

REQUEST FOR PROPOSAL (RFP)

RFP # 15-035

NEW YORK STATE EDUCATION DEPARTMENT

Title: Continued Development, Administration, and Reporting of Teacher Certification Assessments for New York State Teachers and Educational Leaders as part of the New York State Certification Examinations (NYSTCE) Testing Program

The New York State Education Department (NYSED) Office of State Assessment (OSA) is requesting proposals for the continued implementation of the New York State Certification Examinations (NYSTCE) Testing Program. Services include revision, enhancement, development, administration, and reporting of all Teacher Certification Assessments (excluding the Teacher Performance Assessment (TPA), the Assessment for Teaching Skills-Written (ATS-W) Elementary, and the ATS-W Secondary) as well as any and all additional instruments deemed necessary by NYSED for the certification for New York State teachers, teaching assistants, and educational leaders. Section 1.3.1 of this RFP lists NYSTCE component tests for which the contractor will be responsible. Each of these component tests falls into one of three categories: Category 1 – recently created or revised NYSTCE custom-designed tests, Category 2 – NYSTCE custom-designed tests to be revised, and Category 3 – existing NYSTCE custom-designed tests. For Category 1 tests, the contractor is required to continue the development, enhancement, administration, and reporting of the tests. For Category 2 tests, the contractor is required to revise these tests, and then continue the development, enhancement, administration, and reporting of the tests. For Category 3, the contractor is required to continue test administration and reporting of the existing NYSTCE test forms. The contractor must provide these tasks in each category for NYSED, for the length of the contract, and any contract extension.

These examinations are required pursuant to Part 80 of Chapter II (Regulations of the Commissioner of Education), in Title 8 (of the Education Law) of the Official Compilation of Codes, Rules, and Regulations of the State of New York (8 NYCRR) published by the Department of State. These examinations implement the Commissioner's Regulations that require prospective New York State educators, school leaders, and teaching assistants to pass designated tests as a requirement for receiving State certification pursuant to Education Law §§3001 and 3003. New York State teachers, teaching assistants, school leaders, and pupil personnel service providers are required to hold a New York State certificate in order to be employed in the State's public schools. The certificates are issued by the Office of Teaching Initiatives and certify that an individual has met certain requirements. The NYSTCE program includes a test for the teaching assistant certification, tests for teacher certification, and tests for school leadership certification, in addition to the Bilingual Education Assessment (BEA) and the Communication and Quantitative Skills Test (CQST).

Eligible applicants may be either for-profit or not-for-profit entities, including large testing companies, consultants, and/or educational organizations with demonstrated capacity to complete all required services and experience working with large-scale assessments and educational measurement, test development, computer-based test administration, scoring, and technical reporting.

Subcontracting will be limited to thirty percent (30%) of the total contract value. Subcontracting is defined as non-employee direct personal services and related incidental expenses, including travel.

The contractor must submit a valid, complete, and comprehensive three year and two month, detailed work plan with a timeline that provides an in-depth description of how the assessment development/provision and administration, and related activities required in the RFP, will be conducted. The contractor must be willing and able to adjust the initial work plan to compensate for possible changes in the State and Federal reporting requirements. The work plan must be aligned with a detailed timeline for each year of the contract and be consistent with State and Federal reporting guidelines and with the list of Teacher Certification Examinations listed in Section 1.3.1 of this RFP. **Note that, although that they are components of the NYSTCE, the TPA and the ATS-W will not be required services to be provided under the terms of the contract resulting from this RFP.**

NYSED is committed to promoting the participation of certified Minority and Women-Owned Business Enterprises to the greatest extent possible. Therefore, NYSED strongly encourages bidders to seek New York State certified M/WBE subcontractors and suppliers.

NYSED will award one contract pursuant to this RFP with a term of three years and two months, anticipated to begin July 1, 2016 and to end August 31, 2019 with the option to extend for two additional one-year periods (September 1, 2019 through August 31, 2020 and September 1, 2020 through August 31, 2021).

Components contained in RFP Proposal #15-035 are as follows:

- 1) DESCRIPTION OF SERVICES TO BE PERFORMED
- 2) PROPOSAL SUBMISSION
- 3) EVALUATION CRITERIA AND METHOD OF AWARD
- 4) ASSURANCES
- 5) ATTACHMENTS
- 6) PROPOSAL SUBMISSION DOCUMENT PACKAGES A-D

The following proposal submission document packages must be submitted in separately sealed packages, as detailed in **2) PROPOSAL SUBMISSION** of the RFP, and must be received by NYSED no later than **March 1, 2016 by 3:00 p.m.**

1. Package A—Submission Documents labeled **Submission Documents - RFP #15-035 Do Not Open**
2. Package B—Technical Proposal labeled **Technical Proposal - RFP #15-035 Do Not Open**
3. Package C—Cost Proposal labeled **Cost Proposal - RFP #15-035 Do Not Open**
4. Package D—2 CD-ROMs containing Packages A through C: the Technical and Cost Proposals and Submission and Documents. Place Package D in a separate envelope labeled **CD-ROMs - RFP #15-035 Do Not Open**

The mailing address for all the above documentation is:

NYS Education Department
Bureau of Fiscal Management
Attn: Jessica Hartjen, RFP#15-035
Contract Administration Unit
89 Washington Avenue, Room 501W EB
Albany, NY 12234

(Facsimile copies of the proposals are NOT acceptable)

Questions regarding this request must be submitted by e-mail to: AssessmentRFP@nysed.gov no later than the close of business February 5, 2016 and should be identified as Program, Fiscal or M/WBE.

A Questions and Answers Summary will be posted to <http://www.p12.nysed.gov/comcontracts/comcontracts.html> no later than February 12, 2016.

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Glossary of Terms and Acronyms Used in this RFP	
ALST	Academic Literacy Skills Test
APPR	Annual Professional Performance Review
ASL	American Sign Language
ATS-P	Assessment of Teaching Skills - Performance
ATS-W	Assessment of Teaching Skills – Written (Elementary and Secondary) Note: Although a part of the NYSTCE program, this assessment is not a part of the scope of work for the contract resulting from the issuance of this RFP.
BEA	Bilingual Education Assessment
BOR	Board of Regents
BRC	Bias Review Committee
CAC	Content Advisory Committee
CBT	Computer-Based Testing
CCLS	Common Core Learning Standards
Cohort	Teacher Education program completers in a given program year (currently September – August)
CRI	Constructed-Response Item
Criteria	The Criteria are the specifications for developing and reviewing the content of passages and test items, as developed by the contractor and approved by NYSED. For each certification examination, the Criteria shall include specifications for the content of passages and test items. The Criteria will be appropriate for adults seeking a teaching license in New York State, and shall be used to approve or reject the content of passages and test items.
CST	Content Specialty Test
CTE	Career and Technical Education
DDI	Data-Driven Instruction
EAS	Educating All Students
ETS	An Electronic Testing System is a computer program, and its associated procedures, that includes, but is not limited to: the ability to publish and store all developed test items and passages, maintain codes of the characteristics of test items, publish test items in test forms for administration, provide for the registration of test takers (including entering demographic data, selecting test sites, dates, and test fields), administer tests to test takers, score the responses of test takers to selected-response questions, report results to the test taker, and maintain a data base of test items, test forms, and test takers' information and responses.
FACS	Family and Consumer Sciences
FAQ	Frequently Asked Questions
Guidelines	The Guidelines are the requirements for the style and format of test questions and passages.
IHE	Institution of Higher Education
IRC	Item Review Committee

Glossary of Terms and Acronyms Used in this RFP

ISLLC Standards	Interstate School Leaders Licensure Consortium Standards are used in the Educational Leadership Program as a requirement for a student's learning portfolio. There are six standards. Each standard is followed by the knowledge required for the standard, the dispositions or attitudes manifest by the accomplishment of the standard, and performances that could be observed by an administrator who is accomplished in the standard.
Item Bank	An item bank shall be defined as the items developed by the contractor or its subcontractors to meet the requirements of the contract for the NYSTCE Testing Program.
KSA	Knowledge, Skills, and Abilities
MST	Multi-Subject Test
NYSED Reviewer	Any individual(s) assigned by NYSED to review proposed items for inclusion in the Item Bank of a certification examination.
NYSED Senior Management	NYSED senior staff positions that include, but are not limited to, the Assistant Commissioner for Assessment, Standards and Curriculum and/or his or her designee.
NYS Standards	The New York State Standards include the NYS Common Core Learning Standards, the NYS Learning Standards, and the NYS Teaching and Leadership Standards. They may also refer to any National Professional Standards in some subject areas.
NYSTCE	New York State Teacher Certification Examinations – This program encompasses all of New York State teacher, teacher assistants, and school leader certification examinations.
NYSTCE Custom-designed test	Any test developed and/or administered by the contractor for this contract that is specifically created to measure current New York State Standards.
NYSUT	New York State United Teachers
OHE	Office of Higher Education
OSA	Office of State Assessment
OTI	Office of Teaching Initiatives
Passages	Passages are components of test items, such as documents, scenarios, graphics, charts, or graphs for use in the NYSTCE Testing Program that are either created by the contractor or selected from previously published authentic materials.
PBT	Paper-Based Testing
Prototype Passage or Test Item	A prototype passage or test item is the first example of a passage or test item to be used in the development process of a certification examination. Prototypes will be defined for each type of test item, such as multiple-choice questions (MCQs) and essay questions. In the event that NYSED changes a previously approved prototype during that test development cycle, the contractor will not be penalized for changes to passages or items that are made by NYSED.
PSPB	Professional Standards and Practices Board

Glossary of Terms and Acronyms Used in this RFP

Rejected Item	A rejected item is an item, including an item used for a field test, practice test, or study guide that has content that is not consistent with the criteria for that examination and is not approved by NYSED at the designated stage of the test development process. (Revisions to the style and format of an item that are suggested by NYSED will be incorporated, but will not be counted as a rejected item.) The total number of rejected items for a certification examination is defined as the total number of items approved by NYSED reviewer(s) for a given examination in that test development cycle subtracted from the total number of required items for a certification examination, as mutually agreed upon by NYSED and the contractor for that test development cycle.
Rejection Rate	The Rejection Rate is the percentage of items not approved by NYSED; e.g., rejected items, which is calculated by dividing the number of rejected items for a certification examination, including items used for field tests, practice tests and study guides, by the total number of required items, including items used for field tests, practice tests, and study guides, to be developed by the contractor for the given examination that are submitted to NYSED for review in that test development cycle.
Required Item	A required item is one that is required to be developed, as mutually agreed upon by NYSED and the contractor, for a specific certification examination, including field tests, practice tests and study guides.
RFP	Request for Proposal
RTTT	Race to the Top
SBL	School Building Leader
SDL	School District Leader
SFTP	Secure File Transfer Protocol
SME	Subject Matter Expert: An individual with the subject matter knowledge relevant to the certification examination that he or she is reviewing, who is an expert in that field in New York State. The primary responsibility of a Subject Matter Expert shall be to participate in editing and/or approving materials and to approve any materials that the contractor proposes for inclusion in the certification examinations, prior to receipt of the proposed materials by NYSED. The Subject Matter Expert is hired at the sole cost and expense of the contractor, and must be approved by NYSED.
SRI	Selected-Response Item
SWD	Students with Disabilities
Technical Advisor	An individual with expert knowledge in test development and evidence-centered design.
Test Framework	The set of test competencies, performance expectations, and performance indicators that describe the essential KSAs being assessed on the certification examination.
Test Item Types	Test item types that will appear on certification examination test forms may include, but are not limited to, multiple-choice questions (MCQs) and essay questions.
TPA	Teacher Performance Assessment: Note: Although a part of the NYSTCE program, this assessment is not a part of the scope of work for the contract resulting from the issuance of this RFP.

1) DESCRIPTION OF SERVICES TO BE PERFORMED

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

1.1 Mandatory Requirements

The eligible contractor must agree to the Mandatory Requirements found below and submit the Mandatory Requirements Certification Form located in **Package B, Technical Proposal, of 6) Proposal Submission Document Packages A-D**, signed by an authorized person. If the contractor's proposal fails to meet any of these mandatory requirements, it will be disqualified.

1. The contractor must identify a program manager who will be the central point of contact with NYSED for this contract. The program manager must have a minimum of a bachelor's degree or project management certification through the Project Management Institute (PMI) as a Project Management Professional (PMP), or other recognized program management certification.

MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE (M/WBE) PARTICIPATION GOALS PURSUANT TO ARTICLE 15-A OF THE NEW YORK STATE EXECUTIVE LAW

NYSED has not established specific utilization goals for this procurement. Nevertheless, NYSED remains committed to promoting the participation of certified Minority and Women-Owned Business Enterprises to the greatest extent possible. Therefore, NYSED strongly encourages bidders to seek New York State certified M/WBE subcontractors at a participation rate of 30%.

1.2 Background

In November and December of 2009, the New York State Board of Regents approved a number of initiatives for the purpose of transforming teaching, learning, and school leadership in New York State. One of those initiatives was to strengthen the assessments for the certification of teachers and school leaders. In May of 2010, the Board reaffirmed the direction for the new examinations, which included the Academic Literacy Skills Test (ALST), the Educating All Students (EAS) test, the teacher performance assessment (TPA), and the revision of the School Building Leader performance assessment and Content Specialty Tests (CST).

Each of the new examinations is designed to measure the New York State Learning Standards and Teaching Standards (<http://www.highered.nysed.gov/tcert/resteachers/teachingstandards.html>). In addition, each of the new examinations is designed to reflect the Common Core "shifts," with more constructed-response items and a mix of informational and literary text-based prompts. The performance expectations for New York State's next generation of teachers and school leaders will reflect the new, higher college- and career-readiness standards for students.

New York State, like many states, faces persistent achievement gaps for English language learners, students with disabilities, and Black and Latino students. The new EAS test is

designed to ensure that all teachers and school building leaders understand how to address the learning needs of diverse student populations.

The New York State Common Core learning standards in ELA/Literacy require teachers across the disciplines to be critical readers, to engage with informational texts, and to reason by using evidence. Thus, a new ALST will demand high standards of reading comprehension and analysis, written expression, and written analysis.

The new CSTs are being designed to assess new teachers' mastery of knowledge in the content areas in which they will be teaching. They will be aligned with the New York State Learning Standards, including the Common Core. Research demonstrates the link between teacher content knowledge in math and student achievement. To ensure that elementary teachers have the content knowledge to effectively teach to the New York State Common Core learning standards, candidates will be required to separately pass each subtest of the multi-subject CST; these include the English language arts/literacy subtest, the mathematics subtest, and a third subtest covering the other academic subjects.

Applicants for a teaching certificate who were on active duty with the Armed Forces are eligible to use the examinations that were in place when they applied for certification. Therefore, the Assessment of Teaching Skills – Performance (ATS-P) will have to be retained by the contractor and administered as needed.

At its February, 2012, meeting, the Board of Regents approved the implementation date of May 1, 2013 for the new certification examinations, including the ALST, the EAS, edTPA, and the revised SBL assessment, as well as revised CSTs as described in New York State's Race to the Top application. Based on field feedback, this implementation date was then pushed back a year.

In December of 2012, regulations were adopted to require that candidates applying for certification on or after May 1, 2014, or candidates who applied for certification on or before April 30, 2014, but who did not meet all of the requirements for an initial certificate on or before April 30, 2014, pass the edTPA, EAS, ALST, and the appropriate CST(s), as applicable for the certificate title sought.

For a complete overview of the certification regulations and requirements for teacher certificates and teaching practice, see: For Part 52, subdivision 52.21: Registration of curricula in teacher education, see: Part 80 of the Commissioner's regulations at [https://govt.westlaw.com/nycrr/Browse/Home/NewYork/NewYorkCodesRulesandRegulations?guid=lf5b5bef0ab3811dd9e3f9b6a3be71c54&originationContext=documenttoc&transitionType=Default&contextData=\(sc.Default\)](https://govt.westlaw.com/nycrr/Browse/Home/NewYork/NewYorkCodesRulesandRegulations?guid=lf5b5bef0ab3811dd9e3f9b6a3be71c54&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default)).

See Part 52 and 52.21 for a the requirements relating to the registration of curricula in teacher education and educational leadership programs: [https://govt.westlaw.com/nycrr/Browse/Home/NewYork/NewYorkCodesRulesandRegulations?guid=lf026b610ab3811dd9e3f9b6a3be71c54&originationContext=documenttoc&transitionType=Default&contextData=\(sc.Default\)](https://govt.westlaw.com/nycrr/Browse/Home/NewYork/NewYorkCodesRulesandRegulations?guid=lf026b610ab3811dd9e3f9b6a3be71c54&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default)).

For additional information, see the NYSED Office of Teaching Initiatives website: <http://www.highered.nysed.gov/tcert/>; and

The Pearson Education website at: www.nystce.nesinc.com

1.3 Overview of Required Services

NYSED is requesting proposals for the continued implementation of the NYSTCE Testing Program. The contractor is responsible for each of the NYSTCE component tests listed in Section 1.3.1 of this RFP. Each of these component tests falls into one of three categories: **Category 1** – recently created or revised NYSTCE custom-designed tests, **Category 2** – NYSTCE custom-designed tests not yet revised, and **Category 3** – existing NYSTCE custom-designed tests. For **Category 1** tests, the contractor is required to continue the development, enhancement, administration, and reporting of the tests. For **Category 2** tests, the contractor is required to revise these tests, and then continue the development, enhancement, administration, and reporting of the tests. For **Category 3**, the contractor is required to continue test administration and reporting of the existing NYSTCE test forms. The contractor must provide these tasks in each category for NYSED, for the length of the contract, and any contract extension.

As part of the implementation of the NYSTCE tests, the contractor is required to:

1. ensure that successful candidates for teacher certification demonstrate minimally acceptable knowledge, skills, and abilities (KSAs) in the CCLS and the Teaching Standards through passage of certain certification examinations prescribed by the Commissioner in regulations
2. ensure that successful candidates for school leadership certification meet Board of Regents standards by demonstrating minimally acceptable KSAs in school leadership theory and practice through passage of certain certification examinations prescribed by the Commissioner in regulations
3. ensure that successful candidates for teaching assistant certification meet Board of Regents standards by demonstrating minimally acceptable KSAs through passage of certain certification examinations prescribed by the Commissioner in regulations
4. provide accurate and verified data and score reports for certification-related purposes to NYSED, and aggregate data to the U.S. Department of Education, at the request of NYSED. In addition, the contractor must have the ability to adapt data reporting as needed by NYSED, or due to changing reporting requirements, such as those pursuant to Title II of the Higher Education Opportunity Act (HEOA) of 2008 reauthorizing the Higher Education Act (HEA) of 1965, as amended, and other federal and State law or regulation, including any subsequent, similarly mandated requirements effective during the term of this contract
5. provide diagnostic information in a form and manner prescribed by NYSED, both to candidates assessed and, in the aggregate, to institutions preparing those candidates, in an effort to strengthen the professional development of teachers and school leaders at both the individual and programmatic levels; to include, but not be limited to, the production of Annual Institutional Results for Title II Program Completers and a manual to help institutions use score reports for programmatic improvement

6. provide summary reports of exam results by institutions of higher education (IHEs) and complete full raw data to NYSED as required, which will advise and facilitate the coordination of future policies pertaining to the preparation, certification, and practice of teachers and school leaders in the public schools of New York State
7. provide a high level of accurate student-level data collection and reporting, in a form and manner prescribed by NYSED, with regard to all aspects of the NYSTCE Program, inclusive of the Educational Leadership Assessment Program
8. provide electronic access to current and past detailed student background information collected from both the IHEs and the students, scores, and reports for all examinees for NYSED and New York State-approved teacher education institutions
9. provide NYSED with evidence that all tests being administered as part of the NYSTCE program adequately measure the KSAs necessary for teaching in New York State, are psychometrically sound, and can be shown to be defensible under the Second Circuit's decision in a United States District Court case for the Southern District of New York: *Guilino, ET AL., Plaintiffs, 96-CV-8414 (KMW) Opinion & Order -against- The Board of Education of The City School District of The City of New York, Defendant*, which lays out among other things the requirements cited in *Guardians Association of NYC Police Dept, Inc. v Civil Service Commission of NY* 630F.2d¹ ([http://www.rh-law.com/portalresource/lookup/poid/Z1tOI9NPluKPtDNIqLMRVPMQiLsSw83CmC3!/document.name=/2015-08-07%20\[662\]%20ALST%20Opinion%20and%20Order.pdf](http://www.rh-law.com/portalresource/lookup/poid/Z1tOI9NPluKPtDNIqLMRVPMQiLsSw83CmC3!/document.name=/2015-08-07%20[662]%20ALST%20Opinion%20and%20Order.pdf)).

All assessments provided by the contractor to candidates must measure competencies in ways that will generalize to diverse educational contexts; e.g., school structures, district organizations, community and cultural influences, etc. In New York State, many agencies and organizations contribute to the professional development of school leaders and teachers. They include institutions of higher education, local school districts, Boards of Cooperative Educational Services, Teacher Resource and Computer Training Centers, and professional and community organizations. It is expected that all appropriate stakeholders will be represented throughout the test-development process, as stipulated in this RFP (e.g., teachers, principals, IHEs).

