

REQUEST FOR PROPOSAL (RFP)

RFP Proposal #17-011

NEW YORK STATE EDUCATION DEPARTMENT

Title: State-Level Evaluation of the New York State 21st Century Community Learning Centers (21st CCLC) Program

The New York State Education Department (NYSED) is seeking proposals for the State-level evaluation of its 21st Century Community Learning Centers (CCLC) Program that is required by the United States Department of Education (USDOE). The selected evaluator will assess the extent to which the expected outcomes of this program have been achieved. The results of this evaluation will be used to guide NYSED's efforts to: direct and improve its administration of the program; provide assistance to local grantees; and improve program quality and outcomes for participating students.

Bidders should demonstrate experience in the successful development and management of evaluations of educational intervention programs. The evaluator's responsibilities will encompass analyses of the processes and outcomes of the 21st CCLC program. The evaluator will work in collaboration with staff at NYSED.

Eligible bidders may include Local Education Agencies (LEAs), Boards of Cooperative Educational Services (BOCES), public or private Institutions of Higher Education (IHEs), not-for-profit and for-profit organizations or agencies. Organizations that are currently under contract with any 21st CCLC local grantees as independent evaluators are not eligible to apply. If awarded this contract, the bidder will not be eligible to contract with local grantees as an independent evaluator. Bidders or subcontractors that are affiliated with, or perform other non-evaluation work for either 21st CCLC grantees or the 21st CCLC Resource Centers, or organizations holding 21st CCLC grants, could be considered eligible if they can demonstrate clear and separate governance and oversight structures in place to prevent any conflict of interest or the appearance of a conflict of interest. This includes having staff specifically dedicated to the evaluation, distinct organizational units and reporting structures, as well as other policies and procedures that eliminate any potential conflicts of interest or the appearance thereof. If applicable, the proposal should detail the bidder's plans to eliminate or mitigate any potential conflict of interest.

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

Bidders are required to comply with NYSED's Minority and Women-Owned Business Enterprises (M/WBE) participation goals for this RFP through one of three methods. Compliance methods are discussed in detail in the Minority/Women-Owned Business Enterprise (M/WBE) Participation Goals section below.

NYSED will award **one** contract pursuant to this RFP. The contract resulting from this RFP will be for a term anticipated to begin **June 1, 2017** and to end **May 31, 2022**.

Components contained in RFP Proposal #17-011 are as follows:

- 1.) Description Of Services To Be Performed
- 2.) Submission

- 3.) Evaluation Criteria and Method of Award
- 4.) Assurances
- 5.) Submission Documents (separate document)
- 6.) Attachments 1-2

Questions regarding the request must be submitted by e-mail to 21CRFP@nysed.gov no later than the close of business October 11, 2016. Questions regarding this request should be identified as either Program, Fiscal, or M/WBE. A Questions and Answers Summary will be posted to <http://www.p12.nysed.gov/compcontracts/compcontracts.html> no later than October 24, 2016.

Program Matters

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M/WBE Matters

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The following documents must be received at NYSED no later than **November 7, 2016 by 3:00 PM:**

1. Submission Documents labeled **Submission Documents - RFP #17-011 Do Not Open**
2. Technical Proposal labeled **Technical Proposal - RFP #17-011 Do Not Open**
3. Cost Proposal labeled **Cost Proposal – RFP #17-011 Do Not Open**
4. M/WBE Documents labeled **M/WBE Documents—RFP #17-011 Do Not Open**
5. CD-ROM containing the technical, cost, submission and M/WBE proposals. Place in a separate envelope labeled **CD-ROM-RFP#17-011 Do Not Open.**

The mailing address for all the above documentation is:

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

(Facsimile copies of the proposals are NOT acceptable)

1.) Description of Services to be Performed

Work Statement and Specifications

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

Mandatory Requirements:

The **Mandatory Requirements Certification Form** (located in section **5. Submission Documents**) must be filled out, signed and submitted with the Technical Proposal. Bids that do not include the signed Mandatory Requirements Certification Form will be disqualified.

Mandatory Staffing Requirements:

For the purposes of this RFP, staff is defined as employees of the bidder. Consultants may not be used to meet the mandatory staffing requirement.

One (1) Project Director (1 FTE) with a Master's Degree or higher to provide deliverables as noted within this RFP and in subsequent annual work plans. A resume for the proposed Director must be submitted with the Technical Proposal. The Project Director must meet the following minimum requirements:

- a. Masters Degree; **and**
- b. Three (3) years' experience in the evaluation of educational programs.

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

For purposes of this procurement, NYS Education Department hereby establishes an overall goal of 30% of the total contract amount for M/WBE participation, 17% for Minority-Owned Business Enterprises ("MBE") participation and 13% for Women-Owned Business Enterprises ("WBE") participation based on the current availability of qualified MBEs and WBEs. All bidders must document good faith efforts to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of this Contract. Minority and Women-Owned Business Enterprise (M/WBE) participation includes any and all services, materials or supplies purchased from New York State certified minority and women-owned firms. Utilization of certified Minority and Women-Owned firms will be applied toward the goals. Bidders can achieve compliance with NYSED's Minority and Women-Owned Business Enterprise goals as described below.

ACHIEVE FULL COMPLIANCE WITH PARTICIPATION GOALS (PREFERRED)

Bidders should submit subcontracting/supplier forms that meet or exceed NYSED's participation goals for this procurement. All subcontracting/supplier forms must be submitted with the bid proposal. In addition, bidders must complete and submit **M/WBE 100: Utilization Plan**, **M/WBE 102: Notice of Intent to Participate** and **EEO 100: Staffing Plan**. Instructions and copies of these forms are located in the Submission Documents. All firms utilized must be certified with the NYS Division of Minority and Women Business Development before beginning any work on this contract. For additional information and a listing of currently certified M/WBEs, see <https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp?TN=ny&XID=4687>.

The contact person on M/WBE matters is available throughout the application and procurement process to assist bidders in meeting the M/WBE goals. NYSED reserves the right to approve the addition or deletion of subcontractors or suppliers to enable bidders to comply with the M/WBE goals, provided such addition or deletion does not impact the technical proposal and/or increase the total cost of the bid proposal.

DOCUMENTATION OF GOOD FAITH EFFORTS

Bidders must undertake a good faith effort to solicit NYS Certified M/WBE firms as subcontractors and/or suppliers in fulfillment of this procurement. Means of solicitation may include but are not limited to: advertisements in minority centered publications; solicitation of vendors found in the NYS Directory of Certified Minority and Women-Owned Business Enterprises (<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp?TN=ny&XID=4687>); and the solicitation of minority and women-oriented trade and labor organizations. Bidders will be required to certify and attest to their good faith efforts by completing NYSED's Certification of Good Faith Efforts (Form **M/WBE 105**). See the M/WBE Submission Documents for detailed examples of and required forms to document good faith efforts.

NYSED reserves the right to reject any bid for failure to document "good faith efforts" to comply with the stated M/WBE goals.

IN THE EVENT BIDDERS CANNOT COMPLY WITH NYSED DESIGNATED PARTICIPATION GOALS, SAID BIDDERS MUST DOCUMENT THEIR "GOOD FAITH EFFORTS" TO COMPLY AND SUBMIT ONE OF THE FOLLOWING REQUESTS:

REQUEST A PARTIAL WAIVER OF PARTICIPATION GOALS

In order to request a partial waiver of the participation goals for this procurement, Bidders must provide documentation of their good faith efforts to obtain the use of certified M/WBE enterprises along with their bid proposal forms. The subcontracting forms must include the participation percentage(s) for which they seek approval. Bidders will be required to certify and attest to their good faith efforts. Bidders should submit a request for a partial waiver (Form **M/WBE 101**) and document their Good Faith Efforts (Form **M/WBE 105**) at the same time as the bid is submitted. Bidders must also complete and submit **M/WBE 100: Utilization Plan**, **M/WBE 102: Notice of Intent to Participate** and **EEO 100: Staffing Plan**. The M/WBE Coordinator is available throughout the procurement process to assist in all areas of M/WBE compliance.

REQUEST A COMPLETE WAIVER OF PARTICIPATION GOALS

In order to request a complete waiver of the participation goals for this procurement, Bidders must provide documentation of their Good Faith Efforts to obtain the use of certified M/WBE enterprises along with their bid proposal forms. Bidders will be required to certify and attest to their good faith efforts. Bidders should submit a request for a complete waiver on Form **M/WBE 101** and document their Good Faith Efforts (Form **M/WBE 105**) at the same time as they submit their bid. The M/WBE Coordinator is available throughout the procurement process to assist in all areas of M/WBE compliance.

All payments to Minority and Women-Owned Business Enterprise subcontractor(s) must be reported to NYSED M/WBE Program Unit using **M/WBE 103** Quarterly M/WBE Compliance Report. This report must be submitted on a quarterly basis and can be found at www.oms.nysed.gov/fiscal/MWBE/forms.html

Service-Disabled Veteran-Owned Business (SDVOB) Participation Goals Pursuant to Article 17-B of New York State Executive Law

Article 17-B of Executive Law was enacted to ensure that certified SDVOBs are provided opportunities for meaningful participation in the performance of state contracts. To this end, NYSED strongly encourages bidders to make maximum possible use of SDVOBs as subcontractors and/or suppliers under this contract, consistent with the requirements of State Finance Law and State procurement guidelines, as well as NYSED policies and procedures. Bidders should consider fulfilling the requirements of this contract through the participation of SDVOBs at a rate of 6%. For additional information about this program, including a list of SDVOBs, please visit the Office of General Services, Division of Service-Disabled Veterans' Business Development website at: <http://www.ogs.ny.gov/Core/SDVOBA.asp>

Background and Purpose

The 21st Century Community Learning Centers (21st CCLC) program is authorized under Title IV, Part B of the Elementary and Secondary Education Act, as amended by the Every Student Succeeds Act (ESSA) of 2015. As per the ESSA of 2015, Section 4201(a), the purpose of this program is to provide opportunities for academic enrichment, including providing tutorial services to help students, particularly students who attend low-performing schools, to meet the challenging State academic standards; offer students a broad array of additional services, programs, and activities, such as youth development activities, service learning, nutrition and health education, drug and violence prevention programs, counseling programs, arts, music, physical fitness and wellness programs, technology education programs, financial literacy programs, environmental literacy programs, mathematics, science, career and technical programs, internship or apprenticeship programs, and other ties to an in-demand industry sector or occupation for high school students that are designed to reinforce and complement the regular academic program of participating students; and offer families of students served by community learning centers opportunities for active and meaningful engagement in their children's education, including opportunities for literacy and related educational development.

A 21st CCLC is a partnership of a local education agency and an organization that provides expanded learning opportunities for academic enrichment, youth development and family literacy opportunities outside of the regular school hours primarily for children who attend high-poverty and low-performing schools.

