

Office of Capital Programs
750 East Adams Street
Syracuse, New York 13210
Phone: 315-464-4630

UPSTATE
UNIVERSITY HOSPITAL

Interested Engineers & Commissioning Agents

Subject: **Request for Qualifications**
Project No. & Title: Project # 704.6, Cancer Center Fit Out Floors 4 & 5

Dear Sir:

The State University of New York requests your consideration for full building commissioning services for the above stated project. Attached for your review in this matter, please find the Request for Qualifications (RFQ) with instructions.

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

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

Responses to the RFQ will be received by Campus Purchasing, at the campus until **2:30 PM on Tuesday, October 4th 2016**. Qualification packages submitted shall be in **PDF format** on **three (3) separate discs or flash drives**, and include all information requested in the instructions contained within the RFQ.

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

Sincerely,



Catherine Adamitis
Business Manager

Enclosure

Architectural & Engineering Solicitation

Project #704.6 –Cancer Center Fit Out Floors 4& 5 –Building Commissioning Services

SUNY Upstate Medical University in Syracuse wishes to procure an engineering team to provide commissioning services, as described below, for the design and construction for Cancer Center Fit Out Floors 4&5: The 4th floor will be an Ambulatory Facility with exam rooms and support spaces, 5th floor will consist of labs and support spaces for Clinical Pathology, the 2nd floor will also be remodeled having the exam rooms changed to function as private infusion spaces and new support spaces will replace existing functions. The fit out floors will receive new MEP FA etc. infrastructure systems and also will provide changes to existing systems

This scope of services applies to all building HVAC services and HVAC equipment including but not limited to; domestic water, RO/CL system, chillers, steam system, cooling towers, AHUs, fans, ductwork, controls, pumps, specialized support equipment for major medical equipment, lighting, energy conservation, and IAQ.

The project architect is Ewing Cole
The project construction manager is TBD

Minimum requirement of ten (10) years experience in hospital design, with cancer care experience preferred, and a minimum five (5) years of commissioning service experience for healthcare occupancies.

Request for Qualifications (RFQ) may be download from the New York State Contract Reporter webpage @ <http://www.nyscr.org/Public/Index.aspx>, by all firms interested in responding to this advertisement. The ad may be found under category: Engineering and is referenced to the above stated project number and title.

There will be no formal site visit nor will tours of the facility be given prior to the receipt of responses to the RFQ. The expected duration of the project is approximately 450 days.

Qualification package must be submitted in PDF format on three (3) separate discs or flash drives and may be delivered to the location below. Qualifications must be received by 2:30 PM on Tuesday, October 4th, 2016

Hand delivery or Fed –Ex & UPS delivery location:

**Project : 704.6 Cancer Center Fit Out Floors 4&5, Building Commissioning
To: Capital Programs
Dr. Sarah Loguen Center
650 South Salina Street, Room 2002
Syracuse, New York 13202**

Effective 1/1/06, in accordance with State Finance Law Section 139-j, all questions pertaining to this procurement shall be made formally to the following Designated Staff: Marius Dumitran, Senior Project Manager, Capital Programs, SUNY - Upstate Medical University, 750 East Adams Street, Syracuse, New York 13210, Phone: (315) 464-3819, Fax: (315) 464-7376. Contact made to other staff regarding this procurement may disqualify the firm and affect future procurements with government entities in the State of New York. Please refer to the OGS' (www.ogs.state.ny.us/aboutogs/regulations/defaultAdvisoryCouncil.html) for more information on this law.

The selected consultant must comply with M/WBE requirements. State University of New York goals are: **15% MBE** participation and **15% WBE** participation of the total contract value and **1%** Service-Disabled Veteran-Owned Business participation goal and **1%** Disadvantaged Owned Sub-Contracting participation goal.

The State University of New York Upstate Medical University reserves the right to reject any or all Qualification packages.



The State University
of New York
Upstate Medical University

Request for Qualifications Building Commissioning Services

Project # 704.6 – Cancer Center 4th & 5th Floors

September 7, 2016

Upstate Medical University
750 East Adams Street, Syracuse, New York 13210
Attn: Cathy Adamitis

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1. Request for Qualifications

SUNY Upstate Medical University is seeking qualifications for an engineering team to provide commissioning services, as described below, for the design and construction for Cancer Center Fit Out Floors 4&5: The 4th floor will be an Ambulatory Facility with exam rooms and support spaces, 5th floor will consist of labs and support spaces for Clinical Pathology, the 2nd floor will also be remodeled having the exam rooms changed to function as private infusion spaces and new support spaces will replace existing functions. The fit out floors will receive new MEP FA etc. infrastructure systems and also will provide changes to existing systems.

2 Instructions

Qualification packages are due by 2:30 PM **Tuesday, October 4, 2016**. Offeror must:

1. Prepare a clearly readable document. Attach all required information.
2. Indicate any deviations from the specifications and if necessary attach separate documents and/or explanation.
3. Sign the qualifications submittal. By signing you indicate full knowledge and acceptance of this Request for Qualifications (RFQ) including Exhibits A and A-1. The proposal must be completed in the name of the proposer, corporate or otherwise, and must be fully and properly executed by an authorized person.
4. Submit *three (3)* complete qualifications on CD disc or flash drives. Proposals are to be addressed to:

Contact - Mailing address:
Catherine Adamitis
Office of Capital Programs
SUNY-Upstate Medical University
650 South Salina Street, Room 2002
Syracuse, New York 13202

5. Qualifications shall be received by *Catherine Adamitis* by the due date and time listed above. Offerors mailing their qualifications must allow sufficient time to ensure receipt of their proposals by the time specified. Electronically transmitted qualifications will **NOT** be accepted.
6. **No cost proposals are to be submitted with the qualifications.** Cost proposals will be requested only after a consultant selection is made.

2.1 Format of Statement of Qualifications

It is the intent of Upstate Medical University to evaluate the responses to this RFQ and to select a commissioning agent as expeditiously as possible. In order to expedite this evaluation, responses

to this RFQ should be presented on CD discs or flash drives. The CD or drive must be formatted into the following sections of information. The response should address the following items and must be presented in the order listed:

- 1) Brief cover letter listing the Commissioning Agent's point of contact and any subconsultants;
- 2) General qualifications of Agents' team: Head Commissioning Professional must be a Certified Commissioning Professional by the Building Commissioning Association. LEED Certified Field personnel should have facility operations experience, preferably in a research facility. The firm and staff assigned to these projects should have approximately 5 – 10 years' experience in commissioning experience.
- 3) Listing of the Commissioning Agent's staff, and that of any subconsultants, who comprise the team which will work with Upstate Medical University. The listing must identify M/WBE firms that are included in the team and each firm's estimated percentage of participation. Provide a brief description of relevant LEED Certified Field experience for each individual. This information may be submitted in the form of an organizational chart for the consultant's team. Resumes will be provided in section 6;
- 4) Consultant's Project Questionnaire completed for the prime consultant and each major subconsultant, addressing items 1 through 9 in the two page format provided (the questionnaire may exceed two pages but should not be more than three in order to appropriately list responses). Responses to questions 6 and 7 should be inserted in space after each item and should include only the title of the project, its location, and a short, one sentence description of its relevancy. More detailed information will be provided in the section 4. **IT IS MANDATORY THAT EACH QUESTION BE ANSWERED AT THIS POINT IN THE SUBMISSION.** It is NOT permissible to present these Questionnaires in a form other than that provided. Please note that the Consultant's Project Questionnaire is required by SUNY regulations and must be submitted;
- 5) AC3290s for Profit Non-Construction Questionnaire completed for the prime consultant and each major subconsultant. It is NOT permissible to present these Questionnaires in a form other than that provided. Please note that the AC3290s for Profit Non-Construction Questionnaire is required by SUNY regulations and must be submitted.
- 6) Photographs and/or other graphic information of completed projects similar to the subject of this RFQ and as listed in the Consultant Project Questionnaire, item 6.
- 7) Resumes of individuals with similar projects clearly identified and acknowledgement, where appropriate, if those projects were completed while under the employ of another firm, as listed in the Consultant Project Questionnaire, item 5.
- 8) Any additional relevant material describing the experience and qualifications of the Commissioning Agents' and the team.

- 9) Proof of current Firm's Certificate of Authorization and team members Individual's Licenses, issued by NYS Education Department, Office of the Professions, for *team personnel* required to be so licensed in accordance with New York State Education Law 145 §7210 **must** be attached.
- 10) State University of New York Subconsultant Staffing List – Commissioning form stating all subconsultants that are included in the team and each firm's estimated percentage of participation. And Form 107 MWBE Utilization Plans, stating only the M/WBE firms that are included in the team completed by the prime consultant.
- 11) State Finance Law §§139-j and 139-k package and Public Office Law, Non-Collusive Certification all completed for the prime consultant and all subconsultants.

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

2.2 Pre Bid Meeting

No PreBid Meeting will be held.

2.3 RFQ Process and Evaluation Criteria

Under the provisions of State Finance Law Section 136a, consultant contracts for architect, engineering, and surveying services required to be awarded to the most qualified firm.

NOTE: This section of the RFQ is provided to acquaint the Commissioning Agents with how their Qualifications packages/proposals will be evaluated and the factors considered. In accordance with State Finance Law, the college will negotiate Fess with the consulting firm who ranks the highest as a result if the evaluation process.

A panel of University officials will evaluate Qualifications packages/proposals. The criteria to be used to evaluate Qualifications packages/proposals are listed below, along with their respective weights (weights are listed in parentheses). The evaluation of Qualification packages/proposals will include consideration of responses to the criteria listed below. To be considered responsive, a Commissioning Agent must submit a complete Qualification package/proposal that satisfies and addresses all weighted criteria listed below and all requirements stated herein. A Qualification package/proposal which fails to address all the weighted criteria listed below and all requirements stated herein may be considered NON-RESPONSIVE and may be disqualified.

In addition, the University reserves the right to review the Commissioning Agents' vendor responsibility questionnaire and any adverse findings from this research could lead to disqualification. Commissioning Agents must specifically address all criteria in their response.

The weighted criteria for this RFQ are as follows:

Firm Qualifications and Experience (20 Pts.)

- i. The Agent's overall depth of professional staff relative to the specific project scope.
- ii. The Agent's experience on publicly bid work.
- iii. The Agent's responsiveness to client comments.
- iv. The Agent's experience in Building Commissioning Services.
- v. The Agent's experience with testing and acceptance of building systems.
- vi. The Agent's ability to coordinate and document work of multiple systems.
- vii. The Agent's familiarity with the construction market.

Personnel Qualifications and Experience (20 Pts.)

- i. The specific background of potential agents' personnel in the context of the outlined project scope; professional experience; proposed extent of participation in the project.
- ii. The potential subconsultants of the prime in the context of the outlined project scope; formal reporting lines of team in proposed organization chart.
- iii. The overall commissioning ability of potential consultant personnel (versus the nature and scope of the project.)

Previous Experience with Work Specific to Project Scope (20 Pts.)

- i. The Agent's direct previous experience on projects of similar size, scope and features as those required on this project.
- ii. The Agent's previous experience on campus contexts, standards and systems.
- iii. The Agent's previous experience with ASHRAE guidelines, LEED and NYS Building Codes.
- iv. The Agent's familiarity with transitioning from construction to operations.

Approach & Capability (20 Pts.)

- i. The Agent's proposed approach to the specific project scope.
- ii. The Agent's approach and demonstrated ability to adhere to the schedule; current and projected workload.
- iii. The Agent's approach and demonstrated ability to provide complete deliverables for each phase.
- iv. The Agent's approach and demonstrated ability to manage potential subconsultants.
- v. The Agent's approach and demonstrated ability to provide a good faith effort to provide opportunity to M/WBE firms.
- vi. The Agent's approach and demonstrated ability to provide / review options for the project scope and ensure high quality, properly coordinated commissioning documents.
- vii. The Agent's approach and demonstrated ability to keep its cost estimate within the Project Budget.
- viii. The Agent's approach and demonstrated ability to work with SUNY's standard contract terms and directives.

MWBE Utilization (10 Pts.)

- i. The Agent's approach and demonstrated ability to provide a good faith effort to provide opportunity to M/WBE firms.
- ii. The Agent's inclusion of M/WBE subconsultants with meaningful participation on the project.

- iii. The Agent's experience entering into partnerships, joint ventures, or other business arrangements with M/WBE businesses.
- iv. The Agent's experience attaining M/WBE participation on NYS contracts.

References (10 Pts.)

- i. Feedback from Agent's clients on projects with similar scope of services.
- ii. Feedback from SUNY professionals for projects that the Agent has completed or is currently engaged in with SUNY.

2.4 References

Please submit a minimum of five (5) references, who can attest to the firm's successful track record with respect to similar projects identified, which should include the point of contact, name of firm, address, phone number and title and year of project(s) completed.

2.5 Additional Information

Schedule C and Commissioning SUCF Directive 15H-9

3 Scope of Services

3.1 Background

SUNY Upstate Medical University is seeking qualifications for an engineering team to provide building commissioning services, as described below, for the design and construction for Cancer Center: 4th floor will be an Ambulatory Facility with exam rooms and support spaces, 5th floor will consist of labs and support spaces for Clinical Pathology, the 2nd floor will also be remodeled having the exam rooms changed to function as private infusion spaces and new support spaces will replace existing functions. The fit out floors will receive new MEP FA etc. infrastructure systems and also will provide changes to existing systems.

A minimum five (5) years experience in Building Commissioning Systems in healthcare facilities, preferably in academic medical center for the Commissioning Agents' firm and its team members, is required. Prior experience with ASHRAE guide lines, LEED and NYS Building Codes.

3.2 Available Data

Drawings of the existing buildings and information on the existing utilities will be available for use by the selected, awarded commissioning agent.

3.3 Scope of Services

This scope of services applies to all building utilities, services and HVAC equipment including but not limited to; domestic water, RO/CL system, chillers, steam system, cooling towers, AHUs, fans, ductwork, controls, pumps, specialized support equipment for major medical equipment, lighting, energy conservation, and IAQ.

The services of this contract will be undertaken as follows:

Commissioning Services

The work will include the following:

- 1) Review & become familiar with design drawings and submittals and provide comments.
- 2) Development of a commissioning plan for the testing and acceptance of MEP systems.
- 3) Provide review of submittals and shop drawings
- 4) Provide pre & functional check lists
- 5) Provide inspections to ensure that contractors have installed, tested and functionally tested the equipment listed in the contract specifications, consistent with OEM procedures and instructions.
- 6) Coordinate and direct the commissioning effort to comply with the construction schedule mile stones. Communicate any commissioning issues affecting the schedule.
- 7) Witness and document all functional testing
- 8) Oversee transition from construction to operation
- 9) Ensure that O&M documentation left on-site is complete.
- 10) Provide weekly progress reports
- 11) Provide monthly and seasonal summation of progress
- 12) Provide system inspection reports
- 13) Comply with project requirements and commissioning as prescribed in the pertinent sections of ASHRAE guidelines, LEED and NYS Building Code.
- 14) Provide warranty review. When necessary act on behalf of UMU to enforce warranty.
- 15) Provide a final report summarizing the commissioning work.
- 16) All requirements of SUCF Program Directives for Building Commissioning.

3.4 Program Budget

The estimated total project budget including construction is \$ 16,500,000.00.

3.5 Basic Design Fee

Fee shall be negotiated with the most qualified consultant.

3.6 Subconsultant and M/WBE Staffing

The consultant shall complete Form 7555-17 Subconsultant Commissioning Team Listing for the project which includes 15% MBE and 15% WBE participation of work to be completed by that subconsultant. The listing shall also indicate if the subconsultant is a Minority or Women Owned Business.

3.7 Time of Completion Schedule

The actual schedule for this project is estimated to be appropriately 450 days.

4 General Conditions

The following items will be incorporated into, and made part of, the formal agreement: (1) SUNY's RFQ; (2) the Successful Offeror's proposal; (3) Exhibit A, Standard Contract Clauses; (4) Exhibit A-1, Affirmative Action Clauses; and, (5) Exhibit B-Scope of Services, Procurement Lobbying Form, and (6) Attachment A –Article 15a.

In the event of any inconsistency in or conflict among the document elements of the agreement described above, such inconsistency or conflict shall be resolved by giving precedence to the document elements in the following order: (1) Exhibits A and A-1; (2) Exhibit B, (3) the Agreement; (4) this RFQ; and (5) the Successful Offeror's proposal.

4.1 Additional Terms & Conditions

Commissioning Agent Services

The above stated services are intended to supplement the Consultant Commissioning Agreement Form herein attached. The Commissioning Agent shall provide complete professional engineering services as specified in the Consultant Commissioning Agreement.

CANCELLATION/TERMINATION

SUNY Upstate Medical reserves the right to suspend or cancel services on any portion of this contract on seven (7) days written notice. In the event of such termination, payment shall be made to the consultant on a pro-rate basis for work actually performed.

Additionally, SUNY shall have the right to terminate this contract early for (i) unavailability of funds; (ii) cause; (iii) convenience; (iv) in the event the State Finance Law sections 139-J and 139-k certifications are found to be intentionally false or intentionally incomplete; or, (v) if applicable, the Department of Taxation and Finance Contractor Certification Form, ST-220-CA, statements are found to be false or incomplete.