The contractor will be required to describe a plan for its ongoing review, validation, and additional revision as necessary, of each NYSTCE custom-designed test already revised by the start of the contract (Category 1 Tests), including each test framework, as determined by NYSED, and if and when any revisions to the New York State Learning Standards or the Teaching or Leadership Standards (<http://www.highered.nysed.gov/tcert/reteachers/teachingstandards.html>) are made, but at

¹ *Guardians* lays out a five-part test that courts can use to determine whether an employment test was properly validated and thus is job-related: (1) The test-makers must have conducted a suitable job analysis; (2) they must have used reasonable competence in constructing the test itself; (3) the content of the test must be related to the content of the job; (4) the content of the test must be representative of the content of the job; and (5) there must be a scoring system that usefully selects from among the applicants those who can better perform the job. *Guardians*, 630 F.2d at 95.

least once during the duration of the contract term, in accordance with a mutually agreed-upon schedule.

Appropriate personnel of New York State public schools and post-secondary institutions, and NYSED content specialists, should be utilized in all phases of the validation and revalidation process, for each instrument being developed. The sample and instruments used in validation and assessment development studies, including the job analysis surveys, should be based on relevant New York State population, including demographics, and must be approved by NYSED.

The services to be provided include all assessment development, validation, revalidation, revision, standardization, equating, administration, printing, scoring, reporting, test-taker preparation services, and enhanced development of alternative assessment delivery instruments, including individual and/or group assessment administration settings. The services to be provided should include the use of appropriate computer and other technologies pertaining to each and every test and assessment, including all administration and reporting of college/university test results and data analyses as required by NYSED, Title II, and all data collecting and analyses required pursuant to federal law, as detailed in this document. The test-taker preparation services should include a study guide for all examinations, with a minimum of one sample question per competency in the framework, and, for high-incidence tests (N >500 administrations per year), a full-length, computer-based practice test that can be self-scored.

NYSED reserves the right to recognize other examinations as it sees fit for certification titles for which no content specialty test has been developed or that NYSED determines are appropriate to support its teacher certification program. If any such examinations would result in a requirement for reporting under Title II or other federal law, the contractor will incorporate such examination results into such reports.

The contractor awarded a contract under this RFP will be expected to meet all NYSED requirements for the provision of services consistent with the development and administration of the assessment instruments listed below while meeting stipulated NYSED requirements for the development and administration of new assessment instruments within the NYSTCE Program for teachers in the classroom, pupil personnel services, School District Leaders, School District Business Leaders, and School Building Leaders, as well as stipulated teaching assistant titles. The contractor will also be responsible for meeting federal reporting requirements, including those pursuant to Title II, which are found at <https://title2.ed.gov/default.asp>, and other federal and State laws, as stipulated by NYSED.

1.3.1 New York State Teacher Certification Examinations

Examination	Category 1	Category 2	Category 3	Current Exam Fee
	Recently Created or Revised NYSTCE Custom-Designed Test	NYSTCE Custom-Designed Test to Be Revised	Existing NYSTCE Custom-Designed Test	
ALST	X			\$131
EAS	X			\$102
ATS-P Video			X	\$119
Multi-Subject Birth – Grade 2 CST	X			Part One - \$75 Part Two - \$75

Examination	Category 1	Category 2	Category 3	Current Exam Fee
	Recently Created or Revised NYSTCE Custom-Designed Test	NYSTCE Custom-Designed Test to Be Revised	Existing NYSTCE Custom-Designed Test	
Multi-Subject Birth – Grade 2 CST Part 2	X			Part Three - \$49 Total if all three parts are taken together at one administration - \$179
Multi-Subject Grade 1 – Grade 6 CST Part 1	X			
Multi-Subject Grade 1 – Grade 6 CST Part 2	X			
Multi-Subject Grade 5 – Grade 9 CST Part 1	X			
Multi-Subject Grade 5 – Grade 9 CST Part 2	X			
Multi-Subject Grade 7 – Grade 12 CST Part 1	X			
Multi-Subject Grade 7 – Grade 12 CST Part 2	X			
Multi-Subject Part 3	X			
English CST	X			*Original Content Specialty Test (CST) \$119 Redeveloped Content Specialty Test (CST) \$149 *Original Content Specialty Test (CST) \$119 Redeveloped Content Specialty Test (CST) \$149
Mathematics CST	X			
Social Studies CST	X			
Biology CST*		X		
Chemistry CST*		X		
Earth Science CST*		X		
Physics CST*		X		
Latin CST	X			
Cantonese CST	X			
French CST	X			
German CST	X			
Greek CST	X			
Hebrew CST	X			
Italian CST	X			
Japanese CST	X			
Mandarin CST	X			
Russian CST	X			
Spanish CST	X			
English to Speakers of Other Languages CST	X			
Students w/ Disabilities CST	X			
American Sign Language CST	X			
Blind & Visually Impaired CST	X			
Deaf & Hard of Hearing CST	X			
Gifted Education CST	X			
Literacy CST	X			
Agriculture CST	X			
Business & Marketing CST	X			
Dance CST*		X		

Examination	Category 1	Category 2	Category 3	Current Exam Fee
	Recently Created or Revised NYSTCE Custom-Designed Test	NYSTCE Custom-Designed Test to Be Revised	Existing NYSTCE Custom-Designed Test	
Educational Technology Specialist CST	X			
Family & Consumer Science CST	X			
Health Education CST	X			
Library Media Specialist CST	X			
Music CST*		X		
Physical Education CST	X			
Technology Education CST	X			
Theater (Theatre) CST*		X		
Visual Arts CST*		X		
BEA – Albanian		X		
BEA – Arabic		X		
BEA – Bengali		X		
BEA – Cantonese		X		
BEA – Farsi		X		
BEA – French		X		
BEA – German		X		
BEA – Greek		X		
BEA – Haitian Creole		X		
BEA – Hebrew		X		
BEA – Hindi		X		
BEA – Igbo		X		
BEA – Italian		X		\$79
BEA – Japanese		X		
BEA – Korean		X		
BEA – Malayalam		X		
BEA – Mandarin		X		
BEA – Polish		X		
BEA – Portuguese		X		
BEA – Punjabi		X		
BEA – Romanian		X		
BEA – Russian		X		
BEA – Serbo-Croatian		X		
BEA – Spanish		X		
BEA – Swedish		X		\$79
BEA – Tagalog		X		
BEA – Tamil		X		
BEA – Urdu		X		
BEA – Vietnamese		X		
BEA – Yiddish		X		
Assessment of Teaching Assistant Skills (ATAS)			X	\$79
Communications & Quantitative Skills Test (CQST)			X	\$119

Examination	Category 1	Category 2	Category 3	Current Exam Fee
	Recently Created or Revised NYSTCE Custom-Designed Test	NYSTCE Custom-Designed Test to Be Revised	Existing NYSTCE Custom-Designed Test	
School Building Leader – Part One	X			One Part \$237 Both Parts \$474
School Building Leader – Part Two	X			
School District Leader – Part One		X		One Part \$195 Both Parts \$390
School District Leader – Part Two		X		
School District Business Leader – Part One		X		
School District Business Leader – Part Two		X		

1.4 Timeline for Required Services

Task	Month/Year
Preliminary project planning and coordination, preparing for computer based deliver of all exams in October 2016	July 1, 2016 – September 30, 2016
Administration of all exams, continued development of Category 1 exams, begin revisions to Category 2 exams – Year 1	October 1, 2016 – August 31, 2017
Administration of all exams, continued development of Category 1 & 2 exams and revisions to Category 2 exams – Year 2	September 1, 2017 – August 31, 2018
Administration of exams continued development of Category 1 & 2 exams and revisions to Category 1 & 2 exams, as needed – Year 3	September 1, 2018 – August 31, 2019
Optional Extension – Year 4	September 1, 2019 – August 31, 2020
Optional Extension – Year 5	September 1, 2020 – August 31, 2021

1.5 Exam Development – NYSTCE Custom-Designed Tests

For NYSTCE custom-designed tests in Category 1, the contractor is required to continue the development, enhancement, administration, and reporting of these tests. For Category 2, the contractor must revise these tests when required by NYSED and then continue the development, enhancement, administration, and reporting of these tests. The contractor will not be required to revise, develop, or enhance Category 3 test forms. The contractor will be required to provide all services listed in this RFP for all categories for the duration of the contract and any subsequent amendments, unless NYSED determines that such test should not be utilized or decides to utilize an alternative examination.

1.5.1 Item Criteria – NYSTCE Custom-Designed Tests

For Category 1 and Category 2 custom-designed tests, the contractor will use the New York State Standards in the subject area, including the NYS P-12 Common Core Learning Standards, as well as the NYSTCE Test Frameworks and Parts 52 and 80 of the Regulations of the Commissioner of Education and the Teaching and Leadership Standards, as guides for determining what the assessments will be designed to measure. The P-12 Common Core Learning Standards Documents can be found at: http://www.p12.nysed.gov/ciai/common_core_standards/ and the NYSTCE Test Frameworks at: http://www.nystce.nesinc.com/NY_viewobjs_opener.asp.

For each NYSTCE custom-designed test, the criteria shall include specifications for the content of passages and test items. (see Attachment G – NYSTCE Item Writing Guidelines) The criteria will be appropriate for adults seeking a teaching license in New York State, and shall be used to approve or reject the content of passages and test items. The criteria, in general, will include, but not be limited to, the following specifications:

1.5.1.1 Alignment to Test Framework and Standards

1. The item measures knowledge, skills, or abilities described in the Test Framework.
2. The item measures knowledge, skills, or abilities characterized by the New York State Standards.

1.5.1.2 Quality

1. The content of the item is accurate.
2. The item is factually correct.
3. The item correctly represents the content presented in any stimulus material.
4. There is one unambiguously correct response.
5. All of the parts of the item are clear.
6. The terminology is appropriate, consistent with the Regents Reform agenda, the NYS Teaching Standards or Leadership Standards, as appropriate, and applicable laws and regulations.
7. The language is in the clearest form to measure the knowledge, skills, or abilities assessed by the item.
8. The item is free of typographical and grammatical errors.
9. The item is appropriately constructed.
10. The structure of the item is sound (e.g. response choices are consistent in length, structure, and language).

11. The wording of the item stem is free of clue-ins.
12. Distractors are plausible and do not introduce ambiguity.
13. The answer key identifies the correct response.

1.5.1.3 Fairness

1. The item is free of language, content, or stereotypes that might potentially disadvantage or offend an individual because of her or his gender, race, nationality, national origin, ethnicity, religion, age, sexual orientation, disability, or cultural, economic, or geographic background.
2. The items, as a whole, are fair to all individuals regardless of gender, race, nationality, national origin, ethnicity, religion, age, sexual orientation, disability, or cultural, economic, or geographic background. As a whole, the items include content that reflects the diversity of the New York State population.

1.5.1.4 Job-Relatedness

1. The item measures KSAs needed in order to perform the job of a New York State educator, as reflected in the Test Framework and standards.
2. The item measures KSAs at a level that is appropriate for the certificate(s) for which the test is a requirement, as reflected in the Test Framework and standards.
3. The contractor will, at its sole expense, conduct a full job analysis for any new assessment developed under this contract, consistent with the requirements set forth by the United States Second Circuit Court of Appeals in *Guilino, ET AL., Plaintiffs, 96-CV-8414 (KMW) Opinion & Order -against-The Board of Education of The City School District of The City of New York, Defendant*, which lays out among other things the requirements cited in *Guardians Association of NYC Police Dept, Inc. v Civil Service Commission of NY* 630F.2d. ([http://www.rh-law.com/portalresource/lookup/poid/Z1tOI9NPluKPtDNIqLMRVPMQiLsSw83CmC3!/document.name=/2015-08-07%20\[662\]%20ALST%20Opinion%20and%20Order.pdf](http://www.rh-law.com/portalresource/lookup/poid/Z1tOI9NPluKPtDNIqLMRVPMQiLsSw83CmC3!/document.name=/2015-08-07%20[662]%20ALST%20Opinion%20and%20Order.pdf)).
4. The contractor must ensure that the assessments provided under the NYSTCE programs are valid and reliable assessments designed for the purpose of certifying teachers to enter the classroom and that there is sufficient technical documentation to survive judicial scrutiny under the analysis set forth by the United States Second Circuit Court of Appeals in *Guilino, ET AL., Plaintiffs, 96-CV-8414 (KMW) Opinion & Order -against- The Board of Education of The City School District of The City of New York, Defendant*, which lays out among other things the requirements cited in *Guardians Association of NYC Police Dept, Inc. v Civil Service Commission of NY* 630F.2d. ([http://www.rh-law.com/portalresource/lookup/poid/Z1tOI9NPluKPtDNIqLMRVPMQiLsSw83CmC3!/document.name=/2015-08-07%20\[662\]%20ALST%20Opinion%20and%20Order.pdf](http://www.rh-law.com/portalresource/lookup/poid/Z1tOI9NPluKPtDNIqLMRVPMQiLsSw83CmC3!/document.name=/2015-08-07%20[662]%20ALST%20Opinion%20and%20Order.pdf)).

The contractor will provide a complete list of objectives for each test and the specifications to be used in item development for approval by NYSED. The contractor will be responsible for

determining the relationship between the recommended objectives for each test and the domain of knowledge that a teacher is expected to command. In addition, the contractor will conduct a job analysis survey for each certification examination for which a test is being developed.

The contractor will develop procedures for field testing items on each assessment both initially and as subsequent forms are developed, to ensure continuing reliability, validity and comparability of forms. The contractor will conduct an item analysis for each examination, will determine the congruence between the item and the objective from which it was derived, will identify any gender or cultural bias of the item, and will ascertain each item's difficulty and discrimination indices. The contractor will share this item analysis and proposed operational forms developed with NYSED. NYSED will have at least thirty (30) days prior to the first administration of any operational form to review and approve any operational form. Also, such item analyses will be part of the validation and pass point-setting process. The contractor is to do the sampling and field testing at its own expense, with individuals drawn from a representative sample of people throughout the State. The contractor will design/adapt a standard-setting method and conduct the statistical analysis of necessary data to provide estimates of passing scores on the assessments. Rating scales and performance review procedures and criteria must be fully reviewed by the bias review and assessment development committees. Analyses for performance items may differ in specifics, but should provide evidence of reliability and validity with a comparable level of detail. A report of the results of analyses shall be submitted to NYSED.

The contractor will develop and field test a sufficient number of new items throughout the contract period to be ready, beginning in October of 2017, to continually administer at least two forms of each low-incidence examination and at least four forms of each high-incidence examination. The contractor will be responsible for developing, reviewing, editing, and field testing enough items to provide at least 4.5 times as many test items as are required by the blueprint to measure each competency for each test. (Low-incidence examinations are taken by 499 or fewer candidates per year, mid-incidence examinations by 500 - 1,000 candidates per year, and high-incidence examinations by 1,001 or more candidates per year.) The contractor will develop field-testing sampling plans that are responsive to the population taking each test.

1.5.2 Item Banks - NYSTCE Custom-Designed Tests

The current item bank size for New York State custom-designed items that have been developed under the current contract is included as Attachment B - Item Bank Inventory. These items will be provided to the contractor in Word via Rich Text Format (RTF). The contractor should assume that there are no recently developed items for any of the other NYSTCE assessments. (See Section 1.3.1 of this RFP for complete listing of current assessments.)

1.5.3 Item Writing Guidelines – NYSTCE Custom-Designed Tests

The current, approved item writing guidelines for the NYSTCE program are included separately as Attachment G – Item Writing Guidelines. The contractor will be required to implement the approved guidelines for Category 1 and Category 2 NYSTCE custom-designed tests.

1.5.4 Bilingual Education Assessments (BEA)

From time to time a candidate will request a BEA for a language that has not yet been identified by NYSED. When this occurs, NYSED will notify the vendor and the vendor will have 12 weeks

to develop a new BEA for administration for the given language. Information about current BEAs in languages other than Spanish can be found at http://www.nystce.nesinc.com/PDFs/NY_flds026-049_prepguide.pdf.

1.6 Content Reviews of Test Materials - NYSTCE Custom-Designed Tests

The contractor shall ensure that all individuals assigned to write or review items for Category 1 and Category 2 tests shall have successfully completed training that is consistent with the policies and practices of the Regents Reform Agenda, including, but not limited to, the following items: (1) data-driven instruction, (2) evidence-based observations, (3) New York State learning standards, including the Common Core Learning Standards; (4) New York State teaching or leadership standards, as appropriate; (5) Criteria/Evidence Centered Design-Based Item Development; and (6) NYSED exam format.

The contractor shall not permit any individual to participate in item-writing who has not been previously trained on the Regents Reform Agenda, as described above. Additionally, all individuals assigned to write or review items for the School Building Leader (SBL) examination must have prior School Building Leader experience in the ISLLC Standards and the Common Core Learning Standards in New York State or in another state that has adopted these standards. The contractor further ensures that all individuals writing and reviewing items for the School Building Leader examination shall have successfully completed training that is consistent with the policies and practices of the Regents Reform Agenda, including, but not limited to, the following items: (1) instructional leadership and (2) ISLLC Standards.

The contractor shall agree to work collaboratively with NYSED to establish, and thereafter implement, at the contractor's sole cost and expense, training sessions that are consistent with the requirements of the above provisions for all individuals writing and reviewing items. The training sessions shall be conducted in a manner consistent with professional standards and with the diligence and skill expected of a consultant with extensive experience in the performance of the work herein described. NYSED will monitor and evaluate the success of the training program, as measured by the quality of items produced, which must satisfy the needs of NYSED. Training may be conducted in-person, online, or in another format approved by NYSED and the contractor. The contractor will provide NYSED with a timeline for training, after the training program is designed in coordination with NYSED.

The contractor, at its sole cost and expense, will develop and finalize an internal test-development process that is subject to the approval of the parties, within 30 days of the contract start date, or approval by the Office of the State Comptroller of the contract, whichever is later. Part of this process will further delineate the passage and item-approval/rejection process. The test-development process will be used to create Item Banks for each Category 1 and Category 2 NYSTCE custom-designed certification examination.

For the School Building Leader (SBL) examination, the contractor shall hire, at its sole cost and expense, an outside technical advisor acceptable to NYSED to oversee all steps in the SBL examination-development process. The technical advisor will review planning documents and provide feedback and suggestions to NYSED in advance of each stage of item development. The technical advisor will also review all examination materials intended for public release (Test Frameworks, sample items, practice exams) for consistency and alignment with the NYSTCE program vision. The contractor shall notify NYSED of the selection of the outside technical

advisor, who is subject to the review and approval of NYSED and who must sign a non-disclosure agreement.

NYSED, in collaboration with the contractor, shall develop processes and procedures for NYSED Senior Management to have final sign-off of all newly developed or newly revised passages and items that will be included in the test-development process, and the decision whether or not to use these shall be at the sole discretion of NYSED Senior Management.

As defined in this RFP, NYSED Senior Management shall be the Assistant Commissioner for Assessment, Standards and Curriculum and/or his/her designee. If a designee is identified, NYSED will notify the contractor before the start of the test-development process for a given certification examination. Should a position or the person holding a position in NYSED Senior Management change, the contractor shall be notified immediately.

NYSED, in collaboration with the contractor, shall include in the test-development process to be finalized by the contractor and approved by NYSED the procedures for NYSED Senior Management to resolve all discrepant feedback from the contractor and NYSED staff assigned to conduct reviews of passages and/or exam items (e.g., If the contractor indicates that a passage or item meets Criteria, but NYSED disagrees, the passage or item is flagged for NYSED Senior Manager review and resolution).

The contractor is required to respond to and address NYSED's quality-control concerns, based on the Item Review Criteria stated in Section 1.5.1 of this RFP, within a reasonable time frame commensurate with the urgency of the specific issue.

If any Advisory Committee (see Section 1.8 of this RFP) rejects an item that appears in the Item Bank, or recommends a revision to such an item, on the basis of bias or accuracy, the subject item shall not be used by the contractor on an examination, unless any proposed correction to or modification of the item is approved by NYSED Senior Management. Upon approval of the correction or modification, all changes shall be made to the item consistently across any and all certification examinations in which it may appear. The tracking of changes and evidence that all edits were made consistently will be documented throughout the test-development process.

In the event that a subsequent NYSED review of a certification examination during the test-development cycle finds that changes are required to the review criteria, test framework, prototypes of passages and test items, other test materials, or existing items that were previously approved for use in that certification examination by the previous NYSED reviewer(s), such changes will be provided by the contractor within a mutually agreed-upon timeframe, with no increase in examination cost. If multiple NYSED reviewers are assigned to a certification examination, they shall agree on a single set of review criteria, a test framework, a set of prototypes of passages and test items, and other test materials. Their agreement shall be communicated to the contractor by one of them.

The contractor shall develop and/or obtain the number of required passages and items for each certification examination, as agreed upon by the parties. The required number of passages and items will be calculated so that the rejection of passages and items by NYSED does not have a negative effect on timelines for the creation of test forms for the certification examination.

Any and all removed or rejected passages or items are to be replaced with passages or items, as the case may be, of a quality acceptable to NYSED, in accordance with the test-development process.

The contractor acknowledges and agrees that passage selection, item development, and item editing is under its direct responsibility.

NYSED has discretion during review to edit items for compliance with the Criteria, but NYSED is not responsible for developing items.

The contractor shall manage the review and item editing in a timely and accurate manner, in accordance with the agreed-upon project schedule and Item Criteria.

The contractor shall not rely on NYSED's efforts, feedback, or review to satisfy its responsibilities.

