

**ANNOUNCEMENT OF FUNDING OPPORTUNITY  
2013-2016 McKinney Vento Grant Program**

Purpose of Funding	The purpose of McKinney-Vento funding is to facilitate the enrollment, attendance, and success in school of students in temporary housing.
Eligible Applicants	<p>All New York State local educational agencies (LEAs), including charter schools, are eligible to apply. LEAs must have identified a minimum average of 100 students in temporary housing in the 2009-10, 2010-11, and 2011-2012 school years in order to be eligible for funding. LEAs that have identified a three year average fewer than 100 students in temporary housing may submit an application as a <b>consortium of LEAs</b> to bring total to 100. Please see “Who is Eligible to Apply for McKinney-Vento Funding” in the Guidelines for more information.</p> <p><b>Please note all consortium members must be eligible recipients and be a direct provider of services. Consortium members are NOT third-party contractors. The consortium member that is designated as the payee/fiscal agent must be an eligible recipient and must also be a direct provider of services.</b></p>
Funding	U.S. Department of Education, through the McKinney-Vento Homeless Education Assistance Improvements Act of 2001 (Title X, Part C of the <i>No Child Left Behind Act</i> , P.L. 107-110). McKinney-Vento funding is contingent upon the annual state allocation. Approximately \$4 million per year is expected to be available.
Webinar/ Questions and Answers	<p>A webinar will be held on January 18, 2013 at 10:00 AM. Eligible applicants planning to participate in the Webinar are asked to submit an e-mail of intent with participant’s name, telephone number and e-mail contact address to <a href="mailto:homelessrfp@mail.nysed.gov">homelessrfp@mail.nysed.gov</a> by January 11, 2013. At that time, you will be contacted via e-mail with information on how to access the webinar.</p> <p>Questions regarding this RFP may be submitted to <a href="mailto:homelessrfp@mail.nysed.gov">homelessrfp@mail.nysed.gov</a> . The deadline for questions is January 25, 2013. A Questions and Answers Summary will be posted no later than February 1, 2013 at: <a href="http://www.p12.nysed.gov/funding/currentapps.html">http://www.p12.nysed.gov/funding/currentapps.html</a>.</p>
Due Date	<p><b>TWO FORMS OF APPLICATION SUBMISSION: ELECTRONIC AND PAPER. BOTH ARE REQUIRED BY THE DUE DATE</b></p> <p>An electronic version of the complete application must be received in the RFP mailbox by March 8, 2013. A complete printed application with an original authorized signature and one copy must be postmarked by the same date, March 8, 2013.</p> <p>Email address for electronic submission: <a href="mailto:homelessrfp@mail.nysed.gov">homelessrfp@mail.nysed.gov</a>.</p> <p>Mailing address for the paper version of the submission: New York State Education Department 89 Washington Avenue, Grants Management, Room 464 Albany NY 12234 Attn: McKinney-Vento Education of Homeless Children and Youth Application</p>

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New York State Education Department  
**2013 – 2016 MCKINNEY-VENTO COMPETITIVE GRANT  
GUIDELINES**

**What is the purpose of McKinney-Vento funding?**

The purpose of McKinney-Vento funding is to facilitate the enrollment, attendance, and success in school of homeless children and youth. Services provided with McKinney-Vento funds must not replace the regular academic program and must be designed to expand upon or improve services provided to homeless students<sup>1</sup>, also referred to as students in temporary housing in this application, as part of the school's regular academic program, including compliance with the McKinney-Vento Act and related statutes. For the text of the federal McKinney-Vento Act and related information, please see [www.nysteachs.org](http://www.nysteachs.org).

**Who is eligible to apply for McKinney-Vento funding?**

All New York State local educational agencies (LEAs), including charter schools, are eligible to apply.

LEAs must have identified a minimum average of 100 students in temporary housing in the 2009-10, 2010-11, and 2011-2012 school years in order to be eligible for funding. For example, if a district identified 75 students as homeless in SY 2009-10, 95 students as homeless in SY 2010-11, and 140 students as homeless in SY 2011-12, the district would be eligible for funding because the average for the three years is 103. In calculating the three-year average, LEAs must use the homeless data from the data warehouse. For more information on the data warehouse, also known as Student Information Repository System or SIRS, see: [http://www.p12.nysed.gov/irs/data\\_collection.html](http://www.p12.nysed.gov/irs/data_collection.html).

LEAs, including charter schools, that have identified a three year average fewer than 100 students in temporary housing may submit an application as a **consortium of LEAs** whose total average of identified students in temporary housing is equal to or greater than 100. The application must be submitted by an identified lead LEA that will serve as fiscal agent for the funding. A program contact at the lead LEA will oversee the implementation of the project, arrange the disbursement of funds to participating LEAs, and submit required reports and documentation to NYSED as requested. Please note that an LEA can only be included in one application (e.g. an LEA may not apply on its own and as a part of a consortium). Consortium applicants must submit *Attachment F*.

**What is the funding and funding period?**

**Source:** U.S. Department of Education, through the McKinney-Vento Homeless Education Assistance Improvements Act of 2001 (Title X, Part C of the *No Child Left Behind Act*, P.L. 107-110). McKinney-Vento funding is contingent upon the annual state allocation. Approximately \$4 million per year is expected to be available. See below for more information about the size of the awards.

**Funding Period:** The grant period will be July 1, 2013 – June 30, 2016. Year 2 and 3 will be authorized based upon submission of a satisfactory annual program report and budget report for the previous year.

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<sup>1</sup>For a definition of which students are considered homeless, please see Section 100.2(x)(1)(i) of the Commissioner's Regulations or Section 725(2) of the McKinney-Vento Act. It is recommended that LEAs do not use the term "homeless," but rather the preferred term, "students in temporary housing," for programming and when speaking with families. The terms "homeless" and "students in temporary housing" are used interchangeably in the application and attachments.

### **Whom do I contact with questions?**

Questions regarding this RFP may be submitted to [homelessrfp@mail.nysed.gov](mailto:homelessrfp@mail.nysed.gov) . The deadline for questions is January 25, 2013. A Questions and Answers Summary will be posted no later than February 1, 2013 at: <http://www.p12.nysed.gov/funding/currentapps.html>.