CONSULTING SERVICES REPORTING REQUIREMENTS

State Finance Law Sections 8 and 163 require that State contractors disclose by employment category, the number of persons employed to provide services under a contract for consulting services, the number of hours worked and the amount paid to the contractor by the State as compensation for work performed by these employees. This includes information on any persons working under any subcontracts with the State contractor. A definition of contracts for consulting services includes any contract entered into by a State agency for analysis, mental health services, accounting, auditing, paralegal, engineering, or similar services. These requirements shall apply to the Successful Consultant who is awarded this contract as a result of this RFQ. Any Consultant, who responds to this RFQ, by submission of a proposal, shall signify that it agrees to comply with these requirements.

The Successful Consultant while performing its obligations under this Agreement will be providing services under a “consulting agreement” (as defined by New York State Finance Law). Therefore, the Successful Consultant will be required to complete the State Consultant Services Contractor’s Planned Employment form (known as “Form A”) prior to final execution of any State contract.

PROCUREMENT LOBBYING LAW

In compliance with the Procurement Lobbying Act signed into law by Governor Pataki in August 2005, and effective January 1, 2006, permissible contact by an Offeror in relation to any specific procurement in excess of \$15,000 should be made only with authorized personnel of SUNY Upstate Medical University who are designated as the contact person(s), i.e. the designated Contacts. For this RFQ, those contact person(s) shall be: Catherine Adamitis, Business Manager, phone: 315-464-4788, fax 315464-7376, E-mail: adamitic@upstate.edu. Secondary contact shall be Marius Dumitran, project coordinator 315-464-3819, dumitram@upstate.edu. The restricted period for this procurement is defined as: October 4th, 2016 until final contract approval by SUNY Upstate Medical University or the Office of the State Comptroller as may be required.

4.1.1 Vendor Debriefing

Upon notification of the selection and award of a contract unsuccessful offerers may request in writing a debriefing of the results of their response to this solicitation. Requests for debriefing must be received within a reasonable timeframe, not more than 30 days after notice of award.

4.1.2 Proposal/Qualifications Confidentiality

All proposals and qualifications submitted for SUNY’s consideration will be held in confidence. However, the resulting contract is subject to the New York State Freedom of Information Law (FOIL). Therefore, if an Offeror believes that any information in its proposal constitutes a trade secret or should otherwise be treated as confidential and wishes such information not to be disclosed the Offeror shall submit with its proposal a separate letter to the designated contact. The letter shall specifically identify the page number(s), line(s) or other appropriate designation(s) containing such information, explaining in detail why such information is a trade secret and formally requesting that such information be kept confidential. Failure by an Offeror to submit such a letter will constitute a waiver by the Offeror of any rights it may have under Section 89(5) of the Public Officers' Law relating to protection of trade secrets.

The proprietary nature of the information designated confidential by the Offeror may be subject to disclosure if ordered by a court of competent jurisdiction. A request that an entire proposal be kept confidential is not advisable since a proposal cannot reasonably consist of all data subject to FOIL proprietary status.

4.1.3 Information Security Breach and Notification Act

The Offeror shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa and State Technology Law, Section 208). The Offeror shall be liable for the costs associated with such breach if caused by its negligent or willful acts or omissions, or the negligent or willful acts or omissions of its agents, officers, employees or subcontractors.

4.2 Required Consultant and Subconsultant Qualification Submittal Documentation

- Consultant Questionnaire
- AC3290s For Profit Non-Construction Questionnaire Vendor Responsibility Questionnaire
- State Finance Law §§139-j and 139-k
- Public Officers Law
- Non-Collusive Certification
- Form 107 MWBE Utilization Plans
- Form 7557-17 Subconsultant Staffing List – Commissioning

4.2.1 Minority & Woman Owned Business Enterprises Participation

Consultant Services Affirmative Action Package and MWBE Program

- Form 104 Consultant's EEO Policy
- Form 108 Consultant's EEO Staffing Plan
- EEO Consultant Program Policy Statement
- Form 113 MWBE Quarterly Reports

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

In 2006, the State of New York commissioned a disparity study to evaluate whether minority and women-owned business enterprises had a full and fair opportunity to participate in state contracting. The findings of the study were published on April 29, 2010, under the title "The State of Minority and Women-Owned Business Enterprises: Evidence from New York" ("Disparity Study"). The report found evidence of statistically significant disparities between the level of participation of minority-and women-owned business enterprises in state procurement contracting versus the number of minority-and women-owned business enterprises that were ready, willing and able to participate in state procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the statewide certified minority- and women-owned business enterprises program. The recommendations from the Disparity Study culminated in the enactment and the implementation of New York State Executive Law Article 15-A, which requires, among other things, that SUNY establishes goals for maximum feasible participation of New York State Certified minority- and women – owned business enterprises ("MWBE") and the employment of minority groups members and women in the performance of New York State contracts.

Business Participation Opportunities for MWBEs

For purposes of this solicitation, SUNY hereby establishes an overall goal of **30%** for MWBE participation, **15%** for Minority-Owned Business Enterprises ("MBE") participation and **15%** for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs) and **1%** Service-Disabled Veteran-Owned Business participation goal and **1%** Disadvantaged Owned Sub-Contracting participation goal.. A contractor ("Contractor") on the subject contract ("Contract") must document good faith efforts to provide meaningful participation by

MWBEs as subcontractors or suppliers in the performance of the Contract and Contractor agrees that SUNY may withhold payment pending receipt of the required MWBE documentation. The directory of New York State Certified MWBEs can be viewed at: <http://www.esd.ny.gov/mwbe.html>.

For guidance on how SUNY will determine a Contractor's "good faith efforts," refer to 5 NYCRR §142.8.

By submitting qualifications or a proposal, the Consultant agrees to submit the following documents and information as evidence of compliance with the foregoing:

- A. Consultants are required to submit a MWBE Utilization Plan (form 107) with their qualifications or proposal. Any modifications or changes to the MWBE Utilization Plan after the Contract award and during the term of the Contract must be reported on a revised MWBE Utilization Plan and submitted to SUNY.
- B. SUNY will review the submitted MWBE Utilization Plan (form 107) and advise the Consultant of SUNY acceptance or issue a notice of deficiency within 30 days of receipt.
- C. If a notice of deficiency is issued, the Consultant agrees that it shall respond to the notice of deficiency within seven (7) business days of receipt by submitting to SUNY, [address phone and fax information], a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by SUNY to be inadequate, SUNY shall notify the Consultant and direct the Consultant to submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals. Failure to file the waiver form in a timely manner may be grounds for disqualification of the qualifications or proposal.
- D. SUNY may disqualify a Consultant as being non-responsive under the following circumstances:
 - a) If a Consultant fails to submit a MWBE Utilization Plan (form 107);
 - b) If a Consultant fails to submit a written remedy to a notice of deficiency;
 - c) If a Consultant fails to submit a request for waiver; or
 - d) If SUNY determines that the Consultant has failed to document good faith efforts.

Consultants shall attempt to utilize, in good faith, any MBE or WBE identified within its MWBE 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 SUNY, but must be made no later than prior to the submission of a request for final payment on the Contract.

Consultants are required to submit a Monthly M/WBE Compliance & Payment Report to SUNY Upstate Medical, Mr. Carl Thomas, Supplier Diversity Coordinator, 750 East Adams Street, Syracuse, New York 13210, by the 10th day following each end of quarter over the term of the Contract documenting the progress made toward achievement of the MWBE goals of the Contract.

Equal Employment Opportunity Requirements

By submission of qualifications or a proposal in response to this solicitation, the Consultant agrees with

all of the terms and conditions of SUNY Exhibit A including Clause 12 - Equal Employment Opportunities for Minorities and Women. The Contractor is required to ensure that it and any subcontractors awarded a subcontract over \$25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor, shall 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.

Consultant further agrees, where applicable, to submit with the qualifications or proposal a staffing identifying the anticipated work force to be utilized on the Contract and if awarded a Contract, will, upon request, submit to SUNY , a workforce utilization report identifying the workforce actually utilized on the Contract if known.

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 sub-contractors 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.

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

4.2.2 State Finance Law §§ 139-j and 139-k

State Finance Law §§139-j and 139-k imposes certain restrictions on communications between a Governmental Entity and an Offeror during the procurement process. During the restricted period the Offeror is restricted from making contacts to other than designated contact unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law §139-j(3)(a). The restricted period is from the earliest notice of intent to solicit offers through final award and approval of the Contract.

SUNY employees and their designated representatives are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the Offeror pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a 4 year period the Offeror is debarred from obtaining government procurement contracts. Further information about these requirements can be found at <http://www.ogs.state.ny.us/aboutOgs/regulations/defaultAdvisoryCouncil.html>

4.2.3 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 and a directory of minority and women-owned business enterprises is available from:

Empire State Development
Division for Small Business
One Commerce Plaza
Albany, New York 12210
Phone: 1-800-782-8369

4.2.4 Required Insurance

The Consultant shall procure and maintain at its own cost and expense, until final acceptance by the University of all of the construction work of the Project and the expiration of the one (1) year general guarantee, errors and omissions insurance, including contractual liability, from an insurance company that cites the University as a named insured. Such policy shall be approved by the University and authorized to do business in the State of New York, covering the Consultant for all services performed hereunder with a limit for each occurrence equal to two million dollars (\$2,000,000). The Consultant shall furnish to the University, with its Pre-Bid Report, a certificate of insurance which shall contain a provision that the insurance will not be canceled unless the insurer shall provide the University with thirty (30) days' written notice of cancellation. Neither the procurement nor the maintenance of such insurance shall in any way affect or limit the obligations, responsibilities or liabilities of the Consultant hereunder.

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

Compensation and Liability Insurance

(1) The Consultant or Contractor shall procure and maintain, at its own cost and expense, until final acceptance by the University of all the work covered by this Contract, the following kinds of insurance:

A. General Liability and Property Damage Insurance.

A standard general comprehensive liability insurance policy or a commercial general liability insurance policy issued to and covering the liability of the Consultant for all work and operations under this Contract, including, but not limited to, contractual and completed operations coverage. Such policy shall be written by a company licensed or approved as an excess line liability company by the New York State Department of Insurance. The coverage under such policy shall not be less than the following limits:

Bodily Injury and Property Damage Liability
\$ 2,000,000 Each Occurrence
\$ 2,000,000 Aggregate

The aforesaid insurance requirements will be deemed met by the Consultant's procurement and maintenance of either of the aforesaid policies and, in addition thereto, an umbrella policy providing similar coverage; provided, however, that the total amount of insurance coverage is at least equal to the requirements above set forth.

B. Automobile Liability and Property Damage Insurance.

A policy covering the use in connection with the work covered by the Contract Documents of all owned, non-owned and hired vehicles bearing, or, under the circumstances under which they are being used, required by the Motor Vehicle Laws of the State of New York to bear license plates. The coverage under such policy shall not be less than the following limit:

Bodily Injury and Property Damage Liability
\$ 1,000,000 Each Occurrence

- (2) The aggregate insurance limit set forth above shall apply separately to each project for which a certificate of insurance and/or policy is issued.
- (3) Before commencing the performance of any work covered by the Contract, the Contractor shall furnish to the University a certificate or certificates in duplicate of the insurance required under the foregoing provisions. Such certificates shall be on a form prescribed by the University, shall list the various coverage's and shall contain, in addition to any provisions hereinbefore required, a provision that the policy shall not be changed or canceled and that it will be automatically renewed upon expiration and continued in force until final acceptance by the University of all the work covered by the Contract, unless the University is given thirty (30) days' written notice to the contrary. Upon request, the Contractor shall furnish the University with a certified copy of each policy. The State University reserves the right to receive a copy of the 1 insurance policy which was based on the Certificate of Insurance issued.
- (4) All insurance required to be procured and maintained as aforesaid must be procured from insurance companies approved by the University and authorized to do business in the State of New York. The State University is to be cited as a named additional insured on all policies and certificates of insurance and shall be notified if a policy is canceled, terminated or modified.
- (5) If at any time any of the above required insurance policies should be canceled, terminated or modified so that insurance is not in effect as above required, then, if the University shall so direct, the Contractor shall suspend performance of the work covered in the Contract. If the said work is so suspended, no extension of time shall be due on account thereof. If said work is not suspended, then the University may, at its option, obtain insurance affording coverage equal to that above required, the cost of such insurance to be payable by the Contractor to the University.
- (6) Policies must be endorsed to provide that there shall be no right of subrogation against the State University. To the extent that any of the Consultant's policies of insurance prohibit such a waiver of subrogation, the Consultant shall secure the necessary permission to make this waiver.

Prior to the commencement of work the Successful Offeror will provide, at its sole cost and expense, Certificates of Insurance which shall remain in force throughout the term of the agreement, or any extension thereof. Such Certificates of Insurances shall be from an insurance company licensed by the New York State Department of Insurance with a rating of at least "A-" as published with Standard & Poor's and a liability insurance policy with limits no less than **\$2,000,000.00** per claim. If during the term of the policy, the carrier's rating falls below "A-", the liability insurance must be replaced no later than the renewal date of the policy with an insurer acceptable to the State of New York. Such policies

shall name the STATE UNIVERSITY OF NEW YORK as an additional insured. The policy shall designate the State University of New York as the loss payee and shall contain a provision that the State University of New York shall receive at least thirty (30) day's notice prior to material change, cancellation or expiration of any such policy.

Workers Compensation Insurance & Disability Benefits Coverage

All employees of the Successful Offeror shall be adequately and properly covered by Workers' Compensation Insurance and Disability Benefits coverage for all work related to the resultant contract. Such policies shall name the STATE UNIVERSITY OF NEW YORK as an additional insured and are to be written by recognized and well-rated insurance companies authorized to transact business in the State of New York. The Successful Offeror shall deliver certificates of such coverage, or proof that such coverage is not required, in the required format, as required by the Workers' Compensation Board, to the following when the agreement is signed by the parties and thereafter not less than thirty (30) days prior to material change or cancellation of such coverage.

4.2.5 Vendor Responsibility

SUNY recommends that vendors file the required Vendor Responsibility Questionnaire online via the New York State VendRep System. To enroll in and use the New York State VendRep System, see the VendRep System Instructions available at http://www.osc.state.ny.us/vendrep/vendor_index.htm or go directly to the VendRep System online at <https://portal.osc.state.ny.us>.

Vendors must provide their New York State Vendor Identification Number when enrolling. To request assignment of a Vendor ID or for VendRep System assistance, contact the Office of the State Comptroller's Help Desk at 866-370-4672 or 518-408-4672 or by email at ciohelpdesk@osc.state.ny.us.

Vendors opting to complete and submit a paper questionnaire can obtain the appropriate questionnaire from the VendRep website www.osc.state.ny.us/vendrep or may contact SUNY or the Office of the State Comptroller's Help Desk for a copy of the paper form.

4.2.6 State Consultant Services Reporting (OSC Form A and B)

Chapter 10 of the Laws of 2006 amends State Finance Law §§ 8 and 163 by requiring that contractors annually report certain employment information to the contracting agency, the Department of Civil Service (DCS) and Office of the State Comptroller (OSC). As a result of these changes in law, State contractors will be required to disclose, by employment category, the number of persons employed to provide services under a contract for consulting services, the number of hours worked and the amount paid to the contractor by the State as compensation for work performed by these employees. This will include information on any persons working under any subcontracts with the State contractor.

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

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

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

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

Employment Category: the specific occupation(s), as listed in the O*NET occupational classification system, which best describe the employees providing services under the contract. (Note: Access the O*NET database, which is available through the US Department of Labor's Employment and Training Administration, on-line at online.onetcenter.org to find a list of occupations.)

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

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

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

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

4.2.7 Iran Divestment Act

By submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, Bidder/Contractor (or any assignee) certifies 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" list ("Prohibited Entities List") posted on the OGS website at: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf> and further certifies that it will not utilize on such Contract any subcontractor that is identified on the Prohibited Entities List. Additionally, the

Offerer is advised that should it seek to renew or extend a Contract awarded in response to the solicitation, it must provide the same certification at the time the Contract is renewed or extended.

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

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

4.2.8 Contract Award Protest Procedure

This procurement is subject to [SUNY Procedure Item 7561, Contract Award Protest Procedure](#).

4.3 Additional Terms & Conditions

1. The terms and conditions of the State University of New York Consultant Commissioning Contract Form shall apply, *and is provided as an attachment* to this RFQ.
2. The terms and conditions of the State University of New York shall apply, and is provided as Exhibit A and Exhibit A-1 to this RFQ.
3. Consultant's Terms: Consultant's standard terms and conditions will not be considered relevant to their proposal or the contract, and should not be included with their proposal. Any additional Consultant terms and conditions which are attached or referenced with Consultant's proposal shall not be considered part of the qualifications or proposal, but shall be deemed included for informational purposes only. No extraneous terms will be incorporated into an agreement unless approved in writing by the Office of General Counsel. Acceptance and/or processing of a proposal shall not constitute acceptance of the extraneous terms.
4. The resulting agreement shall be binding upon its execution by both parties and, if required by New York State law, upon the approval of the Attorney General and the Office of the State Comptroller.
5. The agreement may be revised at any time upon mutual consent of the parties in writing. Such written consent will not be effective until signed by both parties and, if required by New York State law, approved by the Attorney General and the Office of the State Comptroller.