1.7 Fees for Reimbursement Related to Passage Selection and Item Development - NYSTCE Custom-Designed Tests (Category 1 and Category 2)

NYSED expects that the contractor will exercise due diligence, as described in this RFP, such that a minimum of 90% of the passages/items it provides to NYSED's review team will be found by NYSED to meet the mutually agreed-upon passage and item selection/review criteria. If between 11% and 15% of the passages/items submitted by the contractor to NYSED for a given certification examination test-development cycle are rejected by NYSED for failure to meet the mutually agreed-upon criteria, the contractor shall pay, as a reimbursement to NYSED for the cost of excess personnel time required to correct and remediate unsatisfactory work-product, a fee equal to 1% percent of the exam registration fees collected by the contractor from test takers taking the respective certification examination for that administration year.

If between 16% and 20% of the passages/items submitted by the contractor to NYSED for a given certification examination test-development cycle are rejected by NYSED for failure to meet the mutually agreed-upon criteria, the contractor shall pay a fee equal to 4% of the exam registration fees collected by the contractor from test takers taking the respective certification examination for that administration year. If greater than 20% of the passages/items submitted by the contractor to NYSED for a given certification examination-test development cycle are rejected by NYSED for failure to meet the mutually agreed-upon criteria, the contractor shall pay a fee equal to 7% of the exam registration fees collected by the contractor from test takers taking the respective certification examination for that administration year.

With the exception of the last administration year, any fees for reimbursement related to passage selection and item development shall be paid by the contractor in the form of additional NYSTCE fee vouchers to be provided to NYSED's Office of Higher Education for distribution by NYSED and/or the State's approved teacher-preparation programs to candidates in need. With NYSED's approval, the contractor will distribute the additional fee vouchers to teacher-preparation programs and NYSED as part of the annual distribution of fee vouchers that the contractor already conducts on NYSED's behalf as described in Section 1.14.1 – Fee Vouchers of this RFP. For the last administration year, any fees for reimbursement related to passage selection and item development shall be paid to the Office of Higher Education for its use in providing fee vouchers during the next year.

The criteria for passage selection and item development developed by the contractor and approved by NYSED at the start of the contract term are subject to revision by mutual agreement of NYSED and the contractor during the course of the contract resulting from this RFP. If any of these criteria are revised by mutual agreement, the revised criteria shall apply to the above provisions for fees payment for only those passages and items submitted by the contractor to NYSED after the revisions to the criteria have been mutually agreed upon.

1.8 Advisory Committees - NYSTCE Custom-Designed Tests (Category 1 and Category 2)

Consistent with NYSED policy and NYSTCE Program procedures, the contractor, in conjunction with NYSED, will convene, as needed, the following advisory committees:

1. A “Bias Review Committee” of between 12 to 14 educators selected by NYSED will review newly developed frameworks, items and passages to check for and eliminate ethnic, racial, gender, and other forms of bias.
2. A “Framework Review Committee” of between 12 to 14 educators selected by NYSED will review the proposed framework for a NYSTCE custom-designed test (see Section 1.3.1) that is revised during this contract to ensure that the test will measure the KSAs needed in order to perform the job of a New York State educator, as reflected in the NYS Standards.
3. An “Item Review Committee” of between 12 to 14 educators selected by NYSED for each assessment, as developed. The respective Item Review Committees will each consider and advise on (a) the identification of the objectives to be measured by the test; (b) a review of test items; (c) the validation of test items; (d) a review of test objectives and test items for potential bias; and (e) a review of the job relatedness of the item. Should such advice also include scales and procedures for rating observations or constructed responses, the Test Development Committee will consider and advise on those scales and procedures, as well as on studies of Interrater reliability.
4. A “Marker Response (Rangefinding) Committee” of approximately 6 educators selected by NYSED will be convened to review field test responses to constructed-response items to select exemplars at each score point for scoring.
5. A “Validation and Standard-Setting Committee” of between 10 to 21 educators (depending on N Count) selected by NYSED will be convened, as needed, to obtain further validity evidence regarding the test items and to gather standard-setting recommendations for each field test, as part of on-going efforts to assure the continuing validity and reliability of each assessment instrument.

These committees have the responsibility for reviewing and approving/revising all test items and passages,. At least 30% of the membership of each committee will be New York State college educators actively involved in the preparation of educators in appropriate certificate titles; at least 50% will be New York State certified [or New York City/Buffalo licensed] teacher or leadership practitioners holding regular appointments or assignments in appropriate certificate title areas in New York State elementary, middle, or secondary schools. Up to 20% of the members of each committee may be other New York State professionals with appropriate content area background and/or training/experience in test development and validation. NYSED will select the participants for all committees so as to ensure that they are as geographically and ethnically diverse as is feasible.

The contractor will work with NYSED, in advance, to plan all committee meetings, if needed, and provide committees with all resources and information needed to review test items, advise on item selection, and analyze and review the contractor's analyses of assessment objectives and items. The contractor shall require all committee members to sign an attendance sheet and a non-disclosure agreement (see **Attachment E - Non-Disclosure Agreement**) before participating in any activities, shall save all such attendance sheets and agreements, and shall be prepared to provide them to NYSED upon request. The contractor will also record and summarize committee decisions and actions taken on those decisions. The information will be shared with the committee and with NYSED. The contractor will be responsible for all notifications and arrangements associated with committee activities and will be responsible for the costs outlined below. NYSED will not be responsible for these costs.

The contractor will be responsible for all of the costs of the meeting rooms, which must be sufficient in size to accommodate all of the participants, and for the payment of an honorarium of \$200 per full day to all of the participants, except those who are NYSED employees or consultants. Contractors are also responsible for reimbursing all participants, except NYSED employees or consultants, for their lodging (if they reside 50 or more miles from the meeting location), meals, and travel expense. The contractor is expected to provide meals during the meetings and reimbursement for other meals for participants. Travel expense reimbursement must be at the approved New York State rates that are in effect on the dates of the committee meeting. Current rates are available at: <http://www.gsa.gov>. The average number of miles that each participant will travel is undetermined; however, committee members will be from across the State. Those asked to attend will be from distances as near as 3 miles or as far as 350 miles away. Approximately 80-90% of meeting participants will require hotel accommodations.

The contractor agrees that, prior to any item review or standard-setting conference with NYSED or advisory committees, the contractor shall submit to NYSED no later than three (3) months prior to the date of such conference all relevant documentation, including test items, for NYSED's review. NYSED agrees to review and communicate all of its feedback within twenty (20) days of the receipt of the relevant documentation to provide time for the contractor to make revisions, if necessary.

1.9 Additional Quality Control Measures - NYSTCE Custom-Designed Tests

The contractor will provide an expert, independent review of the contractor's process for the development of scoring materials to improve the quality, completeness, and accuracy of the scoring materials, at the contractor's sole cost.

The contractor must develop a monthly test-development schedule to be shared with NYSED that shall contain a detailed breakdown of upcoming deadlines, document requests, and expected deliverables. This schedule shall be provided to NYSED at least three (3) months in advance of the start date, and provide for a minimum review period of at least twenty (20) days for any materials, documentation, and/or any additional items that require NYSED approval.

The parties agree to develop a timeline for the implementation of these procedures within thirty (30) days of the contract start date or approval by the Office of the State Comptroller of the contract, whichever is later. The schedule will include agreed-upon timeframes for NYSED review, edits, and approval of items. NYSED agrees to provide all review, approval, and edits of items within the timeframe agreed upon by the parties.

The parties agree that NYSED has the discretion and authority to require, with reasonable cause, that the contractor implement a three (3) month plan, beginning on the date of notice by NYSED, during which a contractor staff member who is determined not to be meeting NYSED's expectations will be given the opportunity to amend his/her job performance. During this three-month period, the contractor shall assign another staff member, approved by NYSED, to monitor the staff member's work and assist with the contractor's obligations under this contract during this time period. If the contractor's staff member's performance has not improved during that time period to the satisfaction of NYSED, then the contractor will replace the staff member, upon notice to the contractor regarding the staff member's performance. Notice shall be consistent with the requirements of this contract. The contractor shall replace any such staff members with appropriately qualified candidates who have successful, proven track records in the specified work, without any increase to test takers in the fees charged by the contractor. Proposed key staff members are subject to the review and approval of NYSED, and such approval shall not be unreasonably withheld.

The parties agree that the contractor shall provide a project status report, which will illustrate current review/approval tasks of both NYSED and the contractor. This report will guide discussions between the parties to prioritize tasks, based on the effects on critical paths for review of examinations administered through the end of the contract by the parties.

1.10 Test Administration - All Tests

The contractor will be responsible for designing, managing, and maintaining a secure and expeditious system to register all test-takers, administer and score all assessments, and report assessment results to each candidate, the preparing institution, and NYSED. The contractor will administer all assessments, utilizing a technology platform that conforms to industry standards, including electronic item banking and automated form generation. The contractor must also implement a plan to monitor item exposure. In addition, an assessment-administration plan should be developed, which includes the scheduling of assessment administrations and a timeline for developing new assessment forms throughout the contract period.

The contractor will be responsible for providing reasonable and appropriate accommodations for individuals with documented disabilities within the meaning of the Americans with Disabilities Act (ADA), as amended. Under the ADA, a disability is a physical or mental impairment that substantially limits an individual's ability to perform one or more major life activities, as compared with most people in the general population. Attachment C: Specifications for Contractor/Subcontractor Transcribing Braille and Attachment D: Specifications for Large Type detail requirements for braille and large type accommodations in testing.

Notwithstanding the above, NYSED understands that candidates seeking alternate testing arrangements require additional processing time in order to confirm and arrange any specialized accommodations and, therefore, candidates seeking alternate arrangements will be requested to contact the contractor with such request at a time and date that will allow for sufficient time to process requests for specialized accommodations.

Where raters must be trained to score the assessments, the contractor is responsible for developing training materials for assessment raters or using training materials as directed by NYSED (including a training manual and an assessor manual), working with appropriate stakeholders (as determined by both the contractor and NYSED) in finding and recruiting raters,

scheduling and conducting training sessions, establishing and maintaining interrater reliability, and providing all support required to maintain procedural integrity and viability in support of overall test validity and reliability.

The contractor must perform thumb or palm print scanning or an equivalent identity verification of all examinees at test administrations and provide all needed information to NYSED for resolution of issues relating to allegations of fraud in a timely manner.

Test appointments shall be scheduled for candidates on a first-come, first-served basis, at the time of registration. If a candidate cannot schedule an appointment within thirty (30) days of his/her desired date and time, the candidate, the program in which he or she is enrolled, or NYSED should contact the contractor. The contractor will then work with the program and/or the candidate to schedule an appointment within the desired time period. The contractor will work diligently with each such candidate who cannot find availability at a test center that falls within a 50-mile radius of either the candidate's residence and/or his or her higher education program, whichever is less distance, to explore available test dates at a test center location most convenient to him or her. If necessary, as determined by NYSED, the contractor shall add additional time to test center operational hours to accommodate test demand. The contractor's test reservation system allows the contractor to offer multiple testing appointments to candidates in a consultative manner in real time. The contractor will consult with the candidate to identify test center locations with availability within thirty (30) days of the desired date of testing.

If the contractor does not have an established testing center within a 50-mile radius, the contractor should conduct a thorough analysis to identify IHEs and other possible test sites. The contractor will reach out to any IHEs or other possible test site that are found to be outside of the 50-mile radius in order to recruit them to become authorized test centers, provided that they meet the contractor's requirements and sign the contractor's standard testing-center agreement. In the event that the contractor is unable to successfully recruit an IHE or other test site in the area outside of a 50-mile radius of any contractor test center, the contractor will work extensively with the nearest test center to add additional testing sessions and hours of availability. As an additional option, the contractor will also explore the feasibility of conducting multiple testing events in remote areas of New York State to accommodate the demand for testing.

The contractor shall provide NYSED with a comprehensive list of all available computer-based testing centers upon request. The contractor will work to develop operating hours and the capacity to support the demand for the program. The contractor will also, upon mutual agreement with NYSED, identify and implement other services that are deemed relevant and value-adding for New York State teacher certification candidates.

The contractor shall monitor testing-hour demands and will explore testing center network expansion to meet those demands. The contractor will work with NYSED to identify additional areas of the State that are in need of computer-based testing centers.

1.11 Computer-Based Testing Administration

As part of its plan to comply with the 50-mile radius requirement, explained in Section 1.10, the contractor must establish a minimum of 50 operational computer-based testing centers, distributed across New York State, by October 1, 2016. In addition, the contractor must increase this number to a minimum of 75 operational computer-based testing centers by October 1, 2017.

All NYSTCE exams should be administered as computer-based tests and be available by appointment for year-round test administration, Monday through Saturday (excluding some holidays). Prospective registrants should be able to view real-time seat availability and review testing center locations before selecting their preferences.

1.12 Score Reporting

The contractor must report scores to candidates within thirty (30) business days from the date of testing, except in specific circumstances approved by NYSED.

The contractor is also responsible for the reporting of all scores as required by NYSED via institution score reports to NYSED and all designated New York State institutions of higher education (see: <http://eservices.nysed.gov/collegedirectory/index.htm>), in coordination with NYSED's informational technology office. Additionally, the contractor is responsible for all required Federal and State reporting, including Title II reporting and any reports requested by NYSED.

As part of the federal reporting requirements for Title II, Section 207, of the Higher Education Act, pass rate data on the entirety of the NYSTCE Program administered under this contract, including the Educational Leadership Assessments, as well as enrollment and programmatic information, must be collected for each of the approximately 114 New York State institutions of higher education with registered teacher- and/or school leadership-preparation programs. This requires the collaborative efforts of institutions of higher education, NYSED, and the contractor. The same data-collection process will be used to meet New York State requirements for reporting teacher certification testing scores for program completers pursuant to New York State Commissioner's Regulation 8 NYCRR §52.21.

Data will be collected electronically via interactive, web-based survey forms and will include, but may not be limited to: a listing of all examinees by the last five digits of their social security numbers, subject concentration area(s), certificate title area(s), and dates of birth; test scores for each and every assessment by form, administration site, administration date, and any other criteria as required by NYSED; and additional teacher- and school leadership-preparation data regarding student teachers, leaders, and faculty: as well as other identifying information. All of the information will need to be collected, reviewed, and in some instances requests will need to be made for clarification in the interest of providing the greatest level of accuracy and completeness. The work plan must include a procedure for this data review. Each cohort will require a follow-up study. A separate report must be prepared for each cohort.

The contractor will provide a full-time staff member to take responsibility for all aspects of the mandatory Title II data collection and reporting requirements. Responsibilities will include, but may not be limited to, serving as liaison to both NYSED and the institutions of higher education.

The reporting requirements for Title II may change during the duration of the term of the contract resulting from this RFP. The contractor will be required to collaborate with NYSED OTI to revise the data-collection process as needed and provide reports as Title II requires. Reports required by for NYSED may also be revised, based on changes to Regents policy on data collection.

1.13 Study Guides and Practice Tests

The contractor will develop and/or provide access via the internet to test bulletins and study guides, in order to assist candidates in preparing to take each of the NYSTCE Program assessments. All study guides will contain, at a minimum, the competencies to be measured, descriptions of performance assessment and rating procedures, and at least one sample item per competency. These study guides must be provided to all candidates at no charge. (See http://www.nystce.nesinc.com/NY_viewSG_opener.asp for current study guides.) The contractor will be responsible to provide appropriate internet accessibility, subject to NYSED approval, for all test-registration bulletins, study guides, and registration processes that are available via the internet, and provide these in alternate formats for individuals with disabilities. Throughout the contract period, the contractor will continue to develop and enhance materials and services to assist examinees. The contractor must provide study guides for each assessment. Full-length, computer-based practice tests shall be provided to candidates by the contractor for each high-incidence ($N > 1,000$) custom-designed assessment at a cost not to exceed \$30. NYSED would prefer for the contractor to provide a full-length, computer-based practice test for each mid-incidence ($N = 500 - 1,000$) test as well, if feasible. Practice tests must be an accurate reflection of any existing test (same number of and types of questions). Practice tests shall be updated at least once a year, and the candidate shall receive a raw score on the computer-based selected-response items within practice tests, and access to a sampler exemplar response for any constructed-response tasks.

1.14 Examination Fees

All proposed fees to be paid by individual test takers must be included in the proposal. For the purpose of proposal development, the contractor should take into account actual examinee numbers for those tests/assessments administered during the 2014-15 program year, listed in Section 5.1 - Attachment A: New York State Teacher Certification Examinations. NYSED does not guarantee the actual numbers of future examinees for the contract period. The cost proposed by the contractor to administer the test to one candidate during any year of the new contract term may not exceed by greater than 20% the current cost as shown in Chart 1.3.1: New York State Teacher Certification Examinations of this RFP. For all CSTs, excluding multi-subject CSTs, the cost proposed by the contractor may not exceed by greater than 20% the current cost of the Redeveloped CST (\$149).

In proposing fees, the contractor should consider the current NYSTCE Program fee structure, the relative cost of each assessment in relation to the life earnings of credential holders, and the public policy consideration for a reasonable and stable fee structure.

Proposals must include proposed examination fees; broken down by assessment, on the Bid Form Cost Proposal in **Package C of 6) Proposal Submission Document Packages A-D**. Proposals must include plans for the fingerprinting of all registrants.

1.14.1 Fee Vouchers

Annually, at the start of each administration year, the contractor must provide, at no cost to candidates, NYSED or the IHEs receiving them, 4,000 fee-vouchers for NYSTCE assessments on behalf of NYSED. Vouchers will be distributed to candidates with financial need to enable them to take the required NYSTCE exams. The 4,000 fee-vouchers will be provided as follows:

1. 2,000 vouchers to cover the full test fee for the Academic Literacy Skills Test (ALST)
2. 1,000 vouchers to cover the full test fee for the Educating All Students Test (EAS)
3. 1,000 vouchers to cover the full test fee for a Content Specialty Test (CST).

The contractor must distribute these vouchers to NYS IHEs and NYSED, based on information provided by the OTI. The NYSTCE vouchers must cover the cost of one of the following exams: ALST, EAS, or CST. For the Multi-Subject CST exams, the fee voucher must cover the cost for a single administration of one, two, or all three parts.

1.15 Additional Fees

The contractor is permitted to charge the test takers the following maximum additional fees:

Additional copy of test results (per copy)	\$20
Test rescoring	\$30
Charge for processing a disputed credit card charge or personal check returned by a bank	\$30
Change of registration	\$20

1.16 Fee Reporting

The numbers of candidates participating in the assessments may change each year. The contractor will report annually to NYSED on the fees collected (exam fees as well as practice tests and all additional fees) and its direct costs of providing the services.

1.17 Program Management and Staffing

The contractor must submit thorough documentation demonstrating personnel experience and expertise that are congruent with staff assignments for all aspects of the tasks outlined in the RFP. Throughout the duration of the contract, the contractor shall provide plans and procedures for ensuring that staffing is commensurate with the project's scope of work, and immediately notify NYSED of any changes in key staffing, including changes in key staffing of any subcontractors. NYSED reserves the right to review and approve any proposed changes in key staffing and/or subcontractors. Detailed and sufficient information should be presented to NYSED as to the efficacy of the proposed staffing solutions for this project and organizational arrangements of the same. This information should include:

1. an organizational diagram that indicates staffing arrangements for this project
2. time commitments of the proposed staff that are described in terms of projected average number of hours per week devoted exclusively to this contract
3. a detailed description of the responsibilities of all proposed staff
4. detailed resumes for all key staff members associated with this project

The contractor must identify a program manager to be the central point of contact with NYSED for this contract. The program manager and all other key staff, including content specialists, development supervisors, and research staff, must be identified, in writing, by name and

experience. Current resumes for these key staff members, and any other key staff, should be included as part of the proposal. Contractors are expected to demonstrate that the individual identified as a program manager has sufficient authority and experience across departments within the organization to ensure that the work of the contract has the necessary priority to be completed with the highest quality and on time.

The program manager must have a minimum of a bachelor's degree or project management certification through the Project Management Institute (PMI) as a Project Management Professional (PMP), or other recognized program management certification. If the proposed program manager holds such certification, evidence of the certification should be included in the proposal. The project manager should have at least three years' experience managing large-scale assessment projects from conception through completion, following industry-recognized project-management methodology. Previous experience in projects involving education certification examinations, professional licensing examinations, or elementary-, intermediate-, and/or secondary-level testing is expected. The program manager is expected to have strong organizational and managerial skills and a demonstrated knowledge of testing procedures. A detailed resume and two professional references that attest to the individual's qualifications and experience should be included with the proposal.