### **Will there be a webinar explaining the RFP?**

A webinar will be held on January 18, 2013 at 10:00 AM. Eligible applicants planning to participate in the Webinar are asked to submit an e-mail of intent with participant's name, telephone number and e-mail contact address to [homelessrfp@mail.nysed.gov](mailto:homelessrfp@mail.nysed.gov) by January 11, 2013. At that time, you will be contacted via e-mail with information on how to access the webinar. The session is expected to last 2 hours, approximately 20 minutes will be reserved for Q&A. The webinar will be subsequently posted to <http://www.p12.nysed.gov/funding/currentapps.html>. Topics will include:

1. Grant Timeline, Eligibility & Funding: review of due dates for Q&A, application, review, etc.; who can apply; overview of the funding structure for the grants
2. Conducting a Needs Assessment: the RFP recommends that applicants conduct a Needs Assessment and links to the National Center for Homeless Education's template assessment and related documents. The webinar will review these documents and how LEA's can use them.
3. Grant Application and Attachments: review of proposal narrative, related attachments, and budget forms.
4. Application Review and Scoring: review of rubric and how it will be used to score applications.
5. Program Reporting and Evaluation: review of template used by grant recipients to submit data to SED and information about how grant programs will be evaluated.
6. Questions and Answers

### **What is the due date for the application?**

**An electronic version of the complete application must be received in the RFP mailbox by March 8, 2013.** Only proposals in Word and/or PDF formats are accepted. The abstract, proposal narrative, and attachments should include the name of the LEA and LEA code in the header or footer. **A complete printed application with one original authorized signature and one copy must be postmarked by the same date.**

Email address for electronic submission: [homelessrfp@mail.nysed.gov](mailto:homelessrfp@mail.nysed.gov).

Mailing address for the paper version of the submission needs to be mailed to:

New York State Education Department

89 Washington Avenue,

Grants Management, Room 464

Albany NY 12234

Attn: McKinney-Vento Education of Homeless Children and Youth Application

### **How will the McKinney-Vento funding proposals be scored and awarded?**

Funds are awarded based on the identified needs and on the quality of the application. Strong applications will provide thorough, thoughtful answers to all relevant points described in the instructions, with particular emphasis on connecting program activities to McKinney-Vento program standards. In addition, budget proposals should clearly reflect the stated program activities.

Only complete applications from eligible applicants sent electronically and postmarked by the due date will be reviewed and rated by at least two reviewers. The scores of the reviewers will be totaled and then averaged to

arrive at the final score for each application. If there is a difference of 15 points or more between the two reviewer's scores, a third reviewer will review the application and the two closest scores will be averaged to compute the final score. If the third reviewer's score is equal to the average of the two original scores, the third reviewer's score will become the final score.

An application must receive a final score of at least 70 points to be funded.

The Proposal Narrative and Budget will be reviewed and rated on their appropriateness and cost-effectiveness. NYSED reserves the right to eliminate any budget item or activity deemed unallowable or inappropriate.

An LEA or Consortium application that receives a score of at least 70 points may receive a base grant of \$30,000, plus \$50 per homeless student identified on average for school years 2009-10, 2010-11, 2011-12. For example, if an LEA's three-year average for students identified as homeless is 500, the LEA is eligible for \$55,000 in McKinney-Vento funds (\$30,000 base grant plus \$25,000, which is \$50 multiplied by 500). The maximum award for any LEA is \$1,500,000, subject to adjustment in accordance with the methodologies described below.

If there are remaining funds after all applicants receiving a minimum score of 70 are awarded funds (a base grant and initial per pupil award up to a maximum award of \$1,500,000), the remaining funds will be allocated based on the following calculation:

- A. Take the remaining funds after initial allocation and
- B. Divide it by the sum of the Average Number of Homeless Students Identified in Attachment A for all applicants scoring at least 70.
- C. The result of A divided by B is the per student award for remaining funds.
- D. The per student award for remaining funds will be multiplied by the Average Number of Homeless Students Identified in Attachment A for each applicant scoring at least 70 to arrive at the increased award amount for the applicant.

For example, if:

- There are \$250,000 in remaining funds,
- The sum Average No. Homeless Students Identified for all applicants scoring at least 70 points is 80,000 homeless students, and
- One of the districts scoring at least 70 points has an average of 500 homeless students,
  - ***Then the district would receive \$1,565 in additional funding.***
    - $250,000/80,000=\$3.13$
    - $\$3.13 \times 500=\$1,565$
  - ***The district would receive a total award of \$56,565.***
    - \$30,000, base grant plus
    - \$25,000 initial per pupil award plus
    - \$1,565 additional per pupil award with remaining funds

If there are sufficient funds to fund the base amount of \$30,000 for each applicant scoring at least 70 points but insufficient funds to fully fund the base amount and per student amounts of those applicants (up to the \$1,500,000 maximum award), individual award amounts will be reduced according to the following example:

- There are \$3,000,000 in available grant funds;
- There are 40 applications scoring at least 70 points; and
- The sum Average No. of Homeless Students from those applications is 80,000 homeless students:

- ***Then the initial per pupil award would be reduced to \$22.50.***
  - *40 applications multiplied by \$30,000 for the base grants = \$1,200,000*
  - *The remaining \$1,800,000 for per pupil awards divided by 80,000 homeless students = \$22.50*

If there are not sufficient grant funds available for base grant awards for all applications scoring at least 70 points, applications will be ranked from highest to lowest score, and those applicants will be awarded \$30,000 in rank order until the grant funds are exhausted.

For example, if there are:

- Only \$100,000 in available grant funds;
- Five (5) applications with scores of at least 70 points:
  - District A, 95 points
  - Consortium B, 90 points
  - District C, 85 points
  - District D, 80 points
  - District E, 70 points
- ***Then, the following awards would be granted:***
  - ***District A, \$30,000***
  - ***Consortium B, \$30,000***
  - ***District C, \$30,000,***
  - ***District D, \$10,000***
  - ***District E would not get an award.***

NYSED reserves the right to reject all proposals received or cancel this RFP if it is in the best interest of the Department. See the Evaluation Rubric for more detail about how applications will be scored.