6. The relationship of the Successful Offeror to SUNY shall be that of independent consultant.
7. Compliance with the post-employment restrictions of the Ethics in Government Act is required.
8. The submission of a proposal constitutes a binding offer to perform and provide said services.
9. In the event the Successful Offeror uses partners, subcontracts or subcontractors, the Successful Offeror will remain responsible for compliance with all specifications and performance of all obligations under the contract resulting from this RFQ. For the resulting agreement, the Successful Offeror will be the prime contractor.
10. SUNY will not be liable for any costs associated with the preparation, transmittal, or presentation of any proposals or materials submitted in response to this RFQ.
11. Public announcements or news releases regarding this RFQ or any subsequent award of a contract must not be made by any offeror without the prior written approval of SUNY.
12. The Successful Offeror(s) is responsible for compliance with all applicable rules and regulations pertaining to cities, towns, counties and State where the services are provided, and all other laws applicable to the performance of the resulting contract. The Successful Offeror shall provide all necessary safeguards for safety and protection as set forth by the United States Department of Labor, Occupational Safety and Health Administration.
13. The Successful Offeror will be responsible for the work, direction and compensation of its employees, consultants, agents and contractors. Nothing in the resulting agreement or the performance thereof by the Successful Offeror will impose any liability or duty whatsoever on SUNY including, but not limited to, any liability for taxes, compensation, commissions, Workers' Compensation, disability benefits, Social Security, or other employee benefits for any person or entity.
14. In the event the Successful Offeror is required to be reimbursed for travel, Offeror shall be reimbursed at rates not to exceed the current NYS Schedule of Allowable Reimbursable Travel Expenses. Refer to the U.S. Government Administration Rates for Travel at: <http://www.gsa.gov>

SUNY reserves the right to:

1. Not accept any and all proposals received in response to this RFQ.
2. To terminate any resulting contract for: (1) unavailability of funds; (2) cause; (3) convenience; (4) in the event it is found that the certification filed by the Offeror in accordance with State Finance Law §§139-j and 139-k are found to be intentionally false or intentionally incomplete;

and if applicable, the Department of Taxation and Finance Contractor Certification Form ST-220CA was false or incomplete. Upon such finding, SUNY may exercise its termination right by providing written notification to the Offeror in accordance with the written notification terms of the contract.

3. Request certified audited financial statements for the past three (3) completed fiscal years and/or other appropriate supplementation including, but not limited to, interim financial statements and credit reports.
4. Contact any or all references.
5. Waive requirements or amend this RFQ upon notification to all Offerors. Mandatory requirements may be eliminated if unmet by all Offerors.
6. Negotiate with Offerors responding to this RFQ within the requirements necessary to serve the best interests of SUNY.
7. Begin contract negotiations with another Offeror in order to serve the best interests of SUNY, should SUNY be unsuccessful in negotiating a contract with the Successful Offeror within an acceptable time frame.
8. Reject any or all portions of any offer, to negotiate terms and conditions consistent with the intent of SUNY, and to make an award for any or all remaining portions.
9. Request clarifications from Offerors for purposes of assuring a full understanding of responsiveness, and further to permit revisions from all Offerors determined to be susceptible to being selected for contract award, prior to award.
10. Advise Offeror of any objectionable employee(s) and/or subcontractor(s) and request their removal from the project. Such removal shall not be reasonably withheld by the Offeror.
11. Terminate agreement with thirty (30) days written notice.

5 Attachments

5.1 Terms and Conditions

1. [Exhibit A](#)
2. [Exhibit A-1](#)
3. State University of New York Consultant Commissioning Contract

5.2 Required Consultant Documentation Forms

1. State Finance Law §§139-j and 139-k (*applies >\$15,000*)
 - a. [Form A](#) - Summary: Policy and Procedure of the State University of New York Relating to State Finance Law §§139-j and 139-k

- b. [Form B](#) - Affirmation with respect to State Finance Law §§139-j and 139-k
 - c. [Form C](#) - Disclosure and Certification with respect to State Finance Law §§139-j and 139-k
2. Procurement Forms
 - a. [Form XIII](#) Public Officers Law Compliance
3. Certificate of Insurance
 - a. [Form 7555-09 Certificate of Insurance Professional Liability](#) (*applies all contracts*)
 - b. *Form 7555-24 Certificate of Insurance (Commercial and Automobile Liability)*
 - c. NYS Workers Compensation and Disability Insurance (*applies all contracts*)
4. Affirmative Action and Minority & Women Owned Business Enterprises (*applies >\$25,000*)
 - a. [Form 104](#) - MWBE-EEO Policy Statement
 - b. [Form 107](#) - M/WBE Utilization Plan
 - c. Form 7557-17 Subconsultant Staffing List – Commissioning
 - d. [Form 108](#) - EEO Staffing Plan
 - e. [Form 109](#) - Campus' Consultant/Contractor Affidavit
 - f. EEO Consultant Program Policy Statement
 - g. [Form 113](#) - Quarterly MWBE Compliance Report
5. Vendor Responsibility
 - a. OSC's [Vendrep - Online System](#) or [paper forms attached](#) (*applies \geq \$100,000*)
6. State Consultant Services Reporting
 - a. [OSC Form A](#) (required prior to contract award) (*applies >\$15,000; applicable to labor only, does not include travel or reimburseables*)
 - b. [OSC Form B](#) (required annually)

CONSULTANT QUESTIONNAIRE:

1. Firm Name and Address

 County: _____ Zip _____
 Phone #: _____

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

1a. Branch Office #1

County: _____ Zip _____
 Phone #: _____

1b. Branch Office #2

County: _____ Zip _____
 Phone #: _____

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

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

Name	Discipline	Licensed in NYS & year	Years With Firm

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

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

SUPPLEMENT TO CONSULTANT QUESTIONNAIRE

Consultant is: Prime Subcontractor

Web site Address:

Address of Primary Place of Business /Executive Office:

Primary Business Activity:

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

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

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

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

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

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

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

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

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

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

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

State of:)
) ss:
County of:)

CERTIFICATION:

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

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

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

Notary Public

Print Name

Signature

Date



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

Background:

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

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

Instructions:

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

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

By: _____ Date: _____

Name: _____

Title: _____

Consultant Name: _____

Consultant Address: _____

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

You have selected the For-Profit Non-Construction questionnaire which may be printed and completed in this format or, for your convenience, may be completed online using the New York State VendRep System.

COMPLETION & CERTIFICATION

The person(s) completing the questionnaire must be knowledgeable about the vendor's business and operations. An owner or officer must certify the questionnaire and the signature must be notarized.

NEW YORK STATE VENDOR IDENTIFICATION NUMBER (VENDOR ID)

The Vendor ID is a ten-digit identifier issued by New York State when the vendor is registered on the Statewide Vendor File. This number must now be included on the questionnaire. If the business entity has not obtained a Vendor ID, contact the OSC Help Desk at ciohelpdesk@osc.state.ny.us or call 866-370-4672.

DEFINITIONS

All underlined terms are defined in the "New York State Vendor Responsibility Definitions List," found at www.osc.state.ny.us/vendrep/documents/questionnaire/definitions.pdf. These terms may not have their ordinary, common or traditional meanings. Each vendor is strongly encouraged to read the respective definitions for any and all underlined terms. By submitting this questionnaire, the vendor agrees to be bound by the terms as defined in the "New York State Vendor Responsibility Definitions List" existing at the time of certification.

RESPONSES

Every question must be answered. Each response must provide all relevant information which can be obtained within the limits of the law. However, information regarding a determination or finding made in error which was subsequently corrected is not required. Individuals and Sole Proprietors may use a Social Security Number but are encouraged to obtain and use a federal Employer Identification Number (EIN).

REPORTING ENTITY

Each vendor must indicate if the questionnaire is filed on behalf of the entire Legal Business Entity or an Organizational Unit within or operating under the authority of the Legal Business Entity and having the same EIN. Generally, the Organizational Unit option may be appropriate for a vendor that meets the definition of "Reporting Entity" but due to the size and complexity of the Legal Business Entity, is best able to provide the required information for the Organizational Unit, while providing more limited information for other parts of the Legal Business Entity and Associated Entities.

ASSOCIATED ENTITY

An Associated Entity is one that owns or controls the Reporting Entity or any entity owned or controlled by the Reporting Entity. However, the term Associated Entity does **not** include "sibling organizations" (i.e., entities owned or controlled by a parent company that owns or controls the Reporting Entity), unless such sibling entity has a direct relationship with or impact on the Reporting Entity.

STRUCTURE OF THE QUESTIONNAIRE

The questionnaire is organized into eleven sections. Section I is to be completed for the Legal Business Entity. Section II requires the vendor to specify the Reporting Entity for the questionnaire. Section III refers to the individuals of the Reporting Entity, while Sections IV-VIII require information about the Reporting Entity. Section IX pertains to any Associated Entities, with one question about their Officials/Owners. Section X relates to disclosure under the Freedom of Information Law (FOIL). Section XI requires an authorized contact for the questionnaire information.

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

I. LEGAL BUSINESS ENTITY INFORMATION			
<u>Legal Business Entity Name</u> *		<u>EIN</u>	
Address of the <u>Principal Place of Business</u> (street, city, state, zip code)		<u>New York State Vendor Identification Number</u>	
		Telephone ext.	Fax
Email		Website	
Additional <u>Legal Business Entity</u> Identities: If applicable, list any other <u>DBA</u> , <u>Trade Name</u> , <u>Former Name</u> , Other Identity, or <u>EIN</u> used in the last five (5) years and the status (active or inactive).			
Type	Name	EIN	Status
1.0 <u>Legal Business Entity</u> Type – Check appropriate box and provide additional information:			
<input type="checkbox"/> <u>Corporation</u> (including <u>PC</u>)		Date of Incorporation	
<input type="checkbox"/> <u>Limited Liability Company (LLC or PLLC)</u>		Date of Organization	
<input type="checkbox"/> <u>Partnership</u> (including <u>LLP</u> , <u>LP</u> or <u>General</u>)		Date of Registration or Establishment	
<input type="checkbox"/> <u>Sole Proprietor</u>		How many years in business?	
<input type="checkbox"/> Other		Date Established	
If Other, explain:			
1.1 Was the <u>Legal Business Entity</u> formed or incorporated in New York State?			<input type="checkbox"/> Yes <input type="checkbox"/> No
If ‘No,’ indicate jurisdiction where <u>Legal Business Entity</u> was formed or incorporated and attach a <u>Certificate of Good Standing</u> from the applicable jurisdiction or provide an explanation if a <u>Certificate of Good Standing</u> is not available.			
<input type="checkbox"/> United States State _____			
<input type="checkbox"/> Other Country _____			
Explain, if not available:			
1.2 Is the <u>Legal Business Entity</u> publicly traded?			<input type="checkbox"/> Yes <input type="checkbox"/> No
If “Yes,” provide <u>CIK Code</u> or Ticker Symbol			
1.3 Does the <u>Legal Business Entity</u> have a <u>DUNS</u> Number?			<input type="checkbox"/> Yes <input type="checkbox"/> No
If “Yes,” Enter <u>DUNS</u> Number			

* All underlined terms are defined in the “New York State Vendor Responsibility Definitions List,” which can be found at www.osc.state.ny.us/vendrep/documents/questionnaire/definitions.pdf

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

I. LEGAL BUSINESS ENTITY INFORMATION

1.4 If the <u>Legal Business Entity</u> 's <u>Principal Place of Business</u> is not in New York State, does the <u>Legal Business Entity</u> maintain an office in New York State? (Select "N/A," if <u>Principal Place of Business</u> is in New York State.)	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
--	--

If "Yes," provide the address and telephone number for one office located in New York State.

1.5 Is the <u>Legal Business Entity</u> a New York State certified <u>Minority-Owned Business Enterprise</u> (MBE), <u>Women-Owned Business Enterprise</u> (WBE), <u>New York State Small Business</u> (SB) or a federally certified <u>Disadvantaged Business Enterprise</u> (DBE)? If "Yes," check all that apply: <input type="checkbox"/> New York State certified <u>Minority-Owned Business Enterprise</u> (MBE) <input type="checkbox"/> New York State certified <u>Women-Owned Business Enterprise</u> (WBE) <input type="checkbox"/> <u>New York State Small Business</u> (SB) <input type="checkbox"/> Federally certified <u>Disadvantaged Business Enterprise</u> (DBE)	<input type="checkbox"/> Yes <input type="checkbox"/> No
---	--

1.6 Identify Officials and Principal Owners, if applicable. For each person, include name, title and percentage of ownership. Attach additional pages if necessary. If applicable, reference to relevant SEC filing(s) containing the required information is optional.

Name	Title	Percentage Ownership <i>(Enter 0% if not applicable)</i>

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II. REPORTING ENTITY INFORMATION

2.0 The Reporting Entity for this questionnaire is:

Note: Select only one.

Legal Business Entity

Note: If selecting this option, “Reporting Entity” refers to the entire Legal Business Entity for the remainder of the questionnaire. (SKIP THE REMAINDER OF SECTION II AND PROCEED WITH SECTION III.)

Organizational Unit within and operating under the authority of the Legal Business Entity

SEE DEFINITIONS OF “REPORTING ENTITY” AND “ORGANIZATIONAL UNIT” FOR ADDITIONAL INFORMATION ON CRITERIA TO QUALIFY FOR THIS SELECTION.

Note: If selecting this option, “Reporting Entity” refers to the Organizational Unit within the Legal Business Entity for the remainder of the questionnaire. (COMPLETE THE REMAINDER OF SECTION II AND ALL REMAINING SECTIONS OF THIS QUESTIONNAIRE.)

IDENTIFYING INFORMATION

a) Reporting Entity Name

Address of the Primary Place of Business (street, city, state, zip code)

Telephone

ext.

b) Describe the relationship of the Reporting Entity to the Legal Business Entity

c) Attach an organizational chart

d) Does the Reporting Entity have a DUNS Number?

Yes No

If “Yes,” enter DUNS Number

e) Identify the designated manager(s) responsible for the business of the Reporting Entity.
For each person, include name and title. Attach additional pages if necessary.

Name

Title

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INSTRUCTIONS FOR SECTIONS III THROUGH VII

For each “Yes,” provide an explanation of the issue(s), relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s). For each “Other,” provide an explanation which provides the basis for not definitively responding “Yes” or “No.” Provide the explanation at the end of the section or attach additional sheets with numbered responses, including the Reporting Entity name at the top of any attached pages.

III. LEADERSHIP INTEGRITY

Within the past five (5) years, has any current or former reporting entity official or any individual currently or formerly having the authority to sign, execute or approve bids, proposals, contracts or supporting documentation on behalf of the reporting entity with any government entity been:

3.0 <u>Sanctioned</u> relative to any business or professional permit and/or license?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other
3.1 <u>Suspended, debarred, or disqualified</u> from any <u>government contracting process</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other
3.2 The subject of an <u>investigation</u> , whether open or closed, by any <u>government entity</u> for a civil or criminal violation for any business-related conduct?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other
3.3 Charged with a misdemeanor or felony, indicted, granted immunity, convicted of a crime or subject to a <u>judgment</u> for: a) Any business-related activity; or b) Any crime, whether or not business-related, the underlying conduct of which was related to truthfulness?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other

For each “Yes” or “Other” explain:

IV. INTEGRITY – CONTRACT BIDDING

Within the past five (5) years, has the reporting entity:

4.0 Been <u>suspended or debarred</u> from any <u>government contracting process</u> or been <u>disqualified</u> on any government procurement, permit, license, concession, franchise or lease, including, but not limited to, <u>debarment</u> for a violation of New York State Workers’ Compensation or Prevailing Wage laws or New York State Procurement Lobbying Law?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.1 Been subject to a denial or revocation of a government prequalification?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.2 Been denied a contract award or had a bid rejected based upon a <u>non-responsibility finding</u> by a <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.3 Had a low bid rejected on a <u>government contract</u> for failure to <u>make good faith efforts</u> on any <u>Minority-Owned Business Enterprise, Women-Owned Business Enterprise or Disadvantaged Business Enterprise</u> goal or <u>statutory affirmative action requirements</u> on a previously held contract?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.4 Agreed to a voluntary exclusion from bidding/contracting with a <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.5 Initiated a request to withdraw a bid submitted to a <u>government entity</u> in lieu of responding to an information request or subsequent to a formal request to appear before the <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No

For each “Yes,” explain:

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V. INTEGRITY – CONTRACT AWARD

Within the past five (5) years, has the reporting entity:

- | | |
|---|--|
| 5.0 Been <u>suspended</u> , cancelled or <u>terminated for cause</u> on any <u>government contract</u> including, but not limited to, a <u>non-responsibility finding</u> ? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 5.1 Been subject to an <u>administrative proceeding</u> or civil action seeking specific performance or restitution in connection with any <u>government contract</u> ? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 5.2 Entered into a formal monitoring agreement as a condition of a contract award from a <u>government entity</u> ? | <input type="checkbox"/> Yes <input type="checkbox"/> No |

For each “Yes,” explain:

VI. CERTIFICATIONS/LICENSES

Within the past five (5) years, has the reporting entity:

- | | |
|---|--|
| 6.0 Had a revocation, <u>suspension</u> or <u>disbarment</u> of any business or professional permit and/or license? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 6.1 Had a denial, decertification, revocation or forfeiture of New York State certification of <u>Minority-Owned Business Enterprise</u> , <u>Women-Owned Business Enterprise</u> or federal certification of <u>Disadvantaged Business Enterprise</u> status for other than a change of ownership? | <input type="checkbox"/> Yes <input type="checkbox"/> No |

For each “Yes,” explain:

VII. LEGAL PROCEEDINGS

Within the past five (5) years, has the reporting entity:

- | | |
|--|--|
| 7.0 Been the subject of an <u>investigation</u> , whether open or closed, by any <u>government entity</u> for a civil or criminal violation? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 7.1 Been the subject of an indictment, grant of immunity, <u>judgment</u> or conviction (including entering into a plea bargain) for conduct constituting a crime? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 7.2 Received any OSHA citation and Notification of Penalty containing a violation classified as <u>serious</u> or <u>willful</u> ? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 7.3 Had a <u>government entity</u> find a willful prevailing wage or supplemental payment violation or any other willful violation of New York State Labor Law? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 7.4 Entered into a consent order with the New York State Department of Environmental Conservation, or received an enforcement determination by any <u>government entity</u> involving a violation of federal, state or local environmental laws? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 7.5 Other than previously disclosed:
a) Been subject to fines or penalties imposed by <u>government entities</u> which in the aggregate total \$25,000 or more; or
b) Been convicted of a criminal offense pursuant to any administrative and/or regulatory action taken by any <u>government entity</u> ? | <input type="checkbox"/> Yes <input type="checkbox"/> No |

For each “Yes,” explain:

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VIII. FINANCIAL AND ORGANIZATIONAL CAPACITY	
8.0 Within the past five (5) years, has the <u>Reporting Entity</u> received any <u>formal unsatisfactory performance assessment(s)</u> from any <u>government entity</u> on any contract?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If “Yes,” provide an explanation of the issue(s), relevant dates, the <u>government entity</u> involved, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
8.1 Within the past five (5) years, has the <u>Reporting Entity</u> had any <u>liquidated damages</u> assessed over \$25,000?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If “Yes,” provide an explanation of the issue(s), relevant dates, contracting party involved, the amount assessed and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
8.2 Within the past five (5) years, have any <u>liens</u> or <u>judgments</u> (not including UCC filings) over \$25,000 been filed against the <u>Reporting Entity</u> which remain undischarged?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If “Yes,” provide an explanation of the issue(s), relevant dates, the Lien holder or Claimant’s name(s), the amount of the <u>lien(s)</u> and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
8.3 In the last seven (7) years, has the <u>Reporting Entity</u> initiated or been the subject of any bankruptcy proceedings, whether or not closed, or is any bankruptcy proceeding pending?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If “Yes,” provide the bankruptcy chapter number, the court name and the docket number. Indicate the current status of the proceedings as “Initiated,” “Pending” or “Closed.” Provide answer below or attach additional sheets with numbered responses.	
8.4 During the past three (3) years, has the <u>Reporting Entity</u> failed to file or pay any tax returns required by <u>federal, state or local tax laws</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If “Yes,” provide the taxing jurisdiction, the type of tax, the liability year(s), the tax liability amount the <u>Reporting Entity</u> failed to file/pay and the current status of the tax liability. Provide answer below or attach additional sheets with numbered responses.	
8.5 During the past three (3) years, has the <u>Reporting Entity</u> failed to file or pay any New York State unemployment insurance returns?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If “Yes,” provide the years the <u>Reporting Entity</u> failed to file/pay the insurance, explain the situation and any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
8.6 During the past three (3) years, has the <u>Reporting Entity</u> had any <u>government audit(s)</u> completed?	<input type="checkbox"/> Yes <input type="checkbox"/> No
a) If “Yes,” did any audit of the <u>Reporting Entity</u> identify any reported significant deficiencies in internal control, fraud, illegal acts, significant violations of provisions of contract or grant agreements, significant abuse or any <u>material disallowance</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If “Yes” to 8.6 a), provide an explanation of the issue(s), relevant dates, the <u>government entity</u> involved, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	

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IX. ASSOCIATED ENTITIES

*This section pertains to any entity(ies) that either controls or is controlled by the reporting entity.
(See definition of “associated entity” for additional information to complete this section.)*

<p>9.0 Does the <u>Reporting Entity</u> have any <u>Associated Entities</u>?</p> <p>Note: All questions in this section must be answered if the <u>Reporting Entity</u> is either:</p> <ul style="list-style-type: none"> - An <u>Organizational Unit</u>; or - The entire <u>Legal Business Entity</u> which controls, or is controlled by, any other entity(ies). <p>If “No,” SKIP THE REMAINDER OF SECTION IX AND PROCEED WITH SECTION X.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
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<p>9.1 Within the past five (5) years, has any <u>Associated Entity Official</u> or <u>Principal Owner</u> been charged with a misdemeanor or felony, indicted, granted immunity, convicted of a crime or subject to a <u>judgment</u> for:</p> <ul style="list-style-type: none"> a) Any business-related activity; or b) Any crime, whether or not business-related, the underlying conduct of which was related to truthfulness? 	<input type="checkbox"/> Yes <input type="checkbox"/> No
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If “Yes,” provide an explanation of the issue(s), the individual involved, his/her title and role in the Associated Entity, his/her relationship to the Reporting Entity, relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s).

<p>9.2 Does any <u>Associated Entity</u> have any currently undischarged <u>federal</u>, New York State, New York City or New York local government <u>liens</u> or <u>judgments</u> (not including <u>UCC filings</u>) over \$50,000?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
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If “Yes,” provide an explanation of the issue(s), identify the Associated Entity’s name(s), EIN(s), primary business activity, relationship to the Reporting Entity, relevant dates, the Lien holder or Claimant’s name(s), the amount of the lien(s) and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.

<p>9.3 Within the past five (5) years, has any <u>Associated Entity</u>:</p>	
<p>a) Been <u>disqualified</u>, <u>suspended</u> or <u>debarred</u> from any <u>federal</u>, New York State, New York City or other New York local <u>government contracting process</u>?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>b) Been denied a contract award or had a bid rejected based upon a <u>non-responsibility finding</u> by any <u>federal</u>, New York State, New York City, or New York local <u>government entity</u>?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>c) Been <u>suspended</u>, <u>cancelled</u> or <u>terminated for cause</u> (including for <u>non-responsibility</u>) on any <u>federal</u>, New York State, New York City or New York local <u>government contract</u>?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>d) Been the subject of an <u>investigation</u>, whether open or closed, by any <u>federal</u>, New York State, New York City, or New York local <u>government entity</u> for a civil or criminal violation with a penalty in excess of \$500,000?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>e) Been the subject of an indictment, grant of immunity, <u>judgment</u>, or conviction (including entering into a plea bargain) for conduct constituting a crime?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>f) Been convicted of a criminal offense pursuant to any administrative and/or regulatory action taken by any <u>federal</u>, New York State, New York City, or New York local <u>government entity</u>?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>g) Initiated or been the subject of any bankruptcy proceedings, whether or not closed, or is any bankruptcy proceeding pending?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No

For each “Yes,” provide an explanation of the issue(s), identify the Associated Entity’s name(s), EIN(s), primary business activity, relationship to the Reporting Entity, relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.

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X. FREEDOM OF INFORMATION LAW (FOIL)

10. Indicate whether any information supplied herein is believed to be exempt from disclosure under the Freedom of Information Law (FOIL). Note: A determination of whether such information is exempt from FOIL will be made at the time of any request for disclosure under FOIL.	<input type="checkbox"/> Yes <input type="checkbox"/> No
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If "Yes," indicate the question number(s) and explain the basis for the claim.

XI. AUTHORIZED CONTACT FOR THIS QUESTIONNAIRE

Name	Telephone	Fax
	ext.	
Title	Email	

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Certification

The undersigned: (1) recognizes that this questionnaire is submitted for the express purpose of assisting New York State government entities (including the Office of the State Comptroller (OSC)) in making responsibility determinations regarding award or approval of a contract or subcontract and that such government entities will rely on information disclosed in the questionnaire in making responsibility determinations; (2) acknowledges that the New York State government entities and OSC may, in their discretion, by means which they may choose, verify the truth and accuracy of all statements made herein; and (3) acknowledges that intentional submission of false or misleading information may result in criminal penalties under State and/or Federal Law, as well as a finding of non-responsibility, contract suspension or contract termination.

The undersigned certifies that he/she:

- is knowledgeable about the submitting Business Entity’s business and operations;
- has read and understands all of the questions contained in the questionnaire;
- has not altered the content of the questionnaire in any manner;
- has reviewed and/or supplied full and complete responses to each question;
- to the best of his/her knowledge, information and belief, confirms that the Business Entity’s responses are true, accurate and complete, including all attachments, if applicable;
- understands that New York State government entities will rely on the information disclosed in the questionnaire when entering into a contract with the Business Entity; and
- is under an obligation to update the information provided herein to include any material changes to the Business Entity’s responses at the time of bid/proposal submission through the contract award notification, and may be required to update the information at the request of the New York State government entities or OSC prior to the award and/or approval of a contract, or during the term of the contract.

Signature of Owner/Official _____

Printed Name of Signatory _____

Title _____

Name of Business _____

Address _____

City, State, Zip _____

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

_____ Notary Public

CONSULTANT AGREEMENT (COMMISSIONING)

Project No.: 704.6

This Agreement made as of _____ day of _____, 201__ for Contract Number _____ by and between the STATE UNIVERSITY OF NEW YORK, a corporation organized and existing under the laws of the State of New York, with its principal office located at State University Plaza, Albany, New York 12246, on behalf of State University of New York at **Upstate Medical University** located at **750 East Adams Street, Syracuse, New York 13210** hereinafter referred to as "University" and

XXXXXX having its principal office and place of business at
XXXXXX
XXXXXX hereinafter referred to as the "Consultant".

WHEREAS, the University contemplates the construction of project **704.5 & 704.6 Cancer Center, 4th & 5th Floor Fit Out** including all usual, appropriate and necessary attendant facilities at **Upstate Medical University, Syracuse, New York 13210** hereinafter referred to as the "Project"; and

WHEREAS, the University desires the Consultant, and the Consultant is willing, to undertake certain services in connection with the Project; and the University approves the engagement of such consultants; and

NOW, THEREFORE, the parties in consideration of the mutual covenants herein contained agree as follows:

Article I Consultant's Services

The Consultant shall provide complete professional services necessary to complete the commissioning of the Project. Such services shall include, but are not limited to the following:

- (1) Determine, select and manage the staffing and subconsultants necessary for the timely performance of the services set forth in Schedule "C".
- (2) Periodically advise the University of the progress of the Project and any anticipated delay in the same.
- (3) Attend initial and follow-up meetings with University, other entities approved by the University, and campus personnel to review the materials and analyses prepared by the Consultant. At a minimum, the Consultant will schedule and meet with the University and designated representative(s) of other entities for the orientation, review of the draft and final submissions, review and inspection of the project construction requiring commissioning, and at other times as required to progress the work. Any additional meetings that are required by the Consultant to complete the activities and submissions shall be considered to be part of this contract.
- (4) Provide written responses within ten business days to all written comments transmitted to the Consultant by the University, or other entities authorized by the University to review the Consultant's work.

(5) Coordinate all the services to be provided hereunder with other projects being undertaken by the University.

(6) Submit a project schedule, allowing four weeks for all submissions requiring client review. Update the schedule periodically.

Article II Additional Obligations and Responsibilities of the Consultant

Section A Sequence of Services

Except as otherwise expressly herein provided, the services described in Article I hereof to be furnished by the Consultant shall be rendered as set forth in Schedule "C".

Section B Subconsultants

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

Section C Consultant's Personnel

The Consultant shall be responsible for all personnel assigned by the Consultant or subconsultants to the Project. The Consultant shall submit to the University for its approval, a list of personnel who will be assigned to the project. Once approved by the University, such project staffing will not be changed without the University's prior authorization. All such personnel shall be required to cooperate fully with the University. In the event the University determines, in its sole discretion, that such action is required in order to achieve or maintain such cooperation, the Consultant shall replace any person so assigned with a suitable substitute at no additional cost to the University.

Section D Coordination

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

Section E Claims

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

Section F Changes and/or Revisions

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

Section G Supervision and Direction

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

Article III Payment for Services

Section A Direct Labor Basic Compensation

Compensation will be provided on the basis of the Consultant's direct labor cost plus a sum equal to the percent thereof identified in Schedule B, plus reimbursable expenses incurred in connection with the completion of the project. Sub consultants will be reimbursed on the basis of subconsultants direct labor cost plus a sum equal to the percent identified in Schedule B.

Section B Reimbursable Expenses

(1) Traveling expenses, including transportation, meals and lodging, and other special expenses necessary, in the judgment of the University, to the performance of the services of the Consultant and its subconsultants shall be paid for by the University on the basis of the University's "[*Bulletin on Payment of Architectural Fees*](#)", as revised to the date hereof.

(2) All reproductions of plans, specifications, reports and other data and documents requested by and furnished to or on behalf of the University and all required application fees in connection with the Project shall be paid for by the University on the basis of the Consultant's actual expenditure therefore; provided, however, that the Consultant shall not be entitled to any reimbursement for the cost of typing or drafting of the same.

(3) The University's obligation to pay for such reimbursable expenses shall be limited to 10 percent of the total fee for services rendered unless otherwise agreed to in writing by the University.

Section C Extra Compensation

Except when contemplated or required as part of the Consultant's responsibility under this agreement, the cost of the additional services that the Consultant agrees to furnish and perform, will be paid for by the University as extra compensation on the basis of the Consultant's direct labor cost plus a sum equal to the percent thereof, identified in Schedule B, plus reimbursable expenses incurred in connection with performing the same. Upon completion and approval by the University of said service(s), the fee(s) therefore shall become due and payable by the University within thirty (30) days after approval by the University of the Consultant's invoice(s) describing the services furnished and performed and the computation of the cost(s) thereof. The Consultant shall not be entitled to extra compensation under this Section unless the services to be provided by the Consultant hereunder have been requested and approved in writing by the University.

Section D Compensation

Notwithstanding any other provisions of this Agreement, the total amount of compensation for any and all services, reimbursable expenses or any other expenditures paid to the consultant under this agreement shall not exceed \$ Dollars.

Section E Payments

Said compensation and reimbursable expenses shall be paid by the University to the Consultant in monthly installments in proportion to the services rendered by the Consultant as determined by the University on its receipt of reports from the Consultant, as to the services provided hereunder; subject, however, to the University's approval of such services. The Consultant shall submit for the University's approval a properly executed Application for Payment, on a form prescribed by the University, together with appropriate backup supporting the amount billed.

Section F Accounting Records

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

Section G Final Payment

Upon satisfactory completion by the Consultant of all services required by this Agreement or, if this Agreement is terminated by the University, all services provided prior to said termination, the University shall make a final payment to the Consultant. Acceptance by the Consultant of the final payment shall operate as, and shall be, a release of the University from all liability to the Consultant for anything provided or arising in connection with this Agreement. No payment, final or otherwise, by the University shall in any way release or affect the obligations and responsibilities of the Consultant hereunder.

Section H **Electronic Payments**

Consultant shall provide complete and accurate billing invoices in order to receive payment. Billing invoices submitted must contain all information and supporting documentation required by the Contract, the University and the State Comptroller. Payment for invoices submitted by the Consultant **shall only be rendered electronically** unless payment by paper check is expressly authorized by the University's General Manager, in the General Manager's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. **The Consultant shall comply with the State Comptroller's procedures to authorize electronic payments.** Authorization forms are available at the State Comptroller's website at **www.osc.state.ny.us/epay/index.htm**; by email at epunit@osc.state.ny.us; or by telephone at 518-474-4032. Consultant acknowledges that it will not receive payment on any invoices submitted under this Contract if it does not comply with the State Comptroller's electronic payment procedures, except where the General Manager has expressly authorized payment by paper check as set forth above.

Article IV Ownership of Documents

The plans, drawings, specifications, reports, models, and other documents and electronic files to be prepared and furnished by the Consultant pursuant to this Agreement shall be the property of the University. Without in any way limiting the foregoing, the University expressly reserves the right to make any or all of the documents, including electronic files, available to others for their use in designing, constructing or operating the systems associated with this Project. The Consultant shall not publish or disseminate to third parties information pertaining to the Project, or any part or aspect thereof, without first obtaining written approval from the University for such publication or dissemination and of the format and content thereof. Notwithstanding the foregoing, in the event that the University uses all or a substantial portion of the final documents for the construction of another project, the University shall compensate the Consultant therefore in such amount as it deems fair and reasonable.

Article V Termination of Agreement

Section A **Personal Services**

This Agreement is intended to secure the personal services of the Consultant because of its ability and reputation and that no responsibility of the Consultant shall be assigned, delegated or transferred without the prior written consent of the University.