1.17.1 Program Manager Responsibilities

The Program Manager will have the following responsibilities:

1. travel to Albany for an introductory meeting with NYSED staff within thirty (30) days of final contract approval
2. develop and submit an annual detailed project plan for review and approval by NYSED that will provide an overall analysis of the methods that the contractor will utilize to perform all aspects of the contract in the required timeframe
3. ensure that no work will be performed on the project until NYSED has approved the contractor's work plan
4. maintain accurate, up-to-date information on the current status of all contractor and subcontractor(s) work on the project, and promptly communicate such information to NYSED
5. coordinate and participate in quarterly review meetings and weekly conference calls to discuss the project status and any issues related thereto. Note that in the first year of the contract, quarterly meetings must be conducted in person at NYSED's office in Albany, New York. Following the first year, up to two of the four quarterly meetings may be conducted by webinar or conference calls, rather than in person
6. provide meeting minutes to NYSED within one (1) week following each quarterly review meeting
7. provide written statements regarding any and all important decisions made during weekly conference calls
8. submit bi-weekly reports that include the following:

1. a current, detailed list of all work and activities completed and in progress, with corresponding dates;
 2. a detailed list of upcoming work;
 3. a list of all information needed from NYSED in order for work to proceed; and
 4. external dependencies, if any, that may affect the schedule, and the variance by which they would affect the schedule; and with the understanding that all dates must correspond to all timelines and schedules for deliverables.
9. submit all deliverables and other work products to NYSED in the manner designated by NYSED for review and approval prior to any release or distribution by the contractor
 10. proofread all materials appropriately for errors
 11. submit materials to NYSED according to a mutually agreed-upon timeline to allow for appropriate review
 12. oversee the development and implementation of changes, as necessary, to ensure that the project remains within the specified scope and is within time, cost, and quality objectives

1.17.2 Notification Procedures

In the event that a problem or potential problem arises with regard to quality, timeliness, security, or any other issue with respect to deliverables and services at any time during the contract term, regardless of when the problem arises, the program manager must immediately notify the Assistant Commissioner for the Office of Assessment, Standards, and Curriculum, the Director of State Assessment, and the Assistant Director of the OTI, or their designees, via telephone and in writing of the issue and the contractor's proposed solution, and shall also include the issue and NYSED-approved solution on any subsequent report(s).

In the event that a delay in performance occurs as a result of a force majeure, the affected party will contact the other party in writing as soon as the delay is known and provide a written contingency plan. The non-affected party acknowledges that the affected party will not be held liable for failure to perform any provision of the contract if such failure is caused by a force majeure. Should such events occur, the contractor will use financially reasonable efforts to overcome the difficulties and will resume work as soon as reasonably possible. Notwithstanding the foregoing, if the force majeure continues beyond thirty (30) days, the parties shall decide on an appropriate course of action that will permit fulfillment of the parties' objectives hereunder.

1.17.3 NYSED Approval

NYSED shall have approval authority over all aspects of the work detailed in this RFP, including, but not limited to, test items and forms; all materials, products, and services produced by the contractor; PowerPoint™ presentations, conversion charts, and all other printed materials produced for this project; all test forms produced in braille or large type, before final copies are provided to candidates; all development and operational plans for scaling and equating and standard setting; all schedules, including training schedules, rollout schedules, implementation schedules and scoring/reporting schedules; all reports, including technical reports and score

reports; and any changes to key project staff, including the program manager, content development staff, psychometricians, or research staff, on and after award of the contract and commencement of work for the duration of the contract.

Any changes to services or deliverables under this procurement must be in accordance with a written description that clearly justifies the need for the change and that identifies the rationale for the change. The New York State Office of the State Comptroller is the only entity that has the authority to approve the modification of an agreement between NYSED and a contractor. No work that is not already contracted for should be started by a contractor prior to its official approval by NYSED and then the Office of the State Comptroller.

1.17.4 Security Procedures and Requirements

The contractor should describe its security procedures in handling large-scale testing products. The contractor's security procedures will include secure shipment of all materials, using a carrier with ground-tracking capability, whenever shipment of printed materials to NYSED is necessary. NYSED requires that the contractor ship in this manner, with no electronic transfer of individual test taker information or any secure test materials, unless authorized by NYSED to do on a case-by-case basis. Electronic transfer includes transfer via e-mail, Internet, or facsimile (FAX).

The contractor will host and maintain a secure file transfer protocol (SFTP) site as a means of file transfer. Access to the New York State test information on the site must be limited to the contractor and NYSED unless further sharing with other parties is authorized in writing by NYSED.

The contractor may not disclose any secure test materials related to NYSTCE custom-developed tests, including test questions, whether in draft or final form, to anyone other than NYSED Office of Teaching Initiatives (OTI) staff, Office of State Assessment (OSA) staff, or other person(s) participating in the work described above. It is also agreed that the contractor will not disclose such materials to any NYSED staff other than OTI and OSA staff without the prior permission of the OTI and OSA.

Upon completion of the work described above, the contractor agrees to return to OTI and OSA all secure test materials owned by NYSED that were provided to or prepared by the contractor, including the content or design, test questions and all copies thereof and all notes, ensuring that secure test materials are not copied or duplicated in any way, or shared with or discussed with anyone other than OTI and OSA staff or other person(s) authorized by OTI and OSA. The contractor must agree to immediately report to OTI and OSA if any non-secure materials appear to contain secure test materials or materials that are substantially similar to secure test materials, and to report to OTI all teachers and administrators who engage in inappropriate conduct with respect to Teacher Certification Examinations, who may be subject to disciplinary actions in accordance with §§3020 and 3020-a of Education Law and/or to action against their certifications pursuant to Part 83 of the Regulations of the Commissioner of Education.

The contractor must require each individual who participates in committee work, scoring activities, or any other activities related to the NYSTCE during which he or she would have access to test items to sign a Non-Disclosure Agreement (see **Attachment E**), and must retain the signed forms for at least one year beyond the end date of the contract, and promptly submit the signed forms to NYSED upon request.

1.17.5 Monitoring and Evaluation

NYSED will monitor and evaluate the progress of the contractor in meeting contract specifications, through pre-arranged conference calls and review of the contractor's biweekly reports. This evaluation will emphasize the psychometric appropriateness of all aspects of the project and the contractor's ability to continue to meet timelines and supply deliverables.

The contractor will retain and update records and accounts on a monthly basis and must be able to prepare and submit student level data, statistical, narrative, and/or financial summaries related to the contract resulting from this RFP as requested by NYSED.

1.17.6 Qualifications and References

Contractors should document their experience in the types of standardized testing activities enumerated in this RFP. Qualifications for scaling and equating, scoring of multiple-choice and constructed-response items, research, test data analysis, preparation of technical reports, and conducting of standard settings should also be documented. Contractors should demonstrate the capacity to complete this project through the use of their own hardware and software, except for any components that the contractor proposes to subcontract.

The proposal should include a minimum of three current professional references to substantiate these qualifications. Current shall mean relevant within the past three years. The contractor should include the names, titles, company names, addresses, phone numbers, and e-mail addresses of the references. Do not use NYSED or Regents Research Foundation staff as references. The proposal should also include the dates of service and a brief summary of the services provided.

1.17.7 Contract Period

NYSED will award one contract pursuant to this RFP with a term of three years and two months, anticipated to begin July 1, 2016 and to end August 31, 2019, with the option to extend for two additional one-year periods (September 1, 2019 through August 31, 2020 and September 1, 2020 through August 31, 2021).

Each extension for an additional one-year period would be dependent upon:

1. the successful completion of all contract activities for the previous period
2. successful negotiation of a scope of continued services (which may simply be the continuation of the same services described in the original agreement)
3. the mutual agreement of both parties
4. approval of a contract extension agreement by the NYS Comptroller as described in Section 3 of **Appendix A**, which is contained in this document.

At the end of any contract term otherwise provided for herein, if a replacement contract has not yet been approved in accordance with State law, any contract awarded hereunder may be extended unilaterally by the State, upon notice to the contractor, at the same terms and conditions, including all contract pricing, for a period of one month. Additionally, this extension

may be for a period of up to three months, with the concurrence of the contractor. However, any extension will terminate immediately upon approval of the replacement contract, except where a period of transition between contractors has been provided for in advance.

1.17.7.1 CPI Adjustment

For each additional one-year period (September 1, 2019 through August 31, 2020 and September 1, 2020 through August 31, 2021) the prices agreed upon during the existing contract term may be increased or decreased by the same percentage as the change in the Consumer Price Index (all items) for All Urban Consumers (CPI-U) during the previous 12 calendar months ending January 31, 2019 and January 31, 2020, respectively, as reported by the U.S. Department of Labor Bureau of Labor Statistics in the CPI Detailed Report.

1.17.8 Staff Changes

The contractor will maintain continuity of the staff throughout the course of the contract. All changes in key staff will be subject to NYSED approval. The replacement staff with comparable skills will be provided at no additional cost.

1.17.9 Contract Transition

Upon completion or termination of the contract awarded as a result of this RFP, the contractor agrees to use its best efforts to assist NYSED in completing an efficient transition to any successive contractor and/or NYSED. This shall include, but not be limited to, assisting NYSED in developing and implementing a feasible transition plan and providing any information reasonably useful to and requested by NYSED in advance of the anticipated expiration, cancellation, or termination of the contract. The contractor agrees to cooperate fully with any successive contractor and NYSED and refrain from any activity that would interfere with the successful implementation of an efficient transition.

The contractor shall provide all items, reports, data, equipment, and materials related to the project and owned by NYSED in the contractor's possession, and any information useful to and requested by NYSED in developing an RFP for a successive contractor. The contractor will work with NYSED to determine the method of providing data that will optimize the reuse of this data by NYSED or any successive contractor. The contractor will also provide NYSED with a list of all computer programs and software tools necessary to allow an end user to read and export any data provided by the contractor under this contract.

1.17.10 Ownership

NYSED is the sole owner of outputs resulting from the work proposed in the RFP as they relate to all NYSTCE tests listed in **Section 1.3.1** including, but not limited to, test items, item statistics, data files, scoring tables, conversion charts, standard-setting presentations, student level data collected from IHEs, data collected from test takers and technical reports generated under this contract. The contractor should be prepared to deliver all or part of these outputs to NYSED at any point during the term of the contract. These materials can be used only by NYSED. Ownership rights are more fully set forth in **Appendix A-1**, of this RFP.

Materials can be used by the contractor or other parties only with the written permission of NYSED. The contractor cannot use NYSED-owned materials for any of their other contracts

within New York State or for contract work in other states. All such outputs are to be turned over to NYSED in print and electronic form, as specified by NYSED, on at least a yearly basis.

The contractor shall reproduce, use, display, and include copies of NYSED's trademarks, trade name, logos, copyrights, and other intellectual property (collectively, the "Marks") on all copies of materials produced for NYSED. The contractor acknowledges that the Marks are owned solely and exclusively by NYSED, and nothing contained in the resulting contract gives the contractor any ownership rights or interest in such Marks.

Notwithstanding the above, all processes, procedures, methodologies, software, and trade secrets of the contractor that were developed and owned by the contractor prior to the date of this contract, including any modifications or revisions thereof, are and shall remain the intellectual property of the contractor.

All personally identifiable data provided by test takers during the registration for or administration of the test, and all test data resulting from administration of the test (including but not limited to test scores) shall belong to NYSED. Any personally identifiable data in the possession of the contractor must be destroyed as soon as it is no longer needed for the purposes set forth in this Agreement, in compliance with the requirements of FERPA, and the contractor shall provide written confirmation of destruction.

1.17.11 Construction of Examination/Defense of Examination

The contractor agrees to cooperate with NYSED with respect to any challenge to an examination and, if necessary, provide, at no expense to NYSED, experts, evidence, witness testimony, or other documentation necessary, within reason, to refute a challenge to the validity, reliability, or any other aspect of the development, administration, scoring or any other deliverable of the contractor or related to the contractor's responsibilities under the terms of the contract resulting from this RFP for five (5) years from the date that the activity occurred.

1.17.12 Quality Control

NYSED has exacting standards for its assessment program, and will impose stringent quality controls on the contract work that results from this RFP. NYSED requires the contractor to:

1. work cooperatively with other contractors performing work for NYSED as requested by NYSED;
2. produce deliverables as requested and according to the work plan agreed upon with NYSED;
3. provide NYSED with evidence that all tests adequately measure the KSAs necessary for teaching in New York State, are psychometrically sound, and can be shown to be defensible as employment tests as per the Guardians' Test;
4. institute a plan for cheating recognition, including identity fraud; and
5. implement a plan for monitoring item exposure.

1.17.13 Subcontracting Limit

Subcontracting will be limited to 30% of the total contract value. Subcontracting is defined as non-employee direct personal services and related incidental expenses, including travel.

For contractors using subcontractors, a Vendor Responsibility Questionnaire and a NYSED Vendor Responsibility Review are required in instances in which:

1. the subcontractor is known at the time of the contract award;
2. the subcontractor is not an entity that is exempt from reporting by OSC; and
3. the subcontract will equal or exceed \$100,000 over the life of the contract.

For additional information about vendor responsibility, see Vendor **Responsibility** in section **3) Evaluation Criteria and Method of Award** of this RFP.

If the contractor proposes to change subcontractors during the contract period, NYSED must be notified prior to the change. NYSED reserves the right to reject any replacement subcontractors proposed by the contractor, and reserves the right to approve all changes in subcontractors. The Subcontracting Form, located in **Package A-Submission Documents of 6) Proposal Submission Document Packages A-D**, must be updated annually and submitted to NYSED. Using this form, the contractor must also report to NYSED, on an annual basis, actual expenditures incurred for all subcontractors, and indicate which subcontracting costs are associated with M/WBE.

1.17.14 M/WBE and Equal Employment Opportunities Requirements: Contractor Requirement and Obligation under New York State Executive Law, Article 15-A (Participation by Minority Group Members and Women with Respect to State Contracts)

In an effort to eradicate barriers that have historically impeded access by minority group members and women in State contracting activities, Article 15-A, of the New York State Executive Law §310-318, (Participation By Minority Group Members and Women With Respect To State Contracts) was enacted to promote equality of economic opportunities for minority group members and women.

The New York State Education Department (“NYSED”) has enacted its policies Equal Opportunity, Non-Discrimination and Affirmative Action and on Minority and Women-Owned Business Enterprise Procurements, consistent with the requirements as set forth under the provisions of Article 15-A (the “Article”) incorporated by reference, requiring Contracting Agencies to implement procedures to ensure that the “contractor” (as defined under Article 15-A, §310.3, contractor shall mean an individual, a business enterprise, including a sole proprietorship, a partnership, a corporation, a not-for-profit corporation, or any other party to a state contract, or a vendor in conjunction with the award of a state contract or a proposed party to a state contract), complies with requirements to ensure Equal Employment Opportunities for Minority Group Members and Women, in addition to providing Opportunities for Minority and Women-Owned Business Enterprises on all covered State contracts.

In keeping with the intent of the Law, it is the expectation of the Commissioner of NYSED and the responsibility of all contractors participating in and/or selected for procurement opportunities with NYSED, to fulfill their obligations to comply with the requirements of the Article and its implementing regulations.

In accordance with these requirements, the contractor hereby agrees to make every good faith effort to promote and assist the participation of certified Minority and Women-Owned Business Enterprises (M/WBE) as subcontractors and suppliers on this project for the provision of services and materials in an amount at least equal to the M/WBE goal (Included in the procurement document) as a percentage of the total dollar value of this project. In addition, the contractor shall ensure the following:

- 1) All State contracts and all documents soliciting bids or proposals for State contracts shall contain or make reference to the following provisions:
 - a) The contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability, marital status, gender, religion, veteran status, sexual orientation, genetic disposition, or carrier 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.

For purposes of the Article, affirmative action shall mean recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff or termination, and rate of pay or other forms of compensation.
 - b) The contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability, marital status, gender, religion, veteran status, sexual orientation, genetic disposition, or carrier status, and that such union or representative will affirmatively cooperate in the implementation of the contractor's obligation herein.
 - c) The contractor shall state in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability, marital status, gender, religion, veteran status, sexual orientation, genetic disposition, or carrier status.
- 2) The contractor will include the provisions of subdivision one of this section in every subcontract as defined under §310.14, except as provided under §312.6 of the Article, in such a manner that the provisions will be binding upon each subcontractor as to work in connection with the State contract.
- 3) The contractors or subcontractors shall comply with the requirements of any federal law concerning equal employment opportunity, which effectuates the purpose of this section.

- 4) The contractors and subcontractors shall undertake programs of affirmative action and equal employment opportunity as required by this section.² In accordance with the provision of the Article, the bidder will submit, with their proposal, Staffing Plan (EEO 100).
- 5) Certified businesses (as defined under Article 15-A, §310.1 means a business verified as a minority or women-owned business enterprise pursuant to §314 of the Article) shall be given the opportunity for meaningful participation in the performance of this contract, to actively and affirmatively promote and assist their participation in the performance of this contract, so as to facilitate the award of a fair share of this contract to such businesses.³
- 6) The contractor shall make a good faith effort to solicit active participation by enterprises identified in the Empire State Development (“ESD”) directory of certified businesses, which can be viewed at:
<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp?TN=ny&XID=4687>.

The contractor must document its good faith efforts as set forth in 5 NYCRR 142.8. This document, Contractors Good Faith Efforts, can be found in the M/WBE Submission Documents.
- 7) The contractor shall agree, as a condition of entering into said contract, to be bound by the provisions of Article 15-A, §316.
- 8) The contractor shall include the provisions set forth in paragraphs (6) and (7) above, in every subcontract in a manner that the provisions will be binding upon each subcontractor as to work in connection with this contract.
- 9) The contractor shall comply with the requirements of any federal law concerning opportunities for M/WBEs which effectuates the purpose of this section.
- 10) The contractor shall submit all necessary M/WBE documents and/or forms as described above as part of their proposal in response to NYSED procurement.
- 11) The percentage goals established for this RFP are based on the overall availability of M/WBEs certified in the particular areas of expertise identified in this RFP. These goals should not be construed as rigid and inflexible quotas that must be met, but as targets reasonably attainable by means of applying every good faith effort to make all aspects of the entire Minority and Women-Owned Business Program work.
- 12) The contractor shall ensure that enterprises have been identified (M/WBE 102) within the Utilization Plan, and the contractor shall attempt, in good faith, to utilize such enterprise(s) at least to the extent indicated in the plan, as to what measures and procedures contractor intends to take to comply with the provisions of the Article.

² Notice – Contractors are provided with notice herein, NYSED may require a contractor to submit proof of an equal opportunity program after the proposal opening and prior to the award of any contract. In accordance with regulations set forth under Article 15-A §312.5, contractors and/or subcontractors will be required to submit compliance reports relating to the contractor’s and/or subcontractor’s program in effect as of the date the contract is executed

³ Should the contractor identify a firm that is not currently certified as an M/WBE, it should request that the firm submit a certification application to the NYSED M/WBE Program Unit by the deadline for submission of proposals for eligibility determination. NYSED will work with ESD to expedite the application, however, it is the responsibility of the contractor to ensure that a sufficient number of certified M/WBE firms have been identified in response to this procurement, in order to facilitate full M/WBE participation.

13)The contractor shall, upon written notification from the NYSED M/WBE Program Unit as to any deficiencies and required remedies thereof, within the period of time specified, submit compliance reports documenting remedial actions taken and other information relating to the operation and implementation of the Utilization Plan.

14)Where it appears that a contractor cannot, after a good faith effort, comply with the M/WBE participation requirements, the contractor may file a written application with the NYSED M/WBE Program Unit, requesting a partial or total waiver (M/WBE 101) of such requirements and setting forth the reasons for such contractor’s inability to meet any or all of the participation requirements, together with an explanation of the efforts undertaken by the contractor to obtain the required M/WBE participation.

For purposes of determining a contractor’s good faith efforts to comply with the requirements of this section or be entitled to a waiver, NYSED shall consider at the least the following:

1. Whether the contractor has advertised in general circulation media, trade-association publications and minority-focused and women-focused media and, in such event;
 - 1.) Whether or not the certified M/WBEs that have been solicited by the contractor exhibited interest in submitting proposals for a particular project by attending a pre-bid conference; and
 - 2.) Whether certified businesses solicited by the contractor responded in a timely fashion to the contractor’s solicitations for timely competitive bids prior to the contracting agency’s deadline for submission of proposals.
2. Whether there has been written notification to appropriate certified M/WBEs that appear in the Empire State Development website, found at:
<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp?TN=ny&XID=4687>.

All required Affirmative Action, EEO, and M/WBE forms to be submitted along with bids and/or proposals for NYSED procurements are attached hereto. Bidders must submit subcontracting forms that:

1. fully comply with the participation goals specified in the RFP; OR
2. partially comply with the participation goals specified in the RFP, and include a request for partial waiver, and document its good faith efforts to fully comply with the participation goals specified in the RFP; OR
3. do not include certified M/WBE subcontractors or suppliers, and include a request for a complete waiver, and document its good faith efforts to fully comply with the participation goals specified in the RFP.

All M/WBE firms are required to be certified by Empire State Development (ESD) or must be in the process of obtaining certification from ESD. Online Certification can be found at:
<https://ny.newnycontracts.com/FrontEnd/StartCertification.asp?TN=ny&XID=2029>.

Failure to comply with the requirements of Article 15-A as set forth under this procurement and in conjunction with the corresponding contract, will result in the withholding of associated funds and other enforcement proceedings set forth under Article 15-A.

2) PROPOSAL SUBMISSION

2.1 Submission Document Packages to Be Submitted with This Proposal

This section details the proposal submission document packages A - D found in **Section 6** of this RFP that are expected to be transmitted by the contractor to NYSED in response to this RFP. The submission, which includes various terms and conditions reflecting the specific needs of this project, will become the basis on which NYSED will judge the contractor's ability to perform the required services as laid out in the RFP. Package B-The Technical Proposal and Package C-Cost Proposal will be evaluated based on a total possible score of one hundred (100) points: seventy (70) total points from the Technical Proposal and thirty (30) total points from the Cost Proposal. Various terms and conditions reflecting the specific needs of this project are included.

The proposal submitted in response to this RFP must include the following **Proposal Submission Document Packages A-D**, and the packages must be submitted in separately sealed envelopes.