### **What annual reporting and evaluation are mandatory for funding recipients?**

The program contact or authorized representative for each funding recipient will be required to submit responses to an Annual Report survey during each year of the project period, as well as provide annual budget reports. The Annual Report will be made available on NYS-TEACHS website prior to the beginning of the 2013-14 school year.

All grant programs must maintain current programmatic and fiscal records and make them available during monitoring visits, which will occur on-site at least once during the grant cycle and when requested by NYSED for review. All grant programs must maintain fiscal and program records for a minimum of seven years after the grant period is over.

NYSED intends to evaluate all recipients of McKinney-Vento grant funding using an outside evaluator in an effort to identify and replicate successful practices and provide more effective technical assistance to grant recipients. As a part of the evaluation process, grant recipients will be required to produce data on program outcomes.

### **What are the provisions of the McKinney-Vento Act related to services for students in temporary housing provided through McKinney-Vento funding?**

Services may be provided through programs on school grounds or at other facilities (e.g., shelters and nonprofit community social service centers). Where services are provided through programs on school grounds, such services also may be made available to children or youth who are determined by the LEA to be at risk of failing or dropping out of school, except that priority for such services shall be given to students in temporary housing.

To the maximum extent practical, services shall be provided through programs and mechanisms that integrate children and youth experiencing homelessness with their housed peers. Activities undertaken must not isolate or stigmatize students in temporary housing. Services provided under this program are not intended to replace the regular academic program.

Collaboration with other local and state agencies that serve students in temporary housing is required.

### **What are authorized activities for funding in the McKinney-Vento Act?**

LEAs must use McKinney-Vento funds to assist homeless children and youth with enrolling, attending, and succeeding in school. In particular, the funds may support the specific activities outlined in the law, Section 723(d) of the McKinney-Vento Act (see Attachment B).

These activities have been incorporated in the chart on page 9-10 of this RFP, which should be used to link these program activities to standards of quality McKinney-Vento programs, as developed by the National Center for Homeless Education (NCHE). All proposals must describe how the grant-funded activities are tied to at least one (1) of ten (10) standards, and applicants should use these standards to frame their proposals. Discussion of the links between activities, indicators, and standards are listed in *Attachment B*.

### **How should an LEA determine which activities to include in its application?**

LEAs are strongly encouraged to conduct a needs assessment to identify the major educational needs of homeless children and youths in the LEA/consortium and tailor its application to meet those needs. The National Center for Homeless Education's "Educating Homeless Children and Youth: Conducting Needs Assessments and Evaluating Services - A Guide for SEAs, LEAs, and Local Schools" includes templates for conducting such needs assessments. The Guide may be downloaded here: [http://center.serve.org/nche/pr/na\\_eval.php](http://center.serve.org/nche/pr/na_eval.php).

### **What is NYSED's Consortium Policy for the McKinney-Vento Grant?**

A proposal from a consortium may include other LEAs to achieve the minimum number of 100 students in temporary housing to be served by this grant.

Consortium applicants must meet the following requirements:

1. The consortium must designate one LEA to serve as the applicant and fiscal agent for the grant. In the event a grant is awarded to a consortium, the grant or grant contract will be prepared in the name of the applicant LEA/fiscal agent, not the consortium, since the group is not a legal entity.
2. The applicant LEA/fiscal agent must meet the following requirements:
  - a) Must receive and administer the grant funds and submit the required reports to account for the use of grant funds.
  - b) Must require consortium partners to sign an agreement with the fiscal agent that specifically outlines all services each partner agrees to provide and includes a dollar amount for the value of the services being provided.

Requirements applicable to all applicants:

1. The applicant/lead fiscal agent must be an active member of the program. The applicant cannot act as a flow-through for grant funds to pass to other recipients. NYSED has established a minimum level of twenty percent (20%) of the total annual budget to be provided by the fiscal agent.

2. The applicant/lead fiscal agent is PROHIBITED from sub-granting funds to other recipients. The fiscal agent is permitted to contract for services with other consortium partners or consultants to provide services that the fiscal agent cannot provide itself.
3. The applicant/ lead fiscal agent is responsible for the performance of any services provided by the partners, sub-contractors, consultants, or other organizations and must coordinate how each plan to participate.
4. Any changes in sub-contractors require the prior approval of NYSED.
5. The fiscal agent must follow its own procurement rules and regulations for the selection of subcontractors.

### **Can unsuccessful applicants receive a debriefing?**

All unsuccessful applicants may request a debriefing within five (5) business days of receiving notice from NYSED. Bidders may request a debriefing letter on the selection process regarding this RFP by submitting a written request : [homelessrfp@mail.nysed.gov](mailto:homelessrfp@mail.nysed.gov).

The program office will 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 applicant.

### **What are the Grant Award Protest Procedures?**

Applicants 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 505W 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.

**Registration In Federal System for Award Management (SAM)** – In order to be awarded federal funds, an agency must be registered (and then maintain a current registration) in the federal System for Award Management known as SAM (<http://www.sam.gov>). SAM is a government-wide, web-enabled database that collects, validates, stores and disseminates business information about organizations receiving federal funds. Information on an agency's registration in SAM needs to be provided on the Payee Information Form that must be submitted with the application.

**Payee Information Form/NYSED Substitute W-9** – The Payee Information Form is a packet containing the Payee Information Form itself and an accompanying NYSED Substitute W-9. The NYSED Substitute W-9 may or may not be needed from your agency. Please follow the specific instructions provided with the form. The Payee Information Form is used to establish the identity of the applicant organization and enables it to receive federal (and/or State) funds through the NYSED. An on-line version of the packet is available at <http://www.oms.nysed.gov/cafe/forms/PIform.pdf>.