Section B **Death or Disability**

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

Section C **Termination**

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

Article VI Minority and Women Owned Business Enterprise Participation/Equal Employment Opportunity

In accordance with Article 15-A of the Executive Law of New York State and in conformance with the regulations set forth at 5 NYCRR Parts 140-144, Consultant agrees to be bound by the following and to comply with all applicable Federal, State and local civil rights and human rights laws with reference to equal employment opportunities and the facilitation of minority and women-owned business enterprise (M/WBE) participation in the provision of services: Subject to the requirements of Article 15-A of the Executive Law of New York State and the regulations adopted pursuant thereto; [Consultant Agrees to demonstrate good faith efforts to solicit and provide opportunities for the participation of certified M/WBEs so as to meet or exceed the University's goals of 8% Minority Business Enterprise \(MBE\) and 6% Women's Business Enterprise \(WBE\) \(on campuses outside of NYC and Long Island\) or 10% MBE and 4% WBE \(on campuses in NYC and Long Island\).](#) Firms must be certified by the NYS Empire State Development Corp. as MWBE for consideration. Prior to the execution of this Agreement, the Consultant shall submit an Equal Employment Opportunity ("EEO") Policy Statement to the University within ten (10) calendar days after receipt of a request therefore. This EEO Policy Statement shall contain, but not necessarily be limited to, and the Consultant, as a precondition to entering into a valid and binding Agreement with the University, shall, during the performance of this Agreement, agree to the following:

- (1) The Consultant will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on the Agreement.
- (2) The Consultant shall state in all solicitations or advertisements for employees that, in the performance of this Agreement, 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) At the request of the University, the Consultant shall request each employment agency, labor union or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Consultant's obligations herein.

Prior to the execution of this Agreement and within ten (10) calendar days after receipt of a request therefore, the Consultant shall submit to the University a staffing plan of the anticipated work force to be utilized on this Agreement or, where required, information on the Consultant's total work force, including apprentices, broken down by specified ethnic background, gender and Federal occupational categories or other appropriate categories specified by the University. The form of the staffing plan shall be supplied by the University.

The Consultant shall submit to the University a work force utilization report, in a form and manner required by the University, of the work force actually utilized on this Agreement, broken down by specified ethnic background, gender and Federal occupational categories or other appropriate categories specified by the University.

Consultant will include the provisions of this Article in each and every Agreement and/or Contract in such a manner that the provisions of this Article will be binding upon each subconsultant and contractor as to work in connection with and related to this Agreement. All subconsultants must be approved by the University and the MWBE Utilization plans are subject to approval by both the University's Opportunities Program and Design Staff.

The Consultant shall be bound by and comply with all the duly promulgated and lawful rules and regulations of the New York State Department of Economic Development's Division of Minority and Women's Business Development pertaining thereto and the provisions of Section 316 of Article 15-A of the New York State Executive Law.

Article VII

Provisions Required to be Inserted by Law

Each and every provision required by law to be inserted in this Agreement, including, but not limited to, the provisions set forth in Schedule "A" which is attached hereto and made a part hereof, and State Finance Law

Section (163) (4) (g) imposes certain reporting requirements on consultants doing business with New York State. In furtherance of these reporting requirements, the Consultant agree to complete and submit an initial planned employment data report and annual employment report, which are attached as Forms A and B. respectively; shall be deemed to be inserted herein and this Agreement shall be read and enforced as though it were included herein and, in the event any such provision is not inserted or is not correctly inserted, then, upon the application of either party, this Agreement shall forthwith be physically amended to make such insertion or correction. For the purpose of such Schedule, the word "Contractor" therein shall be deemed to refer to the Consultant.

Article VIII Release of the University

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

Article IX General Provisions

Section A Approval

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

Section B Delays or Omissions

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

Section C Captions

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

Section D Singular - Plural; Male – Female

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

Section E **Actions or Proceedings Against the University**

No action or proceeding shall lie or be maintained by the Consultant, or anyone claiming under or through the Consultant against the University or any of its trustees, officers, agents or employees, upon any claim arising out of or based upon this Agreement or any breach thereof or by reason of any act or omission of the University or its trustees, officers, agents or employees, unless such action or proceeding is instituted in the Supreme Court of the State of New York in and for the County of Albany and such action or proceeding is commenced within one (1) year after the University's acceptance of the construction work, or termination of this Agreement, whichever shall first occur.

Section 5 **Entire Agreement**

This Agreement, together with the University's Bulletin on the Payment of Consultant's Fees, which is hereby incorporated into and made a part hereof, constitutes the entire agreement between the parties hereto and supersedes all previous understandings and agreements with respect to the Project or any of the provisions hereof. No statement, promise, condition, understanding, inducement, or representation, oral or written, expressed or implied, which is not contained herein shall be binding or valid and this Agreement shall not be changed, modified or altered in any manner except by an instrument in writing executed by the parties hereto.

Article X Duration of Agreement

This agreement shall remain in effect for sixty (60) months from the date it is approved by SUNY Upstate Medical University, or until the completion of this project, whichever is earlier.

Article XI Notices

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

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

Owner

Mr. Marius Dumitran, Project Coordinator
SUNY Upstate Medical University
750 East Adams Street
Syracuse, New York 13210

Office Telephone Number: 315-464-3819

Cell Phone Number: 315-530-2923
Facsimile Number: 315-464-7376
E-mail address: dumitram@upstate.edu

Consultant

Mr.

Telephone Number:
Facsimile Number:
E-mail address:

Construction Manager

Mr.

Telephone Number:
Cell Phone Number:
Facsimile Number:
E-mail address:

2. Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or email, upon receipt.

3. The parties may, from time to time, specify any new or different address in the United States as their address for purpose of receiving notice under this Agreement by giving fifteen (15) days written notice to the other party in accordance herewith. The parties agree to mutually designate individuals as their respective representatives for the purposes of receiving notices under this Agreement Additional individuals may be designated in writing by the parties for purposes of implementation and administration/ billing, resolving issues and problems and/or for dispute resolution.

Article XII
State Finance Law § 139-k

The Consultant certifies that all information provided to the University with respect to **State Finance Law Section 139-k** is complete, true and accurate.

The University reserves the right to immediately terminate this contract in the event that is found that the certification filed by the Consultant in accordance with **State Finance Law 139-k** was intentionally false or intentionally incomplete.

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

STATE UNIVERSITY OF NEW YORK - Upstate Medical University

By _____
Thomas K. Pelis, P.E. Assistant V-P Facilities

Date _____

XXXX

By _____

Date _____

Federal ID # _____
(affix company seal)

ACKNOWLEDGMENTS
(ACKNOWLEDGMENT BY AN INDIVIDUAL)

STATE OF NEW YORK)
) ss.:
COUNTY OF)

On this _____ day of _____, 20_____, before me personally came _____
_____, to me known and known to me to be the person(s) described in and who executed
the foregoing instrument and he/she acknowledged to me that he/she executed the same.

Notary Public

(ACKNOWLEDGMENT BY A PARTNERSHIP)

STATE OF NEW YORK)
) ss.:
COUNTY OF)

On this _____ day of _____, 20_____, before me personally came _____
_____, to me known and known to me to be the person who executed the above instrument,
who, being duly sworn by me, did for themself depose and say that they are a member of the firm of _____
_____, consisting of themself and _____
_____, that he/she executed the foregoing instrument in the firm name _____
_____, and that he/she had authority to sign the same, and that he/she did duly acknowledge to me
that he/she executed the same as the act and deed of the aforementioned firm for the purposes mentioned therein.

Notary Public

(ACKNOWLEDGMENT BY A CORPORATION)

STATE OF)
) ss.:
COUNTY OF)

On this _____ day of _____, 20_____, before me personally came _____
_____, to me known, who, being duly sworn, did depose and say that he/she reside in
_____ ; that he/she is the _____

of the _____, the corporation described in and which
executed the foregoing instrument; that he/she knows the seal of said corporation; that the seal affixed to said instrument was such corporate seal;
that if was affixed by the order of the Board of Directors of said corporation, and that he/she signed their name thereto by like order.

Notary Public

SCHEDULE “B”
SUNY Upstate Medical Project No.

Multiplier Adjustment

The maximum multiplier, based on the most recent audited financial statement, is:

Consultant: %

Subconsultant: %

SCHEDULE "C"
SUNY Upstate Medical Project No. 708
SCOPE OF WORK
COMMISSIONING AGREEMENT

On the basis of design documentation, drawings, specifications and other material to be provided by Upstate, the Consultant shall provide the following services for the design, construction and occupancy phases for the assigned projects:

(1) Provide commissioning services and indoor air quality testing as defined in the SUCF Program Directive 15H-9, Commissioning and Indoor Air Quality Testing, as currently amended and available at <http://www.sucf.suny.edu>, with the following changes:

a. Revise Part 3, Commissioning Process, item c. to read:

Systems to be commissioned include all building HVAC systems and all Indoor Air Quality (IAQ) systems that affect energy consumption. The following new, existing or modified systems may be commissioned:

- (1) Cooling Towers (Fans, valves)
- (2) Air Handling Units (Coils, valves, fans, dampers)
- (3) Heat recovery units and systems
- (4) Ventilation and Exhaust Fans
- (5) Ducts and Dampers
- (6) Verify noise criteria levels for each space
- (7) Heat exchangers and hot water system
- (8) Pumps
- (9) Piping and Valves
- (10) Ducts and Piping Insulation
- (11) Controls for Systems, Building and Central Plant
- (12) Life safety systems, including fire alarm, fire protection.
- (13) Electrical system and grounding.
- (14) Lighting system, including daylight and occupancy sensors and controls and dimming and switching controls
- (15) Fume hood and other special exhaust systems
- (16) Laboratory/Medical/Research Systems such as compressed air, vacuum, other gas systems, chilled water, steam RO / DI water systems, and other specialty systems.
- (17) Building envelope for sealing of air barrier.
- (18) Any other equipment or systems used for HVAC that affect energy use, Indoor Air Quality, or the campus' ability to operate a building for its intended use.
- (19) Construction Indoor Air Quality.

- b. Revise Part 4 c (3) to include “The commissioning plan should consider the various operational conditions and scenarios that could be reasonably anticipated to occur in each space.”
 - c. Revise Part 4 c (4) to include: “(d) Provide timely reporting and distribution of the findings, as required to minimize the volume of submissions submitted for owner information and review. Provide frequent updates of the status of activities and facilitate owner review of progress and status reports, such as through electronic or on line access to forms, with changes flagged by date.”
 - d. Revise Part 4 c (4) to include “First annual inspection and testing of systems per the Fire Code of New York and applicable reference standards. Arrange inspection and testing with the Campus so that it serves as a training opportunity for their staff to learn what is required for future annual inspections”
- (2) Visit and inspect the construction site , participate in project design review meetings and telephone conference calls with Upstate, and its contractors and consultants, and the Campus, as required to effectively provide the services in Paragraph (1) above
 - (3) Prepare and distribute, as directed by Upstate, six (6) paper copies and one electronic copy of all reports, checklists, etc. required in paragraphs (1) and (2) above, whose content reflects the comments and suggestions made by Upstate, its consultants, and the Campus pursuant to paragraph (2) above.
 - (4) Review the Campus program, Fund Program Directives, consultant design documentation, and other applicable background information as required to complete the services.

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DIRECTIVE 15H-9

Issue date: March 2010

COMMISSIONING AND INDOOR AIR QUALITY TESTING

1. Purpose

The purpose of this Directive is to describe, in outline, the requirements of Commissioning and Indoor Air Quality (IAQ) testing on SUCF projects.

2. Applicability

- a. New York State Executive Order No. 111 (E.O. 111) requires commissioning of all building mechanical plant systems that affect energy consumption. This includes all new and all substantially renovated existing buildings, of 20,000 gross square feet or larger. "Substantially renovated" is defined as the replacement of more than 50% of a building or building system, measured in units of that system. See Directive 1B-7 for more on E.O. No. 111
- b. Sample Commissioning Plans, Specifications, and Testing Forms used to satisfy these requirements are available from Portland Energy Conservation Incorporated (PECI) at www.peci.org/cx.
- c. Executive Order No. 111 also requires Indoor Air Quality Testing. See Section 7 of this Directive for these requirements.

3. Commissioning Process

- a. SUNY Upstate Medical University will select and contract for the services of a commissioning authority.
- b. Ensure design consultant, commissioning agent, and the commissioning authority fulfill their roles in the commissioning process.
- c. Systems to be Commissioned: All base building HVAC systems and all Indoor Air Quality (IAQ) systems that affect energy consumption. The following systems must be commissioned:
 - (1) Chiller, Air Conditioner, Heat exchangers, Campus chilled water, Condensers, Cooling systems
 - (2) Boiler, Furnace, Heat exchangers, Steam, HTHW, MTHW, Heating systems
 - (3) Domestic and Service Water Heater, Domestic Water heating systems
 - (4) Cooling Tower (Fan, valves)
 - (5) Air Handling Unit (Coils, valves, fans, humidification, dampers)
 - (6) Ventilation, exhaust and miscellaneous Fans
 - (7) Ducts and Dampers
 - (8) Piping and Valves

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- (9) Duct and Piping Insulation
 - (10) Controls for System, Building and Central Plant
 - (11) Verify acoustic levels for each space
 - (12) Waste Heat Recovery (components, systems, and units)
 - (13) Thermal Storage
 - (14) HVAC pumps
 - (15) Refrigerant leak detection systems
 - (16) Fume hood and other special exhaust systems
 - (17) Any other equipment or systems used for HVAC that affect energy use or Indoor Air Quality, or the campus' ability to operate a building for its intended use.
 - (18) Any other system as requested by the design team and approved by SUCF
- d. Commissioning as required to achieve selected LEED credits including documentation as required for and filling out of LEED templates for commissioning credits.
 - e. Commissioning as required to meet the requirements of selected NYSERDA programs.
4. Responsibilities of Commissioning Participants
- a. Designer of systems to be commissioned must prepare a written description of each system's Owners Project Requirements (OPR), basis of design, and sequence of operations. These items shall be submitted with the Design Manual Phase submission.
 - (1) The Owners Project Requirements (OPR) document shall detail the basics of the system(s) that are to be commissioned. It shall include but not be limited to; space temperature and humidity criteria, thermal zoning criteria, level of occupant control over HVAC systems, ventilation and IAQ criteria, performance related to energy efficiency, and commissioning criteria.
 - (2) The Basis of Design (BOD) document shall layout the decisions made to meet building program requirements. The BOD details systems, conditions, methods and components chosen to meet the OPR. The BOD must include the following; occupancy, space climate requirements, applicable codes and standards, primary load and design assumptions, LEED elements, lighting levels and controls, energy performance, ventilation strategies and methods, control systems complete with sequence of operations, fire and life safety criteria, emergency power control and function, and additional information that will aid in the commissioning process or future building operation.

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- (3) In addition to submitting the OPR and BOD to SUCF for review during the design process, the OPR and the BOD must be included in the Systems and Energy Management Manual.
- b. Commissioning authority must coordinate and direct the functional testing of systems to be commissioned. The commissioning authority documents the functional testing using forms approved by the commissioning authority and developed with the assistance of the contractor.
 - c. The commissioning authority must:
 - (1) Develop the commissioning plan, document the commissioning process, and review/approve the designer's system descriptions, etc. from 4.a.
 - (2) Review design documents for their affect on the commissioning process and the final performance of the commissioned systems. This review shall ensure that adequate devices are included in the design to properly document the performance of the commissioned systems and equipment. The commissioning authority shall consider the various operational conditions and scenarios that could be reasonably anticipated to occur in each space.
 - (3) Develop/review and approve the following written products:
 - (a) Develop Commissioning specification.
 - (b) Develop Design phase Commissioning plan.
 - (c) Develop Construction phase Commissioning plan.
 - (d) Develop/review and approve Start-up, checkout, and pre-functional tests.
 - (e) Develop/review Functional performance testing procedures and checklists.
 - (f) Review/approve Testing, adjusting, and balancing (TAB) plan.
 - (g) Review/approved equipment/system training requirements to determine adequacy per Section 8 "Training" of this Directive.
 - (h) Review/approve Operations and Maintenance Manual as submitted by the contractor and insert BOD and OPR as provided by the Design Professional.
 - (i) Develop Systems and Energy Management Manual.
 - (j) Develop Commissioning Report.
 - (k) Develop Indoor Air Quality specifications and Indoor Air Quality Management Plan During Construction specifications.
 - (4) Using the start-up, checkout checklists and procedures, and pre-functional tests the commissioning authority shall, with the assistance of the contractor, verify and document the installation of systems,

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equipment, and components. The commissioning authority shall be the responsible party to obtain contractor signatures and to fill out start-up checklists and pre-functional tests. The commissioning authority shall also be responsible to maintain an up to date commissioning report at the site. Any differences between original construction documents and final installation must be documented in the report. Documentation shall also be provided for other building systems or components that may be compromising the efficiency of the systems or features being commissioned.