A. Package A—Submission Documents – The original plus One (1) copy labeled Submission Documents — RFP #15-035 Do Not Open

B. Package B—Technical Proposal - The original plus Seven (7) copies labeled Technical Proposal—RFP #15-035 Do Not Open

C. Package C—Cost Proposal – The original plus Two (2) copies labeled Cost Proposal — RFP #15-035 Do Not Open

D. Package D—2 CD-ROMs containing Packages A through C: the Technical and Cost Proposals and Submission Documents, submitted using Microsoft Word. Place Package D in a separate envelope labeled CD-ROMs — RFP #15-035 Do Not Open.

The proposal must be received by NYSED in Albany, New York no later than **3:00 PM on March 1, 2016**.

Proposals should be prepared simply and economically, avoiding the use of elaborate promotional materials beyond those sufficient to provide a complete presentation. If supplemental materials are a necessary part of the proposal, the contractor should reference these materials in the technical proposal, identifying the document(s) and citing the appropriate section and page(s) to be reviewed.

The proposal must communicate an understanding of the deliverables of the RFP, describe how the tasks are to be performed, and identify potential problems in the conduct of the deliverables and methods to identify and solve such problems.

Contractors should specify all details and dates required to evaluate the technical proposal, and should limit aspects of the project plan that are to be determined only after the award of a contract. Optional deliverables to be provided only at an additional cost should not be included and, if included, will not be considered in the evaluation of the technical proposal. Contractual terms, conditions, and assumptions are inappropriate for inclusion in the proposal.

2.1.1 Package A— Submission Documents

All contractors must complete the Application Checklist in **Section 6.1.1** and submit forms and required narratives in the order listed in the checklist. The two (2) copies of the completed Submission Documents must be packaged separately from the other packages and labeled **RFP #15-035-Submission Documents-Do Not Open**

2.1.2 Package B—Technical Proposal

(70 total points)

Instructions for Technical Proposal:

The eight (8) copies of the completed Technical Proposal Package must be separate from the other packages and labeled **RFP #15-035-Technical Proposal-Do Not Open** and must include the following:

1. Narrative Statement regarding Quality of Technical Component, Methods, and Activity Plan as outlined below
2. Narrative Statement regarding Quality of Experience and Staffing, including Resumes of all Staff, as outlined below
3. Narrative Statement detailing the Quality and Security of Computer-Based Testing Methodology, as outlined below
4. Mandatory Requirements Certification, and

Each Technical Proposal Package received by the deadline and meeting the mandatory requirement will be reviewed and rated on the quality and extent to which the contractor meets the criteria enumerated as follows:

1. Quality of Technical Component, Methods, and Activity Plan

(35 total points)

The contractor should describe as clearly, specifically, and completely as possible the plan for carrying out the requirements of the RFP. For a contractor to be successful, the proposal should communicate an understanding of prior studies and research in the area, the activities and tasks to be undertaken, potential problems in the conduct of the work, and methods to identify and solve such problems. The proposal should include a cover page, and should describe the projects, services, and reports to be generated during the contract period, relating them to the stated purposes and specifications described in the RFP. Technical evidence relating to the contractor's ability to perform the proposed services should be appended to the proposal, as should evaluations of past efforts.

The proposal should also describe the technical approaches to be used in developing the project. The proposal should include specific measurement strategies deemed appropriate for the type(s) of assessments described, as well as supported assurances that the validity and reliability of these approaches and their respective products will be established and maintained. Subsections should be clearly headed and indexed. NYSED is vitally interested in maintaining both the psychometric validity and reliability of the NYSTCE Program and the fiscal continuity thereof, while seeking creative approaches to the proposed services. NYSED is interested in considering a wide range of sound, appropriate alternatives to traditional test formats. To the degree of specificity practical, the proposal will detail the activities to be undertaken. Timelines showing the beginning and ending times for all activities are to be included, as are the naming and identifying of each person responsible for critical products and services. The percent of

each of these individual's total time to be allocated to the project should be included.

Development of the Assessments

(15 points)

Under consideration here are the creative alternatives offered, responsiveness to the competencies to be measured, the soundness of the methodologies proposed and the rationales therefore (5 points), consideration of broad and particular issues of bias and access (5 points), use of committees, coordination of assessment components, item writing and field-test studies (5 points).

Job Analyses and Validations

(10 points)

Under consideration here are plans for sampling and gathering validation information, proposed methods for establishing criteria and pass points, the adequacy and validity of assessment components, plans for initial and ongoing validation studies, techniques for collecting and analyzing data, and the sequence and relationships of major steps.

Assessment Administration

(10 points)

Under consideration here is the strength of the plan for assessment administration, security, and delivery of services to candidates, the institutions administering them, and the schools and agencies that use their services.

2. Quality of Experience and Staff

(15 total points)

The contractor will provide satisfactory evidence of its capability to manage and coordinate the types of activities described in the RFP and to produce the specified project and services according to schedule. To provide information on a contractor's qualifications and ability to accomplish the described tasks, contractors should include in this section the following information:

1. Components of the organization; including projections on the use of local/regional consultants and resources.
2. Evidence and indications of the ability to perform tasks as described in **1) Description of Services to be performed**, including experience gained and products produced through work on similar projects. The names of any current and/or prior agency or agencies served, a description of the kinds of activities that were performed by the respondent, and the name of a contact person from each employing agency will be provided. Submissions of written evaluations by past employers are encouraged. Specifically, the proposal should include evidence of successful prior experience in assessment development, including the approaches proposed for each examination, and in conducting a large and varied assessment program, including administration, scoring, and reporting.
3. Current, detailed resume(s) of staff member(s) who will direct the overall project throughout the duration of the contract, as well as those of staff members who will coordinate major activities during each phase of the contract, and the amount of time that the personnel described will devote to fulfillment of the contract. (An attachment to the proposal should contain the resumes of project staff members.)

4. If the contractor plans to use external consultants or subcontractors, a staff organization plan and the resumes of consultants and/or subcontractors should be included. Any use of subcontractors under the resulting contract will require the approval of NYSED.
5. The proposal should include a statement that ensures that the contractor will not change project management personnel (named in the proposal) or subcontractors without the prior written consent of NYSED.
6. The contractor should provide criteria for the evaluation of the project's processes, timelines, and services, along with the rationale for those criteria.

Evaluation of Processes, Products, and Sources

(7 Points)

This refers to thoroughness of product description, interrelationship of project components, scheduling of project phases, and evidence of successful prior experience in assessment development, including the approaches proposed for each examination, and in conducting a large and varied assessment program, including administration, scoring, and The contractor should provide criteria for evaluating the project's processes, products, and services along with the rationale for those criteria. This criterion includes the financial and organizational experiences and ability of the respondent to meet the terms of this RFP, especially the time constraints and the quality, relevancy, and freshness of studies/projects completed by respondent.

Qualifications of Program Management and Staff

(8 points)

The proposal should provide documentation of experience working with large-scale assessment programs. The institutions for which such experience was accrued and the dates of such experience should be listed. In addition to an overview of the contractor's experience, the proposal should include a minimum of three (3) current and accurate professional references to substantiate the qualifications of the contractor. The contractor should include the names, titles, organization names, addresses, telephone numbers and e-mail addresses of the references. Do not use NYSED or Regents Research Foundation staff as references. The proposal should demonstrate that project staffing is commensurate with the project's scope of work, including detailed and sufficient information describing the efficacy of the proposed staffing solutions and organizational arrangements and demonstrating personnel experiences and expertise congruent with assignments. An organizational diagram that indicates staffing arrangements should be included. The proposal should include the names, qualifications, and detailed descriptions of the responsibilities of all proposed staff, and include each individual's time commitment to NYSED project. Detailed resumes for all staff members associated with this project should be included.

3. Quality and Security of Computer-Based Testing Methodology

(20 total points)

The contractor will provide satisfactory evidence of its capability of administering all assessments, utilizing a technology platform. Contractors should include in this section the following information:

1. A description of how the contractor's technology platform conforms to industry standards.

2. A description of how the contractor’s technology platform incorporates electronic item banking and automated form generation.
3. A description of how the contractor will ensure that all tests adequately measure the KSAs necessary for teaching in New York State, are psychometrically sound, and can be shown to be defensible as employment tests as per the Guardians’ Test.
4. A description of how the contractor will institute a plan for cheating recognition, including identity fraud.
5. A description of how the contractor will monitor for item exposure.

Quality of Computer-Based Testing Methodology (10 points)

The proposal should describe how the contractor’s technology platform conforms to industry standards. It should also describe in detail how their platform incorporates electronic item banking and automatic form generation. The description should include the proposed plan for question replacement, the percentage of overlap anticipated in each form, and system response time for updates.

Quality of Appropriate Security Measures (10 points)

The proposal should describe the contractor’s facilities, security procedures, storage and retrieval processes, surveillance, and procedures for the secure shipment of documents and transmission of data files. Appropriate handling of sensitive information in reports must also be described. Security must, at a minimum, be consistent with Section 1.17.4 and Attachment F.

2.1.3 Package C—Cost Proposal (30 total points)

Instructions for Cost Proposal:

The three (3) copies of the completed Cost Proposal Package must be separate from the other packages and labeled **RFP #15-035-Cost Proposal-Do Not Open** and must include the following:

1. Bid Form: Cost Proposal – NYSTCE Custom-Designed Tests
2. Subcontracting Form
3. M/WBE Subcontracting/Supplier Form

Cost Proposal documents are included within the RFP document for reference only. Please use the provided Excel workbook to prepare the Cost Proposal documents.

Each Cost Proposal Package received by the deadline will be reviewed and scored based upon the total of the weighted exam costs, as indicated on the Bid Form, for all NYSTCE component tests and enumerated as follows:

Bid Form Cost Proposal (30 total points)

The cost proposed by the contractor to administer the test to one candidate during any year of the contract term may not exceed by greater than 20% the current cost as shown in Section 1.3.1 of the RFP. For all CSTs, excluding multi-subject CSTs, the cost proposed by the vendor may not exceed by greater than 20% the current cost of the Redeveloped CSTs (\$149).

For purposes of calculating each contractor's score, the three-year total for each row of the bid form cost proposal is multiplied by a weighting factor that is based on the number of estimated examinations taken by candidates each year. These estimates are based on 2014-15 (Attachment A) as a base year.

2.1.4 Package E—2 CD-ROMs

Two (2) copies of the CD-ROM Document Package must be separate from the other packages and labeled **CD-ROM - RFP# 15-035 Do Not Open**. The submission documents, the technical proposal, and the cost proposal must be copied onto two (2) CD-ROMs for submission.

3) EVALUATION CRITERIA AND METHOD OF AWARD

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

An evaluation committee will complete a review of all technical proposals submitted that meet the requirements outlined in this RFP. The committee will review each bid, based upon the submitted proposal and the requirements of the RFP only. Contractors should not assume that reviewers will be familiar with the current program or have previous experience with the contractor. Appropriate description should be included to inform reviewers about the contractor's qualifications and capacity to perform all required deliverables. NYSED retains the right to determine whether any deviation from the requirements of the RFP is substantial in nature and may reject in whole or in part any and all proposals, waive minor irregularities, and conduct discussions with all responsible contractors.

3.1 Technical Criteria

(70 total points)

Each proposal received by the deadline will be reviewed and rated on the quality and extent to which the contractor meets the criteria enumerated in **Section 2.1.2** of this RFP.

Proposals receiving an average of at least 60% of the points available for the technical proposal (a total of 42 out of 70 points) will move to the next step of the process. Technical proposals that earn an average score of less than 42 points will be eliminated from further consideration.

3.2 Financial Criteria

(30 total points)

The Financial Criteria portion of the RFP will be scored based upon the total of the weighted exam costs for all NYSTCE component tests for all three (3) years in the Bid Form Cost Proposals. For purposes of calculating the cost score for each contractor, the three-year total for each row of the two submitted bid form cost proposals is multiplied by a weighting factor that is based on the number of estimated exam takers each year. These estimates are based on 2014-15 (Attachment A) as a base year.

The **financial portion** of the proposal represents **thirty (30) points** of the overall score, and each contractor will be awarded up to 30 points. The calculation of the cost score will be computed by the Contract Administration Unit (CAU) upon completion of the technical scoring by the technical review panel. The cost proposals will be awarded points pursuant to a formula which awards the highest score of 30 points to the proposal that reflects the lowest weighted exam cost. The remaining proposals will be awarded points based on a calculation that computes the relative difference of each proposal against the lowest cost proposal submitted. The resulting percentage is then applied to the maximum point value of 30 points.

NYSED reserves the right to request best and final offers. In the event NYSED exercises this right, all contractors that meet the minimum technical score will be asked to provide a best and final offer. Following contractor submission of best and final offers, the CAU will recalculate the financial scores.

3.3 Method of Award

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

The contract issued pursuant to this proposal will be awarded to the contractor whose aggregate technical and cost score is the highest among all the proposals rated. **If NYSED exercises the right to request best and final offers, the contract will be issued to the contractor with the highest aggregate technical and financial score that results from the best and final offers.**

In the event that more than one proposal obtains the highest aggregate score, the contract will be awarded to the contractor in that group of highest aggregate scores whose total weighted exam cost is lowest.

3.4 NYSED's Reservation of Rights

NYSED reserves the right to: (1) reject any or all proposals received in response to the RFP; (2) withdraw the RFP at any time, at the agency's sole discretion; (3) make an award under the RFP in whole or in part; (4) disqualify any contractor whose conduct and/or proposal fails to conform to the requirements of the RFP; (5) seek clarifications of proposals; (6) use proposal information obtained through site visits, management interviews and the state's investigation of a contractor's qualifications, experience, ability or financial standing, and any material or information submitted by the contractor in response to the agency's request for clarifying information in the course of evaluation and/or selection under the RFP; (7) prior to the bid opening, amend the RFP specifications to correct errors or oversights, or to supply additional information, as it becomes available; (8) prior to the bid opening, direct contractors to submit proposal modifications addressing subsequent RFP amendments; (9) change any of the scheduled dates; (10) waive any requirements that are not material; (11) negotiate with the successful contractor within the scope of the RFP in the best interests of the State; (12) conduct contract negotiations with the next responsible contractor, should the agency be unsuccessful in negotiating with the selected contractor; (13) utilize any and all ideas submitted in the proposals received; (14) unless otherwise specified in the solicitation, every offer is firm and not revocable for a period of 90 days from the bid opening; (15) require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of an contractor's proposal and/or to determine an contractor's compliance with the requirements of the solicitation; (16) request best and final offers.

3.5 Post-Selection Procedures

Upon selection, the successful contractor will receive a proposed contract from NYSED. All terms set forth in the selected contractor's technical proposal will be final. The selected contractor may be given an opportunity to reduce its cost proposal in accordance with the agency's right to negotiate a final best price. The contents of this RFP, any subsequent correspondence during the proposal evaluation period, and such other stipulations as agreed upon may be made a part of the final contract prepared by NYSED. Successful contractors may be subject to audit and should ensure that adequate controls are in place to document the allowable activities and expenditure of State funds.

3.6 Debriefing Procedures

All unsuccessful contractors may request a debriefing within five (5) business days of receiving notice from NYSED. Contractors may request a debriefing letter on the selection process regarding this RFP by submitting a written request to the Fiscal Contact person at:

NYS Education Department
Contract Administration Unit
89 Washington Avenue
Room 501W EB
Albany, NY 12234

The Fiscal Contact person will make arrangements with program staff to provide a written summary of the proposal's strengths and weaknesses, as well as recommendations for improvement. Within fifteen (15) business days, the program staff will issue a written debriefing letter to the contractor.

3.7 Contract Award Protest Procedures

Contractors who receive a notice of non-award may protest NYSED award decision subject to the following:

1. The protest must be in writing and must contain specific factual and/or legal allegations setting forth the basis on which the protesting party challenges the contract award by NYSED.
2. The protest must be filed within ten (10) business days of receipt of a debriefing letter. The protest letter must be filed with:

NYS Education Department
Contract Administration Unit
89 Washington Avenue
Room 501W EB
Albany, NY 12234

3. CAU will convene a review team that will include at least one staff member from each of NYSED's Office of Counsel, CAU, and the Program Office. The review team will review and consider the merits of the protest and will decide whether the protest is approved or denied. Counsel's Office will provide the Contractor with written notification of the review team's decision within seven (7) business days of the receipt of the protest. The original protest and decision will be filed with OSC when the contract procurement record is submitted for approval and CAU will advise OSC that a protest was filed.
4. CAU may summarily deny a protest that fails to contain specific factual or legal allegations, or where the protest only raises issues of law that have already been decided by the courts.

3.8 Vendor Responsibility

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

NYSED recommends that contractors 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/Contractor_index.htm or go directly to the VendRep System online at <https://portal.osc.state.ny.us>.

Contractors 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: ITServiceDesk@osc.state.ny.us.

Contractors 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 NYSED or the Office of the State Comptroller's Help Desk for a copy of the paper form.

Note: Contractors must acknowledge their method of filing their questionnaire by checking the appropriate box on the Response Sheet for Bids in Section 6.1 Package A—Submission Documents.

3.8.1 Subcontractors

For contractors using subcontractors, a Vendor Responsibility Questionnaire and a NYSED vendor responsibility review are required for a subcontractor when: the subcontractor is known at the time of the contract award; the subcontractor is not an entity that is exempt from reporting by OSC; and the subcontract will equal or exceed \$100,000 over the life of the contract.

3.9 Procurement Lobbying Law

Pursuant to State Finance Law §§139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between NYSED and the bidder/contractor during the procurement process. A bidder/contractor is restricted from making contacts from the earliest notice of the solicitation through final award and approval of the Procurement Contract by NYSED and, if applicable, Office of the State Comptroller ("restricted period") to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law §139-j(3)(a). Designated staff, as of the date hereof, is identified below. NYSED employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the

bidder/contractor pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four year period the bidder/contractor is debarred from obtaining governmental Procurement Contracts. Further information about these requirements can be found at the following web link: <http://www.oms.nysed.gov/fiscal/cau/PLL/procurementpolicy.htm>

Designated Contacts for NYSED
Program Office – **Victoria Mahar**
Contract Administration Unit – **Jessica Hartjen**
M/WBE – **Joan Ramsey**

3.10 Consultant Disclosure Legislation

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

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

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

Form A: <http://www.osc.state.ny.us/agencies/forms/ac3271s.doc>

Please note that although this form is not required as part of the bid submissions, NYSED encourages contractors to include them in their bid submission to expedite contract execution if the contractor is awarded the contract. Note also that only the form listed above is acceptable.

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

capture historical information, detailing actual employment data for the most recently concluded State fiscal year (April 1 – March 31). Form B: <http://www.osc.state.ny.us/agencies/forms/ac3272s.doc>

For more information, please visit OSC Guide to Financial Operations: <http://www.osc.state.ny.us/agencies/guide/MyWebHelp/>.

3.11 Public Officer's Law Section 73

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

4.(a) No statewide elected official, state officer or employee, member of the legislature, legislative employee or political party chairman or firm or association of which such person is a member, or corporation, ten per centum or more of the stock of which is owned or controlled directly or indirectly by such person, shall (i) sell any goods or services having a value in excess of twenty-five dollars to any state agency, or (ii) contract for or provide such goods or services with or to any private entity where the power to contract, appoint or retain on behalf of such private entity is exercised, directly or indirectly, by a state agency or officer thereof, unless such goods or services are provided pursuant to an award or contract let after public notice and competitive bidding. This paragraph shall not apply to the publication of resolutions, advertisements or other legal propositions or notices in newspapers designated pursuant to law for such purpose and for which the rates are fixed pursuant to law.

(i) The term "state officer or employee" shall mean: (i) Heads of state departments and their deputies and assistants other than members of the board of regents of the University of the State of New York who receive no compensation or are compensated on a per diem basis; (ii) Officers and employees of statewide elected officials; (iii) Officers and employees of state departments, boards, bureaus, divisions, commissions, councils or other state agencies other than officers of such boards, commissions or councils who receive no compensation or are compensated on a per diem basis; and (iv) members or directors of public authorities, other than multistate authorities, public benefit corporations and commissions at least one of whose members is appointed by the Governor, who receive compensation other than on a per diem basis, and employees of such authorities, corporations and commissions.

Public Officer's Law Section 73 can be found at <http://www.jcope.ny.gov/about/ethc/PUBLIC OFFICERS LAW 73 JCOPE.pdf>.

3.12 NYSED Substitute Form W-9

Any payee/contractor/organization receiving Federal and/or State payments from NYSED must complete NYSED Substitute Form W-9 if they are not yet registered in the Statewide Financial System centralized contractor file.

The NYS Education Department (NYSED) is using NYSED Substitute Form W-9 to obtain certification of a contractor's Tax Identification Number in order to facilitate a contractor's registration with the SFS centralized contractor file and to ensure accuracy of information contained therein. We ask for the information on NYSED Substitute Form W-9 to carry out the Internal Revenue laws of the United States.

3.13 Workers' Compensation Coverage and Debarment

New York State Workers' Compensation Law (WCL) has specific coverage requirements for businesses contracting with New York State and additional requirements which provide for the debarment of Contractors that violate certain sections of WCL. The WCL requires, and has required since introduction of the law in 1922, the heads of all municipal and State entities to ensure that businesses have appropriate workers' compensation and disability benefits insurance coverage *prior* to issuing any permits or licenses, or *prior* to entering into contracts.