## ACTIVITIES AND STANDARDS

<i>Student Achievement and Performance</i>	
<b>Activities</b> Adapted from McKinney-Vento Section 723 (d)	<b>Standards</b> Adapted from the National Center on Homeless Education (NCHE)
<ol style="list-style-type: none"> <li>1. The provision of tutoring, supplemental instruction, and enriched educational services.</li> <li>2. Before- and after-school, mentoring, and summer programs with a teacher or other qualified individual.</li> <li>3. School supplies for distribution at shelters and temporary housing facilities.</li> <li>4. Extraordinary or emergency assistance to enable homeless children to attend school.</li> </ol>	<p><b>Standard 1:</b> All homeless students, identified and enrolled at the time of the state assessment, take the state assessment required for their grade levels.</p> <p><b>Standard 2:</b> All homeless students demonstrate academic progress</p>

<i>School/LEA Support</i>	
<b>Activities</b> Adapted from McKinney-Vento Section 723 (d)	<b>Standards</b> Adapted from NCHE
<ol style="list-style-type: none"> <li>1. Expedited student evaluations, including gifted and talented, special education, and limited English proficiency.</li> <li>2. Professional development for educators and other school personnel.</li> <li>3. Referrals for medical, dental, other health services, and social services.</li> <li>4. Defraying excess cost of transportation (e.g. portion of transportation expense not covered by State Aid or Medicaid reimbursement).</li> <li>5. Provision of developmentally appropriate early childhood education programs, not otherwise provided.</li> <li>6. Provision of services and assistance to attract, engage, and retain homeless children and youth and unaccompanied youth in public school programs.</li> <li>7. The payment of fees and other costs associated with tracking, obtaining, and transferring records necessary to enroll homeless children and youths in school.</li> <li>8. Provision of pupil services (including violence prevention counseling) and referrals for such services.</li> <li>9. Addressing needs of homeless children and youth arising from domestic violence.</li> </ol>	<p><b>Standard 3:</b> All children in homeless situations are identified.</p> <p><b>Standard 4:</b> Within one full day of an attempt to enroll in school, homeless students are in attendance.</p> <p><b>Standard 5:</b> All homeless students experience stability in school.</p> <p><b>Standard 6:</b> All homeless students receive specialized and comparable services when eligible.</p> <p><b>Standard 7:</b> All preschool-aged homeless children enroll in and attend preschool programs.</p> <p><b>Standard 8:</b> All homeless unaccompanied youth enroll in and attend school.</p>

## *Collaboration*

<b>Activities</b> Adapted from McKinney-Vento Section 723 (d)	<b>Standards</b> Adapted from NCHE
<ol style="list-style-type: none"><li>1. Provision of education and training to parents of homeless students about educational rights and resources that are available.</li><li>2. Coordination between schools and service agencies.</li><li>3. Adaptation of space, purchase of supplies for nonschool facilities.</li></ol>	<p><b>Standard 9:</b> All parents (or persons acting as parents) of homeless children and youth are informed of the educational and related opportunities available to their children and are provided meaningful opportunities to participate in their children’s education.</p> <p><b>Standard 10:</b> LEAs help with the needs of all homeless children and youth through collaborative efforts both within and beyond the LEA.</p>

New York State Education Department  
2013 – 2016 McKinney-Vento Competitive Grant  
**INSTRUCTIONS FOR PROPOSAL NARRATIVE & RELATED  
ATTACHMENTS**

**1. Abstract**

The abstract should be a one-page description of the proposed project including a brief description of:

- a. the need for the project,
- b. each of the main components (e.g. tutoring, training, school supplies),
- c. proposed goals for the project, and
- d. the number of students to be served.

**2. Statement of Need and Current Status (20 points)**

This section should include:

- a. The LEA/consortium's trends in homeless identification over the past three years to accompany identification data in *Attachment A*. This should include an analysis of the trends in identification (e.g. possible explanations for increases or decreases), and a description of how identification rates in the LEA/consortium compare with expected rates of identification based on poverty data;
- b. Identification of the current academic and social/emotional functioning of students in temporary housing and the major needs of such students in the LEA/consortium as validated by needs assessment data and/or data from the student management system. This should include a description of the major barriers, both within the LEA and outside that limit the identification, immediate enrollment, attendance (including prompt provision of transportation), and success in school of homeless children and youth.
- c. Describe the effectiveness of existing programming to assist students in temporary housing (e.g. McKinney-Vento grant-funded programming or programming targeted for students in temporary housing funded with Title I, Part A dollars), including available data and/or feedback on effectiveness of the program. The applicant should explain how these data on program effectiveness were collected and analyzed. The applicant should describe how these data demonstrate improvement (or not) on the part of students served (e.g. improved attendance, improved academic skills, increased participation in statewide assessments, improved performance on statewide assessments, etc.).
- d. Available resources in the LEA/consortium and resources in the community; McKinney-Vento outreach programs in place; LEA support and federal program support in place, including percent of time that the local liaison(s) and others devote to homeless education.

**Related Attachment to accompany this section:**

*Attachment A: Total Number of Identified Homeless Students*

### 3. Program Activities (30 points)

This section should include:

- a. Description of project activities and how these activities relate to standards described in the Guidelines and in *Attachment B*. The application should include a discussion of the links between activities, indicators, and standards listed in *Attachment B*. The application should provide an explanation if an activity listed will not be repeated in each year of the grant. **If applying as a consortium**, describe the direct services that will be provided using McKinney-Vento grant funds (consortium applicants must provide more than technical assistance to constituent LEAs).
- b. Descriptions of how the activities and indicators listed in Attachment B were developed. This should include a description of how the activities reflect the current needs of students identified as homeless. **The activities should target particular population(s) for services** (e.g. homeless pre-school-age children, homeless unaccompanied youth, homeless youth not in school, homeless youth at risk of dropping out or being held over). The application should describe why the LEA is focusing on these populations and how this is justified based on the identified needs in the community as described in the Statement of Need. Due to the greater needs of preschool-aged children and unaccompanied youth experiencing homelessness, particular attention will be paid to those applications that have activities focused on these populations.
- c. A description of how the indicators reflect a reasonable expectation for measurable improvement based on the proposed activities. It is strongly encouraged that LEAs undertake a needs assessment to help determine the current needs of students and reasonable rates of improvement.
- d. Description of staffing and management for the program, any subcontractors, basis for their selection, and ways the subcontractors' efforts are integrated with the overall program design. This should include a description of which LEA staff and subcontractors will be involved with each activity and how the LEA will provide oversight of program activities.