Currently, there are 129 CCLC grantees (<http://www.p12.nysed.gov/sss/21stCCLC/21centRound6AwardList.pdf>), 71 of which are located in NYC. The remaining 58 are located in all other regions of the State (see table below):

Region	# of Programs
Western	18
Mid-West	6
Mid-State	13
Eastern	4
Hudson Valley	11
Long Island	6
New York City – all boroughs	71
TOTAL	129

The 129 grantees operate 346 sites and serve over 60,603 students in grades Pre-K through 12. These numbers are expected to change as NYSED will release a new 21CCLC grant application in the coming months. A new round of 21st CCLC grantees has an anticipated start date of 7/1/17.

The results of the USDOE-required evaluation will be used to guide NYSED's efforts to improve its administration of the program and the assistance it provides to local grantees to improve program quality and outcomes for participating students.

Deliverables:

The evaluator will conduct an in-depth analysis of NYSED's 21st CCLC Program, consistent with the State Plan (<http://www.p12.nysed.gov/sss/21stCCLC/2011NYSPlan.pdf>), as approved by the USDOE. The evaluation will encompass analyses of the processes and outcomes of the 21st CCLC program. The evaluation must be designed to utilize both quantitative and qualitative information from multiple data sources, including federally required, grantee reported, Annual Performance Report (APR) data, program and Resource Center site visits (defined later in the RFP), telephone interviews with a variety of stakeholders, and other research strategies designed to determine the effectiveness of the NYSED's 21st CCLC Program.

1. The bidder will evaluate the extent to which NYSED has achieved its objectives related to the provision of services to students and the achievement of statewide improvements in participating students' academic performance and behavior. (See Attachment 1 for defined objectives for the 21st CCLC program.) This evaluation will be accomplished through the secondary analysis of the federally required Annual Performance Report (APR) data that all 21st CCLC sub-grantees must report to the federal government. This data includes participants' hours of attendance, New York State Assessment scores, participant demographic data, as well as other programmatic information such as staffing, hours of operation, activities offered, etc. It is anticipated that this data will be available for such analysis in years two through five through a state-level data-capture system. Once a state-level data system is operational, estimated to be by year two of the state-level evaluation, the evaluator will conduct a secondary analysis of all program and participant data and provide a report to the NYSED. The following link provides an example of the type of report that would be expected. <https://www.cde.state.co.us/21stcclc/2013201421stcclcexternalreport>.

In year one, and/or prior to an operational state-level data collection system for APR reporting, the required secondary analysis will involve a smaller number of those data elements that are available through other means. NYSED will collect some of these data elements from sub-grantees, such as participation hours, progress toward objectives and other program data such as hours of operation, provision of services and staffing, to name a few, and provide to the evaluator for analysis. The data will be collected in separate formats since the composite data collected through the federal web-based interface is not available to state educational agencies. Therefore, sub-grantees will be expected to provide this data to the NYSED, in addition to the data sub-grantees provide to the federal government via the 21APR system managed by The Tactile Group.

The bidder will provide a secondary analysis of the NYSED collected data in year one, and of the APR data collected through a state-level data collection system anticipated in years two through five, and provide a separate report to the NYSED beyond the quarterly and annual reports. The secondary analysis report will be submitted to the NYSED by November 15,

based on the previous program year data, if all data is available by October 1 of that year. Extensions will be granted if necessary, allowing the bidder 45 days after all required data is made available, for the report submission.

2. The bidder will evaluate the effectiveness of the two 21st CCLC Resource Centers (RCs), one in New York City that serves all 21st CCLCs in the City's five boroughs, and one located in the Hudson Valley to serve all 21st CCLCs outside of New York City, in the Rest of State (RoS). (See Attachment 2 for details on the services provided by the RCs.) The bidder will be required to conduct a total of four (4) site visits per year: one site visit to each of the RC locations, and two (2) site visits to attend on-site PD events; one conducted by the RoS RC and one conducted by the NYC RC. In addition to these four site visits, the bidder will be required to evaluate one other PD event provided through the collaboration of the NYC and RoS RCs. This event may be evaluated from a remote location if the event is made available to remote audiences.

The RCs are to be evaluated with regard to:

- a. The New York City (NYC) RC's and the Rest of State (RoS) RC's provision of two on-site professional development (PD) events a piece, for a total of four events each year for 21st CCLC grantees. These events must be based on evidence-based research and/or best practices. As noted above, the bidder will be required to observe and evaluate two of these events each year; one in NYC and one in RoS. PD events occur in both the fall and spring of each year. Each event will be up to one full day in duration. The bidder will have access to the results of any participant surveys conducted by the RCs and will be expected to develop additional surveys as necessary to inform this evaluation.
- b. The NYC and RoS RC will collaborate to provide at least two other PD events for 21st CCLC grantees statewide. These events must be based on scientifically-based research and/or best practices, and may be provided in a variety of formats – e.g., webinars, web casts, videoconferences and/or in-person. The vendor must observe and evaluate one of these events each year. The observation may be from a remote location if the event is made available to remote audiences.
- c. The technical assistance provided by each of the RCs to the 21st CCLCs in their respective geographic areas will be evaluated via document review and staff interviews during the one full day site visit to each RC location. Surveys or sample calling of grantees would also be expected to provide additional information to determine the following:
 - RC staff knowledge and expertise;
 - Access to and availability of RC staff for technical assistance;
 - Overall helpfulness of the RCs.

Note: Each RC is expected to work in cooperation with the State-level independent evaluator by compiling requested data and responding to the evaluator's inquiries about the RC's work in a timely manner.

The evaluation of the RCs is to be included in the quarterly and annual reports.

3. The bidder will evaluate the performance of fifty Round 7 21st CCLC programs. Round 7 grantees are anticipated to be awarded by July 1, 2017. Ten programs will be evaluated in each of the five contract years. In consultation with the bidder, NYSED will determine which ten programs will be evaluated in each contract year. The 50 programs will be selected, as follows: 32 in New York City; one in each of the Big Four cities of Buffalo, Rochester, Syracuse

and Yonkers; and 14 in the regions of the rest of the State (four in the Western Region, one in the Mid-West Region, two in the Mid-State Region, one in the Eastern Region, five in the Hudson Valley Region and one in the Long Island Region). This evaluation must include one site visit to each of the 50 programs during the five-year contract period. Each site visit will be up to one full day in duration. The bidder should budget for ten site visits per year, six or seven of which will be in the New York City Region so that a total of 32 NYC grantees are evaluated over the course of the five year contract.

Performance is to be evaluated in terms of fidelity of implementation, meeting of program objectives, improvement of participants' academic performance and behavior, alignment of program activities with appropriate learning standards, implementation of, and utilization of, results from the Program Quality Self-Assessment Tool (QSA) developed by the New York State Network for Youth Success and required of all 21st CCLCs (available at <http://networkforyouthsuccess.org/qsas/>), and the required evaluation conducted by the local program's independent evaluator.

The evaluation of each selected grantee will be included in the quarterly report and annual report.

4. The bidder will review and assess quality and completeness of local program-level evaluation annual reports, which are required to be submitted to the NYSED by September 30 of each year. The bidder will develop a rubric by which to assess the program-level evaluation reports and submit an assessment report summary to the NYSED program office annually. The rubric should be submitted for approval to NYSED by May 31, 2018. The program-level evaluation assessment reports are in addition to the Quarterly and Annual reports, and are to be submitted to the NYSED program office 90 days after local program-level evaluation reports are due to NYSED (typically September 30), or by December 31st annually, for four years, beginning in 2018 and continuing through 2021.
5. The bidder will provide guidance and assistance to NYSED staff as NYSED transitions to a state-level data collection system (or possibly two systems, one for NYC and one for RoS grantees) to ensure data systems meet the requirements for secondary analysis purposes to inform NYSED's stated objectives for this grant program. Currently, all New York City sub-grantees are offered site licenses to a New York City-wide data collection system through a vendor contract with the 21st CCLC New York City Technical Assistance Resource Center. During year 1 of the evaluation, NYSED will be working toward putting in place a data collection system for RoS grantees. It has not yet been determined whether both RoS and NYC grantees will use a single system or if RoS and NYC will each use a separate system. If possible, the proposed system(s) will include all federally required elements for the 21APR reporting system managed by the Tactile Group and will have the capability of linking to NYSED data systems in order to pull achievement, demographic, and possibly other data elements yet to be determined by the NYSED, for 21st CCLC participants by using unique student identifiers.

The bidder will provide guidance and assistance regarding the implementation of the data collection system(s) through monthly one hour conference calls during Year 1 (calls may be with NYSED program staff and/or with NYSED's Regional Information Centers [RICs]). An additional 20 hours of planning time during year 1 should be budgeted to facilitate the coordination of systems. This will involve follow-up communication and planning with staff from any and all systems as necessary; NYSED staff and/or NYSED's Regional Information Centers

(RICs) staff who coordinate NYSED’s data systems; the federal 21APR system providers (The Tactile Group); and the vendor(s) providing the state-level data system(s).

6. The bidder will be a resource for local program evaluators in order to improve the quality and consistency of local program evaluation throughout the state:
 - Plan and facilitate two networking meetings annually for local program evaluators that shall be at least four hours, and not exceed one full day, in duration. One of these meetings should take place in a location easily accessible to New York City evaluators and the other should take place in a centralized location such as the Syracuse or Rochester area to accommodate evaluators in the rest of state.
 - Review, edit/update and print 200 copies of New York State’s 21st Century Community Learning Centers Evaluation Manual during the first year of the contract. The current 21st Century Community Learning Center Evaluation Manual can be found at the following link: <http://www.p12.nysed.gov/sss/21stCCLC/NYSEvaluationManual.pdf>.

7. Out of State Travel: Summer Institute. The bidder will participate in the annual USDOE sponsored Summer Institute for 21st Century State Education Agency (SEA) coordinators, technical assistance providers, evaluators and local grantees. One professional staff member will attend. The Institute is held at a different location each year. In previous years, the Institute has been held in Texas, Arizona and Florida. The Institute is ordinarily three full days in duration.

8. The bidder will participate in Quarterly planning/update meetings, at least two of which must be in-person and two which may be attended virtually. These meetings take place at the New York State Education Department in Albany and will include common meeting time with the two Technical Assistance Resource Centers (NYC and RoS) staff. Bidder should plan for their participation at these meetings to be approximately three hours in duration.

Work Plan

The evaluator will submit an updated and detailed annual work plan of evaluation activities at least 30 days before the start of each contract year (by March 1 of 2018, 2019, 2020 and 2021, respectively) to NYSED for review and approval.

- A. The updated annual work plan will be consistent with the required deliverables as referenced in the RFP.
- B. The work plan should reflect valid and reliable evaluation methods that will measure the effectiveness of each activity.

The following template is to be used for the Evaluator’s work plan:

I. Contract Deliverable			
A. Specific Sub-Activity to meet contract deliverable	Indicator of Success	How Indicator Will be Measured	Timeline for Implementation

Reporting

Prepare and submit quarterly and annual reports on the evaluation process and findings, annual program-level assessment reports on compliance with local evaluation requirements as set forth in

the Evaluation Manual, and annual secondary analysis reports of APR data on the degree to which New York State programs and participants are meeting the State's objectives.