Workers' compensation requirements are covered by WCL Section 57, while disability benefits are covered by WCL Section 220(8). The Workers' Compensation Benefits clause in **Appendix A – Standard Clauses for New York State Contracts** states that in accordance with Section 142 of the State Finance Law, a contract shall be void and of no force and effect unless the contractor provides and maintains coverage during the life of the contract for the benefit of such employees as are required to be covered by the provisions of the WCL.

Under provisions of the 2007 Workers' Compensation Reform Legislation (WCL Section 141-b), any person, or entity substantially owned by that person: subject to a final assessment of civil fines or penalties, subject to a stop-work order, or convicted of a misdemeanor for violation of Workers' Compensation laws Section 52 or 131, is barred from bidding on, or being awarded, any public work contract or subcontract with the State, any municipal corporation or public body for one year for each violation. The ban is five years for each felony conviction.

The Workers' Compensation Board has developed several forms to assist State contracting entities in ensuring that businesses have the appropriate workers' compensation and disability insurance coverage as required by Sections 57 and 220(8) of the WCL.

Please note – an ACORD form is not acceptable proof of New York State workers' compensation or disability benefits insurance coverage.

3.13.1. Proof of Workers' Compensation Coverage

To comply with coverage provisions of the WCL, the Workers' Compensation Board requires that a business seeking to enter into a State contract submit appropriate proof of coverage to the State contracting entity issuing the contract. For each new contract or contract renewal, the contracting entity must obtain ONE of the following forms from the contractor and submit to OSC to prove the contractor has appropriate workers' compensation insurance coverage:

- a. **Form C-105.2** – Certificate of Workers' Compensation Insurance issued by private insurance carriers, or
- b. **Form U-26.3** issued by the State Insurance Fund; or
- c. **Form SI-12**– Certificate of Workers' Compensation Self-Insurance, or
- d. **Form GSI-105.2** Certificate of Participation in Workers' Compensation Group Self-Insurance; or
- e. **CE-200**– Certificate of Attestation of Exemption from NYS Workers' Compensation and/or Disability Benefits Coverage.

3.13.2 Proof of Disability Benefits Coverage

To comply with coverage provisions of the WCL regarding disability benefits, the Workers' Compensation Board requires that a business seeking to enter into a State contract must submit appropriate proof of coverage to the State contracting entity issuing the contract. For each new contract or contract renewal, the contracting entity must obtain ONE of the following forms from the contractor and submit to OSC to prove the contractor has appropriate disability benefits insurance coverage:

1. **Form DB-120.1** - Certificate of Disability Benefits Insurance; or
2. **Form DB-155**- Certificate of Disability Benefits Self-Insurance; or
3. **CE-200**– Certificate of Attestation of Exemption from New York State Workers' Compensation and/or Disability Benefits Coverage.

For additional information regarding workers' compensation and disability benefits requirements, please refer to the New York State Workers' Compensation Board website at: <http://www.wcb.ny.gov/content/main/Employers/Employers.jsp>. Alternatively, questions relating to either workers' compensation or disability benefits coverage should be directed to the NYS Workers' Compensation Board, Bureau of Compliance at (518) 486-6307.

Please note that although these forms are not required as part of the bid submissions, NYSED encourages Contractors to include them in their bid submission to expedite contract execution if the contractor is awarded the contract. Note also that only the forms listed above are acceptable.

3.14 Sales and Compensating Use Tax Certification (Tax Law, §5-a)

Tax Law §5-a requires contractors awarded State contracts for commodities or services valued at more than \$100,000 over the full term of the contract to certify to the New York State Department of Taxation and Finance ("DTF") that they are registered to collect New York State and local sales and compensating use taxes, if they made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000, measured over a specific period of time. The registration requirement applies if the contractor made a cumulative total of more than \$300,000 in sales during the four completed sales tax quarters which immediately precede the sales tax quarter in which the certification is made. Sales tax quarters are June – August, September – November, December – February, and March – May. In addition, contractors must certify to DTF that each affiliate and subcontractor of such contractor exceeding such sales threshold during a specified period is registered to collect New York State and local sales and compensating use taxes. Contractors must also certify to the procuring State entity that they filed the certification with the DTF and that it is correct and complete.

The selected contractor must file a properly completed Form ST-220-CA (with OSC as the Contracting Agency within 48 hours of notification of selection for award) and Form ST-220-TD (with the DTF). These requirements must be met before a contract may take effect. Further information can be found at the New York State Department of Taxation and Finance's website, available through this link: <https://www.tax.ny.gov/pdf/publications/sales/pub223.pdf>.

Forms are available through these links:

- ST-220 CA: http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf
- ST-220 TD: http://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf

Please note that although these forms are not required as part of the bid submissions, NYSED encourages contractors to include them with their bid submissions to expedite contract execution if the contractor is awarded the contract.

4) ASSURANCES

The State of New York Agreement, Appendix A - Standard Clauses for all State Contracts, Appendix A-1 - Agency Specific Clauses, and Appendix R – Data Security and Privacy Plan WILL BE INCLUDED in the contract that results from this RFP. Contractors who are unable to complete or abide by these assurances should not respond to this request.

The documents listed below are included in **Package A—Submission Documents of 6) Proposal Submission Document Packages A-D**, all of which must be signed by a duly authorized signatory. Please review the terms and conditions. Certain documents will become part of the resulting contract that will be executed between the successful contractor and the NYS Education Department.

1. Non-Collusion Certification
2. MacBride Certification
3. Certification-Omnibus Procurement Act of 1992
4. Certification Regarding Lobbying; Debarment and Suspension; and Drug-Free Workplace Requirements
5. Contractor Disclosure of Prior Non-Responsibility Determinations
6. NYSED Substitute Form W-9 (If Contractor is not yet registered in the SFS centralized Contractor file.)
7. Iran Divestment Act Certification

4.1 State of New York Agreement

This AGREEMENT is hereby made by and between the People of the State of New York, acting through John B. King, Jr., Commissioner of Education of the State of New York and Chief Executive Officer of the Board of Regents of the University of the State of New York, party of the first part, hereinafter referred to as the (STATE) and the public or private agency (CONTRACTOR) identified on the face page hereof.

WITNESSETH:

WHEREAS, the STATE has the authority to regulate and provide funding for the establishment and operation of program services and desires to contract with skilled parties possessing the necessary resources to provide such services; and

WHEREAS, the CONTRACTOR is ready, willing and able to provide such program services and possesses or can make available all necessary qualified personnel, licenses, facilities and expertise to perform or have performed the services required pursuant to the terms of this AGREEMENT;

NOW THEREFORE, in consideration of the promises, responsibilities and covenants herein, the STATE and the CONTRACTOR agree as follows:

I. Conditions of Agreement

A. This AGREEMENT may consist of successive periods (PERIOD), as specified within the AGREEMENT or within a subsequent Modification Agreement(s) (Appendix X). Each additional or superseding PERIOD shall be on the forms specified by the particular State agency, and shall be incorporated into this AGREEMENT.

B. Funding for the first PERIOD shall not exceed the funding amount specified on the face page hereof. Funding for each subsequent PERIOD, if any, shall not exceed the amount specified in the appropriate appendix for that PERIOD.

C. This AGREEMENT incorporates the face pages attached and all of the marked appendices identified on the face page hereof.

D. For each succeeding PERIOD of this AGREEMENT, the parties shall prepare new appendices, to the extent that any require modification, and a Modification Agreement (The attached Appendix X is the blank form to be used). Any terms of this AGREEMENT not modified shall remain in effect for each PERIOD of the AGREEMENT.

To modify the AGREEMENT within an existing PERIOD, the parties shall revise or complete the appropriate appendix form(s). Any change in the amount of consideration to be paid, or change in the term, is subject to the approval of the Office of the State Comptroller. Any other modifications shall be processed in accordance with agency guidelines as stated in Appendix A1.

E. The CONTRACTOR shall perform all services to the satisfaction of the STATE. The CONTRACTOR shall provide services and meet the program objectives summarized in the Program Work plan (Appendix D) in accordance with: provisions of the AGREEMENT; relevant laws, rules and regulations, administrative and fiscal guidelines; and where applicable, operating certificates for facilities or licenses for an activity or program.

F. If the CONTRACTOR enters into subcontracts for the performance of work pursuant to this AGREEMENT, the CONTRACTOR shall take full responsibility for the acts and omissions of its subcontractors. Nothing in the subcontract shall impair the rights of the STATE under this AGREEMENT. No contractual relationship shall be deemed to exist between the subcontractor and the STATE.

G. Appendix A (Standard Clauses as required by the Attorney General for all State contracts) takes precedence over all other parts of the AGREEMENT.

II. Payment and Reporting

A. The CONTRACTOR, to be eligible for payment, shall submit to the STATE's designated payment office (identified in Appendix C) any appropriate documentation as required by the Payment and Reporting Schedule (Appendix C) and by agency fiscal guidelines, in a manner acceptable to the STATE.

B. The STATE shall make payments and any reconciliations in accordance with the Payment and Reporting Schedule (Appendix C). The STATE shall pay the CONTRACTOR, in consideration of contract services for a given PERIOD, a sum not to exceed the amount noted on the face page hereof or in the respective Appendix designating the payment amount for that given PERIOD. This sum shall not duplicate reimbursement from other sources for CONTRACTOR costs and services provided pursuant to this AGREEMENT.

C. The CONTRACTOR shall meet the audit requirements specified by the STATE.

III. Terminations

A. This AGREEMENT may be terminated at any time upon mutual written consent of the STATE and the CONTRACTOR.

B. The STATE may terminate the AGREEMENT immediately, upon written notice of termination to the CONTRACTOR, if the CONTRACTOR fails to comply with the terms and conditions of this AGREEMENT and/or with any laws, rules, regulations, policies or procedures affecting this AGREEMENT.

C. The STATE may also terminate this AGREEMENT for any reason in accordance with provisions set forth in Appendix A1.

D. Written notice of termination, where required, shall be sent by personal messenger service or by certified mail, return receipt requested. The termination shall be effective in accordance with the terms of the notice.

E. Upon receipt of notice of termination, the CONTRACTOR agrees to cancel, prior to the effective date of any prospective termination, as many outstanding obligations as possible, and agrees not to incur any new obligations after receipt of the notice without approval by the STATE.

F. The STATE shall be responsible for payment on claims pursuant to services provided and costs incurred pursuant to terms of the AGREEMENT. In no event shall the STATE be liable for expenses and obligations arising from the program(s) in this AGREEMENT after the termination date.

IV. Indemnification

A. The CONTRACTOR shall be solely responsible and answerable in damages for any and all accidents and/or injuries to persons (including death) or property arising out of or related to the services to be rendered by the CONTRACTOR or its subcontractors pursuant to this AGREEMENT. The CONTRACTOR shall indemnify and hold harmless the STATE and its officers and employees from claims, suits, actions, damages and costs of every nature arising out of the provision of services pursuant to this AGREEMENT.

B. The CONTRACTOR is an independent contractor and may neither hold itself out nor claim to be an officer, employee or subdivision of the STATE nor make any claim, demand or application to or for any right based upon any different status.

V. Property

Any equipment, furniture, supplies or other property purchased pursuant to this AGREEMENT is deemed to be the property of the STATE except as may otherwise be governed by Federal or State laws, rules or regulations, or as stated in Appendix A-1.

VI. Safeguards for Services and Confidentiality

A. Services performed pursuant to this AGREEMENT are secular in nature and shall be performed in a manner that does not discriminate on the basis of religious belief, or promote or discourage adherence to religion in general or particular religious beliefs.

B. Funds provided pursuant to this AGREEMENT shall not be used for any partisan political activity, or for activities that may influence legislation or the election or defeat of any candidate for public office.

C. Information relating to individuals who may receive services pursuant to this AGREEMENT shall be maintained and used only for the purposes intended under the contract and in conformity with applicable provisions of laws and regulations, or specified in Appendix A-1.

4.2 Appendix A - Standard Clauses for all State Contracts

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

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

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

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

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 the State of any State approved sums due and owing for work done upon the project.

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

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

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

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under

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

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

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

Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

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

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

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

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of

race, creed, color, national origin, sex, age, disability or marital status.

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

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

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

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

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

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

sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

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

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

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

20. OMNIBUS PROCUREMENT ACT OF 1992. It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as vendors, 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
Albany, New York 12245
Telephone: 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 the State;

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

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

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

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

22. 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 (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

24. PROCUREMENT LOBBYING. To the extent this agreement is a "procurement contract" as defined by State Finance Law 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.

25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS. To the extent this agreement is a contract as defined by Tax Law 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 the covered agency, as defined by Tax Law 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

26. IRAN DIVESTMENT ACT. By entering into this Agreement, Contractor certifies in accordance with State Finance Law §165-a that it is not on the "Entities Determined to be Non-Responsive Vendors/Vendors pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at: <http://www.ogs.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.

(January 2014)

4.3 Appendix A-1 - Agency Specific Clauses

Payment and Reporting

- A. In the event that Contractor shall receive, from any source whatsoever, sums the payment of which is in consideration for the same costs and services provided to the State, the monetary obligation of the State hereunder shall be reduced by an equivalent amount provided, however, that nothing contained herein shall require such reimbursement where additional similar services are provided and no duplicative payments are received.
- B. For each individual for whom costs are claimed under this agreement, the contractor warrants that the individual has been classified as an employee or as an independent contractor in accordance with 2 NYCRR 315 and all applicable laws including, but not limited to, the Internal Revenue Code, the New York Retirement and Social Security Law, the New York Education Law, the New York Labor Law, and the New York Tax Law. Furthermore, the contractor warrants that all project funds allocated to the proposed budget for Employee Benefits, represent costs for employees of the contractor only and that such funds will not be expended on any individual classified as an independent contractor.

Terminations

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

Responsibility Provisions

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

Property

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

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

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

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

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

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

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

Safeguards for Services and Confidentiality

- A. Any copyrightable work produced pursuant to said agreement shall be the sole and exclusive property of the New York State Education Department. The material prepared under the terms of this agreement by the Contractor shall be prepared by the Contractor in a form so that it will be ready for copyright in the name of the New York State Education Department. Should the Contractor use the services of consultants or other organizations or individuals who are not regular employees of the Contractor, the Contractor and such organization or individual shall, prior to the performance of any work pursuant to this agreement, enter into a written agreement, duly executed, which shall set forth the services to be provided by such organization or individual and the consideration therefor. Such agreement shall provide that any copyrightable work produced pursuant to said agreement shall be the sole and exclusive property of the New York State Education Department and that such work shall be prepared in a form

ready for copyright by the New York State Education Department. A copy of such agreement shall be provided to the State.

- B. All reports of research, studies, publications, workshops, announcements, and other activities funded as a result of this proposal will acknowledge the support provided by the State of New York.
- C. This agreement cannot be modified, amended, or otherwise changed except by a writing signed by all parties to this contract.
- D. No failure to assert any rights or remedies available to the State under this agreement shall be considered a waiver of such right or remedy or any other right or remedy unless such waiver is contained in a writing signed by the party alleged to have waived its right or remedy.
- E. Expenses for travel, lodging, and subsistence shall be reimbursed at the per diem rate in effect at the time for New York State Management/Confidential employees.
- F. No fees shall be charged by the Contractor for training provided under this agreement.
- G. Nothing herein shall require the State to adopt the curriculum developed pursuant to this agreement.
- H. This agreement, including all appendices, is, upon signature of the parties and the approval of the Attorney General and the State Comptroller, a legally enforceable contract. Therefore, a signature on behalf of the Contractor will bind the Contractor to all the terms and conditions stated therein.

The parties to this agreement intend the foregoing writing to be the final, complete, and exclusive expression of all the terms of their agreement.

Certifications

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

Notices

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

Miscellaneous

- A. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification

Act (General Business Law Section 899-aa; State Technology Law Section 208). Contractor shall be liable for the costs associated with such breach if caused by Contractor's negligent or willful acts or omissions, or the negligent or willful acts or omissions of Contractor's agents, officers, employees or subcontractors.

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

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

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

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

Reports to DCS are to be transmitted as follows:
By mail: NYS Department of Civil Service
Office of Counsel
Alfred E. Smith Office Building
Albany, NY 12239

Reports to NYSED are to be transmitted as follows:
By mail: NYS Education Department
Contract Administration Unit
Room 505 W EB
Albany, NY 12234
By fax: (518) 408-1716

- C. Consultant Staff Changes. If this is a contract for consulting services, Contractor will maintain continuity of the consultant team staff throughout the course of the contract. All changes in staff will be subject to STATE approval. The replacement consultant(s) with comparable skills will be provided at the same or lower hourly rate.
- D. Order of Precedence. In the event of any discrepancy, disagreement, conflict or ambiguity between the various documents, attachments and appendices comprising this contract, they shall be given preference in the following order to resolve any such discrepancy, disagreement, conflict or ambiguity:
1. Appendix A – Standard Clauses for all State Contracts
 2. State of New York Agreement
 3. Appendix A-1 - Agency Specific Clauses
 4. Appendix X – Sample Modification Agreement Form (where applicable)
 5. Appendix A-3 - Minority/Women-owned Business Enterprise Requirements (where applicable)
 6. Appendix B - Budget
 7. Appendix C – Payment and Reporting Schedule
 8. Appendix R – Data Security and Privacy Plan
 7. Appendix D – Program Work plan

Rev. October 21, 2015

APPENDIX R
DATA SECURITY AND PRIVACY PLAN PROVISIONS

1. The individually identifiable data provided to or stored by the Contractor pursuant to this agreement (the "Data") are sensitive, requiring appropriate levels of security to prevent unauthorized disclosure or modification. The Contractor shall take all reasonable measures to protect the confidentiality of the Data as required by federal and state laws and regulations applicable to the Contractor. These may include but are not limited to the New York State Social Services Law, Personal Privacy Protection Law and Education Law §2-d; the federal Social Security Act and Family Educational Rights and Privacy Act; internet security laws; and any regulations promulgated thereunder.
2. The Contractor has full and final responsibility for the security of the Data. The Contractor agrees to implement reasonable technical and physical security measures to ensure the confidentiality, integrity and availability of the Data. Such security measures may be reviewed by the State, both through an informal audit of policies and procedures and/or through inspection of security methods used within the Contractor's infrastructure, storage, and other physical security. The Contractor should review its implementation and maintenance of its security review periodically to protect the data in strict compliance with statutory and regulatory requirements.
3. The Contractor's security measures must also include:
 - a. Provision that access to the Data is restricted solely to staff who need such access to carry out the responsibilities of the Contractor under this agreement, and that such staff will not release such Data to any unauthorized party;
 - b. All confidential Data are stored on computer and storage facilities maintained within Contractor's computer networks, behind appropriate firewalls;
 - c. Access to computer applications and Data are managed through appropriate userID/password procedures;
 - d. Contractor's computer network storing the Data is scanned for inappropriate access through an intrusion detection system. NYSED has the right to perform a site visit to review the vendor's security practices if NYSED feels it is necessary;
 - e. That Contractor have a disaster recovery plan that is acceptable to the State;
 - f. Satisfactory redundant and uninterruptible power and fiber infrastructure provisions; and
 - g. A copy of the Contractor's security review evidencing compliance with these requirements must be submitted to NYSED for review and approval within 6 months of the signing of the contract or before the first certification test is performed, whichever occurs first.
4. The Data must be returned to NYSED upon termination or expiration of this Agreement, or at such point that the Data are no longer needed for the purpose referenced in this Agreement, or, at the sole discretion of NYSED, securely destroyed. All hard copies of personally identifiable Data in the possession of the Contractor must be securely destroyed, and all electronic Data must be purged from the network in a manner that does not permit retrieval of the data. The contractor is specifically prohibited from commingling any data from outside sources into the Data received from NYSED, except as specifically authorized by NYSED.

5. If personally identifiable data of students, teachers or building principals will be disclosed to the Contractor by NYSED for purposes of the Contractor providing services to NYSED, the Contractor must comply with the following requirements of Education Law §2-d (Chapter 56, Subpart L of the Laws of 2014) and any implementing regulations:
 - a. Any officers or employees of the third party contractor and its assignees who have access to student data or teacher or principal data have received or will receive training on the federal and state law governing confidentiality of such data prior to receiving access;
 - b. limit internal access to education records to those individuals that are determined to have legitimate educational interests;
 - c. not use the education records for any other purposes than those explicitly authorized in its contract;
 - d. except for authorized representatives of the third party contractor to the extent they are carrying out the contract, not disclose any personally identifiable information to any other party:
 - (i) without the prior written consent of the parent or eligible student; or
 - (ii) unless required by statute or court order and the party provides a notice of the disclosure to the department, district board of education, or institution that provided the information no later than the time the information is disclosed, unless providing notice of the disclosure is expressly prohibited by the statute or court order;
 - e. maintain reasonable administrative, technical and physical safeguards to protect the security, confidentiality and integrity of personally identifiable student information in its custody; and
 - f. use encryption technology consistent with Education Law §2-d and any implementing regulations.
6. If requested by NYSED to make any disclosure of aggregated data using the Data provided to or stored by the Contractor, Contractor must ensure that the disclosed aggregated data cannot reasonably be used to identify a particular individual. Aggregated data will be considered identifiable if the disclosure has less than five (5) data elements per cell or the data elements per cell comprise 100% of the subject population.
7. Contractor agrees that all Data shall remain at all times the property of the State, and may not be used for any purpose other than the purpose outlined in this Agreement without the express written permission of NYSED. The Contractor has no ownership of or licensing rights to the Data except as provided in this Agreement, and Contractor specifically agrees that it will not sell, give or otherwise transfer the Data to any third party without NYSED's express prior approval.
8. The Contractor must ensure that these confidentiality and security provisions apply to any subcontractor engaged by the Contractor for the work under this agreement. The Contractor shall take full responsibility for the acts and omissions of its subcontractors, and the use of subcontractors shall not impair the rights of NYSED against the Contractor in accordance with this Agreement.
9. Hardware, software and services acquired by the Contractor under this Agreement may not be used for other activities beyond those described in the scope of the contract unless authorized in advance by NYSED.