#### **Related Attachments to accompany this section:**

*Attachment B: Program Objectives – Activities, Indicators, Standards*

*Attachment C: Staffing Chart*

### 4. Collaboration (15 points)

This section should describe:

- a. Collaborations within the LEA (Title IA, migrant, preschool, IDEA, etc.). This should provide a more detailed description of the information in *Attachments D and E* including what specific steps the LEA/consortium has already undertaken to build, maintain, and improve collaborations and what future steps it will take to solidify these collaborations.
- b. Collaborations with community agencies (department of social services, shelters, county Youth Bureau, Runaway and Homeless Youth programs and shelters, community action agencies, Head Start, Continuum of Care, business partners, faith-based agencies, etc.). This should provide a more detailed description of the information in *Attachment D* including what specific steps the LEA/consortium has already undertaken to build, maintain, and improve collaborations and what future steps it will take to solidify these collaborations.
- c. **For consortium applications:** Collaborations among members of the consortium (meetings, technical assistance, transportation route-sharing, etc.). Please provide copies of *Attachment D* and *Attachment E* for each LEA in the consortium.

**Related Attachments to accompany this section:**

*Attachment D: Collaboration Chart*

*Attachment E: Coordination with Title I and Other Funding Sources*

*Attachment F (Consortium applications only): Submitting a Proposal as a Consortium*

New York State Education Department  
2013 – 2016 McKinney-Vento Competitive Grant  
**APPLICATION CHECKLIST**

**Submit the application electronically to the following email address: [homelessrfp@mail.nysed.gov](mailto:homelessrfp@mail.nysed.gov) with the subject line including the following: **MV Application, LEA name, last name of the program contact.****

The following attachments should be included in the email. Use this checklist to ensure that your application submission is complete and in order.

- Application Cover Page* with original signature of the Superintendent or his/her designee
- Payee Information Form (with NYSED Substitute W-9 if required)*
- Proposal Narrative*, which includes Abstract, Statement of Need, Program Activities, and Collaboration narratives (**65 points total**)
  - Attachment A: Total Number of Identified Homeless Students*
  - Attachment B: Program Activities, Indicators, Standards*
  - Attachment C: Staffing Chart*
  - Attachment D: Collaboration Chart*
  - Attachment E: Coordination with Title I and Other Funding Sources*
  - Attachment F (Consortium applications only): Submitting a Proposal as a Consortium*
- FS-10 Budget and Narrative Summary Form* (keep this document separate from the application) (**25 Points**)
- Mandatory:** copies of the following form and policies from the LEA, which should be substantially similar to SED's models. Consortium applications must include forms and policies from all member LEAs (**10 points total**):
  - Residency Questionnaire*
  - Enrollment Policy* pertaining to students in temporary housing
  - Transportation Policy* pertaining to students in temporary housing
  - Dispute Resolution Policy* pertaining to students in temporary housing

Only proposals in Word or PDF formats are accepted. The abstract, proposal narrative, and attachments should include the name of the LEA and LEA code in the header or footer.

New York State Education Department  
2013 – 2016 McKinney-Vento Competitive Grant  
**INSTRUCTIONS FOR BUDGET AND BUDGET NARRATIVE FORMS**

**Form FS-10 Budget and Narrative (25 Points)**

1. The applicant must complete the FS-10 Budget Form: <http://www.oms.nysed.gov/cafe/forms/home.html>. The FS-10 Budget Form and information about the categories of expenditures and general information on allowable costs, applicable cost principles and administrative regulations are available in the Fiscal Guidelines for Federal and State Aided Grants at <http://www.oms.nysed.gov/cafe/guidance/guidelines.html>

The grant award period will begin on July 1, 2013 and end on June 30, 2016. The initial project period will be July 1, 2013 through June 30, 2014. Applicants must submit an FS-10 budget and narrative with this application, for the initial 12 month project period of 7/1/13 – 6/30/14. The 12 month budget will be reviewed and scored. Beginning July 1, 2013 through June 30, 2016, programs will be awarded annual funds based on the 12 month budget.

2. The applicant must also complete a Budget Narrative:  
[www.p12.nysed.gov/accountability/consolidatedappupdate/documents/budgetnarrative.doc](http://www.p12.nysed.gov/accountability/consolidatedappupdate/documents/budgetnarrative.doc).

**Narrative forms must provide a clear explanation of how the proposed expenditures are appropriate and necessary to support the project activities and how the proposed expenditures are reasonable for the number of participating students.**

Costs may include, but not necessarily be limited to: tutoring, supplemental instruction, and enriched educational services not otherwise provided through Federal, State, or local funding; early childhood programs not otherwise provided through Federal, State, or local funding; violence prevention counseling; excess transportation costs (i.e. costs not covered by State Aid or Medicaid reimbursement); professional development for educators and pupil services personnel to heighten the understanding and sensitivity to needs of homeless children and youth and the rights of such youth; expedited evaluations; referral to health services; school supplies, emergency assistance to enable homeless children and youth to attend school; the development of coordination between schools and agencies providing services to homeless children and youth. (The McKinney-Vento Homeless Assistance Act lists approved use of funds and may be found at the NYS-TEACHS website Non-regulatory Guidance pages 24-26: [http://www.nysteachs.org/media/INF\\_Fed\\_MVGuidance\\_Jul04.pdf](http://www.nysteachs.org/media/INF_Fed_MVGuidance_Jul04.pdf))