Quarterly reports, which must include an executive summary, should be considered progress reports of evaluation activities that took place during that quarter and should include any preliminary evaluation findings for review by NYSED. Quarterly reports may be posted on the NYSED website.

Three quarterly reports will be due on the last day of September, December and March of each contract year. The first quarterly report will be due on September 30, 2017.

Annual reports will include the reporting of evaluation activities that took place during the fourth quarter, as well as, a summary of the year's preliminary findings and recommendations. Reports should be submitted electronically in a format compatible with Microsoft Office Suite software and will include an executive summary and appropriate displays of data suitable for presentation to the New York State Board of Regents to inform them of the status of the 21st CCLC Program in New York State. Annual reports will be due on the last day of June of each contract year, with the exception of the final year. The first annual report will be due on June 30, 2018. Annual reports will be posted on the NYSED website.

The final summative annual report will include an executive summary and a summary of findings and recommendations made over the five years (submitted electronically in a format compatible with Microsoft Office Suite software) and appropriate displays of data suitable for presentation to the New York State Board of Regents. The final summative annual report will be due on May 31, 2022, and will be posted on the NYSED website.

The secondary analysis report of APR data (or partial APR data in year 1) will be submitted to the NYSED by November 15th annually, if all data is available by October 1 of that year, and will be based on the previous program year data. If all data is not available by October 1st, submission extensions will be granted to allow the bidder 45 days after data is made available for the report submission. The first secondary analysis report will be due on November 15, 2017. It is anticipated that the secondary analysis of APR data report will be posted on the NYSED website in years two through five.

The program-level evaluation assessment report will assess program-level evaluation reports for alignment with the requirements set forth in the Evaluation Manual for program-level evaluators. Reports are due by December 31st annually in years 2018, 2019, 2020 and 2021. <http://www.p12.nysed.gov/sss/21stCCLC/NYSEvaluationManual.pdf>.

The State-level Evaluator will be responsible for timely and accurate submission of all required plans and reports. NYSED will review and discuss the reports with the evaluator to make any needed adjustments.

Requirements of Education Law Section 2-d

The Contractor agrees to comply with FERPA and New York State Education Law § 2-d. The New York State Data Security and Privacy Plan (Appendix R), the Parents Bill of Rights (Appendix S) and the Attachment to the Parents' Bill of Rights for Contracts Involving Certain Personally Identifiable Information (Appendix S-1) are annexed to this RFP, the terms of which are incorporated herein by reference, and which shall also be part of the Contract.

Bidders should complete items #3 and #6 of the Appendix S-1 and return with their technical proposal for review.

Accessibility of Web-Based Information and Applications

Any web-based information and applications development, or programming delivered pursuant to the contract or procurement, will comply with New York State Enterprise IT Policy NYS-P08-005, Accessibility of Web-Based Information and Applications as such policy may be amended, modified or superseded, which requires that state agency web-based information and applications are accessible to persons with disabilities. Web-based information and applications must conform to New York State Enterprise IT Policy NYS-P08-005 (see https://www.its.ny.gov/sites/default/files/documents/nys_p08-005_memo_09102010.pdf) as determined by quality assurance testing. Such quality assurance testing will be conducted by the contractor, and the results of such testing must be satisfactory to NYSED before web-based information and applications will be considered a qualified deliverable under the contract or procurement.

Ownership

New York State Education Department shall own all materials, processes, and products (software, code, documentation and other written materials) developed under this contract. Materials prepared under this contract shall be in a form that will be ready for copyright in the name of the New York State Education Department. Any sub-contractor is also bound by these terms.

Payment

Quarterly payments will be made to the vendor after quarterly reports have been submitted by the vendor and have been reviewed and approved by NYSED program staff. Failure to submit the required reports may result in the suspension of future payments.

The vendor will be required to submit quarterly invoices to NYSED containing dates of services and an itemized list of activities and costs consistent with the approved Schedule of Deliverables contained in the executed contract and the quarterly narrative reports. Payments will be made once the quarterly reports are reviewed and project deliverables are determined by NYSED to be adequate. Payment for each deliverable will be made upon 100% satisfactory completion and approval by NYSED. Payment(s) for subcontractor(s) should list the subcontractor's name(s), payment amount(s), and nature of services provided separately on the invoice submitted. Invoices with incomplete information will be returned to the vendor.

The vendor must retain records and accounts, updated on a monthly basis, and must be able to prepare and submit statistical, narrative, and/or financial summaries related to this contract as requested by NYSED.

Contract Period

NYSED will award one (1) contract with a term of (5) years, anticipated to begin on June 1, 2017 and ending on May 31, 2022.

Subcontracting Limit

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

For vendors using subcontractors, a Vendor Responsibility Questionnaire and a NYSED vendor responsibility review are required for a subcontractor where:

- 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;

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

If the vendor 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 vendor and reserves the right to approve all changes in subcontractors. The Subcontracting Form located in the Submission Documents must be updated annually and submitted to NYSED. Using this form, the vendor 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.

Staff Changes

The vendor will maintain continuity of staff and consultants throughout the course of the contract. All changes in staff or consultants will be subject to NYSED approval. The replacement staff or consultants with comparable skills will be provided at the same or lower hourly rate.

Electronic Processing of Payments

In accordance with a directive dated January 22, 2010 by the Director of State Operations - Office of Taxpayer Accountability, all state agency contracts, grants, and purchase orders executed after February 28, 2010 shall contain a provision requiring that contractors and grantees accept electronic payments. Additional information and authorization forms are available at the State Comptroller's website at www.osc.state.ny.us/epay/index.htm.

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 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 bidder 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 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 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. Contractors or subcontractors shall comply with the requirements of any federal law concerning equal employment opportunity, which effectuates the purpose of this section.

4. Contractors and subcontractors shall undertake programs of affirmative action and equal employment opportunity as required by this section¹. 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 share² of this contract to such businesses².
6. 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.newycontracts.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. Contractor shall agree, as a condition of entering into said contract, to be bound by the provisions of Article 15-A, §316.
8. 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. Contractor shall comply with the requirements of any federal law concerning opportunities for M/WBEs which effectuates the purpose of this section.
10. 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 under this RFP. These goals should not be construed as rigid and inflexible quotas which 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. 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.
13. Contractor shall upon written notification from NYSED M/WBE Program Unit as to any deficiencies and required remedies thereof, the contractor, within the period of time specified, will submit compliance reports documenting remedial actions taken and other information relating to the operation and implementation of the Utilization Plan.

¹ 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.

² 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 Empire State Development (<http://www.esd.ny.gov/MWBE/Certification.html>) by the deadline for submission of proposals for eligibility determination. 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.

14. Where it appears that a contractor cannot, after a good faith effort, comply with the M/WBE participation requirements, contractor may file a written application with NYSED M/WBE Program Unit requesting a partial or total waiver (M/WBE 101) of such requirements 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:

I. Whether the contractor has advertised in general circulation media, trade association publications and minority-focused and women-focused media and, in such event;

a. Whether or not the certified M/WBEs which have been solicited by the contractor exhibited interest in submitting proposals for a particular project by attending a pre-bid conference; and

b. Whether certified businesses solicited by the contractor responded in a timely fashion to the contractor's solicitations for timely competitive bid quotations prior to the contracting agency's deadline for submission of proposals.

II. 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 which:

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 percentage 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.) Submission

Documents to be submitted with this proposal

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

Project Submission:

The proposal submitted in response to this RFP must include the following documents:

1. Submission Documents – Two (2) copies (one bearing an original signature)
2. Technical Proposal – Five (5) copies
3. Cost Proposal – Three (3) copies (one bearing an original signature)
4. M/WBE Documents – Two (2) copies (one bearing an original signature)
5. CD format – One (1) electronic version with the submission, technical, cost, and M/WBE proposals.
Please place the CD-ROM in a separate envelope.

The proposal must be received by **November 7, 2016, by 3:00 PM** at NYSED in Albany, NY.

Proposals should be prepared simply and economically, avoiding the use of elaborate promotional materials beyond those sufficient to provide complete presentation. If supplemental materials are a necessary part of the proposal, the bidder 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.

Bidders should specify all details and dates required to evaluate the technical proposal and should limit aspects of the project plan which are to be determined only after the award of a contract. No optional deliverables to be provided only at an additional cost should be included and will not be considered in the evaluation of the technical proposal. Contractual terms, conditions and assumptions are inappropriate for inclusion in the proposal.

Any proprietary material considered confidential by the bidder must specifically be so identified, and the basis for such confidentiality must be specifically set forth in the proposal by submitting the form "Request for Exemption from Disclosure Pursuant to the Freedom of Information Law," located in 5) Submission Documents.

Note: Proposals must be labeled "RFP#17-011 State-Level Evaluation of the New York State 21st Century Community Learning Centers (21st CCLC) Program". This information should be on all the sealed envelopes contained in your submission.

The proposal will be based on a total possible score of one hundred (100) points.

Technical Proposal

(70 Points)

Instructions for Technical Proposal:

The original plus four copies of the Technical Proposal must be mailed in a separate envelope labeled, “**RFP#17-011 Technical Proposal Do Not Open**” and must include in the following order:

- Mandatory Requirements Certification Form (**Signature Required**)
- Demonstration of clear and separate governance and oversight structures for bidders affiliated or performing work for 21st CCLC Grantees or Resource Centers (if applicable)
- Completed Appendix S-1 (Attachment to the Parents’ Bill of Rights)
- Project Description
- Resumes for the proposed Project Director and any other professional staff that will be assigned to work on this contract.
- Work Plan (see **5.) Submission Documents** for template to be used)

Project Description (50 Points): The complete project description and supporting materials will be reviewed to determine the overall consistency of the proposal with the stated purpose and objectives of the RFP. The qualifications of key personnel and the adequacy of the resources of the bidder will be reviewed to determine the organization’s ability to implement the activities described in the application. The project description should include the bidder’s:

- Description of the organizational capacity to conduct the activities and produce the deliverables specified in the RFP consistent with State and federal laws and regulations that pertain to 21st CCLCs. The description of organizational capacity must include, but is not limited to, description of the agency’s human, material and information resources. **(5 points)**
- Knowledge and experience evaluating education programs, especially the evaluation of expanded learning opportunity programs, run by various types of organizations, including non-profit, school districts, municipalities, faith-based, for-profit and institutions of higher education. Include potential challenges in evaluating programs run by various organization types and ways to address such challenges. **(4 points)**
- Knowledge and experience evaluating education programs, especially the evaluation of expanded learning opportunity programs, in various regions and communities across New York State, including New York City, the big four cities (Buffalo, Rochester, Syracuse, and Yonkers), small cities, and rural programs from across New York State. Include potential challenges in evaluating programs in various regions and communities and ways to address such challenges. **(4 points)**
- Description of the proposed project director’s knowledge and experience conducting evaluations of educational programs. (See Mandatory Requirement section for details on project director requirements. Minimum requirements **must** be met, and points will be given in relation to staff qualifications beyond this minimum standard.) Provide examples of evaluations of expanded learning opportunity programs and any state-level evaluations directed by the proposed project director. Provide a staffing and supervision plan that

includes additional staff or sub-contracted staff necessary to meet the deliverables as described in this RFP. Include a resume for the proposed Project Director, resumes for all professional staff who will be assigned to this contract that are already employed by the bidder, and job descriptions for all other professional staff. **(6 points)**