10. Security of Location - Server room will remain a restricted access, locked room with access via security cards. The list of staff with access to the server room will continue to be reviewed quarterly against the number of times each staff actually gained access to the server room.

11. Breach Notification.

- a. Contractor that receives student data or teacher or principal data pursuant to a contract or other written agreement with an educational agency shall be required to notify such educational agency of any breach of security resulting in an unauthorized release of such data in accordance with Education Law §2-d and any implementing regulations. Upon such notification, the educational agency shall take appropriate action in accordance with Education Law §2-d and any implementing regulations.
- b. In the event that the State is required, pursuant to Education Law §2-d(6)(b), to notify one or more parent, eligible student, teacher or principal of an unauthorized release of student data by the Contractor or its assignee, the Contractor shall promptly reimburse the State for the full cost of such notification.
- c. Contractor acknowledges that it may be subject to penalties under Education Law §§2-d(6) and 2-d(7) for unauthorized disclosure of personally identifiable student, teacher or principal data.
- d. Contractor agrees that it will cooperate and promptly comply with any inquiries from the State based upon the State's receipt of a complaint or other information indicating that an improper or unauthorized disclosure of personally identifiable information may have occurred. Contractor will permit on-site examination and inspection, and will provide at its own cost necessary documentation or testimony of any employee, representative or assignee of Contractor relating to the alleged improper disclosure of data.

5) ATTACHMENTS

5.1 Attachment A: New York State Teacher Certification Examinations - Number of Examinations Taken by Candidates Statewide

Examination	Number of Examinees September 1, 2014 - August 31, 2015
ALST	18,373
EAS	17,591
ATS-P Video	1
Multi-Subject B-2 CST Part 1	1,441
Multi-Subject B-2 CST Part 2	1,454
Multi-Subject 1-6 CST Part 1	3,138
Multi-Subject 1-6 CST Part 2	2,997
Multi-Subject 5-9 CST Part 1	65
Multi-Subject 5-9 CST Part 2	62
Multi-Subject 7-12 CST Part 1	1,452
Multi-Subject 7-12 CST Part 2	1,540
Multi-Subject Arts & Sciences CST Part 3	4,741
English CST	955
Mathematics CST	625
Social Studies CST	973
Biology CST	311
Chemistry CST	127
Earth Science CST	111
Physics CST	72
Latin CST	8
Cantonese CST	2
French CST	104
German CST	9
Greek CST	1
Hebrew CST	2
Italian CST	26
Japanese CST	2
Mandarin CST	46
Russian CST	1
Spanish CST	317
English to Speakers of Other Languages CST	1,015
Students w/ Disabilities CST	4,097
American Sign Language CST	9
Blind & Visually Impaired CST	38
Deaf & Hard of Hearing CST	56
Gifted Education CST	89
Literacy CST	899
Agriculture CST	1
Business & Marketing CST	48

Examination	Number of Examinees September 1, 2013 - August 31, 2014
Dance CST	72
Educational Technology Specialist CST	112
Family & Consumer Science CST	22
Health Education CST	179
Library Media Specialist CST	75
Music CST	492
Physical Education CST	434
Technology Education CST	44
Theater (Theatre) CST	57
Visual Arts CST	322
BEA – Albanian	1
BEA – Arabic	15
BEA - Bengali	2
BEA - Cantonese	10
BEA - Farsi	1
BEA - French	14
BEA - Greek	2
BEA – Haitian Creole	19
BEA - Hebrew	13
BEA - Hindu	1
BEA - Italian	1
BEA - Japanese	1
BEA - Korean	14
BEA - Mandarin	50
BEA - Polish	7
BEA- Russian	39
BEA - Spanish	561
BEA - Tagalog	1
BEA - Tamil	1
BEA - Urdu	3
BEA - Vietnamese	1
BEA - Yiddish	65
Communications & Quantitative Skills Test	71
Assessment of Teaching Assistant Skills	11,135
School Building Leader – Part One	2,069
School Building Leader – Part Two	1,926
School District Leader – Part One	1,037
School District Leader – Part Two	1,033
School District Business Leader – Part One	39
School District Business Leader – Part Two	43

5.2 Attachment B: Item Bank Inventory

Recently Created New York State Teacher Certification Examinations (NYSTCE)

Fields	Current Inventory in Item Bank As of 10/08/15	
	Multiple-Choice Questions	Constructed-Response Items
Academic Literacy Skills Test (ALST)	240	87
Educating All Students (EAS)	166	34
M-S B-2 (CST) Part One	96	12
M-S B-2 Part Two (CST)	91	12
M-S 1-6 (CST) Part One	97	12
M-S 1-6 (CST) Part Two	91	18
M-S 5-9 (CST) Part One	126	18
M-S 5-9 (CST) Part Two	128	18
M-S 7-12 (CST) Part One	125	11
M-S 7-12 (CST) Part Two	129	19
English Language Arts (CST)	196	14
Mathematics (CST)	186	15
Students with Disabilities (CST)	257	16
Deaf and Hard of Hearing (CST)	133	5

Fields	Current Inventory in Item Bank As of 10/08/15	
	Multiple-Choice Questions	Constructed-Response Items
Gifted Education (CST)	133	8
Literacy (CST)	230	14
Agriculture (CST)	141	9
Business and Marketing (CST)	167	9
Education Technology Specialist (CST)	175	9
Family and Consumer Sciences (CST)	124	8
Health Education (CST)	170	11
Library Media Specialist (CST)	111	9
Physical Education (CST)	180	12
School Building Leader (SBL) Part 1	126	29
School Building Leader (SBL) Part 2	75	63
Blind and Visually Impaired	133	2
Technology Education	172	9

5.3 Attachment C: Specifications for Contractor/Subcontractor Transcribing Braille

- 1) The contractor/subcontractor must be certified by the Library of Congress and the Braille Authority of North America (BANA) in literary and mathematics braille transcription.
- 2) Follow all appropriate Library of Congress guidelines and Unified English Braille (UEB) Standards.
- 3) Original transcriptions must be checked thoroughly and proofread by a reviewer, and discrepancies resolved before submission to NYSED.
- 4) Tests and related materials must be transcribed into braille in their entirety.
- 5) If the contractor/subcontractor is going to be using inter-point (braille on both sides of the paper), the contractor/subcontractor must use paper that will prevent the braille from bleeding through, and allow for maximum embossing quality.
- 6) If maps, graphs, or other diagrams contain information that does not fit within the constraints of a standard braille page (11 inches by 11 inches), then foldouts must be used to create these graphics.
- 7) If a map, graphic, diagram, chart, table, etc., has information that cannot fit in the constraints of the graphic due to the amount of space braille takes up, the contractor/subcontractor must contact the contractor to obtain prior approval to change, modify, or eliminate information contained in the printed original copy. In turn, the contractor must obtain NYSED's approval as well.
- 8) Thermography (the granulated ink) process is the required method for producing graphics.
- 9) If the test contains graphics, all labeled items on maps, charts, diagrams or other graphics must be transcribed into braille.
- 10) The contractor must describe their security procedures for handling the transfer or original documents for transcription to the subcontractor.
- 11) All materials will be transcribed into Grade II braille, unless otherwise specified by NYSED.
- 12) Since these particular tests are extremely graphic based, a number of adaptations and adjustments to various items will be required. Any suggestions for adapting these items to make them more accessible and able to be transcribed into braille more efficiently should be discussed with NYSED prior to beginning transcription.
- 13) The exclusion and/or prorating of items from the braille edition of these tests are prohibited.

5.4 Attachment D: Specifications for Large Type

1. Base text size will be 18 pt., with proportionally larger headings and subheadings.
2. Minimal use of parentheses, italics, underlining, and boldface in text.
3. The typeface, size and spacing should be standardized on all State assessments, including print contained in charts, graphs, maps, tables and other graphics and visual stimuli, using a serif-free typeface.
4. Spacing between lines of print is at least 1.25 spaces.
5. Headings and subheadings are larger and bolder than regular print text.
6. Paragraphs are block-style and use 1-inch margins. The left margin should be justified, and the right-hand margin should not be justified. There should be no first-line indentations to delineate paragraphs.
7. No multiple columns or divided (hyphenated) words.
8. Highlights Helvetica, a sans serif font, to replace existing primary text fonts (New Century Schoolbook, New Caledonia).
9. Block-style paragraphs without indentations, single column to a page, 1-inch margins, and flush left /“ragged right” justification.
10. Solid black type, no shades of gray.
11. Black print on white, ivory, cream or yellow paper with a dull finish so as not to promote glare.
12. Avoid text used over a background design or other graphical material.
13. Photographs, political cartoons, and other graphics (especially maps) should be chosen to ensure the best possible visibility in terms of contrast, spacing, and legibility of print labels (again, using a serif-free typeface). Avoid clutter on the page.
14. Graphic materials, such as maps, graphs and charts also adhere to type size, font and other large print guidelines.
15. Full-color or high-quality black line art, rather than gray-scale or shaded drawings.
16. Graphics modified to eliminate or minimize gray shades and fills, increase contrast, enlarge type.
17. Page layouts keep any reference art - maps or illustrations - together on a spread with the related questions (to avoid flipping).
18. Artist credits and other copyright information that typically appear right below graphics, illustrations and other visual stimuli shall be moved to a clearly delineated section at the bottom of the page or to an appendix whenever it is determined that such material is not relevant to the student’s understanding of the item itself.
19. If staple binding is utilized, staples shall be placed along the spine side (instead of at the upper left corner). This will make it easier for students to manipulate the pages and to maintain continuity, as almost all large print editions of State assessments are two sided documents, produced as back-to-back copies.

5.5 Attachment E: Non-Disclosure Agreement

New York State Education Department Office of State Assessment

Name: _____

Title: _____

Organization: _____

Examination Title(s): _____

Type of work to be performed: _____

Date(s) of work to be performed: _____

The purpose of all New York State assessments is to provide a fair and equitable assessment system that reliably measures the State learning standards. The expert opinions of consultants, educational organizations, and test development companies are vital to guiding our continuing efforts to develop fair, valid, and reliable State assessments that measure what each student knows and can do. Because you will have access to secure and/or confidential materials as part of your participation in the test development process, you also have the responsibility to assist the Office of Assessment Policy, Development and Administration (OSA) in ensuring the security and confidentiality of these materials. Therefore, by signing this agreement, you agree to abide by the following security restrictions and ownership provisions. Please retain a copy of this non-disclosure agreement for your records.

Secure and Confidential Information

I acknowledge that information provided by OSA or developed by me or my organization related to the work described above includes secure and confidential information that is the property of the New York State Education Department (NYSED) or its contractor. I acknowledge that such secure and confidential information includes many items, including but not limited to the following information types:

1. all oral or written information in draft or final form relating to the development, review and/or scoring of a New York State Assessment, including operational tests, field tests, and pretests;
2. all test items or test forms, whether in draft or final form, prior to public release by the Department;

3. all test data and statistical analyses, whether provided to me by OSA or developed by me or my organization, prior to public release by the Department;
4. any reports, prior to public release by the Department;
5. the results of any analyses or studies, whether provided to me by OSA or developed by me or my organization, prior to public release by the Department;
6. any individual student data or information; and
7. any other confidential information that has not been made available to the general public by the Department.

By signing this agreement, I agree to maintain and honor the security of test materials, test data, and confidential student information and to abide by the following security restrictions:

- a) I agree not to disclose any secure or confidential materials, including test questions, test data, individual student information, or technical reports, whether in draft or final form, to anyone other than OSA staff or other person(s) participating in the work described above, unless specifically authorized to do so by OSA. I also agree not to disclose such materials to any Department staff other than OSA staff without the prior permission of OSA.
- b) If I am responsible for supervising other staff or subcontractors, I agree to limit the access and use of secure and confidential materials to only those individuals who have a legitimate need to access such materials in order to perform the work described above.
- c) I agree to provide appropriate training, guidance, and oversight to any staff or subcontractors under my supervision who may work with secure or confidential materials in order to maintain the security of such materials.
- d) I agree to follow all guidelines and instructions provided by OSA regarding the transfer of the secure and confidential materials in my possession. Such transfer may include secure electronic transfer using encrypted files, shipment of materials using a carrier with ground tracking capabilities, and/or the use of locked boxes when shipping. At no time will I transfer or store any secure and confidential materials in a location other a secure area within my organization's facility without the authorization of OSA.
- e) Upon completion of the work described above, I agree to securely store, destroy, or return all secure and confidential materials provided to or prepared by me, including all copies thereof and all notes prepared by me, in accordance with the instructions given to me by OSA.
- f) I understand that secure and confidential materials are not to be copied or duplicated in any way, shared with or discussed with anyone other than OSA staff or other person(s) participating in the work described above, unless specifically authorized to do so by OSA.
- g) I agree to immediately report to OSA if I learn of or suspect any potential misuse of secure and confidential information.

Ownership and Return of Secure Test Materials and Test Data

All secure test materials and test data are the property of the Department, or its contractor, including all materials prepared by me in the course of my participation in the work described above. All such materials prepared by me are being commissioned by the Department and shall be works made for hire as defined by the United States Copyright Law. In the event that such materials prepared by me are deemed not to be works made for hire, I hereby assign to the Department any and all right, title and interest I may have, including but not limited to any copyright, in the work commissioned by the Department.

I, _____, have read the non-disclosure agreement above and agree to abide by the security restrictions and ownership provisions described herein.

Signature: _____

Please Print: Date: _____

Name: _____

Title: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: (_____) _____

E-mail: _____

5.6 Attachment F: Security Guidelines for the New York State Assessment Programs

- A. Staff of NYSED and of vendors working with the Office of State Assessment who are responsible for transporting, receiving, or handling secure test materials or confidential data, distributing such materials to consultants, work groups, and committees, and/or coordinating and overseeing related activities with consultants must be provided appropriate guidance in order to convey the importance of maintaining the security of materials.
- B. Secure test materials and data must either be under the direct physical control of authorized NYSED personnel or their designated consultants or vendor personnel or in a secure storage area, which is inaccessible to other than authorized staff, at all times. Materials may never be left at a vacant desk, in an unattended conference room, or in an unattended hotel conference room.
- C. Vendors must discuss with their NYSED contact person and receive prior approval of arrangements for delivery and storage of secure materials to locations other than NYSED or the vendor's place of business.
- D. Vendors must make arrangements for the secure destruction of any secure materials used during the contract process of which they wish to dispose.
- E. Vendors must use locked storage containers to transport to or from and/or to store secure materials in hotels where standard setting activities will be conducted. The locked containers will be provided to the vendor by NYSED.
- F. Secure materials may never be emailed or faxed. If there appears to be a compelling reason to do so, prior approval must be obtained in writing from NYSED Office of State Assessment.
- G. A secure file transfer protocol (FTP) site must be used as a means of secure file transfer. Access to the New York State test information on this site must be limited to the vendor and NYSED unless further sharing with other parties is authorized in writing by NYSED.
- H. Photocopying of secure or confidential material must be undertaken with care. Paper jams may result in paper containing secure or confidential materials being lodged in the copier and later discovered by another user. Extreme caution must be used. The vendor's plan for photocopying must be approved by NYSED.
- I. All staff or consultants who review secure materials, including but not limited to secure test questions, scoring materials, and related materials that reference secure test questions, or confidential data, must sign a Non-Disclosure Agreement to be provided by NYSED.

6) PROPOSAL SUBMISSION DOCUMENT PACKAGES A - D

**RESPONSE TO
REQUEST FOR PROPOSAL #15-035
NEW YORK STATE EDUCATION DEPARTMENT**

Title: Continuing the Development, Administration, and Reporting of Teacher Certification Assessments for New York State Teachers and Educational Leaders as part of the New York State Certification Examinations (NYSTCE) Testing Program

To respond to the RFP, which is noted above, you must complete all the documents that are contained in each package, signing each individual document as required. Attach any other pertinent information that responds to the information requested in the RFP and mail the documents to ensure the documents are received by the due date that is stated on the cover of the RFP:

Submit each of the following submission document packages in separately sealed envelopes:

Proposal Submission Document Packages A-E	Number of copies
A. Submission Documents labeled: Submission Documents - RFP #15-035 Do Not Open	Two copies (one signed original)
B. Technical Proposal labeled: Technical Proposal - RFP #15-035 Do Not Open	Eight copies (one signed original)
C. Cost Proposal labeled Cost Proposal: – RFP #15-035 Do Not Open	Three copies (one signed original)
D. CD-ROM containing technical/ cost proposal, M/WBE and Submission Documents labeled: CD-ROM – RFP #15-035 Do Not Open	Two copies

To:

**NYS Education Department
Bureau of Fiscal Management
Contract Administration Unit
Attn: Jessica Hartjen, RFP #15-035
89 Washington Avenue, Room 501W EB
Albany, NY 12234**

6.1 PACKAGE A—SUBMISSION DOCUMENTS (Signatures Required)

All vendors must complete the checklist presented below and submit the following forms and required narrative information in the order listed in the checklist.

6.1.1 APPLICATION CHECKLIST RFP #15-035		<u>Included</u>
1.	This checklist	<input type="checkbox"/>
2.	Response Sheet to Bids	<input type="checkbox"/>
3.	Non-collusion Certification	<input type="checkbox"/>
4.	MacBride Certification	<input type="checkbox"/>
5.	Certification-Omnibus Procurement Act of 1992	<input type="checkbox"/>
6.	Certifications Regarding Lobbying; Debarment and Suspension; other Responsibility Matters; and Drug-Free Workplace Requirements	<input type="checkbox"/>
7.	Vendor Disclosure of Prior Non-Responsibility Determinations	<input type="checkbox"/>
8.	Iran Divestment Act Certification	<input type="checkbox"/>
9.	NYSED Substitute Form W-9 (If vendor is not yet registered in the SFS centralized vendor file. If registered, insert NYS Vendor ID in "Response Sheet for Bids" Check <input type="checkbox"/> if not applicable)	<input type="checkbox"/>
10.	Vendor Responsibility Questionnaire (<input type="checkbox"/> Paper submission <input type="checkbox"/> Electronic filing <input type="checkbox"/> Not applicable)	<input type="checkbox"/>
11.	Request for Exemption from Disclosure Pursuant to the Freedom of Information Law	<input type="checkbox"/>
While the following forms are not required until notification of selection is made, vendors are <u>strongly encouraged</u> to submit the following forms with their proposal		
<i>Sales and Compensating Use Tax Documentation</i>		
ST-220 CA: http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf		
ST-220 TD: http://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf		
12.	ST-220 CA , Sales and Compensating Use Tax Certification	<input type="checkbox"/>
<i>Worker's Compensation Documentation http://www.wcb.ny.gov/content/main/Employers/Employers.jsp.</i>		
13.	Form C-105.2 – Certificate of Workers' Compensation Insurance issued by private insurance carriers, or Form U-26.3 issued by the State Insurance Fund; OR	<input type="checkbox"/>
14.	Form SI-12 – Certificate of Workers' Compensation Self-Insurance; or Form GSI-105.2 Certificate of Participation in Workers' Compensation Group Self-Insurance; OR	<input type="checkbox"/>
15.	CE-200 Certificate of Attestation for New York Entities with No Employees and certain out of State Entities, that New York State Worker's compensation and/or Disability Benefits Insurance is not required.	<input type="checkbox"/>
<i>Disability Benefits Coverage http://www.wcb.ny.gov/content/main/Employers/Employers.jsp.</i>		
16.	Form DB-120.1 - Certificate of Disability Benefits Insurance; OR	<input type="checkbox"/>
17.	Form DB-155 - Certificate of Disability Benefits Self-Insurance; OR	<input type="checkbox"/>
18.	CE-200 – Certificate of Attestation of Exemption from New York State Workers' Compensation and/or Disability Benefits Coverage.	<input type="checkbox"/>
<i>Consultant Disclosure Reporting http://www.osc.state.ny.us/agencies/forms/ac3271s.doc</i>		
19.	Form A	<input type="checkbox"/>

6.2 PACKAGE B—TECHNICAL PROPOSAL PACKAGE (Signatures Required)

	Requirement	Included
1.	Mandatory Requirements Certification Form (Signature Required)	<input type="checkbox"/>
2.	Technical Proposal	<input type="checkbox"/>
3.	Resumes	<input type="checkbox"/>
4.	References	<input type="checkbox"/>

6.3 PACKAGE C—COST PROPOSAL PACKAGE (Signatures Required)

	Requirement	Included
1.	Bid Form Cost Proposal	<input type="checkbox"/>
2.	Subcontracting Form	
3.	M/WBE Subcontracting/Supplier Form	<input type="checkbox"/>

6.4 PACKAGE D—2 CD-ROMs

Signature: _____ Date: _____

Print Name: _____ Name of Contractor: _____

6.1.2 RESPONSE SHEET TO BIDS

Please complete the vendor section on this sheet even if you choose not to bid. Read the detailed specifications, terms, and conditions, and submit this form along with your completed bid form and supporting materials.