- (5) As documented in paragraph (4) above the commissioning authority shall also be responsible party to oversee functional testing performed by the contractor and to fill out the functional performance checklists and procedures for insertion in the commissioning report.
- (6) Verify, document and approve that the:
 - (a) Start-up, checkout and pre-functional tests were performed.
 - (b) Functional performance test was performed.
 - (c) Seasonally-deferred testing was performed.
- (7) Provide timely reporting and distribution of the findings, as required to minimize the volume of submissions submitted for owner information and review. Provide frequent updates to the status of activities and facilitate owner review of progress and status reports such as through electronic or online access to forms, with changes flagged by date.
- (8) Witness all or part of the:
 - (a) HVAC piping tests and flushing procedures
 - (b) HVAC duct tests and cleaning procedures
 - (c) Sufficient functional testing of the control system to approve its use for TAB, before TAB is executed.
- (9) Visit and inspect the construction site, participate in project design review meetings and telephone conference calls with SUCF, its contractors and consultants, and the campus, as required to effectively provide commissioning services.
- (10) Oversee and approve the training of the owner's personnel.
- (11) Maintain a master log of deficiencies and resolutions, and maintain a separate testing log.
- (12) Prepare and distribute, as directed by SUCF, six (6) paper copies and one electronic copy of all reports, checklists, etc required as outlined in this directive. Content must reflect the comments and suggestions made by SUCF, its consultants, and the Campus.

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- (13) Return to the site 6 to 10 months after building occupancy to review building operation and original commissioning, and for seasonally-deferred testing. Coordinate with Section 7, Indoor Air Quality Testing.
5. Qualifications of the Commissioning Authority and Commissioning Agent
 - a. The commissioning authority's primary agent must be a licensed professional engineer with a minimum of 5 years HVAC experience.
 - b. The commissioning authority must approve the qualifications of the commissioning agent.
 - c. The commissioning authority and the commissioning agent may be the same organization or person.
 - d. The commissioning authority may not be a member of the project design firm/team, construction management or supervision for the project.
 6. Deliverables:
 - a. Commissioning Plans: Commissioning should be done in two separate but related parts. Commissioning Plan–Design phase and Commission Plan–Construction phase. Each plan must include, but is not limited to:
 - (1) Overview of tasks to be executed.
 - (2) List of all systems and features to be commissioned.
 - (3) Simulation of various operational conditions and scenarios that could be anticipated to occur in each space.
 - (4) List of all reference documents, i.e. specifications, drawings, and submittals.
 - (5) List of participants and their responsibilities.
 - (6) A plan for management, communication, and documentation.
 - (7) Outline of the scope of the commissioning process.
 - (8) Description of checklists and tests to be performed for pre-start and start-up.
 - (9) A list of functional performance tests.
 - (10) Description of the verification process used to document the process.
 - (11) Description of the content of the training to be provided to the facility personnel.
 - (12) An activity schedule.
 - (13) Method to document changes and incorporating changes in as-built record
 - b. Commissioning Specification: Must be included in the Construction Documents and must include:
 - (1) Scope and details of the process.

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- (2) Qualifications required by the Commissioning Agent.
 - (3) Roles and responsibilities of all parties involved in commissioning process.
 - (4) Systems, equipment and components to be commissioned.
 - (5) Pre-functional checklist and start-up requirements.
 - (6) Functional performance testing requirements, including test conditions and acceptance criteria.
 - (7) Procedures for resolving deficiencies.
 - (8) Reporting and documentation requirements.
 - (9) Training requirements.
 - (10) Operations and maintenance manuals requirements.
 - (11) Schedule.
- c. Commissioning plan and commissioning specifications must be written around using a single contractor. Terms such as; Mechanical Contractor, Plumbing Contractor, Electrical Contractor and Controls contractor, etc. shall not be used.
- d. Operations and Maintenance Manual(s) must be complete and fully cover all systems commissioned. At a minimum the O&M manual(s) must include, for all equipment:
- (1) Vendor location and contact information.
 - (2) Submittal information.
 - (3) Operations and maintenance instructions for specific model (Only information for equipment actually installed shall be included).
 - (4) Installation and startup instructions.
 - (5) Parts list and special tool list.
 - (6) Performance data (pump, fan curves).
 - (7) Warranty information
 - (8) As-built data for control systems to document actual control schemes and sequences used.
- e. Systems and Energy Management Manual(s) must be project specific and must contain at a minimum:
- (1) A narrative of the basis of design (modified to reflect final as-built) which should include a brief description of the systems.
 - (2) Seasonal startup and shutdown as well as manual and automatic changes.
 - (3) As-built control drawings.
 - (4) A detailed description of energy saving features and options as well as a description of their special maintenance requirements.

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- (5) Recommendations and methodology for accounting of building energy usage.
 - (6) Recommendations for frequency of sensor and actuator recalibration.
 - (7) Recommendations for frequency of recommissioning of specific systems (i.e. CO₂ controlled outdoor air system).
 - (8) List and description of user adjustable set points and schedules with recommendations for adjustments.
 - (9) List of system diagnostic tools (i.e. trend logs) to be used by operators in optimizing building energy efficiency.
- f. Commissioning Report must be project specific and completed after all commissioning except seasonally deferred testing. Report must include:
- (1) Executive Summary
 - (2) List of all commissioning participants and their roles.
 - (3) Brief building description
 - (4) Overview of commissioning scope, testing and verification methods
 - (5) List of commissioned systems
 - (6) Description of adequacy of training, installation, functional performance, efficiency, equipment documentation, and O & M manuals.
 - (7) List of outstanding commissioning issues and statement as to why item is outstanding. (i.e. installation deficiency, seasonally deferred testing, etc.) Each outstanding commissioning item shall be referenced to where deficiency is documented in the commissioning plan and shall lay out the path/schedule as to when commissioning will take place.
 - (8) Appendices with Commissioning plans, start-up tests, checkout tests, prefunctional tests, functional tests, individual commissioning reports or reviews, sequence documentation, logs, meeting minutes, progress reports, deficiency logs, site visit reports, photos, findings, unresolved issues, communications and other relevant project information.
 - (9) A list of as-built components, equipment, systems, controls, and sequences of operation that are different than required in the original construction documents.
 - (10) Commissioning authority shall issue an addendum to the commissioning report (if necessary) to complete the commissioning report for seasonally deferred testing or deficiency resolution to commissioned systems.
- g. Indoor Air Quality (IAQ) specifications with IAQ Management Plan requirements as detailed in Item #7 below and Appendix A.
- h. Indoor Air Quality written report of test results as detailed in Item #7 and Appendix A

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- i. Training documentation as detailed in item #8.
7. Indoor Air Quality (IAQ) Testing
- a. IAQ specification must be included in contract documents.
 - b. IAQ Specification must include as a minimum:
 - (1) Requirement for contractor to provide a building that passes IAQ testing protocol.
 - (2) Requirement for contractor to submit a IAQ management plan as detailed in Appendix A of this directive
 - (3) Ventilation during construction
 - (4) Requirement for protection of construction materials. This includes methods for protecting stored materials, and protecting materials and/or systems once they are installed but not yet turned over to owner.
 - (5) Requirements for construction housekeeping practices.
 - (6) Requirement for IAQ testing.
 - (7) Requirement for contractor to provide a building flush-out plan (meeting the requirements in section 7.f of this Directive). This plan shall be reviewed by the commissioning authority and design consultant for adequacy.
 - c. Indoor Air Quality (IAQ) testing with respect to levels for carbon dioxide, carbon monoxide, formaldehyde, particulate matter, radon and total volatile organic compounds shall comply with LEED and Executive Order No. 111 as detailed below.
 - d. IAQ testing should be performed for whole building immediately after the building air purge and prior to turnover to the owner for occupancy, but must be performed no later than 30 days after occupancy.
 - e. IAQ testing protocol listed here shall be used to comply with requirements of LEED and Executive Order No.111. Acceptance criteria listed here are the lower requirement of LEED or Executive Order 111:
 - (1) Carbon Dioxide - less than 700 parts per million above background level.
 - (2) Carbon Monoxide – less than 2 parts per million above background, but not over 9 parts per million.
 - (3) Formaldehyde – less than 27 parts per billion.

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- (4) Particulates – less than 50 micrograms/m³ of PM10 (10 micron) material
 - (5) Radon – less than 4 picocuries/liter
 - (6) Total Volatile Organic Compounds (TVOCs) – less than 200 micrograms/m³
 - (7) 4-Phenylcyclohexene (4-PCH) – less than 6.5 micrograms per cubic meter. (This test is only required if carpet and fabrics with styrene butadiene rubber (SBR) latex backing are installed as part of the base building systems.)
 - (8) Alternative Approach to TVOCs – requires SUCF approval.
- f. The required IAQ testing must be performed by a qualified professional. The qualified professional must be a certified hygienist or a professional engineer.
- (1) Prior to performing the IAQ testing, the following prerequisite conditions must be satisfied. The requirements listed below will meet both LEED and Executive Order 111 requirements for building flush-out. The commissioning of the ventilation system must be complete, except seasonally deferred testing, as documented in the commissioning report. All deficiencies must be corrected and noted in the report.
 - (2) Provide building flush-out prior to occupancy. Flush-out shall run for a minimum of 7 days and provide 14,000 ft³ of outdoor air /ft² of floor area. Building flush-out shall not expose spaces to excessive or insufficient temperature or humidity.
 - (3) The HVAC system must operate in the design condition of minimum outside air as specified in the design documents.
 - (4) Construction or rehabilitation of at least 50% of the occupiable space of the building which is projected to be occupied must be completed and the space used in accordance with its intended purpose. The Architect or Engineer of record must confirm compliance with the above requirement. Testing must be conducted within 30 days.
- h. The qualified professional must establish and prepare an IAQ testing protocol. Included in this protocol:
- (1) Scheduling for testing
 - (2) Sampling locations shall be in accordance with requirements listed in LEED 2009 for New Construction and Major Renovations – IEQ credit 3.2 “Construction IAQ Management Plan – Before Occupancy”.
- i. The qualified professional must provide the owner a written report of the test results.

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8. Training

- a. The commissioning authority must document that training (both instructional and demonstration) of operations and maintenance personnel was conducted for all commissioned systems. The commissioning agent shall oversee and approve the content and adequacy of the training for commissioned systems.
- b. The Owner will identify the personnel to be trained.
- c. Training must be performed within six (6) months of the date commissioning is completed.
- d. The Operations and Maintenance Manual and the Systems and Energy Management Manual must be available and used for the training.
- e. The instructional portion of the training must cover, at a minimum:
 - (1) General description of systems, theory of operation, control modes, and sequences of operation.
 - (2) Use of the Operations and Maintenance as well as Energy Management and System Manuals.
 - (3) Review of control diagrams and drawings.
 - (4) Use of building controls system, including startup, shutdown, seasonal changeover, alarms, troubleshooting, set-up and data logging/trending.
 - (5) Service and operations of each system.
 - (6) Specific training on building systems which effect energy consumption, indoor air quality and occupant comfort.
- f. The demonstration portion of the training must include hands-on operation of systems and/or equipment for which instructional training will be given. Start-up, shut-down procedures, operation under all sequence of operations and emergency conditions.

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APPENDIX A: IAQ MANAGEMENT PLAN DURING CONSTRUCTION

1. An Indoor Air Quality (IAQ) Management Plan During Construction shall be implemented in accordance with Executive Order No. 111.
2. An Indoor Air Quality Management process during construction which includes the following items is to be implemented:
 - a. Coordination:
 - (1) During the pre-construction meeting, the Consultant must put in place a process for communication and notification between the Owner, Consultant, General Contractor plus other parties to prevent and effectively resolve problems related to construction-related air pollutant control.
 - (2) The Fund's representative shall supervise and enforce the IAQ Management Process During Construction.
 - b. Indoor Air Quality (IAQ) Management Plan During Construction: The Division 1 General Conditions of the Project Specifications must require a written IAQ Management Plan which includes procedures meeting or exceeding the minimum requirements of the "IAQ Guidelines for Occupied Buildings Under Construction", published by the Sheet Metal and Air Conditioning Contractors National Association, Inc.
3. The IAQ Management Plan During Construction must include measures to protect the ventilation system components and air pathways against contamination during construction. The plan must include:
 - a. Cleaning procedures – in the event ventilation system components and air pathways are not adequately protected.
 - b. Control measures – as defined in IAQ Guidelines for Occupied Buildings under Construction published by SMACNA. In addition to the control measures highlighted by SMACNA all IAQ management plans shall include the following:
 - (1) IAQ Management Plan shall require any air handling units or systems that will be operated for any purpose (i.e. temporary heating, testing, commissioning) while building is under construction to have the specified pre and final filters installed. Filters within air handling systems utilized during construction (including building flush-out) shall be replaced with new specified filters immediately prior to occupancy.
4. The following requirements must be addressed in the IAQ Management Plan

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During Construction at each phase of construction:

- a. Permitting adequate airing-out of new materials.
 - b. Sequencing the installation of finish materials.
 - c. Proper curing of concrete before covering.
 - d. Installation during occupied periods.
 - e. Avoidance of building occupancy while construction related pollutants are present.
5. The Plan must specify the location, type, amount, sequence and timing of the various control measures, including emergency procedures and the labor, materials and time to implement them.
6. The project construction documents must address the following:
- a. Overview of tasks.
 - b. List of reference documents, including specification references, drawing list and submittal drawing.
 - c. List of primary participants and their responsibilities.
 - d. Plan for management, communication and documentation.
 - e. Outline of the scope of the IAQ Management process during construction - including submittal review, inspection and enforcement.
 - f. Expected written work products, including checklists and worksheets.
 - g. Activity schedule.
7. A construction IAQ report must be prepared by Contractor documenting the effective implementation of the Construction IAQ Management Plan and shall be reviewed by the Consultant.
8. The IAQ Management Report must include the following documentation:
- a. All meeting minutes, checklists, worksheets, notifications and deficiency or resolution logs related to the project IAQ issues.
 - b. Listing of all temporary usage of building mechanical systems, cut sheet of filtration media used during construction and installed immediately prior to occupancy and schedule of filter replacement and change outs.
 - c. Progress photos of job site sufficient to document implementation of IAQ management measures during each phase of construction.
 - d. Documentation of duct testing and cleaning.
 - e.

** End of Appendix A **

* * * * *

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

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

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

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

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

(c) Any contract that requires Comptroller approval shall not be valid, effective or binding

upon the State University until it has been approved by the Comptroller and filed in the Comptroller's office.

4. WORKERS' COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, (including gender identity or expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristics, marital status or domestic violence victim status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation

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

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based on the submission of competitive bids, Contractor affirms, under penalty of perjury, and each person signing on behalf of Contractor, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered it to SUNY a non-collusive bidding certification on Contractor's behalf.

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

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

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as SUNY and its representatives and entities involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. SUNY shall take reasonable steps to protect from public disclosure any of the Records which are

exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate SUNY official, in writing, that said Records should not be disclosed; and (ii) said Records shall be sufficiently identified; and (iii) designation of said Records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, SUNY's or the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

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

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

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.

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

(1) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, and will undertake or

continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

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

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

(b) Contractor will include the provisions of "1", "2" and "3", above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a Contractor or sub-contractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. SUNY shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, SUNY shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

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

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

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

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

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

in which to respond.

18. **PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.** The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of State Finance Law §165 (Use of Tropical Hardwoods), which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State. In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in Section 165 of the State Finance Law. Any such use must meet with the approval of the State, otherwise, the bid may not be considered responsive. Under bidder certification, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

19. **MacBRIDE FAIR EMPLOYMENT PRINCIPLES.** In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that Contractor and any individual or legal entity in which the Contractor holds a ten percent or greater ownership interest and any individual or legal entity that holds a ten percent or greater ownership interest in the Contractor either (a) have no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165(5) of the State Finance Law), and shall permit independent monitoring of compliance with such principles.

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

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

NYS Department of Economic Development
Division for Small Business
30 South Pearl St., 7th Floor
Albany, NY 12245
Tel: 518-292-5100
Fax: 518-292-5884
email: opa@esd.ny.gov

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

NYS Department of Economic Development
Division of Minority and Women's Business Development
633 Third Avenue
New York, NY 10017
212-803-2414

email: mwbecertification@esd.ny.gov
<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>

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

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

these efforts to be provided upon request to SUNY;

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

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

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

21. RECIPROCITY AND SANCTIONS

PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act of 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. Contact the NYS Department of Economic Development, Division for Small Business, 30 South Pearl Street, Albany, New York 12245, for a current list of jurisdictions subject to this provision.

22. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer

programming, engineering, environmental health and mental health services, accounting, auditing, paralegal, legal or similar services, then in accordance with Section 163(4-g) of the State Finance Law, the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to SUNY, the Department of Civil Service and the State Comptroller.

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

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

26. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS. To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the Contractor fails to make the certification required by Tax Law Section 5-a or if during the term of the contract, the Department of Taxation and Finance or SUNY discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor

in accordance with the terms of the agreement, if SUNY determines that such action is in the best interests of the State.

27. 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: <http://www.oqs.ny.gov/about/regs/docs/ListofEntities.pdf>

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.

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

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

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

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

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

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

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

SUBCONTRACT herein referred to as "Subcontract", shall mean any agreement for a total expenditure in excess of \$25,000 providing for services, including non-staffing expenditures, supplies or materials of any kind between a State agency and a prime contractor, in which a portion of the prime contractor's obligation under the State contract is undertaken or assumed by a business enterprise not controlled by the prime contractor.