**New York State Education Department**  
**McKinney-Vento Education of Homeless Children and Youth**

**Application Cover Page**

**Agency Code**

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Name of Applicant LEA:	Contact Person:
Address:  City:                      Zip Code:	Title:
	Telephone:
	Fax:
	E-Mail:
County:	Funding Requested for Each Grant Year:
Check here is proposal is for a consortium of LEAs <input type="checkbox"/>	
<p>I hereby certify that I am the applicant’s chief school/administrative officer and that the information contained in this application is, to the best of my knowledge, complete and accurate. I further certify, to the best of my knowledge, that any ensuing program and activity will be conducted in accordance with all applicable Federal and State laws and regulations, application guidelines and instructions, Assurances, Certifications, Appendix A, and Appendix A-1G and that the requested budget amounts are necessary for the implementation of this project. It is understood by the applicant that this application constitutes an offer and, if accepted by the NYS Education Department or renegotiated to acceptance, will form a binding agreement. It is also understood by the applicant that immediate written notice will be provided to the grant program office if at any time the applicant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.</p>	
Signature of Chief School Officer ( <b>in blue ink</b> )	
Typed Name:	Date:

***FOR NYSED USE***

**2013 – 2016 McKinney-Vento Education of Homeless Children and Youth  
Competitive Grant Application Review Sheet  
Part 1**

**LEA Name:** \_\_\_\_\_

**LEA Contact:** \_\_\_\_\_

**Agency Code:**

								0	0	0	0
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**Total Homeless Number:** \_\_\_\_\_

(Statistics may be found on the number of students reported as homeless for 2011-2012 school year at:-  
<http://www.nysteachs.org/info-topic/statistics.html>)

Total (with or without consortium) needs to be at least 100 to apply.

**Reviewer:** \_\_\_\_\_

**Review Date:** \_\_\_\_\_

## ***FOR NYSED USE***

### **Reviewer Document Checklist**

- Application Cover Page* with original signature of Chief School Officer.
- Payee Information Form (with NYSED Substitute W-9 if required)*
- Review Sheet
- Proposal Narrative (65 points total)***
  - Attachment A: Total Number of Identified Homeless Students*
  - Attachment B: Program Activities, Indicators, Standards*
  - Attachment C: Staffing Chart*
  - Attachment D: McKinney-Vento and Title I Coordination Chart*
  - Attachment E: Coordination with Title I and Other Funding Sources*
  - Attachment F (Consortium applications only): Submitting a Proposal as a Consortium*
- Budget (FS-10) and Narrative Forms* 1 original, 2 copies. Keep these documents separate from the application. **(25 points total)**
- Mandatory: copies of the following form and policies from the LEA, which should be substantially similar to SED's models **(10 points total)**:
  - Residency Questionnaire*
  - Enrollment Policy* pertaining to students in temporary housing
  - Transportation Policy* pertaining to students in temporary housing
  - Dispute Resolution Policy* pertaining to students in temporary housing

SED Comments:

- Has the applicant submitted all Application documents?  Yes  No
- If no, please describe:

## Proposal Evaluation Rubric

### McKinney-Vento Education of Homeless Children and Youth

#### Part 2

Applicant:			
Reviewer Initials	Review Completed:	Funding Requested:	Score:

#### Rating Guidelines

- Very Good:** Specific and comprehensive. Complete, detailed, and clearly articulated information as to how the criteria are met. Well-conceived and thoroughly developed services and coordination activities to achieve the academic and related success of students in temporary housing.
- Good:** General but sufficient detail. Adequate information as to how the criteria are met, but some areas are not fully explained and/or questions remain. Some minor inconsistencies and weaknesses.
- Fair:** Sketchy and non-specific. Criteria appear to be minimally met, but limited information is provided about approach and strategies. Lacks focus and detail.
- Poor:** Does not meet the criteria, fails to provide information, provides inaccurate information, or provides information that requires substantial clarification as to how the criteria are met.
- Missing:** Does not address the criteria or simply re-states the criteria.

<b>1. Statement of Need for Project (20 points)</b> <i>Grading based on Proposal Narrative &amp; Attachment A</i>	Very Good	Good	Fair	Poor	Missing
Complete homeless identification data over past three years ( <i>Attachment A</i> ), an analysis of the trends in identification (e.g. possible explanations for increases or decreases), and description of how identification rates in the LEA(s) compare with expected rates of identification based on poverty data.	5	3.75	2.5	1.25	0
Thorough description of the current academic and social/emotional functioning of students in temporary housing and the needs of students in temporary housing in the LEA/consortium, which are validated by results of a needs assessment and/or data from the student management system. Description of the major barriers, both within the LEA and outside, that limit the identification of, immediate enrollment of, attendance (including prompt provision of transportation), and success in school of students in temporary housing.	5	3.75	2.5	1.25	0

Thorough description of the effectiveness of program, citing data, for those applicants with existing programming targeting students in temporary housing.	5	3.75	2.5	1.25	0
Available resources in the LEA/consortium, including resources in the community, outreach programs in place, LEA support and federal program support in place, including percent of time that the LEA liaison and others devote to homeless education.	5	3.75	2.5	1.25	0
<b>Comments:</b>					

<b>2. Program Activities (30 points)</b> <i>Grading based on Proposal Narrative &amp; Attachments B, C</i>	Very Good	Good	Fair	Poor	Missing
Narrative and <i>Attachment B</i> thoroughly describe project activities and how they move towards accomplishing the standards for the academic achievement and well-being of students in temporary housing. <b>If applying as a consortium</b> , direct services that will be provided using MV funding are well-articulated (consortium applicants must provide more than TA).	8	6	4	2	0
Narrative and <i>Attachment B</i> provide a clear overall picture of the proposed program, which is consistent with the purpose of the program described in Section 723 of the McKinney-Vento Act to provide direct services to ensure the enrollment, attendance, and success of homeless children and youth in school.	3	2.25	1.5	.75	0
The program activities provide a clear description of specific activities to identify and serve preschool-aged children and unaccompanied youth.	2	1.5	1	.5	0
The program activities and corresponding indicators are clearly tied to identified needs.	6	4.5	3	1.5	0
Indicators are reasonable and measurable.	5	3.75	2.5	1.25	0
Program staffing and subcontracting are described and linked to proposed activities.	2	1.5	1	.5	0