- Deliverable 1 - Overview of proposed evaluation plan to measure the extent to which NYSED has achieved its objectives related to statewide improvements in participating students' academic performance and behavior via the secondary analysis of federally required data elements and any additional data the bidder deems appropriate for New York State to collect in years two through five that a state-level data collection system would make possible. The plan should outline what data would be most useful, plans for ensuring access to the desired data, plans for both aggregating and disaggregating the data to provide additional insight, potential challenges that are foreseen, and ways to address those challenges. **(6 points)**
- Deliverable 2 - Plan to evaluate the provision of required services of the New York City (NYC) and Rest of State (ROS) Technical Assistance Resource Centers. **(7 points)**
- Deliverable 3 - In addition to the secondary analysis of data reported by all grantees, describe the plan to conduct an in-depth analysis of a sample of fifty (50) 21st CCLC programs selected in consultation with NYSED to be studied over the five years of this contract. Include what additional insight could be gained from this in-depth analysis of a sample of programs that would otherwise not be known to inform the overall evaluation. The 50 programs will be selected, as follows: 32 in New York City; one in each of the Big Four cities of Buffalo, Rochester, Syracuse and Yonkers; and 14 in the regions of the rest of the State (four in the Western Region, one in the Mid-West Region, two in the Mid-State Region, one in the Eastern Region, five in the Hudson Valley Region and one in the Long Island Region. **(7 points)**
- Deliverables 4 and 6 - Plan to monitor, guide and improve local-level evaluation services provided to 21st CCLC sub-grantees via the following deliverables outlined in this RFP: annual networking sessions for local evaluators; updating and production of the Evaluation Manual; and review and reporting to NYSED on the completeness of local evaluation annual reports using a rubric developed by the bidder and approved by the NYSED. **(6 points)**
- Deliverable 5 - Description of the bidder's knowledge and expertise related to information technology systems and the required federal reporting data (21APR) elements for the 21st CCLC program. Bidder should include how this knowledge and experience will be instrumental in providing the guidance and technical assistance to NYSED as it considers adoption of a state-level data collection and reporting system for New York State's 21st CCLC program. **(5 points)**

Work Plan (20 Points): The Work Plan Template (located in **5.) Submission Documents** should be completed to describe the deliverables that will result in meeting the requirements of the RFP. The Work Plan will be evaluated based on its completeness, the appropriateness of the sub-activities to achieve each of the required contract deliverables, indicators of success, how the indicators will be measured, and the timeline for implementation of the sub-activities.

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- Specific sub-activities to meet contract deliverables and required activities (**10 points**)
- Indicators (benchmarks) and measures of Success (**5 points**)
- Timeline (**5 points**)

Cost Proposal

(30 Points)

The original plus two (2) copies of the completed Cost Proposal must be mailed in a separate envelope labeled **RFP #17-011 Cost Proposal-Do Not Open** and must include the following:

- 1.) Bid Form Cost Proposal **Signature Required**
- 2.) Subcontracting Form
- 3.) M/WBE Purchases Form

Budgets should be submitted using whole dollar numbers.

The budget forms are located in 5.) **Submission Documents**. When budgeting for future years, bidders should factor in any anticipated cost increases, due to negotiated salary increases, etc. The pricing provided within the Cost Proposal must include all costs for the duration of the contract, including, but not limited to:

- professional and non-professional salaries and benefits;
- purchased services, including consultant services;
- travel expenses;
- supplies, materials, and printing;
- indirect costs, overhead, etc.

The Financial Criteria portion of the RFP will be scored based upon the grand total of the five year budget.

M/WBE Documents

The original and one copy of the completed M/WBE Documents must be mailed in a separate envelope labeled **RFP #17-011-M/WBE Documents-Do Not Open**. Please return the documents listed for the compliance method achieved:

Full Participation-No Request for Waiver

1. M/WBE Cover Letter
2. **M/WBE 100** Utilization Plan
3. **M/WBE 102** Notice of Intent to Participate
4. **EEO 100** Staffing Plan

Signatures Required

Partial Participation-Partial Request for Waiver

1. M/WBE Cover Letter
2. **M/WBE 100** Utilization Plan
3. **M/WBE 102** Notice of Intent to Participate
4. **EEO 100** Staffing Plan
5. **M/WBE 101** Request for Waiver
6. **M/WBE 105** Contractor's Good Faith Efforts

Signatures Required

RFP # 17-011

No Participation-Request for Complete Waiver

1. M/WBE Cover Letter
2. **M/WBE 101** Request for Waiver
3. **M/WBE 105** Contractor's Good Faith Efforts

Signatures Required

3.) Evaluation Criteria and Method of Award

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

Criteria for Evaluating Bids

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

The technical portion of the proposal will be reviewed and rated by the evaluation committee according to the criteria below. Proposals receiving at least sixty percent (60%) of the points available for the technical proposal (a total of 42 out of 70) will move to the next step of the process. Proposals with a score of less than 42 points in the Technical Criteria section will be eliminated from further consideration.

Technical Criteria

(70 Points)

Each proposal received by the deadline will be reviewed and rated on the quality and extent to which the bidder meets the following criteria:

Project Description (45 Points)

Work Plan (25 Points)

Financial Criteria

(30 Points)

The Financial Criteria portion of the RFP will be scored based upon the grand total of the 5 year Budget Summary. When budgeting for future years, bidders should factor in any anticipated cost increase, due to negotiated salary increases, etc. NYSED reserves the right to determine whether the anticipated annual costs are reasonable.

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

NYSED reserves the right to request best and final offers. In the event NYSED exercises this right, all bidders that meet the minimum technical score will be asked to provide a best and final offer. The Contract Administration Unit will recalculate the financial score.

Method of Award

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

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

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

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 bidder 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 bidder's qualifications, experience, ability or financial standing, and any material or information submitted by the bidder 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 bidders 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 bidder within the scope of the RFP in the best interests of the state; (12) conduct contract negotiations with the next responsible bidder, should the agency be unsuccessful in negotiating with the selected bidder; (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 offerer's proposal and/or to determine an offerer's compliance with the requirements of the solicitation; (16) request best and final offers.

Post Selection Procedures

Upon selection, the successful bidder will receive a proposed contract from NYSED. All terms set forth in the selected bidder's technical proposal will be final. The selected bidder 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 bidders may be subject to audit and should ensure that adequate controls are in place to document the allowable activities and expenditure of State funds.

Debriefing Procedures

All unsuccessful bidders may request a debriefing within fifteen (15) calendar days of receiving notice from NYSED. Bidders 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 ten (10) business days, the program staff will issue a written debriefing letter to the bidder.

Contract Award Protest Procedures

Bidders who receive a notice of non-award may protest the 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. The NYSED Contract Administration Unit (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 bidder 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. The NYSED Contract Administration Unit (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.

Vendor Responsibility

State law requires that the award of state contracts be made to responsible vendors. Before an award is made to a not-for-profit entity, a for-profit entity, a private college or university or a public entity not exempted by the Office of the State Comptroller, 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 vendors file the required Vendor Responsibility Questionnaire online via the New York State VendRep System. To enroll in and use the New York State VendRep System, see the VendRep System Instructions available at http://www.osc.state.ny.us/vendrep/vendor_index.htm or go directly to the VendRep System online at <https://portal.osc.state.ny.us>.

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

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

Subcontractors:

For vendors using subcontractors, a Vendor Responsibility Questionnaire and a NYSED vendor responsibility review are required for a subcontractor where:

- 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

Note: Bidders must acknowledge their method of filing their questionnaire by checking the appropriate box on the Response Sheet for Bids (5. Submission Documents).

PROCUREMENT LOBBYING LAW

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

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

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 bidders to include them in their bid submission to expedite contract execution if the bidder 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/>.

Public Officer's Law Section 73

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

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

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

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

(ii) officers and employees of statewide elected officials;

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

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

Public Officer's Law Section 73 can be found at <http://www.jcope.ny.gov/about/ethc/PUBLICOFFICERSLAW73JCOPE.pdf>.

NYSED Substitute Form W-9

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

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

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 vendors 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.

PROOF OF COVERAGE REQUIREMENTS

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.

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:

- **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
- **Form SI-12**– Certificate of Workers' Compensation Self-Insurance; or **Form GSI-105.2** Certificate of Participation in Workers' Compensation Group Self-Insurance; or
- **CE-200**– Certificate of Attestation of Exemption from NYS Workers' Compensation and/or Disability Benefits Coverage.

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:

- **Form DB-120.1** - Certificate of Disability Benefits Insurance; or
- **Form DB-155**- Certificate of Disability Benefits Self-Insurance; or
- **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/busPermits.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 bidders to include them in their bid submission to expedite contract execution if the bidder is awarded the contract. Note also that only the forms listed above are acceptable.

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 bidder must file a properly completed Form ST-220-CA (with the Contracting Agency) 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: <http://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 bidders to include them with their bid submissions to expedite contract execution if the bidder is awarded the contract.

4.) **Assurances**

The State of New York Agreement, Appendix A: Standard Clause for all New York State Contracts, Appendix A-1, Appendix R: Data Security and Privacy Plan Provisions, Appendix S: Parents' Bill of Rights, and Appendix S-1: Attachment to Parents' Bill of Rights for Contracts Involving the Disclosure of Certain Personally Identifiable Information **WILL BE INCLUDED** in the contract that results from this RFP. Vendors who are unable to complete or abide by these assurances should not respond to this request.

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

- A. Non-Collusion Certification
- B. MacBride Certification
- C. Certification-Omnibus Procurement Act of 1992
- D. Certification Regarding Lobbying; Debarment and Suspension; and Drug-Free Workplace Requirements
- E. Offerer Disclosure of Prior Non-Responsibility Determinations
- F. NYSED Substitute Form W-9 (If bidder is not yet registered in the SFS centralized vendor file.)
- G. Iran Divestment Act Certification

M/WBE Documents – (the forms below are included in 5.) Submission Documents)

Please return the documents listed for the compliance method bidder has achieved:

Full Participation-No Request for Waiver

Signatures Required

- 1. M/WBE Cover Letter
- 2. **M/WBE 100** Utilization Plan
- 3. **M/WBE 102** Notice of Intent to Participate
- 4. **EEO 100** Staffing Plan

Partial Participation-Partial Request for Waiver

Signature Required

- 1. M/WBE Cover Letter
- 2. **M/WBE 100** Utilization Plan
- 3. **M/WBE 102** Notice of Intent to Participate
- 4. **EEO 100** Staffing Plan
- 5. **M/WBE 101** Request for Waiver
- 6. **M/WBE 105** Contractor's Good Faith Efforts

No Participation-Request for Complete Waiver

Signature Required

- 1. M/WBE Cover Letter
- 2. **M/WBE 101** Request for Waiver
- 3. **M/WBE 105** Contractor's Good Faith Efforts

STATE OF NEW YORK AGREEMENT

This AGREEMENT is hereby made by and between the People of the State of New York, acting through MaryEllen Elia, Commissioner of Education 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 Workplan (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 A1.