WOMEN-OWNED BUSINESS ENTERPRISE herein referred to as "WBE", shall mean a business enterprise, including a sole proprietorship, partnership or corporation that is: (a) at least fifty-one percent (51%) owned by one or more United States citizens or permanent resident aliens who are women; (b) an enterprise in which the ownership interest of such women is real, substantial and continuing; (c) an enterprise in which such women ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise; (d) an enterprise authorized to do business in this state and independently owned and operated; (e) an enterprise owned by an individual or individuals, whose ownership, control and operation are relied upon for certification, with a personal net worth that does not exceed three million five hundred thousand dollars (\$3,500,000), as adjusted annually on the first of January for inflation according to the consumer price index of the previous year; and (f) an enterprise that is a small business pursuant to subdivision twenty of this section.

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

Contract may not be divided between the minority-owned business enterprise goal and the women-owned business enterprise goal.

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

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

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

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

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

(b) Prior to the award of a State Contract, the Contractor shall submit an equal employment

opportunity (EEO) policy statement to the University within the time frame established by the University.

(c) As part of the Contractor's EEO policy statement, the Contractor, as a precondition to entering into a valid and binding State Contract, shall agree to the following in the performance of the State Contract: (i) The Contractor will not discriminate against any employee or applicant for employment, will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State Contracts; (ii) The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the State Contract, all qualified applicants will be afforded equal employment opportunities without discrimination; (iii) At the request of the University the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate, and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.

(d) Form 108 - Staffing Plan To ensure compliance with this Section, the Contractor shall submit a staffing plan to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. Contractors shall complete the Staffing plan form and submit it as part of their bid or proposal or within a reasonable time, but no later than the time of award of the contract.

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

(i) Once a contract has been awarded and during the term of Contract, Contractor is responsible for updating and providing notice to SUNY of any changes to the previously submitted Staffing Plan. This information is to be submitted on a quarterly basis during the term of the contract to report the actual workforce utilized in the performance of the contract by the specified categories listed including ethnic background, gender, and Federal occupational categories. The Workforce Report must be submitted to report this information.

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

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

(f) Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal

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

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

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

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

(j) If a Contractor or Subcontractor does not have an existing affirmative action program, the University may provide to the Contractor or Subcontractor a model plan of an affirmative action program. Upon request, the Director of DMWBD shall provide a contracting agency with a model plan of an affirmative action program.

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Whether Contractor has actively solicited bids for Subcontracts from qualified M/WBEs, including those firms listed on the Directory of Certified Minority and Women- Owned Business Enterprises, and has documented its good faith efforts towards meeting minority and women owned business enterprise utilization plans by providing, copies of solicitations, copies of any advertisements for participation by certified minority- and women-owned business enterprises timely published in appropriate general circulation, trade and minority- or women-oriented publications, together with the listing(s) and

date(s) of the publications of such advertisements; dates of attendance at any pre-bid, pre-award, or other meetings, if any, scheduled by the University, with certified minority- and women-owned business enterprises, and the reasons why any such firm was not selected to participate on the project.

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

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

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

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

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

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

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

6. MWBE Utilization Plan.

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

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

- i. list NYS Certified minority- and women-owned business enterprises which the Contractor intends to use to perform the State contract;
- ii. insert a description of the contract scope of work which the Contractor intends to structure to increase the participation by NYS Certified minority- and women-owned enterprises on the State contract;
- iii. insert the estimated or, if known, actual dollar amounts to be paid to and performance dates of each component of a State contract which the Contractor intends to be performed by a NYS Certified minority- or women-owned business; and

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

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

- i. list NYS Certified minority- and women-owned business enterprises which the Contractor intends to use to perform the State contract;
- ii. name of any MWBE which is not acceptable for the purpose of

complying with the MWBE participation goals;

- iii. reasons why it is not an acceptable element of the Contract scope of work which the MWBE Program Office has determined can be reasonably structured by the Contractor to increase the likelihood of participation in the Contract by MWBEs; and
 - iv. other information which the MWBE Program Office determines to be relevant to the MWBE Utilization Plan.
- (e) The Contractor shall respond to the notice of deficiency within seven (7) business days of receipt by submitting to the University a written remedy in response to the notice of deficiency.
- i. If the written remedy that is submitted is not timely or is found to be inadequate, the University-wide MWBE Program Office shall notify the Contractor and direct the Contractor to submit, within five (5) business days, a request for partial or total waiver of MWBE participation goals on forms provided by the University-wide MWBE Program Office.
 - ii. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.
- (f) The University may disqualify a Contractor as being non-responsive under the following circumstances:
- i. If a Contractor fails to submit a MWBE Utilization Plan;
 - ii. If a Contractor fails to submit a written remedy to a notice of deficiency in a MWBE Utilization Plan;
 - iii. If a Contractor fails to submit a request for waiver; or
 - iv. If the MWBE Program Office determines that the Contractor has failed to document Good Faith Efforts.

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

(h) Contractor further agrees that a failure to submit and/or use such MWBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, SUNY shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsiveness.

7. Waivers.

- (a) For Waiver Requests Contractor should use (Form 7557-114) – Waiver Request.
- (b) If the Contractor, after making good faith efforts, is unable to comply with MWBE goals, the Contractor may submit a Request for Waiver form

documenting good faith efforts by the Contractor to meet such goals. If the documentation included with the waiver request is complete the University shall evaluate the request and issue a written notice of acceptance or denial within twenty (20) days of receipt.

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

8. Quarterly MWBE Contractor Compliance Report.

Contractor is required to submit a Quarterly MWBE Contractor Compliance Report (Form 7557-114) to the University by the 5th day following each end of quarter over the term of the Contract documenting the progress made towards achievement of the MWBE goals of the Contract.

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

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

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

(b) GOALS FOR MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES PARTICIPATION.

For all State Contracts in excess of \$25,000.00 whereby the University is committed to expend or does expend funds in return for labor, services including but not limited to legal, financial and other professional services, supplies, equipment, materials or a combination of the foregoing or all State Contracts in excess of \$100,000.00 whereby the University is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon, Contractor shall exert good faith efforts to

achieve a participation goal of fifteen percent (15%) for Certified Minority-Owned Business Enterprises and fifteen percent (15%) for Certified Women-Owned Business Enterprises.

10. ENFORCEMENT. The University will be responsible for enforcement of each Contractor's compliance with these provisions. Contractor, and each Subcontractor, shall permit the University access to its books, records and accounts for the purpose of investigating and determining whether Contractor or Subcontractor is in compliance with the requirements of Article 15-A of the Executive Law. If the University determines that a Contractor or Subcontractor may not be in compliance with these provisions, the University may make every reasonable effort to resolve the issue and assist the Contractor

or Subcontractor in its efforts to comply with these provisions. If the University is unable to resolve the issue of noncompliance, the University may file a complaint with the DMWBD.

Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the withholding of funds or such other actions, remedies or enforcement proceedings as allowed by the Contract.

11. DAMAGES FOR NON COMPLIANCE.

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

- a. All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and
- b. All sums actually paid to MWBEs for work performed or materials supplied under the Contract.

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

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

Contents:

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

Introduction:

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

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

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

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

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

Directions:

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

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

To expedite the receipt of the completed and signed form:

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

The original must be sent to the address shown below

Contact Information:

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

Send completed forms and questionnaire to:

Attn: Cathy Adamitis, C.P.M., CBM
Facility Design Services
SUNY Upstate Medical University
750 East Adams Street/ CAB-208
Syracuse, New York 13210

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

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

New York State Finance Law 139-k Contract Termination Provision

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

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

Signature: _____ Date: _____

Name: _____

Title: _____

Contractor Name: _____

Contractor Address: _____

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

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

- 1) Cathy Adamitis
Facility Design Services
SUNY Upstate Medical University
750 East Adams Street/ MT-205
Syracuse, NY 13210
Ph. 315-464-4788
Fax 315-464-47698
E-mail adamitic@upstate.edu

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

By: _____ Date: _____

Name: _____

Title: _____

Contractor Name: _____

Contractor Address: _____

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

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

By: _____ Date: _____

Name: _____

Title: _____

Contractor Name: _____

Contractor Address: _____

Offerer's Disclosure of Prior Non-Responsibility Determinations

Date: _____ Contract Procurement Number: _____

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

Address: _____

Person Submitting this Form: _____
Name Title

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

If yes, please answer the next questions:

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

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

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

Governmental Entity: _____

Date of Finding of Non-responsibility: _____

Basis of Finding of Non-Responsibility: _____

(Add additional pages as necessary)

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

6. If yes, please provide details below.

Governmental Entity: _____

Date of Termination or Withholding of Contract: _____

Basis of Termination or Withholding: _____

(Add additional pages as necessary)

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

By: _____ Date: _____
Signature

Name: _____ Title: _____

SUNY UPSTATE MEDICAL UNIVERSITY

Public Officers Law - Form

Introduction:

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

Directions:

6. The SUNY Upstate Medical University Public Officers Law form consists of one (1) page.
7. The completed form will become a part of SUNY Upstate Medical University's procurement record.
8. The form is a fillable document using MS Word.
9. It is imperative the person completing the form be knowledgeable about the vendor's business and operations. As an owner or officer, he or she will certify the form's information
10. The original must be sent to the address shown below

Contact Information:

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

The original must be sent to the address shown below.

Attn: Cathy Adamitis, C.P.M., CBM
Facility Design Services
SUNY Upstate Medical University
750 East Adams Street/ CAB-208
Syracuse, New York 13210

Name of Contractor: _____ Fed. ID# _____

Address: _____

Name of Person Submitting this Form: _____

Title of Person Submitting this Form: _____

Question:

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

Yes No

Signature: _____

Date:

NON-COLLUSION CERTIFICATION

Attachment to Bid Proposal
SUNY Upstate Medical University

By submission of this bid, the Bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certified as to its own organization, under penalty of perjury, that to the best of his knowledge and belief:

- 1. The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor.**
- 2. Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and**
- 3. No attempt has been made or will be made by the Bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.**

Bidder's Company Name

Printed Name and Title

Signature Date



SUNY – UPSTATE MEDICAL UNIVERSITY ANNUAL EMPLOYMENT REPORTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

<p>OSC Use Only: Reporting Code: Category Code:</p>
--

<p>State Consultant Services Contractor's Annual Employment Report Report Period: April 1, 2016 to March 31, 2017</p>
--

<p>Contracting State Agency Name: SUNY-Upstate Medical University Agency Code: 28110 Contract Number: Contract Term: / / to / / Contractor Name: Contractor Address: Description of Services Being Provided:</p>

<p>Scope of Contract (Choose one that best fits): Analysis <input type="checkbox"/> Evaluation <input type="checkbox"/> Research <input type="checkbox"/> Training <input type="checkbox"/> Data Processing <input type="checkbox"/> Computer Programming <input type="checkbox"/> Other IT consulting <input type="checkbox"/> Engineering <input type="checkbox"/> Architect Services <input type="checkbox"/> Surveying <input type="checkbox"/> Environmental Services <input type="checkbox"/> Health Services <input type="checkbox"/> Mental Health Services <input type="checkbox"/> Accounting <input type="checkbox"/> Auditing <input type="checkbox"/> Paralegal <input type="checkbox"/> Legal <input type="checkbox"/> Other Consulting <input type="checkbox"/></p>
--

Employment Category	Number of Employees	Number of Hours Worked	Amount Payable Under the Contract
Total this page	0	0	\$ 0.00
Grand Total			

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



**STATE UNIVERSITY OF NEW YORK
CONSULTANT'S CERTIFICATE OF INSURANCE**

To: State University of New York
State University Plaza
Albany, New York 12246

This is to certify that the insurance policy listed below has been issued by the undersigned and is in full force and effect on the date borne by this Certificate.

Name of Insured Consultant: _____

Address of Insured Consultant: _____

Project Location (Campus): SUNY Upstate Medical University

Project Number: _____

Project Title: _____

Kind of Insurance	Limits of Liability	Policy No.	Effective	Expiration
Errors and Omissions <i>(including contractual liability coverage)</i>	_____ Thousand Dollars Each Occurrence			
	_____ Thousand Dollar Aggregate			

Name of Insurance Company	Name of Insurance Agency (if any)		
Address of Insurance Company	Authorized Representative (Original Signature Required – No Stamp)		
	Phone Number	Date	

As an inducement to the "University" to approve the undersigned as an insurance company issuing the policy listed above, the above signed hereby as follows:

1. That the insurance policy listed above shall not be changed or cancelled until final acceptance by the "University" of all the work covered by the foresaid contract unless the "University" is given fifteen (15) days written notice to the contrary.
2. That the "University" shall not be liable for the payment of the premiums on the insurance policy listed above and that such premium shall be payable by the insured who shall also receive any dividends or other refunds due under said policy.
3. That without the above signed's foregoing agreements neither it nor this certificate of Insurance would be approved by the "University".
4. The certificate holder shall be "SUNY –Upstate Medical University" at which the project is being performed.



**STATE UNIVERSITY OF NEW YORK
CERTIFICATE OF INSURANCE**

This is to certify to the State University of New York that the insurance policies listed below have been issues by the undersigned and are in full force and effect on the date borne by this Certificate.

Name of Insured Contractor: _____

Address of Insured Contractor: _____

Project Location and Certificate Holder (Campus): **SUNY Upstate Medical University**
750 East Adams Street , Syracuse New York 13210 Project Number: **704.5 & 704.6**

Project Title: **Cancer Center Fit Out Floors 4& 5 –Building Commissioning Services**

KIND OF INSURANCE	LIMITS OF LIABILITY	POLICY NO	EFFECTIVE	EXPIRATION
Workers' Compensation Must Submit Form C105.2 NYS Disability Benefits Must Submit Form DB-120-1	As required by law			
		Carrier:		
Contractor's Comprehensive General Liability	\$ Each Occurrence			
Bodily Injury Liability and Property Damage Liability	\$ Aggregate	Carrier:		
	\$ Combined Single Limit			
Contractor's Automobile Liability	Each Accident			
Bodily Injury Liability and Property Damage Liability	\$ or Occurrence	Carrier:		
	\$ Combined Single Limit			
Owner's Protective Liability	Each Occurrence			
Bodily Injury Liability and Property Damage Liability	\$ Aggregate	Carrier:		
	\$ Combined Single Limit			
Asbestos Abatement Insurance (If Applicable)	\$ Each Occurrence			
	\$ Aggregate	Carrier:		
	\$ Combined Single Limit			
Builder's Risk (If Applicable)	\$			
		Carrier:		
Excess or Umbrella (If Applicable)	\$			
		Carrier:		
Name of Insurance Agency (if any)		Phone:		
Authorized Representative (Original Signature Required - No Stamp)		Date:		

As an inducement to the "University" to approve the above signed as an insurance company issuing the policies listed above and this Certificate as being in compliance with the contract between the "University" and the contractor named above, the above signed insurance company, duly licensed to do business in the State of New York, hereby agrees as follows:

- That the insurance policies listed above shall not be changed or cancelled and that they will automatically be renewed upon expiration and continued in force until final acceptance by the "University" of all the work covered by the aforesaid construction contract unless the "University is given thirty (30) days written notice to the contrary.
- That the "University shall not be liable for the payment of the premium on any of the insurance policies listed above and that such premium shall be payable by the Contractor named above who shall also receive any dividends or other refunds due under the above-listed insurance policies.
- The insurer certifies that there is no inconsistency or conflict with or between any of the terms, provisions and conditions hereof and any of the terms, provisions and conditions of the policies listed above, except for the following: _____.
- That without the above signed foregoing agreements neither it nor this Certificate of Insurance would be approved by the "University."

State University of New York

Protection of Rights and Property

Compensation and Liability Insurance

- (1) The Consultant or Contractor shall procure and maintain, at its own cost and expense, until final acceptance by the University of all the work covered by this Contract, the following kinds of insurance:

a. Workers' Compensation Insurance.

A policy complying with the requirements of the laws of the State of New York.

b. General Liability and Property Damage Insurance.

A standard general comprehensive liability insurance policy or a commercial general liability insurance policy issued to and covering the liability of the Consultant for all work and operations under this Contract, including, but not limited to, contractual and completed operations coverage. Such policy shall be written by a company licensed or approved as an excess line liability company by the New York State Department of Insurance. The coverage under such policy shall not be less than the following limits:

Bodily Injury and Property Damage Liability
\$ 2,000,000 Each Occurrence
\$ 2,000,000 Aggregate

The aforesaid insurance requirements will be deemed met by the Consultant's procurement and maintenance of either of the aforesaid policies and, in addition thereto, an umbrella policy providing similar coverage; provided, however, that the total amount of insurance coverage is at least equal to the requirements above set forth.

c. Automobile Liability and Property Damage Insurance.

