of Proposer: _____

Print Name of Signatory: _____

Print Title of Signatory: _____

Date: _____

FORM TWO

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

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).

Contract Procurement No. _____

By: _____ Date: _____

Name: _____

Title: _____

Contractor Name: _____

Contractor Address: _____

FORM THREE

Offerer Disclosure of Prior Non-Responsibility Determinations

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

Address: _____

Name and Title of Person Submitting this Form: _____

Contract Procurement Number: _____

Date: _____

1. Has any Governmental Entity made a finding of non-responsibility regarding the individual or entity seeking to enter into the Procurement Contract in the previous four years?

(Please circle): No Yes

If yes, please answer the next three questions:

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

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

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

Governmental Entity: _____

Date of Finding of Non-responsibility: _____

Basis of Finding of Non-Responsibility: _____

(Add additional pages as necessary)

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

6. If yes, please provide details below.

Governmental Entity: _____

Date of Termination or Withholding of Contract: _____

Basis of Termination or Withholding: _____

(Add additional pages as necessary)

Offerer certifies that all information provided to the Governmental Entity with respect to State Finance Law §139-k is complete, true and accurate.

By: _____ Date: _____

Signature

Name: _____

Title: _____

FORM FOUR

Diversity Practices Questionnaire

I, _____, as _____ (title) of _____ firm or company (hereafter referred to as the company), swear and/or affirm under penalty of perjury that the answers submitted to the following questions are complete and accurate to the best of my knowledge:

1. Does your company have a Chief Diversity Officer or other individual who is tasked with supplier diversity initiatives? Yes or No (*Maximum Score of 5*)

If Yes, provide the name, title, description of duties, and evidence of initiatives performed by this individual or individuals.

2. What percentage of your company's gross revenues (from your prior fiscal year) was paid to New York State certified minority and/or women-owned business enterprises as subcontractors, suppliers, joint-venturers, partners or other similar arrangement for the provision of goods or services to your company's clients or customers? (*Maximum Score of 20*)

3. What percentage of your company's overhead (i.e. those expenditures that are not directly related to the provision of goods or services to your company's clients or customers) or non-contract-related expenses (from your prior fiscal year) was paid to New York State certified minority- and women-owned business enterprises as suppliers/contractors?¹ (*Maximum Score of 16*)

4. Does your company provide technical training² to minority- and women-owned business enterprises? Yes or No (*Maximum Score of 16*)

If Yes, provide a description of such training which should include, but not be limited to, the date the program was initiated, the names and the number of minority- and women-

¹ Do not include onsite project overhead.

² Technical training is the process of teaching employees how to more accurately and thoroughly perform the technical components of their jobs. Training can include technology applications, products, sales and service tactics, and more. Technical skills are job-specific as opposed to soft skills, which are transferable.

owned business enterprises participating in such training, the number of years such training has been offered and the number of hours per year for which such training occurs.

5. Is your company participating in a government approved minority- and women-owned business enterprise mentor-protégé program? *(Maximum Score of 12)*

If Yes, identify the governmental mentoring program in which your company participates and provide evidence demonstrating the extent of your company's commitment to the governmental mentoring program.

6. Does your company include specific quantitative goals for the utilization of minority- and women-owned business enterprises in its non-government procurements? Yes or No *(Maximum Score of 20)*

If Yes, provide a description of such non-government procurements (including time period, goal, scope and dollar amount) and indicate the percentage of the goals that were attained.

7. Does your company have a formal minority- and women-owned business enterprise supplier diversity program? Yes or No *(Maximum Score of 6)*

If Yes, provide documentation of program activities and a copy of policy or program materials.

8. Does your company plan to enter into partnering or subcontracting agreements with New York State certified minority- and women-owned business enterprises if selected as the successful respondent? Yes or No *(Maximum Score of 5)*

If Yes, complete the attached Utilization Plan

All information provided in connection with the questionnaire is subject to audit and any fraudulent statements are subject to criminal prosecution and debarment.