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 A1.

Appendix A
STANDARD CLAUSES FOR NYS CONTRACTS

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

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

2. NON-ASSIGNMENT CLAUSE. In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the 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 bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

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

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

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

NYS Department of Economic Development
Division for Small Business
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.newycontracts.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.

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

22. 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 Bidders/Offerers 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)

APPENDIX A-1

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 is due by May 15th of each year and covers actual employment data performed during the prior period of April 1st to March 31st. 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
 9. Appendix S - Parents’ Bill of Rights for Data Privacy and Security
 10. Appendix S-1 - Attachment to Parents’ Bill of Rights
 11. Appendix D – Program Workplan

(Revised 10/20/15)

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.

APPENDIX S

PARENTS' BILL OF RIGHTS FOR DATA PRIVACY AND SECURITY

To satisfy their responsibilities regarding the provision of education to students in pre-kindergarten through grade twelve, “educational agencies” (as defined below) in the State of New York collect and maintain certain personally identifiable information from the education records of their students. As part of the Common Core Implementation Reform Act, Education Law §2-d requires that each educational agency in the State of New York must develop a Parents’ Bill of Rights for Data Privacy and Security (Parents’ Bill of Rights). The Parents’ Bill of Rights must be published on the website of each educational agency, and must be included with every contract the educational agency enters into with a “third party contractor” (as defined below) where the third party contractor receives student data, or certain protected teacher/principal data related to Annual Professional Performance Reviews that is designated as confidential pursuant to Education Law §3012-c (“APPR data”).

The purpose of the Parents’ Bill of Rights is to inform parents (which also include legal guardians or persons in parental relation to a student, but generally not the parents of a student who is age eighteen or over) of the legal requirements regarding privacy, security and use of student data. In addition to the federal Family Educational Rights and Privacy Act (FERPA), Education Law §2-d provides important new protections for student data, and new remedies for breaches of the responsibility to maintain the security and confidentiality of such data.

A. What are the essential parents’ rights under the Family Educational Rights and Privacy Act (FERPA) relating to personally identifiable information in their child’s student records?

The rights of parents under FERPA are summarized in the Model Notification of Rights prepared by the United States Department of Education for use by schools in providing annual notification of rights to parents. It can be accessed at <http://www2.ed.gov/policy/gen/guid/fpco/ferpa/lea-officials.html>, and a copy is attached to this Parents’ Bill of Rights. Complete student records are maintained by schools and school districts, and not at the New York State Education Department (NYSED). Further, NYSED would need to establish and implement a means to verify a parent’s identity and right of access to records before processing a request for records to the school or school district. Therefore, requests to access student records will be most efficiently managed at the school or school district level.

Parents’ rights under FERPA include:

1. The right to inspect and review the student's education records within 45 days after the day the school or school district receives a request for access.
2. The right to request amendment of the student’s education records that the parent or eligible student believes are inaccurate, misleading, or otherwise in violation of the student’s privacy rights under FERPA. Complete student records are maintained by schools and school districts and not at NYSED, which is the secondary repository of data, and NYSED make amendments to school or school district records. Schools and school districts are in the best position to make corrections to students’ education records.
3. The right to provide written consent before the school discloses personally identifiable information (PII) from the student's education records, except to the extent that FERPA authorizes disclosure without consent (including but not limited to disclosure under specified conditions to: (i) school officials within the school or school district with legitimate educational interests; (ii) officials of

another school for purposes of enrollment or transfer; (iii) third party contractors providing services to, or performing functions for an educational agency; (iv) authorized representatives of the U. S. Comptroller General, the U. S. Attorney General, the U.S. Secretary of Education, or State and local educational authorities, such as NYSED; (iv) (v) organizations conducting studies for or on behalf of educational agencies) and (vi) the public where the school or school district has designated certain student data as “directory information” (described below). The attached FERPA Model Notification of Rights more fully describes the exceptions to the consent requirement under FERPA).

4. Where a school or school district has a policy of releasing “directory information” from student records, the parent has a right to refuse to let the school or school district designate any all of such information as directory information. Directory information, as defined in federal regulations, includes: the student’s name, address, telephone number, email address, photograph, date and place of birth, major field of study, grade level, enrollment status, dates of attendance, participation in officially recognized activities and sports, weight and height of members of athletic teams, degrees, honors and awards received and the most recent educational agency or institution attended. Where disclosure without consent is otherwise authorized under FERPA, however, a parent’s refusal to permit disclosure of directory information does not prevent disclosure pursuant to such separate authorization.
5. The right to file a complaint with the U.S. Department of Education concerning alleged failures by the School to comply with the requirements of FERPA.

B. What are parents’ rights under the Personal Privacy Protection Law (PPPL), Article 6-A of the Public Officers Law relating to records held by State agencies?

The PPPL (Public Officers Law §§91-99) applies to all records of State agencies and is not specific to student records or to parents. It does not apply to school districts or other local educational agencies. It imposes duties on State agencies to have procedures in place to protect from disclosure of “personal information,” defined as information which because of a name, number, symbol, mark or other identifier, can be used to identify a “data subject” (in this case the student or the student’s parent). Like FERPA, the PPPL confers a right on the data subject (student or the student’s parent) to access to State agency records relating to them and requires State agencies to have procedures for correction or amendment of records.

A more detailed description of the PPPL is available from the Committee on Open Government of the New York Department of State. Guidance on what you should know about the PPPL can be accessed at <http://www.dos.ny.gov/coog/shldno1.html>. The Committee on Open Government’s address is Committee on Open Government, Department of State, One Commerce Plaza, 99 Washington Avenue, suite 650, Albany, NY 12231, their email address is coog@dos.ny.gov, and their telephone number is (518) 474-2518.

C. Parents’ Rights Under Education Law §2-d relating to Unauthorized Release of Personally Identifiable Information

1. What “educational agencies” are included in the requirements of Education Law §2-d?

- The New York State Education Department (“NYSED”);
- Each public school district;
- Each Board of Cooperative Educational Services or BOCES; and
- All schools that are:
 - a public elementary or secondary school;
 - a universal pre-kindergarten program authorized pursuant to Education Law §3602-e;
 - an approved provider of preschool special education services;
 - any other publicly funded pre-kindergarten program;
 - a school serving children in a special act school district as defined in Education Law 4001; or

- certain schools for the education of students with disabilities - an approved private school, a state-supported school subject to the provisions of Education Law Article 85, or a state-operated school subject to Education Law Article 87 or 88.

2. What kind of student data is subject to the confidentiality and security requirements of Education Law §2-d?

The law applies to personally identifiable information contained in student records of an educational agency listed above. The term “student” refers to any person attending or seeking to enroll in an educational agency, and the term “personally identifiable information” (“PII”) uses the definition provided in FERPA. Under FERPA, personally identifiable information or PII includes, but is not limited to:

- (a) The student’s name;
- (b) The name of the student’s parent or other family members;
- (c) The address of the student or student’s family;
- (d) A personal identifier, such as the student’s social security number, student number, or biometric record;
- (e) Other indirect identifiers, such as the student’s date of birth, place of birth, and Mother’s Maiden Name³;
- (f) Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or
- (g) Information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates.

3. What kind of student data is *not* subject to the confidentiality and security requirements of Education Law §2-d?

The confidentiality and privacy provisions of Education Law §2-d and FERPA extend only to PII, and not to student data that is not personally identifiable. Therefore, de-identified data (e.g., data regarding students that uses random identifiers), aggregated data (e.g., data reported at the school district level) or anonymized data that could not be used to identify a particular student is not considered to be PII and is not within the purview of Education Law §2-d or within the scope of this Parents’ Bill of Rights.

4. What are my rights under Education Law § 2-d as a parent regarding my student’s PII?

Education Law §2-d ensures that, in addition to all of the protections and rights of parents under the federal FERPA law, certain rights will also be provided under the Education Law. These rights include, but are not limited to, the following elements:

- (A) A student’s PII cannot be sold or released by the educational agency for any commercial or marketing purposes.
 - PII may be used for purposes of a contract that provides payment to a vendor for providing services to an educational agency as permitted by law.
 - However, sale of PII to a third party solely for commercial purposes or receipt of payment by an educational agency, or disclosure of PII that is not related to a service being provided to the educational agency, is strictly prohibited.

³ Please note that NYSED does not collect certain information defined in FERPA, such as students’ social security numbers, biometric records, mother’s maiden name (unless used as the mother’s legal name).

- (B) Parents have the right to inspect and review the complete contents of their child's education record including any student data stored or maintained by an educational agency.
 - This right of inspection is consistent with the requirements of FERPA. In addition to the right of inspection of the educational record, Education Law §2-d provides a specific right for parents to inspect or receive copies of any data in the student's educational record.
 - NYSED will develop policies for annual notification by educational agencies to parents regarding the right to request student data. Such policies will specify a reasonable time for the educational agency to comply with such requests.
 - The policies will also require security measures when providing student data to parents, to ensure that only authorized individuals receive such data. A parent may be asked for information or verifications reasonably necessary to ensure that he or she is in fact the student's parent and is authorized to receive such information pursuant to law.
- (C) State and federal laws protect the confidentiality of PII, and safeguards associated with industry standards and best practices, including, but not limited to, encryption, firewalls, and password protection, must be in place when data is stored or transferred.

Education Law §2-d also specifically provides certain limitations on the collection of data by educational agencies, including, but not limited to:

- (A) A mandate that, except as otherwise specifically authorized by law, NYSED shall only collect PII relating to an educational purpose;
- (B) NYSED may only require districts to submit PII, including data on disability status and student suspensions, where such release is required by law or otherwise authorized under FERPA and/or the New York State Personal Privacy Law; and
- (C) Except as required by law or in the case of educational enrollment data, school districts shall not report to NYSED student data regarding juvenile delinquency records, criminal records, medical and health records or student biometric information.
- (D) Parents may access the NYSED Student Data Elements List, a complete list of all student data elements collected by NYSED, at <http://www.p12.nysed.gov/irs/sirs/documentation/NYSEDstudentData.xlsx>, or may obtain a copy of this list by writing to the Office of Information & Reporting Services, New York State Education Department, Room 863 EBA, 89 Washington Avenue, Albany, NY 12234; and
- (E) Parents have the right to file complaints with an educational agency about possible breaches of student data by that educational agency's third party contractors or their employees, officers, or assignees, or with NYSED. Complaints to NYSED should be directed in writing to the Chief Privacy Officer, New York State Education Department, 89 Washington Avenue, Albany NY 12234, email to CPO@mail.nysed.gov. The complaint process is under development and will be established through regulations to be proposed by NYSED's Chief Privacy Officer, who has not yet been appointed.
 - Specifically, the Commissioner of Education, after consultation with the Chief Privacy Officer, will promulgate regulations establishing procedures for the submission of complaints from parents, classroom teachers or building principals, or other staff of an educational agency, making allegations of improper disclosure of student data and/or teacher or principal APPR data by a third party contractor or its officers, employees or assignees.
 - When appointed, the Chief Privacy Officer of NYSED will also provide a procedure within NYSED whereby parents, students, teachers, superintendents, school board members,

principals, and other persons or entities may request information pertaining to student data or teacher or principal APPR data in a timely and efficient manner.