Program administration and management plan described; explanation of who will provide oversight and how.	2	1.5	1	.5	0
Basis for selection of subcontractors articulated; description of how their efforts are integrated with the overall program design.	2	1.5	1	.5	0

**Comments:**

<b>3. Collaboration (15 points)</b> <i>Grading based on Proposal Narrative &amp; Attachments D, E, F</i>	Very Good	Good	Fair	Poor	Missing
Strong collaborations in place within the LEA (Title IA, migrant, preschool, IDEA, etc.). Future collaborative activities and resources well-planned and described. Clear description of how Title I-A reserved funds and additional funding sources will be used to support the education of homeless children and youth in the LEA.	8	6	4	2	0
Strong collaborations in place with outside community agencies and programs. Future collaborative activities and resources well-planned and described.	3	2.25	1.5	.75	0
Discussion of strategies for building, maintaining, and/or improving collaborations. <b>If applying as a consortium</b> , the established and planned collaborations among members are well-detailed.	4	3	2	1	0

**Comments:**

<b>4. Budget Category and Narrative Forms (25 points)</b>	Very Good	Good	Fair	Poor	Missing
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Clear relationship between requested funds and proposed activities.	11	8.25	5.5	2.75	0
Budget reflects efficient use of funds to accomplish the activities.	8	6	4	2	0
All costs are allowable.	6	4.5	3	1.5	0

**Comments:**

<b>5. LEA Forms and Policies (10 points)</b>	Very Good	Good	Fair	Poor	Missing
<i>Residency Questionnaire(s)</i> conforms to model shared by the State Education Department.	3	2.25	1.5	.75	0
<i>Enrollment Policy(s)</i> includes provision for immediate enrollment of students who state they are homeless or are identified as homeless by the LEA.	3	2.25	1.5	.75	0
<i>Transportation Policy(s)</i> includes provision to transport students in temporary housing up to 50 miles.	2	1.5	1	.5	0
<i>Dispute Resolution Policy(s)</i> state that students will remain enrolled and receive transportation pending the dispute.	2	1.5	1	.5	0

**Comments:**

<b>Section</b>	<b>Total Points Awarded</b>
1. Statement of Need for Project (20 points)	
2. Program Activities (30 points)	
3. Collaboration (15 points)	

4. Budget Category and Narrative Forms (25 points)	
5. LEA Forms and Policies (10 points)	
<b>Grand Total</b>	

**New York State Education Department**  
**McKinney-Vento Education of Homeless Children and Youth**  
**Assurances, Certifications, and Terms and Conditions**

By signing the certification on the application cover page you are ensuring accountability and compliance with State and federal laws, regulations, and grants management requirements, including the following assurances, certifications, and terms and conditions.

Federal Assurances and Certifications, General:

- Assurances – Non-Construction Programs
- Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters
- Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions
- General Education Provisions Act Assurances

Federal Assurances and Certifications, NCLB (if appropriate):

The following are required as a condition for receiving any federal funds under the Elementary and Secondary Education Act, as amended by the No Child Left Behind Act of 2001.

- NCLB Assurances
- School Prayer Certification

New York State Assurances and Certifications: (For discretionary grant programs only.)

- Appendix A
- Appendix A-1G

New York State McKinney-Vento Assurances

## ASSURANCES - NON-CONSTRUCTION PROGRAMS

**Note:** Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the Education Department Program Contact listed in the Application. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, and by signing the Application Cover Page, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management, and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) "§§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§" 290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply, as applicable, with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328), which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §§874) and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1721 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.), which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, Audits of States, Local Governments, and Non-Profit Organizations.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

**Standard Form 424B (Rev. 7-97), Prescribed by OMB Circular A-102, Authorized for Local Reproduction, as amended by New York State Education Department**

# **CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS**

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

## **1. LOBBYING**

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

- (a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;
- (b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and
- (c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

## **2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS**

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

A. The applicant certifies that it and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2)(b) of this certification; and
- (d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

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

**ED 80-0013, as amended by the New York State Education Department**

## **CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION — LOWER TIER COVERED TRANSACTIONS**

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

### **Instructions for Certification**

1. By signing the Application Cover Page, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms “covered transaction,” “debarred,” “suspended,” “ineligible,” “lower tier covered transaction,” “participant,” “person,” “primary covered transaction,” “principal,” “proposal,” and “voluntarily excluded,” as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled “Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions,” without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

### **Certification**

- (1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

*ED 80-0014, as amended by the New York State Education Department*

**NEW YORK STATE DEPARTMENT OF EDUCATION  
GENERAL EDUCATION PROVISIONS ACT ASSURANCES**

These assurances are required by the General Education Provisions Act for certain programs funded by the U.S. Department of Education. These assurances are not applicable to certain programs, such as the No Child Left Behind Act. If you have any questions, please contact NYSED.

As the authorized representative of the applicant, by signing the Application Cover Page, I certify that:

- (1) that the local educational agency will administer each program covered by the application in accordance with all applicable statutes, regulations, program plans, and applications;
- (2) that the control of funds provided to the local educational agency under each program, and title to property acquired with those funds, will be in a public agency and that a public agency will administer those funds and property;
- (3) that the local educational agency will use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, Federal funds paid to that agency under each program;
- (4) that the local educational agency will make reports to the State agency or board and to the Secretary as may reasonably be necessary to enable the State agency or board and the Secretary to perform their duties and that the local educational agency will maintain such records, including the records required under section 1232f of this title, and provide access to those records, as the State agency or board or the Secretary deem necessary to perform their duties;
- (5) that the local educational agency will provide reasonable opportunities for the participation by teachers, parents, and other interested agencies, organizations, and individuals in the planning for and operation of each program;
- (6) that any application, evaluation, periodic program plan or report relating to each program will be made readily available to parents and other members of the general public;
- (7) that in the case of any project involving construction –
  - (A) the project is not inconsistent with overall State plans for the construction of school facilities, and
  - (B) in developing plans for construction, due consideration will be given to excellence of architecture and design and to compliance with standards prescribed by the Secretary under section 794 of title 29 in order to ensure that facilities constructed with the use of Federal funds are accessible to and usable by individuals with disabilities;
- (8) that the local educational agency has adopted effective procedures for acquiring and disseminating to teachers and administrators participating in each program significant information from educational research, demonstrations, and similar projects, and for adopting, where appropriate, promising educational practices developed through such projects; and
- (9) that none of the funds expended under any applicable program will be used to acquire equipment (including computer software) in any instance in which such acquisition results in a direct financial benefit to any organization representing the interests of the purchasing entity or its employees or any affiliate of such an organization.