Agency and Bid-Delivery Information

Bids may not be faxed. To ensure the confidentiality of your bid before the bid opening, enclose your bid within an envelope labeled

**Bid Proposal #15-035
DO NOT OPEN**

Place this sealed envelope within another envelope labeled with the delivery information.

Vendor Information—Please Complete This Section

Please complete the following even if you are choosing not to bid; responses must be legible. By signing, you indicate your express authority to sign on behalf of yourself, or your company or other entity and full knowledge and acceptance of the terms and conditions of the bid. You also affirm that you understand and agree to comply with the procedures of NYSED relative to permissible contacts as required by State Finance Law §XX9-j (3) and §XX9-j (6) (b).

<u>Name of Company Bidding</u>	<u>Employer's Federal Tax ID Number</u>
	<u>NYS Vendor ID</u>

Address	<i>Street</i>	<i>City</i>	<i>State</i>	<i>Zip Code</i>

Check one of the following:

- I certify that my organization has filed its Vendor Responsibility Questionnaire online via the New York State VendRep System and that the current questionnaire was certified within the past six months.
- I am including a completed paper copy of the Vendor Responsibility Questionnaire with the bid proposal.
- My entity is exempt based on the OSC listing.
- My proposal is less than \$100,000 therefore a questionnaire is not required.
- Other, explanation: _____
- I am not submitting a bid. (Please complete and submit this sheet only; in addition, please indicate why you have chosen not to bid.) _____

Vendor's Signature	<i>Date</i>	<i>E-mail</i>
	<i>Phone</i>	<i>Fax</i>

Print Name as Signed and Title

The New York State Education Department reserves the right to request any additional information deemed necessary to properly review bids.

6.1.3 NON-COLLUSION BIDDING CERTIFICATION

In accordance with Section XX9-d of the State Finance Law and paragraph 7 of Appendix A (Standard Clauses for NYS Contracts), the vendor hereby affirms, under penalty of perjury:

By submission of this bid, each vendor and each person signing on behalf of any vendor certifies, 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 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 vendor 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 vendor and will not knowingly be disclosed by the vendor prior to opening, directly or indirectly, to any other vendor or to any competitor; and
- (3) No attempt has been made or will be made by the vendor to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

A BID SHALL NOT BE CONSIDERED FOR AWARD NOR SHALL ANY AWARD BE MADE WHERE [1], [2], [3] ABOVE HAVE NOT BEEN COMPLIED WITH; PROVIDED HOWEVER, THAT IF IN ANY CASE THE VENDOR(S) CANNOT MAKE THE FORGOING CERTIFICATION, THE VENDOR SHALL SO STATE AND SHALL FURNISH BELOW A SIGNED STATEMENT WHICH SETS FORTH IN DETAIL THE REASONS THEREFORE:

[AFFIX ADDENDUM TO THIS PAGE IF SPACE IS REQUIRED FOR STATEMEMNT.]

Subscribed to under penalty of perjury under the laws of the State of New York, this ____ day of _____, 20__ as the act and deed of said corporation of partnership.

The person signing on behalf of the vendor further affirms that he/she is authorized and responsible for signing this certificate.

Identifying Data

Name of Potential Contractor_____

Street Address_____

City, State, zip code: _____

Telephone: _____

Name:_____ Title:_____

Signature:_____

6.1.4 MACBRIDE CERTIFICATION

**NONDISCRIMINATION IN EMPLOYMENT IN NORTHERN IRELAND:
MacBRIDE FAIR EMPLOYMENT PRINCIPLES**

In accordance with section 165 of the State Finance Law, the vendor, by submission of this bid, certifies that it or any individual or legal entity in which the vendor holds a 10% or greater ownership, or any individual or legal entity that holds a 10% or greater ownership in the vendor, either:

(Answer Yes or No to one or both of the following, as applicable)

- Has business operations in Northern Ireland:

_____ Yes _____ No

If yes:

- Shall take lawful steps in good faith to conduct any business operations they have in Northern Ireland in accordance with the MacBride Fair Employment Principles relating to nondiscrimination in employment and freedom of workplace opportunity regarding such operations in Northern Ireland, and shall permit independent monitoring of compliance with such principles.

_____ Yes _____ No

Company Name: _____

Printed Name and Title of Authorized Representative:

Signature: _____

Date: _____

Proposal: _____

Commodity: _____

6.1.5 CERTIFICATION – OMNIBUS PROCUREMENT ACT OF 1992

The Omnibus Procurement Act of 1992 requires that by signing this RFP/bid proposal, contractors certify that whenever the total bid amount is greater than \$1 million:

1. The contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors on this project, and has retained the documentation of these efforts to be provided upon request to the State;

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

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

4. The contractor acknowledges notice that New York State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

Signature: _____

Print Name: _____

Title: _____

Company Name: _____

Date: _____

Required Assurances:

6.1.6 CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Non-Procurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section XX52, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-grants, contracts under grants and cooperative agreements, and subcontracts) and that all sub-recipients shall certify and disclose accordingly.

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110--

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

**3. DRUG-FREE WORKPLACE
(GRANTEES OTHER THAN INDIVIDUALS)**

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 -

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants Policy and Oversight Professional, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, and zip code)

Check [] if there are workplaces on file that are not identified here.

**DRUG-FREE WORKPLACE
(GRANTEES WHO ARE INDIVIDUALS)**

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.610-

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants Policy and Oversight Professional, Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office building No. 3) Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications. The applicant will provide immediate written notice to the NYSED Contract Administration Unit if at any time the applicant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

NAME OF APPLICANT	
PR/AWARD NUMBER AND /OR PROJECT NAME	
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

Instructions: The attached form is to be completed and submitted by the individual or entity seeking to enter into a Procurement Contract. It shall be submitted to NYSED.

6.1.7 VENDOR DISCLOSURE OF PRIOR NON-RESPONSIBILITY DETERMINATIONS

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

Address: _____

Name and Title of Person Submitting this Form: _____

Contract RFP Number: 15-035

Date: _____

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

No Yes

If yes, please answer the next questions:

2. Was the basis for the finding of non-responsibility due to a violation of State Finance Law §XX9-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)

Vendor certifies that all information provided to the Governmental Entity with respect to State Finance Law §XX9-k is complete, true and accurate.

By: _____ Date: _____
Signature

Name: _____

Title: _____

6.1.8 IRAN DIVESTMENT ACT CERTIFICATION

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a new provision has been added to the State Finance Law (SFL), § 165-a, effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) will be developing a list (prohibited entities list) of “persons” who are engaged in “investment activities in Iran” (both are defined terms in the law). Pursuant to SFL § 165-a(3)(b), the initial list is expected to be issued no later than 120 days after the Act’s effective date, at which time it will be posted on the OGS website.

By submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, Vendor/Contractor (or any assignee) certifies that once the prohibited entities list is posted on the OGS website, it will not utilize on such Contract any subcontractor that is identified on the prohibited entities list.

Additionally, Vendor/Contractor is advised that once the list is posted on the OGS website, any Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to the solicitation, must certify at the time the Contract is renewed, extended or assigned that it is not included on the prohibited entities list.

During the term of the Contract, should the New York State Education Department (AGENCY) receive information that a person is in violation of the above-referenced certification, AGENCY will offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then AGENCY shall take such action as may be appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

AGENCY reserves the right to reject any bid or request for assignment for an entity that appears on the prohibited entities list prior to the award 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.

Signature: _____

Print Name: _____

Title: _____

Company Name: _____

Date: _____



**NEW YORK STATE EDUCATION DEPARTMENT
REQUEST FOR TAXPAYER IDENTIFICATION NUMBER & CERTIFICATION
6.1.9 NYSED SUBSTITUTE FORM W-9**

TYPE OR PRINT INFORMATION NEATLY. PLEASE REFER TO INSTRUCTIONS FOR MORE INFORMATION.

Part I: Payee/Vendor/Organization Information

AGENCY ID:

1. Legal Business Name:

2. If you use a DBA, please list below:

3. Entity Type (Check one only):

Sole Proprietor Partnership Limited Liability Co. Business Corporation Unincorporated Association/Business Federal Government

State Government Public Authority Local Government School District Fire District Other

Part II: Taxpayer Identification Number (TIN) & Taxpayer Identification Type

1. Enter your TIN here: *(DO NOT USE DASHES)*

--	--	--	--	--	--	--	--	--	--

2. Taxpayer Identification Type (check appropriate box):

Employer ID No. (EIN) Social Security No. (SSN) Individual Taxpayer ID No. (ITIN) N/A (Non-United States Business Entity)

Part III: Address

1. Physical Address:

2. Remittance Address:

Number, Street, and Apartment or Suite Number

Number, Street, and Apartment or Suite Number

City, State, and Nine Digit Zip Code or Country

City, State, and Nine Digit Zip Code or Country

Part IV: Certification of CEO or Properly Authorized Individual

Under penalties of perjury, I certify that I am the CEO or properly authorized individual and that the number shown on this form is my correct Taxpayer Identification Number (TIN).

Signature

Date

Print Name

Phone Number

Email Address: _____

Part V: Contact Information – Individual Authorized to Represent the Payee/Vendor/Organization

Contact Person: _____ Title: _____
(Print Name)

Contact's Email Address: _____ Phone Number: (____) _____

Part VI: Survey of Future Payment Methods

Please indicate all methods of payment acceptable to your organization:

[] Electronic [] Check [] VISA

**NYS Education Department
Instructions for Completing NYSED Substitute W-9**

The NYS Education Department (NYSED) is using NYSED Substitute Form W-9 to obtain certification of your TIN in order to facilitate your registration with the SFS centralized vendor file and to ensure accuracy of information contained therein. We ask for the information on NYSED Substitute Form W-9 to carry out the Internal Revenue laws of the United States.

Any payee/vendor/organization receiving Federal and/or State payments from NYSED must complete NYSED Substitute Form W-9 if they are not yet registered in the SFS centralized vendor file.

Part I: Payee/Vendor/Organization Information

- a. **Legal Business Name:** For individuals, enter the name of the person who will do business with NYS as it appears on the Social Security card or other required Federal tax documents. An organization should enter the name shown on its charter or other legal documents that created the organization. Do not abbreviate names.
- b. **DBA (Doing Business As):** Enter your DBA name, if applicable.
- c. **Entity Type:** Mark the Entity Type doing business with New York State.

Part II: Taxpayer Identification Number (TIN) and Taxpayer Identification Type

- **Taxpayer Identification Number:** Enter your nine-digit Social Security Number, Individual Taxpayer Identification Number (ITIN)⁴ or Employer Identification Number.
- **Taxpayer Identification Type:** Mark the type of identification number provided.

Part III: Address

- a. **Physical Address:** List the location of where your business is physically located.
- b. **Remittance Address:** List the location where payments should be delivered.

Part IV: Certification of CEO or Properly Authorized Individual

Please sign, date and print the authorized individual's name, telephone and email address. An email address will facilitate communication and access to Vendor Self Service.

Part V: Contact Information

Please provide the contact information for an individual who is authorized to make legal and financial decisions for your organization. An email address will facilitate communication and access to Vendor Self Service.

Part VI: Survey of Future Payment Methods

Payment methods are needed for informational purposes. To expedite payments, vendors are strongly encouraged to consider accepting payment via VISA credit card.

⁴ An ITIN is a nine-digit number used by the United States Internal Revenue Service for individuals not eligible to obtain a Social Security Number, but are required to file income taxes. To obtain an ITIN, submit a completed W-7 to the IRS. The IRS will notify you in writing within 4 to 6 weeks about your ITIN status. In order to do business with New York State, **you must submit IRS Form W-8** along with our NYSED Substitute Form W-9 showing your ITIN. IRS Form W-8 certifies your foreign status. To obtain IRS Forms W-7 and W-8, call 1-800-829-3676 or visit the IRS website at www.irs.gov.

6.1.10 Request for Exemption from Disclosure Pursuant to the Freedom of Information Law

New York State Public Officers Law, Article 6 (Freedom of Information Law) requires that each agency shall make available all records maintained by said agency, except that agencies may deny access to records or portions thereof that fall within the scope of the exceptions listed in Public Officers Law §87(2).

Any proprietary materials submitted as part of, or in support of, a vendor’s proposal, which vendor considers confidential or otherwise excepted from disclosure under the Freedom of Information Law, must be specifically so identified, and the basis for such confidentiality or other exception must be specifically set forth.

Please list **all** such documents for every portion of the proposal on the form below, and include a copy of this document with each separate portion of the proposal (technical, cost, M/WBE). Materials which are not indicated below may be released in their entirety upon request without notice to you.

According to law, the entity requesting exemption from disclosure has the burden of establishing entitlement to confidentiality. Submission of this form does not necessarily guarantee that a request for exemption from disclosure will be granted. If necessary, NYSED will make a determination regarding the requested exemptions, in accordance with the process set forth in Public Officers Law §89(5).

Material for Which Exemption is Requested	Location / Page Number(s)	Basis for Request

6.2 PACKAGE B—TECHNICAL PROPOSAL PACKAGE

6.2.1 Mandatory Requirements Certification

RFP 15-035: Continuing the Development, Administration, and Reporting of Teacher Certification Assessments for New York State Teachers and Educational Leaders as part of the New York State Certification Examinations (NYSTCE) Testing Program

By signing this form, the undersigned certifies it can provide and/or meet all of the requirements listed below as well as all of the deliverables outlined in the RFP. Please use the line space, where provided, to describe how you are going to provide or meet the specified requirement.

Mandatory Requirements will be met as follows (Please clearly document how this proposal meets each mandatory requirement):

Requirement	Name of staff person Education/Experience	As supported in this proposal on page(s)	FOR NYSED USE ONLY Has the bidder demonstrated that they meet the requirement?
1. The contractor must identify a program manager who will be the central point of contact with NYSED for this contract. The program manager must have a minimum of a bachelor's degree or project management certification through the Project Management Institute (PMI) as a Project Management Professional (PMP), or other recognized program management certification.			Yes <input type="checkbox"/> / No <input type="checkbox"/>

Proposals that do not include the completed and signed Mandatory Requirement Certification will be disqualified and removed from further consideration.

Vendor Signature:		Date:	
Printed Name			
Company Name			
Company Address			
FOR NYSED USE ONLY			
NYSED Program Office Signature and Title		Date:	
Printed Name			

6.3 PACKAGE C — COST PROPOSAL

Please use the separately provided Excel workbook to prepare the cost documents.

Name of Vendor: _____

RFP #15-035

6.3.1 BID FORM: COST PROPOSAL – NYSTCE Custom-Designed Tests NYS Education Department BID FORM (Whole dollar figures only)

Title: Continuing the Development, Administration, and Reporting of Teacher Certification Assessments for New York State Teachers and Educational Leaders as part of the New York State Certification Examinations (NYSTCE) Testing Program

Costs proposed by contractor to administer tests to one candidate.

Note: the cost proposed by the contractor to administer the test to one candidate during any year of the contract term may not exceed by greater than 20% the current cost as shown in Section 1.3.1 of the RFP. For all CSTs excluding multi-subject CSTs, the cost proposed by the contractor may not exceed by greater than 20% the current cost of the Redeveloped CSTs (\$149).

	Proposed Individual Cost, Per Examination Administration - 7/1/16 – 8/31/19					
	A	B	C	D	E	F
	Year 1 Jul. 1, 2016 - Aug. 31, 2017 ⁵	Year 2 Sept. 1, 2017- Aug. 31, 2018	Year 3 Sept. 1, 2018 - Aug. 31, 2019	Total for 3 Years (A+B+C)	Weighting Factor	Weighted Exam Cost (D X E)
Academic Literacy Skills Test (ALST)	\$	\$	\$	\$	18,373	\$
Educating All Students (EAS)	\$	\$	\$	\$	17,591	\$

⁵ Please note that this contract will only cover administrations of examinations on or after October 1, 2016.

	A	B	C	D	E	F
	Year 1 Jul. 1, 2016 - Aug. 31, 2017 ⁶	Year 2 Sept. 1, 2017- Aug. 31, 2018	Year 3 Sept. 1, 2018 - Aug. 31, 2019	Total for 3 Years (A+B+C)	Weighting Factor	Weighted Exam Cost (D X E)
Assessment of Teaching Skills – Performance (ATS-P) – administration only	\$	\$	\$	\$	1	\$
Multi Subject CSTs (Total for all 3 parts if taken separately by the candidate)	\$	\$	\$	\$	6,197	\$
All Content Specialty Tests (CSTs) excluding Multi Subject CSTs	\$	\$	\$	\$	11,753	\$
Bilingual Education Assessments (BEAs)	\$	\$	\$	\$	822	\$
Communication & Quantitative Skills Test (CQST)- administration only	\$	\$	\$	\$	71	\$
Assessment of Teaching Assistant Skills Test (ATAS) – administration only	\$	\$	\$	\$	11,135	\$
School Building Leader Assessment (Total for both parts if taken separately by the candidate)	\$	\$	\$	\$	2,069	\$

⁶ Please note that this contract will only cover administrations of examinations on or after October 1, 2016.

	A	B	C	D	E	F
	Year 1 Jul. 1, 2016 - Aug. 31, 2017 ⁷	Year 2 Sept. 1, 2017- Aug. 31, 2018	Year 3 Sept. 1, 2018 - Aug. 31, 2019	Total for 3 Years (A+B+C)	Weighting Factor	Weighted Exam Cost (D X E)
School District Leader Assessment (Total for both parts if taken separately by the candidate)	\$	\$	\$	\$	1,037	\$
School District Business Leader Assessment (Total for both parts if taken separately by the candidate)	\$	\$	\$	\$	43	\$
Full-Length, Computer- Based Practice Tests	\$	\$	\$	\$	15,000	\$
					Total	\$

Note: "Weighting Factor" and "Weighted Exam Cost" are estimates used solely for cost scoring and approximating the potential revenue for this project. Actual administration volume may be considerably above or below the estimates given. Regardless of total volume, the costs per individual exam may not exceed those proposed above in columns A – C.

⁷ Please note that this contract will only cover administrations of examinations on or after October 1, 2016.

The proposed fees as stated above are submitted for the entire three-year project administration period (October 1, 2016 through August 31, 2019). The weighted exam cost in the above chart is determined by summing the proposed fee for each of the three years (A-C) and then multiplying that "Total for 3 Years" (D) by the "Weighting Factor" (F). The total sum of the weighted exam costs will be used to determine each contractor's financial criteria score.

Vendor Signature		Date
Printed Name		
Company Name		
Company Address		

6.3.2 SUBCONTRACTING FORM

New York State Education Department
(Whole dollar figures only)

Title of RFP: Continuing the Development, Administration, and Reporting of Teacher Certification Assessments for New York State Teachers and Educational Leaders as part of the New York State Certification Examinations (NYSTCE) Testing Program

Vendor Name: _____

RFP #: 15-035

Name of Subcontractor	M/WBE	Entity Type	Work Description	Year 1 Cost	Multi-Year Cost (incl. Year 1)
	<input type="checkbox"/> MBE <input type="checkbox"/> WBE	<input type="checkbox"/> For Profit <input type="checkbox"/> Not-For-Profit			
	<input type="checkbox"/> MBE <input type="checkbox"/> WBE	<input type="checkbox"/> For Profit <input type="checkbox"/> Not-For-Profit			
	<input type="checkbox"/> MBE <input type="checkbox"/> WBE	<input type="checkbox"/> For Profit <input type="checkbox"/> Not-For-Profit			
	<input type="checkbox"/> MBE <input type="checkbox"/> WBE	<input type="checkbox"/> For Profit <input type="checkbox"/> Not-For-Profit			
	<input type="checkbox"/> MBE <input type="checkbox"/> WBE	<input type="checkbox"/> For Profit <input type="checkbox"/> Not-For-Profit			
	<input type="checkbox"/> MBE <input type="checkbox"/> WBE	<input type="checkbox"/> For Profit <input type="checkbox"/> Not-For-Profit			
	<input type="checkbox"/> MBE <input type="checkbox"/> WBE	<input type="checkbox"/> For Profit <input type="checkbox"/> Not-For-Profit			
Total Multi-Year Subcontracting Cost					
Approximated Multi-Year Project Cost					
Percentage Subcontracting Relative to Approximated Project Cost					

*Indicate whether the subcontractor is a Minority or Women-Owned Business Enterprise. Leave box blank if subcontractor is neither.

Subcontracting is limited to 30% of revenue received.

6.3.3 M/WBE SUBCONTRACTING/SUPPLIER FORM

New York State Education Department
(Whole dollar figures only)

Title of RFP: _____

Vendor Name: _____ RFP #: _____

Table 1-- Minority Business Enterprise (MBE)

Name of Vendor	Type of Services or Supplies	Year 1 Cost	Multi-Year Cost (incl. Year 1)
Total Multi-Year MBE Costs			
Approximated Multi-Year Project Cost			
Percentage MBE Spending Relative to Approximated Project Cost			

Table 2-- Women-Owned Business Enterprise (WBE)

Name of Vendor	Type of Services or Supplies	Year 1 Cost	Multi-Year Cost (incl. Year 1)
Total Multi-Year WBE Costs			
Approximated Multi-Year Project Cost			
Percentage WBE Spending Relative to Approximated Project Cost			

6.4 PACKAGE D—2 CD-ROMs

Two CD-ROM copies containing technical proposal, cost proposal, and submission documents