5. Must additional elements be included in the Parents’ Bill of Rights.?

Yes. For purposes of further ensuring confidentiality and security of student data, as an appendix to the Parents’ Bill of Rights each contract an educational agency enters into with a third party contractor shall include the following supplemental information:

- (A) the exclusive purposes for which the student data, or teacher or principal data, will be used;
- (B) how the third party contractor will ensure that the subcontractors, persons or entities that the third party contractor will share the student data or teacher or principal data with, if any, will abide by data protection and security requirements;
- (C) when the agreement with the third party contractor expires and what happens to the student data or teacher or principal data upon expiration of the agreement;
- (D) if and how a parent, student, eligible student, teacher or principal may challenge the accuracy of the student data or teacher or principal data that is collected; and
- (E) where the student data or teacher or principal data will be stored (described in such a manner as to protect data security), and the security protections taken to ensure such data will be protected, including whether such data will be encrypted.
 - a. In addition, the Chief Privacy Officer, with input from parents and other education and expert stakeholders, is required to develop additional elements of the Parents’ Bill of Rights to be prescribed in Regulations of the Commissioner.

6. What protections are required to be in place if an educational agency contracts with a third party contractor to provide services, and the contract requires the disclosure of PII to the third party contractor?

Education Law §2-d provides very specific protections for contracts with “third party contractors”, defined as any person or entity, other than an educational agency, that receives student data or teacher or principal data from an educational agency pursuant to a contract or other written agreement for purposes of providing services to such educational agency. The term “third party contractor” also includes an educational partnership organization that receives student and/or teacher or principal APPR data from a school district to carry out its responsibilities pursuant to Education Law §211-e, and a not-for-profit corporation or other non-profit organization, which are not themselves covered by the definition of an “educational agency.”

Services of a third party contractor covered under Education Law §2-d include, but not limited to, data management or storage services, conducting studies for or on behalf of the educational agency, or audit or evaluation of publicly funded programs.

When an educational agency enters into a contract with a third party contractor, under which the third party contractor will receive student data, the contract or agreement must include a data security and privacy plan that outlines how all state, federal, and local data security and privacy contract requirements will be implemented over the life of the contract, consistent with the educational agency’s policy on data security and privacy. However, the standards for an educational agency’s policy on data security and privacy must be prescribed in Regulations of the Commissioner that have not yet been promulgated. A signed copy of the Parents’ Bill of Rights must be included, as well as a requirement

that 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.

Each third party contractor that enters into a contract or other written agreement with an educational agency under which the third party contractor will receive student data or teacher or principal data shall:

- limit internal access to education records to those individuals that are determined to have legitimate educational interests
- not use the education records for any other purposes than those explicitly authorized in its contract;
- except for authorized representatives of the third party contractor to the extent they are carrying out the contract, not disclose any PII 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 NYSED, 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;
- maintain reasonable administrative, technical and physical safeguards to protect the security, confidentiality and integrity of PII in its custody; and
- use encryption technology to protect data while in motion or in its custody from unauthorized disclosure.

7. What steps can and must be taken in the event of a breach of confidentiality or security?

Upon receipt of a complaint or other information indicating that a third party contractor may have improperly disclosed student data, or teacher or principal APPR data, NYSED's Chief Privacy Officer is authorized to investigate, visit, examine and inspect the third party contractor's facilities and records and obtain documentation from, or require the testimony of, any party relating to the alleged improper disclosure of student data or teacher or principal APPR data.

Where there is a breach and unauthorized release of PII by a by a third party contractor or its assignees (e.g., a subcontractor): (i) the third party contractor must notify the educational agency of the breach in the most expedient way possible and without unreasonable delay; (ii) the educational agency must notify the parent in the most expedient way possible and without unreasonable delay; and (iii) the third party contractor may be subject to certain penalties including, but not limited to, a monetary fine; mandatory training regarding federal and state law governing the confidentiality of student data, or teacher or principal APPR data; and preclusion from accessing any student data, or teacher or principal APPR data, from an educational agency for a fixed period up to five years.

8. Data Security and Privacy Standards

Upon appointment, NYSED's Chief Privacy Officer will be required to develop, with input from experts, standards for educational agency data security and privacy policies. The Commissioner will then promulgate regulations implementing these data security and privacy standards.

9. No Private Right of Action

Please note that Education Law §2-d explicitly states that it does not create a private right of action against NYSED or any other educational agency, such as a school, school district or BOCES.

ATTACHMENT

Model Notification of Rights under FERPA for Elementary and Secondary Schools

The Family Educational Rights and Privacy Act (FERPA) affords parents and students who are 18 years of age or older ("eligible students") certain rights with respect to the student's education records. These rights are:

1. The right to inspect and review the student's education records within 45 days after the day the [Name of school ("School")] receives a request for access.

Parents or eligible students should submit to the school principal [or appropriate school official] a written request that identifies the records they wish to inspect. The school official will make arrangements for access and notify the parent or eligible student of the time and place where the records may be inspected.

2. The right to request the amendment of the student's education records that the parent or eligible student believes are inaccurate, misleading, or otherwise in violation of the student's privacy rights under FERPA.

Parents or eligible students who wish to ask the [School] to amend a record should write the school principal [or appropriate school official], clearly identify the part of the record they want changed, and specify why it should be changed. If the school decides not to amend the record as requested by the parent or eligible student, the school will notify the parent or eligible student of the decision and of their right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the parent or eligible student when notified of the right to a hearing.

3. The right to provide written consent before the school discloses personally identifiable information (PII) from the student's education records, except to the extent that FERPA authorizes disclosure without consent.

One exception, which permits disclosure without consent, is disclosure to school officials with legitimate educational interests. A school official is a person employed by the school as an administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel) or a person serving on the school board. A school official also may include a volunteer or contractor outside of the school who performs an institutional service or function for which the school would otherwise use its own employees and who is under the direct control of the school with respect to the use and maintenance of PII from education records, such as an attorney, auditor, medical consultant, or therapist; a parent or student volunteering to serve on an official committee, such as a disciplinary or grievance committee; or a parent, student, or other volunteer assisting another school official in performing his or her tasks. A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility.

[Optional] Upon request, the school discloses education records without consent to officials of another school district in which a student seeks or intends to enroll, or is already enrolled if the disclosure is for purposes of the student's enrollment or transfer. [NOTE: FERPA requires a school district to make a reasonable attempt to notify the parent or student of the records request unless it states in its annual notification that it intends to forward records on request.]

4. The right to file a complaint with the U.S. Department of Education concerning alleged failures by the [School] to comply with the requirements of FERPA. The name and address of the Office that administers FERPA are:

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

[NOTE: In addition, a school may want to include its directory information public notice, as required by §99.37 of the regulations, with its annual notification of rights under FERPA.]

[Optional] See the list below of the disclosures that elementary and secondary schools may make without consent.

FERPA permits the disclosure of PII from students' education records, without consent of the parent or eligible student, if the disclosure meets certain conditions found in §99.31 of the FERPA regulations. Except for disclosures to school officials, disclosures related to some judicial orders or lawfully issued subpoenas, disclosures of directory information, and disclosures to the parent or eligible student, §99.32 of the FERPA regulations requires the school to record the disclosure. Parents and eligible students have a right to inspect and review the record of disclosures. A school may disclose PII from the education records of a student without obtaining prior written consent of the parents or the eligible student –

- To other school officials, including teachers, within the educational agency or institution whom the school has determined to have legitimate educational interests. This includes contractors, consultants, volunteers, or other parties to whom the school has outsourced institutional services or functions, provided that the conditions listed in §99.31(a)(1)(i)(B)(1) - (a)(1)(i)(B)(2) are met. (§99.31(a)(1))
- To officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll, or where the student is already enrolled if the disclosure is for purposes related to the student's enrollment or transfer, subject to the requirements of §99.34. (§99.31(a)(2))
- To authorized representatives of the U. S. Comptroller General, the U. S. Attorney General, the U.S. Secretary of Education, or State and local educational authorities, such as the State educational agency in the parent or eligible student's State (SEA). Disclosures under this provision may be made, subject to the requirements of §99.35, in connection with an audit or evaluation of Federal- or State-supported education programs, or for the enforcement of or compliance with Federal legal requirements that relate to those programs. These entities may make further disclosures of PII to outside entities that are designated by them as their authorized representatives to conduct any audit, evaluation, or enforcement or compliance activity on their behalf. (§§99.31(a)(3) and 99.35)
- In connection with financial aid for which the student has applied or which the student has received, if the information is necessary to determine eligibility for the aid, determine the amount of the aid, determine the conditions of the aid, or enforce the terms and conditions of the aid. (§99.31(a)(4))
- To State and local officials or authorities to whom information is specifically allowed to be reported or disclosed by a State statute that concerns the juvenile justice system and the system's ability to effectively serve, prior to adjudication, the student whose records were released, subject to §99.38. (§99.31(a)(5))

- To organizations conducting studies for, or on behalf of, the school, in order to: (a) develop, validate, or administer predictive tests; (b) administer student aid programs; or (c) improve instruction. (§99.31(a)(6))
- To accrediting organizations to carry out their accrediting functions. (§99.31(a)(7))
- To parents of an eligible student if the student is a dependent for IRS tax purposes. (§99.31(a)(8))
- To comply with a judicial order or lawfully issued subpoena. (§99.31(a)(9))
- To appropriate officials in connection with a health or safety emergency, subject to §99.36. (§99.31(a)(10))
- Information the school has designated as “directory information” under §99.37. (§99.31(a)(11))

APPENDIX S-1
Attachment To Parents’ Bill Of Rights
For Contracts Involving Disclosure of Certain Personally Identifiable
Information

Education Law §2-d, added by Ch. 56 of the Laws of 2014, requires that a Parents’ Bill of Rights be attached to every contract with a third-party contractor (as defined in the law) which involves the disclosure of personally identifiable information (PII) derived from student education records (“Student Data”), or certain teacher/principal information regarding annual professional performance evaluations that is confidential pursuant to Education Law §30212-c (“APPR Data”). Each such Contract must include this completed Attachment to provide specific information about the use of such data by the Contractor.