Signature of
Owner/Official:

Printed Name of
Signatory:

Title:

Name of Business:

Address:

City, State, Zip:

STATE OF _____
COUNTY OF _____) ss:

On the _____ day of _____, 202_, before me, the undersigned, a Notary Public in and for the State of _____, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to this certification and said person executed this instrument.

Notary Public

FORM FIVE



SUPPLIER DIVERSITY (MWBE/SDVOB) - UTILIZATION PLAN

INSTRUCTIONS: This form must be submitted with any bid, proposal, proposed/negotiated contract or as otherwise required by CUNY, but prior to contract award. The Supplier Diversity – MWBE/SDVOB Utilization Plan must contain a detailed description of the services and/or supplies to be provided by each NYS-certified Minority and Women-owned Business Enterprise (MWBE) and/or Service-Disabled Veteran-Owned Business (SDVOB) as subcontractors and/or suppliers under the proposed agreement. Attach additional sheets if necessary.

Bidder/Proposer's Name:

Address:

City, State, Zip Code:

Telephone No.:

Region/Location of Work:

Federal Identification No.:

Solicitation No.:

MWBE Goals: MWBE % or (MBE % WBE %)

SDVOB Goal: %

Total Dollar Value of Prime Contract: \$

NYS-certified MWBE & SDVOB Subcontractors/Suppliers Contact Information	NYS Certification (Check One)	Subcontract Information			
		Description of Work / Supplies Provided	Contract Value	Start Date	Completion Date
Company Name: FEIN: Address: Contact Name: Phone #: E-Mail Address:	☐ MBE ☐ WBE ☐ SDVOB		\$		
Company Name: FEIN: Address: Contact Name: Phone #: E-Mail Address:	☐ MBE ☐ WBE ☐ SDVOB		\$		
Company Name: FEIN: Address: Contact Name: Phone #: E-Mail Address:	☐ MBE ☐ WBE ☐ SDVOB		\$		

Note: If unable to fully meet the MWBE and/or SDVOB participation goals set forth in the solicitation, the bidder/proposer must submit a Request for Waiver form for a partial waiver, in addition to the Utilization Plan.

Select One: ☐ New Utilization Plan or ☐ Modification to Existing/Approved Utilization Plan

Prepared By (Signature): _____

Date:

Name and Title of Preparer (Print or Type):

Email Address:

SUBMISSION OF THIS FORM CONSTITUTES THE BIDDER/PROPOSER'S ACKNOWLEDGEMENT AND CONTRACT TO COMPLY WITH THE MWBE AND SDVOB REQUIREMENTS SET FORTH UNDER NYS EXECUTIVE LAW ARTICLE 15-A AND ARTICLE 17-B, 5 NYCRR PART 143, 9 NYCRR PART 252, AND THE ABOVE-REFERENCED SOLICITATION. FAILURE TO SUBMIT COMPLETE AND ACCURATE INFORMATION MAY RESULT IN A FINDING OF NON-RESPONSIVENESS, NONCOMPLIANCE AND POSSIBLE TERMINATION OF THE CONTRACT. DOCUMENTS SUBMITTED BY VENDORS MAY BE SUBJECT TO DISCLOSURE UNDER APPLICABLE LAW, INCLUDING, WITHOUT LIMITATION, BY CUNY POSTING DOCUMENTS TO ITS WEBSITE.