A policy covering the use in connection with the work covered by the Contract Documents of all owned, non-owned and hired vehicles bearing, or, under the circumstances under which they are being used, required by the Motor Vehicle Laws of the State of New York to bear license plates. The coverage under such policy shall not be less than the following limit:

Bodily Injury and Property Damage Liability
\$ 1,000,000 Each Occurrence

d. Owner's Protective Liability Insurance (If applicable)

A policy issued to and covering the liability for damages imposed by law upon the State University Construction Fund, the Dormitory Authority of the State of New York, the State of New York and the State University of New York, their trustees, officers, agents or employees, with respect to all operations under the Contract by the Consultant and its subConsultants, and/or their interest in the Project and the property upon which work under the Contract is to be performed, including omissions and supervisory acts of the former. Said insurance shall be in the same amounts as that required under subdivision b above and shall be written by a company licensed or approved as an excess line liability company by the New York State Department of Insurance.

e. Asbestos Abatement Insurance (If applicable)

A liability insurance policy issued to and covering the liability, of the Consultant and/or subConsultant engaged in the removal, handling or wrapping of asbestos, if any of such work is to be performed under the Contract, for bodily injury, illness, sickness or property damage caused by exposure to asbestos in an amount not less than \$1,000,000 per occurrence and \$2,000,000 aggregate. The Consultant and/or its aforesaid subConsultant shall either obtain an endorsement to the aforesaid required insurance policy adding the State University Construction Fund, the Dormitory Authority of the State of New York, the State of New York and the State University of New York, their trustees, officers, agents or employees, as additional parties insured thereunder or shall obtain a separate owner's protective liability insurance policy for such parties with coverage similar to that required by the first sentence of this subdivision. In addition, any Consultant or subConsultant engaged in the removal, handling, or wrapping of asbestos shall hold harmless and indemnify the State University Construction Fund, the Dormitory Authority of the State of New York, the State of New York and the State University of New York, for any claims or liabilities in connection with illness or sickness arising from work performed, not performed, or which should have been performed. The Consultant shall have said hold-harmless and indemnification conditions stipulated in all Contracts with subConsultants.

- (2) The aggregate insurance limit set forth above shall apply separately to each project for which a certificate of insurance and/or policy is issued.
- (3) Unless otherwise agreed to in writing by SUNY Upstate Medical University, policies must be endorsed to provide that there shall be no right of subrogation against SUNY. To the extent that any of the policies of insurance prohibit such a **waiver of subrogation**, Contractor shall secure the necessary permission to make this waiver.

- (4) Before commencing the performance of any work covered by the Contract, the Consultant shall furnish to the University a certificate or certificates in duplicate of the insurance required under the foregoing provisions. Such certificates shall be on a form prescribed by the University, shall list the various coverages and shall contain, in addition to any provisions hereinbefore required, a provision that the policy shall not be changed or canceled and that it will be automatically renewed upon expiration and continued in force until final acceptance by the University of all the work covered by the Contract, unless the University is given thirty (30) days' written notice to the contrary. Upon request, the Consultant shall furnish the University with a certified copy of each policy. The State University reserves the right to receive a copy of the insurance policy which was based on the Certificate of Insurance issued.
- (5) All insurance required to be procured and maintained as aforesaid must be procured from insurance companies approved by the University and authorized to do business in the State of New York. The State University is to be cited as an additional named insured on all policies and certificates of insurance and shall be notified if a policy is canceled, terminated or modified.
- (6) If at any time any of the above-required insurance policies should be canceled, terminated or modified so that insurance is not in effect as above required, then, if the University shall so direct, the Consultant shall suspend performance of the work covered in the Contract. If the said work is so suspended, no extension of time shall be due on account thereof. If said work is not suspended, then the University may, at its option, obtain insurance affording coverage equal to that above required, the cost of such insurance to be payable by the Consultant to the University.

Vendor NOTICE

MWBE PROGRAM OF UPSTATE MEDICAL UNIVERSITY

Article 15-A of the Executive Law, signed into law on July 19, 1988, authorized the creation of a division of Minority and Women's Business Enterprise Development to promote employment and business opportunities on state contracts for minorities and women. Under this statute, State agencies are charged with establishing business participation goals for minorities and women. This requirement applies to all discretionary purchases including construction related services, non-construction related services, commodities, supplies, equipment and materials over \$25,000.

Unless otherwise noted, the State University of New York State (SUNY) has established a University-wide participation goal of **Thirty percent (30%)** for every procurement contract. SUNY has established a goal of **fifteen percent (15%)** for the participation of certified minority-owned business enterprises and a goal of **fifteen percent (15%)** for the participation of certified women-owned business enterprises. The Equal Employment Opportunity (EEO) goals are twenty (20%), ten percent (10%) for minority workforce participation and ten percent (10%) for women workforce participation. These goals have been published in SUNY Master Goal Plan: State Fiscal Year 2013-14 and all competitive procurement will include this as the basis for establishing contract specific goals within their respective region.

Upstate is serious about achieving its MWBE participation goals, and we are witnessing an active interest on the part of primary consultants to identify MWBE's that can participate as subconsultants.

It is incumbent upon Upstate, to assist vendors and hold them accountable for demonstrating best efforts to achieve the agency goals. Consistent with this commitment, this document has been created to assist you in meeting goals that have been set by SUNY. A listing of NYS certified Minority and Women Owned Businesses can be found at the following website:
<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>.

Successful Bidders are also reminded that in order to supply Upstate with the products and service contracts, your business will utilize a wide variety of products and services from smaller vendors. Having these services providing through an MWBE vendor (Tier II Vendor) can be counted in your satisfaction of the goals established by SUNY. A partial listing of commodities and services are included below:

Services	Commodities
<ul style="list-style-type: none">• accounting & auditing services• medical staffing• publishing• travel services• technical writing• training• security• cleaning & janitorial services• rubbish removal• shredding services• pest control• printing services	<ul style="list-style-type: none">• Medical equipment & supplies• office supplies• cleaning & janitorial supplies• office equipment• furniture• computer equipment & supplies• vehicle purchase• printing supplies & equipment

If you need help finding providers of a specific service, please contact the MWBE Program Compliance Specialist at our campus, Carl Thomas, at 315-464-4657 or via e-mail ThomaC@upstate.edu; or the University-wide MWBE Program Office at 518-320-1340 or via email MWBEProgram@suny.edu.

The requisite MWBE-EEO forms contained in the Attachment A, standard clauses for all SUNY contracts which have goals assigned must be completed and submitted along with the bid documents to provide verification that good faith efforts were made in the solicitation process. This document and relevant forms are available online at: <http://www.upstate.edu/finance/mwbe/forms>.

Complete and include the following forms with the Qualification Package:

- MWBE Utilization Plan (Form 107);
- Form 7557-15 Subconsultant Staffing List – Architecture and Engineering

Upstate Medical University

Vendor Form Submission Instructions

In order to monitor MWBE compliance, Upstate requires that all Tier I consultants and subconsultants awarded a contract, complete and submit the following forms:

- MWBE Staffing Plan (Form 108);
- MWBE-EEO Policy Statement (Form 104);
- MWBE Campus Consultant/Contractor Affidavit (Form 109); and
- Monthly MWBE Compliance Report (Form 111).

INSTRUCTIONS

STEP I: At the time a Qualification Package for procurements over \$25,000 is submitted, consultant must also complete and submit the following form in 48 hours:

1. MWBE Utilization Plan (Form 107)

- Any modifications or changes to the MWBE Utilization Plan after the Contract award and during the term of the Contract must be reported on a revised MWBE Utilization Plan and submitted to the Upstate Contract Administrator.
- Upstate will review the submitted MWBE Utilization Plan and advise the Vendor of the University's acceptance or issue a notice of deficiency within 30 days of receipt.
- If a notice of deficiency is issued, Vendor agrees that it shall respond to the notice of deficiency within seven (7) business days of receipt by submitting a written remedy in response to the notice of deficiency. If the written remedy is found to be inadequate, the University will schedule a sit down meeting with Vendor to discuss the issue, in particular, ways in which Vendor can satisfy the requirement. Failure to comply with the MWBE utilization requirement in a timely manner may be grounds for disqualification of the bid, quote or proposal.

STEP II: Vendors are required to submit a **Monthly MWBE Compliance Report (Form 111)** to Upstate by the 5th day following each end of quarter over the term of the contract documenting the progress made toward achievement of the MWBE goals of the contract. The Monthly MWBE Compliance Report measures the utilization of MWBE Tier II (subcontractors). They must be sent directly to Upstate's Supplier Diversity Coordinator or University-wide MWBE Program Director.

Mr. Carl Thomas
Supplier Diversity Coordinator
Upstate Medical University
Syracuse, NY 13210
315-464-4657
ThomaC@upstate.edu

Pamela Swanigan
University-wide MWBE Program Director
State University Plaza
Albany, NY 12246
518-320-1628
MWBEProgram@suny.edu

Thanks you for your interest in doing business with Upstate Medical University.

Subconsultant Staffing List – Commissioning

Consultant Name: _____ **Campus:** **Upstate Medical University**

List your firm's name for self-performed work. List all Subconsultants. Complete page two for MBE or WBE Subconsultants.

SUNY Project No.: **704.5 & 704.6** **Project Title:** **Cancer Center Fit Out Floors 4& 5 –Building Commission Servcs** **Date:** _____

GOALS: 15% MBE 15% WBE (As specified in the Project Advertisement)

Consultant / Subconsultant / Design Area Name and Address	Federal ID No.	MBE or WBE	NYS Business Y or N	Contract Value Percentage %	Contract Dollar Value \$ ONLY IF this form is being submitted as part of a COST PROPOSAL	Partner in Charge and/or Key Staff	Phase or date service begins
Commissioning Agent						License #	
Engineering						License #	
Indoor Air Quality Testing						License #	
Inspection Services						License #	
Balancing						License #	
Other (Please Specify)						License #	
Other (Please Specify)						License #	
Other (Please Specify)						License #	
Other (Please Specify)						License #	
Other (Please Specify)						License #	

Will New York State Businesses be used in the performance of this contract? _____
 Yes No

Minority and Women Owned Business Enterprises

<u>Firm Name</u>	<u>MBE or WBE</u>	<u>Discipline</u>	Has your firm held contracts with this firm in the past? Y or N
Brief summary of services to be provided with justification of estimated participation:			
<u>Firm Name</u>	<u>MBE or WBE</u>	<u>Discipline</u>	Has your firm held contracts with this firm in the past? Y or N
Brief summary of services to be provided with justification of estimated participation:			
<u>Firm Name</u>	<u>MBE or WBE</u>	<u>Discipline</u>	Has your firm held contracts with this firm in the past? Y or N
Brief summary of services to be provided with justification of estimated participation:			
<u>Firm Name</u>	<u>MBE or WBE</u>	<u>Discipline</u>	Has your firm held contracts with this firm in the past? Y or N
Brief summary of services to be provided with justification of estimated participation:			
<u>Firm Name</u>	<u>MBE or WBE</u>	<u>Discipline</u>	Has your firm held contracts with this firm in the past? Y or N
Brief summary of services to be provided with justification of estimated participation:			

Certification: I hereby certify that the information provided on this form is true, accurate and complete. I understand that the information provided is to be used to comply with the reporting requirements of Article 15-A of the Executive Law.

Signature (Officer of the Company): _____ Date: _____
 Name: _____
 Title: _____

For internal use only. Approval is required for contracts greater than \$50,000.

MWBE Program Office Approval: _____ Date: _____

Instructions for completing form 7555-17:

1. Fill in all requested information including your firm name, SUNY Project No., Project Title, Campus, date and the Minority and Women Owned Business Enterprise goals as specified in the Project Advertisement.
2. In the Consultant/Subconsultant fields, enter both your firm as prime and any proposed subconsultant firms. Firms located out of New York State should have the appropriate approvals in place to practice in NYS. If a firm, including your firm provides service in multiple disciplines, list them for each area of expertise. Discipline areas may be modified as appropriate. Add additional pages if necessary.
3. Enter the Federal ID number for your firm and any subconsultant firms.
4. Enter "M" or "W" if your firm or any proposed subconsultant firms are certified by NY State as a Minority or Woman-Owned Business Enterprise.
5. **With the submittal of qualifications:** Enter the estimated **percentage** of the work scope for your firm and any identified subconsultants. **Do not enter dollar values. Do not enter "TBD"**. The sum of the individual percentages should add up to 100%.
6. Enter the name of the Partner in Charge and/or Key Staff member from your firm and subconsultants firms. Also include the individual's license number if providing professional services.
7. Complete page 2 with the name of each certified MBE or WBE subconsultant identified on page 1 of the Subconsultant staffing list, note whether the firm is an MBE or WBE and their discipline. Provide a brief summary of the services to be provided by the certified MBE or WBE with justification to support the estimated participation.
8. The certification must be signed and dated by an individual from your firm who is authorized to sign on behalf of your company.
9. Retain a copy for your files and as a reference for proposing any future changes. Any proposed changes to an approved Subconsultant Staffing list must be reviewed with the Project Coordinator and approved by SUNY.
10. **If your firm is selected, at the time the cost proposal is submitted an updated Subconsultant Staffing List with Dollar Values is required.**

FORM 107 M/WBE UTILIZATION PLAN

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

Offeror's Name:

Address:

City, State, Zip Code:

Telephone No.:

Authorized Representative:

Authorized Signature:

Federal Identification No.:

Location of Work: SUNY Upstate Medical University

Project No.: 704.5 & 704.6 CC Fit Out Floors 4& 5 –Building Commission Servcs

M/WBE Goals in the Contract: MBE 15% WBE 15%

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

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

FORM 107 M/WBE UTILIZATION PLAN

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

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

PREPARED BY (Signature): DATE: NAME AND TITLE OF PREPARER (Print or Type): SUBMISSION OF THIS FORM CONSTITUTES THE OFFEROR'S ACKNOWLEDGEMENT AND AGREEMENT TO COMPLY WITH THE M/WBE REQUIREMENTS SET FORTH UNDER NYS EXECUTIVE LAW, ARTICLE 15-A, 5 NYCRR PART 143, AND THE ABOVE-REFERENCED SOLICITATION. FAILURE TO SUBMIT COMPLETE AND ACCURATE INFORMATION MAY RESULT IN A FINDING OF NONCOMPLIANCE AND POSSIBLE TERMINATION OF YOUR CONTRACT.	TELEPHONE NO.: 	EMAIL ADDRESS:
--	-------------------------------	-------------------------------

	FOR M/WBE USE ONLY	
	REVIEWED BY: 	DATE:
UTILIZATION PLAN APPROVED: <input type="checkbox"/> YES <input type="checkbox"/> NO Date: _____ Contract No.: _____ Project No. & Name: _____ Contract Award Date: _____ Estimated Date of Completion: _____ Amount Obligated Under the Contract: _____ Description of Work: _____ NOTICE OF DEFICIENCY ISSUED: <input type="checkbox"/> YES <input type="checkbox"/> NO Date: _____ NOTICE OF ACCEPTANCE ISSUED: <input type="checkbox"/> YES <input type="checkbox"/> NO Date: _____		

EEO STAFFING PLAN

Instructions on page 2

Solicitation No.: 704.5 & 704.6 Oct 2016	Reporting Entity: SUNY Upstate Medical University Project # & Title: Cancer Center Fit Out Floors 4& 5 – Building Commission Servcs	Report includes Contractor's/Subcontractor's: <input type="checkbox"/> Work force to be utilized on this contract <input type="checkbox"/> Total work force
Offeror's Name:		<input type="checkbox"/> Offerer <input type="checkbox"/> Subcontractor Subcontractor's name _____
Offeror's Address:		

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

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

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

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

Instructions for completing:

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

RACE/ETHNIC IDENTIFICATION

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

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

OTHER CATEGORIES

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



State University of New York CONSULTANT'S EEO POLICY STATEMENT

Campus SUNY Upstate Medical University
Project Title Cancer Center Fit Out Floors 4& 5 –Building Commission Servcs
Project Number 704.5 & 704.6

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

(a) The Consultant will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts.

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

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

Company

Signature

Date

Title

**MINORITY AND WOMEN’S BUSINESS - EQUAL EMPLOYMENT
OPPORTUNITY PROGRAM POLICY STATEMENT**

Proj 704.5 & 704.6 Cancer Center Fit Out Floors 4& 5 –Building Commission Servcs

Policy Statement

The _____ commits to carrying out the intent of the New York State Executive Law, Article 15-A which assures the meaningful participation of minority and women’s business enterprises in contracting and the meaningful participation of minorities and women in the workforce on activities financed by public funds.

(Consultant)

Minority Business Officer

_____ is designated as the Minority Business Enterprise Officer responsible for administering the Minority and Women’s Business-Equal Employment Opportunity (M/WBE-EEO) program.

(Name of Designated Officer)

M/WBE Contract Goals

15% Minority Business Enterprise Participation

15% Women’s Business Enterprise Participation

EEO Contract Goals

10% Minority Labor Force Participation

10% Female Labor Force Participation

(Authorized Representative)

Title: _____

Date: _____

Is this a final Report? Check one.

Yes No

QUARTERLY MWBE COMPLIANCE REPORT

Contract No. _____

Campus Funded

Campus Let

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

Start Date _____

Projected Completion Date _____

Actual Completion Date _____

Contractor _____

Contract #/Description _____

Quarter being Reported (check one)

Contract _____

Paid to Contractor this Quarter _____

1st Quarter (April 1 – June 30)

Amount: _____

Total Paid to Contractor to Date _____

2nd Quarter (July 1 – September 30)

MBE Goal/Amount _____ % = _____

3rd Quarter (October 1 – December 31)

WBE Goal/Amount _____ % = _____

4th Quarter (January 1 – March 31)

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

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

* See Reserve Side for Product Codes.

Name & Title

Signature

Date

PRODUCT KEY CODE

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