- 1. Specify whether this Contract involves disclosure to the Contractor of Student Data, APPR Data, or both.
 Disclosure of Student Data
 Disclosure of APPR Data

- 2. Describe the exclusive purposes for which the Student Data or APPR Data will be used in the performance of this contract.

As the state-level evaluator of this program, the bidder will use student data to determine whether federal and State objectives regarding improvement in student achievement and behavior have been met.

- 3. Identify any subcontractors or other persons/entities with whom the Contractor will share the Student Data or APPR in the performance of this Contract, and describe how the Contractor will ensure that such persons/entities will abide by the data protection and security requirements of the Contract.

Subcontractors or other entities with whom the Contractor will share data:

Bidder should specifically list in this section any/all subcontractors that will/may receive data.

In the event the Contractor engages a Subcontractor or otherwise shares Student Data or APPR Data with any other entity, Contractor acknowledges and agrees that before any such data is shared with a Contractor or another entity, such party must agree in writing to be bound by the confidentiality and data protection provisions set forth in this Contract including, but not limited to, the “Data Security and Privacy Plan” set forth in Appendix R. Upon termination of the agreement between the Contractor and a Subcontractor or other entity, Contractor acknowledges and agrees that it is responsible for ensuring that all Student Data or APPR Data shared by the Contractor must be returned to Contractor or otherwise destroyed as provided in Paragraph 4 of the “Data Security and Privacy Plan” set forth in Appendix R.

4. Specify the expiration date of the Contract, and explain what will happen to the Student Data or APPR Data in the Contractor’s possession, or the possession of any person/entity described in response to Paragraph 3, upon the expiration or earlier termination of the Contract.

Contract expiration date: **May 31, 2022**

Contractor agrees to return the Student Data or APPR Data to NYSED consistent with the protocols set forth in Paragraph 4 of the “Data Security and Privacy Plan” set forth in Appendix R.

Contractor agree to securely destroy the Student Data or APPR Data consistent with the protocols set forth in Paragraph 4 of the “Data Security and Privacy Plan” set forth in Appendix R.

5. State whether the Contractor will be collecting any data from or pertaining to students derived from the student’s education record, or pertaining to teachers or principals’ annual professional performance evaluation pursuant to the Contract, and explain if and how a parent, student, eligible student (a student eighteen years or older), teacher or principal may challenge the accuracy of the Student Data or APPR data that is collected.

Student Data

APPR Data

Any challenges to the accuracy of any of the Student Data or APPR Data shared pursuant to this Contract should be addressed to the school, educational agency or entity which produced, generated or otherwise created such data.

6. Describe where the Student Data or APPR Data will be stored (in a manner that does not jeopardize data security), and the security protections taken to ensure that the data will be protected, including whether such data will be encrypted.

Bidder should detail in this section where data will be stored, what security measures will be in place, and whether electronic data is encrypted in motion and/or at rest.

Federal Objectives for 21st Century Community Learning Centers

Objective 1 – Regular attendees in 21st CCLC programs will demonstrate educational and social benefits and exhibit positive behavioral changes.

1.1 Achievement. Regular attendees participating in the program will show continuous improvement in achievement through measures such as test scores, grades, and/or teacher reports.

1.1 Behavior. Regular attendees in the program will show improvements on measures such as school attendance, classroom performance, and decreased disciplinary actions or other adverse behaviors.

Objective 2 – 21st CCLC will offer a range of high quality educational, developmental, and recreational services for students and their families.

2.1 Core educational services. 100% of Centers will offer high quality services in core academic areas, e.g., reading and literacy, mathematics, and science.

2.2 Enrichment and support activities. 100% of Centers will offer enrichment and support activities such as nutrition and health, art, music, technology, and recreation.

2.3 Community involvement. Centers will establish and maintain partnerships within the community that continue to increase levels of community collaboration in planning, implementing and sustaining programs.

2.4 Services to parents and other adult community members. 100% of Centers will offer services to parents of participating children.

2.5 Extended hours. More than 75% of Centers will offer services at least 15 hours a week on average and provide services when school is not in session, such as during the summer and on holidays.

Federal Government Performance and Results Act (GPRA) indicators/measures:

1. Percentage of regular program participants whose math/English grades improved from fall to spring.
2. Percentage of regular program participants who meet or exceed the proficient level of performance on State Assessments in reading/language arts and mathematics.
3. Percentage of regular program participants with teacher-reported improvement in homework completion and class participation.
4. Percentage of students with teacher-reported improvements in student behavior.
5. Percentage of 21st CCLCs reporting emphasis in at least one core academic area.
6. Percentage of 21st CCLCs offering enrichment and support activities in technology.
7. Percentage of 21st CCLCs offering enrichment and support activities in other areas.

21st CCLC Resource Center (RC) Activities

NOTES: Listed activities are the same as those in the 2016 RFP to establish the 21st CCLC Resource Centers. Some activities are common to both RCs while others are specific to either the New York City or ROS RC.

Part A (NYC):

The NYC RC bidder's work plan must include the following activities:

1. **Website.** Collaborate with the ROS RC to support its statewide web-based support system by providing information and resources that are specific to New York City grantees as well as those that are applicable to all 21st CCLC grantees. See **Part B (ROS) #1.**
2. **Technical Assistance.** Provide ongoing technical assistance to NYC 21st CCLC grantees via phone, email, telephone/videoconferencing and site visits related to implementing and improving programs.
 - A. RC staff or consultants will be available for communication with grantees on regular business days, Monday through Friday, 8:30 a.m. – 4:30 p.m.
 - B. RC staff or consultants will become familiar with individual 21st CCLC programs and develop more collaborative and supportive relationships with them in order to facilitate the identification and implementation of strategies to improve student outcomes and the operation of the program.
 - C. RC staff or consultants must conduct on-site technical assistance (TA) visits when more intense assistance is necessary. It is anticipated that approximately 10%-15% of programs may require an on-site TA visit during any program year. TA visits are targeted assistance visits and may not be combined with a monitoring visit. The three-hour technical assistance site visits shall be based on the needs of the individual program. Areas of technical assistance may include alignment of program activities with the regular school day, academic curricula, and program objectives; effective communication with building administrators and faculty; professional development for staff; engagement of parents, families and the community; recruitment and retention of student participants; use of the Quality Assessment Tool; collection and entry of data for the federal Annual Performance Report; and other program administration issues.
3. **Professional Development.** In coordination with NYSED and the ROS RC, design and deliver relevant, research-based professional development to the 21st CCLCs that is based on needs assessments of the grantees, information gathered by NYSED from the grantees' mid-year reports, the NYSED and RC analysis of the federal web-based Annual Performance Report (APR) data and consultation with the NYSED State-level evaluator. Professional development (PD) activities will reflect effective

practices of expanded learning opportunity programming and social and emotional development and learning.

- A. Professional development (PD) activities that address the identified needs of the grantees and reflect effective practices in expanded learning opportunity programming and social and emotional development and learning will take place quarterly.
 - B. Four quarterly PD events; including annual fall and annual spring in-person events, as well as two additional quarterly events. The annual fall and spring events will be conducted in the New York City area at reasonably centralized locations for approximately 175 participants each. All programs located in the New York City area are expected to be represented at these two annual events. NYC grantees that are unable to attend either of these events may request to attend the RoS annual fall and/or spring event to meet attendance requirements at the discretion of the NYC and RoS RC directors. The RC is expected to make every effort to find low or no cost sites – e.g., institutions of higher education, a 21st CCLC program facility or other venue. Please note that these events must be conducted at no charge to the participants and that contract funds cannot be used to purchase food for these events. Grantees may use program funds for travel and per diem while in travel status. The other two quarterly professional development events should be planned and implemented in collaboration with the Rest of State (RoS) RC and may be provided in a variety of formats – e.g., webinars, web casts, videoconferences and in-person.
 - C. The RC will conduct follow-up surveys following the fall and spring professional development events, compile the results and include them in the next quarterly report.
4. **Monitoring.** Conduct monitoring site visits of at least 25 New York City 21st CCLC grantees each year. All programs will be selected in collaboration with NYSED. A NYSED staff member may accompany Center staff on some of these visits.
- A. Monitoring site visits of three to four hours will be based on the NYSED monitoring protocol for 21st CCLCs (See Attachment A).
 - B. Written reports will be prepared and submitted to NYSED within 30 days of the visit for approval by the NYSED program office prior to distribution to the grantee. They will be prepared using a NYSED approved report template and cover letter template. Reports will identify additional technical assistance needs, recommend improvement strategies and provide timelines for corrective actions.
5. **Quality Self-Assessment Tool.** Ensure that all New York City 21st CCLC program sites conduct the Quality Self-Assessment Tool (QSA) (<http://www.nysan.org/quality-self-assessment-tool/>) two times each year in order to identify and implement strategies for program improvement.
- A. Assist programs by telephone or e-mail, as needed, to ensure that the QSA is conducted as required.
6. **Collaboration.** Maintain a collaborative working relationship with NYSED and the ROS RC through regularly scheduled communications and ongoing contact to ensure

that Centers' activities are aligned with NYSED policies and initiatives to improve students' academic achievement and social and emotional development.

- A. NYSED program staff will schedule and conduct with both RCs monthly conference calls of approximately one hour and quarterly meetings of approximately two hours to discuss the RCs' activities and to address emerging issues of concern. At least one quarterly meeting will be in person in Albany, and the remaining three may be either in person or via teleconference.
- B. The RC and NYSED program staff will communicate frequently and informally on an ongoing basis.

7. **Update of Work Plan.** The NYC RC's work plan of activities will be updated annually based on the annual self-assessment of progress and effectiveness of its work. The updated Work Plan will be submitted at least 30 days before the start of each contract year (by September 1 of 2017, 2018, 2019, and 2020, respectively) to NYSED for approval prior to implementation. The RC and NYSED will use the updated plan in tracking the RC's annual progress toward meeting objectives, developing strategies for improvement, and making data-based decisions throughout the year.

- A. The updated annual Work Plan will be consistent with the required deliverables as referenced in the RFP
- B. The updated annual Work Plan must include the use of valid and reliable indicators and measures that will be used to report on both implementation and as appropriate outcomes of the RC's activities, i.e. the effectiveness.

8. **Progress Reporting.** Prepare and submit quarterly and annual progress reports to NYSED that includes the status of implementation of all activities and where appropriate the effectiveness of those activities for which measurable outcomes have been established, as per the approved Work Plan. The format of these reports must include all components of the updated and approved Work Plan and be approved in advance by the NYSED. Quarterly reports will be due on the last days of January, April, July and October of each contract year -the first quarterly report will be due on January 31, 2017; and annual reports will be due on the last day of October of each contract year, beginning with the first report due on October 31, 2017. The final annual report is due on October 31, 2021.

- A. All reports will include a program narrative, progress on implementation of specific activities, including dates of completion, barriers and challenges that were encountered, indicators of success, and how success was measured.
- B. These reports will serve as self-assessment tools for the RC and as a means for NYSED to track the RC's progress toward achieving its objectives; annual reports will include all components as stated in A. above and in addition, contain a section on lessons learned and any proposed changes to next annual updated Work Plan.