CUNY – PURCHASING OFFICE

Contract Award Date:

Estimated Date of Completion:

Description of Project:

CUNY – SUPPLIER DIVERSITY

REVIEWED BY:

DATE:

MWBE PARTICIPATION: ☐

SDVOB PARTICIPATION: ☐

Utilization Plan Approved:

☐ YES ☐ NO Date: _____

Notice of Deficiency Issued:

☐ YES ☐ NO Date: _____

Notice of Acceptance Issued:

☐ YES ☐ NO Date: _____

REV: 08/2018

FORM SIX

Request for Proposal Checklist			
RFP and Attachments Section	√	Description	Document to be submitted with
Form 1		Proposer Information and Authorized Signature; Acceptance of Contract Terms; Proposer Certifications; Confidential Information; Signed RFP Addenda; and References	Volume I
Forms 2 and 3		Offeror's Affirmation of Understanding of and Agreement Pursuant to State Finance Law 139-j(3) and 139-j (6) (b) (Forms 1 and 2)	Volume I
Form 4		Diversity Practices Questionnaire	Volume I
Form 5		Supplier Diversity (MWBE/SDVOB) Utilization Plan and/or Supplier Diversity (MWBE/SDVOB)-Request for Waiver	Volume I
Form 6		RFP Checklist and Minimum Qualifications Checklist	Volume I
Form 20		NYS State Finance Law § 139-m Gender-Based Violence and the Workplace Certification	Volume I
Attachment 4		Technical and Management Proposal	Volume II
Attachment 5		Proposal Price Breakdown Pages	Volume III

UCO 1002 - PCI Compliance Consulting Services

Minimum Qualifications Checklist

Please indicate by responding **"Yes"** to meets the qualification or **"No"** to does not meet the qualification.

Minimum Qualification	Meets	Does Not Meet
a. Proposers must have a minimum of ten (10) years relevant experience providing Payment Card Industry Data Security Standard ("PCI DSS") compliance services as required by this RFP.		
b. Proposers must comply with all the regulatory requirements set forth in Parts 3.2 and 3.3 of the Scope of Work.		
c. The Proposer must provide a minimum of three (3) relevant references, including the name of the reference, a brief statement describing the relationship between the Proposer and the reference, and the name, title and telephone number of a contact person at the reference. Please obtain prior approval for the University to contact the references.		
d. Proposers must be authorized to work in New York State.		
e. Proposers' Subcontractors (as defined below) must also possess appropriate qualifications and an acceptable level of experience, as determined by CUNY in its sole discretion.		

FORM TWENTY



Gender-Based Violence and the Workplace Certification

New York State Finance Law §139-M requires bidders on competitive state procurements to certify that they have a written policy addressing gender-based violence and the workplace and that such policy meets the following minimum requirements:

- **Share Information:** Employers must provide information regarding gender-based violence where employees can see and access it, including displaying the NYS Domestic and Sexual Violence Hotline information and a gender-based violence and the workplace poster.
- **Refer Employee-Survivors to Services:** The policy must require that the employer refer employees who disclose current or past victim status to the NYS Domestic and Sexual Violence Hotline and/or a local service provider. For bidders outside of New York State, referrals should be made to a local provider or statewide hotline. While referrals are required to be provided by the employer, it is not required for the employee to access services.
- **Prohibit Retaliation:** The policy must clearly state that discrimination or retaliation against employees who identify as victims or survivors of gender-based violence is prohibited.
- **Comply with Laws:** Ensure your policy follows State law. For employers based in New York State, this means that the policy must follow the SAFE Leave Act, New York State Human Rights Law, and any other relevant laws and regulations.
- **Offer Implementation Support:** OPDV is able to assist employers in developing and implementing this policy. Employers must provide information to supervisors and human resources, where available, about this technical assistance from OPDV. OPDV can be contacted at workplace@opdv.ny.gov.

By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that the bidder has and has implemented a written policy addressing gender-based violence and the workplace and has provided such policy to all of its employees, directors and board members. Such policy shall, at a minimum, meet the requirements of subdivision 11 of section five hundred seventy-five of the executive law.

Organization's signature below certifies its compliance with State Finance Law §139-M.

Organization: _____

By (signature): _____

Name (Please Print): _____

Title: _____

Date: _____

This form must be signed by an authorized executive or legal representative.

If the organization cannot make the above certification, they must provide an attached statement with their bid detailing the reasons therefor.