**NEW YORK STATE DEPARTMENT OF EDUCATION  
NO CHILD LEFT BEHIND ACT ASSURANCES**

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These assurances are required for programs funded under the No Child Left Behind Act.

As the authorized representative of the applicant, by signing the Application Cover Page, I certify that:

- (1) each such program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;
- (2) (A) the control of funds provided under each such program and title to property acquired with program funds will be in a public agency or in a nonprofit private agency, institution, organization, or Indian tribe, if the law authorizing the program provides for assistance to those entities; and  
(B) the public agency, nonprofit private agency, institution, or organization, or Indian tribe will administer the funds and property to the extent required by the authorizing statutes;
- (3) the applicant will adopt and use proper methods of administering each such program, including—  
(A) the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program; and  
(B) the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation;
- (4) the applicant will cooperate in carrying out any evaluation of each such program conducted by or for the State educational agency, the Secretary, or other Federal officials;
- (5) the applicant will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, Federal funds paid to the applicant under each such program;
- (6) the applicant will—  
(A) submit such reports to the State educational agency (which shall make the reports available to the Governor) and the Secretary as the State educational agency and Secretary may require to enable the State educational agency and the Secretary to perform their duties under each such program; and  
(B) maintain such records, provide such information, and afford such access to the records as the State educational agency (after consultation with the Governor) or the Secretary may reasonably require to carry out the State educational agency's or the Secretary's duties;
- (7) before the application was submitted, the applicant afforded a reasonable opportunity for public comment on the application and considered such comment;
- (8) the applicant has consulted with teachers, school administrators, parents, nonpublic school representatives and others in the development of the application to the extent required for the applicant under the program pursuant to the applicable provisions of the No Child Left Behind Act;
- (9) in the case of a local educational agency, as a condition of receiving funds under the No Child Left Behind Act, the applicant is complying with the requirements of Education Law § 3214(3)(d) and (f) and the Gun-Free Schools Act (20 U.S.C. § 7151);
- (10) in the case of a local educational agency, as a condition of receiving funds under the No Child Left Behind Act, the applicant is complying with the requirements of 20 U.S.C. § 7908 on military recruiter access;
- (11) in the case of a local educational agency, as a condition of receiving funds under the No Child Left Behind Act, the applicant is complying with the requirements of 20 U.S.C. § 7904 on constitutionally protected prayer in public elementary and secondary schools;
- (12) in the case of a local educational agency, as a condition of receiving funds under the No Child Left Behind Act, the applicant is complying with the requirements of Education Law § 2802(7), and any state regulations implementing such statute and 20 U.S.C. § 7912 on unsafe school choice; and
- (13) in the case of a local educational agency, the applicant is complying with all fiscal requirements that apply to the program, including but not limited to any applicable supplement not supplant or local maintenance of effort requirements.

## ***SCHOOL PRAYER CERTIFICATION***

As a condition of receiving federal funds under the Elementary and Secondary Education Act, as amended by the No Child Left Behind Act of 2001 (NCLB), the local educational agency hereby certifies that no policy of the local educational agency prevents, or otherwise denies participation in, constitutionally

### **McKinney-Vento Assurances**

- I. McKinney-Vento funds will be used as in accordance with the requirements set forth in Section 722(g)(3) through (7) of the McKinney-Vento Act, Section 3209 of the New York State Education Law, and Section 100.2(x) of the Commissioner's Regulations.
- II. Any subcontracts for certain activities will be supervised by the LEA or district fiscal agent.
- III. Participation by LEA's in this proposal will be conducted in accordance with all Federal, State, and local laws and requirements.
- IV. Supporting documents for expenditures under this program will be maintained in an orderly manner to permit audit of expenditures and will be made available to appropriate officials on request.
- V. Annual reports for services provided under this grant will be sent to the New York State Education Department by the given due date or risk the discontinuation of future McKinney-Vento funding.

**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, licenser, licensee, lessor, lessee or any other party):

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

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

**3. COMPTROLLER'S APPROVAL.** In accordance with Section 112 of the State Finance Law (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, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital 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](mailto: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](mailto:mwbecertification@esd.ny.gov)  
<http://esd.ny.gov/MWBE/directorySearch.html>

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.

*Rev. December 2012*

## APPENDIX A-1 G

### General

- A. In the event that the 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. This agreement is subject to applicable Federal and State Laws and regulations and the policies and procedures stipulated in the NYS Education Department Fiscal Guidelines found at <http://www.nysed.gov/cafe/>.
- C. 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.
- D. Any modification to this Agreement that will result in a transfer of funds among program activities or budget cost categories, but does not affect the amount, consideration, scope or other terms of this Agreement must be approved by the Commissioner of Education and the Office of the State Comptroller when:
  - a. The amount of the modification is equal to or greater than ten percent of the total value of the contract for contracts of less than five million dollars; or
  - b. The amount of the modification is equal to or greater than five percent of the total value of the contract for contracts of more than five million dollars.
- E. Funds provided by this contract may not be used to pay any expenses of the State Education Department or any of its employees.

### 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.

### 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 written agreement 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 in accordance with the policies stipulated in the aforementioned Fiscal guidelines.
- 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. All inquiries, requests, and notifications regarding this agreement shall be directed to the Program Contact or Fiscal Contact shown on the Grant Award included as part of this agreement.
- I. 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.
- J. The parties to this agreement intend the foregoing writing to be the final, complete, and exclusive expression of all the terms of their agreement.