9. **State-Level Evaluation.** Work in cooperation with the independent State-level evaluator. The State-level evaluation is responsible for measuring the effectiveness of NYSED's administration of the 21st CCLC program as well as measuring the RCs' effectiveness in supporting 21st CCLC subgrantees. The RCs are expected to comply with any and all requests for data by compiling requested data, responding to the

evaluator's inquiries about the Center's work, and submitting Quarterly and Annual reports to both the NYSED and the State-level evaluator. The results of this evaluation that is required by the United States Department of Education will be used to guide NYSED's efforts to improve its administration of the program and the assistance it provides to local grantees to improve program quality and outcomes for participating students.

H. Provide information as requested by the NYSED independent evaluator in a timely manner. Activities are not expected to exceed two hours each month.

10. **Annual Performance Report.** Ensure that New York City grantees enter accurate data about their programs into the federal web-based Annual Performance Report (APR) each year in accordance with announced timelines. The database is managed by The Tactile Group, the USDOE contractor. More information is available at www.thetactilegroup.com.
 - A. Provide technical assistance via telephone and E-Mail to grantees to ensure that all have entered the required profile and program data appropriately and accurately by the due dates specified by NYSED.
 - B. Examine the data for anomalies before it recommends to NYSED that the data is ready to be certified and submitted to the USDOE.
 - C. Apprise NYSED in a timely manner of the progress NYC grantees have made toward completing the APR and any difficulties that may require NYSED assistance.

11. **After School Works! NY: the New York State Afterschool Network (ASW:NYSAN).** Actively participate in the ASW:NYSAN Committee on Capacity Building. (www.nysan.org | www.afterschoolworksny.org) ASW:NYSAN serves as the federally required advisory committee for NYSED's 21st CCLC program. Note that NYSED program staff also participate in the activities of ASW:NYSAN's Steering, Capacity Building, and Policy Committees.
 - A. The RC will contribute its expertise in the development of ASW: NYSAN professional development activities designed to improve student outcomes.
 - B. A designated RC staff member will attend the Capacity Building Committee's quarterly meetings (2 to 3 hours each) in New York City.

12. **Summer Institute.** Participate in the annual USDOE sponsored Summer Institute for 21st Century State Education Agency (SEA) coordinators, technical assistance providers and subgrantees. One RC professional staff member will attend. The Institute is held at a different location each year. In previous years, the Institute has been held in Texas, Florida, and Illinois. The Institute is ordinarily three full days in duration.

Part B (ROS):

The ROS RC bidder's work plan must include the following activities:

1. **Website.** Establish and maintain a statewide web-based support system that includes up-to-date research-based resources and information on effective practices in expanded learning opportunity programming to build the capacity of grantees to provide effective programs for the participating students and their families. The website should be fully operational within two months of the RC's contract approval date. The website will be updated weekly and include:
 - a. Information on how to contact the RCs and the types of assistance and resources they offer.
 - b. Links to current research on expanded learning opportunities, programming, improving school climate and school violence prevention strategies.
 - c. Annotated bibliography and supporting materials on expanded learning opportunity programming and improving school climate and school violence prevention.
 - d. RC-developed streaming video, PowerPoint presentations or other electronic offerings on effective expanded learning opportunity programming and school violence prevention strategies, including data-based decision making.
 - e. Monthly E-newsletter to provide current information on expanded learning opportunity programming, improving school climate and school violence prevention strategies. Newsletter drafts will be prepared and submitted to NYSED for approval at least two weeks prior to scheduled distribution.

2. **Technical Assistance.** Provide ongoing technical assistance to ROS 21st CCLC grantees via phone, email, telephone/videoconferencing and site visits related to implementing and improving programs.
 - a. RC staff will be available for communication with grantees on regular business days Monday through Friday, 8:30 a.m. – 4:30 p.m.
 - b. RC staff and consultants will become familiar with individual 21st CCLC programs and develop more collaborative and supportive relationships with them to facilitate the identification and implementation of strategies to improve student outcomes and the operation of the program.
 - c. RC staff or consultants must conduct on-site technical assistance (TA) visits when more intense assistance is necessary. It is anticipated that approximately 10%-15% of programs may require an on-site TA visit during any program year. TA visits are targeted assistance visits and may not be combined with a monitoring visit. The three-hour technical assistance site visits shall be based on the needs of the individual program. Areas of technical assistance may include alignment of program activities with the regular school day, academic curricula, and program objectives; effective communication with building administrators and faculty; professional development for staff; engagement of parents, families and the community; recruitment and retention of student participants; use of the Quality

Assessment Tool; collection and entry of data for the federal Annual Performance Report; and other program administration issues.

3. **Professional Development.** In coordination with NYSED and the New York City Resource Center, design and deliver relevant, research-based professional development to the 21st CCLCs that is based on needs assessments of the grantees, information gathered by NYSED from the grantees' mid-year reports, the NYSED and RC analysis of the federal web-based Annual Performance Report (APR) data and consultation with the NYSED State-level evaluator. Professional development activities will reflect effective practices of expanded learning opportunity programming and social and emotional development and learning.
 - A. Professional development activities that address the identified needs of the grantees and reflect effective practices in expanded learning opportunity programming and social and emotional development and learning will take place quarterly.
 - B. Four quarterly PD events; including one annual fall and one annual spring in-person events, as well as two additional quarterly events. The annual fall and spring events will be conducted either in the Albany or Rochester areas for approximately 100 participants each. All programs located in the RoS area are expected to be represented at these two annual events. RoS grantees that are unable to attend either of these events may request to attend the NYC annual fall and /or spring event(s) to meet attendance requirements at the discretion of the NYC and RoS RC directors. The RC is expected to make every effort to find low or no cost sites for the in-person events – e.g., institutions of higher education, a 21st CCLC program facility or other venue. Please note that these events must be conducted at no charge to the participants and that contract funds cannot be used to purchase food for these events. Grantees may use program funds for travel and per diem while in travel status. The two additional quarterly PD events should be planned and implemented in collaboration with the NYC RC and may be provided in a variety of formats – e.g., webinars, web casts, videoconferences and in-person.
 - C. The RC will conduct follow-up surveys to assess effectiveness following the fall and spring professional development events.
4. **Monitoring.** Conduct monitoring site visits of at least 20 programs each year. All programs to be monitored will be selected from all regions of the ROS area in collaboration with NYSED. A NYSED staff member may accompany Center staff on some of these visits.
 - A. Monitoring site visits of three to four hours each will be based on the NYSED monitoring protocol for 21st CCLCs (See Attachment A).
 - B. Written reports will be prepared and submitted to NYSED within 30 days of the visit for approval by the NYSED program office prior to distribution to the grantee. They will be prepared using a NYSED approved report template and cover letter template. Reports will identify additional technical assistance needs, recommend improvement strategies and provide timelines for corrective actions.

5. **Quality Self-Assessment Tool.** Ensure that all 21st CCLC ROS sites conduct the Quality Self-Assessment Tool (QSA) (<http://www.nysan.org/quality-self-assessment-tool/>) twice a year in order to identify and implement strategies for program improvement.
 - A. Assist programs by telephone and email, as needed, to ensure that the QSA is conducted as required.
6. **Collaboration.** Maintain a collaborative working relationship with NYSED and the NYC RC through regularly scheduled communications and ongoing contact to ensure that Centers' activities are aligned with NYSED policies and initiatives to improve students' academic achievement and social and emotional development.
 - A. NYSED program staff will schedule and conduct with both RCs monthly conference calls of approximately one hour and quarterly meetings of approximately two hours to discuss and plan the RC's activities and to address emerging issues of concern. At least one quarterly meeting will be in person in Albany, and the remaining three may be either in person or via teleconference.
 - B. RC and NYSED program staff will communicate frequently and informally on an ongoing basis.
7. **Update of Work Plan.** The RoS RC's work plan of activities will be updated annually based on the annual self-assessment of progress and effectiveness of its work. The updated Work Plan will be submitted at least 30 days before the start of each contract year (by September 1 of 2017, 2018, 2019, and 2020, respectively) to NYSED for approval prior to implementation. The RC and NYSED will use the updated plan in tracking the RC's annual progress toward meeting objectives, developing strategies for improvement, and making data-based decisions throughout the year.
 - A. The updated annual Work Plan will be consistent with the required deliverables as referenced in the RFP
 - B. The updated annual Work Plan must include the use of valid and reliable indicators and measures that will be used to report on both implementation, and as appropriate, outcomes of the RC's activities, i.e. the effectiveness.
8. **Progress Reporting.** Prepare and submit quarterly and annual progress reports to NYSED that includes the status of implementation of all activities and where appropriate the effectiveness of those activities for which measurable outcomes have been established, as per the approved Work Plan. The format of these reports must include all components of the updated and approved Work Plan and be approved in advance by the NYSED. Quarterly reports will be due on the last days of January, April, July and October of each contract year -the first quarterly report will be due on January 31, 2017; and annual reports will be due on the last day of October of each contract year, beginning with the first report due on October 31, 2017. The final annual report is due on October 31, 2021.
 - A. All reports will include a program narrative, progress on implementation of specific activities, including dates of completion, barriers and challenges that were encountered, indicators of success, and how success was measured.

- B. These reports will serve as self-assessment tools for the RC and as a means for NYSED to track the RC's progress toward achieving its objectives; annual reports will include all components as stated in A. above and in addition, contain a section on lessons learned and any proposed changes to the next annual updated Work Plan.
9. **State-Level Evaluation.** Work in cooperation with the independent State-level evaluator. The State-level evaluation is responsible for measuring the effectiveness of NYSED's administration of the 21st CCLC program as well as measuring the RCs' effectiveness in supporting 21st CCLC subgrantees. The RCs are expected to comply with any and all requests for data by compiling requested data, responding to the evaluator's inquiries about the Center's work, and submitting Quarterly and Annual reports to both the NYSED and the State-level evaluator. The results of this evaluation that is required by the United States Department of Education will be used to guide NYSED's efforts to improve its administration of the program and the assistance it provides to local grantees to improve program quality and outcomes for participating students.
- A. Provide information as requested by the NYSED independent evaluator in a timely manner. Activities are not expected to exceed two hours each month.
10. **Annual Performance Report.** Ensure that ROS grantees enter accurate data into the federal web-based Annual Performance Report (APR) each year in accordance with announced timelines. The database is managed by The Tactile Group, the USDOE contractor. More information is available at www.thetactilegroup.com.
- A. Provide technical assistance via telephone and E-Mail to grantees to ensure that all have entered the required profile and program data appropriately and accurately by the due date specified by NYSED.
- B. Examine the data for anomalies before it recommends to NYSED that the data are ready to be certified and submitted to the USDOE.
- C. Apprise NYSED in a timely manner via email or phone of the progress made toward completing the APR and any difficulties that may need NYSED assistance to resolve them.
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